

BILL

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THE CRIMINAL PROCEDURE ACT, 2024

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No.

2024



A BILL ENTITLED

The Criminal Procedure Act, 2024

Short title.

Being an Act to repeal and replace the Criminal Procedure Act, 1965, to provide for new procedures relating to summary trials, committal proceedings, trials on indictment, alternative sentences, and to provide for other related matters.

[.]

Date of commencement.

ENACTED BY THE PRESIDENT AND MEMBERS OF PARLIAMENT IN
THIS PRESENT PARLIAMENT ASSEMBLED.

PART 1-PRELIMINARY

- Commencement. 1. This Act shall come into operation on such date as the Attorney-General and Minister of Justice may by statutory instrument appoint.
- Interpretation. 2. In this Act, unless the context otherwise requires -
- "appropriate officer" means any person designated by the Chief Justice for the superintendence of the jury service;
 - "charge " includes complaint;
 - "child" means a person under the age of 18 years;
 - "committal proceedings" means proceedings taken or conducted under Part IV of the Act;
 - "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;
 - "corporation" includes a statutory corporation established by an Act of Parliament, a company incorporated and registered under the Companies Act 2009 (Act No. 5 of 2009);
 - "Courts Act" means the Courts Act, 1965 (Act No. 31 of 1965);
 - "Court" means a 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;

"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;

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

"information" means a document containing a charge or charges against a defendant signed by a prosecutor or by Counsel;

"inquiry" includes committal proceedings;

"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" includes 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 and Parliamentary Counsel;

"marriage" means a marriage between 2 persons -

(a) celebrated and recognised as valid under -

- (i) the Christian Marriage Act (Cap 95);
- (ii) the Muslim Marriage Act (Cap 96);
- (iii) the Civil Marriage Act (Cap 97);

- (iv) the Registration of Customary Marriages and Divorces Act, 2009 or any other rules of customary law in force in Sierra Leone; or
- (b) entered into and subsisting between persons
 - (i) professing a recognised religion; or
 - (ii) recognised by the law of the place where it is contracted;

"Minister" includes the Minister or Ministers responsible for the correctional service, social welfare, and gender and children's affairs;

"offence" means an act or behavior that is prohibited and punishable by criminal law;

"Police Officer" means a member of the Sierra Leone Police;

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

"Registrar" means a person appointed to perform the duties of a Registrar in a Court;

"spouse" means a husband or wife, in a valid civil, religious or customary marriage according to the laws of Sierra Leone.

3. Without prejudice to any other enactment, an offence shall be enquired into, tried and otherwise dealt with in accordance with this Act. Application of Act.

PART II - GENERAL PROVISIONS ARREST GENERALLY

4. (1) A Police Officer shall, as soon as any of the following offence comes to his knowledge, report same to the Attorney-General and Minister of Justice - Notice to be given of arrest.

- (a) involving the loss of life;
- (b) punishable by life imprisonment;
- (c) in which a public officer is alleged to have committed an offence in the exercise of his official or public duties;
- (d) attempted murder or human trafficking;
- (e) involving one or more political parties or the Public Elections Act, 2023 (Act No. of 2023);
- (f) in respect of which the prosecution requires by statute the consent of the Attorney-General and Minister of Justice;
- (g) involving a Member of Parliament, a local authority, a diplomatic or consular service officer or a legal practitioner;
- (h) involving or requiring an expulsion order;
- (i) involving conspiracy to pervert or defeat the course of justice and public mischief;
- (j) against the Coinage Offences Act; and

- (k) considered of some importance or difficulty or which for any reason would require the intervention of the Attorney-General and Minister of Justice.

(2) A legal practitioner or person who commences a prosecution of an offence under subsection (1), shall immediately inform the Attorney-General and Minister of Justice that he has commenced such proceedings.

Mode of
arrest.

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

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

(3) A person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

(4) Subject to paragraph (b) of subsection (2) of section 16 of the Constitution of Sierra Leone, 1991 (Act No. 16 of 1991), nothing in this section gives a right to cause the death of a person in the course of being arrested.

(5) Where a Police Officer is assaulted or obstructed when making an arrest, a private person, on whom he may call for aid, shall go to his assistance.

Search of
place for
person to
be arrested.

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

7. Where entry to a place cannot be effected under section 6, a Police Officer or person acting under a warrant of arrest or having authority to arrest, to enter that place, by force if necessary, 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 made, he cannot otherwise obtain admittance.

Procedure where entry not obtainable.

8. A Police Officer or person authorised to make an arrest may break out of a 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 to liberate.

9. A Police Officer or person making an arrest may take from the person arrested, an offensive weapon or other object found in his possession likely to afford material evidence for the prosecution of the offence for which the offender has been arrested, and anything so taken from an arrested person shall be produced as evidence before the Court.

Power to take offensive weapons or other object of evidential value.

10. (1) A Police Officer or person who arrests on a charge of an offence against the person may cause the person offended to be examined by a medical practitioner.

Medical examination in the case of offence against the person.

(2) Where a medical examination under subsection (1), involves the taking of dental impressions, the extraction of body samples or requires the use of swabs, such examination shall be authorised by a Police Officer not below the rank of Assistant Superintendent of Police, the Police Officer in charge at a Police Station or Police Post.

(3) A medical examination under subsection (1), shall only be done -

- (a) if the officer considers that such impression, sample and swab shall confirm or disprove the suspect's involvement in the offence;

- (b) by a qualified medical practitioner, or a person qualified to do the same; and
- (c) with the consent of the suspect.

(4) Before a person is asked to provide an impression, sample and swab, he shall be warned that a refusal to provide the impression, sample and swab may be treated as corroboration of any fact in issue at the subsequent trial.

Power to
order body
search.

11. (1) A Police Officer not below the rank of Assistant Superintendent of Police, or a Police Officer in charge of a Police Station or Police Post shall, where he has reasonable grounds to believe that the only practicable means of removing -

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

order the search of body orifices and cavities.

(2) A search under subsection (1), 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 consents to it.

(3) A written record shall be kept of a search under subsection (1), stating -

- (a) the persons present during the search; and
- (b) the reasons for the search.

(4) A record under subsection (3), shall be admissible as evidence in Court on request of the prosecution or defence.

12. (1) A person arrested shall be brought before the Court, Arrested person to be brought before a court without delay.
in the case of -

- (a) offences carrying a sentence of life imprisonment or economic and environmental offences, within 10 days from the date of arrest; and

(b) other offences, 72 hours of arrest.

(2) Notwithstanding paragraph (a) of subsection (1), the Court may, being satisfied that there are reasonable grounds for believing that the further detention of the person is justified, -

(a) where an investigation is in progress, and further evidence needs to be collected or found; and

(b) on an application supported by an affidavit of a Police Officer not below the rank of Assistant Superintendent or a Police Officer in charge of a Police Station or Police Post,

issue a warrant for a further detention authorising the keeping of that person in police detention for a further period not exceeding 15 days at any one time.

(3) A person to whom an application under paragraph (b) of subsection (2) relates shall be entitled to file an affidavit opposing the application and to be represented by Counsel at such hearing.

ARREST WITHOUT WARRANT

13. A private person may arrest without a warrant, a person - Private person may arrest without warrant.

- (a) who in his presence commits a felony or an offence punishable by a sentence of life imprisonment;

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

Person
arrested to be
handed over
to police.

14. Where a private person arrests under section 13 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.

Police
Officer
may arrest
without
warrant.

15. (1) A Police Officer may, without a warrant, arrest a person-

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

- (c) whom another person suspects of having committed a felony or an offence punishable by a sentence of life imprisonment or a misdemeanor under paragraph (b), if -
 - (i) the suspicion of such other person appears to the Police Officer to be well founded; and
 - (ii) that person declares 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) whom he has reasonable cause to suspect of having committed or being about to commit a felony or an offence punishable by a sentence of life imprisonment;
- (e) whom he finds in any way disturbing the peace, whether in a public or private place or causing annoyance to another person;
- (f) 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.

16. (1) A Police Officer may, where a person, other than a person liable to be arrested without a warrant-

- (a) has been accused of committing an offence; and

Refusal to give name or place of residence.

- (b) 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, arrest that person in order that his name and place of residence may be ascertained.

(2) Where the true name and place of residence of a person arrested under subsection (1) has been ascertained he shall be released after executing a bond, with or without sureties, to appear before a Court if so required.

(3) Where the true name and place of residence of person arrested under subsection (1) is not ascertained within 24 hours from the time of arrest, or he fails to execute the bond, or if so required, to furnish sufficient sureties under subsection (2), he shall forthwith be brought before the nearest Court having jurisdiction in respect of the offence for which he is accused.

Suspect to be informed of cause of arrest.

17. 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 any other person making the arrest shall inform the person arrested of the cause of the arrest and if the Police Officer or any other person is acting under the authority of a warrant, shall notify him of the substance of the warrant and if so required, shall show him the warrant.

INSTITUTING PROCEEDINGS IN THE MAGISTRATE'S COURT

Instituting proceedings.

18. (1) Criminal proceedings in the Magistrate's Court may be instituted by -

- (a) a Police Officer, pursuant to the powers conferred on the Attorney-General and Minister of Justice under subsection (3) of section 64 of the Constitution and on the Director of Public Prosecutions under subsection (5) of section 66 of the Constitution and section 46 of this Act -

- (i) bringing a person arrested with or without a warrant before a Magistrate or Justices of the Peace upon the charge upon which he has been arrested; or
 - (ii) laying an information before a Magistrate for the issue of a warrant or a summons;
- (b) a 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:

Provided that -

- (i) the complaint shall be in writing; and
- (ii) if a warrant is requested, the complaint shall be on the oath of the person making the complaint or a witness to the offence.

(2) It shall be sufficient if in the title of the proceedings, in committal proceedings or in a summary trial, the prosecutor is -

- (a) a Police Officer, the prosecutor is described as the "Inspector-General of Police"; and
- (b) a private person, his name shall appear in the title of the proceedings as the prosecutor.

19. (1) The Court may proceed either by-

Summons or
warrant.

- (a) summons to a defendant; or
- (b) warrant for the arrest of a defendant, in the first instance, according to the nature and circumstances of the case.

(2) A Magistrate or 2 Justices of the Peace shall issue a summons or warrant under subsection (1), as of course, upon receipt of the information laid or the complaint made.

(3) Where a defendant is imprisoned, a warrant to bring him before the Court may be directed to the keeper of the correctional centre in which the defendant is confined.

Issue of
warrant.

20. (1) 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 a witness in that behalf.

(2) A Magistrate may, if of the opinion that a case for so doing has been made, issue a warrant for the apprehension of the defendant.

Service of
summons.

21. (1) A 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.

(2) Where service under subsection (1) cannot, by the exercise of due diligence be effected, the serving Police Officer or an officer of the Court shall affix the summons to some conspicuous part of the last known or usual place of residence of the person summoned, and the summons shall be deemed to have been duly served.

Proof of
service
outside
jurisdiction.

22. Where a Magistrate desires that a summons issued by him shall be served at a 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 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 of service.

23. (1) Where a Magistrate issues a summons in respect of an offence other than a felony or an offence punishable by a sentence of life imprisonment, he -

Power to dispense with personal attendance of defendant.

(a) may, if he sees reason to do so; and

(b) 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.

(2) A Magistrate enquiring into or trying a case may, in his 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.

24. 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.

Warrant when issued.

25. Where 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 23, the Court may issue a warrant to arrest him and cause him to be brought before the Court.

Where summons not obeyed.

26. (1) A warrant of arrest shall be under the hand of a Judge, Magistrate or Justice of the Peace issuing it.

Form, content, duration and execution of warrant.

(2) A warrant of arrest issued under subsection (1) shall-

(a) state briefly the offence with which the person against whom it is issued is charged;

(b) name or otherwise describe the person; and

(c) 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.

(3) A warrant shall remain in force until cancelled or executed.

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

(5) When a warrant of arrest is directed to more than one officer or person, it may be executed by all or by any one or more of them.

(6) A warrant may be executed by the arrest of the defendant at any place in Sierra Leone.

Removal
and bail.

27. Where 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 20 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 35.

Court may
direct security
to be taken.

28. (1) A Court issuing a warrant for the arrest of a person in respect of an offence not punishable by a sentence of life imprisonment shall, unless the complainant or prosecutor proffers good and sufficient reasons in an affidavit, why bail should not be granted, direct by endorsement on the warrant that, if the person enters into 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.

- (2) An endorsement under subsection (1), shall include-
- (a) the number of sureties (if any);
 - (b) the amount to which the sureties 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 an endorsement is made, the officer in charge of a 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 an 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.

29. (1) Subject to section 31, a 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 a building, vessel, vehicle, receptacle or place anything upon or in respect of which -

Issuance of search warrant and proceedings under warrant.

- (a) an offence has been committed or is suspected to have been committed;
- (b) will afford evidence as to the commission of an offence,

may at any time issue a warrant under his hand authorising a 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) Where a building, vessel, vehicle, receptacle or other place is closed, a 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) Where entry into a building, vessel, vehicle, receptacle or other 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) A 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 5 o'clock in the morning and 10 o'clock at night, but a 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.

30. A Police Officer may -

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

(a) detain a person carrying or conveying along a square, street, highway, quay, avenue or other public place an animal, matter or thing which -

(i) the Police Officer suspects of having been stolen or otherwise unlawfully obtained; or

(ii) in respect of which he suspects that a criminal offence has been, is being or is about to be committed, and

- (b) examine a box, parcel, basket, bundle, or any other package carried or conveyed by that person which he may reasonably suspect to contain an animal, matter or thing; and if that person does not give a satisfactory account of himself and of an animal, matter or thing the examination may discover, arrest that person and cause him to be taken before a Court as soon as practicable to be dealt with according to law.

31. Nothing in sections 29 and 30 shall authorise a person, other than a Judge, to grant a warrant to search for a document in the custody of a postal or telecommunications body or entity or data collection establishment.

Sections 29 and 30 not applicable to postal, telecommunications, and data collection establishment.

32. (1) Where 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 a 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.

Execution
of search
warrant.

33. (1) A search warrant issued by a Judge, for the discovery of property stolen or otherwise unlawfully obtained may be executed in any part of Sierra Leone.

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

(3) Where property is alleged to have been stolen or otherwise unlawfully obtained is seized in pursuance of this section, a Police Officer or other person to whom the search warrant was directed shall, without special authority in that behalf, 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.

(4) Where property has been taken under this section from a person charged before a Court with an 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 a portion can be returned consistent with the interest of justice, direct the property or a portion be returned to the person charged or to such other person as the Court may deem proper.

GENERAL AUTHORITY OF THE COURTS

General authority of courts to bring defendants before them.

34. (1) A Court may cause to be brought before it, a person who, within the local limits of its jurisdiction, -

- (a) 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) 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 such person according to its jurisdiction.

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

35. (1) A Remitting Court before which a person who is within the local limits of its jurisdiction and is charged with having committed an 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.

Defendants to be remitted or brought in certain cases to another Court.

(2) A Remitting Court shall send to the Court to which the person charged is remitted for trial under subsection (1), an authenticated copy of the information, summons, warrant and any other process or document in its possession relative to that person.

Removal
under
warrant.

*Form I in
Schedule II*

36. A Remitting Court shall, where a person is held in custody under subsection (1) of section 35, issue a warrant, which shall be sufficient authority to a 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.

PLACE OF ENQUIRY AND TRIAL

Offences
in-quired into
in any part of
Sierra Leone
Trial of
cases by
Courts other
than High
Court.

37. An offence may be inquired into in any part of Sierra Leone.
38. Subject to the Courts Act, 1965 and to the powers of transfer under section 42, the place for trial of offences by Courts other than the High Court shall be determined according to the following rules-
- (a) an offence shall be tried in the Judicial District in which it was committed;
 - (b) where a person is accused of the commission of an offence by reason of anything which has been done or which has been omitted to be done, and of any consequence which has ensued, the offence may be tried in a district in which the thing was done or omitted to be done or any consequence that has ensued;
 - (c) where 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 offence may be tried in the District in which either act was done;
 - (d) where -

- (i) it is uncertain in which of several Districts an offence was committed;
- (ii) an offence is committed partly in one District and partly in another;
- (iii) an offence is a continuing one, and continues to be committed in more Districts than one; or
- (iv) an offence consists of several acts done in different Districts, the offence may be tried in any one of those Districts.

39. An offence committed whilst the offender is on a journey or voyage may be 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.

Offences committed on a journey.

40. Where 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 be 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 out of Sierra Leone.

41. (1) 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 and on an aircraft.

(2) A person who commits an offence on an aircraft or does an act which if done 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.

(3) 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 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 High Court to transfer committal proceedings and other criminal cases.

42. The High Court may, on an application made by Originating Notice of Motion, order that, an offence being enquired into by a Magistrate Court may be enquired into by another Magistrate Court specified in the Order, on the grounds that it would -

- (a) tend to the general convenience of the parties or witnesses; or
- (b) otherwise be expedient for the ends of Justice.

Power of Judge to transfer cases.

43. (1) Whenever it is made to appear to a Judge, by summons that -

- (a) some question of law is likely to arise, which it is desirable should be decided by the High Court;
- (b) an order under this section will tend to the general convenience of the parties or witnesses; or
- (c) such an order is otherwise expedient for the ends of Justice, the Judge may order that -
 - (i) an offence be tried by the High Court or a subordinate Court;
 - (ii) a defendant be committed to the High Court for trial;
 - (iii) a defendant be 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 summons of a party interested after due notice to all other interested parties.

(3) Where 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.

44. Where, in a criminal case, before evidence is taken, a person having the conduct of the prosecution or the defence, notifies the Court before which the case is pending, of his intention to make an application under section 42, in respect of the case, 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.

Notice of intention to make application to transfer.

CONDUCT OF CRIMINAL PROCEEDINGS.

45. (1) The Attorney-General and Minister of Justice may enter a nolle prosequi either by a statement in Court or 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 a 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.

Attorney-General and Minister of Justice may enter nolle prosequi.

(2) Where 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.

Form 8 & 9 in Schedule II.

(3) For the purposes of section 48 and this section, proceedings include an appeal from a determination in criminal proceedings before a Court and a case stated or question of law reserved for the purposes of such proceedings.

PREVIOUS ACQUITTAL OR CONVICTION

Persons convicted or acquitted.

46. 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.

Consequences supervening or not known at time of former trial.

47. A person convicted or acquitted of an 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.

Proof of previous conviction.

48. In an information or indictment against a person in which evidence of a previous conviction or acquittal of such person for an 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.

RULES AS TO INFORMATIONS AND INDICTMENTS

Information or indictment.

49. (1) An 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 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.

(3) The Rules of Court Committee may, by statutory instrument, add to, vary, revoke or replace the Criminal Procedure Rules in the First Schedule.

JOINDER OF CHARGES AND DEFENDANTS

50. (1) Subject to the Criminal Procedure Rules in the First Schedule, charges for offences may, if those charges are founded on the same facts or form 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.

Joinder of charges and defendants.

(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 transaction.

COMPENSATION AND COSTS

Compensation may be ordered.

51. (1) Where 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 if the evidence led at the trial so warrants, order the person convicted to pay the prosecutor such sum as appears to the Court to be reasonable compensation in so far as the sum shall not exceed the maximum fine that the Court 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 compensation has been paid or a 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.

52. The Court may order a person convicted before it to pay all or any specified part of the expenses of his prosecution in so far as the sum shall not exceed the maximum fine that the Court is empowered to impose.

Costs to be paid by complainant in certain cases.

53. 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 that the Court is empowered to impose.

54. The Court may, when exercising the powers conferred upon it by section 52 or 53, order that the whole, or such portions as the Court thinks fit, of the expenses paid, be paid over to the prosecutor or to the defendant, as the case may be.

Payments to parties.

55. (1) Compensation or expenses awarded under sections 51 to 54 or paragraph (b) of subsection (1) of section 57 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.

Form 11 in Schedule II

(2) Nothing in this section shall in any way affect or Limit the powers conferred upon the Court by sections 57 and 58.

RESTITUTION OF PROPERTY

56. (1) Where upon the arrest of a person charged with an offence, 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.

57. (1) Where a person is convicted of having stolen or otherwise obtained property dishonestly by means of an offence, or, is convicted of being involved in or facilitating the commission of an offence, the Court convicting him may-

Restitution of property stolen or its value.

- (a) order that the property or part thereof be restored to the person who appears to be the owner thereof 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 as aforesaid, and order that the sum so assessed be paid by the person convicted to the person who appears 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 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 an 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) valuable security which has been bona fide paid or discharged by a person liable to pay or discharge the security; or
- (b) 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) an offence against sections 20, 21 and 22 of the Larceny Act, 1916.

(4) On the restitution of a stolen property if it appears to the Court by the evidence that the person convicted has sold the stolen property to a person, and that the person had no knowledge that the property was stolen, and that moneys have been taken from the person convicted on his apprehension and not returned to him under section 56, 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

58. 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 an offence, and it shall not be practicable to take the statement or deposition of the person so ill or hurt in accordance with Part III in relation to summary trials or Part IV in relation to committal proceedings, the Court may take in writing the statement on oath or affirmation of such person and shall subscribe the same and certify that it contains accurately the whole of the statement made by such person, and shall 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 as part of the record of ensuing proceedings.

Power to take depositions of persons dangerously ill.

59. If the statement taken in writing under section 58 relates or is expected to relate to an offence for which a person is under a charge or committal for trial, reasonable notice of the intention to take the statement shall be served upon 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 the place where the statement is to be taken.

Notices to be given in certain cases.

60. Where a statement taken in writing under section 59 relates to an offence for which a 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.

61. (1) A statement taken in writing under section 58 may afterwards be used in evidence on the trial of a 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 -

Statement may be used in evidence.

- (a) for sufficient cause his attendance cannot be procured; and
- (b) reasonable notice of the intention to take such statement was served upon the person against whom it is to be read in evidence; and

- (c) he had or might have had, if he had chosen to be present, full opportunity of cross-examining the person making the statement.

(2) The signature and attestation of the Judge or Magistrate by whom a statement was taken shall be sufficient prima facie proof of the 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
statement
and
depositions.

62. (1) Where a person has been committed for trial for an offence, written statements obtained or the deposition of a person taken before the committing Magistrate may, if the conditions set out in subsection (2) 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 -

- (a) where a witness whose attendance at the trial is stated to be unnecessary or 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 is proved at the trial by the oath or affirmation of a credible witness to be dead or insane or otherwise, mentally unwell, 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) where the document about to be tendered is a written statement or a deposition, it must be proved at the trial either by a certificate purporting to be signed by the Magistrate before whom the written statement or deposition is purported to have been tendered or taken, or, by the clerk to such Magistrate, that the written statement was tendered in the presence of the defendant; and that where this was permissible, the defendant or his counsel had full opportunity to cross-examine the witness.

63. (1) The written statement or deposition of a medical practitioner or other witness, tendered or taken and attested to by a Magistrate in the presence of the defendant, may be read as evidence, although the witness medical 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 written statement or deposition.

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

64. A 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 at committal proceedings.

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

Signature and attestation of Magistrate.

Dying
declaration.

66. (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.

(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
report to
be evidence.

67. (1) A document purporting to be a report under the hand of a medical practitioner, dental surgeon or chemist duly registered with the appropriate regulatory body or a forensic scientist or expert duly registered for that purpose, relating to the examination or analysis of -

- (a) a body, body part or body fluid; or
- (b) the extent of injuries of a person, may, if it is directed to the Court or the prosecuting authority or produced by a Police Officer or a person to whom it is directed or to someone acting on his behalf, be used as evidence of the facts stated in it in a committal proceeding, trial or other proceeding under this Act.

(2) A document purporting to be a report under the hand of a pharmacist, chemist, forensic analyst, geoscientist, environmental expert, laboratory technician or other scientist duly registered for that purpose, relating to a substance or thing submitted to him for examination or analysis, may, if it is directed to the Court or produced by a person to whom it is directed or someone acting on his behalf, be used as evidence of the facts stated in it at a committal proceeding, trial or other proceeding under this Act.

(3) A document purporting to be a report under the hand of a licensed surveyor, an engineer, architect, quantity surveyor or other examining officer relating to -

- (a) land, civil works, buildings, electrical installations, equipment, appliances, plants or machinery; or
- (b) the condition or operations of any motor vehicle, vessel, aircraft or conveyance, may, if it is directed to the Court or the prosecuting authority or produced by a Police Officer or a person to whom it is directed or someone acting on his behalf, be used as evidence of the facts stated in a committal proceeding, trial or other proceeding under this Act.

(4) A document purporting to be a report under the hand of a forensic accountant, financial analyst, information technologist or expert actuarial scientist or other scientist or examiner relating to any document, process or thing submitted to him for examination or analysis may, if it is directed to the Court or the prosecuting authority or is produced by a person to whom it is directed or someone acting on his behalf, be used as evidence of the facts stated in it at a committal proceeding, trial or other proceeding under this Act.

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

(6) Upon receiving a report in evidence the Court shall, if it thinks such a course proper for the ends of justice, summon and examine a person referred to in subsections (1), (2) (3) and (4) as a witness or cause the person's evidence to be taken on commission, as the circumstances of the case shall require.

(7) 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

Inquiry by
Court.

68. (1) When in the course of a trial or a committal proceeding, 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 30 days for observation.

(2) Before or immediately upon the conclusion of the period of observation under subsection (1), the Chief Medical Officer shall cause a report on the condition of the defendant signed by 2 registered medical practitioners, notwithstanding that the practitioners who signed the reports 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) Where the Court finds that the defendant is of unsound mind and consequently incapable of making his defence, it shall -

(a) postpone further proceedings on the case;
and

(b) if the case is one in which bail may -

(i) be granted, 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; or

- (ii) not be granted, or if sufficient security is not given, report to the Minister who may order the defendant to be confined in a mental hospital, correctional center or other suitable place of safe custody and issue a warrant in accordance with such order.

69. Where the defendant appears to be of sound mind at the time of the committal proceedings, the Court shall, 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, proceed with the case and if the defendant ought to be committed for trial, so commit him.

70. (1) Where a person is charged with 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.

(2) When a finding is made under subsection (1), the Court shall -

- (a) order the defendant to be kept in custody as a criminal lunatic in a place and in the manner as the Court shall direct; and
- (b) report to the Minister who may order the defendant to be confined in a mental hospital, correctional center or other suitable place of safe custody during the Minister's pleasure.

(3) Where a person is charged with an offence and it is given in evidence on the trial of such person, that he was temporarily insane or was otherwise of diminished responsibility so as not to be responsible for his action at the material time when the act was done,

the trial shall be proceeded with and the Court shall take such mental condition into consideration in reaching a verdict, or, in a jury trial, the jury may be directed to take such condition into consideration before reaching a verdict.

Periodical
report on
criminal
lunatic.

71. (1) The Officer in charge of a mental hospital, correctional center or other place in which a criminal lunatic is detained by virtue of an order made under section 68 or section 70, 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 other place, and the Minister shall, at least once in every 3 years during which a criminal lunatic is detained in the 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.

(2) Where a criminal lunatic is conditionally discharged under subsection (1), 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.

Transfer and
discharge of
defendants of
unsound mind.

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

(2) The Minister may by order absolutely discharge a criminal lunatic and may also discharge a criminal lunatic on such conditions as to the duration of the discharge or otherwise as the Minister may think fit.

(3) Where a criminal lunatic has been discharged conditionally under subsection (2), 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, correctional center 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, correctional center 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.

73. Whenever a committal proceeding or trial is postponed under section 68 or 136, 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 defendant 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.

Resumption
of trial or
investigation.

74. Where a person is confined in a mental hospital under section 68 and the Officer in charge 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 officer shall be receivable in evidence.

Certificate
of medical
officer to be
evidence.

75. (1) Notwithstanding anything contained in sections 73 and 74 where it is certified by the officer in charge of a mental hospital or other medical practitioner appointed for that purpose by the Chief Medical Officer, that the mental balance of a defendant would be jeopardised by the strain of a trial, the proceedings against the defendant shall be discontinued unless the Director of Public Prosecutions informs the Court that he considers it essential in the public interest for the trial to proceed.

Trial to be
discontinued
in certain
cases.

(2) Where the proceedings are discontinued under subsection (1), the Court shall discharge the defendant and thereafter he shall be subject to (Cap. 127) the Lunacy Act in the same circumstances and to the same extent as a mental patient against whom proceedings have not been brought.

ADMISSION TO BAIL

Admission
to bail by
Judge or
Court.

76. (1) Where a person is charged with an offence -

- (a) of murder or treason he shall not be admitted to bail except by a Judge;
- (b) for which the maximum penalty is life imprisonment, the Court may, if it thinks fit, admit him to bail;
- (c) other than those referred to in paragraphs (a) and (b), the Court shall admit him to bail, unless the prosecutor proffers good and sufficient reasons, on affidavit, why bail should not be granted.

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

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

(4) A defendant who is 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.

(5) The Court may dispense with sureties if, in its opinion, its so dispensing will not tend to defeat the ends of justice and may make such orders, as it may deem fit, including that the defendant -

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

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

(7) The Rules of Court Committee may make such rules as may be necessary for giving effect to this section.

77. (1) Notwithstanding anything contained in section 76, a Police Officer in charge of a police station or police post may admit to 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, where a defendant is arrested -

Admission
to bail by
Police
Officer.

- (a) without warrant, on a charge for an offence other than an offence for which the penalty is life imprisonment; or
- (b) under a warrant endorsed for bail under section 28.

(2) A Police Officer in admitting a suspect or defendant to bail under subsection (1), may require the defendant to -

- (a) surrender his travelling documents or such other documents as may be required;

- (b) report at such place and at such times as may be determined;
- (c) give a definite place of abode or residence; or
- (d) provide surety or sureties, with or without title deeds or other security as may be approved.

(3) A recognisance under subsection (1), 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 131.

(4) A Police Officer shall, in admitting a suspect or defendant to bail under subsection (1), enter in a book, kept for that purpose in every police station or post or lock-up, the name, residence and occupation of the person entering into the recognisance and of his surety or sureties, if any, with the condition of the recognisance and documents or other security deposited or acknowledged.

(5) A book, kept under subsection (4), shall be laid before the Magistrate or the Police Officer present at the time and place where the suspect or defendant is required to appear and such Magistrate or Police Officer may enlarge the recognisance to such further time as he may appoint.

CONVICTION FOR OFFENCE OTHER THAN THAT CHARGED

Person charged with an offence may be convicted of attempt.

78. (1) Where on the trial of a person charged with an offence it appears upon the evidence that the defendant did not complete the offence but was guilty of attempting to commit the offence or to cause such offence to be committed, such 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.

(2) Where 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.

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

Conviction of manslaughter on a charge of murder.

(2) Where upon the trial of a woman for the murder of her child, being a child under the age of 12 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.

80. Where 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.

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

81. (1) Where on a trial for any of the offences mentioned in sections 25, 26, 27 and 28 of the Larceny Act, 1916, the facts proved in evidence authorise the conviction for some other of these offences and not the offence with which 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 a person shall not be convicted under this subsection, of an offence, the maximum punishment for which is greater than that prescribed for the offence charged.

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

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

(4) Where 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 Larceny Act, 1916, to obtaining it by false pretenses with intent to defraud, he may be convicted of obtaining it by false pretenses although he was not charged with that offence.

(5) Where a person is charged with obtaining a chattel, money or valuable security by false pretenses 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) Where 2 or more persons are charged jointly with receiving a property, and it is proved that one or more of the persons separately received any part of the property, any of those persons who are proved to have received a part of the property may be convicted upon such charge.

(7) Where a defendant is charged with rape or sexual penetration and the original charge is not proved, he may be convicted of any of the lesser offences in the Sexual Offences Act, 2012 (Act No. 12 of 2012) or in any other law dealing with indecent assault although not charged with that offence.

(8) Where a defendant is charged with wounding and the original charge is not proved, he may be convicted of the lesser offence of common assault although not charged with that offence.

82. Trial of felonies and misdemeanors shall be conducted in accordance with this Act.

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

83. Subject to any law relating to evidence in criminal cases, where a person charged with an offence, is married to another person, that other person shall be a competent and compellable witness on behalf of either the prosecution or the defence.

Spouse shall be competent and compellable witness.

84. (1) Subject to any law relating to the giving of evidence in Court, a person charged with an offence and the spouse or cohabiting partner shall be a competent witness for the defence at every stage of the proceedings, whether the person charged is charged solely or jointly with any other person.

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

(2) Notwithstanding subsection (1) a person charged with an offence shall not -

- (a) be called as a witness under this Act except upon his own application; or
- (b) be made the subject of a comment by the prosecution on account of the failure of him, his spouse or cohabiting partner, as the case may be, to give evidence.

(3) A spouse or cohabiting partner of a person charged with an offence shall not be -

- (a) called as a witness under this Act except upon the application of the person so charged;
- (b) compellable to disclose communication made to each other during the marriage or cohabitation.

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

(5) A person charged with an offence and called as a witness under this Act shall not be asked, and if asked shall not be required to answer, a question tending to show that he has committed or been convicted of or been charged with an offence other than that for which he has been 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 charged;
- (b) he has personally or by his counsel -
 - (i) asked questions of the witnesses for the prosecution with a view to establishing his own good character;
 - (ii) given evidence of his good character; or
 - (iii) invited imputations on the character of the prosecutor or the witnesses for the prosecution; or
- (c) he has given evidence against another person charged with the same offence.

(6) A person called as a witness under 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.

(7) A person charged with an offence may, notwithstanding subsections (1) to (6), make a statement without being sworn.

85. (1) At any time before, or during the course of a 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 the prosecution intends to call as a witness or who is actually called as a witness.

Prosecution to deliver to defendant copies of written statements before trial.

(2) Where 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 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) A written statement taken by the police or other prosecuting authority shall not thereby become evidence of 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 a witness and in addressing the Court.

86. Where 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.

Evidence of person charged.

87. 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.

Right of reply.

88. (1) The spouse or cohabiting partner of a person charged with an offence relating to rape, abduction of females or other sexual offences, may be called as a witness either for the prosecution or defence and without the consent of the person charged.

Calling of spouse or cohabiting partner in certain cases.

(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.

Hostile witness and previous inconsistent statement.

89. (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 or hostile, 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.

(2) Where a witness under subsection (1), upon cross-examination as to a former statement made by him and inconsistent with his present testimony, does not admit that he has made such statement, proof may be given that he did in fact make it.

(3) Proof that the written statement of a witness is inconsistent with his present testimony shall not be given unless the circumstances of the supposed written statement, sufficient to designate the particular occasion, is mentioned to the witness and he is asked whether or not he has made such written statement.

(4) A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, without such writing being shown to him unless the written statement is intended to contradict such witness.

(5) A written statement intended to contradict a witness under subsection (4), shall not be given, unless -

- (a) the attention of the witness is called to those parts of the writing which are to be used for the purpose of so contradicting him; and
- (b) the judge is able, at any time during the trial, to order reproduction of the writing for his inspection and make such use of it for the purposes of the trial, as he may think fit.

Circumstances where secondary evidence is admissible.

90. A statement made in a document shall be admissible in criminal proceedings as evidence of a fact of which direct oral evidence would be admissible if the person who made the statement is -

- (a) dead or by reason of his bodily or mental condition is unfit to attend as a witness;
- (b) out of the jurisdiction of Sierra Leone and it is not reasonably practicable to secure his attendance;
- (c) cannot be found after all reasonable steps have been taken to find him;
- (d) 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.

91. (1) A statement in a document shall be admissible in a criminal proceeding as evidence of a 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 a 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) a pending or contemplated criminal proceeding; or

(b) criminal investigations,

shall not be admissible under subsection (1) unless the requirements of that section 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 recollection of the matters dealt with in the statement.

Admissibility
of evidence
on tape,
video
recording or
film.

92. (1) In a criminal proceeding, 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, video, other form of electronic recording, or other material to the Court and the same shall be received in evidence.

(2) In a criminal proceeding, 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, computer input or output or other material to the Court and the same shall be received in evidence.

PART III - SUMMARY TRIALS

Trials in
Magistrate
Courts.

93. A trial in a Magistrate Court shall be conducted summarily in the manner and subject to the conditions laid down in this Part.

94. (1) A Magistrate Court shall sit to hear and determine the charge in a room or place to which the public generally shall have access as far as it can conveniently contain them.

Court to sit in public.

(2) Notwithstanding subsection (1), the Court may make an order for all trials relating to sexual offences to be heard in camera if it is satisfied that it is in the interest of justice to do so.

95. Where a defendant comes before a Magistrate Court on a summons, 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.

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

Appearance of both parties.

97. Where a defendant does not appear personally and pleads guilty in writing under section 22, the Magistrate Court may proceed to determine the matter notwithstanding the absence of the prosecutor.

Where defendant pleads guilty in writing.

98. (1) Redacted and un-redacted statements shall be served on the defence by the prosecution within 8 days of the initial appearance of the defendant, or, for such period, not exceeding 3 days at any one time, as the Court may determine, after the initial appearance of the defendant.

Redacted and unredacted statements to be served on defence.

(2) Where a defendant intends to raise the defence of alibi, he shall give notice of it to the prosecution within 14 days after receipt of an un-redacted statement under subsection (1).

99. (1) At the first appearance, the substance of the charge or charges shall be read out 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) A Magistrate 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 Magistrate 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.

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

Hearing may
be adjourned.

101. (1) The Magistrate Court may, at any time during the hearing of a charge, adjourn the hearing for a period not exceeding 3 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.

102. A Magistrate Court may, during an adjournment, according to the nature and circumstances of each case and subject to section 77, -

- (a) release the defendant on bail or commit him by warrant to a correctional centre or other place of detention or safe custody as the Court thinks fit; or
- (b) discharge the defendant on his entering into a recognizance with or without a surety or sureties.

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

103. (1) A Magistrate Court may, where -

- (a) at a time or place appointed by summons or on the adjournment of a hearing, a defendant does not appear, and, in the case of a summons, it is duly proved that the summons was served on the defendant within a reasonable time before the time for his appearance; and

- (b) the charge is not an offence punishable by a term of imprisonment exceeding one year, proceed with the hearing and convict the defendant in his absence, or refrain from doing so until he shall be brought before it.

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

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

(4) A Magistrate Court shall, where, in its discretion, refrains from convicting in his absence, a defendant who -

- (a) has not appeared; and
- (b) is charged with an offence punishable by a term of imprisonment not exceeding one year, issue a warrant for the arrest of the defendant and cause him to be brought before it.

104. (1) A Magistrate Court shall, where -

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

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

Procedure
on plea of
not guilty.

(3) Where a defendant does not employ a Counsel, the Magistrate 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.

Defence.

105. (1) A Magistrate Court shall, where at the close of the evidence in support of a charge,-

- (a) the defendant or his counsel makes a no case submission; and
- (b) it appears to the Court that the case is not made out against the defendant sufficiently to require him to make a defence, as to the particular charge,

acquit and discharge the defendant.

(2) A defendant or his counsel shall first make a no case submission, under paragraph (a) of subsection (1), and thereafter the prosecuting counsel shall reply and the defendant or his counsel shall not be entitled to say anything further.

(3) A Magistrate Court shall, where at the close of evidence in support of a charge, it appears to the Court that the case is made against the defendant sufficiently to require him to make a defence, ask him if he -

- (a) wishes to say anything in answer to the charge; or
- (b) has any witnesses to examine or other evidence to adduce in his defence, hear the defendant and his witnesses and other evidence, if any.

(4) A Magistrate Court may, where -

- (a) a defendant states that he has witnesses to call, other than an alibi witness in respect of whom notice should have been given but they are not present in Court;
- (b) the absence of the witnesses is not due to a fault of the defendant; and
- (c) there is a likelihood that they could, if present, give material evidence on behalf of the defendant,

adjourn the trial and issue process or take other steps, to compel the attendance of such witnesses.

106. Where a defendant adduces evidence other than evidence as to character in his defence, except with the leave of the Court,- Evidence in reply.

- (a) the prosecutor may adduce evidence in reply thereto but shall not make observations by way of reply to the evidence adduced by the defendant; and
- (b) the defendant shall not make observations on evidence adduced by the prosecutor in reply.

107. (1) A Magistrate Court shall, where, before trial upon information or at any stage of the trial, it appears to the Court that- Amendment of information.

- (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, make such order for the amendment of the information as it thinks necessary to meet the circumstances of the case, unless having regard to the merits of the case, the required amendment cannot be made without injustice.

(2) An order for the amendment of the information under subsection (1), 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) A Magistrate Court shall, where an information is amended under subsection (1), -

- (a) call upon the defendant to plead to the amended information;
- (b) at the request of the defendant, recall any of the witnesses for the prosecution, or for the defence, for further cross-examination or re-examination, as the case may be.

(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) A Magistrate Court shall,-

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

108. (1) A Magistrate Court may, where at any stage of a trial it is of the opinion that - Order for separate trial.

- (a) a defendant may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same information; or
- (b) 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, order a separate trial of an offence or offences charged in the information.

(2) A Magistrate Court may, where at any stage of a trial, it is of the opinion that -

- (a) 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 information; or
- (b) 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 on the information, order a separate trial of that defendant or those defendants.

109. (1) A Magistrate Court shall, having heard the witnesses and other evidence adduced and submissions by the parties themselves or their counsel, consider the whole matter and finally determine the case and either - Determination of charge.

- (a) convict the defendant and pass sentence; or
- (b) cause a record to be made of the point or points for determination, the decision therein and the reason for the decision.

(2) A Magistrate Court may, at any time before the final determination of a case under subsection (1), allow the prosecutor to withdraw any charge against the defendant whereupon such charge shall be deemed to be dismissed.

(3) Where a Magistrate Court convicts or makes an order against a defendant in respect of which an appeal lies to the High Court, the Magistrate 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.

110. The Magistrate shall, where a person is before him charged with an offence which is triable exclusively by the High Court or in the opinion of the Magistrate ought to be tried by the High Court, conduct committal proceedings into the charge or charges alleged, in accordance with this Part and the Second Schedule.

Committal proceedings not to be held in public.

111. (1) A committal proceeding under section 110, shall not be held in an open or public Court and the Court shall, if the Magistrate thinks that the ends of justice will be served by so doing, order that a person shall not 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 the defendants for trial or otherwise;
- (f) the Court to which and the charge on which the defendant is committed or a summary of the charge, where the Court so commits the defendant for trial;
- (g) the date and place to which the proceedings are adjourned, in the event of an adjournment; and
- (h) any decision as to the defendant being admitted to bail or being remanded in custody.

112. A Magistrate shall, at the initial appearance of a defendant before a Magistrate Court on summons, warrant or otherwise,-

Proceedings
at initial
appearance.

- (a) 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 take a plea;
- (b) notify the prosecution and the defendant that
 - (i) the decision to commit the defendant for trial shall be taken not more than 28 days after the initial appearance or at such later date as may be permitted by the Court;

- (ii) the prosecution shall, not later than 14 days before the date fixed for committal, 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 hearing:

Provided that such period of 14 days shall be extended for a further period not exceeding 7 days if the prosecution makes such an application before the expiration of the said 14-day period;

- (c) inform the defendant that -

- (i) if after service of the written statements, documents and list referred to in subparagraph (ii) of paragraph (b), he wishes to object to the use of the written statements, documents and physical and material evidence, he shall do so, not less than 7 days before the date fixed for the committal hearing by filing a notice to that effect in Court;
- (ii) 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 hearing, file in the Court and serve on the prosecution, the written statements made by himself and his witnesses.

- (d) release the defendant on bail or remand him in custody in accordance with section 76.

113. (1) On the date fixed for committal to the High Court-

Statements to be provided.

- (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 subparagraph (ii) of paragraph (b) of section 112;
- (b) the defendant shall, if he has so elected to take the steps mentioned in subparagraphs (i) and (ii) of paragraph of section 112, make available and produce and tender in Court, the written statements made by himself and his witnesses.

(2) The committing Magistrate shall, -

- (a) where a defendant elects to take or not to take any of the steps mentioned in subparagraphs (i) and (ii) of paragraph (c) of section 112; and
- (b) if satisfied that the statements and other evidence as to the commission of the offence or any other indictable offence, produced and tendered as aforesaid, are sufficient to put the defendant on trial proceed to commit him for trial in the High Court.

(3) The defendant shall, if on the date fixed for the committal hearing, he has indicated in the manner set out in subparagraph (i) of paragraph (c) of section 112 that he wishes to-

- (a) object to any of the prosecution's written statements, documents or other physical evidence, or
- (b) cross-examine a witness or witnesses, state his objection or objections or cross examine the witness or witnesses on that date.

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

(5) Where a witness for the prosecution is called on the application of the defendant or his counsel under section 112, -

- (a) the defendant or his counsel shall proceed to cross-examine such witness or witnesses; and
- (b) the prosecution shall be entitled to cross-examine any alibi witness called by the defendant.

(6) The evidence of a witness or witnesses cross-examined under subsection (5) shall be recorded in the form of a deposition which shall be read over and explained to the witness or witnesses in a language which the witness or witnesses understand and witness or witnesses shall then sign the deposition if it is a true record of his evidence and attested to by the Magistrate.

(7) A committing Magistrate shall, where he is of the view that the evidence sufficiently shows the commission of an offence other than that with which the defendant is charged, inform the defendant and record his finding in writing and commit the defendant for trial for that offence.

(8) Notwithstanding subsection (7) the defendant may, at the close of the prosecution's case, submit to the Court that there is no case to answer.

(9) Where a defendant or his counsel makes a no case submission, under subsection (8), he shall first make his submission and thereafter the prosecuting counsel shall reply and the defendant or his counsel shall not be entitled to say anything further and the committing Magistrate shall decide there and then whether to commit or not and record the reasons for his decision.

(10) The Court shall, where it considers that the evidence against a defendant is not sufficient to put him on trial, 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.

114. A written statement taken by a police officer or a prosecuting authority shall have the following endorsement at the top of the first page -

Endorsement
on written
statements.

(a) in the case of a literate person -

"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 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 person's signature or thumbprint and the signature of the person who witnessed the signing or the affixing of the thumbprint.)

(b) in the case of an illiterate person-

"This statement consisting of.....pages bearing my mark or marked by me was made by me in the ...language and interpreted by an interpreter and was read over to me in ...language, and is true to the best of my knowledge and belief and I make it knowing that, if 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 person's thumbprint or other mark and the signature of the person who witnessed the affixing of the thumbprint or other mark.)

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

"This statement consisting of.....pages bearing my mark or marked by me was made by me is true to the best of my knowledge and belief and I make it knowing that, if 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 person's mark and the signature of the person who witnessed the affixing of the mark.)

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

"This statement consisting of.....pages bearing my mark or marked by me was made by me in thelanguage and interpreted by an interpreter and was read over to me in thelanguage and is true to the best of my knowledge and belief, and I make it knowing that if 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 person's mark and the signature of the person who witnessed the affixing of the mark.)

- (e) in the case of a blind literate person-

"This statement consisting of.....pages signed by me was made by me in thelanguage and was read over to me inlanguage which I admit to be true to the best of my knowledge and belief and I make it knowing that, if 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 person's signature or thumbprint and the signature of the person who witnessed the signing or the affixing of the thumbprint.)

- (f) in the case of a blind illiterate person-

"This statement consisting of.....pages bearing my mark or marked by me was made by me in thelanguage and interpreted by an interpreter and was read over to me in the.....language which I admit to be true to the best of my knowledge and belief and I make it knowing that, if 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 person's thumbprint or other mark and the signature of the person who witnessed the affixing of the thumbprint or other mark.)

- (g) in the case of a deaf or dumb literate person-

"This statement consisting of.....pages signed by me was made by me in the sign language which I read and admit to be true to the best of my knowledge and belief and I make it knowing that, if 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 person's signature or thumbprint and the signature of the person who witnessed the signing or the affixing of the thumbprint.)

(h) in the case of a deaf or dumb illiterate person-

"This statement consisting of.....pages bearing my mark or marked by me was made by me in sign language and was demonstrated to me in sign language by an interpreter which I admit to be true to the best of my knowledge and belief and I make it knowing that, if 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 person's thumbprint or other mark and the signature of the person who witnessed the affixing of the thumbprint or other mark.)

115. (1) Where a committing Magistrate decides that there is sufficient evidence to put a defendant on trial, he shall say to the defendant: Committal of defendant.

"Having considered the evidence, you are committed to the High Court sitting atto stand trial for the offence of *Form 22 in Schedule II*

Copies of written statements and depositions (if any), the record of the committal proceedings and any other document and a list of all physical and material evidence tendered in the Magistrate Court shall be served on you before trial and you will be entitled to give evidence and to call witnesses at your trial."

(2) The committing Magistrate shall, if the circumstances of the case warrant the giving of an alibi warning to the defendant, say to the defendant:

"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 shall give those particulars now to this Court or to the prosecution not later than 7 days from the end of these committal proceedings."

Ancillary proceedings.

116. (1) A Magistrate shall, where a defendant has been committed to the High Court, by warrant, either admit the defendant to bail or send the defendant to be remanded in custody.

(2) A warrant of a Magistrate Court shall be sufficient authority to the keeper of a correctional center appointed for the custody of inmates committed for trial, although out of the jurisdiction of such Court.

(3) A warrant of committal shall name the day, not later than 60 days after the date of committal, and the 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 the trial of a defendant cannot take place on the day named on a warrant, a Judge may extend by endorsement on the warrant the time at which the defendant is to appear before the High Court.

(5) A warrant endorsed under subsection (4), shall have the like effect as a warrant issued under subsection (1).

117. Section 107 shall apply in relation to the amendment of a charge brought against a defendant before a Magistrate Court holding committal proceedings. Variance between charge and evidence.
118. Where a Magistrate is compelled to interrupt the conduct of committal proceedings by sickness, absence or other sufficient cause, the Chief Justice 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.
119. 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 within 14 days of committal, 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 Attorney-General and Minister of Justice within 30 days of committal. Returns to be made to trial Court and the Attorney-General and Minister of Justice
120. A defendant who has been committed for trial shall be entitled, without payment, at least 14 days before trial, to have authenticated copies of the written statements and depositions (if any), record of the committal list of exhibits tendered and any other document relating to those proceedings. Privilege of persons committed for trial.
121. (1) A Magistrate Court shall, if during the course of a committal proceedings it 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 7 years or a fine not exceeding the maximum fine a Magistrate Court can impose, - Procedure where defendant consents to summary trial.
- (a) ask the defendant whether he consents to the case being heard and determined summarily; and

- (b) explain to him the difference between the case being heard summarily and being committed to the High Court for trial.

(2) A Magistrate Court shall, where a defendant consents to the case being dealt with summarily, call upon him to plead to the information and fix a date for the commencement of the summary trial in accordance with Part III.

BINDING PROSECUTOR AND WITNESSES BY RECOGNISANCE

Prosecutor and witnesses to enter into recognisance.

122. (1) A Magistrate Court, upon committing a defendant for trial, -

- (a) may bind by recognisance, with or without a surety or sureties, as it may deem fit, the prosecutor and every witness to appear at the trial to prosecute, to prosecute and to give evidence or to give evidence, as the case may be; and
- (b) notify the prosecutor and every witness that his or their personal appearance shall be required on the day, not later than 60 days after the date of committal and at the same time inform him or them of the consequences of such failure.

Forms 23 & 24
in Schedule II

(2) The Magistrate shall fix a date, not later than 7 days or at such later date as circumstances may determine, after the date of committal of the defendant for the prosecutor and witnesses to enter into recognisances.

Refusal to
recognisance.

Form 25 in
Schedule II

123. The Court may, where a person refuses to enter into a recognisance under section 122, commit him to custody 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 also order that the person in custody for so refusing, to be discharged.

PROCEEDINGS UPON RECOGNISANCES

124. (1) Where the condition of a recognisance entered into 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 if the amount of the recognisance is not paid within 30 days after service of an order and notice to do so, the amount of the recognisance shall be recoverable by distress and sale of the goods and chattels of the recognisor.

Forfeiture
and levy of
recognisance.

(2) In default of the amount being recovered by distress and sale under subsection (1), the recognisor may be imprisoned for a period not exceeding 60 days, but the Court in or before which the condition of a recognisance ought to be performed may cancel or mitigate the forfeiture upon such terms and conditions (if any), as the Court may think just.

(3) The Court may, where it is made to appear, by information on oath, that a person bound by recognisance is about to go out of Sierra Leone, cause him to be arrested and commit him to a correctional centre until the trial, unless the Court shall see fit to admit him to bail upon further recognisance.

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

Register of
recognisance.

PART V-INDICTMENT AND TRIALS IN THE HIGH COURT

126. (1) An indictment charging a person with an offence triable in the high court may be preferred where -

Preferment
of
indictment.

- (a) there has been a committal for trial in the High Court consequent upon committal proceedings in accordance with Part IV;

- (b) pursuant to an application, the written consent of a Judge has been obtained;
- (c) the Attorney-General and Minister of Justice has filed an ex-officio information;
- (d) the Anti-Corruption Act, 2008 authorises the Anti-Corruption Commissioner to do so.

(2) Where a 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.

(3) An application shall be made for -

- (a) the preferment of an indictment under paragraph (b) of subsection (1); or
- (b) a warrant of arrest for a defendant in respect of whom an ex-officio information is filed under paragraph (c) of subsection (1).

INDICTMENTS

Conditions
for filing of
indictments.

127. (1) Subject to section 126, an indictment charging a person with an offence triable before the High Court may be preferred by a person before a Court in which the person charged may be lawfully indicted for that offence.

(2) A Law Officer shall, where an indictment has been preferred, unless the defendant has been acquitted and discharged under section 142, sign the indictment and proceed accordingly:

(3) Notwithstanding subsection (2), a Judge may, on the application of the prosecutor, direct a Law Officer to sign the indictment and the indictment shall be signed accordingly.

(4) This section shall not be construed so as to derogate from the powers conferred upon the Attorney-General and Minister of Justice by section 64 of the Constitution and on the Director of Public Prosecutions by section 66 of the Constitution and section 45.

128. An indictment, when signed, shall be -

Filing of
indictments
and its effects.

- (a) filed in the High Court;
- (b) equivalent to a statement that all conditions required by law to constitute the offence charged and to give the Court jurisdiction, have been fulfilled.

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

Endorsement
of
indictments.

" A.B. TAKE NOTICE that you will be tried on indictment, at the High Court sitting at..... on the.... day of, 20....", whereof this is a true copy.

130. The Registrar or other appropriate officer shall deliver or cause to be delivered to the Sheriff or Under 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 and the Registrar shall at the same time, furnish the Sheriff or the Deputy-Sheriff with copies of all written statements, depositions and other documentary evidence tendered or used during the committal proceedings.

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

Time and mode of summoning parties on indictment.

131. (1) The Sheriff, Deputy Sheriff or other appropriate officer authorised by him, shall, after having received a copy of the indictment, notice of trial and the other documents referred to in section 130, serve each defendant with the same and explain to each defendant the nature and contents of the documents so served.

(2) The time limited for service of the notice of trial and the other documents shall be, in the case of indictments filed -

- (a) pursuant to committal proceedings, be at least 7 days; and
- (b) without committal proceedings, be at least 14 days, before the day specified in the indictment for trial or within such lesser time as the Court may for good cause order.

(3) The Sheriff, Deputy Sheriff or other appropriate officer shall, where the defendant is not in custody or shall have been admitted to bail and cannot readily be found, leave a copy of the indictment and notice of trial, together with the other documents with someone in the defendant's household for the defendant and if none can be found, affix the copies and notice to the outer or principal door of the known accommodation of the defendant and if the defendant is in custody, the same shall be served on him at the correctional facility or lock-up where he is held.

(3) The period of 7 or 14 days, as the case may be, limited for service of the notice of trial and the other documents may be reduced to a shorter period, with the consent of the person charged.

Return of service.
Form 35 in
Schedule IV

132. The Sheriff, Deputy Sheriff or other appropriate officer serving the copy of the indictment, notice and other documents shall forth with file a return in the High Court Criminal Registry

133. The Court may, upon the application of the prosecutor or the defence, if it considers that there is sufficient cause for the delay, postpone the trial of a defendant to be held at a time and place to be named at the time of granting such postponement and 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 any such subsequent date would have had.

Postponement
of trial
respiting
recognisances.

ARRAIGNMENT

134. A person to be tried on an indictment shall be placed at the bar unfettered, unless the Court shall see cause to order otherwise and the indictment or charge shall be read 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 to plead to the indictment, unless he objects on the basis of want of service of the indictment and in which case, the Court shall ascertain that he has not been duly served.

Pleading to
indictment.

135. (1) A person shall, by pleading generally the plea of -
- (a) "not guilty", be deemed to have put himself upon his trial; and
 - (b) autrefois convict or autrefois acquit, it shall be sufficient for a 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 process leading to his trial.

Where defendant refuses to plead.

136. The Court shall, where a defendant stands mute or refuses by reason of mental or physical disability to answer directly to the indictment unless it has reason to believe that the defendant is of unsound mind and consequently incapable of making his defence, order the Registrar to enter a plea of not guilty on behalf of the defendant and the plea so entered shall have the same force and effect as if the defendant had actually pleaded not guilty, but if the Court has reason to believe that the defendant is of unsound mind or psychologically disturbed, it shall proceed in the manner prescribed in section 71.

Conduct and precedence of prosecutions.

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

(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 Law Officer and a jury or assessors shall be not be empanelled or selected for such case until it has been so presented.

Defendant to be released on bail or discharged if not tried within a certain period

138. (1) Where a defendant committed for trial in the High Court for an offence for which the sentence is life imprisonment is not put on trial within 90 days after the date of his committal, he shall, if in a correctional center, on his application by way of motion made on the last day of such period, or any day thereafter, be admitted to bail unless it is made to appear to the Court on oath, before the end of the 90-day period that the prosecution witnesses or any of them could not have been brought before the Court or for some other reason.

(2) Where a defendant on trial in the High Court for an offence other than an offence for which the penalty is life imprisonment is not tried by the end of the 180 day period after the defendant's first appearance in the High Court, he shall, be entitled on the expiration of the 180 days period to be acquitted or discharged unless the Court sees good reason to the contrary.

MODE OF TRIAL

139. (1) A person charged with a criminal offence at the High Court shall be tried by the Court with a jury consisting of 10 persons. Mode of trial.

(2) Notwithstanding subsection (1), a person charged with a criminal offence at the High Court may elect to be tried or be ordered to be tried by -

- (a) the Court with the aid of assessors in accordance with section 140; or
- (b) a Judge alone in accordance with section 141 and section 142, respectively.

140. A person charged with a criminal offence at the High Court other than murder or treason may at the time of being committed or referred for trial or at any time thereafter up to 2 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 a person shall so elect he shall be tried by a Judge with the aid of assessors instead of being tried by Judge and jury. Trial by Judge with the aid of assessors.

141. Notwithstanding anything contained in subsection (1) of section 139, the Attorney-General and Minister of Justice may, if he is of the opinion that the general interest of justice would be served, at the time of being committed or referred for trial or at any time thereafter up to 2 clear days at least before the trial, make an application to the Court for an order, which shall be made as of course, that person charged with a criminal offence at the High Court other than murder or treason, shall be tried by such Court with the aid of assessors or by a Judge alone, instead of by a Judge and jury. Trial by Judge alone at instance of Attorney-General and Minister of Justice.

142. A person charged with a criminal offence at the High Court other than murder or treason may at the time of being committed or referred for trial by the High Court, or at any time thereafter up to 2 clear days at least before the trial, elect to be tried by a Judge alone and if a person so elects he shall be tried by a Judge alone instead of being tried by a Judge and Jury and in every such trial by a Judge alone, the Judge shall record in writing his decisions and reasons therefore. Trial by Judge alone on election of defendant.

Change of election.

143. (1) A person charged with a criminal offence at the High Court other than murder or treason, who has elected to be tried by a Judge alone instead of being tried by a Judge and Jury under section 142, may afterwards elect to be tried by a Judge with aid of assessors, if he changes his election before the time allowed has expired, otherwise his change of election shall have no effect and in the case of persons who are charged jointly, if they have all elected in accordance with section 142 to be tried by a Judge alone, they shall be so tried unless they all change their election in accordance with this section.

(2) In the case of persons who are charged jointly, if one or more (but not all) have elected in accordance with section 142 to be tried by a Judge with the aid of assessors, he or they may withdraw that election and elect to be tried by a Judge alone provided this change of election is made before the time allowed has expired, otherwise the change of election shall have no effect.

(3) Where 2 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 the Court with a jury.

Order for amendment of indictment.

144. (1) Where, before trial upon indictment or at any stage of the trial, it appears to the Court that the indictment is defective in a material particular or the evidence discloses an offence other than the offence with which the defendant is charged, 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) An amendment under subsection (1), shall -

- (a) be made upon such terms that the Court thinks just; and
- (a) include the addition, substitution or deletion of a count if the evidence so warrants.

(3) Where an indictment is amended, Court shall -

- (a) endorse a note of the amendment 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; and
- (b) call on the defendant to plead to the amended indictment.

(4) Where an amendment of an indictment is made under subsection (1) and the Court is of the opinion that the defendant may be prejudiced or embarrassed in his defence by reason of the amendment, the Court may allow any witness to be recalled and further questioned upon any matter relevant to the amended indictment.

145. (1) Where before a trial upon indictment or at any stage of the trial the Court is of the opinion that a defendant charged with more than one offence in separate indictments, may not be prejudiced or embarrassed in his defence by reason of being charged in the same indictment with different counts or that for any other reason it is desirable to direct that one or more of the offences be tried jointly in the same indictment, the Court may order the joint trial of the offences in the same indictment. Order for joint trials.

(2) Where before a trial upon indictment or at any stage of the trial the Court is of the opinion that one or more of the defendants charged in separate indictments, may not be prejudiced or embarrassed in his defence by reason of being charged together with another person or other persons in a count or in the same indictment or that for any other reason it is desirable to direct that one or more defendants be tried jointly, the Court may order the joint trial of the defendants.

(3) Where an order is made under this section, the Court shall order -

- (a) the discharge of the defendant or defendants in respect of the earlier indictments;
- (b) that the prosecution files a fresh indictment and serve on the defendant or defendants with a copy or copies, not later than 7 days from the date of the Order; and
- (c) that the trial shall commence de novo.

Order for separate trial.

146. Where before a trial upon indictment or at any stage of the trial the Court is of the opinion that -

- (a) 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; or
- (b) 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 a separate trial of the defendants.

Order for postponement of trial.

147. 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 a power of the Court under this Act, the Court shall make such order as to the postponement of the trial as appears necessary.

148. (1) Where an order of the Court is made under section 146 for a separate trial or section 147 for postponement of a trial-

Court may order discharge of jury or assessors.

- (a) if the order is made during a trial with a jury or with assessors, the Court may order that the jury or assessors be discharged from giving a verdict or an opinion, as the case may be, on the count or counts on the indictment or the trial of which is postponed; and
- (b) the procedure on the -
 - (i) separate trial of a count shall be the same in all respects as if the count had been contained in a separate indictment;
 - (ii) separate trial of a defendant shall be the same in all respects as if the defendant had been charged in a separate indictment; and
 - (iii) postponed trial shall be the same in all respects as if the trial had not commenced:

provided that the jury or assessors, if any, have been discharged;

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

(2) The power of the Court under sections 146, 147 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.

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

Motion in arrest of judgment.

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

(3) Where the Court decides in favour of the defendant, the defendant 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.

150. A Judgment shall not be stayed or reversed on the ground of an 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 an informality in swearing the witnesses or any of them.

QUALIFICATIONS OF JURORS AND PREPARATION OF JURORS' LIST

Qualification
to serve as
juror.

151. (1) Subject to the exemptions in subsection (2) a person between the ages of 18 and 70 years who is resident in Sierra Leone and is literate in English, shall be liable to serve as a juror.

(2) Notwithstanding subsection (1), a person shall be exempted to serve as a juror if he is a-

- (a) Minister of Government;
- (b) Member of Parliament;
- (c) Judge, Magistrate and a staff of the Judiciary or the Law Officers' Department;
- (d) legal practitioner;
- (e) medical practitioner, dental surgeon, pharmacist, druggists, nurse and other medical professional in actual practice;
- (f) priest, deacon, imam or other officiating clergy of a religion practised in Sierra Leone;
- (e) Mayor of a municipality, Paramount Chief or Chairman of a District or local council;

- (h) diplomat, Consular officer, salaried staff of the Commonwealth, a foreign Government or other recognised international body or agency;
- (i) lecturer or teacher, during college or school term;
- (j) pilot of aircraft and of cargo or passenger ships in active duty;
- (k) member of the Republic of Sierra Leone Armed forces, the Sierra Leone Police or the Sierra Leone Correctional Service;
- (l) Managing Director, manager or personnel of a bank carrying on business in Sierra Leone:

Provided that in the case of personnel other than a Managing Director, branch manager or other manager, not more than 6 persons from any one branch of a bank shall be so exempted.

152. A person convicted of an offence, for which the penalty is life imprisonment, a sentence exceeding 5 years imprisonment or involving dishonesty, shall be disqualified from serving as a juror. from serving as Disqualification juror.

153. (1) The Judiciary of Sierra Leone shall have a Jury Management Office which shall be headed by a Jury Service Manager appointed by the Judicial and Legal Service Commission. Jury Service Manager may excuse from jury service.

(2) The Jury Service Manager may, in his discretion, excuse a person from serving as a juror for such period as he may deem fit, including a person who -

- (a) has served as a juror within the previous 3 years;
- (b) is about to undergo surgery or other medical treatment requiring hospitalisation;

- (c) is about to travel abroad; or
- (d) is engaged in full-time or part-time study in an educational institution.

Request to be excused from serving as a juror.

154. (1) A person liable to serve as a juror shall, if summoned to serve as such but wishes to be excused, -

- (a) make a request to the Jury Service Manager in the prescribed form not later than 7 days after receiving the summons; and
- (b) attach all relevant documentation certifying or proving the need to be excused.

(2) A person making a request to be excused under subsection (1), shall not be excused unless he has received, from the Jury Service Manager, the requisite permission to be excused.

(3) The Jury Service Manager shall, on receipt of a request under subsection (1), take into consideration all the circumstances of the request including the -

- (a) need to be excused; and
- (b) fairness, impartiality and the interest of justice.

(4) The Jury Service Manager shall notify, in the appropriate form-

- (a) a person requesting to be excused under subsection (1), of the reason for his decision, not later than 7 days after the receipt of the request; and
- (b) the appropriate authority or employer of the person requesting to be excused of his decision.

RECRUITMENT OF JURORS

155. The Director-General, National Civil Registration Authority and the Chief Electoral Commissioner, Electoral Commission shall submit, to the Jury Service Manager, the list of the names and contact details of persons between the ages of 18 and 70 from the population database and the Voters Register respectively, not later than 31st January in each year.

Submission of names and contact details of persons aged 18 to 70.

156. (1) The Jury Service Manager shall, not later than 30 days on receipt of the list submitted under section 155,-

Selection of persons to serve as jurors.

- (a) examine the list of the names and contact details of persons between the ages of 18 and 70; and
- (b) conduct a fair, indiscriminate and impartial selection, in alphabetical order, of persons to serve as jurors.

(2) The Jury Service Manager shall, in making the selection under subsection (1), -

- (a) take into account, the needs of each Court in Sierra Leone; and
- (b) ensure that jurors selected to serve are resident in that part of Sierra Leone.

(3) The Jury Service Manager shall exhibit in such place or places as he may deem fit or publish the names of persons selected to serve as jurors not later than 30 days after the conclusion of the selection process.

157. The Jury Service Manager shall, mark off the names of persons suitable to sit as special jurors from persons selected to serve as jurors under section 156.

Names of special jurors to be marked off.

158. (1) Upon the exhibition or publication of the list of names of persons under subsection (3) of section 156, the Jury Service Manager shall -

Objection of persons selected to serve as jurors

- (a) invite objections to the name of any person appearing on the list of persons selected to serve as jurors, to be sent in to him not later than 7 days after the date of the exhibition or publication;
- (b) consider each objection received under paragraph (a) and give notice of the merit or otherwise of his decision, in the appropriate form, not later than 7 days after the receipt of the objection; and
- (c) delete the name or names objected to from the list of persons selected to serve as jurors, if he considers that the objection is of sufficient merit.

(2) A person dissatisfied with the decision of the Jury Service Manager under paragraph (b) of subsection (1), shall make an application for a review to the Chief Justice, in the appropriate form, and the decision of the Chief Justice shall be final.

Publication
of list of
persons.

159. The Jury Service Manager shall, not later than 7 days after giving his decision on all objections to the names of those selected to serve as jurors -

- (a) exhibit or publish the final list of those selected to serve at such place as he may deem fit; and
- (b) notify each person selected, in the appropriate form, that -
 - (i) he has been selected; and
 - (ii) of his right to be excused from such service and the manner in which such right could be exercised.

160. The Jury Service Manager shall make available to the Chief Justice and each Judge sitting at any place in Sierra Leone, with a copy of the final list and he shall also retain a copy of the list for record purposes and the list shall be open to inspection at any time by members of the public.

Provision of final list.

161. The Jury Service Manager shall, after the final list of jurors has been settled, make available to each Court trying criminal cases, at the beginning of each calendar month or as often as the Registrar of the Court may require, the names of at least 25 jurors.

Names of jurors to be provided.

162. The Jury Service Manager shall, as soon as he has provided the names of the jurors under section 161, notify each juror of the date and time on and at which he shall report to the particular Court and the notice shall be served on the juror at least 7 days before the juror is required to present himself in Court:

Selected jurors to be notified.

Provided that a person selected to serve as a juror may request to be excused in accordance with section 159.

163. A person selected to serve as a juror under section 163 shall serve for a minimum of 2 consecutive trials in which he is empaneled and thereafter, he shall be eligible to apply to be excused for a period of 3 years from the last day on which he served as a juror.

Tenure of jurors.

164. A person who has been selected to serve as a juror under section 159, shall attend the Court or Court Building to which he has been assigned on pain of penalty and he shall remain duty bound to attend on all days at which the trial or trials for which he has been empaneled is or are adjourned, until the end of such trial or trials.

Selected jurors to attend all trials.

165. A juror who, without reasonable excuse, the proof whereof shall lie on him, fails to attend the Court or Court Building to which he has been assigned by the Jury Service Manager or who, having been empaneled to serve on a jury, fails to attend Court on an adjourned date, shall be in Contempt of Court and shall be liable to such penalty as the Court may deem appropriate.

Failure to attend Court.

Court to impose penalty on Order.

166. The penalty to which a juror is liable under section 165 shall be imposed summarily on an Order made by the Court and the Court shall be at liberty to commit the Juror found guilty of such Contempt of Court to a correctional centre or such other place for the detention of convicted persons for a period not exceeding one month or to a fine not exceeding 5 thousand Leones or such larger sum as the Rules of Court Committee may by statutory instrument prescribe.

Warrant of arrest for absentee juror.

167. Where the penalty imposed by the Court is committal to a correctional centre or other place for the detention of convicted persons, and the juror is absent when such a penalty is imposed, the Court shall issue a warrant for his arrest so as to bring him before the Court for the purpose of commitment.

Fines to be by distress or by sale of property.

168. (1) A fine imposed by the Court shall be recoverable by distress and sale of the moveable and immoveable property of the person so fined, if the fine is not paid by the juror within 6 days of the Order being made, or within 6 days of the Order being brought to his notice, if the Order was made in his absence.

(2) A warrant of distress under subsection (1), shall be signed by the presiding Judge

Juror to be committed to Correctional Centre.

169. Where after execution of a warrant of distress and the sale of a Juror's property, the whole of the fine imposed by the Court has not been fully recovered, the Court which imposed the fine may commit the juror to a correctional centre or other place for the detention of convicted persons for a period not exceeding 3 months and a juror committed to a correctional centre shall no longer be eligible to serve as a Juror in a trial.

TRIAL WITH A JURY

Empaneling the jury.

170. The Jury Service Manager shall, whenever it is necessary to form a panel of jurors to serve at a trial, cause the names of at least 20 of persons selected to serve, to be written on separate cards or pieces of paper of equal size which shall be placed in a ballot box for the purpose of forming a panel of jurors.

171. The Registrar of the Court shall randomly draw from the ballot box, the cards or pieces of paper bearing the names of at least 20 of persons selected to serve until a panel of 10 jurors have been selected after all the just causes or challenges and any or all requests for a juror to stand aside, have been heard.

Registrar's duty in empaneling jury.

172. As soon as a juror's name has been pulled out of the ballot box and called, he shall proceed to the jury box or such other place in the Court room specifically designated for jurors to sit and occupy.

Successful jurors to take their seats.

173. A person shall not be eligible to serve as a juror unless he has been selected in the manner set out under this Act.

Eligibility criteria.

174. When the jurors are ready to be sworn, the Registrar of the Court or other officer designated by the Court for that purpose, shall address the defendant as follows:

Registrar to address defendant.

"The jurors who are about to try you are now about to be sworn, if you object to any of them, you must do so before the juror objected to is sworn and your objection shall be heard, but not thereafter."

175. There shall be no challenge to the array of jurors but the defendant shall have the peremptory right to challenge not more than 3 Jurors without stating the reason for doing so.

Defendants' peremptory challenge.

176. The defendant shall be entitled to challenge for cause, any number of jurors without limitation, but only on the following grounds

Challenge for cause.

- (a) presumed or actual partiality or prejudice in the juror as standing in the relation of-
 - (i) spouse;
 - (ii) master or servant;
 - (iii) landlord or tenant ;
 - (iv) victim or complainant;
 - (v) plaintiff or defendant in a civil suit;
 - (vi) complainant or defendant in a criminal proceeding;

- (b) presumed or actual partiality or prejudice in the juror entertaining prejudiced views on the case to be tried;
- (c) known personal impediment of a juror such as -
 - (i) hearing impairedness, blindness or extreme short-sightedness;
 - (ii) medical or mental unfitness;
 - (iii) being below or above the age of eligibility;
 - (iv) being convicted of an offence which carries a punishment of life imprisonment, perjury, involving dishonesty or carrying a sentence exceeding 5 years;
 - (v) not literate in the English language.

Prosecution to retain common law right.

177. The prosecution shall retain the common law right to request that a juror be asked to "stand aside".

Challenge to be determined without jury.

178. A challenge for cause and request for a juror to stand aside, if objected to by the prosecution, shall be tried and determined by the Court without a jury and the person challenged shall be examined on oath and shall be required to answer on oath, all lawful questions relating to the trial of the challenge.

When Court may keep jury together.

179. The Court shall, in the exercise of its discretion, decide whether a jury should be kept together during an adjournment previous to the close of the Judges' summing up.

Jurors to attend adjournment.

180. Where a trial is adjourned, the jurors shall be required to attend at the adjourned sitting and at every subsequent sitting until the conclusion of the trial.

181. Subject to section 182, a trial with a jury shall continue

with less than 10 jurors but not less than 8 jurors in any of the following circumstances, where -

Circumstances when jury number is reduced.

- (a) a juror dies;
- (b) a juror is discharged by the Judge for -
 - (i) being absent because he has fallen ill and his continued illness might cause inordinate delay to the trial;
 - (ii) being ineligible to serve; or
 - (iii) any other lawful reason.

182. (1) Where in the course of a criminal trial, the number of jurors is reduced to less than 10 jurors but not less than 8 under section 181, the consent in writing by or on behalf of both the prosecutor and the defendant is required for the trial to proceed and a verdict may be given accordingly.

Prosecution and defence to consent to reduction of jurors.

(2) Where either the prosecutor or the defendant or each defendant in a joint trial, refuses to give his consent as is required under subsection (1),-

- (a) a juror shall be added and the jury re-sworn; or
- (b) the jury shall be discharged from returning a verdict and a fresh jury empaneled, to try the defendant afresh.

183. The verdict delivered by a reduced number of jurors under sections 181 shall remain valid as that delivered by 10 jurors.

Verdict of reduced number of jurors.

TRIAL WITH ASSESSORS

184. (1) Where a trial is to be held with the aid of assessors, the of assessors shall be selected from the list of persons marked as special jurors who are expert in a discipline relevant to the matter before the Court, the number not being less than 3, to sit as assessors and assist the Judge in the trial.

Selection of assessors.

(2) The defendant may object to an assessor selected

under subsection (1), and the Court shall refuse to allow that assessor to sit if the grounds for the objection are substantial and reasonable.

Decision of Court and assessors.

185. In a trial with the aid of assessors the decision of the Judge, on 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.

Trial to proceed despite assessor unable to attend.

186. (1) Where in the course of a trial with the aid of assessors, at any time prior to the finding, an assessor, for sufficient cause, is prevented from attending throughout the trial, the trial shall, with the consent of the prosecution and of the defence, proceed with the aid of the remaining assessors.

(2) Where 2 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.

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

(2) In the event of an 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 the prosecution

188. Where in a trial by judge with assessors or by a judge alone, 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, the prosecution shall open the case against the defendant and shall call witnesses and adduce evidence in support of the charge.

189. (1) Where the prosecutor is of the opinion that there is a

material or necessary witness in a trial, other than those mentioned on the back of the indictment, the prosecutor may call the witness before the trial Court upon giving notice of his intention to do so together with the written statement of the witness to the Registrar of the Court and the defendant.

Additional witnesses on the back of indictment.

(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 on which the additional witness is to give evidence; otherwise, that witness shall not be called.

190. A witnesses 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 prosecution witnesses.

191. (1) A committal warrant duly signed by a Magistrate, including a statement made by the defendant (if any) before the Magistrate, shall be tendered in evidence by the prosecution before the close of the prosecution's case.

Committal warrant to be tendered.

(2) Where a trial commenced without committal proceedings, the order of the Judge-

- (a) giving his consent for the preferment of the indictment and arrest of the defendant;
- (b) fixing the date of the trial; or
- (c) for the arrest of the defendant and for fixing the date of the trial in the case of an ex-officio information filed by the Attorney-General and Minister of Justice, shall be tendered by the prosecution before the close of the prosecution's case.

(3) Where a Court orders the joint trial of offences

charged in separate indictments, or, for defendants charged in separate indictments, the order for the joint trial shall be tendered by the prosecution before the close of the prosecution's case, in addition to the committal warrant or order of the Judge made pursuant to section 126.

Submission
of no case.

192. (1) Where at the close of the prosecution's case,-

- (a) in a trial by Judge and jury, the defendant or his counsel makes a no case submission in respect of a count or counts in the indictment or the whole of the indictment and the Judge is of the opinion that there is not sufficient evidence that the defendant has committed an offence of which he could be lawfully convicted in respect of the count or counts in the indictment or the whole of the indictment, the Judge shall forthwith direct the jury to enter a verdict of not guilty and acquit the defendant in respect of the count or counts in the indictment or the whole of the indictment;
- (b) in a trial by Judge alone or a trial by a judge with the aid of assessors, the Judge is of the opinion that the prosecution's evidence in respect of a count or counts in the indictment or the whole of the indictment is such that a reasonable jury properly directed could not convict upon it, he shall acquit the defendant in respect of the count or counts in the indictment or the whole of the indictment.

(2) Notwithstanding paragraph (a) of subsection (1), the Judge may, in his discretion, direct the jury to return a verdict of not guilty in respect of a count or counts in the indictment.

(3) 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

193. (1) At the close of the evidence for the prosecution, if a no case submission under section 192 is unsuccessful, or, has not been made, the Court shall inform the defendant of his right to -

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

- (a) address the Court;
- (b) give evidence on oath or by affirmation on his own behalf;
- (c) make a statement without being sworn or without affirming; or
- (d) 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 -

- (a) inform the defendant that irrespective of whichever of the options in subsection (1) he chooses, he has a right to call witnesses; and
- (b) record the option chosen by the defendant and proceed in the manner set out in section 194.

194. (1) Where a defendant does not intend to call witnesses but intends to give evidence himself, he shall be called upon to open his case and he shall proceed to give his evidence.

Evidence of defendant.

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

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

(5) A defendant and a witness called by the defence shall be subject to cross-examination by or on behalf of the prosecution and to re-examination on behalf of the defence.

Addresses by
defence and
prosecution.

195. (1) Where a defendant gives evidence but does not call witnesses, the prosecution shall address the Court first and the defendant or his counsel shall thereafter address the Court.

(2) Where a defendant calls witnesses, the defendant or his counsel shall address the Court first and the prosecution shall thereafter address the Court.

Addresses by
co-
defendants.

196. Where 2 or more defendants are tried jointly and one or more of the defendants call witnesses, the order of speeches shall be the same as if all defendants called witnesses.

Defendant
entitled to
compel
attendance
of witnesses.

197. (1) A defendant shall be entitled to apply for the issue of process to compel the attendance of a witness.

(2) A defendant shall not be entitled to an adjournment to secure the attendance of a witness unless he shows that he could not by reasonable diligence have taken earlier steps to obtain the presence of the witness.

Rebutting
evidence.

198. (1) The Court may, in its discretion, where-

- (a) at the close of the evidence for the defence;
or

- (b) evidence of good character has been given, 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 by the prosecution under subsection (1), counsel for the defence shall be entitled to comment on the evidence so given.

CLOSE OF HEARINGS IN TRIALS BY JURY

199. Where, 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 sum up of the law and evidence shall be recorded in writing by the Judge, by a Court appointed stenographer or by electronic device and such writing or recording shall be made available to both the prosecution and the defence on request, in such form and for such fee as may be prescribed, to the Master and Registrar or the Registrar of the Court.

Summing up
by Judge.

200. (1) After the summing up of the law and evidence under section 199, the Jury shall retire to consider their verdict.

Jury to
retire after
summing up.

(2) A person other than a juror shall not, except with the leave of the Court, speak to or hold any communication with a member of the Jury while the Jurors are considering their verdict.

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

Delivery of
verdict.

202. (1) Where the Jury are not unanimous, the Judge may require them to retire for further consideration.

Where jury
are not
unanimous.

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

Verdict on
each charge.

203. (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.

(2) The questions to the jury and the answers to the questions shall be recorded.

Amending a
verdict.

204. When by accident or mistake a wrong verdict is delivered, the Jury may, before or immediately after it is recorded, amend the verdict and the verdict shall stand as ultimately amended.

Action on
verdict.

205. (1) Where the verdict of the Jury is unanimous, the Judge shall give judgment in accordance with that verdict.

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

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

(4) Where the Jurors are not unanimous in their findings, the Judge shall, after the lapse of time as he thinks reasonable, discharge the Jury:

Provided that the findings of a majority of not less than two-thirds of the Jury may in respect of any offence, be held, taken to be and received by the Court as the verdict of the whole Jury.

Retrial by
another
Jury after
discharge.

206. Whenever the Jury is discharged under subsection (4) of section 205, the defendant shall be detained in custody or released on bail, as the case may be, and shall be tried by another Jury.

CLOSE OF HEARING IN CASES TRIED WITH ASSESSORS

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

Delivery of
opinion by
assessors.

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

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

CLOSE OF HEARING IN CASES TRIED BY JUDGE
ALONE

208. (1) The Judge shall, in a trial by Judge alone, proceed to deliver a written judgment.

Judgment
in trial by
Judge alone.

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

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

ALLOCUTUS

Allocutus.

209. The Registrar or other officer of the Court shall, where in a trial a Judge sitting with a jury or with assessors or sitting alone the defendant is found guilty or the defendant pleads guilty, ask the defendant whether he has anything to say as to why sentence should not be passed upon him according to law:

Provided that the omission so to ask him shall have no effect on the validity of the proceedings.

EVIDENCE BEFORE SENTENCE

Evidence before sentence.

210. The Court shall, before passing sentence, receive such evidence as it thinks fit, in order to inform itself as to the proper sentence to be passed.

PART VI-SPECIAL TRIALS TRIAL OF CORPORATIONS OR COMPANIES

Representation of corporation or company.

211. (1) In this Part, the expression "representative" in relation to a or company means a person duly appointed by the corporation or company to represent it for the purpose of doing an act or thing which the representative is by this Part authorised 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 or company before a Court for any other purpose.

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

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

Proceedings
against
corporation
or company.

(2) A representative may be on behalf of a corporation or company make a statement before the Court in answer to the charge.

(3) Where a representative appears, a 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, a requirement under subsection (3) or a requirement that the consent of the defendant shall be obtained for summary trial, shall be dealt with in the same manner as if the defendant was a natural person, but not for the purpose of issuing a warrant for arrest.

(5) Where a person is charged jointly with a corporation or company with an offence triable on indictment and either that person or the corporation or company by its representative does not consent that the offence should be dealt with summarily under 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 or company is charged with an offence triable on indictment or triable summarily, the corporation or company 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 or company does not appear by a representative or though it does so appear fails to enter a plea, the Court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation or company had duly entered a plea of not guilty.

Fines on
corporation
or company.

213. (1) A corporation or company that is convicted of an offence shall, in lieu of a term of imprisonment that is prescribed as the punishment for that offence or where no fine is prescribed, be fined in an amount that is in the discretion of the Court where the offence is triable on indictment and where tried summarily, to a fine within the jurisdiction of a Magistrate's Court.

(2) The prosecutor may, where a fine imposed under subsection (1) is not paid on the filing of 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 or company in the same manner as if it were a judgment entered against the corporation or company in the High Court in a civil proceeding.

Service of
documents.

214. Where a corporation or company is charged with an offence triable on indictment or summarily, an indictment, summons or other document requiring to be served on the corporation or company 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 company, or if there is no such office in Sierra Leone, by leaving it at or by sending it by post to the corporation or company at a place at which it trades or conducts its business in Sierra Leone.

TRIAL OF CHILDREN

Trial of
a child.

215. A child accused of a criminal offence shall be apprehended and tried in accordance with the Children and Young Persons Act (Cap 44) or any other enactment for the time being in force relating to the trial of children.

PART VII - EXECUTION OF SENTENCES ALTERNATIVE SENTENCES

Authority for
carrying out
sentence.

216. (1) A warrant under the hand of a Judge or Magistrate by whom a person is sentenced, ordering that the sentence is carried out in a correctional centre within Sierra Leone, shall be sufficient authority to the keeper of such correctional centre and to all other persons for carrying into effect the sentence described in the 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 a term of imprisonment imposed by the sentence of a Court shall be treated as reduced by a period during which the person convicted was in custody before sentence.

217. (1) Where a Court passes a sentence of imprisonment for an offence for which the term of imprisonment does not exceed 2 years, the Court may Order that the sentence be suspended and that it shall not take effect from the date of the Order, unless within one year of the Order, the offender commits another offence punishable with imprisonment. Suspended sentences.

(2) Where a Court suspends a sentence under subsection (1) and the offender commits another offence punishable with imprisonment within the period of one year, the Court shall order that the sentence takes effect as of the date specified in that Order.

(3) The Court shall, on passing a suspended sentence, explain to the offender in ordinary language, his liability that if during the suspension 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.

(4) 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.

218. (1) A Court may defer passing sentence on a convicted person where the - Deferred sentences.

- (a) maximum sentence of the offence in respect of which the person is convicted does not exceed 2 years;

- (b) convicted person consents to deferment of the sentence; and
 - (c) Court is satisfied, having regard to the nature of the offence and the character and circumstances of the convicted person, it would be in the interest of justice to exercise the power.
- (2) A deferment of a sentence under subsection (1), shall-
- (a) be to a date specified by the Court which date shall not be more than 6 months after the date so specified; and
 - (b) not to be further deferred except in cases where the convicted person is pregnant; or
 - (c) the convicted person applies for further deferment for special or specific reasons.
- (3) Where a Court defers passing sentence on a convicted person under subsection (1), it shall not, on the same occasion, remand him in custody.
- (4) The Court shall, where the passing of sentence on a convicted person is deferred, deal with the person, at the end of the period of deferment, in a way in which it could have dealt with him if it had not deferred passing sentence.
- (5) Nothing in this section dealing with a deferred sentence or in section 220 dealing with the commission of an offence after a conditional discharge, shall affect the power of -
- (a) the High Court to bind over a convicted person to come up for judgment when called upon; or

- (b) any Court to defer passing sentence for any purpose for which it may lawfully do so apart from this section.

219. (1) The Court may, where it defers passing sentence on a convicted person under section 218, call up the convicted person for sentence before the end of the period of deferment, if during that period the convicted person is convicted of another offence.

Further powers of Courts where sentence is deferred.

(2) The Court may, where it defers passing sentence on a convicted person for an offence committed during the period of deferment, also, if this has not already been done, sentence the convicted person for the offence for which sentence was deferred:

Provided that -

- (a) a Magistrate Court shall not exercise the power conferred under this subsection if the Court which deferred passing sentence was the High Court;
- (b) the High Court shall not pass a sentence -
- (i) which could not have been passed by a Magistrate Court exercising that power; and
 - (ii) if the Court which deferred passing sentence was the Magistrate Court.
- (3) Where-
- (a) a Court has deferred passing sentence on a convicted person proposes to deal with him under section 218, -
- (i) on the date specified by the Court pursuant to subsection (2) of section 218; or

- (ii) before the end of the period of deferment pursuant to subsection (1); or
- (b) the convicted person does not appear on the date so specified, the Court may issue a summons for the appearance or a warrant for the arrest of the convicted person.

(4) A Magistrate Court shall, in deferring the passing of sentence under section 218, be deemed to be exercising its powers of adjourning proceedings and accordingly its powers in relation to non-appearance of defendants and witnesses shall apply.

(5) The power of a Court to deal with a convicted person whose sentence has been deferred includes the power to deal with the convicted person, in a way in which the Court which deferred passing sentence could have dealt with him.

Absolute and conditional discharge.

220. (1) Where a Magistrate's Court by or before which a person is convicted of an offence for which the term of imprisonment does not exceed 2 years or by the High Court for an offence not involving life imprisonment or is not of a sexual nature, 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 discharging him -

- (a) absolutely; or
- (b) subject to the condition that he commits no offence within 2 years from the date of the order.

(2) An order discharging a person under paragraph (b) of subsection (1), shall be referred to as an "Order for Conditional Discharge" and the period specified in the Order for Conditional Discharge shall be referred to as "the Period of Conditional Discharge".

(3) The Court shall, before making an order for conditional discharge under subsection (1), explain to the convicted person that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the offence for which he was discharged.

(4) Where a person conditionally discharged is sentenced for the offence in respect of which the Order for Conditional Discharge was made, the Order shall cease to have effect.

(5) The Court may, on making an Order for Conditional Discharge, if it thinks it expedient for the purpose of the convicted person's reformation, allow a person who consents to do so to give security for the good behaviour of the convicted person.

(6) A Court may, on discharging a convicted person absolutely or conditionally, make an order for costs against that person or imposing a disqualification on him or an order for compensation or restitution.

221. (1) The Court may, where it appears that a person in respect of whom an Order for Conditional Discharge has been made has been convicted of an offence committed during the period of conditional discharge issue - Commission of offence after conditional discharge.

- (a) a summons requiring that person to appear at the place and time specified in the summons; or
- (b) a warrant for his arrest.

(2) A summons or warrant issued under subsection (1), shall direct that the person to whom it relates appear or be brought before the Court by which the Order for Conditional Discharge was made.

(3) A Magistrate Court shall, where a person in respect of whom an Order for Conditional Discharge has been made by the High Court is convicted by the Magistrate Court of an offence committed during the Period of Conditional Discharge, -

- (a) commit him to custody or release him on bail until he can be brought before the High Court; and
- (b) send to the High Court a copy of the magisterial notes or records and the Order of the Magistrate Court in respect of the conviction signed by the Registrar or other officer of the Court.

(4) 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 a way in which it could deal with him if he had just been convicted by or before that Court of that offence.

(5) Where a person in respect of whom an Order for Conditional Discharge has been made by a Magistrate Court is convicted before the High Court of an offence committed during the Period of the Conditional Discharge, the High Court may deal with him, for the offence for which Conditional Discharge has been made by the Magistrate Court, in a way in which the Magistrate Court could have dealt with him if it had just convicted him of that offence.

(6) Where 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 an offence committed during the Period of Conditional Discharge, that other Magistrate 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 a way in which the Court could have dealt with him if it had just convicted him of that offence.

Effect of
discharge.

222. (1) A conviction of an offence for which an order is made under section 220 discharging a defendant absolutely or conditionally shall be deemed not to be a conviction for a 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:

Provided that where a person aged 18 or over at the time of his conviction is subsequently sentenced for that offence, he shall be a convicted person.

(2) Without prejudice to subsection (1), the conviction of a defendant who is discharged absolutely or conditionally under section 220 shall in any event be disregarded for the purposes of an enactment which -

- (a) imposes a disqualification or disability upon convicted persons; or
 - (b) authorises or requires the imposition of such disqualification or disability.
- (3) Subsections (1) and (2) shall not affect-
- (a) a right of a defendant discharged absolutely or conditionally, to rely on his conviction as a bar to subsequent proceedings for the same offence; or
 - (b) the restoration of property in consequence of the conviction of such person.

223. (1) Where a person is convicted of an offence for which the term of imprisonment does not exceed 5 years, the Court by or before which he is convicted may make a Community Punishment Order, requiring him to perform unpaid work including, working on youth projects, old people's homes, correctional and state farms, cleaning public places, such as the House of Parliament, hospitals, beaches and painting of public buildings and road signs, in such manner and for such period as the Court may think fit.

Community
Punishment
Orders.

(2) 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.

(3) A Court shall not make a Community Punishment Order in respect of a convicted person unless the Court is satisfied that -

- (a) the convicted person is suitable to perform the unpaid work; and
- (b) there is adequate provision for the convicted person to perform the unpaid work.

(4) The Court may, where it makes Community Punishment Orders in respect of 2 or more offences of which a defendant has been convicted by or before it, direct that the days of work specified in any of those Orders shall be concurrent with or be in addition to those specified in the Orders, but such that the number of days which are concurrent shall in the aggregate not exceed 60 days.

(5) A Court shall, before making a Community Punishment Order, explain to the convicted person -

- (a) the purpose and effect of the Order;
- (b) the requirements of the Order;
- (c) the consequences of failure to comply with any of the requirements of the Order; and
- (d) the power of the Court to review the Order.

(6) A Court shall, upon the making of a Community Punishment Order, give copies of the Order to the person convicted and to the officer or authority responsible for the supervision of the Community Punishment Order.

Obligations
under
Community
Punishment
Order.

224. (1) A Community Punishment Order made under section 223 shall state that the convicted person shall -

- (a) be under the supervision and direction of the officer or authority responsible for the supervision of the Community Punishment Order;

- (b) perform such work and for such period of time as specified in the Community Punishment Order; and
- (c) notify the officer or authority responsible for the supervision of the Community Punishment Order of any change of address of the convicted person.

(2) A Community Punishment Order made under section 222 shall state that the officer or authority responsible for the supervision of the Community Punishment Order shall, as far as practicable be such as to avoid -

- (a) conflict with the requirements of any other Community Punishment Order to which the convicted person may be subject; and
- (b) interference with the times, if any, at which the convicted person normally works or attends school or any other educational or vocational training institution.

(3) Subject to this Act, the work required to be performed under a Community Punishment Order shall be performed within one year starting from the date of the Order and unless otherwise revoked, a Community Punishment Order shall remain in force until the convicted person has fully complied with the terms of the Order.

225. A Court may, where a person is convicted of an offence punishable by imprisonment, other than an offence for which the sentence is fixed by law, sentence that person to a fine, in addition to or in lieu of any other punishment to which that person is liable. Fine in lieu of imprisonment.

226. (1) A Court shall, where upon conviction, it orders money to be paid as a fine or as a penalty or as an alternative to a term of imprisonment, by the convicted person, by notice in writing, state 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. Notice of fines to be paid.

(2) The Registrar or clerk of the Court shall, where a Court orders money to be paid under subsection (1) and the convicted person is not present at the time of the conviction, 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.

Order for
payment of
money.

227. (1) A Court may, where it orders money to be paid by a convicted person-

- (a) for the expenses of his prosecution; or
- (b) by way of compensation or otherwise, either order immediate payment, allow time for payment or direct payment to be made by installments.

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

(3) Money due under subsection (1) 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 verbally or, by warrant in that behalf, order him to be kept in custody, for a period not exceeding 48 hours at any one time, until return is made to the warrant of distress.

(4) A person ordered to pay money under subsection (1) may pay or tender to the Bailiff or other duly authorised 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.

228. Where the Bailiff or other duly authorised officer having the execution of the warrant reports that he could not find 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, not exceeding 48 hours at any one time, unless the money and all expenses of the distress, commitment and conveyance to a correctional centre, to be specified in the warrant, are sooner paid.

Commitment
for want of
distress.

229. A Court may, where it appears that -

Commitment
in lieu of
distress.

- (a) distress and sale of his goods and chattels would be ruinous to the person convicted;
- (b) the person has no goods whereon a distress may be levied; or
- (c) there are other sufficient reasons, instead of, or, after issuing a warrant of distress, 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 commitment and conveyance to the correctional centre, to be specified in the warrant, are sooner paid.

230. (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 a warrant of commitment to a correctional centre, issue a warrant of detention in a police station.

Fines,
detention
in police
station in
lieu of
imprisonment.

(2) A warrant of detention in a police station issued under subsection (1) shall authorise -

- (a) the police officer holding the warrant, unless the sum mentioned in the warrant, with the amount of expenses authorised in it (if any), is sooner paid and a duly authorised receipt is issued for that purpose, to convey the person named in the warrant to a appropriate police station and for that purpose to arrest him; and
- (b) the officer in charge of a police station to detain the person named in the warrant until 8 O'clock in the morning on the day following that on which the person named in the warrant is arrested under the warrant or, if he is so arrested between mid-night and 8 O'clock in the morning, on that day.

(4) The officer in charge of the police station in which the person named in the warrant is detained under this section may discharge him at any time within 2 hours before 8 O'clock in the morning if the officer thinks it expedient to do so in order to enable the person detained to go to his employment or for any other reason appearing to the officer to be sufficient.

Statements
of wages to
be evidence.

231. A statement in writing to the effect that wages of an amount have been paid to a person ordered to pay during a 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 on that person to whom the wages are stated to have been paid, of a fine or penalty upon a conviction.

Payment in
full after
commitment.

232. A person committed for non-payment may pay the sum mentioned in the warrant, with the amount of expenses therein authorised (if any), to the person in whose custody he is and that person shall thereupon issue to him a duly authorised receipt and then discharge him if he is in custody for no other matter.

233. (1) Where a person committed to a correctional centre for non-payment has paid or shall pay a 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 that person is committed, as the sum so paid bears to the sum for which he is liable. Part
payment
after
commitment.

(2) The keeper of a correctional centre in which a person is confined who is desirous of taking advantage of subsection (1) shall, on application being made by that person, 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) The Rules of Court Committee Rules shall by statutory instrument make rules for carrying out the provisions of sections 228 to 232 inclusive.

234. A commitment for non-payment shall not be for a longer period than 6 months, except where the law under which the conviction has taken place enjoins or allows a longer period. Limitation of
imprisonment.

235. 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. Direct
imprisonment.

236. (1) A warrant to enforce the payment of money due in respect of fines, penalties and forfeited recognisances shall be sufficiently addressed for execution by being directed, in the case of Address and
execution of
warrants.

- (a) the Western Area to the Sheriff, Under Sheriff, or Deputy Sheriff; and
- (b) the Provinces to the Assistant Sheriff or the Assistant Inspector-General of Police of the Region.

(2) A warrant under subsection (1), may be delivered to police officers for execution.

Enforcement
of warrants.

237. A warrant under section 236 shall -

- (a) be valid and effectual throughout Sierra Leone, wherever the person against whom the warrant is issued, or where goods and chattels of such person may be found; and
- (b) if issued by a Magistrate Court, be enforced by a Magistrate Court in other Districts in which the person against whom the warrant or goods and chattels of that person, may be found.

Procedure
with regard
to warrants
executed
outside
jurisdiction.

238. A warrant to be enforced outside the jurisdiction of the Magistrate's Court by which it was issued shall be forwarded to the authority prescribed in section 237 and be enforced and returned in like manner as if it has 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.

DEFECTS IN ORDERS AND WARRANTS

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

239. A Court may at any time amend a defect in substance or in form in an order or warrant and an error as to time and place, and a defect in form in an order or warrant given under this Act, shall not be held to render void or unlawful an act done or intended to be done by virtue of such order or warrant; provided that it is mentioned therein or may be inferred therefrom, that is founded on an information, indictment, conviction or judgment sufficient to sustain the same.

PART VIII - MISCELLANEOUS

Forms.

240. (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.

(2) In proceedings to which a form is not applicable, the Rules of Court Committee may by statutory instrument prescribe the forms required for such proceedings.

241. The sealing of an Order, summons or warrant shall not be necessary in addition to the signature of the Judge, 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 Act. Sealing of Orders, etc. not generally necessary.

242. (1) A police officer of or above the rank of Inspector or the police officer for the time being in charge of a police station shall, whenever a person is charged and prosecuted before a Court with an offence, whether the offence is to be tried summarily or on indictment, or whether the person has or has not been admitted to bail, cause to be taken for use and record, **p h o t o g r a p h s**, measurements, thumbprints, fingerprints or other scientific methods of identification of the person. Fingerprints, etc.

(2) Where a conviction of the person is not followed 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 the person charged and prosecuted; measurements, thumbprints, fingerprints or other scientific methods of identification, be handed over to him or if this is not possible, be destroyed or may be retained by the police.

(3) A police officer of or above the rank of Inspector or the police officer for the time being in charge of a police station shall take all necessary action and to do all such things as may be reasonably required for the proper and efficient execution of this section.

(4) A police officer may, where a thumbprint or a fingerprint is likely to become an exhibit in a criminal case, take for comparison the thumbprints or fingerprints or other biometric data of a person who is reasonably suspected of having made that thumbprint or fingerprint.

(5) A 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 shall, on being satisfied that the person-

- (a) has been charged and prosecuted before a Court with an offence;
- (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 a document or thing or a physiological or bodily fluid or substance relevant to a criminal case, make an order, as he thinks fit, authorising a police officer to take the measurements, photographs, thumbprints, fingerprints or other scientific methods of identification of that person.

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

243. (1) The Registrar or other proper officer of the Court shall, as soon as may be practicable, whenever a Member of Parliament or a public officer is-

- (a) arrested or detained in custody upon the warrant or order of a Court;
- (b) sentenced by a Court to a term of imprisonment; or
- (c) acquitted and discharged, inform, in the case of -
 - (i) a Member of Parliament, the Speaker;
 - (ii) a civil servant, the Director-General, Human Resource Management Office or the person responsible for appointments to the Civil Service;

- (iii) a member of staff of the Judiciary, the Chief Justice;
- (iv) other public officers employed in the public service of Sierra Leone, their respective employers.

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

244. (1) The Criminal Procedure Act, 1965 (Act No. 32 of 1965) is hereby repealed. Repeal and savings.

(2) Notwithstanding subsection (1), an order, regulation or other instrument 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 order, regulation or other instrument is amended, revoked, repealed or replaced by an order, regulation or other instrument made under this Act.

(3) A criminal trial 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) A preliminary investigations commenced under the repealed Act shall continue under the repealed Act.

FIRST SCHEDULE

The Criminal Procedure Rules.

GENERAL PROVISIONS

Use of
figures and
abbreviations.

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

Mode in
which
offences are
charged.

2. (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.

(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 shall contain a reference to the section of the enactment creating the offence.

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

Provided that -

- (a) where any rule of law or any Act or statute 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;

- (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.

3. (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 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. Statutory offences.

(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.

4. (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 clearness 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. Description of 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 those persons by name with others, and if the persons owing 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 the individual.

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

(4) Coin and bank note 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 a 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 bank note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to any other person, and such part shall have been returned accordingly.

(5) The description or designation in an information or indictment of the accused or of any other person to whom reference is made therein, 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 a description or designation, shall be given as is reasonably practicable in the circumstances, or such person may be described as "a person unknown".

5. Where it is necessary to refer to a document or instrument in an information or indictment, it shall be described by a name or designation by which it is usually known, or by the purport thereof, without setting out a copy thereof. Description of document.
6. Subject to these rules, it shall be sufficient describe a place, thing, matter, act or omission whatsoever to which it is necessary to refer in an information or indictment on ordinary language in such a manner as to indicate with reasonable clearness the place, time, thing, matter, act omission referred to. General rule relating to description.
7. It shall not be necessary in stating any intent to defraud deceive or injure a particular person, where the enactment creating the offence does not make an intent defraud, deceive, or injure a particular person an essential ingredient of the offence. Statement of intent.
8. 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 conviction.

INDICTMENT

An indictment shall bear date on the day when the same is signed and With such modifications as shall be necessary to adopt it to the circumstances of each case, may commence in the following form -

IN THE HIGH COURT OF SIERRALEONE The.....day of 20....
 At the High Court holder at.....on the.....day.....of 20.....The
 Court is informed by the Attorney-General on the half of His Excellency
 the President at the instance of C. D. the Prosecutor that A.B is
 charged with the following offence (offences)-

APPENDIX TO RULES
FORMS OF INDICTMENT

FORM 1 - Murder

STATEMENT OF OFFENCE

Murder.

PARTICULARS OF OFFENCE

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

at in the Western Area/Province of Sierra Leone murdered J. S.

FORM 2 - Accessory after the fact to murder

STATEMENT OF OFFENCE

Accessory after the fact to murder.

PARTICULARS OF OFFENCE

A. B, well knowing that one H. C. did on the day of at in the Western Area/Province of Sierra Leone murdered C. D.; did on the day of at in the Western Area/ Province of Sierra Leone and on other days thereafter receive, comfort, harbour, assist and maintain the said H. C.

FORM 3 - Manslaughter

STATEMENT OF OFFENCE

Manslaughter.

PARTICULARS OF OFFENCE

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

FORM 4 - Rape.

STATEMENT OF OFFENCE

Rape.

PARTICULARS OF OFFENCE

A.B. on theday ofatin the Western Area/ Province of Sierra Leone, had sexual penetration of E.F. without her consent.

FORM 5 - Wounding with intent.

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 theday ofatin the Western Area/Province of Sierra Leone, 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.)

Second Count

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

PARTICULARS OF OFFENCE

A.B., on theday ofatin the Western Area/ Province of Sierra Leone, maliciously wounded C.D.

FORM 6 - Larceny.
STATEMENT OF OFFENCE
First Count

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

PARTICULARS OF OFFENCE

A.B., on theday ofatin the Western Area/ Province of Sierra Leone, being clerk or servant to M.N. stole from the said M.N. 10 yards of cloth, the said cloth being the value ofLeones.

STATEMENT OF OFFENCE
Second Count

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

PARTICULARS OF OFFENCE

A.B., on theday ofatin the Western Area/ Province of Sierra Leone, did receive a bag, the property of C.D knowing the same to have been stolen.

FORM 7 - Robbery with violence

STATEMENT OF OFFENCE

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

PARTICULARS OF OFFENCE

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

FORM 8 - Burglary and larceny.

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 theday ofatin the Western Area/ Province of Sierra Leone, did break and enter the dwelling house of C.D. with intent to steal therein, and did steal therein, one watch, the property of S.T., the said watch being the value of Leones.

FORM 9 - Obtaining goods by false pretenses

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.....at.....in the Western Area / Province of Sierra Leone, with intent to defraud, obtained from S. P. 5 yards of cloth by falsely pretending that he, the said A. B. was a servant to J. S. and that he, the said A. B. had then been sent by the said J. S. to S. P. for the said cloth, and that he, the said A. B. was then authorised by the said J.S. to receive the said cloth on behalf of the said J.S.

FORM 10 - Conspiracy to defraud.

STATEMENT OF OFFENCE

Conspiracy to defraud.

PARTICULARS OF OFFENCE

A. B. and C.D. on the.....day of.....and on diverse days between that day and theday of.....at.....in the Western Area/ Province of Sierra Leone, conspired together with intent to defraud by means of an advertisement inserted by them, the said A. B. and C. D., 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 / Province of Sierra Leone, and that they were then able to supply certain articles of jewelry to whomsoever would remit to them the sum of Leones.

FORM 11- Arson.

STATEMENT OF OFFENCE

First Count

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

PARTICULARS OF OFFENCE

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

STATEMENT OF OFFENCE

Second Count

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

PARTICULARS OF OFFENCE

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

FORM 12 - Arson; accessory before the fact.

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

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

FORM 13 - Damaging trees

STATEMENT OF OFFENCE

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

PARTICULARS OF OFFENCE

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

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.....

FORM 14 - Forgery

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 of.....at.....in the Western Area / Province of Sierra Leone, 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 of.....at.....in the Western Area / Province of Sierra Leone, uttered a certain forged Will purporting to be the Will of C. D., knowing the same to be forged and with intent to defraud.

FORM 15 - Uttering counterfeit coin

STATEMENT OF OFFENCE

Uttering counterfeit coin, contrary to section 6 of the Coinage Offences Act, 1965.
A. B., on the.....day of.....in the public market at.....in the Western Area / Province of Sierra Leone, uttered a counterfeit coin, knowing the same to be counterfeit.

FORM 16 - Perjury

STATEMENT OF OFFENCE

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

PARTICULARS OF OFFENCE

A. B., on the.....day of.....20.....at Freetown in the Western Area / Province of Sierra Leone, 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 was one M. N. in the street called Siaka Stevens Street, Freetown, on the.....day of.....20.....

FORM 17 - Falsification of accounts

STATEMENT OF OFFENCE

First Count

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

PARTICULAR OF OFFENCE

A. B., on the.....day of.....at.....in the Western Area / Province of Sierra Leone, 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 the said C.D., his employer, purporting to show that on the said day Leones had been paid to L. M.

STATEMENT OF OFFENCE

Second Count

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

PARTICULARS OF OFFENCE

A. B., on the.....day of.....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 the said C.D., his employer, a material particular that is to say, the receipt on the day of Leones from H.S.

FORM 18 - Fraudulent conversion of property.**STATEMENT OF OFFENCE****First Court**

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

PARTICULARS OF OFFENCE

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

STATEMENT OF OFFENCE**Second Court**

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

PARTICULARS OF OFFENCE

A.B., on the.....day of.....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 ofLeones received by him for and on account of L.M.

SECOND SCHEDULE**(Section 36) FORM No. 1 - Warrant of remitting Court.**

In the.....Court.....at.....

To.....(Officer)

WHEREAS.....(name of accused) of.....(Address) was brought before me at.....on the.....day of.....20,.....charged with the offence of.....(statement of offence) committed at.....in the district of.....

Now these are to command you to convey the saidto.....and to produce him before the.....(Magistrate) at.....there to be dealt with according to law.

Dated thisday of.....20

Signature

Form No. 20

RECOGNISANCE BOOK KEPT AT THE POLICE STATION (OR
LOCKUP) AT

Date	Time of	Name and	Charge (1)	Name and	(2)	Date and	(3)
Arrest	Address of	Conditions of	Address of	Conditions	Time Laid	Order of	
Recognisor	Recognisance	Sureties	of Bail	Before	Magistrate		

(1) State time and place at which accused (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, transfer to a bond, etc.

FORM No. 2 - Recognisance to pay costs.

IN THE HIGH COURT OF SIERRA LEONE

WHEREAS application has been made to His Lordship.....under section 43 of the Criminal Procedure Act, 202, by me.....(named of accused) a person accused of the offence of.....

AND WHEREAS it has been further ordered that I, the said(accused), shall enter into a bond withsuretythat I shall, if convicted, pay the costs of the prosecution:

Now I.....(name of accused), of.....(address) hereby bind himself that I will, in the event of my being convicted of the said 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 for the said(name); or

We hereby jointly and severally declare ourselves sureties for the said(name),

that the accused 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 State the amount of the said costs as certified by

Dated this.....day of.....20.....

.....
(Signature).

Form No. 3 - Summons to an accused person.

In the.....Court

To.....(name of Accused) 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.....at .. m, on the.....day of.....20.....

Herein fail not.

Dated this.....day of.....20.....

.....
(Signature).**FORM No.3 A - Summons to an accused person under special procedure in section 23.**

In.....Court

To..... (name of accused) of..... (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 represented by a legal practitioner before the Court atat...m, on the.....day of.....20.....

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 of.....20.....

(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 punishable only by a fine or by imprisonment not exceeding 3 months (whether with or without a fine), it may also be used on the direction of a Magistrate in respect of an offence other than a felony.

FORM No. 4 - Warrant of arrest.

In the.....Court at.....

To..... (name and designation of person or persons who is or are to execute the warrant).

Whereas.....(name of accused) 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 of.....20.....

(Signature)

(This warrant may be endorsed as follows)

If the said.....shall enter into a recognisance himself in the sum ofLeones, with.....surety..... (each) in the sum of.....Leones to attend before me at.....atm on the.....day of.....20., and to continue so to attend otherwise directed by me, he may be released.

DATED this.....day of.....20.....

(Signature)

FORM No. 5 - Order to bring up a prisoner

In the.....Court at.....

To the Correctional Officer at.....

WHEREAS.....(name of accused) an inmate 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 said 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.

I,.....(name and designation), make oath and say as follows-
 At or about.....m. in the.....noon of the.....day of.....20....., 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.....(accused) wherein the said accused is
 charged with.....(set out charge as described in summons).

(Signature)

Sworn before me at.....this.....day of.....20.....

(Signature)

FORM No. 7 - Search Warrant.

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 said(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 it found to produce such.....(animal, matter
 or thing specified) 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 said.....(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 - Nolle Prosequi

To.....(Registrar or Court Clerk) of the.....Court at
.....(Place).

Whereas.....(name of accused) of.....(address) has been
committed for trial/ stands charged before the by the.....Court
of..... on a charge of.....(Statement of Offence).

Now these are to authorise and require you to enter on the record a statement that
the proceedings are stayed by my direction.

DATED this.....day of.....20

Attorney-General and Minister of Justice.

FORM No. 9 - Notice of Entry of Nolle Prosequi at the Instance of the Attorney-General and Minister of Justice.

To.....in the matter of a charge of (statecharge) against
.....(name of accused):

Take notice that in this case a nolle prosequi has been entered.

Dated this.....day of.....20.....

.....
(Signature)

NOTE: If the accused is imprisoned he shall be forthwith released.

If the accused is on bail his recognisance and those of his sureties are discharged.

Witnesses are released from their obligation of further attendance at the Court.

FORM No. 10 - Order to recover damages.

In the.....Court at.....

To.....(he bailiff or other person concerned)

WHEREAS in the matter of a charge of..... preferred at the instance of.....(prosecutor) against.....(accused) it was ordered..... (set out the order made).

Now these are to authorise and require you to recover the said sum of Leones as though the same were a judgment debt in the above mentioned Court.
DATED this.....day of.....20

(Signature)

FORM No. 11 - Notice of intention to take deposition

In the.....Court at.....

To..... (name) of.....(address).

WHEREAS.....(name) is lying ill or hurt at.....(address) and is not likely to recover, and 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 upon/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.....next

You should be present at the said time and place in order to hear the said 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. 12 - Order to produce an inmate to hear a deposition taken

In the..... Court at.....

To.....(Correctional officer or police officer) at.....(place).

WHEREAS.....(name) is now lying ill or 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 said inmate at.....(place) at.....m. on.....the.....day of.....next there to continue until the said statement shall have been taken and recorded.

DATED this.....day of.....20

(Signature)

FORM No. 13 - Recognisance to look after a lunatic.

In the..... Court at.....

WHEREAS.....(name of accused) did appear before the.....(Magistrate or Judge) at.....to take his trial on or attend a committal proceeding into a charge of.....

And whereas the said.....(Magistrate or Judge) has reason to believe that the said.....(name of accused) is of unsound mind and is incapable of making his defence and has postponed further proceedings in the matter. I hereby declare myself surety; or

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 properly, 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 or our default, I bind myself or we bind ourselves to forfeit to the State the sum of.....Leones.

DATED this.....day of.....20

(Signature)

FORM No. 14 - Order for commitment of criminal lunatic pending report to Minister.

In the.....Court at.....

To the Correctional Officer at.....

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 authorise 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. 15 - Minister's order for confinement of a criminal lunatic.

WHEREAS.....(name of accused), being charged before the
.....Court at.....with the offence of.....was
by special finding the said Court to be not guilty of the act or omission charged by
reason of insanity:

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 criminal lunatic until
further order.

DATED this.....day of.....20

.....
(Minister)

FORM No. 16 - Certificate under section 74

I.....(name) of.....(address), the Medical Superintendent of the Mental Hospital at.....hereby certify that.....(name of accused) against whom a charge of..... is pending before the Court at is in my opinion capable of making his defence to the said charge.

DATED this.....day of.....20

(Signature)

FORM No. 17 - Recognisance to take trial.

In the.....Court at.....
 I.....(name of accused) being brought before the(Magistrate) at..... charged with(Statement of Offence), do hereby bind myself to attend in the..... Court at..... on the said charge and to continue so to attend until otherwise directed by the said Court and in case of my default, I bind myself to forfeit to the State the sum of.....Leones
 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 attend in the..... Court at.....on theday of.....next to answer to the above-named charged and will continue so to attend until otherwise directed by the said Court and in case of his of default, I bind myself or we bind ourselves to forfeit to the State the sum of.....Leones.

DATED this.....day of.....20

(Signature)

FORM No. 18 - Recognisance to attend committal proceedings and take trial if committed.

In the.....Court at.....

I,(name of accused) 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 said(Magistrate) on every day of the committal proceedings into the said charge and, should the case be sent for trial by the High Court, to be and appear before the said Court when called upon to answer the charge against me and to continue so to appear until otherwise ordered by the said Court and in case of my default, I bind myself to forfeit to the State the sum of Leones.

DATED this.....day of.....20.

(Signature)

I hereby declare myself surety/we hereby jointly and severally declare ourselves sureties for the said(name of accused) that he will attend the..... Court on every day of the committal proceedings into the offence charged against him, and should the case be sent for trial by the High Court, that he will be and appear before the said Court when called upon to answer the charge against him and will continue so to appear until otherwise ordered by the said Court and in case of his default, I bind myself/we bind ourselves to forfeit to the State the sum of.....Leones

DATED this..... day of.....20

(Signature)

FORM No. 19 - Remand Warrant.

In the.....Court of.....

To.....(Correctional officer or police officer) at.....

WHEREAS.....(name of accused) has the day appeared before me charged with the offence of.....and I consider it advisable to adjourn the examination into the said 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 of20..... and hereafter from time to time as may be notified to you by endorsements on this warrant.

DATED this.....day of.....20.....

(Signature)

FORM No. 20 - Committal proceedings when Case for the Prosecution is closed.

The following is read by the Magistrate and explained to the accused.

The charge/charges against you is/are.....(here set out charge or charges. Having heard the evidence do you wish to say anything in answer to the charge (or charges)? You are not obliged to say anything unless you desire to do so but whatever you say will be taken down in writing and may be given in evidence upon your trial. And I give you clearly to understand that you have nothing to hope from any promise of favour and nothing to fear from any threat which may have been holden out to you to induce you to make any admission or confession of your guilt. But that whatever you shall now say may be given in evidence notwithstanding such promise or threat. (Here record statement of accused. If too long for this space continue overleaf).

Q. Having heard you statement read do you wish to explain or add to it?

A.

The statement of the accused as herein/hereafter recorded was taken in my presence and hearing and contains accurately the whole statement made by him. He was called upon to sign it or to append his mark which he did/refused to do.

.....
(Magistrate)

Q. Do you wish to call any witnesses?

*A.....(if names are given record them). I order that the accused be committed for trial upon indictment before the High Court at.....and I further order that the accused be admitted to bail/committed to prison.

DATED this.....day of.....20.....

(Signature)

*If the accused states that he does not wish his witnesses examined by the Magistrate but desires them to be bound over to appear before the High Court, this must be stated, but on no account should a Magistrate suggest or encourage this, but should record the evidence unless the accused does not wish it.

FORM No. 21- Recognisance on committal to take trial.

In the.....Court at.....

I.....(name of accused) of.....(address), being committed for trial before the Court on a charge of and required to give security to take my trial before the saidCourt, do hereby bind myself to be and appear before the said.....Court atwhen call upon to answer the charge against me and to continue so to appear until otherwise ordered by the said Court and in case of my default I bind myself to forfeit to the State the sum of.....Leones.

DATED this.....day of.....20.....

(Signature)

I hereby declare myself surety/we hereby jointly and severally declare ourselves sureties for the said(name of accused) that he will be and appear before the saidCourt when called upon to answer the

charge against him and will continue to appear until otherwise ordered by the said Court and in case of my default I bind myself /We bind ourselves to forfeit to the State the sum of.....leones.

DATED this.....day of.....20.....

(Signature)

FORM No. 22 - Warrant on commitment for trial.

In the.....Court at.....

To the Correctional officer at.....

WHEREAS at a committal proceedings held by me into a charge of.....preferred against.....(name of accused) I committed the said.....(name of accused) for trial by the High Court upon the said charge and did not admit him to Bail:

Now these are to command you to receive the said.....(name of accused) into your custody, and safely to keep him until the sittings of the High Court to be held at.....(place) on the.....day of20.....for the trial of accused persons, and to produce him before the said Court then and there to be tried.

DATED this.....day of.....20.....

(Signature)

FORM No. 23 - 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 accused); and

in case of default I bind myself to forfeit to the State the sum of..... Leones.

DATED this.....day of.....20.....

FORM No. 24 - Notice to prosecute and witnesses entering into recognizance.

In the.....

...Court at.....

To.....(name of prosecutor or witness) of.....(address)

Take notice that you are bound in the sum of.....Leones to appear at the
.....sessions of the High Court to be holden at.....and unless you
personally make your appearance accordingly that sum will be forfeit and levied on
your goods and chattels, or your body taken in execution.

(Signature)

FORM No. 25 - Warrant of commitment on refusal to enter into recognizance.

In the.....Court at.....

To.....(Correctional officer or police officer).

WHEREAS.....(name) of.....(address) was called Upon to enter
into a recognizance 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 holden at.....on.....the
day.....of.....20.....

AND whereas the said.....when so called upon did refuse to enter into
such recognizance:

Now these are to command you to receive into your custody the said.....and
safely to keep him until after the said trial, unless he sooner enters into such
recognizance or unless by an order of this Court or of the High Court are commanded
sooner to release him.

Dated this.....day of20.....

FORM No. 26 - Order to release a person committed for refusing to enter into recognisance.

In the..... Court at.....

To..... (Correctional 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 release and set at liberty the said.....

DATED this..... day of..... 20.....

(Signature)

FORM No. 27 - Certificate and warrant under section 124.

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 124:And you are further directed that if the said sum shall not have been paid to you
within six days of the service of such order and notice, you shall proceed to
recover the same 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 at..... this..... day of..... 20.....

(Signature)

FORM No. 28 - Order and notice on failure to regard recognisance.

In the.....Court at.....

To.....(name) of.....(address)

WHEREAS on the.....day of.....20....., you as principal party/surety entered into a recognisance conditioned as follows-

And whereas the condition of the said 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 six days of the date of service of this order and notice upon you, you fail to pay the said sum the same 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 todays.

DATED this.....day of.....20.....

(Signature)

FORM No. 29 - Warrant for absconding recognisor.

In theCourt at.....

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 be information upon oath that the said..... is about to go out to 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. 30 - Warrant of committal absconding recognisor.

In the..... Court at.....

To the Correctional officer at.....

WHEREAS..... of..... 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 keep him safely 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. 31 - Certificate required under section 132

I,..... (Sheriff or Deputy Sheriff) hereby certify that have/caused to be served upon..... (name of accused) 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) at..... (time) on..... the..... day of..... 20.....

DATED this..... day of..... 20.....

(Signature)

FORM No. 32 - Warrant to levy distress on defendants' goods.

In the..... Court at.....

To.....(the person charged with the levy).

WHEREAS.....(name of offender) 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 fine/sum/ penalty or any part thereof:

Now these are to command you to take distress by seizure of the goods and chattels belonging to the said which may be found within the district of and if the said sum shall not be paid forthwith / within days next after such distress / to sell 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 of..... 20.....

(Signature)

FORM No. 33 - Warrant of commitment pending return to warrant distress.

In the..... COURT AT.....
 To..... (Keeper of Correctional center.....)
 WHEREAS..... (name of offender) was on the..... day
 of..... 20..... convicted before me of the offence of..... and sentenced/
 ordered to pay a fine/penalty of.....
 AND WHEREAS default 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 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 a liberty.

DATED this..... day of..... 20.....

(Signature)

FORM No. 34 - Commitment for warrant of distress.

In the..... Court at.....
 To Keeper of the Correctional center at.....
 WHEREAS by a warrant of distress dated the..... day of..... 20....., it was
 ordered that distress be lived against the goods and chattels of..... (name
 of offender) for the sum of..... Leones.
 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 keep him safely in the said Correctional center for the period of.....unless the sum of..... Leones (as set out at the foot here..... sooner paid, and on the receipt thereof forthwith to set him at liberty returning this with an endorsement certifying the manner of its execution.

DATED this.....day of.....20.....

(Signature)

Details of expenses:

Le:.....

Distress:.....

Expenses of distress:.....

Expenses of commitment:.....

Expenses of conveyance to prison

Le.....

FORM No. 35 - Warrant of commitment of non-payment of fines.

In the.....Court at.....

To the Keeper of the Correctional center at.....

WHEREAS.....(name of offender), was on the.....day of.....sentenced to pay a fine of.....Leones or in default to suffer imprisonment for the period of.....

AND WHEREAS the.....has not paid the saidfine or any part thereof.

Now these are to command you to receive the said.....into your custody together with this warrant, and him keep safely in the said Correctional center 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: Le

Distress.....

Expenses of distress . . .

Expenses of commitment ..

Expenses of conveyance to prison ..

Le

FORM No. 36 - Warrant of commitment (no alternative)

In the.....Court at.....

To the Keeper of the Correctional center at.....

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 aforesaid sentence into execution according to law.

DATED this.....day of.....20.....

(Signature)

MEMORANDUM OF OBJECTS AND REASONS

The objects and reasons of this Bill is to repeal and replace the Criminal Procedure Act, 1965, to provide for new procedures relating to summary trials, committal proceedings, trials on indictment, alternative sentences, and to provide for other related matters.

The Bill is divided into eight parts as provided below.

Part I - Preliminary - contain definition of words used in a particular context and the application of the Bill.

Part II -explains the general provisions of the Bill, taking into consideration arrest generally, arrest without warrant, admission to bail, evidence, etc.

Part III-deals with summary trials.

Part IV-examines committal proceedings and its related matters on procedure in committal proceedings, committal proceedings not to be held in public, proceedings upon recognisances, etc.

Part V - deals with indictments and trials in the High Court with recognition of indictments, arraignment, mode of trial, trial with a Jury, trial with assessors, close of hearing in cases tried with assessors, close of hearing in cases tried by judge alone etc.

Part VI - deals with trial of corporations or companies and trial of children.

Part VII - provides for Execution of sentences and defects in orders and warrants.

Parts VIII -Miscellaneous provisions deals with forms, sealing of orders fingerprints and arrest of Members of Parliament and repeal and savings.

MADE this 10th day of January, 2024.

MOHAMED LAMIN TARAWALLEY
Attorney-General and Minister of Justice