

**SHARIA COURT OF APPEAL EDICT 1996**

**THE MILITARY ADMINISTRATOR OF THE NASARAWA STATE  
OF NIGERIA** hereby makes the following Edict:

Citation and Commencement      This Edict may be cited as the Sharia Court of Appeal 1997 and shall be deemed to come into effect on the 1<sup>st</sup> day of January, 1997.

Interpretation      1. In this Edict unless the context otherwise provides:-

“Area Court” means a court established under the Area Court Edict or deemed to have been so established and includes Upper Area Court;

“Area Courts Edict” Means the Area Court Edict applicable in the State;

“Cause” includes any actions suit or other original proceedings between a plaintiff and a defendant;

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

“Decision” includes judgement, decree and order;

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

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

“Islamic Edict” means Islamic Edict of the Maliki School and Orthodox Schools governing the matter in paragraphs (a) (b) (c) of Section 11 set out;

“Inspector of Area Courts” means any Area Court Inspector appointed in pursuance of the provision of the Area Court Edict;

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

“State Matters” means any matter that is within the legislative competence of legislature of Nasarawa State under the provision of the constitution of the Federation; and

“Registrar” means the Registrar of the Court;

Establishment of Sharia Court of Appeal      3. (1) There is hereby established a court for hearing of appeals from Area Courts in respect of cases involving questions regarding Islamic Edict.  
(2) The name of the Court shall be the Sharia Court of Appeal which shall be a Superior Court of record.

(3) The Court shall have jurisdiction to punish a person summarily for the offence commonly known as contempt of court; but a person cannot be so punished and also punished under the provisions of the Penal Code for the same offence.

4. (1) The Court shall consist of a Grand Khadi and such number of Kadis as may be appointed by Military Administrator.

5. (1) A person shall be qualified to be a Judge of the Sharia Court of Appeal if he is:-

- (a) a Muslim
- (b) not less than thirty-five years of age; and
- (c) (i) he is legal practitioner in Nigeria of a period of not less than 10 years and has obtained a recognized qualification in Islamic Edict from approved institution, or
- (ii) he has attended and obtain a recognized qualification in Islamic Edict from an institution for a period of not less than 10 years; and
- (iii) he either has considerable experience in the practice of Islamic Edict or he is a distinguished scholar of Islamic Edict.

Tenure of office 6. (1) A Judge shall vacate office when he attains the age prescribed in the Constitution of the Federal Republic of Nigeria.

(2) A Judge may at any time resign his office by notice in writing addressed to the State Judicial Service Commission

Precedence of judge 7. The Grand Khadi shall be the President of the Court and shall preside over all cases and in his absence the next senior Judge shall preside.

8. No Judge shall be sued in any court for any act done by him in the exercise of the jurisdiction conferred by this Edict, whether or not within the limit of his jurisdiction, provided that he, at the time of such act or order, in good faith believed himself to have jurisdiction to do or order to be done the act in question.

Seal of the court 9. (1) The Court shall have use, as occasion may require, a seal bearing the inscription in the English, Hausa and Arabic Languages;

(2) The Seal of the Court shall be kept by the Chief Registrar. And a duplicate thereof shall be kept by the Deputy Chief Registrar

10. (1) Subject as otherwise provided in this Edict, the Court shall have jurisdiction to hear and determine appeals in civil matters involving questions regarding Islamic Edict from Area Courts.

(2) For all the purposes of and incidental to the hearing and determination of any appeal, and the amendment, execution and enforcement of any judgement, order or decision made therein, the Court shall have all the powers, authority and jurisdiction of every Area Court of which the judgement, order or decision is the subject of an appeal to the Court, and the Court shall, without prejudice to the generality of the foregoing, have the jurisdiction, powers and authority which are conferred upon area courts exercising appellate jurisdiction by the provisions of section 12 of the Area Court Edict.

(3) Except as provided in subsection (2) of this section, the Court shall have no original jurisdiction in any case or matter.

(4) The Court shall have the jurisdiction to review cases reported to him in accordance with section 50 of the Area Court Edict.

Competency 11. The Court shall be competent to decide:-  
of the court

(a) any question of Islamic Edict regarding marriage concluded in accordance with that Edict including a question relating to the dissolution of such a marriage or a question that depends on such a marriage relating to family relationship or the guardianship of an infant;

(b) where all the parties to the proceeding are all Muslims any question of Islamic Edict regarding marriage, including the dissolution of such marriage or regarding family relationship a founding or the guardianship of infant;

(c) any question of Islamic Edict regarding wakf, gift, will or succession where the endower, donor, testator or deceased person is a Muslim;

(d) any question of Islamic Edict regarding an infant, prodigal person of unsound mind who is a Muslim or the maintenance or guardianship of Muslim who is physically or mentally infirmed;

(e) where all the parties to the proceedings whether or not they are Muslims have by writing under their hands requested the Court that hears the case in the first instance to determine that case in accordance with Islamic Edict;

(f) any additional jurisdiction as may be conferred upon the Court by any other Edict.

Practice and procedure 12. The Court in exercise of the jurisdiction vested in it by this Edict as regards both substantive Edict practice and procedure shall administer, observe and enforce the observance of the principle and provisions of:-

(a) Islamic Edict as customarily interpreted at the place where the trial at first instance took place;

(b) This Edict;

(c) The Area Court Edict and any other Edict affecting Area Court in so far as it relates to a cause or matter within section 10 of this Edict and

(d) Natural justice, equity and good conscience.

Transfer to High Court and Customary Court of Appeal 13. (1) On or at any time before the hearing of appeal from any Area Court, the Court, if it is of the opinion that the Appeal should properly have been brought before the High Court, or the Customary Court of Appeal, may at anytime or either with or without application from any of the parties thereto transfer such appeal to the High Court or the Customary Court of Appeal as the case may be.

Session of the court (2) Notwithstanding anything containing in any rules made by the Court to the contrary, no appeal transferred from or to the Court in according with the provision of this Edict or any Edict shall be questioned on the ground that it has not been entered within the time prescribed for entering appeals to the Court to which the appeal is transferred.

(3) The power of transfer under this section shall be exercised by means of an order under the hand of the Grand Khadi and the Seal of the Court.

14. The Court shall hold session from time and at such places as provided by order made under section 15.

Regulations of session by order 15. The Grand Khadi may from time to time by order provide for all or any of the following:-

(a) The appointment of the place or places within the State at which sessions of the Court are to be held;

(b) The appointment of the dates for holding session within the State and the alteration of any such date by such authority and in such manner as may be specify in an order made under this section where by reasons of the pressure of business or other unforeseen cause it is expedient to alter the date so appointed;

(c) carrying into effect as may seem necessary to the Grand Khadi any order made under this section and, without prejudice to the generality of the foregoing power, the attendance, jurisdiction, authority and duty of the Chief Registrar, interpreters and officers, the use of any prison which is under the control of the Federal Government and transmission of documents and exhibits;

Power to dispenses with holding of session in places where unnecessary 16. (1) If at any time it appears to the Grand Khadi that there is no business or no substantial amount of business to be transacted at a session about to be held at any place and that having regard to all the circumstances of the case it is desirable that an order should be made under this section he may by order direct that session shall not hold on that particular occasion be held at that place and where any such order is made then notwithstanding any order made under section (15), sessions shall not on that occasion be held at the place specified in the Order.

(2) There may be included in an order made under this section provision for any matter (including any or the matters mentioned in paragraph (c) of subsection (1) of section (15) for which it appears to the Grand Khadi to be necessary or proper to make provision with a view to giving full effect to the Order.

(3) Notice of every order made under this section shall be published in the State Gazette or by means of announcement through the News Media.

Representation of parties 17. (1) Legal practitioners may appear to act for or assist any party before the Court.

(2) In any proceedings before it, the Court may permit the appearance on behalf of any party to such proceedings of:-

(a) the husband, wife, guardian, servant, matter of 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 any person who is interested in administration of the estate of a person who was subject to the jurisdiction of Area Court.

(3) Subject to the provision of subsection (1) and (2) of this section in any suit pending before the Court a Local Government Authority may be represented at any of the proceedings by any officer of the Local Government Authority who shall satisfy the Court that he is duly authorized in that behalf.

(4) An Inspector of Area Court shall have right to be heard in the Court.

Officers of the Court 18. There shall be a Chief Registrar, Deputy Chief Registrars and such other officers as may be deemed necessary who shall perform such duties in execution of the powers and authorities of the Court as may from time to time be assigned by rules of court or subject thereto, by any special order of the Grand Khadi.

Negligence of misconduct 19. If any officer of the Court employed to execute an order willfully or by neglect or omission losses the opportunity of executing it, then on complaint by the aggrieved, and proof of the fact alleged, the Court may, if it thinks fit, order the Officer to pay the damages sustained by the person complaining or part thereof, and the Order shall be enforced as an order directing payment of money.

Protection of persons Executing warrants 20. No officer of the Court or other person bound to execute any warrant or order issued by the Court shall be liable in any action for damages in respect of the execution of such warrant or order unless it be proved that he executed the same in an unEdictful manner.

Restriction of officers of the court buying property sold in execution. 21. (1) No officer of the Court shall or may directly or indirectly or by the intervention of an agent or otherwise purchase any property sold in execution, and in the event of any such person purchasing or being interested in the purchase of any property sold in execution, such purchase shall be void.

(2) Notwithstanding the provisions of subsection (1), nothing herein contained shall prevent any such persons from purchasing by leave of the Court any property sold in execution which may be necessary for him to purchase in order to protect the interests of himself, his wife or child.

22. The Grand Khadi may with approval of the Governor make rules of court providing for any or all of the following

(a) Prescribing and providing for:-

(i) the fees which may be charged in the Court;

(ii) the reduction of such fees in any particular case or class of cases and the manner in which and the persons by whom such reduction may be made;

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

(b) subject to the provisions of section 14, the practice and procedure of the Court;

(c) the carrying into execution of the decrees or orders of the Court;

(d) the execution of the warrants and the service of the process of the Court;

(e) regulating the payment of allowance s and travelling expenses of witnesses;

(f) regulating any matters relating to the costs o proceedings in the Court;

(g) defining, (so far as conveniently may i.e. defined by general rules;) the duties of the several; officers of the Court;

(h) securing the due administration of Estates;

(i) requiring and regulating the filling of accounts of the administration of estates;

(j) ascertaining the values of estates;

(k) regulating and prescribing the procedure on appeals from any area court to the Court.

(l) regulating the sittings of the court subsection to the provisions of sections 17, 18 and 19;

(m) prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by judges of the court, may be transacted or exercised by the Chief Registrar or other officers of the Court, and providing that any interlocutory application to be made in connection with or for the purpose of any appeal or proposed appeal to be heard by the Court shall be heard and disposed of before a single judge;

(n) prescribing forms to be used for the process and practice and procedure of the Court, and

(o) generally for carrying into effect the provisions of this edict.

23. All Civil proceedings instituted, commenced or taken in accordance with the Rules or Practice of the Plateau State Sharia Court of Appeal in respect of any cause pending at the date of coming into force of this Edict shall be valid and effectual as though they had been instituted, commenced or taken in accordance with the provisions of this Edict and such proceedings shall continue before the Court in accordance with the provision of this Edict.

DATED AT LAFIA THIS 10<sup>TH</sup> DAY OF DECEMBER 1997

WING COMMANDER ABDULLAHI IBRAHIM

**MILITARY ADMINISTRATOR**

**NASARAWA STATE OF NIGERIA**

**EXPLANATORY NOTE**

(This note does not form part of this Edict and has no legal effect) The purpose of this Edict is to provide for the establishment of the Sharia Court of Appeal of Nasarawa State.