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FIRST SCHEDULE

CHAPTER 9
AREA COURTS
A LAW TO PROVIDE FOR AREA COURTS

Part 1 – Preliminary (1 April 1968)

Date of
commencement

Title and
commencement

Interpretation

1. This Law may be cited as the Area Courts Law.
2. In this Law, unless the context otherwise requires:-

Area Court” means a court established under or in pursuance of this law or deemed to have been so established and shall include an upper area court;

“Cause” includes any action, suit or other original proceeding between a plaintiff and a defendant and also any criminal proceeding;

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

“Chief Registrar” means Chief Registrar of the High Court;

“District Court” means a District Court established under the District Courts Law;

“High Court” means the High Court of Justice established under the High Court Law;

“Inspector of Area Courts” or “Inspector” means an officer appointed under section 45 to exercise the powers vested in him

under this Law and shall include the Chief Registrar, any senior inspector and any assistant inspector;

“Land cause” and “Land matter” mean a cause or matter relating to the ownership, occupation or possession of land;

“Legal Practitioner” shall have the same meaning as in the Legal Practitioners Act. 1975;

“Magistrate’s Court” means a Magistrate Court established under or in pursuance of the Criminal Procedure Code Law, or deemed to have been so established.

“Matter” includes any proceeding in a court not in a cause;

“Governor” means the Governor of the state;

“Mixed cause” and “mixed civil cause” mean a cause in which two or more of the parties are normally subject to different system of native law and custom;

“Local Government” means a local government, established or deemed to have been established under the local government law of 1976.

“Islamic personal law” has the same meaning as it has in the Sharia Court of Appeal Law;

“Judicial service commission” means the Judicial Service Commission established for the state;

“Sharia Court of Appeal” means the court established under the Sharia Court of Appeal Law; “State” means a state in Northern Nigeria;

“State matter” means any matter which is within the legislative competence the Governor.

PART II – ESTABLISHMENT AND CONSTITUTION OF AREA COURT

1. By warrant under his hand, the chief judge may establish such area courts as he shall think fit.
2. Every area court shall exercise the jurisdiction conferred upon it by or under this Law within such area and to such extent as may be specified in its warrant.
3. The Chief Judge shall assign to each area court established in pursuance of this section such name as he may think fit.
4. All warrants shall be operative and of effect from the date specified therein.
5. The Chief Judge may at any time suspend, cancel or vary any warrant establishing an area within which, or the extent to which, the powers of an area court may be exercised.
6. The Chief Judge shall cause the jurisdiction of each area court to be notified from time to time in the State Gazette.

Establishment of
area courts
suspension
warrants, etc.

(1) An Area Court shall consist of:-

- a. An area judge sitting alone; or
- b. An area judge sitting with members

(2) All questions of Islamic personal law shall be heard and determined by the area judge or any member learned in Islamic law sitting alone.

(3) Subject to the provisions of sub-section (2) of this section where an area court consist of an area judge sitting with members:-

- a. The area judge shall be the president: Provided that if he is unable through absence to exercise the powers and duties of his office, the members of that court shall, pending the appointment of an acting president, appoint one of themselves to preside during the hearing of any case; and
- b. The president and not less than two members shall be present at the hearing of any case unless otherwise directed by the Chief Judge, and the opinion of the majority shall, in the event of disagreement be deemed and taken to be the decision of the court and the president shall have a casting vote.

(4) All area judges and members shall be public officers in the public service of the state

5. (1) An area court may sit with or without assessors

- (2) Assessors for each area court shall be approved by the Chief Judge or by such person as he may appoint for such purpose.
 - (3) Assessors shall act in an advisory capacity and shall have no vote in the decision of the court
6. (1) Subject to the provisions of any written law the Judicial Service Commission may dismiss, suspend or exercise disciplinary, control over any area judge or other member of an area court;
- Discipline of
members of area
courts
- (a) Who shall appear to have abused his power or to be unworthy or incapable of exercising the same justly; or
 - (b) for other sufficient reason
- (2) Upon his dismissal or during the period of his suspension an area judge or other member of an area court shall be disqualified from exercising any powers or jurisdiction unless and until he is expressly reinstated.
- 7 (1) Subject to the provisions of any written law, an area court shall hold sessions at such times and places as may be necessary for the convenient and speedy dispatch of the business of the court.
- Sessions
- (2) The Chief Judge may direct:-

(a) That sessions shall be held at such times and places as he may think fit;

(b) That, where the court consists of more than one member, the court shall for the more convenient dispatch of business sit in two or more divisions.

8. All revenue of an area court shall be paid to the Government of the state.

Revenue of Area Courts

9. No area judge or member of an area court shall be liable for any act done by him or ordered by him to be done in the discharge of his judicial duty whether or not within the limits of his jurisdiction; provided that he at the time, in good faith, believed himself to have jurisdiction to do or to order to be done the act in question

Indemnity of members of area courts.

PART III – STAFF AND AREA COURTS

10. (1) All staff of area courts shall be public officers in the public service of the state.

Staff of the court

(2) A registrar or clerk may be appointed to every area court and such registrar or clerk shall perform such duties in the execution of the powers and authorities of the court as may be assigned to him by rules of court or by any special order of the court and in particular he shall:-

(a) prepare for issue all warrants and writs

(b) record all proceedings of the area court or other court member;

(c) registrar all orders and judgments of the area court; and

(d) enter an account of all moneys received or paid by the area court.

11. A registrar or clerk may with the consent of the area court delegate any of the duties assigned to him to any other servant of the court, and in every such case such servants shall be governed in respect of his duties by the orders and directions of the registrar or clerk.

Delegation of
duties

12. (1) Such bailiffs or messengers as may be required shall be appointed to every area court.

Bailiffs and
Messengers

- (2) It shall be the duty of any person appointed under the provisions of subsection (1):

(a) to effect the service and execution of all writs and other process which he may receive from the area court of which he is attached.

(b) To make all necessary returns in relation to such writs and process;

(c) to carry out such other duties as may be prescribed by rules made under this law; and

(d) at all times when he is not engaged on duties which necessitate his absence from the area court to attend court and obey all the lawful direction of the court.

(3) An area court may authorize a police officer to perform all or any of the duties mentioned in subsection (2) in so far as they relate to the criminal jurisdiction of the court and police officer who shall be in possession of any criminal process shall be presumed to be authorized to execute such process unless the contrary be proved.

(4) Subject to provision of subsection (3) no person other than a duly appointed bailiff or messenger shall carry out or purport or attempt to carry out any of the duties mentioned in subsection (2).

13. No member of the staff of any area court or other person bound to execute lawful warrants or orders issued or made in the exercise of jurisdiction conferred by this law shall be liable to be sued in any court for the execution of any warrant or order which he would be bound to execute if the person issuing the same had been acting in the exercise of lawful authority.

Indemnity of
staff of area
courts

PART IV – JURISDICTION OF AREA COURTS

Institution of
proceedings in
area courts

14. (1) Subject to the provisions of this Law and of any other written law any person may institute any cause or matter in an area court.

- (2) Any person who institute or prosecutes any cause or matter in an area court under the provisions of subsection (1) shall in that cause or matter be subject to the jurisdiction of that area court and of any other court exercising jurisdiction in that cause or matter.

15. (1) Subject to the provisions of this Law and of any other written law, the following persons shall be subject to the jurisdiction of area courts:

Persons subject
to jurisdiction of
area court

(a) Any person whose parents were members of any tribe or tribes indigenous to some part of Africa and the descendants of any such person.

(b) Any person one of whose parents was a member of such tribe; and

(c) Any other person in a cause or matter in which he consents to the exercise of the jurisdiction of the area court.

- (2) The governor may be order direct that the powers conferred by this law shall not be exercise by any persons or classes of persons designate in such order or that such powers shall not he exercised without the consent of the person concerned.

- (3) No area court shall exercise, in contravention of any order made under subsection (2), any jurisdiction conferred by this law.

16. (1) Where at any stage of the proceedings before final judgment in any cause or matter (whether civil or criminal) in an area court any person alleges that he is not subject to the jurisdiction of area courts, such proceedings shall on the application of such persons to the High Court be transferred to the High Court which Court shall inquire into and determine the truth of such person's allegations.
- (2) Upon such determination as it mentioned in subsection (1), the High Court shall make such order for the trial of the proceedings in the High Court, in a magistrate Court or District Court or in an area court as in all the circumstances of the case may seem just.
- (3) The applicant shall give notice to the area court of the application made by him under subsection (1) and such application shall operate as a stay of the proceedings in the area court until the High Court has made an order under subsection (2).
17. (1) There shall be three grades of area court, namely, appear area courts and area courts, grade 1 and grade II and the jurisdiction and powers of an area court shall not subject to the provisions of subsection (2) exceed those prescribed in the First Schedule in respect of each such grade.
- (2) The Chief Judge may by order:-
- Inquiry by High Court as to whether Persons is subject to jurisdiction of Area Court
- Grade and Jurisdiction of Area Courts

- (a) Vary the grade of any area court; and
 - (b) Confer on any court of any particular grade such additional powers or jurisdiction as he may think fit.
 - (3) For the mere convenient dispatch of business an upper area court may sit in two or more divisions and in such case an area judge shall sit alone or more members in each division and the provisions of subsections (2) and (3) of section 4 shall apply to the sittings of any division.
18. Every area court shall have jurisdiction and power to the extent set forth in the warrant establishing it, and subject to the provisions of this law and of the Criminal Procedure Code Law, in all civil and criminal cases in which all the parties are subject to the jurisdiction of such area court;
- 18A. Notwithstanding anything contained in this Law and in the Criminal Procedure Code Law, an Upper Area Court and Area Courts Grade 1 and II shall have power to try and to award the punishment prescribed for any offence under sections 181, 287, 288, 317 and 319 of the Penal Code.
19. (1) The place of trial of all criminal causes shall be determined in accordance with the provisions of the Criminal Procedure Code Law.
- Criminal and civil jurisdiction
- Power to pass sentence on certain offence in the penal code
- Place of trial cap. 30

(2) All civil causes or matters other than land causes shall be tried and determined by an area court which has jurisdiction over the area:-

(a) in which the defendant is ordinarily resident; or

Law to be administered in civil causes and matters

(b) in which the defendant was at the time when the cause of action arose.

(3) Subject to the provisions of any written law, all land causes shall be tried and determined by an area court having jurisdiction over the area in which the land, which is the subject matters of the dispute, is situated and to the extent of the jurisdiction and power of such court.

20. (1) Subject to the provisions of this law, and in particular of section 21, an area court shall in civil causes and matter administer:-

Law to be administered in civil causes and matters.

(a) The customary law prevailing in the area of the jurisdiction of the court or binding between the parties;

(b) the provisions of any written law which the court may be authorized to enforce by any order made under section 24;

(c) The provisions of all rules and orders made under the Local Government Law or under any legislation repealed or superseded by that Law, and the provisions of all rules, order, and by-laws made by a Local Authority under any

other written Law, and in force in the area of the jurisdiction of the court.

(2) Nothing contained in this section shall be deemed to authorized the application by an area court of any customary law or part thereof in so far as it is repugnant to natural justice equity or good conscience or incompatible either directly or by necessary implication with any written law for the time being in force.

(3) Nothing contained in this section shall be deemed to preclude the application by an area court of any principle of English Law which the parties to any civil cause agreed or intended or may be presumed to have agreed or intended should regulate their obligations in connection with the transaction which are controversy before the court.

21. (1) In mixed civil causes, other than land cause, the customary Law to be applied by an area court shall be:-

Law to be applied by area courts in particular classes of causes.

(a) the particular customary law, which the parties agreed to intended, or may be presumed to have agreed or intended, should regulate their obligations in connection with the transactions, which are in controversy before the court;

(b) that combination of any two or more customary laws which the parties agreed or intended, or may be presumed to

have agreed or intended, should regulate their obligations as aforesaid, or

(c) in the absence of any agreement or intention or presumption thereof.

(i) The particular law; or

(ii) such combination of any two or more customary law; which it appears to the court, ought, having regard to the nature of the transaction and to all the circumstances of the case, to regulate the obligations of the parties as aforesaid, but it, in the opinion of the court, none of the paragraphs of this subsection is applicable to any particular matter in controversy, the court shall be governed by the principles of natural justice, equity and good conscience.

(2) In land causes or matters the customary law to be applied by an area court shall be the customary law in force in relation to land in the place where the land is situated.

Provided that no customary law prohibiting, restricting regulating the devolution on death to any particular class of persons of the right to occupy any land shall operate to deprive any person of any beneficial interest in such land (other than the right to occupy the same) or in the proceeds of sale thereof to which he may be entitled under the rules of inheritance of any other customary law.

22. In criminal causes an area court shall administer the provisions of:- Law to be administered in criminal causes.
- (a) The penal code law, the Criminal Procedure Code Law and any subsidiary legislation made there under; Cap 105
 - (b) Any written law which the court may be authorized to enforce by any order made under section 24; Cap 37
 - (c) All rules and orders made under the Local Government Law or under any legislation repealed or superseded by that Law, and all rules, orders and by-laws made by a local government under any other written law, and in force in the area of the jurisdiction of the court. Cap 81
23. (1) In any matter relating to the guardianship of children the interest and welfare of the child shall be the first and paramount consideration. Guardianship of children
- (2) Whenever it shall appear to an area court that an order made by such court, should, in the interest of a child, be reviewed, the court may, of its own motion or upon the application of any interested person, vary or discharge such order.
24. The Governor may by order confer upon all or any area courts jurisdiction to enforce in respect of State matters and within the Local limits of the jurisdiction to such courts all or any of the provisions of any written laws specified in such order and to impose penalties on persons subject to the jurisdiction of the court Governor may confer jurisdiction to enforce written

who offend against such provisions, subject to such restriction and limitation, if any as may be specified in the order.

25. The Governor may be order confer and impose upon all or any area courts in respect of State matter any of the powers conferred or any of the duties imposed upon any other court or upon any High Court Judge. District Judge or magistrate by! any Act of Law specified in such order.

Governor may give area courts powers and duties of other courts

PART V – PRACTICE AND PROCEDURE IN AREA COURTS

- 26.(1) Subject to the provisions of this Law and of any other written law and to any rules which may be made under section 65, the provisions of section 20 and 21 shall apply in the regulation of the practice and procedure of area courts in civil cause and matters.

Practice and procedure generally.

- (2) The practice and procedure of area courts in criminal causes shall be regulated in accordance with the provisions of the criminal procedure code law

Cap 37

27. Where an area court has jurisdiction in or over any cause or matter to over the parties thereto it shall not be necessary:-

Jurisdiction of area court not required to be shown on the record.

- (a) for such court to state on the face of the record of its proceeding in such cause or matter that the court has jurisdiction in or over such cause or matter or over the parties thereto; or

(b) for the jurisdiction of such court in or over such cause or matter or over the parties thereto to appear on or from the face of the record of its proceedings in such cause or matter.

28. (1) No legal practitioner may appear to act for or assist any party in any civil proceedings before an area court.

Appearance and representation of parties.

(2) An area court may permit:-

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

(b) A relative of a person administering the estate of a deceased person who was subject to the jurisdiction of an area court to appear for any party before an area court.

(3) Subject to the provisions of subsection (1) and (2) in the case of a prosecution by or on behalf of a local government or in any proceedings pending before an area court a local government may be represented in court at any stage of the proceedings by any member or officer of the native authority who shall satisfy the court that he is duly authorized in that behalf.

29. (1) The room or place in which an area court shall sit to hear and determine any proceeding shall be an open and public court to which the members of the public shall have a right of access while

Proceedings to be in open court.

they shall be of good behavior and to the extent to which the capacity of the court shall allow.

(2) Provision may be made by rules of court under section 65 for the exclusion of the public from any area court in cases:-

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

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

PART VI – TRANSFER BY AREA COURTS

30. An area court may order the transfer of any cause or matter with before trial or at any stage of the proceedings before judgments is given to any other area court of competent jurisdiction and such other court may take any course with regard to the cause or matter which it considers that justice requires.

Power of
Transfer by area
court.

31. An area court may either of its own motion or upon the application of either party to a case or matter remit to a lower grade area court of competent jurisdiction which is within the territorial jurisdiction of such other lower grade area court any cause or matter before it which in its opinion can for purposes of convenience or otherwise be more appropriately or expeditiously dealt with by such lower grade area court and upon such order being made the lower grade

Remission of
case of lower
grade area court.

area court specified therein shall hear and determine the cause or matter.

32. An upper area court may either of its own motion or upon the application of either party whenever it is satisfied that a cause or matter before an area court of a lower grade within the territorial jurisdiction of such upper area court is from its nature beyond the jurisdiction of such lower grade area court, order that such hearing be stayed and thereupon such cause or matter shall be discontinued in such lower grade area court accordingly and such upper area court shall either hear or determine the cause or matter or shall order the transfer of such cause or matter or shall order the transfer of such cause or matter to such other lower grade area court within its territorial jurisdiction as the upper area court may think fit and thereupon such lower grade court shall hear and determine the cause or matter.

Transfer of
higher grade
area court

33. Where any cause or matter is transferred to an area court under the provision of this part such court may take any course with regard to the cause or matter which it considers that justice requires, subject, nevertheless to any direction which may be given by the court by which the order of transfer is made.

PART VII – ANCILLARY POWERS OF AREA COURTS

34. Every person sentenced or committed by an area court to imprisonment shall be detained in a place established as a person under any written law. Place of imprisonment
35. Every area court shall have power to summon before it for the purpose of giving evidence any person within the state. Power to summon witnesses
36. Any person present at an area court, whether a party or not to any cause or matter before the court, may be required by the court to give evidence as if he had been summoned to attend and give evidence. Person present may required to give evidence
37. If in any cause or matter an area court considers that the interests of justice require that the evidence of a person not within the area of jurisdiction of the area court should be obtained before any other court or any officer thereof, the area court may make an application to a judge of the High court requesting that the evidence of such person may be taken before any other court or officer thereof in the place in which such person is and the judge, if in his discretion he thinks fit so to, may make such order in respect of taking of the evidence of such person as he thinks fit. Evidence of person not within jurisdiction.
38. Any judgement or order given or made by an area court in a civil cause or matter may be enforced by seizure and sale of the property of the person condemned therein, or by such other methods of enforcing judgements and order as may be prescribed by rules made under section 65. Execution of Judgments.

39. Area court shall carry into execution any decrees or order of.:

Execution of
orders of other
courts.

- (a) The Supreme Court
- (b) The Federal Court of Appeal;
- (c) Any High Court;
- (d) Any Magistrate's Court
- (e) The Sharia Court of Appeal;
- (f) Any District Court;
- (g) Any area court established under or in pursuance of this law or deemed to have been so established; and
- (h) Any other court of any other part of the Federal Republic of Nigeria, which may be lawfully directed to them, and shall execute warrants and serve all process issued by any such courts aforesaid and directed to such area courts for execution or service and shall generally give such assistance to any of the aforesaid courts as may be required.

40. In any cause or matter before an area court in which pending final determination therefore, it shall be shown to the satisfaction of the area court that any property which is in dispute in the cause or matter is in danger of being wasted, damaged, alienated or otherwise injuriously dealt with by any party to the cause or matter, the area court may issue an injunction to such party commanding him to refrain from doing the particular act complained of, or alternatively, may take and keep such property in custody pending the determination of such cause or matter.

Power to grant
interim
injunction or
impound
property

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

Power to appoint receiver and manager.

(2) Any person or persons appointed as receiver or manager under subsection (1) shall be responsible to the area court for all things done as receiver or manager, and shall account for or pay to the area court all moneys received in respect of any property referred to in subsection (1)

(3) An area court may make such order as it shall think fit in regard to the remuneration of any person appointed as receiver and manager and shall pay to the party entitled thereto all moneys in the custody of the area court due in respect of any property referred to in subsection (1).

42. In any cause or matter it shall be lawful for an area court, on the application of either party or on its own motion:-

Inspection

(a) To make such order as the court may think fit for the inspection by the area court, the parties or any witness or any immovable or movable property the inspection of which may be material to the proper determination of the question in dispute; and

- (b) To give such direction as the court may think fit respecting such inspection.

PART VIII – CONTROL OF AREA COURTS

43. (1) Subject to the provisions of section 27 of the High Court Law, all area courts shall be subject to the general supervision of the Chief Judge. General supervision of area courts
- (2) Without prejudice to the generality of subsection (1), if it shall appear to the Chief Judge that:
- (a) It is necessary for the purpose of securing, as far as possible, a fair and impartial trial; or
- (b) It is expedient in the interest of justice generally, that a particular cause or matter which is within the jurisdiction of an upper area court should not be tried at first instance by any other area court having jurisdiction to do so, the Chief Judge may order that such cause or matter shall be tried by such Upper Area Court.
- (3) The powers of the Chief judge under this section may be exercised by it either on its own motion or on the application of any party to a cause or matter in an area court.
44. (1) A Commissioner for Area Courts shall be appointed. Appointment and functions of Chief Registrar in relation to Area Courts
- (2) The functions of the Chief Registrar for the purpose of this Law shall include:-

- (a) The advising of the Chief Judge in respect of the constitution, jurisdiction and membership of area courts;
- (b) Subject to the general or special directions of the Chief Judge, the organization, guidance and supervision of area courts;
- (c) The powers of an inspector under this law; and
- (d) Such other functions as may from time to time be conferred upon him by the Chief Judge.

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| 45. Inspectors shall be appointed for the purpose of this Law. | Appointment of inspectors |
| 46. An inspector may require an area court to submit a report to him of any case tried in such court. | Reports of cases tried |
| 47. An inspector shall at all times have access to all area courts within the State and to the records and proceedings of such courts. | Inspector's right to access to area courts |
| 48. (1) An inspector shall have power at any stage of the proceedings before final judgement, either of his own motion or on the application of any party to a cause or matter before an area court, by order to stay the hearing of any cause or matter on such terms as he may consider just. | Supervisory powers of inspectors |
| (2) Where an order under subsection (1) has been made the inspector may in his discretion adopt one or other of following courses:- | |

(a) If the cause or matter appears to be within the jurisdiction of an area court other than that referred to in subsection (1) he may be the same or another order direct that the cause or matter be inquired into, tried and determined by such area court shall appear to have jurisdiction over the same;

(b) He may direct in like manner that such cause or matter shall be inquired into, tried and determined by a magistrate's court or a District Court; or

(c) If the cause or matter be one which in his opinion ought for any reason to be transferred from an area court to the High Court, he may report the case to the High Court;

Provided that no cause or matter which has been transferred by the High Court or a Magistrate's Court or a District Court to an area court may be reported to the High Court or transferred to the same or any other magistrate's court or a District Court under the provisions of this section.

(3) The court to which the cause or matter is transferred shall be informed in writing of the reasons for making the order of transfer and may thereafter take any course with regard to the cause or matter which it considers that justice requires.

(4) Where a cause or matter is reported to the High Court under the provisions of paragraph (c) of subsection (2) of the High Court

shall direct in what mode and in what court the cause shall be heard and determined.

(5) Where a cause or matter is transferred from an area court to any other court under the provisions of this section no summons fee shall be payable in the court to which the cause or matter is transferred if the appropriate summons fee has been paid in the area court from which the cause or matter is transferred.

(1) Every order of transfer shall operate as a stay of proceedings before the area court from which the proceedings are ordered to be transferred in any cause or matter to which the order extends or is applicable, and a certified copy of the record shall be transmitted to the court to which same shall be transferred and thenceforth all proceedings in the cause or matter shall be taken in such court as if the cause or matter had been commenced therein.

Effect of order
of transfer

Every report made, under paragraph (c) of subsection (2) of section 48 shall operate to suspend the proceedings the subject of such report until the directions of the High Court have been under subsection (4) of the same section.

The inspector may, if it appears expedient, in the first instance transmit by telegram the contents of any order made by him under subsection (1) and such telegram shall until receipt of the said order, have the same validity and effects as if it were the said order.

(1) An inspector, if in his opinion there has been a miscarriage of justice in any case before an area court to which he has access under the provisions of section 47 may of his own motion or in his absolute discretion on the application of any person concerned, report that case to the court to which an appeal in such case would lie.

(2) Such report shall be made in writing and shall record the particulars of the judgement or the order or the case, and the reasons for its being reported and shall be accompanied by a copy of the record of the case.

(3) The court to which the case has been reported shall review it, and may:-

(a) (i) reverse, vary or confirm the decision given;

(ii) Make such order or pass such sentence in which proceeding as the lower court could have made or passed; and

(iii) Make such further order, which may include an order that a person sentenced to imprisonment therein be released on bail, as may be necessary or as the justice of the case may require;

Provided that no sentence of fine or imprisonment or other sentence in a criminal proceeding shall be increased, and no

order in a civil proceeding to the prejudice of any party thereto shall be made without an opportunity being given to the convicted person or such party of being heard:

(b)(i) set aside the conviction and sentence or judgement or other order of the lower court; and

(ii) When it considers desirable; order the case to be retried either by the same court or any other area court of competent jurisdiction or by any magistrate's court or District Court, or if the case is one that appears proper to be heard by the high court, report the case to the High Court.

(4) In the exercise of its powers of review under this section a court may hear such additional evidence as it considers necessary for the just disposal of the case.

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| 55. For the purposes of sections 53 and 54 a party aggrieved shall include the prosecutor in a criminal cause. | Definition of aggrieved party |
| 56. Subject to the provisions of the Constitution, no appeal shall lie from the lower court at the instance of any person at whose request a case has been reported to a court under section 50. | Restriction on right of appeal |
| 57. Leave to appeal out of time to any court may be given by such court upon such terms as to such court shall just. | Appeals out of time |
| 58. (1) Any court exercising appellate jurisdiction in criminal matters under the provisions of this Law may, while the appellant is the | Power of appellate courts in criminal matters. |

person who was accused before the court of first instance in the exercise of that jurisdiction.

(a) If such court considers that there is no sufficient ground for interfering with the decision appealed against confirm that decision and dismiss the appeal.

(b) If such court considers that there is ground for interfering with the decision against set aside the decision, and either sufficient appealed against set aside the decision, and either;

(i) acquit the appellant;

(ii) order the retrial of he appellant before a court of competent jurisdictions on the same charge or accusation or on any charge or accusation which might have been laid on the facts as disclosed by the evidence or.

(iii) after hearing the whole case or not and whether in whole or in part substitute any other, decision which the court of first instance could have made but so that by the decision so substituted, the appellant shall not be found guilty of any offence of which he was not accused before the court of first instance, unless the appellate court is satisfied that the defense of the appellant before the court of first instance could not have been substantially affected if he had been so accused.

(2) Any court exercising appellate jurisdiction in criminal matters under the provisions of this law, may, where the appellant is a person other than the person who was accused before the court of first instance, in the exercise of that jurisdiction:-

(a) If such court considers that there is no sufficient ground for interfering with the decision appealed against, confirm that decision and dismiss the appeal;

(b) If such court considers that there is sufficient ground for interfering with the decision appealed against, set aside that decision, and either:-

(i) Order the retrial of the respondent before a court of competent jurisdiction on the same charge or accusation which might have been laid on the facts as disclosed by the evidence; or

(ii) After hearing the whole case or not and whether in whole or in part substitute any other decision which the court of first instance could have made but so that, by the decision so substituted, the respondent shall not be found guilty of any offence of which he was not accused before the court of first instance, unless the appellate court is satisfied that the defense of the respondent before the court of first instance would not have been substantially affected if he had been so accused.

59. (1) Any court exercising appellate jurisdiction in civil matters under the provisions of this law may in the exercise of that jurisdiction:-

Powers of appellate courts in civil matters.

(a) After rehearing the whole case or not, reverse, vary or confirm the decision of the court from which the appeal is brought and may make any such order or exercise any such power as the court of first instance could have made or exercised in such case or as the appeal court shall consider that the justice of the case requires;

(b) quash any proceedings and thereupon where it is considered desirable, order such case to be retried before the court of first instance or before any other court of competent jurisdiction.

(2) In the exercise of its powers under this section a court may hear such additional evidence as it considers necessary for the just disposal of the case.

60. Where an appeal lies from an order or decision of an area court the court to which the appeal is brought shall have power to inspect the records of books or such area court relative to the appeal.

Powers of courts of appeal to inspect records

61. No proceedings in an area court and no summons, warrant, process, order or decree issued or made thereby shall be varied or declared void upon appeal or revision solely by reason of any defect in procedure or want of form but every court or authority established in and for the State and exercising powers of appeal or

Substantial justice to be done without undue to technicalities.

revision under this Law shall decide all matters according to substantial justice without undue regard to technicalities.

PART X – OFFENCES

62. (1) Any person who shall exercise or attempt to exercise judicial powers within the area of the jurisdiction of a duly constituted area court, except in accordance with the provisions of any written law or who shall sit as a member of such court without due authority, shall be liable on conviction before the High Court, a magistrate's court of competent jurisdiction, an upper area court or an area court grade 1 to a fine not exceeding two hundred naira or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

Adjudication
without
authority

(2) Nothing contained in this section shall be deemed to prohibit any person from adjudicating as an arbitrator upon any civil matter in dispute where the parties thereto have agreed to submit the dispute to his decision.

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

63. (1) Any officer of an area court who has a duty to perform under the provisions of subsection (2) of section 12 and who willfully or by neglect or omission loses the opportunity of performing such duty shall be guilty of an offence and shall be liable on conviction to fine not exceeding one hundred naira or to imprisonment for a

Neglect or
misconduct of
officers in
relation to duties
under section 12
and
unauthorized
performance of
duties there

person not exceeding six months or to both such fine and imprisonment.

(2) In addition or as an alternative of any penalty imposed under the provision of subsection (1) a court may, if it thinks fit, order an officer convicted of an offence under that subsection to pay the whole or apart of any damages sustained by any person as a result of such offence, and other order shall be enforced as an order directing the payment of money.

(3) Any person (not being a duly appointed bailiff or messenger or a police officer acting under the provisions of subsection (2) of section 12 who shall carry out or purport or attempt to carry out any of the duties specified in subsection (2) of section 12 shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred naira or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Subject to the provisions of section 63 any proceedings arising under the provisions of this Part may be brought in this High Court, a Magistrate's Court or an area court of competent jurisdiction.

Jurisdiction of
courts under part
x

PART XI – RULES OF COURT

(1)The Chief Judge may make rules providing for any or all of the following matter:-

Power to make
rules.

(a) Prescribing and providing for:-

(i) The maximum fees which may be charged:-

(a) In area court of first instance and of appeal;

(b) For appeals from such area courts and generally,

(ii) The reduction of such maximum fees in respect of all or any area courts of in respect of all or any proceedings;

(iii) The remission in whole or in part of any maximum or reduced fee and the manner in which the person or area courts by whom or by which such remission may be made;

(b) The disposal and application of fines and fees received by area court;

(c) The practice and procedure of area court in their original jurisdiction, on review and on appeal

(d) The time within which may act, matter or thing shall be carried out or performed for the purpose of this law and the time within which notice of appeal shall be given from the decision of any area court;

(e) The recording and perpetuation of the decisions of area court in land cases by reference to plans and the fixing of land marks

(f) Prescribing the fees which may be charged by surveyors for any work done for the purposes of any rules made under paragraph (e);

(g) Providing for:-

(i) The carrying into execution of the decrees or order of area courts or any class of area court whether such area court established under this law or under any other written law and;

(ii) the execution of the warrants and the service of the process of such courts of class of courts, where such decrees or orders are made or such warrants or process are issued in respect of persons or property not within the area of the jurisdiction of the area court making or issuing the same.

(h) Prescribing the court or authority by which the decrees, orders, warrants or process mentioned in sub-paragraph (ii) of paragraph (g) shall be carried into execution, executed or served;

(i) The exclusion of the public from an area court in accordance with the provisions of subsection (2) of section 29;

(j) The procedure of area courts in relation to applications for the interpretation of the constitution; and

(k) Generally for the carrying into effect of the provisions of this

(2) Any rules made under this section may apply to all area courts or to any class area court or to any particular area court or to such area court or particular area courts as may be determined under the rules.

PART XII – MISCELLANEOUS

66. All native courts (including native court of appeal) established under or in pursuance of the Native Court Law, 1956, or deemed to have been so established shall be deemed to be area court established under or in pursuance of this Law.

Position of
existing native
courts NN 6 or
1956.

67. Any cause or matter begun and pending immediately before the commencement of this law in any native court constituted under the Native Court Laws 1956, whether as of first instance or of appeal may be continued and concluded in the appropriate area court established under this law and every judgement order or sentence in any such cause or matter may be enforced in the same manner and the same appeal, if any shall lie therefore as if were a judgement, order or sentence in a cause or matter originally instituted in the appropriate area court established under this Law.

Pending causes
and matter

68. Any appeal from a native court constitute under the native Courts law, 1956, which may immediately before the commencement of this Law be pending before any court shall be continued and concluded by such court in like manner as if the appeal were from an area court constituted or deemed to have been constituted under

Pending appeals

this law and every judgment, order or sentence given, issued or passed in such appeal may be enforced in such manner as if it were a judgment, order or sentence in an appeal from an area court constituted or deemed to have been constituted under this law.

FIRST SCHEDULE

LIMITS OF JURISDICTION OF GRADES OF AREA COURT

PART I – CRIMINAL CAUSES

Upper Area Court	Area Court Grade I	Area Court
Grade II	Maximum Sentence	Maximum
Sentence	Maximum Sentence	
Limited in accordance with the provisions of the Criminal Imprisonment for three Imprisonment for Procedure Code or any Law creating the offence and Years or a fine of one eighteen months or a the penalty thereto thousand naira fine of five hundred naira.		
Courts of all grade have power subject to the provisions of section 3 of the Penal Code (Federal Provisions) Act, 1960, to award a sentence of canning and of symbolic or Haddi lashing in accordance with the provisions of the Penal Code and the Criminal Procedure Code.		

PART II – CIVIL CAUSES

Types of cause	Upper Area Court	Area Grade 1	Area Court Grade II
1. Matrimonial cause and matters between persons married under customary law or arising from or connected with a union contracted by customary law other than those arising from or connected with a Christian marriage as defined in section 1 of the Criminal Code (Chapter 42 of 1958 Laws)	Unlimited	Unlimited	Unlimited
2. Suit relating to the custody of Children under customary.....	Unlimited	Unlimited	Unlimited
3. Civil actions in which the debt, demand or damage do not exceed the amounts specified in the respective columns hereof	Unlimited	₦5.00	₦1,000
4. Causes and matters relating to the succession to property and the administration of estates under customary law where the value of the property does not exceed the amounts specified in respective columns hereof.....	Unlimited	₦10,000	₦1,000
5. Causes and matters concerning the ownership possession or occupation of land in which the value of the subject matter does not exceed the amount specified in the respective columns hereof	Unlimited	₦5,000	₦1,000
	Where the court is of competent Jurisdiction under section 19(3)		