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DELTA STATE

Administration of Criminal Justice

Rules 2020

DELTA STATE
(ADMINISTRATION OF CRIMINAL JUSTICE)
RULES 2020

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(ADMINISTRATION OF CRIMINAL JUSTICE)
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Issued By

HON. JUSTICE MARSHAL UMUKORO
CHIEF JUDGE

HIGH COURT OF JUSTICE, DELTA STATE

CONSTITUTION OF THE
FEDERAL REPUBLIC OF NIGERIA, 1999
DELTA STATE
(ADMINISTRATION OF CRIMINAL JUSTICE)
RULES 2020

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DELTA STATE
(ADMINISTRATION OF CRIMINAL JUSTICE)
RULES 2020

In exercise of the powers conferred on me by section 259 of the Constitution of the Federal Republic of Nigeria, 1999, section 490 of the Delta State Administration of Criminal Justice Law 2016 and all other powers enabling me in that behalf, I Justice Marshal Umukoro, Honourable Chief Judge of the High Court of Delta State, make the following Rules of Court:

[1 March 2021] Commencement

PART ONE
PURPOSE AND APPLICATION

ORDER ONE

PURPOSE

Purpose

1. The purpose of these Rules is to ensure compliance with the Delta State Administration of Criminal Justice Law 2016 ("the Delta State ACJL") that is-
   (a) to ensure efficiency and speed in the management of criminal trials and dispensation of justice; and
   (b) to protect the interests and fundamental human rights of the defendant, victim, witnesses and society.

ORDER TWO

APPLICATION

Application

1. In the application of these rules each case shall be treated on its merit in line with the provisions of the Delta State Administration of Criminal Justice Law 2016.

2. These Rules shall apply to criminal proceedings before a court of Delta State.

ORDER THREE

INTERPRETATION

Interpretation

1. For the purposes of these rules-

"bail bondsperson" means a person registered as such under Section 187 of the Delta State ACJL.

"benefit fraud" means any form of welfare fraud within the welfare system of government.

"court" includes High Court, Magistrate Court, Area Court or any other court exercising criminal jurisdiction in Delta State.

"detention facility" includes correctional centres, juvenile centres, vehicles and any such facility maintained by any law enforcement agency.

"law enforcement officer" means any officer of any law enforcement agency established by an Act of the National Assembly.

"legally aided" means where a person is represented by a counsel from the Legal Aid Council of Nigeria or any other pro bono service.

"police officer" includes any member of the Nigeria Police Force established by the Police Act or where the context so admits, shall include any officer of any Law Enforcement Agency established by an Act of the National Assembly or Law of the Delta State House of Assembly.

"parole" means the release of a prisoner from imprisonment before the full sentence has been served under section 460 of the Delta State ACJL.

"probation sentence" means a court imposed criminal sentence that, subject to stated conditions, releases a convicted person into the community instead of sending the convict to a correctional centre.

"third party costs order" means an order for the payment of costs incurred by a person who is not a party to the proceedings ("the third party").

"wasted costs" means any costs incurred by a party (which includes a legally aided party) as a result of any improper, unreasonable or negligent act or omission on the part of his counsel which, in the light

of any such act or omission occurring after they were incurred, the court considers it unreasonable to expect that party to pay.

PART TWO
ARREST, CUSTODY, BAIL AND REMAND

ORDER FOUR

ARREST

Arrests Generally

1. Subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999, any law prescribing an offence, the following may effect the arrest of a suspect-
   (a) a Police Officer;
   (b) a Judicial Officer;
   (c) a private person provided the person arrested is immediately handed over to a law enforcement officer.

2. A person shall not be arrested save where the person is reasonably suspected to be committing or to have committed an offence.

3. An arrested person shall be-
   (a) Informed of the offence for which he is being arrested;
   (b) entitled to remain silent or avoid answering any questions until he has communicated and consulted with a legal practitioner, relative or any other person of his choice;
   (c) Provided free legal representation where applicable in accordance with extant laws;
   (d) Protected against torture, degrading and dehumanizing treatment.

Warrant of Arrest

4. A warrant of arrest shall contain the following information:
   (a) the court that issued it-
   (b) the enactment under which the warrant is issued;
   (c) whether the warrant is directed to every police officer, or to a particular police officer, in which case the name of that police officer or any other authorised person;
   (d) the particulars of the suspect;
   (e) the reason for the warrant being issued;

(f) the offence;
(g) a direction to the police officer executing the warrant to bring the suspect before a competent court;
(h) the legal authority for entering premises for the purpose of executing the warrant;
(i) the name and title of the person issuing the warrant; and
(j) the date the warrant was issued.

5. A warrant may be executed by-
   (a) any person to whom it is directed; or
   (b) any person authorized to do so.

6. A person who executes a warrant shall-
   (a) show the suspect the warrant;
   (b) explain, in the language the suspect understands, what the warrant requires;
   (c) where the suspect is to be released on bail, record:
      i. the suspect's name,
      ii. the reason for the arrest,
      iii. the suspect's release on bail, and
      iv. when and where the warrant requires the suspect to attend court.

7. A person executing a warrant shall serve the record referred to in Rule 6 paragraph (c) of this order on the suspect and the court official.

ORDER FIVE

BAIL

General Entitlement to Bail

1. Subject to the provisions of the Delta State ACJL or any other law, every arrested suspect or detainee is entitled to bail.

Exercise of Court's Powers

2. A court may make an order on a person in charge of a correctional centre, police station or any other place of detention to produce in court a person detained in the correctional centre, police station or place.

3. A court may in the interest of justice order the release of a person in detention unconditionally or subject to such terms as the court deems fit.

4. A prosecutor shall file along with the charge or information a statement indicating whether or not the defendant was granted administrative bail, and if so, the terms of such administrative bail.

5. A prosecutor who opposes the grant of bail shall specify cogent

exception(s) to the general right to bail on which the prosecutor relies.

Prosecutor's Representations on Bail

6. A suspect who was granted bail during remand proceedings should not be refused bail during the trial unless, in the opinion of the court, there are reasons to justify the refusal.

Bail during Trial

7. A defendant admitted to bail may be required to produce such surety or sureties as, in the opinion of the court, will be sufficient to ensure his appearance, and for this purpose the court shall require the execution of-
   (a) Defendant's recognizance;
   (b) surety's recognizance; and
   (c) joint bond of the defendant and surety.

Sureties and Bail Conditions

8. A court may grant bail conditionally or unconditionally. Where bail is conditional, the terms shall not be excessive but may include the deposit of security in the form of-
   (a) land title document,
   (b) international passport,
   (c) cash and/or,
   (d) any other valuable documents.

9. Where a defendant is released on bail, the terms of recognizance entered into by the surety shall be of such nature as to ensure that the defendant is present in court for trial throughout the proceedings.

Continuous Bail

10. The court may, where the circumstances appear just, vary the order of release on bail of the defendant at any subsequent hearing or stage of the proceedings: Provided that the reason for the variation of the order shall be stated.

ORDER SIX

REMAND

Remand

1. A suspect arrested for an offence which a Magistrate Court has no jurisdiction to try, shall within a reasonable time be brought before a Magistrate Court for cognizance and remand.

2. For the purposes of this order, “reasonable time” means in the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of forty kilometres, a period of within 24 hours and in any other case, a period of 48 hours.

Application for Remand

3. (a) An Application for remand shall be made ex-parte and in conformity with Form 8 in the First Schedule to the Delta State ACJL.
   (b) An application for remand shall be in writing and shall be accompanied by an affidavit stating the basis for the request.

4. The court may when considering a remand application consider the following;
   (a) the nature and seriousness of the alleged offence;
   (b) whether there are reasonable grounds that the suspect has been involved in the commission of the alleged offence;
   (c) whether there are reasonable grounds for believing that the suspect may abscond or commit further offence where he is not committed to custody; and
   (d) any other circumstance that justifies the request for remand.

5. Where an order of remand of the suspect is made pursuant to section 293 of the ACJL, the order shall be for a period not exceeding 14 days in the first instance, and the case shall be returnable within the same period.

6. Where on application in writing, good cause is shown why there should be an extension of the remand period, the court may make an order for further remand of the suspect for a period not exceeding 14 days and make the proceedings returnable within the same period.
7. Where the suspect is still on remand at the expiration of the period provided in rules 5 and 6 of this order, the court may, on application of the suspect, grant bail in accordance with the provisions of sections 158 to 188 of the Delta State ACJL.
8. At the expiration of the remand order, and where the suspect is still remanded with his trial having not commenced, or charge having not been filed at the relevant court having jurisdiction, the court shall issue a hearing notice on the prosecution.
9. The court shall issue a hearing notice on the prosecution to show cause why the suspect remanded should not be unconditionally released and make the case returnable within 14 days.
10. Where the Inspector-General of Police or the Commissioner of Police or the Attorney-General of the State show good cause and make a request to that effect, the court:
    (a) may extend the remand of the suspect for a final period not exceeding 14 days for the suspect to be arraigned for trial before an appropriate court; and
    (b) shall make the case returnable within the said period of 14 days from the date the order was made.

11. For the purpose of determining whether “good cause” exists the court shall not consider any factor occasioned by negligence or misconduct on the part of the state or police.

12. Where good cause is not shown for the continued remand of the suspect and the suspect remains in remand custody after the expiration of the extended period under rule 10 of this order, the court shall, with or without an application to that

effect, discharge the suspect and the suspect shall be immediately released from custody.

13. No further application for remand shall be entertained by any court after the proceeding in rule 10 of this order provided that where the remand order was issued by a Magistrate, the court shall within 14 days forward the case file to the Chief Judge through the Chief Registrar.

Exercise of Powers of Remand

14. During remand proceedings, the court may order the suspect to be brought before it.

15. The court may order that the suspect be transferred to a hospital, asylum or any suitable place for the purpose of giving him medical treatment, or may make any order that it considers necessary at any time during the remand period.

16. The court may exercise the powers conferred on the court under this order:
    (a) whether the suspect is present in court or not; and
    (b) on its own motion or on application, including an application by a person in charge of the prison or other place of custody where the suspect is detained.

PART THREE
TRIAL

ORDER SEVEN
DISCLOSURE

Disclosure by Prosecutor

1. The prosecutor shall disclose by serving on the court and defendant any material it intends to rely on in the course of the trial.

Disclosure to Defendant

2. The prosecutor shall also disclose to the defendant any material in the prosecutor's possession that either supports a defence put up by the defendant or which exculpates him from liability.

3. Where a defendant enters a plea of “not guilty” or the court records a plea of “not guilty” for the defendant, the defendant shall disclose the material he intends to use in his defence.

Defendant’s Application for Prosecution to Disclose

4. The defendant may apply to the court for access to material in the prosecution’s custody where there is reason to believe that the prosecutor is withholding evidence particularly one that may aid the defendant’s case.

5. An application for the prosecution to disclose shall be by motion on notice, served on the prosecutor.

6. The application made under rule 4 shall contain-
   (a) a description of the material;
   (b) reasonable cause to show that the defendant believes that the prosecutor has the material or can obtain the material; and
   (c) explanation of the importance of such material to the trial.

7. The court in determining the application must have recourse to-
   (a) the defendant’s right to fair trial;
   (b) the prosecutor’s right to make representation;
   (c) the rights of confidentiality applicable to the material.

8 The court shall have regard to the extent to which the disclosed material is contentious before setting a date for day-to-day hearing.

9 The court may:
   (a) determine the time limit of applications under rule 4 of this Order
   (b) specify the period any material may be disclosed; or
   (c) vary any direction made under this Order.

Powers of Court with Regard to Disclosure

10. The court in considering the application under rule 4 of this Order may direct-
   (a) that the application may be heard in chambers; and
   (b) that any person who will be directly affected if the material were disclosed should be served with the application.

11. A person may only use material disclosed by the prosecution in connection with-
    (a) the case in which it was disclosed;
    (b) an appeal from the case in which it was disclosed;
    (c) any other lawful purpose.

12. The court may initiate contempt proceedings against any person who uses the disclosed material in breach of rule 11 of this order.

ORDER EIGHT

ARRAIGNMENT

PLEA TO INFORMATION OR CHARGE

Plea to Information or Charge

1. The court shall inform the defendant of his rights under section 270 of the Delta State ACJL.

2. A defendant to be tried on an information or charge shall:
    (a) be brought to the court unfettered unless otherwise directed by the court.
    (b) have the information or charge read over to him to the satisfaction of the court by the registrar or such other officer appointed by the court, in a language that he understands.
    (c) be called to plead instantly except where he objects to non-service or where the court finds that he has not been duly served.
3. A defendant who pleads not guilty shall be deemed to have put himself on trial.

4. Where a defendant pleads guilty to an offence the court shall;
    (a) record his plea as accurately as possible;
    (b) invite the prosecution to state the fact of the case; and
    (c) enquire from the defendant whether his plea of guilty is to the fact as stated by the prosecution.

5. Where a defendant pleads guilty to a capital offence, a plea of not guilty shall be recorded for him.

6. Where a defendant pleads guilty to an offence not contained in the charge or information on which he was arraigned, the court shall direct the prosecution to amend the charge or information accordingly to include the admitted offence and a fresh plea of the defendant shall be taken on the amended charge.

7. The Court shall record the plea of a defendant in the prescribed Form 01 in the Third Schedule to these Rules.

ORDER NINE

CASE MANAGEMENT

Case Management

1. This Rule applies to the management of the hearing of a case in the High Court, Magistrate Court, Area Court or any other court excising criminal jurisdiction, including an appeal to the High Court until the conclusion of the case.

2. The court may give any direction to actively manage a case in order to prevent unnecessary delay.

3. In order to manage a trial or an appeal, the court may require a party to identify-
   (a) witnesses to give evidence in person;
   (b) the order of witness evidence;
   (c) the need for an order compelling the attendance of witnesses;
   (d) arrangements that are desirable to facilitate the giving of evidence by a witness;
   (e) arrangements that are desirable to facilitate the participation of any other person, including the defendant.

4. In ensuring proper case management, the court Registrar shall where a person is entitled or required to attend a hearing, give a minimum of seven days or as is reasonably practicable to that person, and that person's custodian (if any) and where the court gives directions, promptly make a record available to the parties.

5. Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial and to this end-
   (a) the court shall in consultation with counsel set a timeline for the trial up to adoption of final addresses as well as earmark a period which shall not be less than 2 hours for the hearing each day.
   (b) the timeline referred to above shall as far as practicable include a schedule of names of witnesses and the day or days the presence of any particular witness may be required.
   (c) the court may apply the provisions under Order 11 on wasted costs against legal representatives where counsel without reasonable excuse fails to comply with the timeline.
   (d) the court may where a witness is absent in court on dates earmarked in the timeline, make an order to compel attendance of the witness where satisfied that this is required in the circumstances of the case.

ORDER TEN

WITNESSES

Witness Summons

1. A summon requiring a witness to attend court to give evidence shall include:
   (a) the particulars of the witness;
   (b) the particulars of the defendant;
   (c) the offence;
   (d) the court, date and time at which the witness is required to appear;
   (e) details of any specified document or thing and any other document or thing that the witness is required to bring to court that is in his possession or control;
   (f) consequences of failing to appear in answer to the summons without any reasonable cause.

2. The court in granting a witness summons shall state that the person to whom the summons is addressed is entitled to a refund of his travel expenses where such an expense has not been paid.

Persons in Court may be required to give evidence though not summoned

3. Where a person who is a compellable witness is present in court, the court may compel that person to give evidence or

produce any document in his possession as if they had been summoned to attend and give evidence.

4. The court may sanction any person who refuses to comply with the order made under Rule 3 of this Order.

ORDER ELEVEN

COSTS GENERALLY

Cost Generally

1. In addition to the specific instances outlined in the ACJL, the court may award costs in criminal proceedings in accordance with these rules for the purpose of carrying into effect the provisions of the law.

2. The court has a direct responsibility for costs in criminal proceedings and can award costs at any stage of the proceedings with or without an application by any of the parties.

3. The court may on application vary any order made pursuant to Rule 2 of this Order.

4. The court may require the assistance of any other competent authority in determining the cost to be paid under this order.

5. The court may make any Order as to costs on the application of a party or on its own motion, in open court or in chambers except that the court shall not make such order ex parte.

6. Where the Court makes an order on costs, it must specify the party or person liable, the party or person to whom the payment is to be made and the amount payable.

7. The Court shall give reasons for its decision on costs.

8. Where the court makes an order for the payment of costs, the amount should be sufficiently reasonable to compensate the

recipient for costs incurred. Nothing shall prevent the Court from making an order for:

a) a proportion of that amount;
b) a stated amount less than that amount;
c) costs from or until a certain date only;
d) costs relating only to particular steps taken; or
e) costs relating only to a distinct part of the case.

9. In determining quantum of costs, the Court shall consider:
   a) the conduct of all the parties;
   b) the time spent on the case;
   c) the place where and the circumstances in which work or any part of it was done; and
   d) any direction or observations by the court that made the costs order.

10. An order for the payment of costs takes effect immediately, unless the court directs otherwise.

ORDER TWELVE

THIRD PARTY COSTS

1. The Court may make a third-party costs order if there has been serious misconduct (whether or not constituting a contempt of court) by a third party and the court considers it appropriate, having regard to that misconduct, to make a third-party costs order.

2. The Court may make a third-party costs order at any time during the proceedings and shall hear the parties and third party before making an order.

3. A third-party costs order may be made on the application of any party, or on the court's own motion.

4. In making a third-party costs order, the Court may take into account any other order as to costs in respect of the proceedings.

5. Where the Court is considering making a third-party costs order on its own motion, the appropriate officer shall serve notice in writing on the third party and any other party.

6. An application for third party costs shall be in writing and contain the names and addresses of the applicant, the other parties and the third party against whom the order is sought, together with a summary of the facts upon which the applicant intends to rely, including the details of the alleged misconduct of the third party.

7. The court may proceed with the hearing of the application in the absence of the third party, and of any other party where satisfied that the party has been duly served with the notice by the appropriate officer, and with a copy of the application.

8. The power to make a third-party costs order may extend to making such an order against a Government Department where there has been serious misconduct or negligence.

9. A third party against whom a costs order has been made may apply to the Court that made the order to vary or set aside the order within a period of 7 days from the date of the order or as may be extended by the Court.

PART FOUR
CUSTODIAL AND NON-CUSTODIAL SENTENCING

ORDER THIRTEEN

SENTENCING

Sentencing

1. Where the Court convicts a defendant, the court may for the purpose of determining an appropriate sentence conduct a hearing.

2. Hearing may be conducted at a subsequent date appointed by the court immediately after conviction.

3. For the purpose of the sentencing hearing, the court shall proceed in line with the provisions of sections 311 and 413 of the Delta State ACJL to consider any mitigating or aggravating

factors disclosed in evidence;

4. Where by virtue of section 272 of the Delta State ACJL or any other law, evidence of previous conviction of a convicted person is required, the Court may have recourse to the Register of Convicted Persons provided for under these Rules.

ORDER FOURTEEN
COMMUNITY SENTENCE

Community Sentence

1. A court may, with or without conditions, sentence the convict to perform specified service in his community or any other place as the court may direct.
2. The operations and functions of Community Service Centres shall be in accordance with the provisions of sections 453 and 454 of the Delta State ACJL or any other relevant law.
3. The court in exercising its powers shall consider whether such order is consistent with the-
   (a) decongestion of Correctional institutions;
   (b) Rehabilitation of offenders by engaging them productively;
   (c) Need to keep separate persons convicted for minor offences from persons convicted for serious offences or who are hardened criminals.
4. A community sentence order may be imposed in any of the following circumstances-
   (a). damage to property;
   (b). benefit fraud;
   (c). assault without grievous bodily harm;
   (d). where the court is of the opinion that non-custodial sentence would be more effective in the circumstance;
   (e). where a person is a first-time offender and has committed a minor offence.
5. In issuing a community sentence order, the Court may impose additional measures which may include-
   (a) restricting the offender to a particular residence or place at certain times or maintaining a 'curfew';
   (b) ordering the offender to wear an electronic tag to ensure compliance with the sentence;
   (c) appointments with a designated manager;

(d) barring the offender from going to certain places or areas including the place of abode or work of a victim;

(e) barring the offender from taking part in certain activities, such as visiting a bar, children community centre or activities likely to threaten the safety of other people

ORDER FIFTEEN

PAROLE

1. The objectives of parole shall be to grant conditional or unconditional release to a prisoner who had exhibited good behaviour; and has served at least one-third of his prison term, where he is sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment. — Parole

2. The Court shall within 30 days of receiving the report referred to under section 460 of the Delta State ACJL schedule a hearing for consideration of the parole. — Parole Hearing

3. The State and the convict or his counsel shall be given not less than two weeks' notice before the date fixed for hearing.

4. The Court may, after hearing the State and the convict or his counsel, order that the remaining term of his imprisonment be suspended, with or without conditions, as the court considers fit, and the prisoner shall be released from correctional centre on the order.

5. A prisoner released under Rule 4 of this Order shall undergo a rehabilitation programme for a period of not more than 3 months in a government facility or any other appropriate facility to enable him be properly reintegrated to the society — Rehabilitation pursuant to Parole

6. The Controller-General of the Nigerian Correctional Service shall make appropriate arrangement for the facility.

7. The Chief Judge may in special circumstances order that the convict be taken to a private or undisclosed facility where his safety can be guaranteed.

8. A parolee shall report and register his attendance at the correctional centre where he was serving sentence or at a place or to a person designated by the court at least once every month and ensure that he resides within a reasonable distance or as — Reporting

provided for by the parole order.

9. A parolee may be recalled to serve further terms or have his parole revoked entirely if he breaches any of the conditions in the parole order.

Recall and Revocation of Parole

PART FIVE

ADMINISTRATIVE PROCEEDINGS

ORDER SIXTEEN

REGISTER OF LEGAL AID PROVIDERS

1. The Chief Registrar of the Court shall register any legal practitioner or law firm intending to provide legal aid for persons in detention or defendants.

Register of Legal Aid Provider

2. The Register of Legal Aid Providers shall be maintained by the Chief Registrar and an updated copy of the register shall be made available to the Legal Aid Council of Nigeria once a year.

ORDER SEVENTEEN

REGISTER OF CONVICTED PERSONS

1. The Chief Registrar shall maintain a register of persons convicted by the court, which shall contain the following:
   (a) the names and personal details of the convict in conformity with the particulars included in Form 02 in the First Schedule;
   (b) the sentence imposed by the court;
   (c) in the case of a sentence of imprisonment, the correctional facility where the Convict is to be held.

Register of Convicted Persons

2. Where a Convict appeals against the conviction of the Court, the Chief Registrar shall make a note of this on the Register indicating the Court where the appeal is lodged. Upon the conclusion of that or any other appeal proceedings, the Chief Registrar shall enter the outcome of the proceedings in the part of the Register where the conviction was registered.

3. The Chief Registrar shall where the person convicted is a corporate body forward a certified copy of the extract of the entry to the Corporate Affairs Commission.

4. The Chief Registrar shall upon a request by the Court or Prosecution in relation to the sentencing hearing of a particular Convict, provide the court with certified copies of extract of the entry in the Registry relating to that person. Copies of such entries shall upon payment of a prescribed fee be made available to the counsel for the defence.

ORDER EIGHTEEN

WITNESS EXPENSES

Witness

1. The Registrar of the Court shall certify appearance of any person as a witness for each day the witness appears, indicating on an expense claim form, the sum due to them for travel cost and other expenses as prescribed under the scale of fees prescribed under Table 01 in the Second Schedule to these Rules.

2. The Registrar of the Court shall process and pay to the witness directly on or before the hearing date, the amount prescribed under the Schedule.

3. Where a person attends Court as a state witness, the witness shall be entitled to payment as prescribed under the Schedule.

4. Witness for the defence may be reimbursed for travel cost and other expenses.

Expenses Where a Witness unable to Testify

5. Where a witness has appeared in Court to testify but fails to do so on account of an application by a party for adjournment, the witness expense for such appearance shall be payable by the party applying for the adjournment on or before the next adjourned date.

6. The sum payable to such a witness shall be in accordance with the amount prescribed under the Second Schedule.

Persons Accompanying certain Witnesses

7. A person accompanying a minor, physically challenged or vulnerable witnesses, may if the court directs receive a sum equivalent to the expense of other witnesses.

ORDER NINETEEN

VISITATION TO DETENTION FACILITIES

Register of Detention Facilities

1. The Chief Magistrate in charge of a magisterial district shall maintain a register of detention facilities in the district.

2. The register shall contain the location, nature of offence, inmate capacity, and such other details as may be prescribed by the Chief Judge.

Powers of Visiting Magistrate

3. The Visiting Magistrate shall have the powers to-
   (a) call for and inspect the records of arrest;
   (b) direct arraignment of a suspect;
   (c) grant bail to any suspect where appropriate if the offence for which the suspect is held, is within the jurisdiction of the Magistrate.

Duty of Person in charge of Detention Facility

4. A person in charge of a detention facility shall make available to the Visiting Magistrate-
   (a) the full record of arrest and record of bail;
   (b) applications and decisions on bail made within the period; and
   (c) such other information that the Visiting Magistrate may require

Report by Visiting Magistrate

5. A Visiting Magistrate shall prepare a report that conforms to Form 01 in the First Schedule to this Rules and forward that report to the Chief Judge putting also in copy:
   (a) the Chief Magistrate in charge of the district;
   (b) the Controller of the Nigerian Correctional Service in the Delta State; and
   (c) the person in charge of the detention facility visited.

ORDER TWENTY

BAIL BONDSPERSON

Bail Bondsperson

1. The Chief Judge may by the regulation in section 187 of The Delta State ACJL, license an individual and body corporate as bondsperson.

ORDER TWENTY-ONE

PROBATION ORDERS

Probation Orders

1. The Chief Judge may license individuals as probation officers under section 449, of the Delta State ACJL.

2. The license issued under this Order is valid for two years and renewable upon satisfactory performance.

Eligibility to be Licensed as a Probation Officer

3. A probation officer shall-
   (a) be a citizen of the Federal Republic of Nigeria;
   (b) be at least 21 years of age;
   (c) be residing within the jurisdiction of the court;
   (d) complete a pre-licensing course certifying him as having the perquisite skills to be a probation officer or social worker by the Nigerian Correctional Service or any other body so empowered to do so;
   (e) possess sufficient experience and skills in people management;
   (f) not have been convicted of a felony or crime;
   (g) authorize the completion of a criminal background check.

Application to be Licensed as a Probation Officer

4. A person applying to be licensed as probation officer shall submit the following-
   (a) an application in the prescribed Form 04 of the First Schedule;
   (b) evidence of certification as a probation officer or social worker;
   (c) passport photograph of the applicant;
   (d) birth certificate/age declaration;
   (e) clearance of a criminal background check;
   (f) proof of citizenship; and
   (g) such other requirements as the Chief Judge may direct.

5. The Chief Registrar of the Court shall maintain a list of all licensed probation officers within the jurisdiction of the Court.

List of Probation Officers

6. An updated list of licensed probation officers shall be made available to-
   (a) the Nigerian Correctional Service;
   (b) the Department of Social Welfare Services;
   (c) the Legal Aid -Council of Nigeria; and
   (d) The Nigerian Police Force.

7. A person shall be disqualified or where he has previously been appointed a probation officer, have his name removed from the list of probation officers if:
   (a) there is new evidence to suggest that the person forged any of the qualifications needed to be a probation officer;
   (b) Such person after being named a probation officer is convicted of any crime;
   (c) Such person after being named a probation officer is of a conduct that would be deemed adverse to the overall objective of the reformation expected of the Convict.

Disqualification or Removal of Probation Officer

FIRST SCHEDULE

FORM 01

Order 19 Rule 5

FORM OF DETENTION CENTRE REPORT

In the ..... Magisterial District of DELTA STATE

Name of Detention Facility……
Type of Detention Facility ……
Date of Scheduled Visit ……
Number of Awaiting Trial Inmates……
Number of Inmates Granted Bail, yet to Fulfil bail Conditions……
Number of Inmates not Arraigned……
Number of Inmates having charges beyond Magistrate's jurisdiction……
Number of Inmates granted bail during visit……
Reason for grant of bail by Magistrate……..
……
……
……

Number of inmates released under the discretion of Magistrate with or without conditions……

Reason for release of inmates under the discretion of the Magistrate with or without conditions……
……..
……..

Further comments where necessary for the improvement of detention
facility……
……..
……..
……..
……..
……..

Signed by

……..
Magistrate

FORM 02

Order 17 Rule 1

PARTICULARS OF ENTRY IN REGISTER OF CONVICTED OFFENDERS

Name of Convict…….....

Date of Birth…….....

Last Known Address/State of Origin and LGA……....

Nature of Offence Committed…….....

Has the convict been convicted previously of any offence? (if yes, give further details of nature of offence and nature of sentence)…....

.....

.....

.....

.....

Detention Facility…….....

Previous Detention Facility (where applicable) …….....

Nature of Sentence (Custodial/Non-Custodial) …….....

Duration of Prison Term (Months/Years, if Applicable) …….....

Number of Months/Years Served…….....

Year Eligible for Parole (if applicable) …….....

What Type of Rehabilitation Programme is Convict Engaged in.....

.....

.....

Estimated Date of Release (Where applicable) .....

Signed By

……
Chief Registrar
High Court of Justice Delta State

Form 03

Order 20

APPLICATION FOR REGISTRATION OF BONDSPERSON

REGULATION 2(1) APPLICATION FOR LICENCE AS A BAIL BONDSPERSON BY AN INDIVIDUAL

Full name of applicant

_____

FIRST MIDDLE LAST

Home address. **----------**

STREET P.O. BOX CITY STATE

Home address in the last six (6) months ---------- ----------

---------- ---------- ---------- ----------

STREET P.O. BOX CITY STATE

Occupation: **---------- ---------- ----------**

Business address ---------- ---------- ----------

---------- ---------- ---------- ----------

STREET P.O. BOX CITY STATE

Date of Birth: ----------

(FOR ID PURPOSES ONLY)

1. Home Phone: .....
   Business Phone:.....
   E-mail Address:.....

2. Nationality: ……
3. How long have you been resident in Delta State?……..
4. Have you at any time been a licensed bail bondsperson in Delta State? ……Yes……..No.
   If yes, give details:..... .

....

5. Have you ever been denied a bail bondsperson licence, or has your licence been/ever been suspended or revoked? ……Yes ……No.

5. If yes, give details:
.....

6. Have you ever surrendered your license, whether voluntary or involuntary? ……Yes……No. If yes, give details:
.....

7. Have you ever been or are you currently the subject of any investigation or administrative action by any State agency?
.....Yes . No.
If yes, give details. Use a separate sheet of paper if required.
....

6. Have you ever been convicted of, or are you currently charged for committing a crime, ("Crime" includes a simple offence, misdemeanour, or felony, excluding minor traffic violations)? If your answer is yes, you must attach to this application:
(a). A written statement explaining the circumstances of each incident;
(b). A certified true copy of the charging document; and
(c). a certified copy of the official document which demonstrates the resolution of the charge or any final judgment.

9. Have you read and do you understand the provisions of section 187 of the Administration of Criminal Justice Law 2016 and the Bail Bondsperson Regulations 2016. Yes No

10. This application is to be licensed as: (check one) Category A Licence, Category B Licence, Category C Licence .

I, ..., attest and swear/affirm that the above information is true and correct and understand that if I willfully withhold or misrepresent any vital information required in the application form, such shall constitute grounds for revocation of my bail bondsperson licence.

Date..... ....

SIGNATURE OF APPLICANT .....

Sworn to this ……day of ..... At the High Court Registry, Asaba, Delta State.

BEFORE ME

COMMISSIONER FOR OATHS

APPLICATION FOR LICENCE AS A BAIL BONDSPERSON BY A CORPORATE ENTITY OR PARTNERSHIP 1. Name of Company or
Partnership:

…….. Registered Office:
……
Any other Business Address:……
RC No.:……
Name of Director or Partner: ……
Nationality… ……. ……
Residential Address of Director or Partner: ……
Telephone Number of Director or Partner:
E-mail Address:……
Name of Director or Partner: ……
Nationality:……
Residential Address of Director or Partner: ……
Telephone Number of Director or Partner:…… E-mail Address:……
Name of Director or Partner: ……
Residential Address of Director or Partner: ……
Telephone Number of Director or Partner:……
E-mail Address:……

2. Has the company or any of its Directors or Partners been licensed bail bondsperson in Delta State? Yes-……No . If yes, give details:……

3. Has the Company or any of its Directors or Partners ever been denied a bail bondsperson licence?……

4. Has your licence ever been suspended or revoked? ……..Yes No.
If yes, give details:……

……

5. Has the Company or any of its Directors or Partners ever surrendered licence, whether voluntary or involuntary? …… …… …… Yes
……No.
If yes, give details ……

6. Has the Company or any of its Directors or Partners ever been or is currently the subject of any investigation or administrative action by any State agency?
……Yes ……. No. If yes, give details. (Use a separate sheet of paper if required).

7. Has the Company or any of its Directors or Partners ever been convicted of, or is currently charged with, committing a crime (“Crime” includes a simple offence, misdemeanor, or felony, excluding minor traffic violations)? If your answer is “yes”, you must attach to this application:
(a) a written statement explaining the circumstances of each incident;
(b) a certified copy of the charging document; and

(c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment.

8. Have you read and do you understand the provisions of section 187 of the Administration of Criminal Justice Law 2016 and the Bail Bondsperson Regulations 2016___Yes_____No.

9. This application is to be licenced as: (check one) Category A Licence, Category B Licence, Category C Licence.

I , ... attest and swear/affirm that the above information is true and correct and understand that if I willfully withhold or misrepresent any vital information required in the application form, such shall constitute grounds for revocation of my bail bondsperson licence.

Date .....

SIGNATURE OF APPLICANT .....

Sworn to this ……day of.....
At the High Court Registry, Asaba, Delta State.

BEFORE ME

COMMISSIONER FOR OATHS

Form 04

Order 21 Rule 4

APPLICATION TO BE LICENSED AS A PROBATION OFFICER

Name of Applicant……

Date of Birth……

Nationality……...

Address……

Certification obtained and Institution obtained from

(a)…..……

(b)……

(c)……

Evidence of security and criminal background check must be attached to form*

……

Applicant

SECOND SCHEDULE

ORDER 18

PAYMENT OF CLAIMS OF EXPENSES/CLAIMS OF WITNESSESS WITHIN THE DELTA STATE

S/ No	LOCATION	TO	AMOUNT PAYABLE in Naira
1	ASABA AND ITS ENVIRONS	ANY COURT WITHIN DELTA SOUTH/CENT RAL SENATORIAL DISTRICT	5,000
2	ASABA AND ITS ENVIRONS	ANY COURT WITHIN THE DELTA NORTH SENATORIAL DISTRICT	3,000
3	ANY COURT WITHIN DELTA NORTH SENATORIAL DISTRICT	ASABA AND ITS ENVIRONS	3,000
4	WARRI AND ENVIRONS	ASABA AND COURTS WITHIN DELTA NORTH SENATORIAL DISTRICT	5,000
5	RIVERINE AREAS OF THE STATE	ASABA AND COURTS WITHIN DELTA NORTH SENATORIAL DISTRICT	6,000
6	WARRI AND ITS ENVIRONS	ANY COURT IN DELTA SOUTH /CENTRAL SENATORIAL DISTRICT	**3,000**

7	WARRI AND ITS ENVIRONS	RIVERINE AREAS	**4,000**
8	UGHELLI AND ITS ENVIRONS	ASABA AND COURTS WITHIN DELTA NORTH SENATORIAL DISTRICT	**5,000**
9	UGHELLI AND ITS ENVIRONS	ANY COURT WITHIN DELTA SOUTH/CENTRAL SENATORIAL DISTRICT	**3,000**
10	RIVERINE AREA	UGHELLI AND ITS ENVIRONS	**4,000**

PAYMENTS OF CLAIMS/EXPENSES OF WITNESSES FROM OUTSIDE THE STATE

S/N	LOCATION	TO	AMOUNT PAYABLE
1	NORTH EAST, NORTH CENTRAL AND NORTH WEST	**ANY PART OF THE STATE**	**40,000**
2	**SOUTH WEST**	**ANY PART OF THE STATE**	**30,000**
3	**SOUTH/SOUTH**	**ANY PART OF THE STATE**	**20,000**
4	**SOUTH EAST** Anambra, Imo	**ANY PART OF THE STATE**	**15,000**
5	**Abia, Ebonyi and Enugu**	**ANY PART OF THE STATE**	**20,000**

THIRD SCHEDULE

FORM 01

Order 8

FORM TO BE USED FOR ARRAIGNMENT

IN THE HIGH COURT OF DELTA STATE
IN THE ASABA JUDICIAL DIVISION
HOLDEN AT ASABA

TODAY, THIS……..…DAY OF……20……

BEFORE: ……..

CHARGE NO. DT/HC/CR/……..…/20…….

BETWEEN:
FEDERAL REPUBLIC OF NIGERIA or COMMISSIONER OF POLICE (as the case may be) PROSECUTION

AND

1. .....
2. ..... **DEFENDANTS**
3. .....

COURT Do you understand English Language?
1ST DEFENDANT:
2ND DEFENDANT:
3RD DEFENDANT:

COUNT ONE (1)

COURT: Do you understand Count 1 just read to you?
1ST DEFENDANT:
2ND DEFENDANT:
3RD DEFENDANT:

COURT: Are you guilty or not guilty?
1ST DEFENDANT:
2ND DEFENDANT:
3RD DEFENDANT:

COUNT TWO (2)

COURT: Do you understand Count 2 just read to you?
1ST DEFENDANT:
2ND DEFENDANT:
3RD DEFENDANT:

COURT: Are you guilty or not guilty?
1ST DEFENDANT:
2ND DEFENDANT:
3RD DEFENDANT:

MADE at ASABA, DELTA STATE this ……. .day of…….. 2021



HON. JUSTICE MARSHAL UMUKORO
Chief Judge,
High Court of Justice, Delta State

EXPLANATORY NOTE

(This Explanatory Note does not form part of these rules but is only intended to explain its purport)

These Rules sets out to aid the implementation of the Administration of Criminal Justice Law 2016, in line with its objectives and purpose of ensuring fair, effective and efficient dispensation of Criminal Justice.