



EDO STATE CUSTOMARY COURTS LAW

**LONG TITLE: A BILL FOR A LAW TO REPEAL THE CUSTOMARY COURTS EDICT (NOW LAW)
1984 (AS AMENDED)**

1. Short Title and Commencement.

This law may be cited as Edo State Customary Courts Law, and shall come into force on the ____ day of ____, 2025.

2. Interpretation.

In this Law, unless the context otherwise requires:

"*Action*" means a Civil or Criminal proceedings instituted in a Customary Court in accordance with this Law or Rules made thereunder;

"*Area Customary Court*" means an Area Customary Court established under Section 3 (1) of this Law;

"*Cause*" includes any action, suit or other original proceedings between a plaintiff and defendant and any criminal proceedings;

"*Chief Judge*" means the Chief Judge of the State;

"*Chief Registrar*" means the Chief Registrar of the Customary Court of Appeal;

"*Chairman*" means the Chairman of a District or Area Customary Court appointed under Section 5 of this Law;

"*Commission*" means the State Judicial Service Commission established under Section 197(1) of the Constitution of the Federal Republic of Nigeria 1999 as Amended;

"*Court*" includes the High Court of the State, a Magistrate Court or a Customary Court as the case may be;

"*Customary Court*" means an Area or District Customary Court in the State;

"*Customary Court of Appeal*" means the State Customary Court of Appeal;

"Defendant" includes every person served with any writ of summons or process or with notice of, or entitled to attend any proceeding in a civil cause and also every person charged with any crime or offence;

"District Customary Court" means a District Customary Court established under Section 3(1) of this Law;

"Execution Creditor" includes every person having title to enforce a judgment or Order of Court by process of execution;

"High Court" means the High Court of Justice of the State;

"Judge" includes the Chief Judge of the State, the President of the Customary Court of Appeal or a Judge of the High Court or a Judge of the Customary Court of Appeal;

"Judgment" includes a Decree or Order or Ruling of the Court;

"Judgment Debtor" includes every person ordered by a judgment or order in a civil cause or matter to pay money or to do or to abstain from doing any act;

"Matter" includes any proceedings in a Court;

"Member" in relation to a Customary Court means a Member of that Court and includes the Chairman thereof;

"Governor" means the Governor of Edo State;

"Native" in relation to the area of jurisdiction of a Court means person who is a member of a community indigenous to that area;

"Oath" includes solemn affirmation and Statutory Declaration;

"Order" includes Rules;

"*Party*" includes any person served with notice of or attending any proceedings although not named on the records;

"*Petitioner*" includes every person making any application to the court, either by petition, or summons, otherwise than as against any defendant;

"*Plaintiff*" includes every person seeking any relief (otherwise than by way of counter claim as a defendant) against any person by any form or proceeding by action, suit, petition, motion, summons or otherwise;

"*Pleading*" includes any petition, summons and also the statement in a claim or demand of the plaintiff and of the defence of any defendant thereto, and of the reply to the plaintiff to any counter-claim of a defendant;

"*Prescribed*" means prescribed by the Rules of Court;

"*President*" means the President of the Customary Court of Appeal;

"*Public Service*" means the Public Service of the State;

"*Registrar*" means a Registrar appointed or designated as such in accordance with Section

15 of this Law and shall include all Registrars of Court by whatever title called;

"*Rules of Court*" includes forms;

"*State*" means Edo State of Nigeria;

"*Suit*" includes action;

"*Supervising Authority*" in relation to Customary Court means the person empowered in accordance with Section 47 of this Law to supervise that Court.

3. Establishment of District and Area Customary Courts.

- (1)** There is hereby established for the State the following Grades of Customary Courts:
 - (a)** District Customary Courts; and
 - (b)** Area Customary Courts.
- (2)** Every Customary Court shall be a Court of Record.
- (3)** The Governor shall upon the recommendation of the Commission assign to each District or Area Customary Court, established under this Section such name as he may deem fit and shall issue a warrant under his hand in respect of every such Customary Court.
- (4)** Every warrant establishing a Customary Court shall be operative and take effect from the date specified therein.
- (5)** The Governor may at anytime after consultation with the Commission suspend, revalidate or cancel any warrant issued in pursuance of this Section.
- (6)** The Governor shall cause to be published in the State Gazette:
 - (a)** the warrant issued in respect of every Customary Court;
 - (b)** the order of suspension, revalidation or cancellation of a warrant in respect of such Customary Court;

4. Composition of Customary Courts.

- (1)** An Area Customary Court shall consist of a Chairman and two other Members.
- (2)** A District Customary Court shall consist of a Chairman and two other Members.

5. Appointment and Tenure of Office of Chairman and Members.

(1) Subject to subsections (2) and (3) of this Section, the Commission shall appoint the Chairman and Members of the Area and District Customary Courts on such terms and conditions as the Commission may determine.

(2) The terms and conditions of service of Chairman of an Area Customary Court and Chairman District Customary Court shall be similar and not less favourable than the terms and conditions of service of Chief Magistrate Grade II and Senior Magistrate employed in the Service of the State respectively.

(3) Subject to Section 8 of this Law, the Chairman and Lay Members of an Area Customary Court and District Customary Court shall hold office for a period of three years but shall be eligible for reappointment, subject to satisfactory annual evaluation report.

6. Qualification for Appointment.

Subject to the provisions of this Law, a person shall not be qualified to be appointed as:

- (a) a Chairman of an Area Customary Court unless he is qualified to practice as a
Legal Practitioner in Nigeria for a period of not less than seven years;
- (b) a Chairman of a District Customary Court unless he is qualified to practice as a
Legal Practitioner in Nigeria for a period of not less than five years; and
- (c) a Member of an Area or District Customary Court unless he is a native versed in the Customary Laws and usages prevailing in the area of jurisdiction of the Customary Court where he is a Member, and a holder of a Senior School Certificate or its equivalent and is of good character.

7. Disqualification from Appointment.

Notwithstanding the provisions of Section 6 (c) of this Law, a person shall be disqualified to be a Member of a Customary Court if that person:

- (a) is a member of any Legislative Body or a Local Government Council in Nigeria or is an Executive member or Officer of any Political Party; or
- (b) has been convicted by a court in Nigeria or elsewhere of an offence involving fraud or dishonesty and has not received a full pardon; or
- (c) has under any Law for the time being in force in Nigeria been found or declared to be of unsound mind or adjudged to be a lunatic; or (d) had been declared bankrupt.

8. Removal from or Cessation of Membership.

(1) The Commission may remove from office a Member of an Area Customary Court or a District Customary Court who:

- (a) is unable to perform the functions of his office due to physical or mental illness or any other reasons;
- (b) appears to the Commission to have given or accepted bribe or to have been involved in any corrupt practice or to have otherwise abused his power or his office; and
- (c) appears to the Commission to be unworthy of being a Member for any other reason considered by the Commission.

(2) Notwithstanding any other Provision of this Law, a Member of a Customary Court shall automatically cease to be a Member thereof if circumstances arise or become known which disqualify him from being a Member of the Court by virtue of the Provisions of Section 7 of this Law.

9. Area of Jurisdiction.

(1) A District Customary Court shall exercise such Jurisdiction conferred upon it by or under this Law within the territorial limits of any one or more areas as specified in its warrant.

(2) No two or more areas in a Local Government Council area shall be served by one District Customary Court unless the areas concerned belong to one ethnic group and have or are reputed to have a common historical origin or community of interests in traditional and customary matters.

(3) An Area Customary Court shall exercise such jurisdiction as is conferred upon it by or under this Law within the territorial limits of any one or more Local Government Council areas or as may by warrant under the hand of the President of the Customary Court of Appeal be directed.

(4) No two or more Local Government Council areas in the State shall be served by one Area Customary Court unless the Local Government Council Areas concerned belong to one ethnic group and have or are reputed to have a common historical origin or community of interest in traditional and customary matters.

10. Presiding at sitting of Area/District Customary Court.

The Chairman shall preside at each sitting of a District Customary Court and an Area Customary Court.

11. Quorum and Voting.

For the purpose of hearing any cause or matter in a District Customary Court or an Area Customary Court, the Chairman and one Member of the Court shall form a quorum.

(1) In any cause or matter before a Customary Court, the opinion of the majority of the Members sitting at the hearing of the same shall in the event of the Members disagreeing be deemed and taken to be the decision of the Court.

(2) In the event of an equality of votes, the Chairman shall in addition to his original vote have a casting vote.

12. Oath to be taken by Customary Court Chairman and Members.

(1)

No person who has been appointed as Chairman or a Member of a Customary Court shall sit or in any way act in that capacity until he has taken or subscribed to the oath in line with Section 290 of the Constitution of the Federal Republic of Nigeria 1999 as amended.

(2)

The oaths shall be administered by the President of the Customary Court of Appeal or in his absence by any person designated to act in that capacity.

13. Sessions.

(1) A Customary Court shall hold Sessions at such times and in such places as may be necessary for the convenient and speedy disposal of the business of the Court and for this purpose the President of the Customary Court of Appeal may divide the Area of Jurisdiction of a Customary Court into such number of zones as he may deem fit.

(2) The President of the Customary Court of Appeal may direct that any Session of a Customary Court be held at such times and places as he may think fit.

14. Legal Protection for Customary Court Chairman and Members.

(1) No Customary Court Chairman or Member shall be liable to be sued in any court of Law for or on account of any act or thing done or purported or ordered to be done by him in exercise of jurisdiction or power conferred under this Law, the act or thing being outside the limit of his jurisdiction or power, if he at that time of doing the act or thing believed in good faith that he had and the jurisdiction or power to do or order to be done, the act or thing in question.

(2) The Public Officers Protection Law shall apply in respect of any action instituted against the Chairman or Member of a Customary Court or any other person duly authorized on account of anything done by him in the course of performing any duty assigned to him under this Law.

15. Officer of the Court.

(1) Subject to the provisions of this Law the Commission shall appoint in respect of each Area or District Customary Court an Officer to be designated as the Registrar who shall perform such duties in the execution of such powers and authorities of the Court as may be assigned to him under this Law or by Rules of Court or by any Special Order of the Court and in particular, the Registrar of an Area Customary Court shall in relation to the Customary Court to which he is deployed:

- (a) prepare for issue all warrants and writs;
- (b) register all Orders and Judgments of the Customary Court;
- (c) maintain an account showing all monies received or paid by the Area Customary Court; and
- (d) supervise the Staff under him as well as the Clerks and other Staff of the District Customary Courts under the area of Jurisdiction of the Area Court.

(2) The Registrar shall be assisted in the discharge of his functions by such other supporting Staff as may be posted to him by the Chief Registrar.

16. Registrar to be Commissioner of Oaths.

(1) Every Registrar shall be a Commissioner of Oaths with power to administer oaths in accordance with the Oaths and Affirmations law and to take Affidavits and Declarations, to receive documents produced for the purpose of any cause or matter to examine and interrogate witnesses and to receive other evidence in respect of any proceedings before the Court.

(2) Any order of the Court for the attendance and examination of a witness or production of any documents before any such Commissioner of Oaths within the jurisdiction of the Court shall be enforced in the same manner as an order on a witness to attend and be examined or to produce any documents before the Court.

(3) Every act performed or order made by a Commissioner of Oaths in want or excess of his powers shall be liable to be reversed, altered, amended or set aside by the Court upon the application of an aggrieved party.

17. Bailiffs and Messengers.

(1) The Commission shall appoint such number of fit and proper persons to be Bailiffs and Messengers of Customary Court as the business of the Court may require.

(2) It shall be the duty of any person appointed under the provisions of sub-section (1) of this Section:

(a) to effect the service and execution of all Writs and other processes which he may receive from the Customary Court to which he is attached; and

(b) to perform such other related duties as may from time to time be assigned to him by the Clerk or Registrar of the Court as the case may be.

(3) A Customary Court may authorize a member of the Police Force to perform all or any of the duties mentioned in sub-section (2) of this Section in so far as they relate to the Criminal Jurisdiction of the Court and any member of the Police Force who shall

be in possession of any process issued by the Court shall be presumed to be authorized to execute such Revenue, process unless the contrary is proved.

(4) Subject to the provision of sub-section (3) of this Section, no person other than a duly appointed Bailiff or Messenger shall carry out or purport or attempt to carry out any of the duties mentioned in sub-section (2) of this Section.

18. Indemnity of Officer of Customary Court.

No Officer of any Customary Court or other person bound to execute lawful Warrants or Orders issued or made in exercise of any jurisdiction, conferred by this Law shall be personally liable on account of anything done by him in the execution of any warrants or orders of the Court if the person issuing the same had been acting in exercise of lawful authority and in good faith.

19. Persons Subject to the Jurisdiction.

A Customary Court shall have Jurisdiction over all persons.

20.Civil Jurisdiction Cap 89.

(1) The Jurisdiction and powers of a Customary Court in civil causes and matters shall be as set out in the First Schedule to the Law.

(2) It is hereby declared that the provisions of the limitation law shall apply to proceedings in Customary Courts, except on matters relating to marriage, family status, guardianship of children inheritance or disposition of property under Customary Law, Title or interest to land held under Customary tenure.

21.Rent Control and Recovery of Residential Premises.

(1) the Jurisdiction and powers formerly conferred on the Rent Tribunals in the State are hereby transferred to and shall be exercised by the Area Customary Court and District Customary Court in the State.

(2) An Area Customary Court and District Customary Court shall have jurisdiction to try causes and matters arising from the recovery of Premises Law.

22.Criminal Jurisdiction.

(1) A Customary Court shall have jurisdiction to try and determine Criminal causes and to impose such punishment thereof as are prescribed in the Second Schedule to this Law.

(2) In the exercise of its Criminal Jurisdiction, the Chairman of a Customary Court shall sit alone without the other two members.

(3) Subject to the provisions of this Section, the Governor may by order confer upon all or any Customary court jurisdiction to enforce within the local limits of the jurisdiction of such Court all or any of the provisions of any law of the State specified in such order and to impose penalties on persons who being subject to the jurisdiction of the Court offend against such provisions, subject to such restrictions and limitations, if any, as may be specified.

23. Reconciliation in Civil Causes or Matters.

In Civil causes or matters a Customary Court may promote reconciliation among the parties thereto and encourage and facilitate the amicable settlement thereof.

24. Law to be Administered.

Subject to other provisions of this law, Customary Court shall administer:

- (a) the appropriate Customary Law specified in Section 25 of this Law in so far as it is not repugnant to natural justice, equity and good conscience nor incompatible either directly or by necessary implication with any written law for the time being in force;
- (b) the provisions of any enactment in respect of which jurisdiction is conferred on the Court by the enactment; and
- (c) the provisions of all rules and bye-laws made by the appropriate Local Government Council, or having effect as if so made, under the provisions of any enactment and in force in the area of jurisdiction of the Court.

25. Appropriate Customary Law.

- (1) In land matters the appropriate Customary law shall be the Customary Law of the place where the land is situate.
- (2) In causes and matters arising from inheritance, the appropriate Customary law shall subject to sub-section (1) and {4) of this Section, be the Customary law applicable to the deceased.
- (3) Subject to the provisions of sub-section (1) and (2) of this Section:
 - (a)
in Civil causes or matters where:
 - (i) both parties are not natives of the area of jurisdiction of the Court; or
 - (ii) the transaction and subject of the cause or matter was not entered into in the area of the jurisdiction of the Court; or
 - (iii) one of the parties is not a native of the area of jurisdiction of the Court and the parties agreed or may be presumed to have agreed that their obligations shall be regulated wholly or partly by the Customary law applicable to one of the parties, the appropriate Customary law shall be the Customary law agreed or presumed to have been agreed to be binding between the parties.

- (b) in all other Civil causes and matters the appropriate Customary law to be administered shall be the Customary law prevailing in the area of jurisdiction of the Court.
- (4) Where the Customary Law applying to land prohibits, restricts or regulates the devolution on death to any particular class of persons of the right to occupy such land it shall not operate to deprive any person of any beneficial interest in such land (other than the right to occupy the same) or in the proceeds of sale thereof to which he may be entitled under the Rules of Inheritance or under any other applicable Customary law.
- (5) Where there is a contravention of any Customary law a Customary Court may, subject to the provisions of this law impose a penalty authorized by or consistent with the Customary Law; Provided that no such penalty shall involve mutilation, torture or other personal violence which is inhumane or repugnant to natural justice.
- (6) Evidence of Customary law shall be adduced in all Customary law matters.

26.Place of Trial of Cases.

- (1) Criminal causes shall be tried and determined by a Customary Court having jurisdiction over the Area in which the offence was committed.
- (2) Where:
 - (a) it is uncertain in which area of jurisdiction of a Customary Court an offence was committed; or
 - (b) an offence is committed partly in one area of jurisdiction of Customary Court and partly in an area of jurisdiction of another Customary Court; or
 - (c) an offence is a continuing one and continues to be committed in the area of jurisdiction of two or more Customary Courts; or

- (d) an offence consists of several acts committed in areas of jurisdiction of two or more Customary Court; the offence may be tried and determined by a Court established for any of such areas.
- (3) Wherever any doubt arises as to the Court in which any offence shall be tried and determined, the Customary Court shall make a report thereof in writing to the Customary Court of Appeal.
- (4) Where a report is made under subsection (3) of this Section the President of the Customary Court of Appeal shall decide in which Court the offence shall be tried and determined and shall instruct the Court accordingly and where necessary transfer the case to another Court for trial and determination.
- (5) Any decision made by the President of the Customary Court of Appeal under subsection (4) of this Section shall be final.
- (6) Civil causes other than land causes shall be tried and determined by a Customary Court having jurisdiction over the area in which the cause of action arose.
- (7) Land causes shall be tried and determined by a Customary Court having jurisdiction over the area in which the land which is the subject matter of the dispute is situate.
- (8) Notwithstanding the provisions of sub-sections (1)-(5) of this Section, where all the parties to any cause or matter which by virtue of the said subsections would normally be outside the jurisdiction of a Customary Court, agree to submit to the jurisdiction of the court, it may, if it considers it expedient to do so in the interest of justice and convenience assume jurisdiction in such cause or matter.

27. Guardianship of Children.

(1) In any matter relating to the guardianship of children, the interest and welfare of the child shall be the first and paramount consideration.

(2) Wherever it shall appear to a Customary Court that an order made by such Court shall, in the interest of a child be reviewed, the Court may of its own motion or upon the application of any interested person vary or discharge such order.

28. Practice and Procedure.

The practice and procedure of a Customary Court shall be regulated by Rules of Court made under Section 69 of this Law.

29. Representation before Customary Court.

(1) In any cause brought by or against a Local Government Council, the Council may be represented before a Customary Court at any stage of the proceedings by an employee of the Council.

(2) A Customary Court may permit:

(a) the husband, wife, guardian servant, master or inmate of the household of any party, who shall give satisfactory proof that he or she has authority in that behalf; or

(b) a relation of a person administering an estate subject to the jurisdiction of the Court to appear for any party in a Civil cause or matter before the Customary Court.

(3) Any party may be represented by a legal practitioner in any cause or matter before any Customary Court.

30. Proceedings to be in Open Court.

(1) The room or place in which a Customary Court shall sit to hear and determine any cause or matter shall be an open and public place to which the members of the public shall have a right to access while they shall be of good behaviour and to the extent to which the capacity of the Court shall allow.

(2) Provision may be made by Rules of Court made under Section 69 of this Law for the exclusion of the public from any Customary Court in cases:

- (a) in which persons under the age of seventeen years are involved; or
- (b) where the administration of justice would be rendered impracticable by the presence of the public.

31. Transfer of Causes and Matters.

(1) A District or an Area Customary Court may at any time and at any stage before judgment, of its own motion or on the application of any party, transfer any cause or matter pending before it to the President of the Customary Court of Appeal if it is of the view that on grounds of convenience and having regard to all the circumstances of the case it is desirable or expedient that the cause or matter be so transferred for assignment to another Court.

(2) The President of the Customary Court of Appeal may at anytime and at any stage before judgment on application by any party transfer any cause or matter pending before a District or an Area Customary Court within the judicial zone, if he is of the view that on grounds of convenience or for any other reason and having regard to all the circumstances of the case, it is desirable that the cause or matter be so transferred.

(3) Where a cause or matter is transferred pursuant to sub-sections (1) and (2) of this Section, the Customary Court to which it is transferred shall commence the cause or matter de novo as if it has been instituted originally before that Court.

(4) The power of transfer conferred by subsection (1), (2) and (3) of this Section shall be exercised by means of an order under the hand of the President of the

Customary Court of Appeal which may apply either to any particular cause or matter pending either entirely or in respect of any part thereof, or in respect of the procedure required to be taken therein or generally to all such causes and matters as may be described in such order and in the latter case, may extend to future causes or matters as well as to such as may, at the time of making such order, be pending.

(5) The President of the Customary Court of Appeal may at anytime cancel, alter, add to or amend any order made under subsection (4) of this Section.

(6) The President of the Customary Court of Appeal, if it appears expedient, may by means of any electronic device, in the first instance transfer the contents of any such order made by him to the parties concerned and such e-mail shall, until the receipt of the said order, have the same validity and effect as if it were the said order.

32. Customary Court may Report Causes for transfer.

A Customary Court may of its own motion or on the application of any party, report to the Supervising Authority, the pendency of any cause or matter, civil or criminal, which in the opinion of that Court ought for any reason to be transferred from that Court to any other Customary Court having jurisdiction in the cause or matter provided that the Report to the Supervising Authority shall contain where the cause or matter transferred shall be heard and determined.

33. Effect of Order of Transfer.

Every order of transfer under this part shall operate as a stay of proceedings in the Court to which it may be addressed in any cause or matter to which the order extends or is applicable, and the process of proceedings in any such cause or matter and attested copy of all entries in the books of the Court relative thereto, shall be transmitted to the Court to which the matter is transferred and henceforth all proceedings in the cause or matter shall be taken in such Court as if the cause or matter had been commenced therein.

34. Order of Direction to be final.

Any order or direction given under this part shall not be subject to appeal.

35. Place of Imprisonment.

Any person sentenced by a Customary Court to imprisonment or taken in execution of the process of such Court shall be detained in a Nigerian Prison in the State nearest to the area of jurisdiction of the Court.

36. Recovery of fines.

(1) A Customary Court may order that any fine which it may impose shall be paid at such time or times and by such installment as it may deem fit.

(2) Where there is default in the payment of any fine or of any installment of the same when due, the court may:

(a) order that the amount of the fine or of the installment, as the case may be, shall be levied by the sale of any movable property of the person in default which is situate within the area of jurisdiction of the Court; or (b) order such person to be imprisoned.

(3) A sentence of imprisonment passed upon a person in default of payment of a fine or the total of any sentences passed in default of the payment of installments of a fine as the case may be, shall not exceed in the aggregate the maximum sentence of imprisonment which the Court is empowered to impose.

(4) Where a term of imprisonment is imposed together with fine, such term together with either the sentence of imprisonment passed in default of the payment of the fine or the total of the sentences passed in default of the payment of installments thereof, as the case may be, shall not exceed in the aggregate the maximum sentence of imprisonment which the Court is empowered to impose.

(5) Where any person has been committed to prison by a Customary Court for non-payment of a fine and such person thereafter pays the whole or a part of the fine, his imprisonment shall be reduced by number of days bearing as nearly as possible the same proportion to the total number of days for which such person was committed as the sum paid bears to the amount of the fine for which such person is liable.

37. Compensation to Aggrieved Persons.

In every case in which imprisonment is ordered in default of payment of a fine, a Customary Court shall have power to award to any person injured or aggrieved by the act or omission in respect of which such fine or imprisonment has been imposed, reasonable compensation to be paid by the accused on condition that such person if he shall accept the same, shall not thereafter have or maintain any suit for the recovery of damages for the loss or injury sustained by him by reason of the act or omission in question.

38. Power to Summon Witnesses.

Subject to the provisions of any Rules made under Section 69 of this Law, every Customary Court shall have power to Summon before it for the purpose of giving evidence any person within the area of jurisdiction of the Court or any person outside such area but within the State.

39. Person present may be required to give evidence.

Any person present at a Customary Court, whether a party or not to any cause or matter before the court, may be required by the Court to give evidence in the same manner as if he had been summoned to attend and give evidence.

Provided that a person charged with an offence before a Customary Court shall not be compelled by the Court to give evidence in the proceedings relating to that offence, except upon his own application.

40. Evidence of Judgement.

- (1) Subject to the provisions of any Rules made under Section 69 of this Law, any judgment or order given or made by a Customary Court in a civil cause or matter may be enforced by seizure and sale of the movable property of the person therein, or by such other methods of enforcing judgment and orders as may be prescribed by the Rules.
- (2) The Customary Court may:

 - (a) order that the amount of the fine or installment, as the case may be, shall be levied by the sale of any movable property of the person in default, which is situated within the area of jurisdiction of the Court; or
 - (b) order such person to be imprisoned.

41. Execution Order of other Courts.

Customary Courts shall where appropriate carry into execution any decrees or orders of any other Court of law established under any enactment in Nigeria, which may be lawfully directed to them, and shall execute all warrants and serve all processes issued by any such Courts as aforesaid and directed to such Customary Courts for execution or service, and shall generally give such assistance to any of the aforesaid Courts as may be required.

42. Power to Grant interim injunction or impound property.

In any cause before a Customary Court pending final determination thereof, it shall be shown to the satisfaction of the Customary Court that any property which is in dispute in the cause is in danger of being wasted, damaged, alienated or otherwise injuriously dealt with by any party to the case, the Court may issue an injunction to such party commanding him to refrain from doing the particular act complained of, or alternatively, may take and keep such property in custody pending the determination of such case.

43. Power to appoint Receiver and Manager.

(1) A Customary Court may whenever it shall deem it necessary so to do for the preservation, proper custody or management of any property in dispute in a cause, appoint any person as a Receiver or Manager to receive and to take charge of the property and to deal with it in such manner as shall be directed by the Customary Court.

(2) Any person or persons appointed as receiver and manager under subsection (1) of this Section shall be responsible to the Customary Court for all things done as receiver or manager, and shall account for or pay to the Customary Court all money received in respect of any property referred to in sub-section (1) of this Section.

(3) A Customary Court may make such order as it shall deem fit but subject to the Rules of Court or the direction of the President of the Customary Court of Appeal, in regard to the remuneration of any person appointed as receiver and manager shall, pay to the party entitled thereto all money(s) in the custody of the Customary Court due in respect of any property referred to in sub-section (1) of this Section.

44. Search warrant and effect thereof.

(1) A Chairman of a Customary Court may by Warrant under his hand authorize:

- (a) any premises to be searched for property alleged to be stolen or wrongfully obtained; and
- (b) the seizure of any such property.

(2) The information upon which an application for a search warrant is based shall be given in writing and upon oath.

(3) Any property seized as a result of any search shall be taken before the Court to be dealt with according to law.

- (4) A person residing in or being in charge of a premises ordered to be searched shall allow the person holding the warrant free entry thereto and shall afford all reasonable facilities for a search therein, and where entry cannot be so obtained it shall be lawful for the person holding the warrant to enter into such premises and in order to effect such entrance to break open any other inner door or window of such premises.

45. Power of Court to Order Inspection.

In any cause or matter it shall be lawful for a Customary Court, on the application of either party or of its own motion:

- (a) to make such order as the Court may deem fit for the inspection by the Customary Court of the parties or any witness or any immovable or moveable property the inspection of which may be material to the proper determination of the question in dispute; and
- (b) to give such direction as the Court may deem fit in regard to such inspection.

46. Supervising Authority.

- (1) The President of the Customary Court of Appeal is hereby designated as the Supervising Authority in respect of all Customary Courts in the State.
- (2) The duty of the Supervising Authority shall be of the nature of general administrative, supervising and control of Customary Courts in accordance with this Law:

Provided that no such supervision or control shall interfere with the Judicial Independence of the Customary Court concerned.

- (3) An Inspectorate Division is hereby created and the President of Customary Court of Appeal shall second Staff to administer it.

(4) The Inspectorate Division shall consist of:

- (a) Chief Inspector of Customary Courts who shall be a legal practitioner of not less than seven (7) years post call experience.
- (b) Five or more other Inspectors of Customary Courts each of whom shall not be lower in rank than a Principal Registrar or any other person as may be appointed by the President, from time to time.
- (c) Without prejudice to the functions of the Inspectorate, each Court shall at such times and in such forms as may be prescribed by the President, submit to him a list of all causes and matters decided or disposed off by or brought before it during any prescribed period; and a report on any case or class of cases tried by it.

(5) The functions of the Inspectorate Division shall include:

- (a) monitoring the activities of Staff in relation to their official Duties;
- (b) inspecting the Administrative and financial records of Area and District Customary Courts. Provided that such inspection shall not extend to Judicial Records;
- (c) reporting any irregularities or excesses of Members and Staff of Customary Courts to the President; and
- (d) carrying out any other function as may from time to time be assigned to it by the President.

(6) The President on receipt of the report from the Inspectorate Division may:

- (a) cause further investigation to be carried out;
- (b) take any action he may deem appropriate in the circumstances;
- (c) if satisfied that no useful purpose would be served by further investigations, discontinue the matter; or

- (d) transmit the report to the Judicial Service Commission for their appropriate action.

47. Delegation of Supervisory Authority.

The President of the Customary Court of Appeal may delegate his Supervisory Authority to a Judge of the Customary Court of Appeal.

48. Return and Report on Cases to be Submitted.

Every Customary Court shall when required so to do, submit to the Supervising Authority a report of any case or of any class of cases tried in such Court and such report shall be made at such times and in such form as may be prescribed by Rules made under this law.

49. Right of Access.

The Supervising Authority shall at all reasonable times have access to the Customary Courts and to the records and proceedings of such Courts.

50. Right of Appeal.

(1) Any complainant or prosecutor in a Criminal cause or matter who is aggrieved by a decision or order of a District Customary Court or and Area Customary Court may within 30 days of the date of such decision or order appeal against the decision to the appropriate High Court.

(2) Any party who is aggrieved by the decision of a Customary Court in a Civil cause or matter may within 30 days of the date of such decision appeal to:

- (a) the Customary Court of Appeal on issues involving questions of Customary Law, practice and procedure, misdirection; and items 1 to 6 of the First Schedule to this Law.

- (b) evaluation and findings under Customary Law including misdirection where subject matter is Customary Law or under items 1-6 of the First Schedule of this Law.
- (c) in any decision or matter.
- (d) any infringement of fair hearing during trial.
- (e) in a case in which the jurisdiction of the Court is challenged.
- (f) the appropriate High Court on issues involving items 7, 8 and 9 of the First Schedule to this Law.

51. Conditions of Appeal.

The right of appeal to any Court referred to in Section 50 of this Law shall subject to the conditions and in accordance with the provisions of any Law or Rules of Court, if any for the time being in force regulating the Practice and Procedure of that Court with respect to appeals.

52. Power of Appellate Court in Criminal Appeals.

Leave to appeal out of time may, upon reasonable cause being shown be granted by the Appellate Court upon such terms as it shall consider just.

53. Appeals Out of Time.

(1) An Appellate Court exercising appellate jurisdiction in Criminal matters under the provisions of this Law shall in exercise of the jurisdiction:

(a) if it considers that there is no sufficient ground for interfering with the decision appealed against, confirm that decision and dismiss the appeal;

(b)

if it considers that there is sufficient ground for interfering with the decision appealed against, set aside that decision and either-

- (i) acquit the appellant; or
- (ii) order the retrial of the appellant before another Customary Court of competent jurisdiction on the same charge; or
- (iii) substitute any other decision (whether as to guilt or punishment which the court of first instance could have made on the facts disclosed by the evidence but so that by the decision so substituted, the appellant shall not be found guilty of any offence with which he was not charged before the court of first instance; or
- (iv) substitute a special finding to the effect that the appellant was guilty of the act or omission charged, but was insane so as not to be responsible, by virtue of the provisions of Section 28 of the Criminal Code Law for his conduct at the time when he did the act or made the omission, and thereupon the appropriate provisions of Part XXV of the Criminal Procedure Law shall apply.

(2) Any power conferred by sub-section (1) of this Section may be exercised notwithstanding that the decision of the Court of first instance is correct under Customary Law.

(3) At any stage of the proceedings on appeal the Appellate Court may, where appropriate, order evidence to be adduced.

54. Power of the Appellate Court in Civil Appeals.

In exercise of its Appellate Jurisdiction in Civil matters under this Law, an Appellate Court may:

- (a)** whether after hearing the whole case or not, reverse, vary or confirm the decision of the Court from which the appeal is taken and may make such order as the Court of the first instance could have made in such case or matter or as it shall consider the justice of the case requires;
- (b)** quash any proceedings and thereupon, where it is considered desirable, order any such case or matter to be reheard de novo before the Court of first instance or before any other Customary Court or before any appropriate Appellate Court.

55. Power of Court to inspect records.

Where any appeal lies from the decision or order of a Customary Court the court to which the appeal is brought shall have power to inspect the Records or books of such Customary Court relative to the appeal.

56. Substantial Justice to be done.

No proceedings in a Customary Court and no Summons, Warrant Process, Order or Decree issued or made thereby shall be varied or declared void upon appeal solely by reason of any defect in proceedings or want of form but every Court exercising powers of appeal under this law shall decide all matters according to substantial Justice without undue regard to technicalities.

57. Adjudication without authority.

(1) Any person who-

(a) exercises or attempts to exercise Judicial Powers vested in a Customary Court, except in accordance with the provisions of any enactment or this Law; or

(b) sits as a member of such Court without due authority, shall be liable or conviction before an Area Customary Court to a fine of Twenty Thousand Naira or imprisonment for twelve months or to both such fine and imprisonment.

(2) Any person, other than a Member of a Customary Court, adjudicating as an Arbitrator upon any civil matter in dispute rather than a petition for divorce where the parties thereto have agreed to submit the dispute to his decision shall not be regarded as exercising judicial powers for the purposes of subsection (1)(a) of this Section.

(3) No prosecution under this Section shall be instituted without the consent in writing of the Attorney-General.

58. Penalty for obstructing persons executing Court Order.

(1) Any person who-

- (a)** assaults, obstructs, molests or resist; or
- (b)** aids or incites any other person to assault, obstruct, molest or resist, any person acting or proceeding to act in the execution of his duties under the provisions of Section 38 of this law; shall be guilty of an offence and shall be liable on conviction to a fine of Ten Thousand Naira or to imprisonment for six months or to both such fine and imprisonment.

59. Exaction of Fees or fines in excess of those authorised.

(1) No fees or fine in excess of those authorized by or pursuant to this Law or any other written law shall be demanded or exacted from any person in respect of any cause or matter in Customary Court.

(2) Any Member, Officer or Servant of a Customary Court who contravenes the provisions of sub-section (1) of this Section shall be guilty of an offence and shall be liable on conviction to a fine of Ten Thousand Naira or to imprisonment for six months or to both such fine and imprisonment.

(3) The Court may order any amount exacted in excess to be refunded to the person entitled thereto.

(4) If default shall be made by any person against whom an order to refund has been made under Sub-section (3) of this Section, the amount ordered to be refunded may be levied by distress and in default of sufficient distress, the person defaulting may be committed to prison for any term not exceeding six months in addition to any sentence imposed under the provisions of Sub-section (2) of this Section.

60. Corruption by Judges and Officers of Customary Court.

- (1) Any Chairman, Member or Officer or Servant of any Customary Court who accepts, claims or obtains for himself or for any other persons, Officers of any gratification advantage, bribe or reward whatsoever whether in Customary money or otherwise; for
- (a) doing or fore-bearing to do any act which he is authorized or required to do in exercise of his jurisdiction, authority or function as a Chairman, Member, Officer or Servant of Customary Court, as the case may be; or
 - (b) corruptly showing favour or disfavour to any person shall be guilty of an offence.
- (2) Whosoever-
- (a) gives or offers; or
 - (b) accepts or obtains; or
 - (c) agrees to give or offer or accept, or obtain for any other person any gratification, advantage, bribe or reward whatsoever whether in money or otherwise for inducing by any corrupt or illegal means or by corrupt means, influence any Chairman, Member, Officer or any Servant of any Customary Court:
 - (i) agrees to do or to forebear to do any act which the said Chairman, Member, Officer or Servant as the case may be, is authorized to do in exercise of his jurisdiction, authority or function; or
 - (ii) to show favour or disfavour to any person; shall be guilty of an offence and shall on conviction be sentenced to a fine of Ten Thousand Naira or six months imprisonment.
- (3) Any person convicted of an offence under this Section shall be liable to such penalty as may be prescribed for such offence under the Criminal Code Law of the State.

[Exaction of fees and fines in excess of those authorized]

61. Refusal to produce documents etc.

Any person who-

- (a) omits to produce or deliver up a document on the lawful order of a Customary Court; or
- (b) intentionally interrupts the proceedings of a Customary Court at any stage shall be guilty of an offence and shall be liable on conviction to a fine of Five Thousand Naira or imprisonment for three months or to both such fine and imprisonment.

62. Refusal to obey summons.

Any person who without reasonable cause or excuse, fails to obey any valid summons issued under the provisions of Section 38 of this Law shall be arrested and brought before the Customary Court issuing such summons or before such court as may have jurisdiction over such person and shall be liable to a fine of Ten Thousand Naira or in default of payment of such fine to imprisonment for seven days.

63. Refusal to give evidence.

Any person who without reasonable cause or excuse refuses to give evidence on being required so to do, by a Customary Court under the provisions of Section 39 of this law shall be liable to a fine of Five Thousand Naira or imprisonment for seven days.

64. Giving False Evidence.

Any person who in any proceedings before a Customary Court gives evidence, whether on oath or otherwise, which he knows to be false or believes to be false or does not believe to be true shall be liable on conviction to a fine of Ten Thousand Naira or to imprisonment for a period of two years or to both such fine and imprisonment.

65. -

Any person with intent to defeat, obstruct or pervert the course of justice in any cause or matter in a Customary Court-

- (a) causes any person to delay in giving or to refrain from giving evidence before the Court; or
- (b) attempts wrongfully to interfere with or influences a witness whether before or after that witness has given evidence in connection with such evidence; or
- (c) prevents any person from giving evidence before the Court, shall be guilty of an offence and shall be liable on conviction to a fine of Forty Thousand Naira or to imprisonment for two years or to both such fine and imprisonment.

66. Rendering False Returns.

Any Clerk or Member or Officer of a Customary Court who shall knowingly render false returns of the cases tried or the penalties imposed by such Court shall be guilty of an offence and shall be liable on conviction to a fine of Twenty Thousand Naira or to imprisonment for twelve months or to both such fine and imprisonment.

67. Fabricating of the record of proceedings.

Any person being charged in accordance with this Law or rules made under Section 69 of this Law with the duty of recording the proceedings of a Customary Court, who knowingly makes a false record of the proceedings of the Court shall be guilty of an offence and shall be liable on conviction to a fine of Twenty Thousand Naira or to imprisonment for twelve months or to both such fine and imprisonment.

68. Emoluments and other Allowances of Chairman and Members.

- (1) The personal emoluments and other allowances of the Chairman and Members of Area and District Customary Courts shall be paid by the State Government.
- (2) The personal emoluments and others allowances of other Staff of the Customary Court shall be paid by the State Government.

(3) All monies paid and received by a District or Area Customary Court in the course of discharging its functions under this Law shall be paid into and form part of the Consolidated Revenue Fund of the State.

(4) The premises inclusive of building and other structures used by a Customary Court shall be provided and maintained by and shall be the property of the State Government.

69. Powers to make rules.

(1) Subject to the provisions of this Law, the President of the Customary Court of Appeal shall make rules providing for any or all of the following matters:

- (a) the practice and procedure of Customary Court;
- (b) the recording of the proceedings of Customary Court;
- (c) prescribing the powers of Customary Court to issue process for the institution of causes and matters and to compel the attendance of accused persons before the court;
- (d) the exclusion of the public from a Customary Court in accordance with the provisions of Section 30(2) of this Law;
- (e) the issue of summons to witnesses;
- (f) the carrying into execution of the orders of Customary Courts, whether such Customary Courts are established under this Law or under any other written Law;
- (g) the execution of the Decrees, Orders Warrants or other processes of Customary Courts and the service of the processes of such Courts or grade of Courts where such Decrees or Orders are made or such warrant or processes are issued in respect of person or property not within the areas of jurisdiction of the Customary Court making or issuing the same;

- (h) prescribing the Courts or Authority by which the Decrees, Orders, Warrants or Processes mentioned in paragraph (g) shall be carried into execution, executed or served;
- (i) the recording and perpetuation of the decisions of Customary Courts in land cases by reference to plan and fixing of land marks;
- (j) the fees which may be charged by Surveyors for any work done for the purposes of any Rules made under subsection (1) of this Section;
- (k) any matters relating to the costs of proceedings in Customary Courts;
- (l) The maximum fees which may be charged-
 - (i) in Customary Court;
 - (ii) for appeals from customary court;
- (m) the reduction of prescribed maximum fees in respect of all or any Customary Court or proceedings, the application of such maximum or reduced fees to such Customary Courts or proceedings and manner in which and the persons by whom such reduction and application may be made;
- (n) the Grant of Bail to accused persons and to convicted persons pending an appeal from an Area/District Customary Courts to a High Court and the regulation of the conditions of and the procedure for granting of such bail;
- (o) the duties of any Officer of Customary Courts;
- (p) the time with which any act, matter or thing shall be carried out or performed for the purposes of this Law;
- (q) the powers of Customary Courts to impose consecutive or concurrent sentences.

(2) Any rules made under this Section may apply to all Customary Courts or to any particular Customary Court or to such Customary Courts or particular Customary Courts as may be determined under the Rules.

70. Transitional Provisions.

(1) Where immediately before the commencement of this Law, any proceedings has been instituted in any Court other than in a Customary Court in respect of any cause or matter over which a Customary Court is conferred with jurisdiction by or under this Law, such proceeding shall except in cases where judgment only is left to be delivered, be transferred to and be commenced de novo by the Customary Court exercising jurisdiction in the area where the cause of action arose.

(2) Every action, cause or proceeding lying and pending in any District Customary Court before the commencement of this Law, shall continue to be heard by the Court concerned as if the action, cause or proceeding had been commenced under this Law provided that where the Chairman is not a Legal Practitioner, he shall not be eligible to hear and determine matters or causes contained in the columns 8 and 9 of the first schedule or any matter contained in the second schedule of this Law, until the expiration of his tenure.

(3) Until the Rules of Court are made in accordance with Section 69 of this Law, the Customary Court Rules 2018 shall apply with respect to the practice and procedure of Customary Courts.

(4) Any appeal pending before an Area Customary Court immediately before the commencement of this Law, shall be continued and be finally disposed of by the Court concerned and shall not be adversely affected by the provisions of this Law.

71. Repeal of Cap 89 the customary court law 1984

Customary Court Law 1984 and the law for repealment of the customary court of appeal Edo state law, 2015 are hereby repealed but without prejudices to the validity of any other thing done or caused to be done there under.

Schedule 1

EDO STATE CUSTOMARY COURTS LAW

SECTION 20 (1)

JURISDICTION AND POWER OF AREA CUSTOMARY COURTS AND DISTRICT CUSTOMARY COURTS IN CIVIL CAUSES AND MATTERS

LIMIT OF JURISDICTION AND POWER

S/No	Types of Causes or Matters	Area Customary Courts	District Customary Courts
1	Land when the value does not exceed amount specified in columns hereof.	Unlimited	Unlimited
2	Matrimonial cases or matter	Unlimited	Unlimited
3	Causes or matters under Customary Unlimited Law, whether or not the value of the debt, demand, including dowry or damages is liquidated.		Unlimited
4	Guardianship and custody of children under Customary law.	Unlimited	Unlimited
5	Inheritance upon intestacy under Unlimited Customary Law and grant of power to administer the estate on intestacy under Customary Law.		Up to N5,000,000.00
6	Chieftaincy causes or matters.	Unlimited	Unlimited
7	Causes and matters under any law (other than Customary Law) including where the amount of debt, demand or damages does not exceed the amount indicated in the columns hereof.	N50,000,000.00	Not exceeding N10,000,000.00 bye-laws
8	Matters under Residential Premises	Unlimited	Unlimited Law.
9	Causes and matter under the recovery of Premises Law.	Unlimited	N1,000,000.00

Schedule 2

EDO STATE CUSTOMARY COURTS LAW

SECTION 22 (1)

JURISDICTION AND POWER OF AREA CUSTOMARY COURTS AND DISTRICT CUSTOMARY COURTS IN CRIMINAL CAUSES AND MATTERS

LIMIT OF JURISDICTION AND POWER

S/No	Types of Offence	Area Customary Court	District Customary Court
1	Where any person is charged with doing any act not or with omitting to do any act required under any written law.	Not exceeding 8 years imprisonment or a fine exceeding N50,000.00.	Not exceeding 4 years imprisonment or a fine exceeding N20,000.00.
2	Contempt of Court committed in the face of Court.	Not exceeding 14 days imprisonment or N20,000.00 fine or both fine and imprisonment.	Not exceeding 7 days imprisonment or N10,000.00 fine or both fine and imprisonment.
3	Statutory offences as may be provided in a bye-law.	As provided in the bye-law.	As provided in the byelaw.