

**CRIMES AGAINST HUMANITY, WAR CRIMES,  
GENOCIDE AND RELATED OFFENCES BILL, 2012**

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## A BILL

## FOR

# AN ACT TO PROVIDE FOR THE ENFORCEMENT AND PUNISHMENT OF CRIMES AGAINST HUMANITY, WAR CRIMES, GENOCIDE AND RELATED OFFENCES AND TO GIVE EFFECT TO CERTAIN PROVISIONS OF THE ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT IN NIGERIA, 2012

[                      ] Commencement

**ENACTED** by the National Assembly of the Federal Republic of Nigeria as follows —

### PART I — GENERAL PROVISIONS

#### 1. Objectives

The objectives of this Act are to —

- (a) provide for measures under Nigerian law for the punishment and enforcement of international crimes of genocide, crimes against humanity and war crimes;
- (b) give effect to certain provisions of the Rome Statute of the International Criminal Court done at Rome on July 17, 1998 (in this Act referred to as “the Rome Statute”)
- (c) enable Nigeria cooperate with the International Criminal Court (in this Act referred to as “the Criminal Court” in the performance of the its functions under the Rome Statute.

#### 2. Application

- (1) The provisions of the Rome Statute specified in subsection (2) of this section have the force of law in Nigeria in relation to the following matters —
  - (a) making of requests by the Criminal Court to Nigeria for assistance and the method of dealing with those requests;
  - (b) conduct of an investigation by the Prosecutor of the Criminal Court;
  - (c) bringing and determination of proceedings before the Criminal Court;
  - (d) enforcement in Nigeria of sentences of imprisonment or other measures imposed by the Criminal Court and related matters; and

- (e) making of requests by Nigeria to the Criminal Court for assistance and the method of dealing with those requests.
- (2) The relevant provisions of the Rome Statute are —
- (a) Part 2 - jurisdiction, admissibility and applicable law;
  - (b) Part 3 - general principles of criminal law;
  - (c) Articles 51 and 52 - the Rules of procedure, evidence and Regulations of the Criminal Court, respectively;
  - (d) Part 5 - the investigation and prosecution of crimes within the jurisdiction of the Criminal Court;
  - (e) Part 6 - the conduct of trials;
  - (f) Part 7 - penalties;
  - (g) Part 8 - appeals and revision of acquittals, convictions, or sentences;
  - (h) Part 9 - international co-operation and judicial assistance; and
  - (i) Part 10 - the enforcement of sentences and other measures imposed by the Criminal Court.

### **3. Attorney - General to discharge obligations imposed by Rome Statute or Rules**

Where a provision of the Rome Statute, Rules of Procedure and Evidence adopted by Assembly of State Parties First Session held in New York, 3 – 10 September, 2002 or the Agreement on the Privileges and Immunities of the International Criminal Court, confers or imposes a power or duty on or assigns a function to a State Party, including a power, duty or function relating to the execution of a request for assistance from the Criminal Court; that power, duty, or function may, unless there is provision to the contrary in this Act, be exercised by the Attorney – General on behalf of the Government of the Federal Republic of Nigeria.

## **PART II — INTERNATIONAL CRIMES AND OFFENCES**

### **4. Genocide**

- (1) A person who, in Nigeria or elsewhere —
- (a) commits genocide; or
  - (b) conspires or agrees with any person to commit genocide, whether that genocide is to be committed in Nigeria or elsewhere,

commits an offence and is liable on conviction, to the penalty specified in subsection (2) of this section.

- (2) The penalty for an offence referred to in subsection (1) of this section is —
- (a) where the offence involves the willful killing of a person, the same as the penalty for murder under the Penal Code or Criminal Code, and

***(Cap P16 LFN and Cap C38 LFN, 2004)***

- (b) in any other case, imprisonment for a term not exceeding 30 years or a term of life imprisonment when justified by the extreme gravity of the offence and the individual circumstances of the convicted person.
- (3) In this section, “genocide” means any of the following acts committed with intent to destroy in whole or in part , a national, ethnic, racial or religious group -
- (a) killing members of a group;
- (b) causing serious bodily or mental harm to members of a group;
- (c) deliberately inflicting on a group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) imposing measures intended to prevent births within a group; or
- (e) forcibly transferring children of a group to another group.

**5. Crimes against humanity**

- (1) A person in Nigeria or elsewhere commits a crime against humanity, commits an offence and is liable on conviction to the penalty specified in subsection (2) of this section.
- (2) The penalty for an offence referred to in subsection (1) is —
- (a) where the offence involves the willful killing of a person, the same as the penalty for murder under the Penal Code or Criminal Code; and
- (b) in any other case, imprisonment for a term not exceeding 30 years or a term of life imprisonment when justified by the extreme gravity of the crime and the individual circumstances of the convicted person.
- (3) In this section -
- “attack directed against any civilian population” means a course of conduct involving the multiple commission of acts referred to in this subsection against

any civilian population, pursuant to or in furtherance of a state or organizational policy to commit such attack;

“crime against humanity” means any of the following acts, when committed as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack -

- (a) murder;
- (b) extermination;
- (c) deportation or forcible transfer of population;
- (d) enslavement;
- (e) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) torture;
- (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity;
- (h) persecution against identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or on other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Criminal Court
- (i) enforced disappearance of persons;
- (j) the crime of apartheid; or
- (k) other inhumane act of a similar character intentionally causing great suffering or serious injury to body, mental or physical health.

“crime of apartheid” means inhumane acts of a character similar to those referred to in subsection (1) of this section, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;

“deportation or forcible transfer of population” means forced displacement of persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;

“enforced disappearance of persons” means the arrest, detention or abduction of persons by or with the authorization, support or acquiescence of any government official or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or



whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time;

“Enslavement” means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;

“Extermination” includes the intentional infliction of conditions of life and the deprivation of access to food and medicine, calculated to bring about the destruction of a part of a population;

“forced pregnancy” means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law and this definition shall not in any way be interpreted as affecting Nigerian laws relating to pregnancy;

“gender” means to the two sexes, male and female, within the context of society.

“persecution” means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity; and

“Torture” means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused but not including pain or suffering arising only from lawful sanctions.

## **6. War crimes**

- (1) A person in Nigeria or elsewhere, who commits a war crime, commits an offence and is liable on conviction, to the penalty specified in subsection (2) of this section.
- (2) The penalty for an offence referred to in subsection (1) of this section is—
  - (a) where the offence involves the willful killing of a person, the same as the penalty for murder prescribed under the Penal Code or Criminal Code; and

- (b) in any other case, be imprisonment for a term not exceeding 30 years or a term of life imprisonment when justified by the extreme gravity of the crime and the individual circumstances of the convicted person.
- (3) In this section, “war crime” means -
- (a) grave breach of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
    - (i) willful killing,
    - (ii) torture or inhuman treatment, including biological experiments,
    - (iii) willfully causing great suffering, or serious injury to body or health,
    - (iv) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly,
    - (v) compelling a prisoner of war or other protected person to serve in the forces of a hostile Power,
    - (vi) willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial,
    - (vii) unlawful deportation or transfer or unlawful confinement; or
    - (viii) taking of hostages;
  - (b) other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:
    - (i) intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities,
    - (ii) intentionally directing attacks against civilian objects or objects which are not military objects,
    - (iii) intentionally directing attacks against personnel, installations, materials, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, if they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict,
    - (iv) intentionally launching an attack in the knowledge that the attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread long-term and severe

- damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated,
- (v) attacking or bombarding by whatever means, towns, villages, dwellings, buildings or other places which are undefended and which are not military objectives,
  - (vi) killing or wounding a combatant who laid down his arms or no longer have a means of defence and has surrendered at his discretion,
  - (vii) making improper use of a flag of truce or military insignia and uniform of the enemy, the United Nations or distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
  - (viii) the transfer, directly or indirectly, by the Occupying Power of part of its own civilian population into the territory it occupies, or the deportation or transfer of all or part of the population of the occupied territory within or outside that territory;
  - (ix) intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments or against hospitals or places where the sick and wounded are kept; provided they are not military objects;
  - (x) subjecting a person who is in the power of an adverse party to physical mutilation or to medical or scientific experiment of any kind which is neither justified by the medical, dental or hospital treatment of the person concerned or carried out in his interest and which causes death to, or seriously endanger the health of the person,
  - (xi) killing or wounding treacherously individuals belonging to the hostile nation or army,
  - (xii) declaring that no Quarters will be given;
  - (xiii) destroying or seizing the enemy's property unless the destruction or seizure is imperatively demanded by the necessities of war,
  - (xiv) declaring abolished, suspended or inadmissible in a court of law, the rights and actions of the nationals of the hostile party,
  - (xv) compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war,

- (xvi) pillaging a town, village, dwelling or other places, even when taken by assault,
  - (xvii) employing poison or poisoned weapons,
  - (xviii) employing asphyxiating, poisonous or other gases and analogous liquids, materials or devices,
  - (xix) employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which do not entirely cover the core or is pierced with incisions,
  - (xx) employing weapons, projectiles, material and other methods of warfare which are of a nature likely to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict as may be specified in an Annex to the Rome Statute,
  - (xxi) committing outrages on personal dignity, in particular, humiliating and degrading treatment,
  - (xxii) committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence which constitutes a grave breach of the Geneva Conventions,
  - (xxiii) utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations,
  - (xxiv) intentionally directing attacks against buildings, material, medical units and transport, and personnel which use the distinctive emblems of the Geneva Conventions in conformity with international law,
  - (xxv) intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions; or
  - (xxvi) conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities;
- (c) in the case of an armed conflict not of an international character, serious violations of Article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those

placed *out of combat* by sickness, wounds, detention or any other cause and therefore entitled to be protected -

- (i) violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment and torture,
- (ii) committing outrages upon personal dignity, in particular humiliating and degrading treatment,
- (iii) taking of hostages, or
- (iv) passing of sentences and carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable; and.

(d) other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

- (i) intentionally directing attacks against the civilian population or against individual civilians not taking direct part in hostilities,
- (ii) intentionally directing attacks against buildings, materials, medical units and transport and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law,
- (iii) intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations if they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict,
- (iv) intentionally launching an attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments or against hospitals or places where the sick and wounded are collected, provided they are not military objects,
- (v) pillaging a town or place even when taken by assault,
- (vi) committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in Article 7, paragraph 2 (f) of the Rome Statute, enforced sterilization or any other form of sexual violence also constituting a serious violation of Article 3 common to the four Geneva Conventions,

- (vii) conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities,
- (viii) ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand,
- (ix) treacherously killing or wounding a combatant adversary,
- (x) declaring that no Quarters will be given,
- (xi) subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the person concerned or carried out in his interest and which cause death to or seriously endanger the health of the person, or
- (xii) destroying or seizing the property of an adversary unless such destruction or seizure is imperatively demanded by the necessities of the conflict.

(4) In the application of subsection (3) of this section –

- (a) paragraph (c) applies to armed conflicts not of an international character and does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature;
- (b) paragraph (d) applies to armed conflicts not of an international character and does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature;
- (c) paragraph (c) and (d) apply to armed conflicts that take place in the territory of a State where there is protracted armed conflict between governmental authorities and organized armed groups or between those groups; and
- (d) nothing in paragraphs (c) and (d) affects the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State by all legitimate means.

## **7. Application of Article 9 of the Rome Statute**

In interpreting and applying the provisions of sections 4, 5 and 6 of this Act, an element of crime adopted or amended under Article 9 of the Rome Statute in relation to Articles 6, 7 and 8 are considered to be part of this Act.

## **8. Conspiracy**

A person who conspires in Nigeria to commit an offence under this Part or outside, the territory of Nigeria or who conspires outside Nigeria to commit an offence under this Part in Nigeria commits an offence is liable on conviction to the same penalty prescribed for the principal offence.

## **9. Aiding and abetting**

A person who —

- (a) attempts to commit,
- (b) counsels or procures the commission of,
- (c) orders, incites, solicits or induces the commission of,
- (d) aids or abets or otherwise assists in the commission or attempted commission of,
- (e) is an accessory after the fact in relation to,
- (f) intentionally contributes in any other way to the commission or attempted commission of,

an offence under this Part commits an offence and is liable on conviction, to the same penalty prescribed for the principal offence.

## **10. Giving false or fabricated evidence**

- (1) A person who gives evidence for the purposes of a proceeding before the Criminal Court or in connection with a request made by the Criminal Court that contains an assertion that, if made in a judicial proceeding in Nigeria as evidence on oath, would constitute perjury, is considered to have given false evidence.
- (2) A person, in Nigeria or elsewhere, who gives false evidence commits an offence and is liable, on conviction to imprisonment for a term not exceeding 2 years.

- (3) A person in Nigeria or elsewhere, who with intent to mislead the Criminal Court, fabricates evidence by any means other than by the giving of false evidence commits an offence and is liable, on conviction to imprisonment for a term not exceeding 2 years.

## **11. Bribery and corruption of a Judge**

- (1) A person in Nigeria or elsewhere, who gives, offers or agrees to give a bribe to another person with intent to influence a Judge in respect of an act or omission by that Judge in his judicial capacity commits an offence and is liable on conviction to imprisonment for a term not exceeding 2 years.
- (2) A person in Nigeria or elsewhere, who gives, offers or agrees to give a bribe to another person with intent to influence a Judge, the Registrar, Deputy Registrar, Prosecutor, the Deputy Prosecutor or any other officer in respect of an act or omission by that Judge, Registrar, Deputy Registrar, Prosecutor, Deputy Prosecutor or any other officer in his official capacity (other than an act or omission to which subsection (1) of this section applies) commits an offence and is liable on conviction to imprisonment to a term not exceeding 2 years.
- (3) A Nigerian Judge who, in Nigeria, accepts, obtains, agrees, offers to accept or attempts to obtain a bribe for himself or any other person in respect of an act —
  - (a) done or omitted to be done by that Judge in his judicial capacity; or
  - (b) to be done or to be omitted to be done by that Judge in his judicial capacity,commits of an offence and is liable on conviction to imprisonment for a term not exceeding 2 years.
- (4) A Judge, Registrar, Deputy Registrar, Prosecutor, Deputy Prosecutor or any other judicial officer, who, in Nigeria, accepts, obtains, agrees, offers to accept or attempts to obtain, a bribe for himself or any other person in respect of an act —
  - (a) done or omitted to be done by that Judge, Registrar, Deputy Registrar, Prosecutor, Deputy Prosecutor or other officer, in his official capacity (other than an act or omission to which subsection (1) of this section applies); or



- (b) to be done or to be omitted by that Judge, Registrar, Deputy Registrar, Prosecutor, Deputy Prosecutor or other officer, in his official capacity (other than an act or omission to which subsection (1) of this section applies),

commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 2 years.

## **12. Bribery and corruption of officials of the Criminal Court**

- (1) A person, in Nigeria or elsewhere, who corruptly gives, offers or agrees to give a bribe to another person with intent to influence an official of the Criminal Court in respect of an act or omission by that official in his official capacity commits an offence and is liable on conviction, to imprisonment for a term not exceeding 2 years.
- (2) An official of the Criminal Court, in Nigeria or elsewhere, who corruptly accepts, obtains, agrees or offers to accept or attempts to obtain, a bribe for himself or any other person in respect of an act —
  - (a) done or omitted that officer in his official capacity; or
  - (b) to be done or to be omitted by that officer in his official capacity,

commits an offence and is liable on conviction to imprisonment for a term not exceeding 2 years.

- (3) In this Part “official of the Criminal Court” means a person employed under Article 44 of the Rome Statute.

## **13. Conspiracy to pervert the course of justice in the Criminal Court**

A person in Nigeria or elsewhere, who in relation to any proceeding, request, or other matter referred to in the Rome Statute, conspires to obstruct, prevent, pervert, or defeat, the course of justice, commits an offence and is liable on conviction, to imprisonment for a term not exceeding 2 years.

## **14. Interference with witnesses or officials**

A person, in Nigeria or elsewhere, who —

- (a) dissuades or attempts to dissuade another person by threat, force, bribery or other means, from giving evidence for the purpose of a proceeding before the Criminal Court or in connection with a request made by the Criminal Court; or
- (b) makes threats or uses force against a Judge, Registrar, Deputy Registrar, Prosecutor, Deputy Prosecutor or any official of the Criminal Court with intent to influence or punish that person, in respect of an act —
  - (i) done or omitted by that person or a Judge, Registrar, Deputy Registrar, Prosecutor, Deputy Prosecutor or any official of the Criminal Court, in his official capacity; or
  - (ii) to be done or to be omitted by that person or a Judge, Registrar, Deputy Registrar, Prosecutor, Deputy Prosecutor or any official of the Criminal Court, in his official capacity; or
- (c) intentionally attempts in any other way to obstruct, prevent, pervert, or defeat the course of justice, in relation to any proceeding, request, or other matter referred to in the Rome Statute,

commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 2 years.

#### **15. Offences to be tried on Information**

A person charged with an offence under this Act shall be tried on information.

#### **16. Attorney - General's consent required for prosecutions**

- (1) Proceedings for an offence under this Act shall not be instituted in any court in Nigeria or elsewhere without the consent of the Attorney - General.
- (2) Notwithstanding the provisions of subsection (1) of this section, a person charged with an offence under section 4, 5 or 6 of this Act may be arrested or a warrant for his arrest may be issued and executed and he may be remanded in custody or on bail, even though the consent of the Attorney-General for the institution of proceeding against that person for that offence has not been obtained, but no further steps shall be taken in the proceeding until that consent has been obtained.
- (3) Proceedings for an offence under this Part may be conducted by the Attorney - General in person or through a counsel acting on his behalf.

## PART III - DEFENCES

### 17. Defences to offences under this Act

- (1) A person charged with an offence under this Act may rely on any defence or justification available to him under the laws of Nigeria or international law.
- (2) Where a provision of the law of Nigeria is inconsistent with a provision of international law, the provision of international law shall prevail.
- (3) Subject to the provisions of the Constitution, it is not a defence to an offence under Part II of this Act for a person charged with an offence to plead that the act constituting the offence was committed in obedience to, or in conformity with, the law in force at the time in the place at which the act was alleged to have been committed.
- (4) Where a person is alleged to have committed an act which constitutes an offence under Part II of this Act and that person has been tried and dealt with by a court in another country in respect of that offence in such a manner that, had he been tried and dealt with in Nigeria for that offence he would have been able to plead *autrofois acquit*, *autrofois convict* or pardon, he shall be considered to have been so tried and dealt with.
- (5) A person who has been tried in the Criminal Court shall not be tried in Nigeria for the same offence or for the same conduct.
- (6) Notwithstanding the provisions of subsection (4) of this section, a person is not considered to have been dealt with as provided for in that subsection, if he had been tried and dealt with in a court outside Nigeria and the proceedings in the court were —
  - (a) for the purpose of shielding that person from criminal liability; or
  - (b) not otherwise conducted independently or impartially in accordance with the norms of due process recognized by international law, and conducted in a manner that, in the circumstances, was inconsistent with an intention to bring the person to justice.
- (7). Unless otherwise provided in this Act or elements of crime adopted under Article 9 of the Rome Statute, a person is regarded as having committed an

act which constitutes an offence under Part II of this Act only if he has committed the act with intent and knowledge.

- (8) In this section -
- (a) a person has intent in relation to —
    - (i) conduct, if he means to engage in the conduct; and
    - (ii) consequence, if he means to cause the consequence or is aware that it will occur in the ordinary course of events; and
  - (b) “knowledge” means awareness that a circumstance exists or that a consequence will occur in the ordinary course of events.

## **18. Obedience to superior orders not a defence to offences under Part II**

- (1) Notwithstanding the provisions of section 17 of this Act, it is not a defence to an offence under section 4, 5 or 6 of this Act for a person charged with an offence to plead that he committed the act constituting the offence pursuant to an order by a government or a superior, whether military or civilian unless —
- (a) the person was under a legal obligation to obey the order of the government or the superior in question;
  - (b) the person did not know that the order was unlawful; or
  - (c) the order was not manifestly unlawful.
- (2) For the purpose of this section, an order to commit genocide, a crime against humanity or war crime is regarded as being manifestly unlawful.

## **19. Responsibility of commanders and other superiors**

- (1) A military commander or a person effectively acting as a military commander is responsible for an offence under section 4, 5 or 6 of this Act committed by forces under his effective command control or under his effective authority and control, as a result of his failure to exercise control properly over the forces where —
- (a) he knew or owing to the circumstances at the time, ought to have known, that the forces were committing or are about to commit the offence; or
  - (b) he failed to take all necessary and reasonable measures within his power to prevent or repress its commission or to submit the matter to the competent authorities for investigation or prosecution.

- (2) With respect to superior and subordinate relationships not described in subsection (1) of this section, a superior is responsible for an offence under section 4, 5 or 6 of this Act committed by subordinates under his effective authority and control, as a result of his failure to exercise control over the subordinates where —
  - (a) he either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit the offence;
  - (b) the offences concerned activities that were within his effective command and control; and
  - (c) he failed to take necessary and reasonable measures within his power to prevent or repress the commission or to submit the matter to the competent authorities for investigation and prosecution.
- (3) A person responsible under this section for an offence under section 4, 5 or 6 of this Act is, for the purpose of this Part, regarded as having aided, abetted, counseled or procured the commission of that offence.

## **20. The defence of State or diplomatic immunity**

- (1) Subject to the provisions of section 308 of the Constitution, a State or diplomatic immunity attaching to a person or premises by reason of a connection with a State Party to the Rome Statute shall not prevent proceedings under this Act, in relation to that person or premises.
- (2) Where the Attorney - General is of the opinion that a request for provisional arrest and surrender or other assistance would require Nigeria to act inconsistently with its obligations under international law with respect to the State or diplomatic immunity of a person or property of another State which is not a party to the Rome Statute, he shall consult with the Criminal Court and request a determination as to whether Article 98(1) of the Rome Statute applies.
- (3) Where the Attorney - General is of the opinion that a request for provisional arrest or arrest and surrender would require Nigeria to act inconsistently with its obligations under an international agreement with a State which is not a party to the Rome Statute pursuant to which the consent of the sending state is required to surrender a person of that State to the Criminal Court, he shall

consult with the Criminal Court and request a determination as to whether Article 98(2) of the Rome Statute applies.

- (4) Subject to the provisions of section 308 of the Constitution, the existence of any immunity or special procedural rule attaching, under domestic or international law to a person is not a ground for —
  - (a) refusing or postponing a request by the Criminal Court for the arrest and surrender of that person; or
  - (b) holding that the person is ineligible for arrest and surrender to the Criminal Court.

#### **PART IV - JURISDICTION**

##### **21. Temporal jurisdiction for offences under Part II**

Proceedings for an offence under Part II of this Act may be instituted if the act or omission constituting the offence is alleged to have been committed after the date on which this Act comes into force.

##### **22. Jurisdiction to try offences committed outside Nigeria**

- (1) Where an act constituting an offence under this Act is committed by a person outside the territory of Nigeria, proceedings may be instituted against that person for that offence in Nigeria if the person —
  - (a) is a citizen or permanent resident of Nigeria;
  - (b) has committed the offence against a citizen or permanent resident of Nigeria; or
  - (c) is present in Nigeria after the commission of the offence.
- (2) The High Court has jurisdiction to try offences under subsection (1) of this section.

##### **23. Trial of offences committed outside Nigeria**

Where an act constituting an offence under Part II of this Act is alleged to have been committed by a person outside the territory of Nigeria, proceedings may be instituted against the person for that offence in a court in Nigeria having jurisdiction to try offences under this Act and that court shall have all the powers to try the offence as if the offence had been committed within the territorial limits of the court's jurisdiction.

## PART V — REQUEST FOR ASSISTANCE

### 24. Request for assistance

A request for assistance is a request made by the Criminal Court to the Attorney-General, in respect of an investigation or prosecution that the Prosecutor of the Criminal Court is conducting or proposing to conduct, in relation to a crime within the jurisdiction of the Criminal Court, for assistance in respect of any one or more of the following, namely —

- (a) the provisional arrest, arrest and surrender to the Criminal Court of a person in relation to whom the Criminal Court has issued an arrest warrant or given a judgment of conviction;
- (b) the identification and location of a person or thing;
- (c) the taking of evidence, including testimony under oath, and the production of evidence, including expert opinions and reports necessary to the Criminal Court;
- (d) the questioning of any person being investigated or prosecuted;
- (e) the service of documents,
- (f) the facilitating the voluntary appearance of persons (other than prisoners) as witnesses or experts before the Criminal Court;
- (g) the temporary transfer of prisoners;
- (h) the examination of places or sites, including exhumation and examination of gravesites;
- (i) the execution of searches and seizures;
- (j) the provision of records and documents, including official records and documents;
- (k) the protection of victims and witnesses and the preservation of evidence;
- (l) the identification, tracing and restraining, or seizure of proceeds of crimes for the purpose of eventual forfeiture, without prejudice to the rights of *bona fide* third parties; and
- (m) any other type of assistance that is not prohibited by a law in Nigeria with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the Criminal Court and the enforcement of orders of the Criminal Court made after convictions for the crimes.

## **25. Making of a request**

- (1) Subject to subsection (2) of this section, a request for assistance shall be made in writing directly to the Attorney-General.
- (2) A request for provisional arrest or an urgent request for other forms of assistance under section 24 of this Act may be made using any medium capable of delivering a written record, including facsimile or electronic mail.
- (3) Where a request is made or supporting documents transmitted by the use of facsimile or electronic mail, this Act shall apply as if the documents so sent were the originals and a copy of the facsimile or electronic mail shall be receivable in evidence.
- (4) Where a request is made by the use of facsimile or electronic mail in accordance with subsection (2) of this section, it shall be followed by a written request under subsection (1) of this section.

## **26. Confidentiality of requests**

A request for assistance and any document or part of a document supporting the request shall be kept confidential by a person dealing with the request in whole or in part, except to the extent that disclosure is necessary for execution of the request.

## **27. Response to request**

- (1) A request for assistance shall be executed in the manner specified in the request, including following any procedure outlined in it and permitting the presence and participation of persons specified in the request in the execution process, unless execution in this manner is prohibited under the laws of Nigeria.
- (2) The Attorney-General shall notify the Criminal Court without undue delay of his response to a request for assistance and the outcome of any action that has been taken to execute the request.
- (3) Before deciding to postpone or refuse a request, the Attorney-General shall consult with the Criminal Court to ascertain whether the assistance sought



could be provided subject to conditions or at a later date or in an alternative manner.

- (4) Where the Attorney-General decides, in accordance with the Rome Statute and this Act, to refuse or postpone the assistance requested, in whole or in part, the notification to the Criminal Court shall set out the reasons for the decision.
- (5) Where the request for assistance cannot be executed for any other reason, the Attorney-General shall set out in the notification to the Criminal Court, the reasons for the inability to execute the request.
- (6) In the case of an urgent request for assistance, any documents or evidence transmitted in response shall, if the Criminal Court so requests, be sent expeditiously to it.

## **28. Assistance in locating or identifying persons or things**

- (1) Where the Criminal Court requests assistance in locating, identifying and locating, a person or a thing believed to be in Nigeria, the Attorney-General shall give authority for the request to proceed and transmit the request to the appropriate agency in Nigeria, if he has reasonable grounds to believe that the person to whom or the thing to which the request relates is, or may be, in Nigeria.
- (2) Where the Attorney-General authorizes and transmits the request under subsection (1) of this section to the appropriate agency in Nigeria, the Agency shall, without delay —
  - (a) use its best endeavours to locate or, as the case may be, identify and locate, the person to whom or thing to which the request relates; and
  - (b) advise the Attorney-General of the outcome of its endeavours.
- (3) Without prejudice to subsections (1) and (2) of this section, this section shall not be construed as giving a person a power to enter property in order to locate a person or thing.

## 29. Assistance in taking evidence

- (1) Where the Criminal Court requests assistance in the taking of evidence, the Attorney- General shall authorize and transmit the request to a Judge, if he has reasonable grounds to believe that the evidence can be taken in Nigeria.
- (2) Where the Attorney-General authorizes and transmits the request under subsection (1) of this section, the Judge shall issue an order compelling the witness to appear at a specified time and place for his evidence to be taken.
- (3) The Judge shall, if the Criminal Court so requests, permit a representative of the Criminal Court or a representative of the person to whom the request relates to be present at the taking of the evidence and to put questions to the witness.
- (4) In taking evidence under this section, the Judge shall do so in the manner specified in the request for assistance made by the Criminal Court, including complying with any procedure outlined in it unless the manner of execution or the procedure is prohibited under any law in Nigeria.
- (5) The Judge taking evidence under this section shall —
  - (a) certify that the evidence was taken before him and that the person named in the certificate was present when the evidence was taken; and
  - (b) cause the evidence together with the certificate to be transmitted to the Attorney – General for onward transmission to the Criminal Court.
- (6) The Judge may where he deems appropriate and with the consent of the Attorney – General order the evidence to be given to the Criminal Court by means of video or satellite link or through any other means of information and communications technology.
- (7) To facilitate the taking of any evidence under subsection (6) of this section, the Judge may order the person to appear at any facility where the relevant technology is available.

### **30. Assistance in the production of documents and articles**

- (1) Where the Criminal Court requests assistance in the production of documents or articles, the Attorney - General shall, if he has reasonable grounds to believe that the documents or articles can be produced in Nigeria, give authority for the request to proceed and transmit the request to a Judge.
- (2) Where the Attorney - General authorizes and transmits the request under subsection (1) of this section, the Judge shall issue an order for the production of the documents or articles.
- (3) The order may provide for any form of certification or authentication of the document or article as may be required by the Criminal Court and may specify any other terms and conditions that may be appropriate in the circumstances.
- (4) Where the documents or articles are produced, duly authenticated or certified as required by the order made under subsection (3) of this section, the Judge shall cause them to be sent to the Attorney - General, with a written statement signed by the Judge that the documents have been authenticated or certified as requested.

### **31. Applicable law**

- (1) The applicable law for the taking of evidence under section 29 of this Act or the production of documents or articles under section 30 of this Act shall be the Rome Statute and Rules unless the Judge orders that the evidence shall be taken in accordance with the laws of Nigeria.
- (2) Notwithstanding subsection (1) of this section, a person compelled to give evidence or produce documents has the same privileges as if the investigation or proceeding was conducted under the laws of Nigeria and the laws of Nigeria relating to the non-disclosure of information, including national security information, shall apply.
- (3) Nothing in subsection (1) of this section shall be construed as requiring a person to give evidence or answer any question or produce any document or article that the person could not be compelled to give, answer or produce in

an investigation being conducted by the Prosecutor or in any proceedings before the Criminal Court.

### **32. Assistance in questioning persons**

- (1) Where the Criminal Court requests assistance in questioning a person who is being investigated or prosecuted, the Attorney - General shall, if the Attorney - General has reasonable grounds to believe that the person is or may be in Nigeria, give authority for the request to proceed and transmit the request to the appropriate agency in Nigeria.
- (2) Where the Attorney - General authorizes and transmits the request under subsection (1) of this section, the appropriate agency in Nigeria shall, without delay —
  - (a) undertake the questioning that the Criminal Court has requested;
  - (b) ensure that the answers to the questions are recorded in writing and make any other report on the questioning as it considers to be appropriate in the circumstances; and
  - (c) advise the Attorney - General of the outcome of the undertaking and, if relevant, deliver the record and any report of the questioning to the Attorney-General.
- (3) A person questioned under this section is notwithstanding anything to the contrary in any other law, entitled to all the rights referred to in Article 55 (2) of the Rome Statute.

### **33. Assistance in arranging for service of documents**

- (1) Where the Criminal Court requests for assistance in arranging for the service of a document in Nigeria, the Attorney - General shall give authority for the request to be transmitted to the appropriate agency in Nigeria, if he has reasonable grounds to believe that the person or body to be served is, or may be, in Nigeria.
- (2) Where the Attorney - General authorizes and transmits the request under subsection (1) of this section, the appropriate agency in Nigeria shall, without delay —
  - (a) use its best endeavours to have the document served —
    - (i) in accordance with any procedure specified in the request; or

- (ii) if that procedure would be unlawful or inappropriate in Nigeria, or if no procedure is specified, in accordance with the law of Nigeria; and
  - (b) transmit to the Attorney-General —
    - (i) a certificate as to service, if the document is served; or
    - (ii) a statement of the reasons that prevented service, if the document is not served.
- (3) In this section, document includes—
- (a) a summons requiring a person to appear as a witness; and
  - (b) a summons to an accused that has been issued under Article 58(7) of the Rome Statute.

#### **34. Assistance in facilitating the voluntary appearance of a witness**

- (1) Where the Criminal Court requests assistance in facilitating the voluntary appearance of a witness before the Criminal Court, the Attorney - General shall, if he is satisfied that there are reasonable grounds to believe that the witness is or may be in Nigeria give authority for the request to be transmitted to the appropriate agency in Nigeria.
- (2) In this section and in section 35 and 36 of this Act, “witness” includes a person who may give expert evidence, but does not include —
- (a) a person who has been accused of a crime in the proceedings to which the request relates; or
  - (b) a prisoner who is detained in relation to an offence against the law of Nigeria.

#### **35. Consent required**

The appropriate agency to which a request is transmitted under section 34 of this Act shall make such inquiries as may be necessary to ascertain whether the prospective witness consents to giving evidence or assisting the Criminal Court.

#### **36. Attorney - General may facilitate appearance**

- (1) The Attorney - General may assist in the making of arrangements to facilitate a witness’s attendance before the Criminal Court if he is satisfied that the —

- (a) prospective witness has consented to giving the evidence or assistance requested; and
  - (b) Criminal Court has given any assurance requested by the Attorney - General in respect of the witness, including an assurance that the witness will not be prosecuted or detained by the Criminal Court in respect of any specified act or omission that occurred before the witness's departure from Nigeria.
- (2) The Attorney - General may —
- (a) approve and make arrangements for the travel of the witness to the Criminal Court at the cost of the Criminal Court; including the obtaining of the approvals, authorities and permissions as are required for that purpose, including, in the case of a person who although not liable to be detained in a prison is subject to a sentence —
    - (i) the variation, discharge or suspension of the conditions of release from prison of a person; or
    - (ii) the variation, cancellation or suspension of a person's sentence or the conditions of the sentence; and
  - (b) take such other action for the purposes of subsection (1) of this section as the Attorney - General considers appropriate.

**37. Assistance in facilitating temporary transfer of prisoner**

Where the Criminal Court requests assistance in facilitating the temporary transfer to the Criminal Court of a prisoner serving a sentence in Nigeria for an offence against the law of Nigeria, the Attorney - General shall give authority for the request to proceed and transmit the request to the appropriate agency in Nigeria, if he has reasonable grounds to believe that the prisoner's assistance is sought for the purpose of identification or obtaining evidence or other assistance.

**38. Consent to be transferred may be sought**

Where the Attorney - General authorizes and transmits a request under section 37 of this Act, the appropriate agency in Nigeria shall make such inquiries as may be necessary to ascertain whether the prisoner will consent to the transfer.

### **39. Attorney - General may arrange for transfer**

- (1) The Attorney - General may authorize the temporary transfer of a prisoner serving a sentence in Nigeria to the Criminal Court if the Attorney - General is satisfied that the —
  - (a) prisoner has consented to giving the evidence or other assistance requested; and
  - (b) Criminal Court has given any assurance requested by the Attorney - General including an assurance that the prisoner will not be released without prior approval of the Attorney - General.
- (2) Where the Attorney - General authorizes the temporary transfer of the prisoner serving a sentence in Nigeria to the Criminal Court, the Attorney - General may —
  - (a) direct that the prisoner be released from the prison in which that prisoner is detained, for the purpose of the transfer to the Criminal Court; and
  - (b) make arrangements for the prisoner to travel to the Criminal Court in the custody of a person authorized for the purpose by the Criminal Court.
- (3) A direction given by the Attorney - General under subsection (2) of this section in respect of a prisoner is sufficient authority for the release of the prisoner from the prison in which the prisoner is detained, for the purpose of the transfer.
- (4) A person released under a direction given under subsection (2) of this section shall be treated, for the purpose of the law in force relating to escape from lawful custody and for that purpose only, as continuing to be in the legal custody of the officer in charge of a prison from which he is so released, while in Nigeria during the period of that release.
- (5) Where there is any inconsistency between subsection (4) of this section and any other law, subsection (4) shall prevail.

### **40. Effect of transfer on prisoner's sentence**

Where a prisoner who is serving a sentence for an offence committed in Nigeria is transferred to the Criminal Court —

- (a) the prisoner shall be treated, while in custody outside Nigeria in connection with the request, as being in custody for the purposes of the sentence imposed for the offence committed in Nigeria which shall continue to run; and
- (b) the Attorney - General —
  - (i) may at any time notify the Criminal Court that the prisoner is no longer required to be kept in custody; and
  - (ii) shall notify the Criminal Court if the prisoner is no longer to be detained in Nigeria.

#### **41. Assistance in examining places or sites**

- (1) Where the Criminal Court requests assistance in examining places or sites in Nigeria, the Attorney - General shall give authority for the request to be transmitted to the appropriate agency in Nigeria if he has reasonable grounds to believe that the place or site is located in Nigeria.
- (2) Where the Attorney - General authorizes and transmits the request under subsection (1) of this section, the appropriate agency in Nigeria —
  - (a) shall without delay use its best endeavours to undertake the examination of a place or site in the manner that the Criminal Court has requested;
  - (b) shall make such report on the examination as it considers to be appropriate in the circumstance;
  - (c) shall deliver the report of the examination to the Attorney - General; and
  - (d) may, where appropriate, apply to a Judge for an exhumation order for the exhumation and examination of the remains at a grave site.
- (3) An authorization under this section is deemed to authorize the appropriate agency in Nigeria to enter a place or site for the purpose of examining it.

#### **42. Assistance involving search and seizure**

- (1) Where the Criminal Court makes a request for search and seizure, the Attorney - General shall give authority for the request to proceed and authorize, in writing, a police officer to apply to a Judge for a search warrant if the Attorney - General has reasonable grounds to believe that any thing relevant to an investigation being conducted by the Prosecutor or proceeding before the Criminal Court is or may be located in Nigeria.



- (2) On an application made to a Judge under subsection (1) of this section by a police officer authorized under that subsection, the Judge may, if satisfied that the thing specified in the request made by the Criminal Court is located in Nigeria, issue a warrant authorizing that police officer or any other police officer specified in the warrant to search for and seize that thing.
- (3) The Judge may issue a warrant under subsection (2) of this section subject to such conditions as he considers fit to impose.
- (4) Subject to any condition specified in the warrant issued under subsection (2) of this section, shall authorize a police officer executing the warrant to —
  - (a) enter and search any place or to stop and search any vehicle in which the thing specified in the warrant is located or held, at any time by day or night;
  - (b) use assistants as may be reasonable in the circumstances for the purpose of that entry and search;
  - (c) use such force as is reasonable in the circumstances to effect entry to the place or to stop or board the vehicle and to break any receptacle in which the thing specified in the warrant is placed; and
  - (d) search for and seize the thing.
- (5) A person called on to assist a police officer executing a warrant issued under subsection (2) of this section may exercise the powers referred to in paragraphs (c) and (d) of subsection (4) of this section.
- (6) A police officer executing a warrant issued under subsection (2) of this section shall —
  - (a) produce the warrant on initial entry and if required to do so at any time thereafter if required to do so;
  - (b) give to the owner of the thing seized or any other person whom he has reason to believe has an interest in the thing, a notice specifying the —
    - (i) date and time of execution of the warrant;
    - (ii) name and position of the person executing the warrant; and
    - (iii) thing seized under the warrant.

- (7) A police officer seizing a thing under the authority of a warrant issued under subsection (2) of this section shall deliver it into the custody and control of the Inspector - General of Police.
- (8) The Inspector - General of Police shall inform the Attorney - General that the thing has been delivered to him and he awaits the Attorney - General's directions as to how the thing is to be dealt with.
- (9) Except as otherwise provided in this section, the law relating to search and seizure generally, apply to a search and seizure under this section.

**43. Assistance involving the use of other domestic investigative procedures**

- (1) Where the Criminal Court requests assistance in the gathering of evidence for an investigation, the Attorney - General shall give authority for the request to proceed and transmit the request to the appropriate agency in Nigeria if the Attorney - General has reasonable grounds to believe that the assistance requested is not prohibited by the laws of Nigeria.
- (2) Where the Attorney - General authorizes and transmits the request under subsection (1) of this section, the appropriate agency may -
  - (a) make use of any domestic powers as would be available in a domestic investigation of a similar matter to gather the evidence and those powers under domestic law shall apply with the necessary modifications;
  - (b) make such report as it considers to be appropriate in the circumstances; and
  - (c) deliver the report to the Attorney - General.

**44. Assistance in protecting victims and witnesses and preserving evidence**

- (1) Where the Criminal Court requests—
  - (a) assistance under Article 93(1)(j) of the Rome Statute in protecting victims and witnesses or preserving evidence; or
  - (b) assistance under Article 19(8) or Article 56(2) or (3) in preserving evidence in relation to an investigation by or a proceeding before the Criminal Court,the Attorney - General shall give authority for the request to proceed and transmit the request to the appropriate agency in Nigeria if he has reasonable

grounds to believe that the assistance requested is not prohibited by the laws of Nigeria

- (2) Where the Attorney - General authorizes and transmits the request under subsection (1) of this section, the appropriate agency in Nigeria shall without delay —
  - (a) give effect to the request;
  - (b) make such report on the outcome of the request as it considers appropriate in the circumstances; and
  - (c) deliver the report to the Attorney - General.

**45. Request for assistance in the restraining and seizure of property associated with crime**

- (1) Where the Criminal Court requests assistance in identifying, tracing and restraining or seizing property for the purpose of eventual forfeiture, the Attorney - General shall give authority for the request to proceed and transmit the request to the appropriate agency in Nigeria if the Attorney - General has reasonable grounds to believe that the property is, or may be, located in Nigeria.
- (2) Where the Attorney - General authorizes and transmits the request under subsection (1) of this section, the appropriate agency in Nigeria —
  - (a) shall give effect to the request; or
  - (b) may, where appropriate, apply to a Judge for a restraining or seizing order with respect to the property.
- (3) An application under subsection 2(b) of this section may be made *ex parte* and may be granted without a hearing.
- (4) The Judge considering an application under subsection 2(b) may make a restraining or seizing order as appropriate, if satisfied that —
  - (a) a forfeiture order has been made in proceedings before the Criminal Court; or
  - (b) there are reasonable grounds to believe that a forfeiture order may be made in those proceedings and that the property to which the application for the restraining or seizing order relates consists of or includes property that is, or may be, affected by the forfeiture order.

- (5) A restraining or seizing order shall provide for notice to be given to any person with an interest in the property or otherwise affected by the order.
- (6) A person affected by the order may apply to a Judge for an order to vary or discharge the restraining or seizing order in relation to his interest.
- (7) The Judge may vary or discharge the restraining or seizure order in relation to the interest of a person making an application under subsection (6) of this section only if the Judge is satisfied that the applicant has an interest in the property, was not in any way involved in the commission of the crime to which the property relates and had no basis to believe that the property was the proceeds of, or associated with, the crime.
- (8) Subject to subsection (7) of this section, the property shall remain subject to the restraining or seizing order until the Criminal Court issues a relevant forfeiture order in respect of the property and that order has been registered for enforcement or the Criminal Court advises that no such order will be issued, in which case the property shall be discharged from the restraining or seizing order.

#### **46. Refusal of request**

- (1) The Attorney - General shall refuse a request for assistance under this Part only if —
  - (a) the Criminal Court has determined that the case to which the request relates is inadmissible on any ground;
  - (b) the Criminal Court advises that it does not intend to proceed with the request for any reason, including a determination of the Criminal Court that Article 98(1) of the Rome Statute applies to the execution of the request;
  - (c) the assistance sought is outside the listed types of assistance set out in Article 93(1) of the Rome Statute and the provision of the assistance is prohibited by the law of Nigeria and the Criminal Court does not accept the conditions, as contemplated by Article 93 (5) of the Rome Statute, subject to which the Attorney - General was willing to provide the assistance; or
  - (d) the execution of a particular measure of assistance is prohibited in Nigeria on the basis of an existing fundamental legal principle of general application and the Criminal Court does not accept the

conditions, as contemplated by Article 93 (5) of the Rome Statute, subject to which the Attorney - General was willing to provide the assistance.

- (2) The Attorney - General may refuse a request for assistance under this Part of this Act only if —
  - (a) there are competing requests for assistance from the Criminal Court and a State and the Attorney - General has decided, in consultation with the Criminal Court and the State, that it is not possible to execute both requests and has decided further to proceed with the execution of the request of the State, in accordance with the principles established by Article 90 of the Rome Statute and section 56 of this Act; or
  - (b) the refusal is authorized under Part VII of this Act.
- (3) Where the Attorney - General decides to refuse a request for assistance in accordance with subsection (1) or (2) of this section after he has transmitted the request to the appropriate agency in Nigeria, he shall inform that agency not to take any further steps to execute the request.

#### **47. Postponement of the execution of request for assistance**

- (1) The Attorney - General may postpone the execution of a request for assistance under this Part if —
  - (a) a determination on admissibility is pending before the Criminal Court;
  - (b) the execution of the request would interfere with an investigation or prosecution in Nigeria involving a different offence from that to which the request relates;
  - (c) the Attorney - General is consulting with the Criminal Court under section 20(2) of this Act as to whether or not Article 98(1) of the Rome Statute applies to execution of the request; or
  - (d) there are competing requests for assistance from Criminal Court and a State and the Attorney - General in consultation with Criminal Court and the State decides to postpone the execution of the Criminal Court's request.
- (2) If execution of the request for assistance is postponed under subsection (1) (a) of this section and the Criminal Court decides that the case is admissible, the Attorney - General shall proceed with the execution of the request as soon as possible after the decision of the Criminal Court.

- (3) Where the execution of the request for assistance is postponed under subsection (1) (b) of this section, the Attorney - General shall consult with the Criminal Court and agree on a period of time for postponement of the execution of the request in accordance with Article 94 of the Rome Statute and the Attorney - General shall proceed with execution of the request after the lapse of the period, unless otherwise agreed with the Criminal Court.
- (4) Where the execution of the request for assistance is postponed under subsection (1) (c) of this section and the Criminal Court decides to proceed with the request, the Attorney - General shall proceed with the execution of the request as soon as possible after the decision of the Criminal Court.
- (5) If the execution of the request for assistance is postponed under subsection (1) (d) of this section, the Attorney - General shall proceed with the execution of the Criminal Court's request as soon as practicable.
- (6) If the Attorney - General decides to postpone execution of a request for assistance in accordance with this section after he has transmitted the request for execution to the appropriate agency in Nigeria, he shall direct that agency to postpone the execution of the request for such period as is specified in the direction.
- (7) A decision by the Attorney - General to postpone the execution of a request does not affect the validity of any act that has been done or any warrant or order made under this Part of this Act prior to the decision and the warrant or order shall remain in force unless cancelled.

#### **48. Verification and authentication of material**

Where, in order to comply with a request of the Criminal Court for assistance, it is necessary for any evidence or other material obtained under this Part to be verified or authenticated in any manner, the Attorney - General may give directions as to the manner in which the evidence or material shall be verified.

#### **49. Transmission of material to Criminal Court**

- (1) Any evidence or other material obtained under this Part by a person other than the Attorney - General together with any requisite verification shall be

sent to the Attorney - General for transmission to the Criminal Court, unless the Attorney - General authorizes otherwise.

- (2) Where any evidence or other material is to be transmitted to the Criminal Court, there shall be transmitted where the material consists of -
  - (a) a document, the original or a copy; and
  - (b) any other article, the article itself or a photograph or other description of it as may be necessary to comply with the request of the Criminal Court.

#### **50. Certificates issued by Attorney – General**

- (1) Where the Attorney - General receives a request for assistance from the Criminal Court to which this Part applies, the Attorney - General may issue a certificate certifying all or any of the following facts, that —
  - (a) a request for assistance has been made by the Criminal Court;
  - (b) the request meets with the requirements of this Act; or
  - (c) the request has been duly accepted under and in accordance with the provisions of this Act.
- (2) In any proceeding under this Act, a certificate purporting to have been issued under subsection (1) of this section shall, in the absence of proof to the contrary, be sufficient evidence of the facts certified therein.

#### **51. Request for assistance from the Criminal Court**

The Attorney - General may make a request to the Criminal Court for assistance in accordance with this Part in an investigation into, or trial in respect of, conduct that may constitute a crime within the jurisdiction of the Criminal Court or that constitutes a crime for which the maximum penalty under the law of Nigeria is a term of imprisonment of not less than 5 years.

### **PART VI — ARREST AND SURRENDER OF PERSONS TO CRIMINAL COURT**

#### **52. Request for arrest and surrender**

- (1) Subject to sections 20(4) and 55 of this Act, when the Attorney – General receives a request for arrest and surrender of a person alleged to have committed a crime within the jurisdiction of the Criminal Court or on whom a

judgment of conviction has been imposed by the Criminal Court, the Attorney - General shall, if satisfied that the request is supported by the information and documents required by Article 91 of the Rome Statute transmit the request and any supporting documents to a High Court.

- 2) On receipt of a request under subsection (1) (a) of this section, the High Court shall —
  - (a) where the request is accompanied by a warrant of arrest issued by the Criminal Court, endorse the warrant for execution by a police officer in any part of Nigeria; or
  - (b) if the request is accompanied by a judgment of conviction of the Criminal Court, issue a warrant for the arrest of the person to whom the judgment relates, for execution by a police officer in any part of Nigeria.

### **53. Refusal of request for arrest and surrender**

- (1) The Attorney - General shall refuse a request for arrest and surrender, at any time before the surrender of the person, where the Criminal Court advises that it does not intend to proceed with the request for any reason, including a determination by the Criminal Court that Article 98 of the Rome Statute applies to the execution of the request.
- (2) The Attorney - General may refuse a request for arrest and surrender of a person at any time before the arrest and surrender of the person if —
  - (a) there is a competing request from one or more States not party to the Rome Statute for the extradition of the person for the same conduct as that which constitutes the crime for which the Criminal Court seeks the person's surrender and a decision to extradite to a State is made in accordance with Article 90 of the Rome Statute and section 55 of this Act; or
  - (b) there is a competing request from one or more States not party to the Rome Statute for the extradition of the person for different conduct from that which constitutes the crime for which the Criminal Court requests the person's surrender and a decision to extradite to a State is made in accordance with Article 90 of the Rome Statute and section 55 of this Act.



- (3) Where the Attorney - General decides to refuse a request for arrest and surrender in accordance with subsection (1) or (2) of this section after he has transmitted a request under this Part, he shall notify the High Court who shall cancel any warrant or delivery order issued by him and ensure the person's release from custody on conditions prescribed in relation to bail arising from that warrant or order.

#### **54. Postponement of the execution of request for arrest and surrender**

- (1) The Attorney - General may postpone the execution of a request for arrest and surrender at any time before the surrender of the person if —
  - (a) a determination on admissibility is pending before the Criminal Court;
  - (b) the request would interfere with an investigation or prosecution in Nigeria involving a different offence from that for which surrender to the Criminal Court is requested; and
  - (c) the Attorney - General is consulting with the Criminal Court as to whether or not Article 98 of the Rome Statute applies to the execution of the request.
- (2) Where execution of the request for arrest and surrender is postponed under subsection (1) (a) of this section and the Criminal Court decides that the case is admissible, the Attorney - General shall proceed with the execution of the request as soon as possible after the decision of the Criminal Court.
- (3) Where the execution of the request for arrest and surrender is postponed under subsection (1)(b) of this section, the Attorney - General shall consult with the Criminal Court and agree on a period of time for postponement of the execution of the request in accordance with Article 94 of the Rome Statute; and the Attorney - General shall proceed with the execution of the request after the lapse of that period, unless otherwise agreed with Criminal Court.
- (4) Where execution of the request for arrest and surrender is postponed under subsection (1)(c) of this section and the Criminal Court decides to proceed with the request, the Attorney - General shall proceed with the execution of the request as soon as possible after the decision of the Criminal Court to that effect.
- (5) Where the Attorney - General decides to postpone execution of a request for arrest and surrender in accordance with this section after he or she has

transmitted a request under section 52 of this Act, he shall notify the High Court —

- (a) of the postponement and the High Court shall adjourn any pending proceedings until further notice from the Attorney - General; and
  - (b) at the relevant time whether the execution of the request is to proceed or not and the Court shall proceed accordingly with the execution of the request or the discharge of the person.
- (6) A decision by the Attorney - General to postpone the execution of a request does not affect the validity of any act that has been done or any warrant or order made under this Part prior to the decision and the warrant or order shall remain in force unless cancelled by the High Court.

## **55. Competing requests**

- (1) Where a request for arrest and surrender of a person is received from the Criminal Court and one or more States also request the extradition of the person for the same conduct as that which constitutes the crime for which Criminal Court seeks the person's surrender, the Attorney - General shall —
  - (a) notify Criminal Court and the requesting State of that fact; and
  - (b) determine whether the person is to be surrendered to the Criminal Court or to the requesting State.
- (2) Where the request for extradition of a person for the same conduct as that which constitutes the crime for which the Criminal Court seeks the person's surrender is made by a State which is a party to the Rome Statute, priority shall be given to the request from the Criminal Court if the Criminal Court has determined under Article 18 or 19 of the Rome Statute that the case is admissible and where an admissibility decision is pending before the Criminal Court, a person shall not be extradited under the laws relating to extradition until the Criminal Court makes a decision on admissibility and determines that the case is inadmissible.
- (3) Where the request for extradition of a person for the same conduct as that which constitutes the crime for which the Criminal Court seeks the person's surrender is made by a State which is not a party to the Rome Statute, priority shall be given to the request for arrest and surrender from the Criminal Court, if Nigeria is not under an international obligation to extradite the person to the

requesting State and the Criminal Court has determined under Article 18 or Article 19 of the Rome Statute that the case is admissible.

- (4) Where the request for extradition of a person for the same conduct as that which constitutes the crime for which the Criminal Court seeks the person's surrender is made by a State which is not a party to the Rome Statute and Nigeria is under an international obligation to extradite the person to the requesting state and the Criminal Court has determined under Article 18 or Article 19 of the Rome Statute that the case is admissible, the Attorney - General shall determine whether the person is to be surrendered to the Criminal Court or extradited taking into consideration all the relevant factors including the respective dates of the requests, the interests of the requesting State and where relevant, whether the crime was committed in its territory, the nationality of the victims and the person sought to be extradited and the possibility of subsequent surrender between the Criminal Court and the requesting State.
- (5) Where a request for arrest and surrender is received from the Criminal Court and one or more States also request the extradition of the person for conduct other than that which constitutes the crime for which Criminal Court seeks the person's surrender, priority shall be given to the request from the Criminal Court if Nigeria is not under an international obligation to extradite the person to the requesting State.
- (6) Where a request for surrender is received from the Criminal Court and one or more States also request the extradition of the person for conduct other than that which constitutes the crime for which Criminal Court seeks the person's surrender and Nigeria is under an international obligation to extradite to one or more of the requesting States, the Attorney - General shall determine whether the person is to be surrendered to the Criminal Court or extradited to a requesting State taking into consideration all the relevant factors referred to in subsection (4) of this section as well as the relative nature and gravity of the conduct in question.

## **56. Provisional arrest in urgent cases**

- (1) Where the Attorney - General receives a request from the Criminal Court for provisional arrest of a person under Article 92 of the Rome Statute, he shall, if satisfied that the request is supported by the information required by

paragraph (2) of Article 92 of the Rome Statute, transmit the request and any supporting documents to the Inspector - General of Police with a direction for the arrest of the person.

- (2) Where the Inspector General of Police receives a direction from the Attorney - General under subsection (1) of this section, he shall instruct the police to carry out the direction.
- (3) The Inspector General of Police shall, after carrying out the direction, notify the Attorney - General that he has done so.
- (4) Where a person has been provisionally arrested under this section, and the Attorney - General receives the formal request for arrest and surrender as provided for in Article 91 of the Rome Statute, the Attorney - General shall immediately send a notice to the High Court and proceed with the transmission of the request in accordance with this Part.

#### **57. Rights of an arrested person**

- (1) A person arrested under a warrant obtained in accordance with section 52 or pursuant to a direction under section 56 of this Act shall be brought before a Judge within 48 hours.
- (2) The Judge may of his own motion or at the request of the person, determine —
  - (a) whether the person was lawfully arrested in accordance with the warrant or the direction; and
  - (b) whether the person's rights have been respected in the course of the arrest.
- (3) In making a determination under subsection (2) of this section, the Judge shall apply the principles applicable to judicial review.
- (4) If the Judge determines that the —
  - (a) person was not lawfully arrested; or
  - (b) person's rights were not respected,the Judge shall make a declaration to that effect with any explanation required but may not grant any other form of relief.

- (5) The Judge shall send any declaration made under subsection (4) of this section to the Attorney - General and the Attorney - General shall transmit it to the Criminal Court.

**58. Person arrested on a provisional warrant**

- (1) Where a person has been provisionally arrested under section 56 of this Act, the Judge shall not proceed under section 60 of this Act until —
  - (a) the Judge has received a notice from the Attorney - General that the request for surrender and supporting documents required under Article 91 of the Rome Statute have been received by the Attorney - General; and
  - (b) the relevant documents have been transmitted to the Judge by the Attorney – General.
- (2) Pending the receipt of the notice and documents under subsection (1) of this section, the Judge may adjourn the proceedings from time to time.
- (3) If the Judge has not received the notice specified in subsection (1)(a) of this section within 60 days of the date of the provisional arrest of the person, he shall release the person from custody or on bail unless satisfied that the period for submission of the notice should be extended in the interest of justice.
- (4) The release of a person under subsection (3) of this section is without prejudice to any subsequent proceedings that may be brought for the arrest and surrender of the person to the Criminal Court whether for the same facts and offence or not.

**59. Application for bail**

- (1) A person brought before a Judge under section 57 of this Act may make an application for bail.
- (2) Where an application for bail is made under subsection (1) of this section, the Judge shall adjourn the hearing of the application and notify the Attorney - General.

- (3) The Attorney - General shall, on receipt of a notification under subsection (2) of this section, consult immediately with the Criminal Court to obtain any recommendations from the Pre-Trial Chamber under Article 59(5) of the Rome Statute and shall convey those recommendations to the Judge.
- (4) The Judge shall give full consideration to any recommendations conveyed to him under subsection (3) of this section before making a decision on the application for bail.
- (5) Where recommendations are not received from the Criminal Court within 7 days of the Attorney - General being notified of the application for bail, the Judge may proceed to hear the application.
- (6) A Judge shall not release a person brought before him on bail, unless the Judge is satisfied that, having regard to the crimes alleged to have been committed by that person, there are urgent and exceptional circumstances that justify the person's release on bail and that there are sufficient safeguards to ensure that Nigeria will be able to fulfill its obligations under the Rome Statute to surrender the person to the Criminal Court.

## **60. Surrender hearing**

- (1) The Judge before whom a person arrested under section 52 or 56 of this Act is brought shall satisfy himself that —
  - (a) there is a warrant of arrest issued by the Criminal Court or a judgment of conviction by the Criminal Court, in respect of that person; and
  - (b) the warrant or judgment relates to the person before the Judge.
- (2) On the Judge being satisfied of the matters referred to in paragraphs (a) and (b) of subsection(1) of this section with respect to the arrested person, the Judge shall, subject to section 58 of this Act, issue a delivery order in respect of that person in accordance with Article 59(7) of the Rome Statute.
- (3) Where the Judge issues a delivery order under subsection (2) of this section he shall —
  - (a) transmit the delivery order to the Inspector General of Police for execution;
  - (b) commit the person to custody pending the execution of the delivery order by the Inspector General of Police;

- (c) send a copy of the delivery order to the Attorney - General; and
  - (d) inform the person in ordinary language of his right to make an application to the appropriate court for a mandate in the nature of a writ of *habeas corpus*.
- (4) If the person who is the subject of a delivery order is in custody —
  - (a) the Judge shall order the continued detention of the person under the delivery order and notify the Controller - General of Prisons and the Superintendent of the prison, of the delivery order; or
  - (b) the Judge shall, subject to any order with regard to bail, commit him to custody and shall notify the Controller - General of Prisons and the Superintendent of the prison.
- (5) Subject to subsection (6) of this section, the Inspector General of Police shall make arrangements with the Criminal Court for the execution of the delivery order as soon as possible, and shall notify the Attorney - General when the person has been surrendered to the Criminal Court of the state of enforcement, in execution of the delivery order.
- (6) Subject to section 61 of this Act, the Inspector - General of Police shall not make arrangements with the Criminal Court for the execution of the delivery order —
  - (a) until after the expiration of the period prescribed by law for making an application for habeas corpus by the person to whom the order relates; or
  - (b) if an application for habeas corpus is made by the person within that period, until after the final determination of the application.
- (7) A delivery order issued under this section is sufficient authority for holding the person specified in the order in custody until his delivery to the Criminal Court.
- (8) In deciding whether to make a delivery order under subsection (2) of this section, the Judge shall not —
  - (a) require evidence to establish that the trial of the person for the crime that he is alleged to have committed is justified before the Criminal Court or would be justified under the laws of Nigeria if the act constituting the crime had been committed in Nigeria; and

- (b) receive evidence with respect to or adjudicate on, any claim by the person that he has been previously tried or convicted for the conduct for which the Criminal Court seeks surrender of that person.
- (9) If the person makes a claim, under subsection (8) (b) of this section, the Judge shall advise the Attorney - General of this claim and the Attorney - General shall transmit that information to the Criminal Court.
- (10) In proceedings under this Part, the Judge shall not inquire into, receive any evidence regarding, or make any decisions as to, the validity of any warrant or order issued or made by the Criminal Court.

## **61. Surrender by consent**

- (1) A person may at any time notify a Judge that he consents to being surrendered to the Criminal Court for the crime or crimes for which the Criminal Court seeks the surrender of the person.
- (2) The Judge may accept the notification of consent under subsection (1) of this section if the —
  - (a) person is before the Judge when notification of the consent to surrender is given; and
  - (b) Judge is satisfied that the person has freely consented to the surrender in full knowledge of its consequences.
- (3) Nothing in this section shall be construed as preventing a person, in respect of whom the Judge has made a delivery order, from subsequently notifying the Attorney - General that he consents to surrender.
- (4) For the avoidance of doubt a person arrested under a provisional warrant may consent to surrender before a request for surrender is received, in which case the Judge may make an order under subsection (5) of this section.
- (5) Where the consent to surrender has been given, the Judge shall immediately make a delivery order in the same terms as section 60(2) of this Act and such of the provisions of section 61 of this Act as are applicable shall then apply.



## **62. Effect of delivery order**

- (1) A delivery order is sufficient authority for a person to receive the person to whom the order relates, keep him in custody and convey him to the place where he is to be delivered up into the custody of the Criminal Court or of the State of enforcement, in accordance with arrangements made by the Inspector - General of Police.
- (2) A person in respect of whom a delivery order is in force is deemed to be in legal custody pending delivery up under the order.
- (3) If a person in respect of whom a delivery order is in force escapes or is unlawfully at large, he may be arrested without warrant and taken to the place where he is required to be or to be taken.

## **63. Procedure where Judge refuses order**

- (1) Where the Judge refuses to make a delivery order under section 60 of this Act, he shall make an order remanding the person arrested in custody for 14 days and shall notify the Attorney - General of his decision and of the grounds for it.
- (2) The Attorney - General may appeal against the decision of the Judge refusing to make a delivery order.
- (3) Where the Judge is informed that an appeal is to be taken against the decision, the order remanding the person arrested shall continue to have effect until the appeal is determined and the person is either discharged or the delivery order is executed.
- (4) Where the Court of Appeal allows the appeal, it may make a delivery order or remit the case to the Judge to make a delivery order in accordance with the decision of the Court of Appeal.
- (5) Where the Court of Appeal dismisses the appeal, the person shall be discharged in accordance with the decision of the Court of Appeal.

**64. Discharge of a person not delivered up**

- (1) Where the person in respect of whom a delivery order has been made is not delivered up under the order within 60 days after the expiration of the period prescribed by law for making an application for *habeas corpus* or, where an application is made within 60 days, after the final determination of the application, that person or someone duly authorized by him may make an application to the Judge who made the delivery order for the person's discharge.
- (2) On an application made under this section, the Judge shall order the person's discharge unless reasonable cause is shown for the delay.
- (3) The discharge of a person under subsection (2) is without prejudice to any subsequent proceedings that may be brought for the arrest and surrender of the person to the Criminal Court whether for the same facts and offence or not.

**65. Discharge of a person no longer required to be surrendered**

- (1) Where the Criminal Court informs the Attorney - General that the person arrested on the request of the Criminal Court is no longer required to be surrendered, the Attorney - General shall notify the Judge of that fact and the Judge shall on receipt of the notification make an order for the discharge of that person.
- (2) The discharge of a person under subsection (1) of this section is without prejudice to any subsequent proceedings that may be brought for the arrest and surrender of that person to the Criminal Court whether for the same facts and offence or not.

**66. Request for temporary surrender**

- (1) Where a request for arrest and surrender by the Criminal Court relates to a crime within the jurisdiction of the Criminal Court but the person is subject to proceedings for a different offence in Nigeria which has not been finally disposed of or is liable to serve a sentence of imprisonment imposed by a court in Nigeria for a different offence, the Attorney - General may authorize the temporary transfer of that person to the Criminal Court.

- (2) The Attorney - General may, before making an authorization under subsection (1) of this section, seek an undertaking from the Criminal Court that the person shall be returned on completion of proceedings before the Criminal Court or service of sentence imposed by the Criminal Court, as the case may be.
- (3) Subsections (2), (3), (4) and (5) of section 39 of this Act shall apply to an authorization under subsection (1) of this section with any necessary modifications.

#### **67. Request for the transit of a person to the Criminal Court**

- (1) Subject to subsection (4) of this section, where the Attorney - General receives a request from the Criminal Court for the transit through the territory Nigeria of a person being —
  - (a) surrendered or transferred by another State to the Criminal Court;
  - (b) transferred from the Criminal Court to a State of enforcement;
  - (c) being transferred to or from the State of enforcement as a result of a review hearing or other appearance by the person before the Criminal Court,

the Attorney - General shall accede to the request for the transit and the person is deemed, during transit, to be in lawful custody and may be held in any police station, prison or any other place of detention which may be designated by the Attorney - General in consultation with the other relevant authorities.

- (2) Where a person referred to in subsection (1) of this section arrives in Nigeria without prior consent to transit, a police officer may at the request of the officer who has custody of the person being transported, hold the person in custody for a maximum period of 96 hours pending receipt by the Attorney - General of a request under subsection (1) of this section.
- (3) Authorization for transit is not required if the person being transported is transported by air and no landing is scheduled on the territory of Nigeria.
- (4) Notwithstanding subsection (1) of this section, the Attorney - General may refuse a request for transit if the Attorney - General considers that transit

through Nigeria would impede or delay the surrender or transfer of the person being transported.

- (5) Where an unscheduled landing occurs on the territory of Nigeria, the Attorney - General may require the Criminal Court to submit a request under subsection (1) of this section, for transit of the person being transported as soon as is reasonably practicable.

#### **68. Waiver of requirements of Article 101 of the Rome Statute**

Where a person is surrendered to the Criminal Court under this Part and the Criminal Court requests the waiver of the requirements of paragraph (1) of Article 101 of the Rome Statute with respect to that person, the Attorney - General, having regard to the information provided by the Criminal Court with respect to that person, shall endeavor to consent to the person being proceeded against, punished or detained for conduct committed prior to surrender, not being conduct constituting crimes for which he has been surrendered to the Criminal Court.

### **PART VII — ENFORCEMENT OF SENTENCES AND ORDERS OF THE CRIMINAL COURT IN NIGERIA**

#### **69. Nigeria may act as State of enforcement**

- (1) The Attorney - General may notify the Criminal Court that Nigeria is willing to allow persons who are Criminal Court prisoners as a result of being sentenced to imprisonment by the Criminal Court to serve those sentences in Nigeria, subject to any conditions specified in the notification.
- (2) The Attorney - General shall, before issuing a notification under subsection (1), consult with any other relevant Ministries, Departments and Agencies including the National Security Adviser.

#### **70. Request for sentence to be served in Nigeria**

- (1) Where the —
  - (a) Attorney - General has issued a notification under section 69 of this Act and has not withdrawn that notification and the Criminal Court imposes a sentence of imprisonment under the Rome Statute on a

person convicted of a crime within the jurisdiction of the Criminal Court; and

- (b) Criminal Court designates Nigeria under Article 103 of the Rome Statute as the State in which the sentence is to be served, the Attorney - General shall consider whether or not to accept the designation.
- (2) The Attorney - General may accept the designation of Nigeria as the State in which the sentence is to be served if the Attorney - General is satisfied that Criminal Court has agreed to the conditions specified in the notification made under section 69 of this Act and in the case of a prisoner who is not a citizen of Nigeria, the relevant authority has consented to the sentence being served in Nigeria.

#### **71. Prisoner to be held in custody**

- (1) Where the Attorney - General accepts the designation of Nigeria as the State in which a sentence of imprisonment imposed by the Criminal Court is to be served, the Criminal Court prisoner may be transported to Nigeria in the custody of a person authorized for the purpose by the Criminal Court.
- (2) On arrival in Nigeria or, if the person is already in Nigeria when the sentence is imposed, on the imposition of the sentence, the Attorney - General shall issue an order of detention in respect of the Criminal Court prisoner and shall cause a copy of the order to be sent to the Controller - General of Prisons.
- (3) The order of detention issued under subsection (2) of this section is sufficient authority for the detention of the Criminal Court prisoner until he completes or is released from the sentence or is transferred to another State.
- (4) Subject to subsection (7) of this section, the Criminal Court prisoner shall be detained in accordance with the laws of Nigeria as if he had been sentenced to imprisonment under the laws of Nigeria.
- (5) Notwithstanding anything in subsection (4) or in any other law—
  - (a) the Criminal Court prisoner has the right to communicate on a confidential basis with the Criminal Court, without impediment from any person;

- (b) a Judge of the Criminal Court or a member of the staff of the Criminal Court may visit the Criminal Court prisoner for the purpose of hearing any representations by the prisoner without the presence of any other person, except a representative of the prisoner.
- (6) The enforcement of a sentence of imprisonment, including any decision to release or transfer the Criminal Court prisoner, shall be in accordance with Part 10 of the Rome Statute and the Rules.
- (7) The laws of Nigeria relating to parole, remission, reduction or variation of sentence and pardon do not apply to a sentence imposed by the Criminal Court.

**72. Transfer of prisoner to Criminal Court for review of sentence**

- (1) Where the Criminal Court, under Article 110 of the Rome Statute decides to review the sentence of an Criminal Court prisoner who is serving that sentence in Nigeria, the Attorney - General shall direct that the prisoner be transferred to the Criminal Court, at the expense of the Criminal Court, for the purposes of enabling the Criminal Court to review the prisoner's sentence.
- (2) The Criminal Court prisoner shall be transferred to and from the Criminal Court in the custody of a person authorized for the purpose by the Criminal Court at the expense of the Criminal Court.

**73. Transfer of prisoner to another State to complete sentence**

- (1) A Criminal Court prisoner serving a sentence in Nigeria may, at any time apply to the Criminal Court to be transferred from Nigeria to complete service of sentence in another State.
- (2) Where a Criminal Court prisoner of any nationality is to be transferred from Nigeria to another State to complete that sentence, the prisoner may be transported from Nigeria to that State in the custody of a person authorized for the purpose by the Criminal Court at the expense of Criminal Court.

#### **74. Procedure on completion of sentence**

On the —

- (a) completion of a sentence in Nigeria by an Criminal Court prisoner who is not a citizen of Nigeria; and
- (b) release, on the direction of the Criminal Court of an Criminal Court prisoner who is not a citizen of Nigeria,

the Attorney - General may issue a removal order for that Criminal Court prisoner under section 75 of this Act.

#### **75. Removal order**

- (1) A removal order made by the Attorney - General under this section —
  - (a) may either—
    - (i) require the person who is the subject of the order to be released into or taken into the custody of a police officer; or
    - (ii) where the person is not in custody, authorize any police officer to take the person into custody;
  - (b) shall specify that the person is to be taken by a police officer and placed on board any aircraft or vessel for the purpose of effecting the person's removal from Nigeria; and
  - (c) may authorize the detention in custody of the person while awaiting removal from Nigeria.
- (2) A removal order made under this section shall continue in force until it is executed or cancelled.

#### **76. Delay in removal**

- (1) Where a person in respect of whom a removal order has been made is not conveyed out of Nigeria within 48 hours after the order has issued, the person shall be brought before a Judge to determine, in accordance with subsection (2) of this section, whether the person should be detained in custody or released pending removal from Nigeria.
- (2) Where a person is brought before a Judge under subsection (1) of this section, the Judge may, if he is satisfied that the person is the person named in the order—

- (a) issue a warrant for the detention of the person in custody if the Judge is satisfied that, if not detained, the person is likely to abscond; or
- (b) order the release of the person subject to such conditions, if any, that the Judge considers fit to impose.

**77. Special rules in certain cases**

- (1) A Criminal Court prisoner serving a sentence in Nigeria shall not—
  - (a) be extradited to another State on completion of his sentence; or
  - (b) be required to undergo trial for an offence under the laws of Nigeria that relates to an act or omission alleged to have been committed prior to his arrival in Nigeria to serve that sentence, without agreement of the Criminal Court.
- (2) Nothing in subsection (1) of this section applies to a Criminal Court prisoner who remains voluntarily in Nigeria for more than 30 days after the date of completion of, or release from the sentence imposed on him by the Criminal Court or who voluntarily returns to Nigeria after having left Nigeria.

**78. Immigration permit not required**

A person to whom this Part applies is not be required to hold a permit or other authorization under the law of Nigeria relating to citizenship and immigration control if and for so long as, he is in Nigeria in accordance with this Part, whether or not he is in custody.

**79. Application to citizens of Nigeria**

Nothing in this Part is deemed to authorize the making of a removal order under section 75 of this Act in respect of a citizen of Nigeria.

**80. Enforcement of fines**

- (1) Where the Criminal Court requests enforcement in accordance with Article 109 of the Rome Statute of an order for the payment of a fine made under Article 77 (2) (a) of the Rome Statute, the Attorney - General shall give authority for the request to proceed, if he has reasonable grounds to believe that —



- (a) neither the conviction in respect of which the order was imposed, nor the order for the payment of the fine is subject to further appeal; and
  - (b) the order can be enforced in the manner provided in this section and shall refer the request to the appropriate agency in Nigeria.
- (2) The appropriate agency in Nigeria shall, without delay, cause the order to be registered in the appropriate court.
- (3) An order registered in the appropriate court under subsection (2) of this section has the same force and effect as if it were an order for the payment of a fine imposed by that court and shall be enforced accordingly.
- (4) The appropriate agency shall make such report to the Attorney - General on the outcome of any action taken by it to enforce the order as it considers appropriate in the circumstances.
- (5) Nothing in this section shall be construed as limiting or affecting the provision of other types of assistance to the Criminal Court in relation to a penalty imposed under Article 77 of the Rome Statute or as empowering the court to modify or vary the order of the Criminal Court.

## **81. Enforcement of forfeiture order**

- (1) Where the Criminal Court requests enforcement in accordance with Article 109 of the Rome Statute, of an order for forfeiture of property made under Article 77 (2) (b) of the Rome Statute, the Attorney - General shall give authority for the request to proceed where he has reasonable grounds to believe that —
  - (a) neither the conviction in respect of which the order was imposed, nor the forfeiture order, is subject to further appeal; and
  - (b) the property identified by the Criminal Court is located in Nigeria or that the person concerned, directly or indirectly, holds property in Nigeria that may be the subject of the forfeiture order.
- (2) On receipt of an order for forfeiture under subsection (1), the Attorney - General shall register the original or a certified copy of the forfeiture order of the Criminal Court with the appropriate court in Nigeria.

- (3) On the filing of the order in the appropriate court for registration under subsection (2), the court may direct the Attorney - General to do either or both of the following —
  - (a) give notice of the filing, in the manner and within the time the court considers appropriate to the person, other than a person convicted of a crime in respect of which the order was made, as the court has reason to believe may have an interest in the property;
  - (b) publish notice of the filing in the manner and within the time the court considers appropriate.
- (4) A forfeiture order filed in the appropriate court for registration under subsection (2) of this section has, from the date it is registered, the same force and effect as if it were an order for the forfeiture of property issued by that court and shall be enforced accordingly.
- (5) A forfeiture order filed under subsection (2) shall not be enforced until after the expiry of any period specified by the court in any notice given or published under subsection (3) of this section, or two months from the filing and registration of the order, whichever is the longer period.
- (6) Where a forfeiture order is filed in the appropriate court under subsection (2) of this section, a person, other than a person convicted of a crime in respect of which the order was made, who claims an interest in the property, may apply to the court, with notice to the Attorney - General.
- (7) A person on whom notice of the hearing of the Criminal Court held in connection with the making of the forfeiture order was served or who appeared at the hearing shall not make an application under subsection (6) without the leave of court.
- (8) The court shall grant leave under subsection (7) of this section only where it determines that it would be contrary to the interests of justice not to do so.
- (9) An application under subsection (6) of this section shall be made before the expiry of any period specified in a notice made or published under subsection (3) of this section or within two months of the filing and registration of the order, whichever is the longer period, unless the court grants leave.

- (10) On an application under subsection (6) of this section, the court may make an order for the enforcement of the forfeiture order subject to the interest of the applicant if satisfied that the applicant —
- (a) has an interest in the property;
  - (b) did not receive notice of the hearing before the Criminal Court or through no fault of his own, did not appear at the hearing;
  - (c) was not in any way involved in the commission of the crime in respect of which the order was made; and
  - (d) had no knowledge that the property constituted the proceeds of, or was associated with the crime.
- (11) Where the court makes an order under subsection (10) of this section, the court may —
- (a) declare the nature, extent and value of the applicant's interest in the property; and
  - (b) direct that the interest be transferred to the applicant or that payment be made to the applicant of an amount equivalent to the value of the interest.

## **82. Transfer of funds realized to the Criminal Court**

The Attorney - General shall arrange for the transfer of funds realized through the enforcement of a fine under section 80 of this Act or a forfeiture order under section 81 of this Act to the Criminal Court subject to the deduction of reasonable costs related to the enforcement procedure

## **83. Order for forfeiture of property on conviction by the Criminal Court**

- (1) Where a person is convicted by the Criminal Court of a crime within the jurisdiction of the Criminal Court, the High Court may, on an application made by the Attorney - General, order that any property situated in Nigeria —
- (a) used for, or in connection with; or
  - (b) derived directly or indirectly from, the commission of that crime,

be forfeited to the Government of the Federal Republic of Nigeria, if satisfied that an order of forfeiture has not been or will not be made by the Criminal Court under Article 77 (2)(b) of the Rome Statute in respect of that property.

- (2) Before making an order under subsection (1) of this section, the High Court shall give every person appearing to have an interest in the property in respect of which the order is proposed to be made, an opportunity of being heard, and subsections (3), (4), (5), (6), (7), (8), (9), (10) and(11) of section 81 of this section shall, *mutatis mutandis*, apply to an order made under this section
- (3) Property forfeited under subsection (1) of this section shall vest in the Government of the Federal Republic of Nigeria —
  - (a) where no appeal has been made against the order, at the end of the period within which an appeal may be made against the order; and
  - (b) where an appeal has been made against the order, on the final determination of the appeal.

#### **84. Enforcement of orders for victim reparation**

- (1) Where the Criminal Court requests enforcement in accordance with Article 109 of the Rome Statute of an order requiring reparation made under Article 75 of the Rome Statute, the Attorney - General shall give authority for the request to proceed, if he has reasonable grounds to believe that —
  - (a) neither the conviction in respect of which the order was imposed nor the order requiring reparation is subject to further appeal; and
  - (b) the order can be enforced in the manner provided in this section,and shall refer the request to the appropriate agency in Nigeria for enforcement.
- (2) The appropriate agency in Nigeria shall, without delay file the order in court. for registration.
- (3) An order filed and registered in court under subsection (2) of this section shall, where the order requires —
  - (a) a monetary payment, have force and effect as if it were an order for the payment of compensation imposed by that court;
  - (b) the restitution of assets, property or other tangible items, have force and effect as if it were an order for the restitution of property made by that court; or

- (c) the granting of any other relief, has force and effect as if it were an order for the granting of such relief made by that court and the order shall be enforced accordingly.
- (4) The appropriate agency in Nigeria shall, without delay, make the report to the Attorney - General on the outcome of any action taken by it to enforce the order as it considers appropriate in the circumstances.
- (5) Nothing in this section shall be construed as limiting or affecting the provision of other types of assistance to the Criminal Court in relation to an order made under Article 75 of the Rome Statute or as empowering the court to modify the order of the Criminal Court.
- (6) The Attorney - General shall consult with the Criminal Court as to whether the funds realized through the enforcement of an order under this section should be transferred directly to specified victims or through the Victims Fund of the Criminal Court.
- (7) The Attorney - General shall make arrangements for the transfer of the funds realized through the enforcement of an order under this section as determined through the consultations under subsection (6) of this section.

**85. Assistance in enforcement of restraining order**

- (1) Where the Criminal Court requests assistance in the enforcement of a restraining order issued by the Criminal Court in respect of property in Nigeria, the Attorney - General shall give authority for the request to proceed if he has reasonable grounds to believe that the -
  - (a) restraining order is not subject to further appeal; and
  - (b) property is located in Nigeria,and shall refer the request to the appropriate agency in Nigeria.
- (2) The appropriate agency in Nigeria shall file the order in the court for registration.
- (3) An order filed and registered in the court under subsection (2) of this section has force and effect as if it were a restraining order made by that court and shall be enforced accordingly.

- (4) Nothing in this section shall be construed as limiting or affecting the provision of other types of assistance to the Criminal Court in relation to the enforcement of a restraining order made by it or as empowering the court to modify the order of the Criminal Court.

## **PART VIII — NATIONAL SECURITY**

### **86. National security**

- (1) Where—
- (a) the Criminal Court requests assistance under Part V of this Act for the production of documents or the taking of evidence and the Attorney - General is of the opinion that the production of those documents or the disclosure of that evidence would be prejudicial to the national security of Nigeria;
  - (b) a person is required to disclose information to or give evidence before the Criminal Court and the person refuses to do so on the ground that the disclosure of the information or the giving of the evidence would be prejudicial to the national security of Nigeria and the Attorney - General confirms that in his opinion the disclosure of such information or the giving of the evidence would be prejudicial to the national security of Nigeria; or
  - (c) the Attorney - General is of the opinion that the disclosure of information to or giving of evidence before the Criminal Court in circumstances other than the circumstances referred to in paragraphs (a) and (b) of this subsection would be prejudicial to the national security of Nigeria,

the Attorney - General shall consult with the Criminal Court and take reasonable steps to resolve the matter in accordance with Article 72 (5) of the Rome Statute.

- (2) Where, after consultation with the Criminal Court, the Attorney - General considers that there are no means or conditions under which the information, documents or evidence requested could be provided, disclosed or given without prejudice to the national security of Nigeria, the Attorney - General may refuse the request for the production of the document or the disclosure of the evidence or refuse the authorization of the production of the document or the disclosure of the information and shall notify the Criminal Court of his

reasons for doing so, unless the specification of those reasons would itself be, in his opinion, prejudicial to the national security of Nigeria.

## **PART IX — SITTINGS OF THE CRIMINAL COURT IN NIGERIA**

### **87. Prosecutor may conduct investigations in Nigeria**

The Prosecutor may conduct investigations in the territory of Nigeria —

- (a) in accordance with the provisions of Part 9 of the Rome Statute;
- (b) as authorized by the Pre-Trial Chamber under Article 57(3)(d) of the Rome Statute; or
- (c) as authorized by national authorities.

### **88. The Criminal Court sittings in Nigeria**

The Criminal Court may sit in Nigeria for the purpose of discharging its functions under the Rome Statute and under the Rules, including the —

- (a) taking of evidence;
- (b) conduct or continuation of a proceeding;
- (c) giving of a judgment in a proceeding; or
- (d) review of a sentence imposed by the Criminal Court.

### **89. The Criminal Court powers while sitting in Nigeria**

- (1) When the Criminal Court is sitting in Nigeria, it may discharge and exercise any or all of its functions and powers as provided for under the Rome Statute and under the Rules.
- (2) Without prejudice to the generality of subsection (1) of this section, the Criminal Court has the power to —
  - (a) commit persons for contempt of its orders; and
  - (b) issue summons or other orders requiring the attendance of any person before the Criminal Court or the production of any document or record for examination by the Criminal Court.
- (3) Orders or summons issued by the Criminal Court under this section, including committal orders for contempt, shall be enforced by the domestic authorities of Nigeria as if the order had been issued by a court in Nigeria.

**90. Criminal Court may administer oaths in Nigeria**

The Criminal Court may, at any sitting of the Criminal Court in Nigeria, administer an oath or affirmation requiring a witness to give an undertaking as to truthfulness of the evidence given by the witness, in accordance with the Rules.

**91. Power to detain Criminal Court prisoners in prison in Nigeria**

- (1) Where the Criminal Court holds a sitting in Nigeria and requests that a person whose presence is required at that sitting be held in custody as a Criminal Court prisoner while the sitting continues in Nigeria, the Attorney - General shall direct in writing that the person be held in custody at the location as is specified in the direction.
- (2) A direction given under subsection (1) of this section in respect of an Criminal Court prisoner is sufficient authority for the detention of that prisoner in accordance with the terms of the direction.
- (3) The law relating to prisons so far as is applicable with any necessary modifications shall apply to a Criminal Court prisoner required to be detained in a prison by a direction under subsection (1) of this section as if the prisoner had been remanded in custody or sentenced to imprisonment for an offence under the laws of Nigeria, as the case may require and is liable to be detained in a prison under the order or sentence.
- (4) For the purposes of the application of the law relating to escape from lawful custody and aiding prisoners to escape, a Criminal Court prisoner who is in custody in a prison or other detention facility in Nigeria is deemed to be in lawful custody while in Nigeria.

**92. Removal of Criminal Court prisoner**

Where the Attorney - General is satisfied that the presence in Nigeria of an Criminal Court prisoner who was the subject of a direction under section 91 of this Act is no longer necessary, sections 74 to 79 of this Act shall apply to and in relation to that person with any necessary modifications.



## PART X — MISCELLANEOUS

### 93. Establishment of Special Victims Trust Fund

- (1) There is established for the purpose of this Act, a Special Victims Trust Fund for the benefit of victims of crimes and the families of the victims.
- (2) A person convicted of an offence under this Act by a High Court in Nigeria other than the Criminal Court, for any offence under this Act may forfeit to the Special Victims Trust Fund any asset or property confiscated or derived from any proceeds obtained, directly or indirectly, as a result of the offence disclosed or not disclosed in the Assets Declaration Form specified in the Schedule to this Act

#### *(Schedule)*

- (3) Subject to the provisions of subsection (2) of this section, the High Court in imposing a sentence on any person, shall order, in addition to any other sentence imposed pursuant to this Act that the person forfeit to the Special Victims Trust Fund properties described in subsection (2) of this section.
- (4) Subject to the provisions of subsection (2) of this section, the High Court may order money and other property collected through fines or forfeiture to be transferred, by order of the High Court, to the Special Victims Trust Fund.
- (5) The Attorney-General shall –
  - (a) ensure that the forfeited assets or properties under this Act are effectively transferred and vested in the Special Victims Trust Fund;
  - (b) issue guidelines and criteria for the management of the Special Victims Trust Fund.
- (6.) Subject to the provisions of subsection (2) of this section, a victim of crime under this Act, has the right to institute civil action against appropriate parties, and is entitled to compensation, restitution and recovery for economic, physical and psychological damages which shall be met from the Special Victims Trust Fund.

#### **94. Witness protection**

- (1) Where a person volunteers any information which may be useful in the investigation of an offence under this Act, the investigating and prosecuting authority shall take all reasonable measures to protect the identity of that person and the information so volunteered shall be treated as confidential.
- (2) The court may on a motion by or on behalf of the prosecuting authority protect a witness in any proceedings before it or on the application of the witness where it is satisfied that the life of the witness is in danger and takes measures as it deems fit to –
  - (a) keep the identity and address of the witness secret; and
  - (b) ensure that the witness and his family is protected from intimidation, threats, and reprisals from a person charged with an offence under this Act, his associates or any form of reprisals from person in position of authority.

#### **95. Declaration of Assets Form**

- (1) Where a person is arrested for committing an offence under this Act, the person shall make a full disclosure of all his assets and properties by completing the Declaration of Assets Form as specified in the Schedule to this Act.

#### ***(Schedule)***

- (2) The completed Declaration of Assets Form shall be fully investigated by an appropriate law enforcement and security agency.
- (3) A person who -
  - (a) knowingly fails to make full disclosure of his assets and liabilities;
  - (b) knowingly makes a declaration that is false; or
  - (c) fails, neglects or refuses to make a declaration or furnish any information required;

in the Declaration of Assets Form commits an offence under this Act and is liable on conviction to imprisonment for a term of ten years.

**96. Legal personality, privileges and immunities**

- (1) The Criminal Court has legal personality in Nigeria with such legal capacity as may be necessary for the performance of its functions and the fulfillment of its obligations under the Rome Statute and under this Act.
- (2) The Judges, the Prosecutors, the Deputy Prosecutors, the Registrar, the Deputy Registrar, staff of the Office of the Prosecutor and of the Registry, counsels, experts, witnesses and other persons required to be in Nigeria for the performance of the official functions or for participation in proceedings before the Criminal Court have the privileges and immunities set out in Article 48 of the Rome Statute and the Agreement on the Privileges and Immunities of the Criminal Court.
- (3) Article 48 of the Rome Statute and Articles 2 to 11, 13 to 22, 25 to 27, 29 and 30 of the Agreement on the Privileges and Immunities of the Criminal Court have the force of law in Nigeria and references in those Articles to the State Party shall, for this purpose, be construed as references to Nigeria.
- (4) Notwithstanding anything in subsections (2) and (3), a national of a State which has made an election under Article 23 of the Agreement on Privileges and Immunities of the Criminal Court is entitled only to the privileges and immunities referred to in Article 23 of the Agreement on Privileges and Immunities.

**97. Extension of mutual assistance in criminal matters and transfer of convicted offenders**

For the purpose of this Act, the President of the Federal Republic of Nigeria may by order published in the Gazette extend the provisions of the -

- (a) Mutual Assistance in Criminal Matters within the Commonwealth (Enactment and Enforcement) Act; and
- (b) Transfer of Convicted Offenders (Enactment and Enforcement) Act;

to apply to any country outside the Commonwealth and accordingly, the provisions of the Act mentioned in paragraphs (a) and (b) of this section have effect in their application of this Act.

***(Cap M24 LFN, 2004) (Cap T16 LFN, 2004)***

## 98. Regulations, policy and implementation guidelines

- (1) The Attorney - General may make regulations for the purpose of giving effect to the principles and provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), the Attorney - General may make regulations in respect of all or any of the following matters -
  - (a) prescribing the procedure to be followed in dealing with requests made by the Criminal Court, and providing for notification of the outcome of action taken to give effect to those requests;
  - (b) providing for temporary surrender of persons;
  - (c) prescribing the procedures for obtaining evidence or producing documents or other articles in accordance with a request made by the Criminal Court;
  - (d) providing for the payment of fees, traveling allowances, and expenses to any person in Nigeria who gives or provides evidence or assistance pursuant to a request made by the Criminal Court;
  - (e) prescribing conditions for the protection of any property sent to the Criminal Court pursuant to a request made under this Act, and making provision for the return of property to Nigeria;
  - (f) providing for the enforcement of any Criminal Court sentence of imprisonment;
  - (g) providing for management and disposal of property under a restraining, seizing or forfeiture order;
  - (h) prescribing the forms of applications, notices, certificates, warrants and other documents for the purpose of this Act, and requiring the use of those forms; and
  - (i) implementation of any obligation that is placed on States Parties by the Rules in so far as the obligation is not inconsistent with the provisions of this Act.
- (3) The Attorney – General may, from time to time, give general policy and implementation guidelines -
  - (a) for the strengthening of co-operation between the office of the Attorney-General, Ministry of Foreign Affairs, the Nigeria Police Force, the Nigeria Immigration Service, the Nigeria Customs Service, the Nigeria Prisons Service, welfare officials and other law enforcement

agencies for the purpose of the implementations of the provisions of this Act; and

- (b) taking charge of, supervising, controlling and co-ordinating all the responsibilities, functions and activities relating to current investigation and prosecution of offences under this Act.
- (4) Regulations, policy or implementation guidelines made by the Attorney - General under this section shall be published in the Federal Gazette and shall come into force on the date specified in them.

## 99. Interpretation

- (1) In this Act, unless the context otherwise requires—

**“admissibility decision”** means the preliminary decisions made by the Criminal Court to determine whether or not it has jurisdiction over a case or whether a case is admissible or not.

**“Appeals Chamber”** means the Appeals Chamber of the Criminal Court;

**“Agreement on the Privileges and Immunities of the Criminal Court”** means the agreement set out in Schedule 3 to this Act;

**“appropriate authority”** means the body that is lawfully responsible or empowered by law for the performance of the relevant functions.

**“Attorney – General”** means the Attorney – General of the Federation and Minister of Justice.

**“Constitution”** means the Constitution of the Federal Republic of Nigeria, 1999 as altered.

**“Criminal Court”** means the International Criminal Court established under the Rome Statute; and includes any of the organs of the International Criminal Court referred to in the Rome Statute;

**“Criminal Court Crime”** means a crime other than a crime of aggression over which the Criminal Court has jurisdiction in accordance with the Rome Statute;

**“Criminal Court prisoner”** means a person on whom a sentence of imprisonment has been imposed by the Criminal Court and includes a person who is held in custody at the request of the Criminal Court during a sitting of the Criminal Court in Nigeria;

**“Crime within the jurisdiction of the Criminal Court”** means

- (a) a crime over which the Criminal Court has jurisdiction under Article 5 of the Rome Statute; or
- (b) an offence against the administration of justice over which the Criminal Court has jurisdiction under Article 70 of the Rome Statute;

**“Deputy Prosecutor”** means a Deputy Prosecutor of the Criminal Court.

**“Deputy Registrar”** means a Deputy Registrar of the Criminal Court;

**“extradition”** means the delivering up of a person by one State to another as provided by treaty, convention or national legislation.

**“forfeiture order”** means an order made by the Criminal Court under Article 77(2)(b) of the Rome Statute or under the Rules for the forfeiture of tainted property and includes a forfeiture order that is treated for the purposes of enforcement as a pecuniary penalty order;

**“foreign entity”**, means a foreign State, a province, State or other political subdivision of a foreign State, a colony, dependency, possession, protectorate, condominium, trust territory or any territory falling under the jurisdiction of a foreign state or a territory or other entity, including an international criminal tribunal with which Nigeria has entered into a treaty on the prevention and prosecution of certain international crimes.

**“foreign offender”** means a citizen or national of a foreign entity who has been found guilty of an offence under the provisions of this Act and whose verdict and sentence may no longer be appealed;

**“fundamental rules of international law”** means a convention, treaty or other international agreement to which the Government of the Federal Republic of Nigeria is a party and for the time being in force; and the provisions of which Nigeria has agreed to accept as binding;

**“He”** includes “she”;

**“High Court”** means the Federal High Court, the High Court of the Federal Capital Territory and the High Court of any State in Nigeria;

**“Judge”** means a Judge of the High Court;

**“Information”** means indictment, formal criminal charge or formal written accusation of a crime made by a competent prosecutor and presented to a court for prosecution against a criminal defendant pursuant to relevant provisions of this Act;

**“international crime”** means, in relation to the Criminal Court, a crime in respect of which the Criminal Court has jurisdiction under Article 5 of the Rome Statute;

“**Nigerian prisoner**” or “**prisoner**” means a person who is for the time being in the legal custody of the officer in charge of any Nigerian Prison Service or any of its formations, whether or not that person has been convicted of an offence;

“**Official**”, in relation to the International Criminal Court, means the Prosecutor, Registrar, Deputy Prosecutor, Deputy Registrar or other staff of the organs of the Court;

“**person**” means a natural person, a company or association or body of persons, corporate or unincorporated;

“**Prescribed**” means prescribed by regulations made under this Act;

“**Pre-Trial Chamber**” means the Pre-Trial Chamber of the Criminal Court;

“**prison**” means a place of confinement other than a penitentiary;

“**prison officer**” means a person who is an officer as defined under the Prisons Act;

**(Cap P29 LFN, 2004)**

“**proceeds**” means any property derived or obtained, directly or indirectly, through the commission of an offence under this Act.

“**property**” means movable or immovable property of every description, real or personal, whether situated in the Federal Republic of Nigeria or elsewhere and whether tangible or intangible; and includes interest in any such movable or immovable property;

“**Prosecutor**” means the Director of Public Prosecutions under the Office of the Attorney – General;

“**Registrar**” means the Registrar of a High Court;

“**restraining order**” means an order prohibiting any person from dealing in the property specified in the order other than in accordance with the conditions and exceptions specified in the order;

“**Rome Statute**” means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on 17th July, 1998, as corrected by the *procès-verbaux* of 10th November, 1998, 12th July, 1999, 30th November, 1999 and 8th May, 2000.

“**Rules**” means the Rules of Procedure and Evidence adopted or made under Article 51 of the Rome Statute;

“**seizing order**” means an order authorizing a police officer to search for any property and to seize the property if found or any other property that the police officer believes on reasonable grounds may relate to the request from the Criminal Court;

**“Special Victims Fund”** means the fund established under section 93 of this Act for the benefit of victims of crimes and the families of such victims.

**“Statute”** means the Rome Statute of the Criminal Court, made in Rome on July 17, 1998, a copy of the English Text is set out in Schedule 1 to this Act;

**“surrender”** means the delivering up of a person by a State to the Court, pursuant to this Statute;

**“Trial Chamber”** means the Trial Chamber of the Criminal Court.

- (2) Reference in this Act to –
- (a) a request by the Criminal Court for assistance -
    - (i) includes a reference to a request by the Criminal Court for co-operation;
    - (ii) under a specified provision or in relation to a particular matter includes a reference to a request by the Criminal Court for co-operation under that provision or in relation to that matter;
  - (b) a figure in brackets immediately following the number of an Article of the Statute is a reference to the paragraph of that Article with the number corresponding to the figure in brackets;
  - (c) a sentence of imprisonment imposed by the Criminal Court includes a reference to a sentence of imprisonment extended by the Criminal Court (whether for the non-payment of a fine or otherwise); and
  - (d) Articles are unless otherwise indicated, reference to the Articles of the Criminal Court Statute.
- (3) Unless otherwise provided, words and expressions used in this Act have the same meaning as in the *Penal Code or Criminal Code*.

**(Cap. P3 and Cap. C38 LFN, 2004)**

## **100. Short title**

This Act may be cited as the Crimes Against Humanity, War Crimes, Genocide and Related Offences Act, 2012.



**INTERNATIONAL CRIMES AGAINST HUMANITY (PUNISHMENT AND ENFORCEMENT)  
AND RELATED OFFENCES ACT, 2012**

**SCHEDULE  
(Sections 93 and 95)**

**DECLARATION OF ASSETS FORM**

To be completed in TRIPLICATE and in BLOCK LETTERS or typed. All available information should be included

**Important:** It is an offence punishable by up to a maximum of 10 years imprisonment under the Act to -

- (i) knowingly fail to make full disclosure of your assets and liabilities
- (ii) knowingly make a declaration that is false
- (iii) fail, neglect or refuse to make a declaration or furnish any information required

Each item is to be completed. If it does not apply, the person affected must write 'nil' or 'none' in the space. Where necessary, an extra sheet or sheets may be used and attached to this form by the person affected.

I.....being accused of an offence..... under the International Crimes Against Humanity (Punishment and Enforcement) and Related Offences Act, 2011 declare my assets as follows –

SURNAME	Other Names	Date of Birth	If dead State the date of Death	Place of Birth	Nationality	State of Origin	Local Government	Occupation	Present Address	Home Address
(a) Now		(b) At birth if different		(a) Now			(b) At Birth			

1.Declarant				
2.Spouse			If married, State date and place	
3.Father				
4.Mother				
5.Brothers (i) (ii) (iii)				
6.Sisters (i) (ii) (iii)				
7.Children (i) (ii) (iii)				
8.Dependants, Relatives, Uncle, Aunt, Next of Kin				
9. Associated Persons (i)..... (ii)..... (iii).....	Names in full	Address	Occupation	Nation ality
.....	.....	.....	.....	
.....	.....	.....	.....	
.....	.....	.....	.....	
10.Aliens: (a) Nationality Alien Registration No. (b) If Naturalized Certificate				
11.Schools attended with dates: Primary School: Post Primary School Or Secondary: University, etc. Qualifications attained.				

12. Amount held in own account N K

(1) Cash in hand

(ii) Cash at bank

(iii) Outside Nigeria (Countries/Banks to be named) .

13. Amount held on behalf of or as trustee for any person other than your wife/husband\*

(i) Cash in hand

(ii) Cash in bank

(iii) Outside Nigeria (Countries/Banks to be named)

14. Loans or advances made

15. Loans or advances received.

16. Amount held on behalf of or as trustee of wife/husband
  - (2) Cash in hand
  - (ii) Cash at bank
  - (iii) Outside Nigeria (Countries/Banks to be named) .
17. Wife's/husband's/children's account held (beneficial or otherwise)
  - (i) Cash in hand
  - (ii) Cash at bank
  - (iii) Outside Nigeria (Countries/Banks to be named) .
18. Government securities, including premium bonds and other interests held in companies, firms or partnerships (giving names of companies firms and partnerships)
  - (a) by you (here state the bonds, etc.)
  - (b) by wife (wives)/husband\* (here state the bonds, etc.)
  - (c) by children (here state the bonds, etc.)
19. Property in Nigeria in which you are interested in giving date when acquired
  - (i) Land:
  - (ii) Buildings:
  - (iii) Other property, (if any):
20. Property outside Nigeria in which you are interested in when acquired
  - (i) Land:
  - (ii) Buildings:
  - (iii) Other property, (if any):
21. Property outside Nigeria in which any wife/husband\* is interested in giving date when acquired-
  - (i) Land:
  - (ii) Buildings:
  - (iii) Other property, (if any):
22. Property outside Nigeria in which any wife/husband\* is interested in giving date when acquired-
  - (i) Land:
  - (ii) Buildings:
  - (iii) Other property, (if any):
- 23 Property in Nigeria in which any child of yours is interested in, giving date when acquired-
  - (i) Land:
  - (ii) Buildings:
  - (iii) Other property, (if any):
24. Property outside Nigeria in which any child of yours is interested in giving date when acquired-
  - (i) Land:
  - (ii) Buildings:
  - (iii) Other property, (if any)
25. Names of other dependant relatives;
26. Estate in which you are interested as trustee or beneficially interested. (Name of deceased or trustee)
27. Property held by any person on your behalf-(in or outside Nigeria)
  - (i) Cash in hand;
  - (ii) Cash at bank;
  - A (iii),Land;

- (iv) Building;
- (v) Other properties (if any)

### **EXPLANATORY MEMORANDUM**

*(This note does not form part of this Act but is intended to explain its purport)*

This Act provides for measures under Nigerian Law for the enforcement and punishment of Crimes against humanity, war crimes, genocide and related offences; give effect to the Rome Statute of the International Criminal Court and to enable Nigeria to cooperate with the International Criminal Court in the performance of its functions.