

CHAPTER P5 - PILGRIMAGE (MISCELLANEOUS OFFENCES) LAW

ARRANGEMENT OF SECTIONS

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SCHEDULE

The Governor of Kwara State of Nigeria hereby makes the following Law.

[Date of commencement: 12th June, 1995]

1. Constitution of tribunal

There shall be constituted for the State a tribunal to be called the Pilgrimage (Miscellaneous offences) Tribunal which shall try offences contained in section 3 of this Law.

2. Composition of tribunal

(1) A tribunal constituted by the Governor pursuant to section 1 of this Law shall consist of the following members—

- (a) a legal practitioner of not less than ten years post-call experience, or a retired Judge of a High Court, who shall be the Chairman;
- (b) an officer of the customs department of the Federal Ministry of Internal Affairs;
- (c) an officer of the immigration department of the Federal Ministry of Internal affairs;
- (d) an officer of the Nigeria Police Force; and
- (e) one other person, who in the opinion of the Governor is of unquestionable integrity.

Provided that no member of any of the Federal organisations mentioned in paragraphs (b) - (d) of this subsection who has taken part in the search, or apprehension of any person to be tried under this Law 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 the tribunal constituted for the trial of that person for that offence.

(2) The members of the tribunal shall be appointed by the Governor.

3. Offences

Any person who, in the course of undertaking a pilgrimage commits any of the following criminal offences—

- (a) cheating;
- (b) false personation;
- (c) theft;
- (d) extortion;
- (e) forgery;
- (f) criminal misappropriation; or
- (g) criminal breach of trust,

shall be tried by the tribunal.

4. Offences by servant etc.

Any person, being a public servant or agent who commits any of the criminal offences contained in section 3 of this Law in the course of the performance of his duties shall be tried by the tribunal.

5. Power to arrest

A police officer or a member of the armed forces may arrest without warrant any person reasonably suspected of having committed or about to commit an offence under this Law.

6.

Prosecutions for offences under this Law shall be instituted by the Attorney-General of the State or by any officer as the Attorney-General may

authorise to do so:

Provided that the question whether any authority or what authority has been given in pursuance of this section shall not be enquired into by any person other than the Attorney-General.

7.

Any person facing a charge under this Law shall be entitled to defend himself in person or by any legal practitioner of his own choice who is resident in Nigeria and to examine in person or by his legal practitioner, if he so wishes, any person whose evidence forms part of the case against him.

8. Appeals

An appeal shall lie from a decision of the tribunal to the High Court of the State.

9.

The provisions of the Penal Code (as applicable to this state) shall be the applicable law for the prosecution of cases before tribunal for offences contained in section 3 of this Law.

10. Penal Code

Where this Law contains no provisions in respect of any matter relating to or constituting a criminal offence committed in course of the preparation for, or the under taking of a pilgrimage, the provision of the Penal Code shall apply.

11. Rules of procedure

The rule of procedure to be adopted in prosecutions for offences under this Law before the tribunal and the forms to be used in such proceedings shall be as set out in the schedule to this Law.

12. Interpretation

In this Law, unless the context otherwise requires—

"Governor" means the Governor of the State;

"State" means Kwara State of Nigeria;

"the tribunal" means the tribunal constituted pursuant to section 1 of this Law.

13.

This Law may be cited as the Pilgrimage (Miscellaneous Offences) Law, 1995.

SCHEDULE

[Section 11.]

PILGRIMAGE (MISCELLANEOUS OFFENCES) TRIBUNAL RULES OF PROCEDURE

Commencement and Conduct of Trial

1. Instructions of proceedings

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

2. Order on an accused to appear

Where after perusal of the application and the evidence on affidavit 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 Law it shall cause that person to be brought before the tribunal on such date and at such time as it may direct.

3. Commencement of trial

(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.

4. Plea of not guilty or no plea

If the accused pleads not guilty or makes no plea or refuses to plead the tribunal shall proceed to try the case.

5. Presentation of case for prosecution

(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.

6. Procedure after presentation of evidence by the prosecution

(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 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.

7. Defence

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.

8. Right of prosecutor to reply

(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.

9. Consideration of finding

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

10. Announcement of finding

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

11. Notes of evidence to be taken

(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 statement made by the witnesses.

12. Issue of summons for witness

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.

13. Warrant for witness after summons

If the person to whom any such summons is directed does not attend before the tribunal at the time and place mentioned therein, and it 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 wilfully avoided 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.

14. Local inspection

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.

15. Form

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.

16. Criminal Procedure Code

Where these rules contain no provision in respect of any matter relating to or connected with the trial of offences under this Law the provisions of the Criminal Procedure Code 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.

[Cap. C23.]

17. Interpretation

In these rules "**the prosecutor**" means the Attorney-General of the State or where there is no Attorney-General, the Solicitor-General of the State or the officer authorised by the Attorney-General or the Solicitor-General, as the case may be, to conduct the prosecution of an offence before the tribunal.

ANNEX

[Rule 15.]

FORMS

FORM NO. 1

*Application to Commence Trial for an Offence
under the Pilgrimage (Miscellaneous Offences) Law*

.....
.....State

To: The Chairman,

Tribunal for the trial of offences under the Pilgrimage (Miscellaneous offences) Law

.....
.....
.....

Pursuant to section 7 of the Pilgrimage (Miscellaneous Offences) Law, I hereby apply for the commencement of a trial for the offence of

(i)

.....
.....
under section.....of the Pilgrimage
(Miscellaneous Offences) Law
against the undermentioned person:—

under section.....of the Pilgrimage
(Miscellaneous Offences) Law
against the undermentioned person:—

(ii)

.....
.....

FORM NO. 1—*continued*

2. In support of this application I attach hereto
copies of evidence on affidavit for the consideration of the Tribunal.
3. If this application is granted, shall be relying on the fact disclosed in the affidavit and any further evidence the Tribunal may consider necessary at the trial, I attach hereto four copies of the charge against the accused. A list of the deponents and their addresses is also attached for the purpose of issuing witness summons on them.

.....

Prosecutor

- (i) Insert the offence.
- (ii) insert the name of accused.

FORM NO. 2

Pilgrimage (Miscellaneous Offences) Law
Summons to Accused

In the Tribunal for the trial of offence under the Pilgrimage
(Miscellaneous Offences) Law

.....
.....State

To A.B. of

.....

..

Complaint has been made this day by

.....

.....

.....

for that you on the

.....

...

day of.....atin the

.....

aforesaid did*

.....

.....

.....

.....

.....
you are therefore summoned to appear before the tribunal mentioned above
sitting at.....

.....
.....
onto answer the
said complaint.

Dated this.....day of, 20

.....
*Chairman of the
Tribunal*

* State concisely the substance of the offence.

FORM NO. 3

*Pilgrimage (Miscellaneous Offences) Law
Warrant for Apprehension of Accused*

In the Tribunal for the trial of offences under the Pilgrimage (Miscellaneous
Offences) Law.

.....
.....State

between

.....
....Complainant

and

.....
.....Accused

To

.....police

officer

Complaint has been made onof

.....

by.....that

.....

hereafter called the accused, on the

.....

day ofdid(*)

.....

.....

.....

You are hereby commanded to bring the accused before the Tribunal mentioned above sitting at onto answer the said complaint and be dealt with according to law.

Dated this.....day of, 20

.....

*Chairman of the
Tribunal*

* State concisely the substance of the offence.

FORM NO. 4

Pilgrimage (Miscellaneous Offences) Law

Summons to Witness

In the Tribunal for the trial of offences under the Pilgrimage (Miscellaneous Offences) Law.

.....

.....State

between

.....
...Complainant

and

.....
.....Accused

To

(i)

.....
.....
(ii)has
been charged by

(iii)at

.....
.....in

that

he

did

(iv)

.....
.....
FORM NO. 4—*continued*

.....
.....
and it appearing to me on the application of (iii)

.....
.....that you are likely to give material evidence
therein on behalf of the
prosecution (or accused).

You are therefore summoned to appear before the tribunal named above
sitting at

on theday of
20.....at the hour
of

in thenoon, to testify what
you know in such matter.

Dated this.....day of20

.....

.....

Chairman of the Tribunal

- (i) insert name of witness;
- (ii) insert name of accused;
- (iii) insert name of prosecutor or, if applicable, the accused; and,
- (iv) state concisely the substance of the offence.

bythat

.....

hereinafter called the accused, on the

.....

day ofdid(*)

.....

.....

.....

*State concisely the substance of the offence.

CHAPTER P5

PILGRIMAGE (MISCELLANEOUS OFFENCES) LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
