

Robbery and Firearms (Special Provisions) Act Cap. 398 LFN 1990

Arrangement of sections

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Schedule

The Act

An Act to make comprehensive provisions for matters relating to armed robbery.

1. (1) Any person who commits the offence of robbery shall upon trial and conviction under this Act, be sentenced to imprisonment for not less than twenty-one years.

(2) If

(a) any offender mentioned in subsection (1) of this section is armed with any firearms or any offensive weapon or is in company with any person so armed; or
(b) at or immediately before or immediately after the time of the robbery the said offender wounds or uses any personal violence to any person, the offender shall be liable upon conviction under this Act to be sentenced to death.

(3) The sentence of death imposed under this section may be executed by hanging the offender by the neck till he be dead or by causing such offender to suffer death by firing squad as the Governor may direct.

2. (1) Any person who, with intent to steal anything, assaults any other person and at or immediately after the time of assault, uses or threatens to use actual violence to any other person or any property in order to obtain the thing intended to be stolen shall upon conviction under this Act be sentenced to imprisonment for not less than fourteen years but not more than twenty years.

(2) If -

(a) any offender mentioned in subsection (1) of this section is armed with any firearms or any offensive weapon or is in company with any other person so armed; or

(b) at or immediately before or immediately after the time of the assault the said offender wounds or uses any other personal violence to any person, the offender shall upon conviction under this Act be sentenced to imprisonment for life.

(3) Any person found in any public place in possession of any firearms whether real or imitation and in circumstances reasonably indicating that the possession of the firearms is with intent to the immediate or eventual commission by that person or any other person of any offence under section 1 of this Act or under the foregoing provisions of this section shall upon conviction under this Act be sentenced to imprisonment for not less than fourteen years but not more than twenty years.

3. (1) Any person having a firearm in his possession or under his control in contravention of the Firearms Act or any order made thereunder shall be guilty of an offence under this Act and shall upon conviction under this Act be sentenced to a fine of twenty thousand naira or to imprisonment for a period of not less than ten years or to both.

(2) For the avoidance of doubt, section 28 of the Firearms Act shall, subject as provided in section 12(4) of this Act, have effect notwithstanding subsection (1) of this section.

4. (1) It shall be an offence punishable under this Act for any person to knowingly house, shelter, or give quarters to sheltering any person who has committed an offence under section 1(2) of this Act.

(2) It shall be the duty of any person, hospital or clinic that admits, treats or administers any drug to any person suspected of having bullet wounds to immediately report the matter to the police.

(3) Any -

(a) person who; or

(b) hospital or clinic which,

fails to report as stipulated in subsection (2) of this section shall be guilty of an offence under this Act.

(4) A person convicted of an offence under subsections (1) and (3) of this section shall be liable-

(a) in the case of an individual, to imprisonment for a term not exceeding five years; and

(b) in the case of a hospital or clinic, to a fine of ten thousand naira and in addition the hospital or clinic shall be closed down.

5. Any person who-

(a) aids, counsels, abets or procures any person to commit an offence under section 1, 2, 3 or 4 of this Act; or

(b) conspires with any person to commit such an offence, whether or not he is present when the offence is committed or attempted to be committed, shall be deemed to be guilty of the offence as a principal offender and shall be liable to be proceeded against and punished accordingly under this Act.

6. (1) All the assets, movable or immovable including motor vehicles, of any person convicted of an offence under this Act shall be forfeited to the Government of the State in which the asset or property is situated or found.

(2) The Governor of a State may constitute a panel consisting of such number of persons (including an officer of the State Ministry of Justice) as he may think fit to conduct an investigation for the purpose of ascertaining the assets of any person convicted of an offence under this Act.

7. (1) A police officer or a member of the armed forces may arrest without warrant any person reasonably suspected of having committed or of being about to commit an offence under this Act and the police officer or member of the armed forces may use such force, including the use of firearms, as may be reasonably necessary to effect the arrest of that person or to prevent his escape.

(2) The foregoing provisions of this section shall have effect -

(a) without prejudice to any other power conferred by any law on members of the Nigeria Police Force or members of the armed forces; and

(b) notwithstanding anything to the contrary in any law.

8. (1) The Governor of each State shall constitute a Constitution tribunal or tribunals for the trial of offences under this Act committed within his State.

(2) A tribunal constituted under subsection (1) of this section shall consist of the following persons to be designated by the Governor, that is to say -

(a) a serving or retired Judge of a High Court or any court of like jurisdiction, whether or not of the State concerned, who shall be Chairman;

(b) an officer of the Nigerian Army not below the rank of major or an officer in the Nigerian Navy or Nigerian Air Force not below the corresponding rank; and

(c) an officer of the Nigeria Police Force not below the rank of chief superintendent of Police:

Provided that no member of the armed forces or of the Nigeria Police Force who has taken part in the search for, pursuit or apprehension of any person to be tried under this Act or who has taken part in the investigation of the offence alleged or suspected to have been committed by that person shall sit as a member of a tribunal constituted for the trial of that person for that offence.

(3) Notwithstanding subsection (2) of this section, where the persons designated under paragraphs (b) and (c) of that subsection are unable to sit at the tribunal at the commencement of any trial under this Act, the Judge sitting alone may proceed with the trial of the offender.

9. (1) The rules as to the procedure to be adopted in prosecutions for offences under this Act before a tribunal and the forms to be used in such proceedings shall be as set out in the schedule to this act.

(2) Prosecutions for offences under this instituted by the Attorney-General of the State or where there is no Attorney General, the Solicitor General of the State in respect of which the tribunal was constituted or by such officer in the Ministry of Justice of that State as the Attorney-General or the Solicitor-General, as the case may be, authorise so to do:

Provided that the question whether any authority has been given in pursuance of this subsection shall not be enquired into by any person other than the General, or the Solicitor-General, as the case may be.

(3) Prosecutions in respect of any person caught committing an offence under section 1(2) of this Act shall be instituted within seven days after the receipt by the Attorney-General of the State concerned or where there is no Attorney-General, by the Solicitor-General of the State, as the case may be, of the file containing completed police investigation in respect of the offence.

10. Proceedings -

- (a) in respect of any person caught committing an offence under section 1(2) of this Act shall be concluded by the tribunal within seven days of its first sitting and the registrar of the tribunal shall not later than seven days after the conclusion of the proceedings which a person is convicted of any of the offences aforementioned, forward a copy of the proceedings to the office of the appropriate Governor;
- (b) in respect of any other offence under this Act shall be concluded by the tribunal as soon as practicable after its first sitting and the registrar of the tribunal shall not later than thirty days after the court proceedings in respect of which a person is convicted of the offence, forward a copy of the record to the office of the appropriate Governor.

11. (1) The Governor of a State shall, in respect of a tribunal constituted for the State, have power to confirm or disallow any conviction or sentence imposed by the tribunal and shall exercise such power-

(a) in the case of any person convicted of an offence under section 1(2) of this Act, not later than seven days; and

(b) in any other case, not later than thirty days,
after the receipt of the record of proceedings referred to in section 10 of this Act.

(2) Any sentence imposed under this Act shall not take effect until the conviction and sentence are confirmed by the appropriate Governor under subsection (1) of this section, and pending such confirmation, the convicted offender shall be kept in such place of safe custody as the tribunal may decide.

(3) Where under subsection (1) of this section the Governor disallows -

(a) a conviction, whether upon representation made by the convicted offender or from other circumstances, he shall order the release of the person convicted from custody;

(b) a sentence, he may remit in part or in whole the punishment (including any forfeiture or fine) or substitute a less severe form of punishment for any punishment imposed on the convicted offender.

(4) No appeal shall lie from a decision of a tribunal constituted under this Act or from any confirmation or dismissal of such decision by the Governor.

(5) Where a conviction or sentence has not been previously confirmed or disallowed, nothing in subsection (1) of this section shall preclude the subsequent exercise by the appropriate Governor of his power to confirm or disallow any conviction or sentence imposed by a tribunal constituted under this Act or under the repealed Robbery and Firearms (Special Provisions) Act 1970 or any other law.

(6) The provisions of subsection (3) of this section shall apply to any conviction or sentence disallowed under subsection (5) of this section.

12. (1) It is hereby declared for the avoidance of doubt that a tribunal constituted under this Act shall, notwithstanding anything to the contrary in any enactment or law (including the Constitution of the Federal Republic of Nigeria), have the power, in appropriate cases, to award the punishments (including a sentence of death) specified in this Act.

(2) No civil proceedings shall lie or be instituted in any court for or on account of or in respect of any act, matter or thing done or purporting to be done under this Act by the Governor of a State, or by any member or officer of a tribunal constituted under this Act, and if such proceedings are instituted after the commencement of this Act the proceedings shall abate, be discharged and made void.

(3) The question whether any provision of Chapter IV of the Constitution of the Federal Republic of Nigeria has been, is being or would be contravened by anything done

or proposed to be done in pursuance of this Act shall not be enquired into in any court of law.

(4) It is hereby declared that section 25 of the Interpretation Act (which provides, inter alia, that a person shall not be punished twice where he is guilty of an offence under more than one enactment) shall apply in respect of this Act.

(5) Police investigation into cases relating to any person caught committing an offence under section 1(2) of this Act shall be concluded not later than seven days after the arrest of the offender and the file containing particulars of such investigation shall be sent to the Attorney-General of the State concerned or, where there is no Attorney-General, to the Solicitor-General of the State, not later than seven days after the conclusion of the investigation.

(6) Failure to comply with any of the provisions of subsection (5) of this section and of sections 8(3) and 9 of this Act shall not affect the validity of any prosecutions under this Act.

(7) A magistrate court of the State concerned shall have jurisdiction to remand in prison custody any person charged with an offence under this Act.

13. The provisions of this Act shall apply to the Federal Capital Territory, Abuja as if it were one of the States of the Federation, and accordingly -

(a) any reference in this Act to the Governor of a State shall be construed as being a reference to the Minister of the Federal Capital Territory Abuja;

(b) any reference to a serving or retired judge of a State shall be construed as a reference to a serving or retired judge of the High Court of the Federal Capital Territory, Abuja or a serving or retired judge of the Federal High Court;

(c) any reference to any other person, office or authority of a State shall be construed as being a reference to the person, office or authority of the Federation with like status, designation or powers; and in particular, any reference to the Attorney-General of a State shall be construed as being a reference to the Attorney-General of the Federation.

14. (1) The Robbery and Firearms (Special Provisions) Act 1970 is hereby repealed and the following enactments are hereby consequentially repealed, that is to say-

(a) the Robbery and Firearms (Special Provisions) (Amendment) Act 1971;

(b) the Robbery and Firearms (Special Provisions) (Amendment) Act 1974;

(c) the Robbery and Firearms (Special Provisions) Act 1977; and

(d) so much of the Third Schedule to the Constitution of the Federal Republic of Nigeria (Certain Consequential Repeals, etc.) Act 1979 as relates to the Robbery and Firearms (Special Provisions) Act 1970.

(2) Any part-heard proceedings before any High Court on the date of the coming into force of this Act shall be continued and completed as if the provisions of this Act had not been made.

(3) Notwithstanding anything to the contrary in any enactment, including any rule of law, but subject to subsection (2) of this section, any offence committed or proceedings instituted before the commencement of this Act under any enactment repealed by subsection (1) of this section shall, as the case may require, be triable by or transferred to an appropriate tribunal.

(4) Notwithstanding anything to the contrary in any enactment, including any rule of law, where proceedings, other than proceedings to which subsection (2) of this section relates, are pending before the High Court of a State, the Judge of that Court shall, on the date of the commencement of this Act forthwith and without any further assurance, transfer or cause to be transferred such proceedings to the appropriate tribunal and upon such transfer, the proceedings shall be deemed to have been filed in accordance with the provisions of this Act.

15. (1) In this Act, unless the context otherwise requires-
"assault" means striking, touching, moving or otherwise applying force, including heat, light, electrical force, gas, odour, or any other substance or thing whatever, if applied in such a degree as to cause injury or personal discomfort to the person of another, either directly or indirectly without his consent, or with his consent if the consent is obtained by fraud, or any bodily act or gesture, amounting to an attempt or threat to apply force of any kind as aforesaid to the person of another without his consent, in such circumstances that the person making the attempt or threat has in fact or apparently a present ability to effect the purpose;

"firearms" includes any canon, gun, rifle, carbine, machine-gun, cap-gun, flint-lock gun, revolver, pistol, explosive or ammunition or other firearm, whether whole or in detached pieces;

"Governor" means the Governor of any State in the Federation and includes the Minister of the Federal Capital Territory, Abuja;

"offensive weapon" means any article (apart from a firearm) made or adapted for use for causing injury to the person or intended by the person having it for such use by him and it includes an air gun, air pistol, bow and arrow, spear, cutlass, matchet, dagger, cudgel, or any piece of wood, metal, glass or stone capable of being used as an offensive weapon;

"robbery" means stealing anything and, at or immediately before or after the time of stealing it, using or threatening to use actual violence to any person or property in order to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained;

"steal" means to take or convert to one's use or the use of any other person anything other than immovable property, with any of the following intents-

(a) an intent permanently to deprive the owner of the thing of it;

- (b) an intent permanently to deprive any person who has any special property in the thing of such property, the term "special property" here including any charge or lien upon the thing in question and any right arising from or dependent upon holding possession of the thing in question, whether by the person entitled to such right or by some other person for his benefit;
- (c) an intent to use the thing as a pledge or security; (d) an intent to part with the thing on a condition as to its return which the person taking or converting it may be unable to perform;
- (e) an intent to deal with the thing in such a manner that it cannot be returned in the condition in which it was at the time of taking or conversion;
- (f) in the case of money, an intent to use it at the will of the person who takes or converts it, although he may intend afterwards to repay the amount to the owner;

"tribunal" means any tribunal constituted under section 8 of this Act.

16. This Act may be cited as the Robbery and Firearms (Special Provisions) Act.

Schedule

Institution of proceedings

1. The trial of offences under this Act shall commence by way of an application, supported by evidence, made to the tribunal by the prosecutor.

Order on an accused to appear

2. Where after perusal of the application and the evidence or any further evidence in such form as the tribunal may consider necessary, the tribunal is satisfied that any person appears to have committed any offence under this Act it shall cause that person to be brought before the tribunal on such date and at such time as it may direct.

Commencement of trial

3. (1) When the tribunal is ready to commence the trial the accused shall be brought before it and the tribunal shall read or cause to be read to him the substance of the complaint against him and he shall be asked whether he is guilty of the offence or offences charged.

(2) If the accused pleads guilty the plea shall be recorded and he may in the discretion of the tribunal be convicted thereon unless the offence charged is punishable with death, in which case the tribunal shall enter a plea of not guilty on behalf of the accused.

Plea of not guilty or no plea

4. If the accused pleads not guilty or makes no plea or refuses to plead or if the tribunal enters a plea of not guilty on behalf of the accused, the tribunal shall proceed to try the case.

Defences in capital offences

5. Where an accused charged with an offence punishable with death is not defended by a legal practitioner the tribunal shall assign a legal practitioner for his defence.

Presentation of case for prosecution

6. (1) After a plea of not guilty has been taken or no plea has been made the prosecutor may open the case against the accused, stating shortly by what evidence he intends to prove the guilt of the accused.

(2) The prosecutor shall then examine the witnesses for the prosecution who may be cross-examined by the accused or his counsel and may thereafter be re-examined by the prosecutor.

Procedure after presentation of evidence by the prosecution

7. (1) After the conclusion of the presentation of evidence by the prosecutor the tribunal shall ask the accused -

- (a) whether he wishes to give evidence on his own behalf; and
- (b) whether he intends to call witnesses other than witnesses to character.

(2) If the accused says that he does not intend to call any witnesses other than witnesses to character, the prosecutor may sum up his case against the accused and the tribunal shall then call upon the accused to enter upon the defence.

(3) Notwithstanding the provisions of paragraph (2) of this rule, the tribunal may, after hearing the evidence for the prosecution, if it considers that the evidence against the accused or any of several accused is not sufficient to justify the continuation of the trial, record a finding of not guilty in respect of such accused without calling upon him or them to enter upon the defence and such accused shall thereupon be discharged and acquitted and the tribunal shall then call upon the remaining accused, if any, to enter upon the defence.

(4) If the accused or any one of several accused says that he intends to call any witness other than a witness to character, the tribunal shall call upon the accused to enter upon the defence.

(5) Notwithstanding the provisions of paragraph (4) of this rule, the tribunal may, before calling upon the accused to enter upon the defence, call upon the prosecutor to sum up his case against any one or more of the accused against whom it considers that the evidence is not sufficient to justify the continuation of the trial and, after hearing the summing up, if any, may in its discretion record a finding of not guilty in respect of any such accused or call upon any of them to enter upon his or their defence.

Defence

8. When the tribunal calls upon the accused to enter upon the defence . the accused or his counsel may open his case stating the facts or law on which he intends to rely and making such comments as he thinks necessary on the evidence for the prosecution, and the accused may then give evidence on his own behalf, examine his witnesses, if any, and, after their cross-examination and re-examination, if any, the accused or his counsel may sum up his case.

Right of prosecutor to reply

9. (1) If the accused or any of the accused calls any witness other than to character or any document other than a document relating to character is put in evidence for the defence the prosecutor shall be entitled to reply.

(2) If the accused has called only evidence to character, the prosecutor may at the close of the case for the defence adduce evidence of previous convictions of the accused, if any.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this rule, in any case, with the leave of the tribunal, the prosecutor may be heard in reply on a point of law or, where none of the accused has adduced evidence other than to character but any of them has introduced new matter in his statement to the tribunal, on such new matter.

Right of prosecutor to reply.

10. When the case for the defence and the reply of the prosecutor, if any, are concluded and the tribunal does not desire to put any further question finding to the accused, the tribunal shall retire or adjourn to consider its finding.

Announcement of finding

11. After the tribunal has made its finding the Chairman shall announce that finding and, where the accused is found guilty, it shall impose the appropriate penalty prescribed by this Act and issue a committal warrant accordingly.

Recommendation to mercy

12. The tribunal may in any case in recording sentence make a recommendation to mercy but in any such case shall give the reasons for its recommendation.

Notice of evidence to be taken

13. (1) The Chairman of the tribunal shall in every case take notes in writing of the oral evidence, or so much thereof as he considers is material, in a book to be kept for that purpose and such book shall be signed by the Chairman at the conclusion of each day's proceedings.

(2) The record so kept as aforesaid or a copy thereof purporting to be signed and certified as a true copy by the Chairman shall, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses.

Supplemental

14. If the tribunal is satisfied that any person is likely to give material evidence for the prosecution or for the defence the tribunal may issue a summons to such person requiring him to attend, at a time and place to be mentioned therein, before the tribunal to give evidence respecting the case and to bring with him any specified documents or things and any other documents or things relating thereto which may be in his possession or power or under his control.

Warrant for witness after summons

15. If the person to whom any such summons is directed does not attend before the tribunal at the time and place mentioned therein, and there does not appear to the tribunal on inquiry to be any reasonable excuse for such non-attendance, then after proof to the satisfaction of the tribunal that the summons was duly served or that the person to whom the summons is directed willfully avoids service, the tribunal, on being satisfied that such person is likely to give material evidence, may issue a warrant to apprehend him and to bring him, at the time and place to be mentioned in the warrant, before the tribunal in order to testify as aforesaid.

Local inspection

16. It shall be the duty of the tribunal to make or cause to be made such local inspection as the circumstances of the case may require.

Forms

17. Subject to the express provisions, if any, of these rules the forms contained in the Annex to these rules may, in accordance with any instruction contained in the said forms, and with such variations as the circumstances of the particular case may require be used in the cases to which they apply, and, when so used, shall be good and sufficient in law.

18. Where these Rules contain no provision in respect of any matter relating to or connected with the trial of offences under this Act the provisions of the Criminal Procedure Code or, depending on the venue, the Criminal Procedure Act shall, with such modifications as the circumstances may require, apply in respect to such matter to the same extent as they apply to the trial of offences generally.

Interpretation

19. In these Rules "the prosecutor" means -

(a) the Attorney-General of the State in respect of which the tribunal was constituted or, where there is no Attorney-General, the Solicitor-General of that State or the officer in the Ministry of Justice of the State authorised by the Attorney-General or the Solicitor-General, as the case may be, to conduct the prosecution of an offence before the tribunal.

(b) in respect of an offence committed in the Federal Capital Territory, Abuja, the Attorney-General of the Federation or an officer in the Federal Ministry of Justice authorised by the Attorney-General of the Federation to conduct the prosecution of an offence before the tribunal.

