Federal Republic of Nigeria
Official Gazette

No. 80 Lagos - 21st June, 2011 Vol. 98

Government Notice No. 162

The following is published as Supplement in this *Gazette* :

Act No.	*Short Title*	*Page*
18	Evidence Act, 2011	A291 - 371

Printed and Published by The Federal Government Printer, Lagos, Nigeria
FGP 126/92011/1,200 (OL 78)

Annual Subscription from 1st January, 2011 is Local : ₦15,000.00 Overseas : ₦21,500.00 [Surface Mail] ₦24,500.00 [Second Class Air Mail]. Present issue ₦1,500.00 per copy. Subscribers who wish to obtain *Gazette* after 1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.

EVIDENCE ACT, 2011

ARRANGEMENT OF SECTIONS

SECTION:

PART V—DOCUMENTARY EVIDENCE

PART VI—PROOF

PART VII—ORAL EVIDENCE AND THE INSPECTION OF REAL EVIDENCE

PART VIII—EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE

PART IX—PRODUCTION AND EFFECT OF EVIDENCE

PART X—PRESUMPTIONS AND ESTOPPEL

PART XI—WITNESSES

PART XV—SERVICE AND EXECUTION THROUGH-OUT NIGERIA OF PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES BEFORE COURTS OF THE STATES AND THE FEDERAL CAPITAL TERRITORY, ABUJA AND THE FEDERAL HIGH COURT.

PART XVI—MISCELLANEOUS AND SUPPLEMENTAL

EVIDENCE ACT, 2011

ACT No. 18

AN ACT TO REPEAL THE EVIDENCE ACT CAP. E 14, LAWS OF THE FEDERATION OF NIGERIA, AND ENACT A NEW EVIDENCE ACT WHICH SHALL APPLY TO ALL JUDICIAL PROCEEDINGS IN OR BEFORE COURTS IN NIGERIA ; AND FOR RELATED MATTERS.

[*3rd Day of June*, 2011] Commencement.

ENACTED by the National Assembly of the Federal Republic of Nigeria—

PART I—GENERAL.

Relevant Evidence in Suits and Proceedings

Evidence may be given of facts in issue and relevant facts.

1. Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereafter declared to be relevant, and of no others.

Provided that—

(*a*) the court may exclude evidence of facts which though relevant or deemed to be relevant to the issue, appears to it to be too remote to be material in all the circumstances of the case ; and

(*b*) this section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force.

Evidence in accordance with section 1 generally admissible.

2. For the avoidance of doubt, all evidence given in accordance with section 1 shall, unless excluded in accordance with this or any other Act, or any other legislation validly in force in Nigeria be admissible in judicial proceedings to which this Act applies :

Provided that admissibility of such evidence shall be subject to all such conditions as may be specified in each case by or under this Act.

Admissibility of evidence under other legislation.

3. Nothing in this Act shall prejudice the admissibility of any evidence that is made admissible by any other legislation validly in force in Nigeria.

PART II—RELEVANCY

Relevance of Facts

Relevance of facts forming part of same transaction.

4. Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

Facts which are the occasion cause or effect or facts in issue.

5. Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts, or facts in issue ; or which constitute the state of things under which they happened, or which afforded an opportunity for their occurence or transaction, are relevant.

Motive, preparation and previous or subsequent conduct.

6.—(1) Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

(2) The conduct, whether previous or subsequent to any proceeding—

(*a*) of any part to any proceeding, or an agent to such party, in reference to such suit or proceeding or in reference to any fact in issue in it or a fact relevant to it ; and

(*b*) of any person an offence agaisnt whom is the subject of any proceeding, is relevant in such proceedings if such conduct influences or is influenced by any fact in issue or relevant fact.

(3) The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements, but this provision shall not affect the relevance of statements under any other section.

(4) When the conduct of any person is relevant, any statement made to him or in his presence and hearing which affects such conduct is relevant.

Facts necessary to explain or introduce relevant facts.

7. Facts—

(*a*) necessary to explain or introduce a fact in issue or relevant fact ;

(*b*) which support or rebut an inference suggested by a fact in issue or relevant fact ;

(*c*) which establish the identity of anything or person whose identity is relevant ;

(*d*) which fix the time or place at which any fact in issue or relevant fact happened ; or

(*e*) which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

Things said or done by conspirator in reference to common intention.

8.—(1) Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence of an actionable wrong, anything said, done or written by any one of such persons in execution or furtherance of their common intention, after the time when such intention was first entertained by one of them, is a relevant fact as against each of the persons believed to be so conspiring for the purpose of proving the existence of the conspiracy as well as for the purpose of showing that any such person was a party to it.

(2) Notwithstanding subsection (1) of this section, statements made by individual conspirators as to measues taken in the execution or furtherance of such common intention are not deemed to be relevant as such as against any conspirator, except those by whom or in whose presence such statements are made.

(3) Evidence of acts or statements deemed to be relevant under this section may not be given until the court is satisfied that, apart from them there are *prima facie* grounds for believing the existence of the conspiracy to which they relate.

When facts not otherwise relevant become relevant.

9. Facts not otherwise relevant are relevant if—

(*a*) they are inconsistent with any fact in issue or relevant fact ; and

(*b*) by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact probable or improbable.

Certain facts relevant in proceedings for damages.

10. In proceedings in which damages are claimed any fact which will enable the court to determine the amount of damages which ought to be awarded is relevant.

Facts showing existence of state of mind, body or bodily feeling.

11.—(1) Facts showing the existence of—

(*a*) any state of mind such as intention, knowledge, good faith, negligence, rashness, ill-will or goodwill towards any particular person ; or

(*b*) any state of body or bodily feeling are relevant when the existence of any such state of mind or body or bodily feeling is in issue or relevant.

(2) A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

Facts bearing on question whether act was accidental or intentional.

12. When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention or to rebut any defence that may otherwise be open to the defendant, the fact that such act formed part of a series of similar occurences, in each of which the person doing the act was concerned, is relevant.

Existence of course of business, when relevant.

13. When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

PART III—RELEVANCE AND ADMISSIBILITY OF CERTAIN EVIDENCE

Improperly Obtained Evidence

Discretion to exclude improperly obtained evidence.

14. Evidence obtained—

(*a*) improperly or in contravention of a law ; or

(*b*) in consequence of an impropriety or of a contravention of a law,

shall be admissible unless the court is of the opinion that the desirability of admitting the evidence is out-weighed by the undesirability of admitting evidence that has been obtained in the manner in which the evidence was obtained.

Matters court to take into account under section 14.

15. For the purposes of section 14, the matters that the court shall take into account include—

(*a*) the probative value of the evidence ;

(*b*) the importance of the evidence in the proceeding ;

(*c*) the nature of the relevant offence, cause of action or defence and the nature of the subject-matter of the proceeding ;

(*d*) the gravity of the impropriety or contravention ;

(*e*) whether the impopriety or contravention was deliberate or reckless ;

(*f*) whether any other proceeding (whether or not in a court) has been or is likely to be taken in relation to the impropriety or contravention ; and

(*g*) the difficulty, if any, of obtaining the evidence without impropriety or contravention of law.

Customs

What customs admissible.

16.—(1) A custom may be adopted as part of the law governing a particular set of circumstances if it can be judicially noticed or can be proved to exist by evidence.

(2) The burden of proving a custom shall lie upon the person alleging its existence.

Judicial notice of customs.

17. A custom may be judicially noticed when it has been adjudicated upon once by a superior court of record.

Evidence of Customs.

18.—(1) Where a custom cannot be established as one judicially noticed, it shall be proved as a fact.

(2) Where the existence or the nature of a custom applicable to a given case is in issue, there may be given in evidence the opinions of persons who would be likely to know of its existence in accordance with section 73.

(3) In any judicial proceeding where any custom is relied upon, it shall not be enforced as law if it is contrary to public policy, or is not in accordance with natural justice, equity and good conscience.

Relevant facts as to how matter alleged to be custom understood.

19. Every fact is deemed to be relevant which tends to show how in particular instances a matter alleged to be a custom was understood and acted upon by persons then interested.

Admissions

Admission defined.

20. An admission is a statement, oral or documentary, or conduct which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and in the circumstances, mentioned in this Act.

Admission by privies.

21.—(1) Statements made by a party to the proceeding or by an agent to any such party, whom the court regards, in the cicumstances of the case, is expressly or impliedly authorised by him to make them, are admissions.

(2) Statements made by parties to suits, suing or sued in a representative character, are not admissions unless they were made while the party making them held that character.

(3) Statements made by persons—

(*a*) who have any proprietary or pecuniary interest in the subject-matter of the proceedings and who made the statements in their character of persons so interested ; or

(*b*) from whom the parties to the suit have derived their interest in the subject matter of the suit, are admissions, if they are made during the continuance of the interest of the person making the statements.

Admissions by persons whose position must be proved as against party to suit.

22. Statements made by persons whose position or liability it is necessary to prove as against any party to the suit are admissions if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such laibility.

Admissions by person expressly referred to by party to suit.

23. Statements made by person to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions.

Proof of admissions against persons making them, and by or on their behalf.

24. Admissions are relevant and may be proved as against the person who makes them or his representative in interest, but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases—

(*a*) an admission may be proved by or on behalf of the person making it when it is of such a nature that, if the person making it cannot be called as a witness, it would be relevant as between third parties under sections 39 to 45.

(*b*) an admission may be proved by or on behalf of the person making it, when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable ; and

(*c*) an admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.

When oral admissions as to contents of documents are relevant.

25. Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under Part V or unless the genuineness of a document produced is in question.

Admissions in civil cases, when relevant.

26. In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or in circumstances from which the court infer that the parties agreed together that evidence of it should not be given.

Provided that nothing in this section shall be taken to exempt any legal practitioner from giving evidence of any matter of which he may be compelled to give evidence under section 192.

Admissions not conclusive proof, but may be stop.

27. Admissions are not conclusive proof of the matters admitted but they may operate as estoppel under Part X.

Confessions

Confession defined.

28. A confession is an admission made at any time by a person charged with a c rime, stating or suggesting the inference that he committed that crime.

When confession is relevant.

29.—(1) In any proceeding, a confession made by a defendant may be given in evidence against him in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.

(2) If, in any proceeding where the prosecution proposes to give in evidence a confession made by a defendant, it is represented to the court that the confession was or may have been obtained—

(*a*) by oppression of the person who made it ; or

(*b*) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in such consequence, the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained in a manner contrary to the provisions of this section.

(3) In any proceeding where the prosecution proposes to give in evidence a confession made by a defendant, the court may of its own motion require the prosecution, as a condition of allowing it to do so, to prove that the confession was not obtained as mentioned in either subsection (2)(*a*) or (*b*) of this section.

(4) Where more persons than one are charged jointly with an offence and a confession made by one of such persons in the presence of one or more of the other persons so charged is given in evidence, the court shall not take such statement into consideration as against any of such other persons in whose presence it was made unless be adopted the said statement by words or conduct.

(5) In this section "*oppression*" includes torture, inhuman or degrading treatment, and the use or threat of violence whether or not amounting to torture.

Facts discovered in consequence of information given by defendant.

30. Where information is received from a person who is accused of an offence, whether such person is in custody or not, and as a consequence of such information any fact is discovered, the discovery of the fact, together with evidence that such discovery was made in consequence of the information received from the defendant, may be given in evidence where such information itself would not be admissible in evidence.

Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.

31. If a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the defendant for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of these questions or because he was not warned that he was not bound to make such statement and that evidence of it might be given.

Evidence in other proceedings amounting to a confession is admissible.

32. Evidence amounting to a confession may be usd as such against the person who gives it, although it was given upon oath, and although the proceeding in which it was given had reference to the same subject-matter as the proceeding in which it is to be proved and although the witness might have refused to answer the question put to him, but if, after refusing to answer any such question the witness is improperly compelled to answer it, his answer is not admissible as a confession.

Statements Generally

What evidence to be given when statement forms part of a conversation, document, book or series of letters or papers.

33. When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document or is contained in a document which forms part of a book, or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation document, book or series of letters or papers as the court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances in which it was made.

Weight to be attached to admissible statements.

34.—(1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by this Act, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular—

(*a*) to the question whether or not the statement was made contemporaneously with the occurence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent facts ; and

(*b*) in the case of a statement contained in a document produced by a computer—

(*i*) the question whether or not the information which the statement contained, reproduces or is derived from, was supplied to it, contemporaneously with the occurence or existence of the facts dealt with in that information, and

(*ii*) the question whether or not any person concerned with the supply of infomation to that computer or with the operation of that computer or any equipment by means of which the document containing the statement was produced by it, had any incentive to conceal or misrepresent facts.

(2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by this Act shall not be treated as corroboration of evidence given by the maker of the statement.

Acts in Relation to Land

Acts of possession and enjoyment of land may be evidence.

35. Acts of possession and enjoyment of land may be evidence of ownership or of a right of occupancy not only of the particular piece or quantity of land with reference to which such acts are done, but also of other land so situated or connected with it by locality or similarity that what is true as to the one piece of land is likely to be true of the other piece of land.

Scienter

Evidence of scienter upon charge of receiving stolen property.

36.—(1) Whenever any person is being proceeded against for receiving any property, knowing it to have been stolen or for having in his possession stolen property, for the purpose of proving guilty knowledge, there may be given in evidence at any stage of the proceeding—

(*a*) the fact that other property stolen when the period of 12 months preceeding the date of the offence charged was found or had been in his possession ; and

(*b*) the fact that within the 5 years preceeding the date of the offence charged he was convicted of any offence involving fraud or dishonesty.

(2) The fact mentioned in subsection (1) (*b*) of this section may not be proved unless—

(*a*) 7 days notice in writing has been given to the offender that proof of such previous conviction is intended to be given ; and

(*b*) evidence has been given that the property in respect of which the offender is being tried was found or had been in his possession.

PART IV—HEARSAY, OPINION AND CHARACTER EVIDENCE : RELEVANCE AND ADMISSIBILITY

Hearsay Evidence

Hearsay Evidence Generally

Hearsay defined.

37. Hearsay means a statement—

(*a*) oral or written made otherwise than by a witness in a proceeding ; or

(*b*) contained or recorded in a book, document or any record whatever, proof of which is not admissible under any provision of this Act, which is tendered in evidence for the purpose of proving the truth of the matter stated in it.

Hearsay rule.

38. Hearsay evidence is not admissible except as provided in this Part or by or under any other provision of this or any other Act.

Statements made by Persons who cannot be called as Witness

Statements by persons who cannot be called as witness.

39. Statements, whether witten or oral of facts in issue or relevant facts made by a person—

(*a*) who is dead ;

(*b*) who cannot be found ;

(*c*) who has become incapable of giving evidence ; or

(*d*) whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the court unreasonable, are admissible under section 40 to 50.

Statement relating to cause of death.

40.—(1) A statement made by a person as to the cause of his death, or as to any of the circumstance of the events which resulted in his death in cases in which the cause of that persons's death comes into question is admissible where the person who made it believed himself to be in danger of approaching death although he may have entertained at the time of making it hope of recovery.

(2) A statement referred to in subsection (1) of this section shall be admissible whatever may be the nature of the proceeding in which the case of death comes into question.

Statements made in the course of business.

41. A statement is admissible when made by a person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books, electronic device kept in the ordinary course of business, or in the discharge of a professional duty, or of an acknowledgement written or signed by him of the receipt of money, goods, securities or property of any kind, or of a document used in commerce written or signed by him, or of the date of a letter or other document usually dated, written or signed by him :

Provided that the maker made the statement contemporaneously with the transaction recorded or so soon thereafter that the court considers it likely that the transaction was at that time still fresh in his memory.

Statement against interest of maker with special knowledge.

42. A statement is admissible where the maker had peculiar means of knowing the matter stated and such statement is against his pecuniary or proprietary interest and—

(*a*) he had no interest to misrepresent the matter ; or

(*b*) the statement, if true, would expose him to either criminal or civil liability.

Statements of opinions as to public right or custom and matters of general interest.

43.—(1) A statement is admissible when such statement gives the opinion of a person as to the existence of any public right or custom or matter of general interest, the existence of which, if it existed, the maker would have been likely to be aware.

(2) A statement referred to in subsection (1) of this section shall not be admissible unless it was made before any controversy as to such right, custom or matter, had arisen.

Statements relating to the existence of a relationship.

44.—(1) Subject to subsection (2) of this section, a statement is admissible when it relates to the existence of relationship by blood, marriage or adoption between persons as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge.

(2) A statement referred to in subsection (1) of this section shall be admissible under the following conditions—

(*a*) that it is deemed to be relevant only in a case in which the pedigree to which it relates is in issue, and not to a case in which it is only relevant to the issue ; and

(*b*) that it must be made by a declarant shown to be related by blood to the person to whom it relates, or by the husband or wife of such a person :

Provided that—

(*i*) a declaration by a deceased parent, that he or she did not marry the other parent until after the birth of the child is relevant to the question of the paternity of such child upon any question arising as to the right of the child to inherit real or personal property under any legislation ; and

(*ii*) in proceeding for the determination of the paternity of any person, a declaration made by a person who, if an order were granted, would stand towards the petitioner in any of the relationships mentioned in paragraph (*b*) of this subsection, is deemed relevant to the question of the identity of the parents of the petitioner ; and

(*c*) that the statement must be made before the question in relation to which it is to be proved had arisen, but it does not cease to be admissible because it was made for the purpose of preventing the dispute from arising.

Declarations by testators.

45.—(1) The declarations of a deceased testator as to his testamentary intentions and as to the content of his will, are admissible when—

(*a*) his will has been lost, and when there is question as to what were its contents ; or

(*b*) the question as to whether an existing will is genuine or was improperly obtained : or

(*c*) the question as to whether any and which of more existing documents than one constitute his will.

(2) In the cases mentioned (1) of this section, it is immaterial whether the declarations were made before or after the making or loss of the will.

Admissibility of certain evidence for proving, in subsequent proceeding, the truth of facts stated in it.

46.—(1) Evidence given by a witness in a judicial proceeding, or before any person authorised by law to take it, is admissible for the purpose of proving in a subsequent judicial proceeding or in a later stage of the same judicial proceeding the truth of the facts which it states, when the witness cannot be called for any of the reasons specified in section 39, or is kept out of the way by the adverse party.

Provided that—

(*a*) the proceeding was between the same parties or their representatives in interest ;

(*b*) the adverse party in the first proceeding had the right and opportunity to cross-examine ; and

(*c*) the questions in issue were substantially the same in the first as in the second proceeding.

(2) A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the defendant within the meaning of this section.

When statement made under any criminal procedure legislation may be used in evidence.

47. A statement in accordance with sections 290 and 291 or section 319 of the Criminal Procedure Act, may afterwards be used in evidence on the trial of any person accused of an offence to which the same relates, if the person who made the statement cannot be called for any of the reasons specified in section 39, and if reasonable notice of the intention to take such statement was served upon the person against whom it is to be read in evidence and he had, or might have had, if he had chosen to be present, full opportunity of cross-examining the person making the statement.

Statement of defendant at preliminary investigation or Coroner's inquest.

48. Any statement made by a defendant at a preliminary investigation or at a coroner's inquest may be given in evidence.

Admission of written statements of investigating police officers in certain cases.

49. Notwithstanding anything contained in this Act or any other law but subject to this section, where in the course of any criminal trial, the court is satisfied that for any sufficient reason, the attendance of the investigating police officer cannot be procured, the written and signed statement of such officer may be admitted in evidence by the court if—

(*a*) the defence does not object to the statement being admitted ; and

(*b*) the court consents to the admission of the statement.

Absence of public officers.

50. In the case of a person employed in the public service of the Federation or of a State who is required to give evidence for any purpose connected with a judicial proceeding, it shall be sufficient to account for his non-attendance at the hearing of the said judicial proceeding if there is produced to the court either a Federal or State *Gazette* or a telegram, an e-mail or letter purporting to emanate from the head of his department, sufficiently explaining to the satisfaction of the court his apparent default.

Statements made in special circumstances entries in books of account.

51. Entries in books of accounts or electronic records regularly kept in the course of business are admissible whenever they refer to a matter into which the court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

Entry in public records made in performance of duty.

52. An entry in any public or other official books, register or record, including electronic record stating a fact in issue or relevant fact and made by a public servant in the discharge of his official duty, or by any other person in the performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself admissible.

Statements in maps, charts and plans.

53. Statements of facts in issue or relevant facts made in published maps or charts generally offered for public sale, or in maps plans made under the authority of Government, as to matters usually represented or stated in such maps, charts or plans, are themselves admissible.

Statement as to fact of public nature contained in certain acts or notifications.

54. When the court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any enactment or in any proclamation or speech of the President in opening the National Assembly, or in any proclamation or speech, or in any statement made in a Goverment or public notice appearing in the Federal *Gazette* or in a State notice or a State public notice appearing in a State *Gazette* or the Government *Gazette* of any other country is admissible.

Certificates of specified government officers to be sufficient evidence in all criminal cases.

55.—(1) Either party to the proceeding in any criminal case may produce a certificate signed by the Government Pharmarcist, the Deputy Government Pharmacist, an Assistant Government Pharmacist, a Government Pathologist or Entomologist or the Accountant-General, or any other Pharmacist so specified by the Government Pharmacist of the Federation or of a State, any pathologist or entomologist specified by the Director of Medical Laboratories of the Federation or of a State, or any accountant specified by the Accountant-General of the Federation or of a State (whether any such officer is by that or any other title in the service of the State or of the Federal Government), and the production of any such certificate may be taken as sufficient evidence of the facts stated in it.

(2) Notwithstanding subsection (1) of this section, any certificate issued and produced by any officer in charge of any laboratory established by the approriate authority may be taken as a sufficient evidence of facts stated in it.

(3) Notwithstanding subsections (1) and (2) of this section, the court shall have the power, on the application of either party or of its own motion, to direct that any such officer as is referred to in the subsections shall be summoned to give evidence before the court if it is of the opinion that, either for the purpose of cross-examination or for any other reason, the interests of justice so requires.

(4) The President may, by notice in the Federal Gazette, declare that any person named in such notice, being an officer in the public service of the Federation employed in a forensic science laboratory in a rank not below that of Medical Laboratory Technologist, shall, for the purposes of subsection (1) of this section, be empowered to sign a certificate relating to any subject specified in the notice, and while such declaration remains in force subsection (1) of this section shall apply in relation to such person as they apply in relation to an officer mentioned in that subsection.

Provided that a certificate signed by such person shall not be admissible in evidence if, in the opinion of the court, it does not relate wholly or mainly to a subject so specified as in such notice.

(5) In this section—

"*appropriate authority*" means the Inspector-General of Police, the Comptroller-General of Customs or the Minister of Health ;

"*officer*" means any officer-in-charge of any laboratory established pursuant to this Act.

"*specified*" means specified by notice as may be published in the Federal or State *Gazette*.

Certificates of Central Bank officers as evidence in criminal cases.

56. Where in criminal proceedings, a certificate purports to be signed by an officer of the Central Bank of Nigeria who himself adds after his signature the words "duly authorised by the Governor of the Central Bank of Nigeria" it shall be accepted by all courts and persons as sufficient evidence of the facts stated in the certificate, and no certificate shall be questioned on the ground only of the authorisation ; but subject to this, section 55 (3) shall have effect with regard to any such certificate.

Service of certificates on other party before hearing.

57. Where any such certificate as is mentioned in section 55 or 56 is intended to be produced by either party to the proceedings, a copy of it shall be served on the other party at least ten clear days before the day appointed for the hearing and if it is not so sent the court may, if it thinks fit, adjourn the hearing on such terms as may seem proper.

Genuineness of certificates to be presumed.

58. The court shall, in the absence of evidence to the contrary, presume that the signature to any such certificate as is mentioned in sections 55 and 56 is genuine and that the person signing it held the office or authority which he professed at the time when he signed it.

Judgments of Courts of Justice

Previous judgments admissible to bar a second suit or trial.

59. The existence of any judgment, order or decree which by law prevents any court from taking cognisance of a suit or holding a trial, is a relevant fact, evidence of which is admissible when the question is whether such court ought to take cognisance of such suit or to hold such trial.

Admissibility of certain judgments in certain jurisdictions.

60.—(1) A final judgment, order or decree of a competent court, in the exercise of probate, matrimonial, admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character or to be entitled to any specific thing, not as against any specified person but absolutely, is admissible when the existence of any such legal character, or the title of any such legal persons to any such thing, is relevant.

(2) Such judgment, order or decree is conclusive proof—

(*a*) that any legal character which it confers accrued as the time when such judgment order or decree came into operation ;

(*b*) that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment, order or decree declares it to have accrued to that person ;

(*c*) that any legal character which it takes away from any such person ceased at the time from which such judgment, order or decree declared that it had ceased or should cease ; and

(*d*) that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree declares that it had been or should be his property.

Admissibility and effect of judgments other than those mentioned in section 60.

61. Judgements, orders or decrees other than those mentioned in section 60 are admissible if they relate to matters of a public nature relevant to the inquiry ; but such judgments, orders or decrees are not conclusive proof of that which they state.

Judgment, etc. other than those mentioned in sections 59 to 61, when admissible.

62. Judgments, orders of decrees, other than those mentioned in sections 59, 60 and 61 are inadmissible unless existence of such judgment order or decree is a fact in issue, or is admissible under some other provision of this or any other Act.

Conviction as evidence in civil proceedings.

63.—(1) Notwithstanding section 62, in any civil proceeding the fact that a person has been convicted of any offence by a court of competent jurisdiction shall be admissible for the purpose of proving, where to do so is relevant to any issue in those proceeding that he committed that offence, but no conviction that has been quashed on appeal by a court o competent jurisdiction or in respect of which an appeal is pending shall be admissible in evidence by virtue of this section.

(2) If in any civil proceeding it is proved in accordance with subsection (1) of this section that any person has been convicted of an offence by a court of competent jurisdiction—

(*a*) that person shall be presumed to have committed the offence unless he proves to the contrary ; and

(*b*) without prejudice to the admission of any other evidence for the purpose of determining the facts upon which the conviction is based, the contents of any information, complaint or, charge sheet, according to which that person has been convicted shall also be admissible in evidence for this purpose.

64. A party to a suit or other proceeding may show that any judgment, order or decree which is admissible under section 59, 60 or 61 and which has been proved by the adverse party, was delivered by a court without jurisdiction, or was obtained by fraud or collusion.

Fraud or collusion in obtaining judgment, or non-jurisdiction of court may be proved.

65. When an action is brought against any person for anything done by him in a judicial capacity, the judgement delivered, and the proceeding antecedent to it, are conclusive proof of the facts stated in such judgement, whether they are or are not necessary to give the defendant jurisdiction, if assuring them to be true, they show that he had jurisdiction.

Judgment conclusive in favour of judge.

Oral Evidence of Tradition

66. When the title to or interest in family or communal land is in issue, oral evidence of family or communal tradition concerning such title or interest is admissible.

Family or communal tradition admissible in land cases.

Opinion Evidence

Opinion Evidence Generally

67. The opinion of any person as to the existence or non-existence of a fact in issue or relevant to the fact in issue is inadmissible except as provided in sections 68 to 76 of this Act.

Opinion inadmissible except as provided in this Act.

Opinion of Experts

68. When the court has to form an opinion upon a point of foreign law, customary law or custom, or of science or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, customary law or custom, or science or art, or in questions as to identity of handwriting or finger impressions, are admissible.

Opinions of experts, when admissible.

(2) Persons so specially skilled as mentioned in subsection (1) of this section are called experts.

69. Where there is a question as to foreign law, the opinions of experts who in their profession are acquainted with such law are admissible evidence of it, though such experts may produce to the court books which they declare to be works of authority upon the foreign law in question, which books the court, having received all necessary explanations from the experts, may construe for itself.

Opinion as to foreign law.

Opinions as to customary law and custom.

70. In deciding questions of customary law and custom, the opinions of traditional rulers, chiefs or other persons having special knowledge of the customary law and custom and any book or manuscript recognised as legal authority by people indigenous to the locality in which such law or custom applies, are admissible.

Facts bearing upon opinions of experts.

71. Facts not otherwise relevant are relevant if they support or are inconsistent with the opinions of experts, when such opinions are admissible.

Opinion of Non-Experts

Opinion as to handwriting, when admissible.

72.—(1) When the court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is admissible.

(2) A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents puporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when in the ordinary course of business, documents purporting to be witten by that person have been habitually submitted to him.

Opinion as to existence of "general custom or right" when admissible.

73.—(1) When the court has to form an opinion as to the existence of any general custom or right the opinions, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed are admissible.

(2) The expression "general custom or right" includes customs or rights common to any considerable class of persons.

Opinions as to usages and tenets, when admissible.

74. When the court has to form an opinion as to—

(*a*) the usages and tenets of any body of men or family ;

(*b*) the constitution and government of any religious or charitable foundation ; or

(*c*) the meaning of words or terms used in particular districts or by particular classes of people, the opinions of persons having special means of knowledge on the matters specified in this section, are admissible.

Opinion on relationshiop, when admissible.

75. When the court has to form an opinion as to the relationship of one person to another, the opinion expressed by conduct, as to the existence of such relationship of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is admissible.

Provided that such opinion shall not be sufficient to prove a marriage in proceeding for a divorce or in a petition for damages against an adulterer or in a prosecution for bigamy.

Grounds of opinion when admissible.

76. Whenever the opinion of any living person is admissible, the grounds on which such opinion is based are also admissible.

Character Evidence

Character defined.

77. In sections 78 to 87, the expression "character" means reputation as distinguished from disposition, and except as mentioned in those sections, evidence may be given only of general reputation, and not of particular acts by which reputation or disposition is shown.

Character in Civil Cases

In civil cases, evidence of character generally inadmissible.

78. In civil cases evidence of the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him is inadmissible except in so far as such character appears from facts otherwise relevant.

In civil cases, evidence of character generally inadmissible.

79. Notwithstanding section 78, in civil cases the fact that the character of any person is such as to affect the amount of damages which he ought to receive may be given in evidence.

In libel and slander, notice must be given of evidence of character.

80. In actions for libel and slander in which the defendant does not by his defence assert the truth of the statement complained of, the defendant is not entitled on the trial to give evidence in chief with a view to mitigation of damages, as to the circumstances under which the libel or slander was published, or as to the character of the plaintiff, without the leave of the judge, unless seven days at least before the trial be furnishes particulars to the plaintiff of the matters as to which he intends to give evidence.

Character in Criminal Proceedings

In criminal cases, evidence of good character admissible.

81. In ciminal proceedings, evidence of the fact that a defendant is of good character is admissible.

Evidence of character of the accused in criminal proceedings.

82.—(1) Except as provided in this section, evidence of the fact that a defendant is of bad character is inadmissible in criminal proceeding.

(2) The fact that a defendant is of bad character is admissible—

(*a*) when the bad character of the defendant is a fact in issue ; or

(*b*) when the defendant has given evidence of his good character.

(3) A defendant may be asked questions to show that he is of bad character in the circumstances mentioned in paragraph (*c*) of the provision to section 180.

(4) Whenever evidence of bad character is admissible, evidence of a previous conviction is also admissible.

(5) In cases where subsection (4) of this section applies, the court shall only admit evidence of previous convictions which are related in substance to the offence charged.

(6) Evidence of a previous conviction shall be proved in accordance with Part XIII.

PART V—DOCUMENTARY EVIDENCE

Admissibility of the Documentary Evidence Generally

Admissiblity of documentary evidence as to facts in issue.

83.—(1) In a proceeding where direct oral evidence of a fact would be admissible, any statement made by a person in a document which seems to establish that fact shall on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied—

(*a*) If the maker of the statement either—

(*i*) had personal knowledge of the matters dealt with by the statement ; or

(*ii*) where the document in question is or forms part of a record purporting to be a continuous record made the statement (in so far as the matters dealt with by it are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had, or might reasonably be supposed to have personal knowledge of those matters ; and

(*b*) if the maker of the statement is called as a witness in the proceeding :

Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead, or unfit by reason of his bodily or mental condition to attend as a witness, or if he is outside Nigeria and it is not reasonably practicable to secure his attendance, or if all reasonable efforts to find him have been made without success.

(2) In any proceeding, the court may at any stage of the proceeding, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would otherwise be caused, order that such a statement as is mentioned in subsection (1) of this section shall be admissible as evidence or may, without any such order having been made admit such a statement in evidence notwithstanding that—

(*a*) the maker of the statement is available but is not called as a witness ; and

(*b*) the original document is not produced, if in lieu of it there is produced a copy of the original document or of the material part of it certified to be a true copy in such manner as may be specified in the order or as the court may approve, as the case may be.

(3) Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute is to any fact which the statement might tend to establish.

(4) For the purposes of this section, a statement in a document shall not be deemed to have been made by a person unless the document or the material part of it was written, made or produced by him with his own hand, or was signed or initialed by him or otherwise recognised by him in writing as one for the accuracy of which he is responsible.

(5) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances, and may, in deciding, whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a registered medical practitioner.

Admissibility of Statements in Documents produced by Computers

Admissibility of statement in documents produced by computers.

84.—(1) In any proceeding a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated in it of which direct oral evidence would be admissible, if it is shown that the conditions in subsection (2) of this section are satisfied in relation to the statement and computer in question.

(2) The conditions referred to in subsection (1) of this section are—

(*a*) that the document containing the statement was produced by the computer duing a period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period, whether for profit or not, by anybody, whether corporate or not, or by any individual ;

(*b*) that over that period there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind from which the information so contained is derived ;

(*c*) that throughout the material part of that period the computer was operating properly or, if not, that in any respect in which it was not

operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of its contents ; and

(*d*) that the information contained in the statement reproduces or is derived from information supplied to the computer in the ordinary course of those activities.

(3) Where over a period the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in subsection (2) (*a*) of this section was regularly performed by computers, whether—

(*a*) by a combination of computers operating over that period ;

(*b*) by different computers operating in succession over that period ;

(*c*) by different combinations of computers operating in succession over that period ; or

(*d*) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers.

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer ; and references in this section to a computer shall be construed accordingly.

(4) In any proceeding where it is desired to give a statement in evidence by virtue of this section a certificate—

(*a*) identifying the document containing the statement and describing the manner in which it was produced ;

(*b*) giving such paticulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer.

(*i*) dealing with any of the matters to which the conditions mentioned in subsection (2) above relate ; and purporting to be signed by a person occupying a responsible position in relation to the operation of the relevant device or the management of the relevant activities, as the case may be, shall be evidence of the matter stated in the certificate ; and for the purpose of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purpose of this section—

(*a*) information shall be taken to be supplied to a computer if it is supplied to it in any appropriate form and whether it is supplied directly or (with or without human intervention) by means of any appropriate equipment ;

(*b*) where, in the course of activities carried on by any individual or body, information is suppplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities ;

(*c*) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Primary and Secondary Documentary Evidence

Proof of contents of documents.

85. The contents of documents may be proved either by primary or by secondary evidence.

Primary evidence.

86.—(1) Primary evidence means the document itself produced for the inspection of the court.

(2) Where a document has been executed in several parts, each part shall be primary evidence of the document.

(3) Where a document has been executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart shall be primary evidence as against the parties executing it.

(4) Where a number of documents have all been made by one uniform process, as in the case of printing, lithography, photography, computer or other electronic or mechanical process, each shall be primary evidence of the contents of the rest ; but where they are all copies of a common original, they shall not be primary evidence of the contents of the original.

Secondary evidence.

87. Secondary evidence includes—

(*a*) certified copies given under the provisions hereafter contained in this Act ;

(*b*) copies made from the original by mechanical or electronic processes which in themselves ensure the accuracy of the copy, and copies compared with such copies ;

(*c*) copies made from or compared with the original ;

(*d*) counterparts of documents as against the parties who did not execute them ; and

(*e*) oral accounts of the contents of a document given by some person who has himself seen it.

Proof of documents by primary evidence.

88. Documents shall be proved by primary evidence except in the cases mentioned in this Act.

Cases in which secondary evidence relating to document.

89. Secondary evidence may be given of the existence, condition or contents of a document when—

(*a*) the original is shown or appears to be in the possession or power—

(*i*) of the person against whom the document is sought to be proved, or

(*ii*) of any person legally bound to produce it, and when after the notice mentioned in section 91 such person does not produce it ;

(*b*) the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest ;

(*c*) the oiginal has been destroyed or lost and in the latter case all possible search has been made for it ;

(*d*) the original is of such a nature as not to be easily movable ;

(*e*) the original is a public document within the meaning of section 102 ;

(*f*) the oiginal is a document of which a certified copy is permitted by this Act or by any other law in force in Nigeria, to be given in evidence ;

(*g*) the originals consist of numerous accounts or other documents which cannot conveniently be examined in court, and the fact to be proved is the general result of the whole collection ; or

(*h*) the document is an entry in a banker's book.

Nature of secondary evidence admissible under section 89.

90.—(1) The secondary evidence admissible in respect to the original documents referred to in the several paragraphs of section 89 is as follows—

(*a*) in paragraphs (*a*), (*c*) and (*d*), any secondary evidenc of the contents of the document is admissible ;

(*b*) in paragraph (*b*), the written admission is admissible ;

(*c*) in paragraph (*e*) or (*f*), a certified copy of the document, but no other secondary evidence is admissible ;

(*d*) in paragraph (*g*), evidence may be given as to the general result of the documents by any person who has examined them and who is skilled in the examination of such documents ; and

(*e*) in paragraph (*h*) the copies cannot be received as evidence unless it is first be proved that—

(*i*) the book in which the entries copied were made was at the time of making one of the ordinary books of the bank.

(*ii*) the entry was made in the usual and ordinary course of business.

(*iii*) the book is in the control and custody of the bank, which proof may be given orally or by affidavit by an officer of the bank ; and

(*iv*) the copy has been examined with the original entry and is correct, which proof must be given by some person who has examined the copy with the original entry, and may be given orally or by affidavit.

(2) When a seaman issues for his wages he may give secondary evidence of the ship's articles and of any agreement supporting his case, without notice to produce the originals.

Rules as to notice to produce.

91. Secondary evidence of the contents of the documents referred to in section 89 (*a*) shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to a legal practitioner employed by such party, such notice to produce it as is prescribed by law ; and if no notice to produce is prescribed by law then such notice as the court considers reasonable in the circumstances of the case.

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the court thinks fit to dispense with it—

(*a*) when the document to be proved is itself a notice ;

(*b*) when, from the nature of the case, the adverse party must know that he will be required to produce it ;

(*c*) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force ;

(*d*) when the adverse party or his agent has the original in court ; or

(*e*) when the adverse party or his agent has admitted the loss of the document.

Proof that bank has made returns or been duly licensed.

92.—(1) The fact of any bank having duly made a return to the Central Bank, Nigerian Deposit Insurance Corporation or Federal Inland Revenue Service may be proved in any legal proceeding by production of a copy of its return verified by the affidavit of an officer of the bank, or by the production of a copy of a newspaper purporting to contain a copy of such return published by the Cental Bank, Nigerian Deposit Insurance Corporation or Fedeal Inland Revenue Service as the case may be.

(2) The fact of any bank having been licensed under the Banks and Other Financial Institutions Act may be proved by the production of a certificate by an officer of the bank that it has been duly licensed under that Act.

(3) For the purpose o this section—

"Central Bank" means the Central Bank of Nigeria established by the Central Bank of Nigeria Act, 2007 ;

"Federal Inland Revenue Service" means the Federal Inland Revenue Service established by Federal Inland Revenue Service Act, 2007 ; and

"Nigerian Deposit Insurance Corporation' means the Nigerian Deposit Insurance Corporation established by the Nigerian Deposit Insurance Corporation Act.

Proof of Execution of Documents

Proof of signature and handwriting and electronic signature.

93. If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.

(2) Where a rule of evidence requires a signature, or provides for certain consequences if a document is not signed ; an electronic signature satisfies that rule of law or avoids those consequences.

(3) An electronic signature may be proved in any manner, including by showing that a procedure existed by which it is necessary for a person, in order to proceed further with a transaction to have executed a symbol or secuirty procedure for the purpose of verifying that an electronic record is that of the person.

Identification of person signing a document.

94.—(1) Evidence that a person exists having the same name, address, business or occupation as the maker of a document purports to have, is admissible to show that such document was written or signed by that person.

(2) Evidence that a document exists to which the document the making of which is in issue purports to be a reply, together with evidence of the making and delivery to a person of such earlier document, is admissible to show the identity of the maker of the disputed document with the person to whom the earlier document was delivered.

Evidence of sealing and delivery of a document.

95.—(1) Evidence that a person signed a document containing a declaration that a seal was his seal is admissible to prove that he sealed it.

(2) Evidence that the grantor on executing any document requiring delivery expressed an intention that it should operate at once is admissible to prove delivery.

96—(1) In any proceeding, whether civil or criminal, an instrument to the validity of which attestation is required by law may, instead of being proved by an attesting witness, be proved in the matter in which it might be proved if no attesting witness were alive.

Provided that nothing in this section shall apply to the proof of wills or other testamentary documents.

(2) If no attesting witness is alive, an instrument to the validity of which attestation is required by law is proved by showing that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the documents is in the handwriting of that person.

Admission of execution by part to attested document.

97. The admission of a party to an attested document of its execution by himsel shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.

Cases in which proof of execution or of handwriting unnecessary.

98.—(1) A person seeking to prove the due execution of a document is not bound to call the party who executed the document or to prove the handwiting of such party or of an attesting witness in any case where the person against whom the document is sought to be proved—

(*a*) produces such document and claims an interest under it in reference to the subject matter of the suit ; or

(*b*) is a public officer bound by law to procure is due execution, and he has dealt with it as a document duly executed.

(2) Nothing contained in this section shall prejudice the right of a p erson to put in evidence any document in the manner mentioned in sections 89 and 90, or under section 155 of this Act.

Proof when attesting witness denies the execution.

99. If the attesting witness denies or does not re-collect the execution of the document, its execution may be proved by other evidence.

Proof of document not required by law to be attested.

100. An attested document not required by law to be attested may be proved as if it was unattested.

Comparison of signature, writing, seal or finger impression with others admitted or proved.

101.—(1) In oder to ascertain whether a signature, writing, seal or finger impression is that of the person by whom it purports to have been written or made, any signature, writing, seal or finger impression admitted or proved to the satisfaction of the court to have been written or made by that person may be compared with the one which is to be proved although that signature, writing, seal or finger impression has not been produced or proved for any other purpose.

(2) The court may direct any person present in court to write word or figure or to make finger impressions for the purpose of enabling the court to compare the words, figures or finger impressions so written with any words, figure or finger impression alleged to have been written or made by such person ;

Provided that where a defendant does not give evidence he may not be so directed to write such words of figures or to make finger impressions.

(3) After the final termination of the proceeding in which the court required a person to make his finger impressions, such impressions shall be destroyed

Public and Private Documents

Public documents.

102. The following documents are public documents—

(*a*) documents forming the official acts or records of the official acts of—

(*i*) the sovereign authority ;

(*ii*) official bodies and tribunals ; or

(*iii*) public officers, legislative, judicial and executive, whether of Nigeria or elsewhere ; and

(*b*) public records kept in Nigeria of private document.

Private documents.

103. All documents other than public documents are private documents.

Certified copies of public documents.

104.—(1) Every public officer having the custody of a public document which any person has a right to inspect shall give that person on demand a copy of it on payment of the legal fees prescribed in that respect, together with a certificate written at the foot of such copy that it is a true copy of such document or part of it as the case may be.

(2) The certificate mentioned in subsection (1) of this section shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies.

(3) An officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

Proof of documents by production of certified copies.

105. Copies of documents certified in accordance with section 104 may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

Proof of other official documents.

106. The following public documents may be proved as follows—

(*a*) Acts of the National Assembly, Laws of the House of Assembly of a State or bye-laws of a Local Government Council, proclamations, treaties or other acts of State order, notifications, nominations appointments and other official coommunications of the Government of the Federaion, State or Local Government in Nigeria :

(*i*) which appear in the Federal Gazette or the Gazette of a State, by the production of such Gazette, and shall be *prima facie* proof of any fact of a public nature which they were intended to notify.

(*ii*) by a copy of the document certified by the officer who authorised or made such order or issued such official communication.

(*iii*) by the records of the government departments concerned certified by the heads of those departments respectively or by the Minister, or in respect of matters to which the executive authority of a State or Local Government extends by the Governor or the Chairman of the Local Government Council, or any person nominated by such Governor or Chairman, or

(*iv*) by any document purporting to be printed by order of Government ;

(*b*) the proceeding of the Senate or of the House of Representatives, by the minutes of that body or by published Acts or abstracts, or by copies purporting to be printed by order of Government.

(*c*) the proceeding of a State House Assembly, by the minutes of that body or by published Laws, or by copies purporting to be printed by order of Government ;

(*d*) the proceeding of a Local Government Council, by the minutes of that body or by pubished bye-laws, or by copies purporting to be printed by order of the Local Government ;

(*e*) the Acts or Ordinances of any part of the Commonwealth, and the subsidiary legislation made under their authority, by a copy purporting to be printed by the Government Printer of any such country.

(*f*) proclamations, treaties or acts of State of any other country, by journals published by their authority or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign ;

(*g*) books printed or published under the authority of the Government of a foreign country, and purporting to contain the statutes, code or other written law of such country, and also printed and published books of reports of decisions of the courts of such country, and books proved to be commonly admitted in such courts as evidence of the law of such country, shall be admissible as evidence of the law of such foreign country.

(*h*) any judgment, order or other judicial proceeding outside Nigeria, or any legal document, filed or deposited in any court :

(*i*) by a copy sealed with the seal of a foreign or other court to which the original document belongs or, in the event of such court having no seal, to be signed by the judge, or, if there be more than one judge, by anyone of the judges of the said court, and such judge must attach to his signature a statement in writing on the said copy that the court of which he is judge has no seal, or

(*ii*) by a copy which purports to be certified in any manner which is certified by any representative of Nigeria to be the manner commonly in use in that country for the certification of copies of judicial records ; and

(*i*) public documents of any other class elsewhere that in Nigeria, by the original, or by a copy certified by the legal keeper of such documents, with a certificate under the seal of a notary public, or of a consul or diplomatic agent that the copy is duly certified by the officer having the legal custody of the original, and opon proof of the character of the document according to the law of the foreign country.

Affidavits

Court may order proof by affidavit.

107. A court may, in any civil proceeding make an order at any stage of such proceeding directing that specified facts may be proved at the trial by affidavit with or without the attendance of the deponent for cross-examination :

Provided that where a party desires the attendance of such deponent for cross-examination the court shall require his attendance for that purpose where this would not result in unjustifiable delay or expense.

Affidavit to be filled.

108. Before an affidavit is used in the court for any purpose, the original shall be filed in the court, and the original or an office copy shall alone be recognised for any purpose in the court.

Affidavit sworn in Nigeria.

109. Any affidavit sworn before any judge, officer or other person duly authorised to take affidavits in Nigeria may be used in the court in all cases where affidavits are admissible.

Proof of document not required by law to be attested.

110. Any affidavit sworn in any country other then Nigeria before—

(*a*) a judge or magistrate, being authenticated by the official seal of the court to which he is attached, or by a notary public ; or

(*b*) the duly authorised officer in the Nigerian Embassy, High Commission or Consolate in that country, may be used in the court in all cases where affidavits are admissible.

Proof of seal and signature.

111. The fact that an affidavit purports to have been sworn in the manner prescribed in the preceding sections shall be *prima facie* evidence of—

(*a*) the seal or signature, as the case may be, of any such court, judge, magistrate or other officer or person mentioned in, or appended or subscribed to, any such affidavit ; and

(*b*) the authority of such court, judge, magistrate or other officer or person to administer oaths.

Affidavit not to be sworn before certain persons.

112. An affidavit shall not be admitted which is proved to have been sworn before a person on whose behalf the same is offered, or before his legal practitioner, or before a partner or clerk of his legal practitioner.

Affidavit defective in form.

113. The court may permit an affidavit to be used, notwithstanding that it is defective in form according to this Act, if the court is satisfied that it has been sworn before a person duly authorised.

Amendment and re-swearing of affidavit.

114. A defective or erroneous affidavit may be amended and re-sworn by leave of the court, on such terms as to time, costs or otherwise as seen reasonable.

Contents of affidavits.

115.—(1) Every affidavit used in the court shall contain only a statement of fact and circumstances to which the witness deposes, either of his own personal knowledge or from information which he believes to be true.

(2) An affidavit shall not contain extraneous matter, by way of objection, orayer or legal argument or conclusion.

(3) When a person deposes to his belief in any matter of fact, and his belief is derived from any source other than his own personal knowledge, he shall set forth explicitly the facts and circumstances forming the ground of his belief.

(4) When such belief is derived from information received from another person, the name of his informant shall be stated, and reasonable particulars shall be given respecting the informant, and the time, place and circumstance of the information.

Conflicting affidavits.

116. When there are before a court affidavits that are irreconcilably in conflict on crucial facts, the court shall for he purpose of resolving the conflict arising from the affidavit evidence, ask the parties to proffer oral evidence as to such facts, and shall hear any such oral evidence of the deponents of the affidavits and such other witnesses as may be called by the parties.

Provisions in Taking Affidavits

Form of affidavits.

117.—(1) Every affidavit taken in a cause or matter shall—

(*a*) be headed in the court and in the cause or matter.

(*b*) state the full name, trade or profession residence and nationality of the deponent ; and

(*c*) be in the first person, and divided into convenient paragraphs numbered consecutively.

(2) Any eraure, interlineation or alteration made before the affidavit is sworn, shall be attested by the person before whom it is taken, who shall affix his signature or initial in the margin immediately opposite to the interlineations, alternation or erasure.

(3) Where an affidavit proposed to be sworn is illegible or difficult to read, or is in the judgment of the person before whom it is taken so written as to facilitate fraudulent alteration, be may refuse to swear the deponent, and require the affidavit to be re-written in an unobjectionable manner.

(4) An affidavit when sworn shall be signed by the deponent or if he cannot write or is blind, marked by him personally with his mark in the presence of the person before whom it is take.

Provisions as to altered affidavit.

118. The person before whom an affidavit is taken shall not allow it, when sworn, to be altereed in any manner without being re-sworn ; and may refuse to allow an alterd affidavit to be re-sworn and require instead a fresh affidavit.

Jurat.

119.—(1) Where the deponent is illiterate or blind the affidavit shall state that fact, and shall be accompanied with a jurat.

(2) The jurat shall—

(*a*) be written without interlineation, alteration or erasure immediately at the foot of the affidavit, and towards the left side of the paper and shall be signed by the person before whom it is taken ;

(*b*) state the date of the swearing and the place where it is sworn ;

(*c*) state that the affidavit was sworn before the person taking the same ; and

(*d*) where the deponent is illiterate or blind, state such fact and shall state that the affidavit was read over to such illiterate or blind deponent or translated into his own language (in the case of a deponent not having sufficient knowledge of English), and that he appeared to understand it.

(3) Where the deponent makes a mark instead of signing, the jurat shall state that fact, and that the mark was made in the presence of the person before whom it is taken.

(4) Where two or more persons join in making an affidavit their several names shall be written in the jurat and it shall appear by the jurat that each of them has been sworn to the truth of the several matters stated by him in the affidavit.

(5) If the jurat has been added and signed on an altered affidavit, the person before whom it is taken shall add a new jurat on the affidavit being re-sworn and in the new jurat he shall mention the alteration.

Declaration without oath may be taken.

120.—(1) The person before whom an affidavit may be taken may take without oath the declaration of any person who—

(*a*) affirms that the taking of any oath whatsoever is, according to his religious belief, unlawful; or

(*b*) by reason of immature age or want of religious belief, ought not, in the opinion of the person taking the declaration to be admitted to make a sworn affidavit.

(2) The person taking the declaration shall record in the attestation the reason of such declaration being taken without oath.

PART VI—PROOF

Proof of Facts Generally

Proof of facts.

121. A fact is said to be—

(*a*) "*Proved*" when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought, in the circumstances of the particular case, to act upon the supposition that it does exist;

(*b*) "*disproved*" when, after considering the matters before it, the court either believes that it does not exist or considers its non-existence so probable that a prudent man ought in the circumstances of the particular case, to act upon the supposition that it does not exist;

(*c*) "*not proved*" when it is neither proved nor disproved.

Facts which need not be proved

Facts of which court must take judicial notice need not to proved.

122.—(1) No fact of which the court shall take judicial notice under this section needs to be proved.

(2) The court shall take judicial notice of—

(*a*) all laws or enactments and any subsidiary legislation made under them having the force of law now or previously in force in any part of Nigeria ;

(*b*) all public Acts or Laws passed or to be passed by the National Assembly or a State House of Assembly, as the case may be, and all subsidiary legislation made under them and all local and personal Acts or Laws directed by the National Assembly or a State House Assembly to be judicially noticed;

(*c*) the course of proceeding of the National Assembly and of the Houses of Assembly of the States of Nigeria ;

(*d*) the assumption of office of the President, a State Governor or Chairman of a Local Government Council, and of my seal used by any such public officer ;

(*e*) the seals of all the courts of Nigeria, the seals of notaries public, and all seals which any person is authorised to use by any Act of the National Assembly or other enactment having the force of law in Nigeria ;

(*f*) the existence, title and national flag of every State or sovereign recognised by Nigeria ;

(*g*) the divisions of time, the geographical divisions of the world, the public festivals, fasts and holidays notified in the Federal Gazette or fixed by an Act ;

(*h*) the territories within the Commonwealth ;

(*i*) the commencement, continuance and termination of hostilities between the Federal Republic of Nigeria and any other State or body of persons ;

(*j*) the names of the members and officers of the court and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of all legal practitioners and other persons authorised by law to appear or act before it ;

(*k*) the rule of the road on land or at sea ;

(*l*) all general customs, rules and principles which have been held to have the force of law in any court established by or under the Constitution and all customs which have been duly certified to and recorded in any such court ; and

(*m*) the course of proceeding and all rules of practice in force in any court established by or under the Constitution.

(3) In all cases in subsection (2) of this section and also on all matters of public history, literature science or art, the court may resort for its aid to apropriate books or documents of reference.

(4) If the court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document, as it may consider necessary to enable it to do so.

Facts admitted need to be proved.

123. No fact needs to be proved in any civil proceeding which the parties to the proceeding or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings ;

Provided that the court may, in its discretion, require the facts admitted to be proved otherwise than by such admisions.

Facts of common knowledge need not to be proved.

124.—(1) Proof shall not be required of a fact the knowledge of which is not reasonably open to question and which is—

(*a*) common knowledge in the locality in which the proceeding is being held, or generally ; or

(*b*) capable of verification by reference to a document the authority of which cannot reasonably be questioned.

(2) The court may acquire, in any manner it deems fit, knowledge of a fact to which subsection (1) of this section refers, and shall take such knowledge into account.

(3) The court shall give to a party to any proceeding such opportunity to make submission, and to refer to a relevant information, in relation to the acquiring or taking into account of such knowledge, as is necessary to ensure that the party is not unfairly prejudiced.

Part VII—Oral Evidence and the Inspection of Real Evidence

Proof of facts by oral evidence.

125. All facts, except the contents of documents, may be proved by oral evidence.

Oral evidence must be direct.

126. Subect to the provisions of Part III, oral evidence shall, in all cases whatever, be direct if it refers to—

(*a*) a fact which could be seen, it must be the evidence of a witness who says he saw that fact ;

(*b*) to a fact which could be heard, it must be the evidence of a witness who says he heard that fact ;

(*c*) to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived that fact by that sense or in that manner ;

(*d*) if it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of the person who holds that opinion on those ground ;

Provided that the opinion of experts expressed in any treaties commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatise if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the court regards as unreasonable.

Inspection when oral evidence refers to real evidence.

127.—(1) If oral evidence refers to the existence or condition of any material thing other than a document, the court may, if it deems fit—

(*a*) require the production of such material thing for its inspection, or

(*b*) inspect any moveable or immovable property the inspection of which may be material to the proper determination of the question in dispute.

(2) When an inspection of property under this section is required to be held at a place outside the courtroom, the court shall either :

(*a*) be adjourned to the place where the subject-matter of the said inspection may be and the proceeding shall continue at that place until the court further adjourns back to its original place of sitting, or to some other place of sitting ; or

(*b*) attend and make an inspection of the subject-matter only, evidence, if any, of what transpired there being given in court afterwards, and in either case the defendant, if any, shall be present.

PART VIII—EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE

Evidence of terms of judgements, contracts, grants and other dispositions of property reduced to a documentary form.

128.—(1) When a judgment of a court or any other judicial or official proceeding, contract or any grant or other disposition of perperty has been reduced to the form of a document or series of documents, no evidence may be given of such judement or proceeding or of the terms of such contract, grant or disposition of property except the document itself, or secondary evdence of its contents in cases in which secondary evidence is admissible under this Act ; nor may the contents of any such document be contradicted, altered, added to or varied by oral evidence.

Provided that any of the following matters may be proved—

(*a*) fraud, intimidation, illegality ; want of the execution, the fact that it is wrongly dated, existence or want or failure, of consideration, mistake in fact or law ; want of capacity in any contracting party, or the capacity in which a contracting party acted when it is not inconsistent with the terms of the contract, or any other matter which, if proved would produce any

effect upon the validity of any document, or of any part of it, or which would entitle any person to any judgment, decree, or order relating to it ;

(*b*) the existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, if from the circumstances of the case the court infers that the parties did not intend the document to be a complete and final statement of the whole of the transaction between them ;

(*c*) the existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property ;

(*d*) the existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant or disposition of property ; and

(*e*) any usage or custom by which incidents not expressly mentioned in any contract are annexed to contracts of that description ; unless the annexing of such incident to such contract would be repugnant to or inconsistent with the express terms of the contract.

(2) Oral evidence of a transaction is not excluded by the fact that a documentary memorandum of it was made, if such memorandum was not intended to have legal effect as a contract, grant or disposition of property.

(3) Oral evidence of the existence of a legal relationship is not excluded by the fact that it has been created by a document, when the fact to be proved is the existence of the relationship itself, and not the terms on which it was established or is carried on.

Evidence as to interpretation of documents.

129.—(1) Evidence may be given to show the meaning of illegible or not commonly intelligible characters of foreign, obsolete, technical, local and provincial expressions, of abbreviations and words used in a perculiar sense.

(2) Evidence may not be given to show that common words, the meaning of which is plain, and which do not appear from the context to have been used in a perculiar sense, were in fact so used.

(3) If the words of a document are so defective or ambiguous as to be unmeaning, no evidence can be given to show what the author of the document intended to say.

(4) In order to ascertain the relationship of the words of a document to facts, every fact may be proved to which it refers, or may probably have been intended to refer, or which identifies any person or thing mentioned in it, and such facts are in this section called the circumstances of the case.

(5) If the words of a document have a proper legal meaning, and also a less proper meaning, they shall be deemed to have their proper legal meaning, unless such a construction would be unmeaning in reference to the circumstances of the case, in which case they may be interpreted according to their less proper meaning.

(6) If the document has one distinct meaning in reference to the circumstances of the case, it shall be construed accordingly, and evidence to show that the author intended to express some other meaning is not admissible.

(7) If the document applies in part but not with accuracy or not completely to the circumstances of the case, the court may draw inferences from those circumstances as to the meaning of the document whether there are more than one or only one thing or person to whom or to which the inaccurate description may equally well apply; and in such cases no evidence can be given of statements made by the author of the document as to his intentions in reference to the matter to which the document relates, though evidence may be given as to his circumstances, and as to his habitual use of language or names for particular persons or things.

(8) If the language of the document, though plain in itself, applies equally well to more objects than one, evidence may be given both of the circumstances of the case and of statements made by any party to the document as to his intentions in reference to the matter to which the document relates.

(9) If the document is of such a nature that the court will presume that it was executed with any other than its apparent intention, evidence may be given to show that it was in fact executed with its apparent intention.

Application of this Part.

130.—(1) Sections 128 and 129 apply only to parties to documents, and their representatives in interest, and only to cases in which some civil right or civil liability is dependent upon the terms of a document in question.

(2) A person other than a party to a document or his representative in interest may, notwithstanding the existence of any document, prove any fact which he is otherwise entitled to prove.

(3) A party to any document or any representative in interest of any such party may prove any such fact for any purpose other than that of varying or altering any right or liability depending upon the terms of the document.

(4) Nothing contained in this Part shall be taken to affect any of the provisions of any enactment as to the construction of wills.

PART IX—PRODUCTION AND EFFECT OF EVIDENCE

Burden and Standard of Proof

Burden of proof.

131.—(1) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts shall prove that those facts exist.

(2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.

On whom burden of proof lies.

132. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

Burden of proof in civil cases.

133.—(1) In civil cases, the burden of first proving existence or non-existence of a fact lies on the party against whom the judgment of the court would be given if no evidence were produced on either side, regard being had to any presumption that may arise on the pleadings.

(2) If the party referred to in subsection (1) of this section adduces evidence which ought reasonably to satisfy the court that the fact sought to be proved is established, the burden lies on the party against whom judgment would be give if no more evidence were adduced, and so on successively, until all the issues in the pleadings have been dealt with.

(3) Where there are conflicting presumptions, the case is the same as if there were conflicting evidence.

Standard of proof in civil cases.

134. The burden of proof shall be discharged on the balance of probabilities in all civil proceeding.

Standard of proof where commission of crime in issue and burden where guilt of crime, etc. asserted.

135.—(1) If the commission of a crime by a party to any proceeding is directly in issue in any proceeding civil or criminal, it must be proved beyond reasonable doubt.

(2) The burden of proving that any person has been guilty of a crime or wrongful act is, subject to section 139 of this Act, on the person who asserts it, whether the commission of such act is or is not directly in issue in the action.

(3) If the prosecution proves the commission of a crime beyond reasonable doubt, the burden of proving reasonable doubt is shifted on to the defendant.

Burden of proof as to particular fact.

136.—(1) The burden of proof as to any particular fact lies on that person who wishes the court to believe in its existence unless it is provided by any law that the proof of that fact shall lie on any particular person, but the burden may in the course of a case be shifted from one side to the other.

(2) In considering the amount of evidence necessary to shift the burden of proof regard shall be had by the court to the opportunity of knowledge with respect to the fact to be proved which may be possessed by the parties respectively.

Standard of proof where burden of proving fact, etc. placed on defendant by law.

137. Where in any criminal proceeding the burden of proving the existence of any fact or matter has been placed upon a defendant by virtue of the provisions of any law, the burden shall be discharged on the balance of probabilities.

Burden of proving fact necessary to be proved to make evidence admissible.

138—(1) The burden of proving any fact necessary to be proved in order to—

(*a*) enable a person to adduce evidence of some other fact ; or

(*b*) prevent the opposite party from adducing evidence of some other fact, lies on the person who wishes to adduce, or to prevent the adduction of such evidence, respectively.

(2) The existence or non-existence of facts relating to the admissibility of evidence under this section is to be determined by the court.

Burden of proof in criminal cases.

139.—(1) Where a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any exception or exemption from, or qualification to, the operation of the law creating the offence with which he is charged is upon such person.

(2) The burden of proof placed by this Part upon a defendant charged with a criminal offence shall be deemed to be discharged if the court is satisfied by evidence given by the prosecution, whether on cross-examination or otherwise, that such circumstances in fact exist.

(3) Nothing in sections 135 and 140 or in sbsection (1) or (2) of this section shall :

(*a*) prejudice or diminish in any respect the obligation to establish by evidence according to law any acts, omissions or intentions which are legally necessary to constitute the offence with which the person accused is charged.

(*b*) impose on the prosecution the burden of proving that the cicumstances or facts described in subsection (2) of this section do not exist ; or

(*c*) affect the burden placed on a defendant to prove a defence of intoxication or insanity.

Proof of facts especially within knowledge.

140. When a fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Exceptions need not be proved by prosecution.

141. Any exception, exemption, provison, excuse, qualification, whether it does or does not accompany in the same section the description of the offence in the legislation creating the offence, may be proved by the defendant, provided that the prosecution is not required to specify or refute any of the exceptions mentioned in this section and if specified or denied, no proof in relation of the matter so specified or denied shall be required on the part of the prosecution.

Burden of proof as to relationship in the case of partners, landlord and tenant, principal and agent.

142. When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand to each other in those relationships respectively, is on the person who affirms it.

Burden of proof as to ownership.

143. When the question is whether any person is owner of anything of which he is shown to be at possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

Proof of good faith in transactions where one party is in relation of active confidence.

144. Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.

PART X—PRESUMPTIONS AND ESTOPPEL

Rule as to Presumptions

Rules as to presemptions by the court.

145.—(1) whenever it is provided by this Act that the court may presume a fact, it may either regard such fact as proved unless and until it is disproved, or may call for proof of it.

(2) Whenever it is directed by this Act that the court shall resume a fact, it shall regard such fact as proved unless and until it is disproved.

(3) When one fact is declared by this Act to be conclusive proof of another, the court shall, on proof of the one fact, regard the other as proved and shall not allow evidencee to be given for the purpose of disproving it.

Rule as to Presenptions

Presumption as to genuineness of certified copies.

146.—(1) The court shall presume every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact and which purports to be duly certified by any officer in Nigeria who is duly authorised in that behalf to be genuine, provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.

(2) The court shall also presume that any officer by whom any such document purports to be signed or certified held, when he signed it, the official character which he claims in such document.

Presumption as to documents produced as record of evidence.

147. Whenever any document is produced before any court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorised by law to take such evidence or to be a statement or confession by any prisoner or defendant, taken in accordance with law, and purporting to be signed by any judge or magistrate or by any such officer as mentioned in this section, the court shall presume that—

(*a*) the document is genuine ;

(*b*) any statement as to the circumstances in which it was taken, purporting to be made by the person signing it, are true ; and

(*c*) such evidence, statement or confession was duly taken.

Presumption as to gazettes, newspapers, Acts of the National Assembly and other documents.

148. The Court shall presume the genuineness of every document purporting to be—

(*a*) the Official Gazette of Nigeria or a State ;

(*b*) the Official Gazette of any country other than Nigeria ;

(*c*) a newspaper or journal ;

(*d*) a copy of the resolutions of the National Assembly or House of Assembly of a State, printed by the Government Printer, or

(*e*) a copy of a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

Presumption as to document admissible in other countries without proof of seal or signature.

149. When any document is produced before any court purporting to be a document which by the law in force for the time being in any country other than Nigeria would be admissible in proof of any particular in any court of justice in that country, without proof of the seal or stamp or signature authenticating it, or of the judicial or official character claimed by the person by whom it purports to be signed, the court shall presume—

(*a*) that such seal, stamp or signature, is genuine ; and

(*b*) that the person signing it held, at the time when he signed it, the judicial or official character which he claims, and the document shall be admissible for the same purpose for which it would be admissible in the country where the document is produced.

Presumtion as to powers of attorney.

150. The court shall persume that every document purporting to be a power of attorney, and to have ben executed before and authenticated by a notary public or any court, judge, magistrate, consul or representative of Nigeria or, as the case may be, of he President, was so executed and authenticated.

Presumption as to public maps and charts.

151.—(1) All maps or charts made under the authority of any Government, or of any public municipal body, and not made for the purpose of any proceeding, shall be presumed to be correct, and shall be admitted in evidence wihout further proof.

(2) Where maps or charts so made are reproduced by printing, lithography, or other mechanical or electronic process, all such reproductions purporting to be reproduced under the authority which made the originals shall be admissible in evidence without further proof.

Presumption as to books.

152. The court may persume that any book to which it may refer for information on matters of public or general interest, the statements of which are relevant facts and which is produced for its inspection was written and published by the person, and at the time and place by whom or at which it purports to have been written or published.

Presunption as to telegraphic and electronic messages.

153.—(1) The court may presume that a message forwarded from a telegraph office to the person to whom such message purports to be addressed corresponds with a message delivered for transmission at the office from which the message puports to be sent ; but the court shall not make any presumption as to the person by whom such message was delivered for transmission.

(2) The court may presume that on electronic message forwarded by the originator through an electronics mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission ; but the court shall not make any presumption as to the person to whom such message was sent.

Presumption as to due execution of documents not produced.

154. The court shall presume that every document called for and not produced after notice to produce given under section 91, was attested, stamped and executed in the manner required by law.

Presumption as to handwriting, etc. in documents twenty years old

155. Where any document purporting or proved to be 20 years old or more is produced from any custody which the court in the particular case considers proper, the court may presume that the signature and every other part of such document which purports to be in the handwriting of any particular person is in that person's handwriting, and in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Proper custody defined.

156. Documents are said to be in proper custody within the meaning of sections 148 to 155 of this Act if they are in the place in which, and under the care of the person with whom, they would naturally be but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.

Presumption as to date of documents.

157. When any document bearing a date has been proved, it is presumed to have been made on the date it bears and if more documents than one bear date on the same date, they are presumed to have been executed in the order necessary to effect the object for which they were executed, but indpendent proof of the correctness of the date will be required if the circumstances are such that collusion as to the date might be practised, and would, if practised, injure any person or defeat the objects of any law.

Presumption as to stamp of a document.

158. When any document is not produced after due notice to produce ; and after being called for, it is presumed to have been duly stamped unless it is shown to have remained unstamped for some time after its execution.

Presumption as to sealing and delivery.

159. When any document purporting to be, and stamped as a deed, apears or is proved to be or to have been signed and duly attested, it is presumed to have been sealed and delivered although no impression of seal apears on it.

Presumption as to alternative.

160—(1) No person producing any document which upon its face appears to have been altered in a material part can claim under it the enforcement of any right created by it, unless the alteration was made before the completion of the document or with the consent of the party to be charged under it or his representative in interest.

(2) Subsection (1) of this section shall extend to cases in which the alteration was made by a stranger, whilst the document was in the custody of the person producing it, but without his knowledge or leave.

(3) Alterations and interlineations appearing on the face of a deed are in the absence of all evidence relating to them presumed to have been made before the deed was completed.

(4) Alterations and interlineations appearing on the face of a will are, in the absence of all evidence relating to them, presumed to have been made after the execution of the will.

(5) There is no presumption as to the time when alterations and interlineations appearing on the face of writings not under seal were made except that it is presumed that they were so made that the making would not constitute an offence.

(6) An alteration is said to be material when, if it had been made with the consent of the party charged, it would have affected his interest or varied his obligations in any manner whatsoever.

(7) An alteration which in no way affects the rights of the parties or the legal effect of the instrument is immaterial.

Presumption as to age of parties to a conveyance or instrument.

161. The persons expressed to be parties to any conveyance or instrument relating to an interest in land shall, until the contrary is proved, be presumed to be of full age at the date of the conveyance or instrument.

Presumption as to statements in documents twenty years old.

162. Recitals, statements, and descriptions of facts, matters, and parties contained in deeds, instruments, Acts of the National Assembly or statutory declarations 20 years old or more at the date of the contract in which such deed, instrument or other document is sought to be relied upon shall, unless and except so far as they may be proved to be inaccurate, be taken to be sufficient evidence of such facts, matters and descriptions.

Presumption as to deeds of corporation.

163.—(1) In favour of a purchaser a deed shall be deemed to have been duly executed by a body corporate if its seal is affixed to the deed in the presence of and attested by its clerk, secretary or other permanent officer or his deputy, and a member of the board of directors, council or other governing body of the corporation.

(2) Where a seal purporting to be the seal of a corporation has been affixed to a deed, attested by persons purporting to be persons holding such offices as are mentioned in subsection (1) of this section, the deed shall be deemed to have been executed in accordance with the requirements of this section, and to have taken effect accordingly.

Other Presumptions

Presumption of death from seven years absence and other facts.

164.—(1) A person shown not to have been heard of for 7 years by those, if any, who if he had been alive would naturally have heard of him, is presumed to be dead unless the circumstances of the case are such as to account for his not being heard of without assuring his death ; but there is no presumption as to the time when he died, and the burden of proving his death at any particular time is upon the person who asserts it.

(2) For the purpose of determining title to property where two or more persons have died in circumstances in which it is uncertain which survived the other they are presumed to have died in order of seniority.

(3) There is no presumption as to the age at which a person died who is shown to have been alive at a given time.

Presumption of legitimacy. Cap. M7 LFN. 2004.

165. Without prejudice to section 84 of the Matrimonial Cases Act, where a person was born during the continuance of a valid marriage between his mother and any man, or within 280 days after dissolution of the marriage, the mother remaining unmarried, the court shall persume that the person in question is the legitimate child of that man.

Presumption of marriage.

166. When, in any proceeding whether civil or criminal, there is a question as to whether a man or woman is the husband or wife under Islamic or Customary law, of a party to the proceeding the court shall, unless the contrary is proved, presume the existence of a valid and substisting marriage between the two persons where evidence is given to the satisfaction of the court, of cohabitation as husband and wife by such man and woman.

Court may presume existence of certain facts.

167. The court may presume the existence of any fact which it deems likely to have happened, regard shall be had to the common course of natural events, human conduct and public and private business, in their relationship to the facts of the particular case, and in particular the court may presume that—

(*a*) a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowning them to be stolen, unless he can account for his possession ;

(*b*) a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence.

(*c*) the common course of business has been followed in particualr cases ;

(*d*) evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it ; and

(*e*) when a document creating an obligation is in the hands of the obligor, the obligation has been dicharged.

Presumption of regularity and of deeds to complete title.

168.—(1) When any judicial or official act is shown to have been done in a manner substantially regular, it is presumed that formal requisites for its validity were complied with.

(2) When it is shown that a person acted in a public capacity, it is presumed that he had been duly appointed and was entitled so to act.

(3) When a person in possession of any property is shown to be entitled to the beneficial ownership of it, there is a pesumption that every instrument has been executed which it was the legal duly of his trusteees to execute in order to perfect his title. Cap C20, LFN. 2004.

(4) When a minute is produced purporting to be signed by the chairman of a company incorporated under the Companies and Allied Matters Act and purporting to be a record of proceeding at a meeting of the company or of its directors it is presumed, until the contrary is shown, that such meeting was duly held and convened and that all proceeding at the meeting have been duly had, and that all appointments of directors, managers and liquidators are valid.

Estoppel

Estoppel.

169. When one person has either by virtue of an existing court judgment, deed or agreement, or by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representatives in interest shall be allowed, in any proceeding between himself and such person or such person's representative in interest, to deny the truth of that thing.

Estoppel of tenant ; and of licensee of person in possession.

170. No tenant of immovable property or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had at the beginning of the tenancy a title to such immovable property ; and no person who came upon any immovable property by the licence of the person in possession of it shall be permitted to deny that such person had a title to such possession at the time when such licence was given.

Estoppel of bailee, agent and licensee.

171. No bailee, agent or licensee is permitted to deny that the bailor, principal or licensor, by whom any goods were entrusted to any of them respectiely, was entitled to those goods at the time when they were so entrusted. :

Provided that the bailee agent or licensee may show that he was compelled to deliver up any such goods to some person who had a right to them as against his bailor, principal or licensor or that his bailor, principal or licensor wrongfully and without notice to the bailee agent or licensee, obtained the goods from a third person who has claimed them from such bailee, agent or licensee.

Estoppel of person signing Act of lading.

172. Every Act of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, is conclusive proof of that shipment as against the master or other person signing the same, notwithstanding that some goods or some part of them may not have been so shipped, unless such holder of the Act of lading had actual notice at the time of receiving the same that the goods had not been in fact laden on board :

Provided that the master or other person so singing may exonerate himself in respect of such misrepresentation by showing that it was caused without any default on his part, and wholly by the hand of of the shipper or of the holder or some person under whom the holder holds.

Judgment conclusive of facts forming ground of judgment.

173. Evey judgment is conclusive proof, as against parties and privies, o facts directly in issue in the case, actually decided by the court, and appearing from the judgment itself to be the ground on which it was based ; unless evidence was admitted in the action in which the judgment was delivered which is excluded in the action in which that judgment is intended to be proved.

Effect of judgment not pleaded as estoppel.

174.—(1) If a judgment is not pleaded by way of estoppel it is as between parties and privies deemed to be a relevant fact, whenever any matter, which was or might have been decided in the action in which it was given, is in issue, or is deemed to be relevant to the issue in any subsequent proceeding.

(2) Such judgment is conclusive proof of the facts which it decides, or might have decided, if the party who gives evidence of it had no opportunity of pleading it as an estoppel.

PART XI—WITNESSES

Competence and compellability of Witnesses Generally

Who may testify.

175,—(1) All persons shall be competent to testiy, unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by reason of tender years, exteme old age, disease, whether of body or mind, any other cause of the same kind.

(2) A person of unsound mind is not incompetent to testify, unless he is prevented by his mental infimity from understanding the questions put to him and giving rational answers to them.

Dumb witnesses.

176.—(1) A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligble, as by writing or by signs ; but such writing must be written and the signs made in open court.

(2) Evidence so given shall be deemed to be oral evidence.

Cases in which banker or officers representing other financial institutions not compellable to produce books.

177. A banker or an officer of a bank or other financial institution shall not, in any legal proceeding to which the bank or financial institution is not a party, be compellable to produce any bankers book or financial book, the contents of which can be proved in the manner provided in sections 89 and 90 of this Act, or to appear as a witness to prove the matters transactions and accounts in such book, unless by order of the court made for special cause.

Parties to civil suits and their wives or husbands.

178. Subject to the exception applicable by virtue of section 165 of this Act, in all civil proceeding the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses.

Competence in criminal cases.

179. Subject to this Part, in criminal cases, the defendant, his wife or her husband, as the case may be, or any person jointly charged with such defendant and tried at the same time, and the wife or husband of the person so jointly charged, is competent to testify.

Competence of person charged to give evidence.

180. Every person charged with an offence shall be a competent witness for the defence at every stage of the proceeding whether the person so charged is charged solely or jointly with any other person.

Provided that—

(*a*) a person so charged shall not be called as a witness in pursuance of this section except upon his own application ;

(*b*) a person charged and being a witness in pursuance of this section may be asked any question in cross-examination notwithstanding that it would tend to incriminate him as to the offence charged.

(*c*) when the only witness to the facts of the case called by the defence is the person charged he shall be called as a witness immediately after the close of the evidence for the prosecution ;

(*d*) every defendant called as a witness in pursuance of this section shall unless otherwise ordered by the court, give his evidence from the witness box or other place from which the other witnesses give their evidence ;

(*e*)nothing in this section shall affect the right of the person charged to make a statement without being sworn ;

(*f*) in cases where the right of reply depends upon the question, whether evidence has been called for the defence, the fact that the person charged has been called as a witness shall not of itself confer on the prosecution the right of reply ; and

(*g*) a person charged and called as a witness in pusuance of this section shall not be asked, and if asked, shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than that with which he is then charged ; or is of bad character unless—

(*i*) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence with which he is then charged, or

(*ii*) he has personally or by his legal practitioner asked questions of the witnesses for the prosecution with a view to establish his own good character or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the prosecutor or the witnesses for the prosecution, or

(*iii*) he has given evidence against any other person charged with the same offence.

Comment on failure by defendant to give evidence.

181. In any criminal proceeding, where a defendant has not given evidence, the court, posecution or any other party to the proceeding may comment on the failure of the defendant to give evidence but the comment shall not suggest that the defendant failed to do so because he was, or that he is, guilty of the offence charged.

Evidence by husband or wife, when compellable.

182.—(1) When a person is charged—

(*a*) with an offence under sections 217, 218, 219, 221, 222, 223, 224, 225, 226, 231, 300, 301, 340, 341, 357 to 362, 369, 370 or 371 of the Criminal Code ;

(*b*) subject to section 36 of the Criminal Code with an offence against the property of his wife or her husband ; or

(*c*) with inflicting violence on his wife or her husband, the wife or husband of the person charged shall be a competent and compellable witness for the prosecution or defence without the consent of the person charged.

(2) When a person is charged with an offence other than one of those mentioned in subsection (1) of this section, the husband or wife of such person is a competent and compellable witness but only upon the application of the person charged.

(3) Nothing in this section shall make a husband compellable to disclose any communication made to him by his wife during the marriage or a wife compellable to disclose any communication made to her by her husband during the marriage.

(4) The failure of the wife or husband of any person charged with an offence to give evidence shall not be made the subject of any comment by the prosecution.

Witness not to be compellable to incriminate himself.

183. No one is bound to answer any question if the answer to it would, in the opinion of the court, have a tendency to expose the witness or the wife or husband of the witness to any criminal charge, or to any penalty or forfeiture which the judge regards as reasonably likely to be preferred or sued for :

Provided that—

(*a*) a person charged with an offence, and being a witness in pursuance of section 180 may be asked and is bound to answer any question in cross-examination notwithstanding that it would tend to incriminate him as to the offence charged ;

(*b*) no one is excused from answering any question only because the answer may establish, or tend to establish that he owes a debt or is otherwise liable to any civil suit either at the instance of the Federal, State or Local Govenment or any other person ;

(*c*) nothing contained in this section shall excuse a witness at any inquiry by direction of the Attorney-General of the Federation, or of the Attorney-General of a State, under Part 49 of the Criminal Procedure Act from answering any question required to be answered under section 458 of that Act.

Compellability as to Production of Documents

Production of title deeds or other documents of witness not a party.

184. No witness who is not a party to a suit shall be compelled to produce his title-deeds to any property or any document by virtue of which he holds any property as pledge or mortgage or any document the production of which might tend to incriminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.

Production of documents which another person could refuse to produce.

185. No one shall be compelled to produce documents in his possession which any other person would be entitled to refuse to produce if they were in his possession, unless such last mentioned person consents to their production.

Competency in Proceeding Relating to Adultery

Evidence by spouse as to adultery.

186. The parties to any proceeding instituted in consequence of adultery and the husbands and wives of the parties shall be competent to give evidence in the proceeding, but no witness in any such proceeding whether a party to them or not, shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery, unless he or she has already given evidence in the same proceeding in disproof of the alleged adultery.

Priviledged Communications

Communciations during Marriage

Communications during marriage.

187. No husband of wife shall be compelled to disclose any communication made to him or her during marriage by any person to whom he or she is or has been married nor shall be or she be permitted to disclose any

such communication, unless the person who made it, or that person's representative in interest, consents, except in suits between married persons, or proceeding in which one married person is prosecuted for an offence specified in section 182 (1) of this Act.

Compellability, of justices etc., or the persons before whom the proceeding is being held.

188. No Justice, Judge, Grand Kadi or President of a Customary Court of Appeal and, except upon the special order of the High Court of the State, Federal Capital Territory, Abuja or Federal High Court, no magistrate, or other persons before whom a proceeding is being held shall be compelled to answer any questions as to his own conduct in court in any of the capacities specified in this section, or as to anything which came to his knowledge in court in such capacity but he may be examined as to other matters which occurred in his presence whilst he was so acting.

Restriction on disclosure as to source of information in respect of commission of offences.

189. No magistrate, police officer or any other public officer authorised to investigate or prosecute offences under any written law shall be compelled to disclose the source of any infomation as to the commission of an offence which he is so authorised to investigate or prosecute and no public officer employed in or about the business of any branch of the public revenue, shall be compelled to disclose the source of any information as to the commission of any offence against the public revenue.

Evidence as to affairs of State.

190—(1) Subject to any direction of the President in any particular case, or of the Governor of a State where the records are in the custody of a State, no one shall be permitted to produce any unpublished official records relating to affairs of State, or to give any evidence derived from such record except with the permission of the officer at the head of the Ministry, Department or Agency concerned who shall give or withhold such permission as he thinks fit;

Provided that the head of the Ministry, Department or Agency concerned shall, on the order of the court, produce to the judge the official record in question or, as the case may be, permit evidence derived from it to be given to the judge alone in chambers; and if the judge after careful consideration shall decide that the record or the oral evidence, as the case may be, should be received as evidence in the proceeding, he shall order this to be done in private as provided in section 36(4) of the Constitution.

Official communication.

191. No public officer shall be compelled to disclose communications made to him in official evidence when he considers that the public interests would suffer by the disclosure.

Provided that the public officer concerned shall, on the order of the court, disclose to the judge alone in chambers the substance of the communication in question; and if the judge is satisfied that the communication should be received in evidence this shall be done in private in accordance with section 36(4) of the Constitution.

Professional communication between client and legal practitioner.

192.—(1) No legal practitioner shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such legal practitioner by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment or to disclose any advice given by him to his client in the course and for the purpose of such employment :

Provided that nothing in this section shall protect from disclosure—

(*a*) any such communication made in furtherance of any illegal purpose ; or

(*b*) any fact observed by any legal practitioner in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment.

(2) It is immaterial whether the attention of such legal practitioner was or was not directed to such fact by or on behalf of his client.

(3) The obiligation stated in this section continues after the employment has ceased.

Section 192 to apply to interpreters and clerks.

193. The provisions of section 192 shall apply to interpreters and the clerks of legal practitioners.

Privilege not waived by volunteering evidence.

194. If any party to a suit or proceeding gives evidence in such suit or proceeding, whether at his own instance or otherwise, he shall not be deemed to have by this reason consented to such disclosure as is mentioned in section 192 and, if any party to a suit or proceeding calls any such legal practitioner as a witness, he shall be deemed to have consented to such disclosure only if he questions such legal practitioner on matters which , but for such question he would not be at liberty to disclose.

Confidential communication with legal advisers.

195. No one shall be compelled to disclose to the court any confidential communication which has taken place between him and a legal practitioner consulted by him, unless he offers himself as witness in which case he may be compelled to disclose any such communications as may appear to the court necessary to be known, in order to explain any evidence which he has given, but no others.

Statements in documents marked "without prejudice".

196. A statement in any document marked "without prejudice" made in the course of negotiation for a settlement of a dispute out of court, shall not be given in evidence in any civil proceeding in proof of the matters stated in it.

Corroboration

Corroboration in actions for breach of promise of marriage.

197. No plaintif in any action for breach of promise of marriage shall be entitled to succeed unless his or her testimony is corroborated by some other material evidence in support of such promise ; and the fact that the defendant did not answer letters affirming that he had promised to marry the plaintif is not such corroboration.

Accomplice.

198.—(1) An accomplice shall be a competent witness against a defendant, and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice—.

Provided that in cases when the only proof against a person charged with a criminal offence is the evidence of an accomplice, uncorroborated in any material paticular implicating the defendant, the court shall direct itself that it is unsafe to convict any person upon such evidence.

(2) In this section and section 199 of this Act, an accomplice is any person who pursuant to section 7 of the Criminal Code may be deemed to have taken part in committing the offence as the defendant or is an accessory after the fact to the offence of a receiver of stolen goods.

Co-defendant not an accomplice.

199. Where defendants are tried jointly and any of them gives evidence on his own behalf which incriminates a co-defendant the defendant who gives such evidence shall not be considered to be an accomplice.

Number of witnesses.

200. Except as provided in sections 201 to 204 of this Act, no particular number of witnesses shall, in any case, be required for the proof of any fact.

Treason and treasonable offences.

201.—(1) A person charged with treason or with any of the felonies mentioned in sections 40, 41 and 42 of the Criminal Code Act cannot be convicted, except on his own plea of guilty, or on the evidence in open court of two witnesses at least to one overt act or the kind of treason or felony alleged, or the eidence of one witness to one overt act and one other witness to another overt act of the same kind of teason of felony.

(2) Subsection (1) of this section does not apply to cases in which the overt act of treason alleged is the killing of the President or a direct attempt to endanger the life or injure the person of the President.

Evidence on charge of perjury.

202. A person shall not be convicted of committing perjury or for counseling or procuring the commission of perjury, upon the uncorroborated testimony of one witness contradicting the oath on which perjury is assigned, unless circumstances are proved which corroborated such witness.

Exceeding speed limit.

203.—(1) A person charged under any road traffic legislation with driving at a speed higher than the allowed maximum shall not be convicted solely on the evidence of one witness that in the opinion of that witness he was driving at such speed :

Provided that the evidence of a duly authorized officer of the relevant authority who was at time of the commission of the offence operating any mechanical, electronic or other device for the recording of the speed of a moving vehicle, the record of such device being additionally tendered in evidence against the defendant, shall not require further corroboration.

(2) In this section, "relevant authority" means the Nigeria Police Force, the Federal Road Safety Commission, or any other body charged with responsibility for offences of speeding under the road traffic legislation.

Sedition.

204 A person shall not be convicted of the offence of uttering seditious words under section 51(1)(*b*) of the Criminal Code Act upon the uncorroborated testimony of one witness.

PART XII—TAKING ORAL EVIDENCE AND EXAMINATION OF WITNESSES

Taking of Oral Evidence

Oral evidence to be on oath or affirmation.

205. Save as otherwise provided in sections 208 and 209 of this Act, all oral evidence given or any proceeding must be given upon oath of affirmation administered in accordance with the Oaths Act or Law, as the case may be.

Witness to be cautioned before giving oral evidence.

206. Any witness summoned to give oral evidence in any proceeding shall before giving such evidence be cautioned by the court, or the registrar upon the court's direction, in the following words—

"You (*Full name*) ..... are hereby cautioned that if you tell a lie in your testimony in this proceeding or willfully mislead this court you are liable to be prosecuted and if found guilty you will be seriously dealt with accordingly to law."

Absence of religious belief does not invalidate oath.

207. Where an oath has been duly administered and taken, the fact that the person to whom the same was administered had, at the end of taking such oath, no religious belief, does not for any purpose affect the validity of such oath.

Cases in which evidence not given upon oath may be received.

208.—(1) Any court may, on any occasion, if it deems it just and expedient, receive the evidence, though not given upon oath, of any person declaing that the taking of any oath whatsoever is, accoding to his religious belief, unlawul, or who, by reason of want of religious belief ought not, in the opinion of the court, to be admitted to give evidence upon oath.

(2) The fact that in any case evidence not given upon oath has been received, and the reasons or the reception of such evidence, shall be recorded in the minutes of the proceeding.

Unsworn evidence of a child.

209.—(1) In any proceeding in which a child who has not attained the age of 14 years is tendered as a witness, such child shall not be sworn and shall give evidence otherwise than on oath or affirmation, if in the opinion of the cout, he is possessed of sufficient intelligence to justify the reception of his evidence and understands the duty of speaking the truth.

(2) A child who has attained the age of 14 years shall, subject to section 175 and 208 of this Act give sworn evidence in all cases.

(3) A person shall not be liable to be convicted for an offence unless the testimony admitted by virtue of subsection (1) of this section and given on behalf of the prosecution is corroborated by some other material evidence in support of such testimony implicating the defendant.

(4) If a child whose evidences received under this section, willfully gives false evidence in such circumstances that he would, if the evidence had been given on oath have been guilty of perjury, he shall be guilty of an offence under section 191 of the Criminal Code and on conviction shall be dealth with accordingly.

Examination of Witness

Order of production and examination of witnesses.

210. The under in which witnesses are produced and examines shall be regulated by the law and practice fot the time being relating to civil and criminal procedure respectively, and, in the absence of any such law, at the discretion of the court.

Court to decide as to admission of evidence.

211.—(1) When either party proposes to give evidence of any fact, the court may ask the paty proposing to give the evidence in what manner the alleged fact, if proved, would be relevant, and the court shall admmit the evidence if it thinks that the fact, if proved, would be relevant and not otherwise.

(2) If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last mentioned fact must be proved before evidence is given of the fact first mentioned, unless the party undertakes to give poof of such fact, and the court is satisied with such undertaking.

(3) If the relevancy of one alleged fact depends upon another alleged fact being first proved, the court may in its discretion, either permit evidence of the first fact to be given before the second fact is proved, of require evidence to be given of the second fact before evidence is given or the first fact.

Ordering witnesses out of court.

212. On the application of either party, or of its own motion, the court may order witnesses on both sides to be kept out of court ; but this provision does not extend to the parties themselves or to their respective legal advisers, although intended to be called as witnesses.

213. The court may during any trial take such means as it considers necessary and proper for preventing communication with witnesses who are within the court house or its precincts awaiting examination. Preventing communication with witnesses.

214.—(1) The examination of a witness by a the party who calls him shall be called examination-in-chief. Examination-in-chief, cross-examination and re-examination.

(2) The examination of a witness by a party other than the party who calls him shall be called cross-examination.

(3) Where a witness has been cross-examined and is then examined by the party who called him, such examination shall be called re-examination.

215.—(1) Witnesses shall be first examined-in-chief, then, if any other party so desires, cross-examined, then if the party called him so desires, re-examined. Order and direction o examination.

(2) The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testiied on his examination-in-chief.

(3) The re-examination shall be directed to the explanation of matters referred in cross-examination and if a new matter is, by permission of the couft, introduced in re-exanination, the adverse party may further cross-examine upon that matter.

216. Where more than one defendant is charged at the same time each defendant shall be allowed to cross-examine a witness called by the prosecution before the witness is re-examined. Cross-examination by co-defendant of prosecution witness.

217. Where more than one defendant is charged in the same time, a witness called by one defendant may be cross-examined by the other defendant such cross-examination shall take place before cross-examination by the prosecution. Cross-examination by co-defendant of witness called by a defendant.

218. A person, whether a party or not in a cause, may be summoned to produce a document without being summoned to give evidence, and if he causes such document to be produced in court the court may dispense with his personal attendance. Production of documents without giving evidence.

Cross-examination of person called to produce a document.

219. A person summoned to produce a document does not become a witness by the mere fact that he produces it and cannot be cross-examined unless and until he is called as a witness.

Witness to character.

220. Witnesses to character may be cross-eamined and re-examined.

Leading question.

221.—(1) Any question suggesting the answer which the person putting it wishes or expects to receive is called a leading question.

(2) Leading question shall not be asked in examination-in-chief, or in re-examination, except with the permission o the court.

(3) The court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.

(4) Leading questions may be asked in cross-examination.

Evidence as to matters in writing.

222.—(1) A witness may be asked, whilst under examination, whether any contract, grant or other disposition of property, as to which he is giving evidence was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document, which, in the opinion of the court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.

(2) A witness may give oral evidence of statements made by other persons about the content of a document if such statments are in themselves relevant facts.

Question lawful in cross-examination.

223. When a witness is cross-examined, he may, in addition to the question referred to in preceeding sections of this Part, be asked any question which tend to—

(*a*) test his accuacy, veracity or credibility ; or

(*b*) discover who he is and what is his position in life ; or

(*c*) shake his credit, by injuring his character ;

Provided that a person charged with a criminal offence and being a witness may be cross-examined to the effect, and under the circumstances, described in paragraph (*c*) of the provision to section 180 of this Act.

Court to decide whether question shall be asked and when a witness may be compelled to answer.

224.—(1) If any question permitted to be asked under section 223 of this Act relates to a matter not relevant to the proceeding, except in so far as it affects the credit of the of the witness by injuring his character, the court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it.

(2) In exercising its discretion, the cout shall have regard to the following considerations—

(*a*) such question are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the court as to the credibility of the witness on the matter to which he testifies ;

(*b*) such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the court as to the credibility of the witness on the matter to which the testiies ; and

(*c*) such questions are improper if there is a great dispropotion between the importance of the imputation made against the witness's character and the importance of his evidence.

(3) The court may, if it deems fit, draw, from the refusal of the witness to answer, the inference that the answer if given would be unfavourable.

Question not be asked without reasonable grounds.

225. Any question refered to in section 224 of this Act may not be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well founded.

Procedure of court in case of question being asked without reasonable grounds.

226. If the court is of the opinion that any question referred to in section 224 was asked without reasonable grounds, it may, if it was asked by any legal practitioner, report the circumstances of the case to the Attorney-General of the Federation or other authoity to which such legal practitioner is subject in the exercise of his profession.

Indecent and scandalous questions.

227. The court may forbid any question or inquiry which it regards as indecent o scandalous although such questions or inquiries may have some bearing on the questions before the court, unless they relate to facts in issue or to matters necessary to be known in order to determine whether or not the facts in issue existed.

Questions intendend to insult or annoy.

228. The court shall forbid any question which appears to it to be intended to insult or annoy, of which, though proper in itself, appears to the court needlessly offensive in form.

Exclusion of evidence to contradict answers to questions testing veracity.

229. When a witness has been asked and has answered any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him, but if he answers falsely he may afterwards be charged with an offence under section 191 of the Criminal Code and on conviction, shall be dealt with accordingly;

Provided that if a witness is asked—

(*a*) whether he has been previously convicted or any crime and denies it, evidence may be given on of his previous conviction ; or

(*b*) any question tending to impeach his impartiality and answers it by denying the facts suggested, he may be contradicted.

How far a party may descedit his own witness.

230. The party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may in case the witness shall, in the opinion of the court, prove hostile, contradict him by other evidence, or by leave of court, prove that he has made at other times a statement inconsistent with his persent testimony ; but before such last mentioned proof can be given the cicumstances or the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness and he must be asked whether or not be has made such statement.

Proof of contradictory statement of hostile witness.

231. If a witness upon cross-examination as to a former statment made by him relative to the subject-matter of the trial and inconsistent with his present testimony, does not distinctly admit that he has made such statment, proof may be given that he did in fact make it ; but before such proof can be given the cicumstances of the supposed statement sufficient to designate the paticular occasion must be mentioned to the witness, and he must be asked whether or not he has made such statement.

Cross-examination as to previous statements in writing.

232. A witness may be cross-examined as to previous statments made by him in writing or reduced into writing and relative to matters in question in the suit or proceeding in which he is cross-examined without such writing being shown to him or being proved, but if it is, intended to contradict such witness by the writing, his attention must, before such writing can be proved or such contradictory proof given, be called to those parts of the writing which are to be used of the purpose of contradicting him ;

Provided always that it shall be competent for the court at any time during the trial to require the production of the writing for its inspection, and the court may thereupon make use of it for the puposes of the trial, as it deems fit.

Impeaching credit of witness.

233. The credit of a witness may be impeached in the following ways by any party other than the party calling him or with the consent of the court by the party who calls him—

(*a*) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit ;

(*b*) by proof that the witness has been bribed, or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence ; or

(*c*) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted.

Special restrictions in respect of permissible evidence in trial for sexual offences.

234. Where a person is prosecuted for rape or attempt to commit rape or or indecent assault, except with the leave of the court no evidence shall be adduced, and, except with the like leave, no question in cross-examination shall be asked by or on behalf of the defendant, about any sexual experience of the complainant with any person other than the defendant.

Evidence of witness impeaching credit.

235. A witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with an offence under section 191 of the Criminal Code and on conviction, shall be dealt with accordingly.

Questions tending to render evidence of relevant fact more probable, admissible.

236. When a witness gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at which such relevant fact occurred, if the court is of the opinion that such circumstances if proved, would render more probable the testimony of the witness as to the relevant fact which he testiies.

Former statements of witness may be proved to show consistency.

237. Any former statement made by a witness relating to the same fact at or about the time when the fact took place, or before any authority legally competent to investigate the fact may be proved in order to show consistency in the testimony of the witness or to show that his testimony is not an afterthought.

What matters may be proved in connection with proved statement-relevant under sections 40 to 50.

238. Whenever any statment admissible under section 40 to 50 of this Act, is proved, all matters may be proved either in order to contradict or to confirm it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matters suggested.

Refreshing memory.

239.—(1) A witness my, while under examination, referesh his memoy by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon aterwards that the court considers it likly that the transaction was at that time fresh in his memory.

(2) The witness may also refer to any such writing made by any other person, and read by the witness within the time mentioned in subsection (1) of this section, if when he read it he knew it to be correct

(3) An expert may refresh his memory by reference to professional treaties.

Testimony to facts stated in document mentioned in section 239.

240. A witness may also testify to facts mentioned in any such documeent as is mentioned in section 239 of this Act, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

Right of adverse party as to writing used to refresh memory.

241. Any writing referred to under sections 239 and 240 of this Act, shall be produced and shown to the advese party if he requires it, and such party may, if he pleases, cross-examine the witness upon the writing.

Production of documents.

242.—(1) Subject to section 243 of the this Act, a witness summoned to produce a document shall, if it is in his possession or power, bring it to court, notwithstanding any objection which there may be to its production or to its admissibility and the validity of any such objection shall be decided by the court.

(2) The court, if it deems fit, may inspect the document or take other evidence to enable it to determine on its admissibility.

(3) If for such a purpose, it is necessary to cause any document to be translated, the court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence and, if the translator disobeys such direction, he shall be held to have committed an offence under section 97(1) of the Criminal Code.

Exclusion of evidence on grounds of public interest.

243.—(1) A Minister, or in respect of matters to which the executive authority of a State extends, the Governor or any person nominated by him, may in any proceeding object to the production of documents or request the exclusion of oral evidence when after consideration he is satisfied that the production of such document or the giving of such oral evidence is against public interest.

(2) Any objection mentioned in subsection (1) of this section shall, if taken—

(*a*) before trial, be by affidavit ; or

(*b*) at the hearing, be by certificate produced by a public officer.

(3) The court shall have a discretion whether or not to uphold any such objection, and may in determing how to exercise its discretion, inspect such documents or be informed as to the nature of the oral evidence to which the objection relates.

Giving as evidence document called for and produced on notice.

244. When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give its as evidence if the party producing it requires him to do so.

Using, as evidence, of document production of which was refused on notice.

245. When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the court.

Judge's power to put questions or order production of documents, etc.

246.—(1) The court or any other person empowered by law to take evidence may, in order to clear up ambiguities or to clarify points which have been left obscure in the evidence given by any witness, ask any question he pleases, in any form, at any time of any witness, or of the parties about any fact relevant or irrelevant, and may order the production of any document or thing ; and neither the parties nor their agents shall be entitled to make any objection to any such question or order or, without the leave of the court, to cross-examine any witness upon my answer given in reply to any such question.

(2) The question refereed to in subsection (1) of this section shall be based upon facts declaed by this Act to be relevant, and duly proved ; and

(3) A judge shall not under this section authorise any judge to compel any witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under this Act, if the

question were asked or the documents were called for by the adverse party, nor shall the judge ask any question which it would be improper for any person to ask under section 224 or 225 of this Act nor shall the judge dispense with primary evidence of any document except in the cases excepted in proceeding sections of this Act.

Power of assessors to put questions.

247. In cases tried with assessors, the assessors may put any question to the witnesses, through or by leave of the judge, which the judge himself may put and which he considers proper.

PART XIII—EVIDENCE OF PREVIOUS CONVICTION

Proof of previous conviction.

248.—(1) Where it is necessary to prove a conviction of a criminal offence, the same may be proved—

(*a*) by the production of a certificate of conviction containing the substance and effect of the conviction only, purporting to be signed by the registrar or other officer of the court in whose custody is the record such of the said conviction;

(*b*) if the conviction was before a customary court, by a similar certificate signed by the clerk of court or scribe of the court in whose custody is the record of the said such conviction ; or

(*c*) by a certificate purporting to be signed by the Director of Prisons or officer in charge of the records of a prison in which the prisoner was confined giving the offence for which the prisoner was convicted, the date and the sentence.

(2) If a person alleged to be the person referred to in the certificate denies that he is such person the certificate shall not be put in evidence unless the court is satisfied by the evidence, that the individual in question and the person and the person named in the certificate are the same.

Proof of previous conviction outside Nigeria.

249.—(1) A previous conviction in a place outside Nigeria may be proved by the production of a certificate purporting to be given under the hand of a police office in the country where the conviction was had, containing a copy of the sentence or order and the finger prints of the person or photographs of the finger pints of the person so convicted, together with evidence that the finger prints of the person so convicted are those of the defendant.

(2) A certificate given under subsection (1) of this section shall be *prima facie* evidence all facts set out in its, without proof that the officer purporting to sign it did in fact sign it and was empowered to do so.

Additional mode of proof in criminal proceedings of a previous conviction.

250.—(1) A previous conviction may be proved against any person in any criminal proceeding by the production of such evidence of the conviction as is mentioned in this section, and by showing that his finger prints and those of the person convicted are the finger prints of the same person.

(2) A certificate—

(*a*) purporting to be signed by or on behalf of the central registrar ;

(*b*) containing particulars relating to a conviction extracted from the criminal records kept by him or a photographic copy certified as such of particulars relating to a conviction as entered in the said records ; and

(*c*) certifying that the copies of the finger print exhibited to the certificate are copies of the finger prints appearing from the said record to have been taken from the person convicted on the occasion of the conviction, shall be evidence of the conviction and evidence that the copies of the finger prints exhibited to the certificate are copies of the finger prints of the person convicted.

(3) A certificate—

(*a*) purporting to be signed by or on behalf of the superintendent of a prison in which any person has been detained in connection with any criminal proceeding or by a police officer who has had custody of any person charged with an offence in connection with any such proceeding ; and

(*b*) certifying that the finger prints exhibited to it were taken from such person while he was so detained or was in such custody as mentioned in paragraph (*a*), shall be evidence in those proceeding that the finger prints exhibited to the certificate are the finger prints of that person.

(4) A certificate—

(*a*) purporting to be signed by or on behalf of the central registrar ; and

(*b*) certifying that—

(*i*) the finger prints copies of which are certified as mentioned in this section by or on behalf of the cental registrar to be copies of the finger prints of a person previously convicted, and

(*ii*) the finger prints certified by or on behalf of the superintendent of the prison or the police officer as mentioned in this section or otherwise shown to be the finger pints of the person against whom the previous conviction is sought to be proved are the finger prints of the same person, shall be evidence of the matter so certified.

(5) The method of proving a previous conviction authorised by this section shall be in addition to any other method authorised by law for proving such conviction.

Cap P27 LFN. 2004.

(6) For the purpose of this section, "the central registrar" means the person in charge of the principal registry of criminal records established under the Prevention of Crimes Act.

PART XIV—WRONGFUL ADMISSION AND REJECTION OF EVIDENCE

Wrongful admission or exclusion of evidence.

251.—(1) The wrongul admission of evidence shall not of itself be a ground for the revesal of any decision in any case where it appears to the court on appeal that the evidence so admitted cannot reasonbaly be held to have affected the decision and that such decision would have been the same if such evidence had not been admitted.

(2) The wrongful exclusion of evidence shall not of itself be a ground for the reversal of any decision in any case if it appears to the court on appeal that had the evidence excluded been admitted it may reasonably be held that the decision would have been the same.

(3) In this section the term "decision" includes a judgment, order, finding or verdict.

PART XV—SERVICE AND EXECUTION THROUGH-OUT NIGERIA OF PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES BEFORE COURTS OF THE STATES AND THE FEDEAL CAPITAL TERRITORY, ABUJA AND THE FEDERAL HIGH COURT.

Interpretation of "*Court*" in this part.

252. In this Part —

"*Court*" means a High Court or a magistrate's court and courts of similar jurisdiction.

Subpoena or witness summons may be served in another state.

253.—(1) When a subpoena or summons has been issued by any court in any State or in the Federal Capital Territory, Abuja or by the Federal High Court in the exercise of its civil jurisdiction in accordance with any power conferred by law requiring any person to appear and give evidence or to produce books or documents in any proceeding, such subpoena or summons may upon proof that the testimony of such person or the production of such books or documents is necessay in the interests of justice by leave of such court on such terms as the court may impose be served on such person in any other State or the Federal Capital Territory, Abuja.

(2) If a person upon whom a subpoena or summons has been served in accordance with subsection (1) of this section fails to attend at the time and place mentioned in such subpoena or summons such court may, on proof that the subpoena or summons was duly served on such person and that the sum

prescribed by law was tendered to him for his expenses, issue such warrant for the apprehension of such person as such court might have issued if the subpoena or summons has been served in the State or the Federal Capital Territory, Abuja in which it was issued.

(3) Such warrant may be executed in such other State or the Fedeal Capital Territory, Abuja in the manner provided in Chapter 12 of the Criminal Procedure Act, in the case of warrants issued for the apprehension of persons charged with an offence.

Orders for production of prisoners.

254.—(1) Where it appears to any court of a State or of the Federal Capital Territory, Abuja that the attendance before the court of a person who is undergoing sentence in any State or the Federal Capital Territory, Abuja is necessary for the purpose of obtaining evidence in any proceeding before the court, the court may issue an order directed to the superintendent or officer in charge of the prison or place where the person is undergoing sentence requiring him to poduce the person at the time and place specified in the order.

(2) Any order made under this section may be served upon the superintendent or officer to whom it is directed in any State or the Federal Capital Territory, Abuja, he may be and he shall thereupon produce in such custody as the superintendent or officer thinks fit, the person referred to in the order at the time and place specified in it.

(3) The court before which any person is produced in accordance with an order issued under this section may make such order as to the costs of compliance with this order as may seem just to the court.

PART XVI—MISCELLANEOUS AND SUPPLEMENTAL

Regulations.

255. The Minister charged with responsibility for justice may, from time to time, make regulations generally prescibeing further conditions with respect to admissibility of any class of evidence that may be relevant under this Act.

Application.

256.—(1) This Act shall apply to all judicial proceeding in or before any court established in the Federal Republic of Nigeria but it shall not apply to—

(*a*) proceeding before an arbitrator ;

(*b*) a field general court martial ; or

(*d*) judicial proceeding in any civil cause or matter in or before any Sharia Court of Appeal Customary Court of Appeal, Area Court or Customary Court, unless any authority empowered to do so under the Constitution, by order published in the Gazette, confers upon any or all Sharia Courts of Appeal, Customary Courts of Appeal, Area Courts or Customary Courts in the Federal Capital Territory, Abuja or a State, as the case may be, power to enforce any of all the provisions of this Act.

(2) In judicial proceeding in any criminal cause of matter, in or before an Area Court, the court shall be guided by the provisions of this Act and in accordance with the provisions of the Ciminal Procedure Code Law.

(3) Notwithstanding anything in this section, an Area Court shall, in judicial proceeding in any criminal cause or matter be bound by the provisions of sections 134 to 140.

Repeal.

257. The Evidence Act Cap E14 Laws of the Federation of Nigeria, 2004 is repealed.

Interpretation.

258.—(1) In this Act—

"*bank*" or "*banker*" means a bank licensed under the Banks and Other Financial Institutions Act Cap. B3LFN. 2004 and includes anybody authorised under an enactment to carry on banking business ;

"banker's books" (and related expressions) includes ledger, day books, cash books, account books and all other books used in banking business ;

"*banking business*" has the meaning assigned to it in the Banks and Other Financial Institutions Act 1991 ;

"*the Constitution*" means the Constitsution of the Federal Republic of Nigeria 1999 ;

"*copy of a document*" includes—

(*a*) in the case of a document falling withing paragraph (*b*) but not (*c*) of the definition of "document" in this subsection, a transcript of the sounds or other data embodied in it ;

(*b*) in the case of a document falling within paragraph (*b*) but not (*c*) of that definition, a reproduction or still reproduction of the image of images embodied in it whether enlarged or not ;

(*c*) in the case of a document falling within both those paragraphs, such a teanscript together with such a still reproduction ; and

(*d*) in the case of a document not falling within the said paragraph (*c*) of which a visual image is embodied in a document falling within that paragraph, a reproduction of that image, whether enlarged on not, and any reference to a copy of the material part of a document shall be construed accordingly ;

"*computer*" means any device for storing and processing information, and any reference to information being derived from other information is a reference to its being derived from it by calculation, comparison or any other process.

"*court*" includes all judges and magistrates and, except arbitratirs, all persons legally authorised to take evidence ;

"*customs*" means a rule which, in a particular district, has, from long usage, obtained the force of law ;

"*document*" includes—

(*a*) books, maps, plans, graphs, drawings, photographs, and also includes any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of these means, intended to be used or which may be used for the purpose of recording that matter ;

(*b*) any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it ; and

(*c*) any film, engative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it ; and

(*d*) any device by means of which information is recorded, stored or retrievable including computer output ;

"*fact*" includes—

(*a*) anything, state of things, or relation of things, capable of being perceived by the senses ; and

(*b*) any mental condition of which any person is conscious

"*facts in issue*" includes any fact from which either by itself or in connection with other facts the existence, non-existence, nature or extent of any right, liability or disabilty asserted or denied in any suit or proceeding necessarily follows :.

"*film*" includes a microfilm.

"*financial institution*" has the meaning assigned to "other financial institution" by the Banks and Other Financial Institutions Act 1991 ;

"*person interested*" means any person likely to be personally affected by the outcome of a proceeding ;

"*Public Service of the Federation or of a State*" has the meaning assigned thereto in the Constitution, and "public officer" shall be construed accordingly ;

"*real evidence*" means anything other than testimony admissible hearsay or a document the contents of which are affected evidence of a fact at a trial, which is examined by the court as a means of proof of such fact ;

"*statement*" includes any representation of fact whether made in words or otherwise ; and

"*wife and husband*" mean respectively the wife and husband of a marriage validly contracted under the Marriage Act, or under Islamic law or a Customary law applicable in Nigeria, and includes any marriage recognised as valid under the Marriage Act.

(2) In this Act, any reference to a section or other provision of the Criminal Code Act or the Criminal Procedure Act shall, as case may be, be construed as including a reference to the corresponding section or provision of the Criminal Code Law or Penal Code Law or the Criminal Procedure Code Law of a State or in respect of the Federal Capital Territory, Abuja, the Penal Code Act or the Criminal Procedure Code Act, whichever may be appropriate.

Citation.

250. This Act may be cited as the Evidence Act, 2011.

I certify, in accordance with Section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

SALISU ABUBAKAR MAIKASUWA, mni
Clerk to the National Assembly
2nd day of June, 2011.

EXPLANATORY MEMORANDUM

This Act repeals the Evidence Act, Cap. E14, Laws of the Federation of Nigeria 2004, and enacts a new Evidence Act, 2011 which applies to all judicial proceedings in or before Courts in Nigeria.

SCHEDULE TO EVIDENCE BILL, 2011

(1) *Short Title of the Bill*	(2) *Long Title of the Bill*	(3) *Summary of the Contents of the Bill*	(4) *Date passed by the Senate*	(5) *Date Passed by the House of Representatives*
Evidence Bill, 2011.	An Act to repeal the Evidence Act, Cap E14, Laws of the Federation of Nigeria 2004, and enact a new Evidence Act which shall apply to all judicial proceedings in or before Courts in Nigeria ; and for related matters.	This Bill seeks to repeal the Evidence Act, Cap. E14, Laws of the Federation of Nigeria 2004, and enacts a new Evidence Act, 2011 which applies to all judicial proceedings in or before Courts in Nigeria.	1st June, 2011.	19th May, 2011.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

I ASSENT.

LS

SALISU ABUBAKAR MAIKASUWA, mni
Clerk to the National Assembly
2nd Day of June, 2011.

DR. GOODLUCK EBELE JONATHAN, GCFR
President of the Federal Republic of Nigeria
3rd Day of June, 2011.