

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**



ARRANGEMENT OF SECTIONS

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Decree No. 18

[9th November 1994]

Commencement

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:-

PART 1- ESTABLISHMENT AND POWERS OF THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL MALPRACTICES IN BANKS TRIBUNAL, ETC.

- 1:-(1) The Head of State, Commander-in-Chief of the Armed Forces shall constitute for the purpose of this Decree such number of Tribunals as he may deem necessary to be known as the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Tribunals (each of which is in this Decree referred to as "the Tribunal").
- Establishment of the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Tribunals.
- (2) The Tribunal shall consist of a serving or retired judge of the Federal High Court or of High court of State or of the Federal Capital Territory, Abuja.
- (3) All criminal or civil causes or matters before the Tribunal and every proceedings subsequent thereto shall be heard and disposed of by a single judge as prescribed in subsection (2) of this section.
- (4) The judge shall exercise in the Tribunal or in chambers all or any part of the jurisdiction as is by this Decree or by any other law vested in the Tribunal.
- (5) Notwithstanding the provisions of the Constitution of the Federal Republic of Nigeria 1979, as amended, or any enactment to the contrary, the supervisory jurisdiction or power of judicial review of a High court shall not extend to any matter or proceeding before the Tribunal duly constituted under this Decree.
- (6) Subject to subsection 2 of this Decree, if any proceedings relating to the jurisdiction or power of judicial review of a high Court on a cause or matter brought before the Tribunal is before any High Court after the commencement of this Decree, such action shall abate, cease or be deemed to be discontinued without any further assurance other than this Decree.

Cap. 62 LFN.
1994 No. 107.

2.-(1) Any part heard proceedings, relating to a matter for which the Tribunal has jurisdiction, which is pending before any court on the date of making this decree- Pending proceedings, etc.

- (a) may, in a civil case, be discontinued with leave of that court and be transferred to the Tribunal for fresh hearing under this Decree; and
- (b) shall, in a criminal case, be continued and completed as if this Decree had not been made.

(2) All new proceedings shall be brought before the Tribunal in accordance with the provisions of this Decree.

(3) A person who has been tried and convicted or acquitted for an offence charged under any other enactment shall not be tried a second time for the same offence, notwithstanding that he could be proceeded against in accordance with the provisions of this Decree.

3.-(1) The Tribunal shall have power to-

Powers of the Tribunal.

- (a) recover, in accordance with the provisions of this Decree, the debt owed to a failed bank, arising in the ordinary course of business and which remain outstanding as at the date the bank is closed or declared a failed bank by the Central Bank of Nigeria;
- (b) try the offences specified in part III of this Decree;
- (c) try the offences specified in the Banks and Other Financial Institutions Decree 1991 and the Nigeria Deposit Insurance Corporation Decree 1998; and
- (d) try other offences relating to the business or operation of a bank under any enactment.

1991 No.24.
1998 No. 22.

(2) The Tribunal shall, in the exercise of its exclusive jurisdiction over all ancillary matters, including remand, bail and any other preliminary issues connected with an offence or hearing over which the Tribunal has jurisdiction.

(3) The Tribunal shall, in the exercise of its powers under this Decree

- (a) conduct its proceedings in such manner as to avoid undue delay;
- (b) lift the corporate veil of a body corporate, where it is necessary for the purpose of revealing its members who may be:
 - (i) guilty of an offence under this Decree; or
 - (ii) liable, jointly or severally, for the debts owed by the corporate body to a failed bank;
- (c) have all the powers of the Federal High Courts (in this Decree referred to as "the court") and, accordingly the judgments and decisions of the

Tribunal shall be executed and enforced in the same way and manner as the judgment and orders of the court;

(d) subject to this Decree, adopt its own procedure, where expedient, to speedy determination of cases before it.

4 -(1) The Tribunal shall deliver its judgment not later than 21 working days from the day of its first sitting. Determination of trial, etc.

(2) The decision of a tribunal shall not be set aside or treated as a nullity solely on the ground of non-compliance with the provisions of this section or section 24(6) of this Decree unless the special Appeal Tribunal exercising jurisdiction by way of appeal from or review of that decision is satisfied that the party complaining of such non-compliance has suffered a miscarriage of justice by reason thereof.

5-(1) A person convicted or against whom a judgment is given under this Decree may, within 21 days of the conviction or judgment, appeal to the Special appeal Tribunal established under the Recovery of Public Property (Special Military Tribunal) Decree 1984, as amended, in accordance with the provisions of that Decree. Right of appeal to Special Appeal Tribunal. 1984 No. 3.

(2) The decision of the Special Appeal Tribunal shall be final and, where there is no appeal, the decision of the tribunal shall be final.

6. Notwithstanding the provisions of any other enactment conferring power to search, if the Tribunal is satisfied that there is a reasonable ground to suspect that there may be found in any building or other place whatsoever, any money or other property or any book, records, account, statement or information in any other form whatsoever which, in its opinion, is or may be material to the subject matter of any trial under this Decree, it may issue a warrant authorizing any police officer or any member of the armed forces or of any of the security agencies to- Power of search, etc.

(a) enter, if necessary by force, the building or other place and every part thereof and,

(b) search for, seize and remove any money, other property, book, record accounts, statement or information found therein.

7-(1) Where at any stage of a hearing or trial, the Tribunal is satisfied that a prima-facie-case has been made out against a person, the Tribunal may by order and for such time as it may direct or require.

(a) prohibit any disposition of property, moverbale or immovable, by or on behalf of that person, whether or not the property is owned or held by that person, or by any other person on his behalf, except to such extent and in such manner as may be specified in the order; Power to control property of debtor or accused.

(b) addressed to the manager of the bank or to the head office of the bank where the person has an account or is believed to have an account, direct the manager or the bank to: -

(i.) stop all outward payments, operations or transactions (including any bill of exchange) for the time specified in the order,

(ii.) supply any information and produce books and documents,

in respect of the account of that person; and

(c) where necessary or expedient, vest in the Tribunal or otherwise acquire the custody of, any property, movable or immovable, of the person, for the preservation of the property, pending the determination of the proceedings.

(2) An order under subsection (1) of this section shall have effect as specified therein, but any such order may at any time thereafter be varied or annulled by the Tribunal.

(3) Failure to comply with the requirement of an order under this section shall be an offence punishable on conviction

(a) in the case of an individual, by imprisonment for a term of not less than two years or more than five years without the option of a fine;

(b) in the case of any group of persons not being a body corporate, by the like punishment of each of such persons as is prescribed in paragraph (a) of this section;

(c) in the case of body corporate, by a fine of an amount equal to two times the estimated value of the property affected by the non-compliance of N100,000, whenever is higher,

(8) The jurisdiction or authority of the Tribunal shall not be affected by the fact that a person charge or brought before the Tribunal for trial or hearing-
Jurisdiction unaffected by separation from service, etc.

(a) has resigned or retired from the bank; or

(b) has had his appointment terminated in the bank; or

(c) has otherwise left the employment of the bank; or

(d) Withdrew his participation from a merger, take-over or the closing of a bank, if the loan, advance, guarantee or any other credit facility, which is the subject matter of the proceeding before the Tribunal is outstanding on the commencement of the merger; take-over or closing of the bank.

PART II – RECOVERY OF DEBTS OWED TO FAILED BANKS

(9) Notwithstanding anything to the contrary in any law, deed, agreement, or memorandum of understanding, the Tribunal shall have exclusive jurisdiction to hear and determine all matters brought before it concerning the recovery from any person of any debt owed to a failed bank, which remains outstanding as at the date of closure of the business of the failed bank.
Recovery of debt owed to failed banks.

(10) In addition to any other primary source of evidence-

Proof of debt.

(a) the examination reports and recommendations of the Central Bank of Nigeria

or the Nigeria Deposit Insurance Corporation or other joint examination reports and recommendations; or

- (b) any report of the Central Bank of Nigeria or the Nigeria Deposit Insurance Corporation; or
- (c) the report of a person appointed by the Central Bank of Nigeria or the Nigeria Deposit Insurance Corporation,

on the financial condition of a failed bank shall be sufficient proof that a loan or advance is owed to a failed bank and is due for recovery under this Decree.

11-(1) An application for the recovery of a debt owed to a failed bank shall be brought before the Tribunal by the Receiver or Liquidator of the failed bank and where there is no Receiver or Liquidator, by a person appointed by the Central Bank of Nigeria or the Nigeria Deposit Insurance Corporation. Application for recovery of debt Form A.

(2) the application referred in subsection (1) of this section shall contain the following, that is-

- (a) the name and address of the borrower;
- (b) if the borrower is a body corporate, a partnership or a sole trader-
 - (i) the address of its principal place of business,
 - (ii) the names and addresses of its shareholders, directors, proprietors or partners, as the case may be;
- (c) the amount of loan and advance outstanding;
- (d) details of securities pledged, if any; and
- (e) such other information as may be useful to the Tribunal

(3) An application may be brought against a debtor under this section and the Tribunal shall proceed to hear the application in accordance with the provisions of this Decree, notwithstanding that a criminal proceeding is pending against the debtor in respect of the same matter.

12-(1) The Tribunal shall on the return date and on receipt of reply to the notice of an application made under section 11(1) of this Decree, if the debtor admits the debt, enter judgement and ask the debtor to appear before it to show cause why the Tribunal should not invoke its powers under this Decree to recover the outstanding debt. Debtor to appear before Tribunal to show cause.

(2) The Tribunal shall, if satisfied with the explanation of the debtor, give the debtor not later than 30 days to pay to the Receiver or Liquidator the outstanding loan and interest thereon.

(3) If a debtor pays the outstanding loan and interest within the period specified under subsection (2) of this section, the Tribunal shall-

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(a) issue to the debtor a certificate of clearance; and Form A

(b) order that all the documents and properties pledged as security for the loan be released to the debtor. Form G

(13)- (1) If the debtor-

(a) at the expiration of the period specified under section 12(1) of this Decree, fails to repay all the outstanding loan and interest; or Hearing, judgement and execution.

(b) disputes the loan or interest,

The Tribunal shall proceed to hear the case and enter judgement and make such order as it deems appropriate for the purposes of this Part of this Decree.

(2) Where the Tribunal makes an order for the payment of the loan and interest and the debtor fails to comply within the time specified in the order, the Tribunal shall make an order to levy execution on all the properties of the debtor pledged as security for the loan.

(3) A person aggrieved by a judgement may appeal to the Special Appeal Tribunal as specified in section 5 of this Decree.

14. A Receiver or Liquidator may, with leave of the Tribunal at any time before judgement is entered, withdraw an application made under section 11(1) of this Decree. Withdrawal of application.
Form H.

15-(1) A property against which an order is made under section 13(2) of this Decree shall, with the concurrence of the Receiver or Liquidator, be sold by auction or by private contract and the money obtained from the sale shall be applied in accordance with the provisions of this section.

(2) Where a property is sold under subsection (1) of this section, the Tribunal shall execute an instrument to transfer, convey or assign the property to the purchaser or in any other way vest the property in the purchaser.

(3) An instrument executed under subsection (2) of this section shall be conclusive proof of title of the purchaser and shall, where necessary, be a registrable instrument under the various registration laws, without the consent required under section 21, 22 and 26 of the land use Act. Cap. 202 LFN

(4) Any money obtained from the sale of properties under subsection (1) of this section shall, within two weeks from the date of sale, be paid to the Receiver or Liquidator of the failed after all the recovery expenses have been deducted.

(5) If the money obtained from the sale under section (1) of this section is not sufficient to offset the outstanding loan and interest thereon, the Tribunal may, where the debtor-

- (a) is an individual, levy execution on the other properties of the debtor;
- (b) is a body corporate, partnership or other association of individuals, notwithstanding anything to the contrary in the Companies and Allied Matters Decree 1990 or any other law for the time being in force, levy execution on the other properties of the body corporate, partnership or association of individuals.

1990 No. 1

(6) Where the Tribunal levies execution under subsection (5) of this section, the properties shall be sold as specified in subsection (1) of this section and the provisions of subsections (2), (3) and (4) of this section shall apply to the sale and money obtained from the sale.

(7) If the money obtained from the sale of properties under subsection 6 of this section is still not sufficient to offset the outstanding loan and interest thereon, the Tribunal may, subject to section 290 of the Companies and Allied Matters Decree 1990, levy execution on the personal properties of the directors of the body corporate, partners of the partnership or individuals of the association, as the case may be, which shall be sold and applied in satisfaction of the outstanding debts, in accordance with the provisions of this section.

Inadequate securities, etc.

16-(1) Where

- (a) the information and details on the security pledged for the loan and filed before the Tribunal is impossible to locate; or
- (b) no security is pledged at all; or
- (c) the identity of the debtor is difficult to locate; or
- (d) the debtor is found to be non-existent, fake or fictitious or in any way unidentifiable,

The Tribunal shall hold liable, for the outstanding loan and interest thereon, the directors, shareholders, partners, managers, officers and other employees of the failed bank who in the performance of their duties were found to have been connected in any way with the granting of the loan which has become irrecoverable.

(2) The Tribunal shall proceed to recover from the persons referred to in subsection (1) of this section, jointly and severally the outstanding loan and interest thereon in accordance with the provisions of this Decree, unless the Tribunal is satisfied that the debt was incurred without the consent of the director, partner, shareholder, manager, officer or employee and that he exercised all such diligence as he ought to have exercised having regard to the nature of his functions and all the circumstances of the case.

17. The provisions of the Limitation Law of a State or Limitation Act of the Federal Capital Territory, Abuja shall not apply to matters brought before the Tribunal under this Part of this Decree.

Exclusion of statutes of limitation.

18. The rules of procedure to be adopted in civil matters before the Tribunal under this Decree shall be as set out in schedule 1 to this Decree.

Rules of procedure, etc.
Schedule 1.

PART III-OFFENCES AND PENALTIES

19-(1) Any director, manager, officer or employee of a bank who:-

Offences

- (a) knowingly, recklessly, negligently, wilfully, or otherwise grants, approves the grant, or is otherwise connected with the grant or approval of a loan, an advance, a guarantee or any other credit facility or financial accommodation to any person.
 - (i) without adequate security or collateral, contrary to the accepted practice or the bank's regulations, or
 - (ii) with no security or collateral where such security or collateral is normally required in accordance with the bank's regulations, or
 - (iii) with a defective security or collateral, or
 - (iv) without perfecting, through his negligence or otherwise, a security or collateral obtained; or
- (b) grants, approves the grant or is otherwise connected with the grant or approval of a loan, an advance, a guarantee or any other credit facility which is above his limit as laid down by law or any regulatory authority or the bank's regulations; or
- (c) grants, approves the grant, or is otherwise connected with the grant or approval of a loan, an advance, a guarantee, or any other credit facility to any person in contravention of any law for the time being in force, any regulation, circular, or procedure as laid down from time to time, by the regulatory authorities or by the bank; or
- (d) receives or participates in sharing, for personal gratification, any money, profit, property or pecuniary benefit towards or after the procurement of a loan, an advance, a guarantee or any other credit facility from any person whether or not that person is a customer of the bank; or
- (e) recklessly grants or approves a loan or an interest waiver where the borrower is known to have the ability to repay the loan and interest,

is guilty of an offence under this Decree.

(2) A person who, being indebted to or being a customer of a bank, negligently, wilfully or recklessly-

- (a) makes a statement, whether written or oral, or gives any information, or
- (b) fills any form to a bank, knowing it to be false, fake, non-existent or fictitious, with the intention of concealing his identity from the bank so as to avoid the repayment of a loan, an advance, a guarantee or any other credit facility granted him by the bank, is guilty of an offence under this Decree.

(3) Where the person referred to in subsection (2) of this section is a body corporate, any of its directors, managers, officers, employees or partners who is

responsible or is in any way connected with the doing of any of the acts referred to in that subsection is guilty of the same offence under this Decree and liable on conviction to the same punishment.

20:-(1) A person who commits an offence under section 19 of this Decree is liable on conviction, subject to subsection (4) of this section, in the case of an offence. Penalties

(a) under subsection (1)(a), (b) or (c) of that section, to imprisonment for a term not exceeding 5 years without an option of a fine;

(b) under subsection (1) (d) or (e) of that section, to imprisonment for a term not exceeding 3 years without an option of a fine.

(c) Under subsection (2) of that section, to imprisonment for a term not exceeding 3 years without an option of a fine.

(2) The Tribunal may order the confiscation of the property, movable or immovable, of a person convicted of an offence under this Decree, of the value equal to the amount involved in the offence or of such other value as the Tribunal may deem fair and just in the circumstance.

(3) A person convicted of an offence under this Decree may voluntarily surrender property, movable or immovable, of the value equal to the amount involved in the offence or such other value as he may decide.

(4) A property confiscated or surrendered under this section shall be forfeited:-

(a) to the bank that suffered the loss, or

(b) in the case of a failed bank, to the Receiver or Liquidator for the benefit of that bank; or

(c) to such other person who, in the opinion of the Tribunal, deserves to be compensated for loss suffered.

(5) Where, by reason of the confiscation or voluntary surrender of property, under this section, there is full or substantial recovery of the amount involved in the offence, the Tribunal may, if it deems it equitable, reduce or decline to impose the penalty specified in subsection (1) of this section.

21:-(1) A person who attempts to commit any of the offences specified in section 19 of this Decree is guilty of an offence and liable on conviction to the same punishment as is prescribed for the full offence under section 20 of this Decree. Attempt to commit offence, etc

(2) Where a person is charged with any of the offences specified in this Decree, but the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit that offence although the attempt is not separately charged and shall be liable to the same punishment as is prescribed for the offence under section 20 of this Decree.

(3) Where a person is charged with an attempt to commit an offence under this

Decree, but the evidence establishes the commission of the full offence, the person shall not be acquitted but shall be convicted of the offence and be liable to the same punishment as is prescribed for the offence under section 20 of this Decree.

(4) Where, in respect of an act which is an offence under this Decree, the Tribunal is satisfied that a person, not being charged with an offence under this Decree;

(a) acted in concert or conspired with any person; or

(b) knowingly took part to any extent whatsoever in the commission of an act constituting an offence specified in this Decree,

The Tribunal shall have power to treat the person in like manner as a person charged with an offence under this Decree and shall proceed against him accordingly notwithstanding anything to the contrary in any other enactment.

22-(1) Where an offence under this Decree which has been committed by a body corporate is proved to have been committed with the connivance of or to be attributable to any neglect on the part of a director, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate, where practicable, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Offence by bodies corporate.

(2) Where a body corporate, other than a bank, is convicted of an offence under this Decree, the Tribunal may order that the body corporate be wound up and the body corporate shall thereupon and without any further assurance but for that order, be wound up and all its assets, after satisfying all the claims of the Receiver or Liquidator, shall be forfeited to the Federal Government.

23:-(1) Notwithstanding anything to the contrary in any law (including any rule of law), no witness shall, in any trial under this Decree, be presume, to be unworthy of credit by reason only that he took part in the commission of the offence. Evidence of accomplice, etc.

(2) Where a person is charged with an offence but the evidence establishes an attempt to commit the offence he may be convicted of having attempted to commit that offence, although the attempt is not separately charged, and punished as provided under this section.

(3) Where a person is charged with an offence under this Decree, but the evidence establishes the commission of another offence under this Decree, he is guilty of the offence and liable on conviction to the same punishment as prescribed for that offence under this Decree.

(4) Where a person aids, abets, counsels, procures or conspires with any other person to commit any of the offences under this Decree, he is guilty of the offence and liable on conviction to the same punishment as prescribed for that offence under this Decree.

24:-(1) The rules of procedure to be adopted in prosecutions for offences under this Decree and the forms to be used in such proceedings shall be as set out in Schedule 2 to this Decree. Prosecutions, rules of procedures, etc. Schedule 2.

(2) Prosecutions for offences under this Decree shall be instituted before the Tribunal in the name of the Federal Republic of Nigeria by the Attorney-General of the Federation or such officer in the Federal Ministry of Justice as he may authorise so to do, and in addition thereto, he may-

- (a) after consultation with the Attorney-General of any State in the Federation, authorised the Attorney-General or any officer in the Ministry of Justice of that State; or
- (b) if a Tribunal so directs or if the Central Bank of Nigeria or the Nigeria Deposit Insurance Corporation so requests, authorise any other legal practitioner in Nigeria,

to undertake any such prosecution directly or assist therein.

(3) The question whether any or what authority has been given in pursuance of subsection (2) of this section shall not be inquired into by any person other than the Attorney-General of the Federation.

(4) A person accused of an offence under this Decree shall be entitled to defend himself in person or by a person of his own choice who is a legal practitioner resident in Nigeria.

(5) Where the rules of procedure contained in schedule 2 to this Decree contain no provisions in respect of any matter relating to or connected with the trial of offences under this Decree, the Tribunal may apply the provisions of the Criminal Procedure Code or, depending on the venue, the Criminal Procedure Act, with such modifications as the circumstances may require, in respect of such matter to the same extent as they apply to the trial of offences generally. Schedule 2
Cap. 485.
Cap. 80.

(6) Subject to section 4(2) of this Decree, prosecution for offences under this Decree shall be instituted within 21 days after the receipt by the Attorney-General of the Federation of the file containing completed police investigation on the complete report by the Central Bank of Nigeria or the Nigeria Deposit Insurance Corporation in respect of the offence.

25. A person who commits an offence under this Decree may be arrested without warrant by a police officer or any member of the armed forces of the Federation, as the case may be. Powers of arrest.

26. -(1) Subject to subsection (2) of this section, the Tribunal shall not grant bail to a person charged with an offence punishable with a term imprisonment without the option of fine under this Decree. Bail.

(2) Notwithstanding subsection (1) of this section, the Tribunal may grant bail, for an amount equal to that involved in the offence, if the person charged with the offence:-

- (a) deposits half the amount in the Tribunal as security for the bail;
- (b) provides surety for the balance of the amount; and

(c) hands over his passport to the Tribunal for the duration of the bail

PART IV-MISCELLANEOUS

27.-(1) The absence from Nigeria of a debtor or of a person who has committed an offence under this Decree shall not prevent his case being heard and determined or his being tried and convicted under this Decree. Trial in *absentia*.

(2) An order of the Tribunal made pursuant to a hearing or trial under subsection (1) of this section shall, where expedient, be executed in the absence of the debtor or person convicted, but the commencement of a sentence of imprisonment shall be deferred until his return to Nigeria.

28. Where a provision of this Decree is inconsistent with that of the Evidence Act or any other enactment or law, the provisions of this Decree shall prevail and that other provisions shall, to the extent of its inconsistency, be void. Inconsistency. Cap 112, LFN.

29. In this Decree, unless the context otherwise requires- “application” means an application made by a Receiver or Liquidator of a failed bank for the recovery of a debt owed to the failed bank; Interpretation.

“bank” has the meaning assigned to it under the Banks and Other Financial Institutions Decree 1991 and includes 1991 No. 25

(a) a financial institution as defined under that Decree or under the Nigeria Deposit Insurance Corporation Decree 1988; and 1988 No. 22

(b) a development bank and any other bank established by law.
“Court” means the Federal High Court;

“debt” means any loan, advance, credit accommodation, guarantee or any other credit facility, together with the interest thereon, which remain outstanding and unpaid against a customer of a bank in favour of the bank;

“director” includes a wife, husband, father, mother, son or daughter of a director;

“employee” means a person who is or has been employed, or connected in any capacity with the affairs of a bank or any person arraigned before the Tribunal under this Decree;

“failed bank” means a bank or other financial institution whose licence has been revoked or which has been declared closed, placed under receivership or otherwise taken over by the Central Bank of Nigeria or the Nigeria Deposit Insurance Corporation;

“Liquidator or Receiver” includes a person appointed by the Central Bank of Nigeria or the Nigeria Deposit Insurance Corporation under section 11(1) of this Decree;

“loan” includes an advance, a guarantee and any other credit facility;

“Tribunal” means the Failed Banks (Recovery of Debts) and Financial

Malpractices in Banks Tribunal established under section 1 of this Decree;

“unsecured” means without security or collateral.

(30) This Decree may be cited as the Failed Banks (Recovery of Debts) and Citation. Financial Malpractices in Banks Decree 1994.

SCHEDULES

SCHEDULE 1

Section 18

PROCEDURE FOR THE RECOVERY OF DEBTS AT THE TRIBUNAL

1. In this schedule, unless the context otherwise requires “Civil Procedure Rules” means the Federal High Court (Civil Procedure) Rules or rules of court amending or replacing those Rules; Interpretations

“Registry” means the registry of the Tribunal;

“Secretary” means the Secretary in charge of the Registry, or if he is absent, the Senior Clerk present at the Registry;

“Tribunal notice board” means a notice board at the Registry and, where notice of hearing is being or has been given, a notice board at the place of the hearing.

2.-(1) Application for the recovery of debts owed to a failed bank shall be made by the Receiver or Liquidator in Form A as set out in the Appendix to this Schedule leaving it in person, or by the hand of the solicitor (if any) named at the foot of the application, with the Secretary, and the Secretary shall (if so required) give a receipt which may be in Form B in the Appendix to this Schedule.

Presentation of application

Form A.
Form B.

(2) There shall also be left with the Secretary a copy of the application for each respondent and seven other copies thereof.

(3) The Secretary shall compare each copy of the application left in accordance with sub-paragraph (2) of this paragraph with the original application and shall, upon being satisfied by such comparison that it is a true copy thereof, certify it to be so.

(4) The Receiver or Liquidator shall, at the time of presenting the application, pay the fees for its service and publication, and for certifying the copies, and in default of such a payment the application shall not be received, unless the Tribunal otherwise orders.

3.-(1) The application shall contain the particulars set out therein as specified in section 11(2) of this Decree. Contents of application.

(2) There shall be stated at the foot of the application an address for service

within 5 kilometers of a post office in the Judicial Division, and the name of its occupier, at which address documents intended for the Receiver or Liquidator may be left. On the respondent, and the respondent cannot be found at that place, the Tribunal on being satisfied, upon an application supported by an affidavit showing what has been done, that all reasonable efforts have been made to effect personal service, may order that service of any document mentioned in sub-paragraph (1) of this paragraph be effected in any of the ways mentioned in the relevant provisions of the Civil Procedure Rules for effecting substituted service in a civil case and such service shall be deemed to be equivalent to personal service.

(3) The proceedings under the application shall not be vitiated by the fact that the respondent may not have been served personally or that any document of which substituted service has been affected pursuant to an order made under sub-paragraph (2) of this paragraph did not reach the respondent's hands; and in such circumstances as aforesaid the proceedings may be heard and continued as if the respondent had been served personally with the document and shall be valid and effective for all purposes.

7.- (1) The debtor shall-

Entry of appearance

(a) within such time after being served or deemed to be served with the notice of the application as may stated in the notice; or

(b) where an order has been made under sub-paragraph (2) of paragraph 6 of this Schedule, within such other time (if any) as may be stated in that order, enter an appearance by filing in the Registry a memorandum of appearance in Form D in the Appendix to this Schedule stating that he admits the debt or that he intends to oppose the application and giving the name and address of his solicitor, if any, or stating that he acts for himself, as the case may be and in either case giving an address for service within five kilometres of a post office in the Judicial Division and the name of its occupier, at which documents intended for the debtor may be left.

Form D

(2) If an address for service and its occupier are not stated, the memorandum shall not be filed, unless the Tribunal otherwise orders.

(3) The memorandum of appearance shall be signed by the debtor but may be filed by his solicitor, if any.

(4) At the time of filing the memorandum of appearance the debtor or his solicitor shall leave a duplicate thereof for each other party to the application and three other duplicates thereof and pay the fees for service, and in default of such duplicate being left and such fees being at that time, the memorandum shall not be filed, unless the Tribunal otherwise orders.

8. If the debtor does not enter an appearance as aforesaid, any document intended for the debtor may be posted on the Tribunal notice board and such posting shall be sufficient notice thereof.

Default of appearance

9. The Secretary shall cause a duplicate of the memorandum of appearance to be served upon, or notice thereof to be given to, the other parties to the application.

Notice of appearance.

10-(1) The debtor shall, within six days of entering an appearance, file in the Registry his reply specifying therein which of the facts and grounds alleged in the application he admits or denies and setting out any facts and grounds on which he relies in opposition. Filing of reply.

(2) The reply may be signed and filed by the debtor's solicitor, if any.

(3) At the time of filing the reply, the debtor or his solicitor shall leave a duplicate thereof and pay the fees for service, and in default of such duplicates being left and such fees being paid at that time, the reply shall not be filed, unless the Tribunal otherwise orders.

(4) The Secretary shall cause a duplicate of the reply to be served on each other party to the complaint.

11. Where the debtor admits the debt, the Tribunal shall, on receipt of his reply, summon him to appear before the Tribunal as specified in section 12 of this Decree. Admission of debt.

12. The relevant provisions of the Civil Procedure Rules relating to amendment of pleading shall apply to the amendment of an application as if for the words "any proceeding" in those provisions there were substituted the words "the application or the reply if any" Amendment of application

13.-(1) If any party to the application wishes to have further particulars or other directions of the Tribunal, he may, at any time after the entry of appearance, but not later than seven days after the filing of the reply, apply to the Tribunal specifying in his notice of motion the direction for which he prays and the motion shall, unless the Tribunal otherwise orders, be set down for hearing on the first available day. Further particulars or direction.

(2) The party so applying shall give notice of his motion to the other parties, and where he relies on any facts which are not apparent on the face of the documents already filed he shall support his motion by affidavit.

(3) If a party does not so apply, he shall be taken to require no further particulars or other directions and such party shall be debarred from so applying after the lapse of the period laid down in sub-paragraph (1) of this paragraph except with the leave of the Tribunal, which may be given in a proper case on such terms as to cost and otherwise as the Tribunal may be deem fit.

14. Every application shall be heard in open court. Open court

15.-(1) Subject to the provisions of sub-paragraph (2) of this paragraph, the time and place of the hearing of an application shall be fixed by the Tribunal and notice of the time and place of the hearing (which may be in Form E in the Appendix to this Schedule shall be given by the Secretary at least 3 days before the day fixed for the hearing. Time and place of hearing. Form E.

(a) by posting or causing to be posted, the notice on the Tribunal notice board

(b) by sending a copy of the notice by registered post or messenger to the Receiver's or Liquidator's address for service;

(c) by sending likewise a similar copy to the debtor's address for service, if any.

(2) The Tribunal shall sit in such place or places as the judge may, from time to time, determine.

16. The posting of the notice of hearing on the Tribunal notice board shall be deemed and taken to be good notice and such notice shall not be vitiated by any miscarriage of or relating to the copy or copies of the notice sent pursuant to paragraph 15 of this Schedule. Publication, good notice.

17. No formal adjournment of the Tribunal for the hearing of an application shall be necessary, but the hearing is to be deemed adjourned and may be continued from day to day until the case is concluded, and in the event of the judge of the Tribunal who begins the hearing being disabled by illness or otherwise, it may be recommenced and concluded by another judge to be appointed by the Head of State, Commander-in-Chief of the Armed Forces. Continuance day to day.

18. After the hearing has begun, if the case cannot be continued on the ensuing day or, if that day is a Sunday or a public holiday, on the day following the same, the hearing shall not be adjourned *sine die* but to a definite day to be announced before the rising of the Tribunal and notice of the day to which the hearing is adjourned shall forthwith be posted by the Secretary on the Tribunal notice board. Adjournment.

19. All interlocutory questions and matters shall be heard and disposed of before the Tribunal, which shall have control over the proceedings as a judge in the ordinary proceedings of the court. Powers of Tribunal over proceedings.

20. At the conclusion of the hearing, the Tribunal shall deliver its judgement and make such order as it deems appropriate for the purpose of Part H of this Decree. Judgement.

21. A judgement of the Tribunal is subject to appeal as specified in section 5 of this Decree. Appeal.

22.-(1) The Tribunal shall have power, to enlarge or abridge the times appointed by this Decree or the Rules of Court mentioned in paragraph 27 of this Schedule or fixed by any order enlarging time, for doing any act or taking any proceeding upon such terms (if any) as the justice of the case may require. Enlargement and Abridgement of time.

(2) Enlargement may be ordered although the application for the enlargement is not made until after the expiration of the time appointed or allowed.

(3) When the time for delivering any pleading or document or filing any affidavit, answer or document, or doing any act is or has been fixed or limited by any of the paragraphs or rules referred to in paragraph 1 of this rule or by direction or order of the Tribunal, the costs of any application to extend such time and of any order made thereon shall be borne by the party making the application unless the Tribunal shall otherwise order.

(4) An application for enlargement or abridgement of time shall be supported by affidavit.

(5) An application for abridgement of time may be made *ex parte*, but the Tribunal may require notice thereof to be given to the other party.

(6) An application for enlargement of time shall be made by motion after notice to the other party but the Tribunal may, for good cause shown by affidavit or otherwise, dispose with such notice.

(7) A copy of an order made for enlargement or abridgement of time shall be filed or delivered together with any document filed or delivered by virtue of the order.

23.-(1) Where any summons, notice or document, other than a notice or document mentioned in paragraph 5(1) of this Schedules is required to be served on any person for a purposed connected with an application, the same may be served either y delivering it to such person or by leaving it at his last known place of abode with any person there found who is a resident thereof and appears to be eighteen years of age or more. Service of notice.

(2) After a party has given an address for service, it shall be sufficient if in lieu of serving him personally with any document intended for him, such document is served.

(a) on the person appearing on the paper last filed on his behalf as his solicitor wherever such person may be found or, if such person is not found at his office, on the clerk there apparently in charge or

(b) on the person named as occupier in his address for service wherever such person may be found or if such person is not found at such address if

(i) the person there found apparently in charge, if such address is a place of business or,

(ii) any person other than a domestic servant there found who is a resident thereof and appears to be eighteen years of age or more.

(3) A party may change his address for service by giving notice of his new address for service and as occupier to the security and to each party, but until such notice is received by the Secretary, his old address for service shall continue to be his address for service.

(4) Where service on one of the foregoing modes has proved impracticable, the Tribunal, on being satisfied, upon an application supported by an affidavit showing what has been done, that all reasonable effort has been made to effect service, may order that service be effected in any of the ways mentioned in the provisions of the Civil Procedure Rules relating to substituted service shall be sufficient, or may dispense with service or notice, as the Tribunal may think fit.

24. In the absence of express provision for the furnishing of copies of duplicates of documents filed or used in connection with any step taken in the proceedings, the party taking such steps shall, unless the Secretary otherwise directs, leave with the Secretary a duplicate of every such document for each other party and three other duplicates. Duplicate of documents.

25.-(1) Non-compliance with any of the provisions of this Schedule, or with any rule of practice for the time being in force, shall not render any proceeding void with rules, etc.

unless the Tribunal shall so direct but such proceeding may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Tribunal shall think fit to ensure substantial justice.

(2) No application to set aside any proceeding for irregularity shall be allowed unless made within reasonable time, or if the party applying has taken any fresh step after knowledge of the irregularity.

(3) Where an application is made to set aside proceedings for irregularity the several objectives intended to be insisted upon shall be stated in the notice of motion.

(4) No objection shall be made that a certified copy has been used instead of a duplicate or a duplicate instead of a certified copy.

(5) An application shall not be defeated by any objection merely as to form.

26.-(1) The forms contained in the Appendix to these Rules may, in accordance with any instructions contained in the said forms, and with such variation as the circumstances of the particular case may require be used for the matter to which they apply, and when so used, shall be good and sufficient in law. Forms.

(2) Where no form has been prescribed in this Schedule for a particular matter, the forms as contained in the Civil Procedure Rules of the Court may, with such modifications as the circumstances may require, be used for the matter.

27. Where these Rules contain no provision in respect of any matter relating to or connected with the hearing of a case under this Decree, the provisions of the Civil Procedure Rules of the Federal High Court shall, with such modifications as may be necessary to render them conveniently applicable, as if the applicant and the respondent were respectively the plaintiff and the defendant in a civil action. Application of Rules of Court.

APPENDIX *Paragraph 26*

FORM A Section 11 and Paragraph 2 and 26

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

APPLICATION FOR THE RECOVERY OF DEBT

Between

A. B.: Applicant
(Receiver/Liquidator of.....)

C.D.:
(Receiver/Liquidator of.....)

And

E. F.: Respondent(s)
(Debtor)

G. H.:
(Debtor)

The application of A. B. of (or of A. B. of
..... and C. D. of (as the case may be) whose names
are subscribed.

State here contents of your application as set out in section 11(1) of the Failed
Banks (Recovery of Debts) and Financial Malpractices in Banks Decree 1994:-

- (a) the name and address of the borrower;
- (b) if the borrower is a body corporate, a partnership or sole trader-
 - (i) the address of its principal place of business,
 - (ii) the names and addresses of its shareholders, directors, proprietors or partners as the case be.
- (c) the amount of loan and advance outstanding;
- (d) details of securities pledged, if any; and
- (e) such other information as may be useful to the Tribunal.

Address for service:.....

Occupier:.....

Failed Banks (Recovery of Debts) 1994 No. 18
And Financial Malpractices in Banks

The name of my (or our) Solicitor is or
I (or we) am (or are) acting for myself (or ourselves.)

Signed:..... A. B.

..... C. D.

SIGNED before me this:..... day of:..... 19:.....

.....
Secretary

FORM B *Paragraph 2 and 26*

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

RECEIPT OF APPLICATION FOR THE RECOVERY OF DEBT

Received on the day of 19..... at the Registry of
the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks
Tribunal an application for the recovery of debt owed to
.....

DATED this day of 19.....

.....
Secretary

FORM C *Paragraph 5 and 26*

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

**NOTICE OF PRESENTATION OF APPLICATION FOR THE
RECOVERY OF DEBTS**

Between

A. B.:
(Receiver/Liquidator of.....)

Applicant

C.D.:
(Receiver/Liquidator of.....)

And

E. F.:
(Debtor)

Respondent(s)

G. H.:
(Debtor)

The application of A. B. of (or of A. B. of and C. D. of (as the case may be) whose names are subscribed.

TAKE NOTICE that an application, a duplication, a duplicate whereof is attached hereto, has this day been presented in the Registry of the Tribunal named above and that you are to enter an appearance to the application in the said Registry within days of the date when this notice was presented thereof, or within days of the date when this notice was left at your address set out below, or as the Tribunal may direct by order under paragraph 6 of Schedule 1 to the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Decree 1994 otherwise proceedings upon the application may be continued and determined in default of your appearance, and any document relating to such proceedings and intended for you may be posted up on the Tribunal notice board, which shall be sufficient notice thereof.

DATED this day of 19.....

.....
Secretary

to E. F. of:.....

G. H. of:.....

FORM D *Paragraph 7 and 26*

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

MEMORANDUM OF APPEARANCE

Between

A. B.: Applicant
(Receiver/Liquidator of.....)

C. D.:
(Receiver/Liquidator of.....)

And

E. F.:
(Debtor)

G. H.:
(Debtor)

Respondent(s)

The application of A. B. of (or of A. B. of
..... and C. D. of (as the case may be) whose names
are subscribed.

Please enter an appearance for (Give full
name of Respondent wishing to appear)

Address for service.....

The name of my (or our) Solicitor is or I (or we) am (or are) I
(or we) am (or are) acting for myself (or ourselves)

Dated the day of 19.....

Signed.....E. F.

..... G. H.

FORM E *Paragraph 15 and 26*

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

NOTICE OF HEARING

Between

A. B.: Applicant
(Receiver/Liquidator of.....)

C.D.:
(Receiver/Liquidator of.....)

And

E. F.:
(Debtor)

G. H.: Respondent(s)
(Debtor)

The application of A. B. of (or of A. B. of
..... and C. D. of (as the case may be) whose names
are subscribed.

TAKE NOTICE that the above application will be heard at on the
..... day of 19..... and on such other subsequent days as may
be useful.

DATED this day of 19.....

.....
Secretary

FORM F *Section 12 and Paragraph 26*

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

CERTIFICATE OF CLEARANCE

I certify that the debtor of having paid to the Receiver/Liquidator of the outstanding loan of N..... plus interest thereon of N..... is hereby cleared of the debt the subject matter of the application.

Dated this day of 19.....

.....
Judge of the Tribunal

FORM G *Section 18 and Paragraph 26*

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

ORDER FOR THE RELEASE OF SECURITY

It is ordered that all documents and properties namely (list documents and properties here) pledged as Security for the loan, the subject matter of the application, be released to the debtor.

And it is ordered that all parties be at liberty to apply to the Tribunal as they may be advised.

Dated this day of 19.....

.....
Judge of the Tribunal

FORM H Section 14 and Paragraph 26

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

Applicant(s)

NOTICE OF MOTION TO WITHDRAW APPLICATION

Between

A. B.:
(Receiver/Liquidator of.....)

C.D.:
(Receiver/Liquidator of.....)

Respondent(s)

And

E. F.:
(Debtor)

G. H.:
(Debtor)

The application of A. B. of (or of A. B. of
..... and C. D. of (as the case may be) whose names
are subscribed.

Write out the Notice of Motion in the manner usual in civil proceeding and
conclude as follows:-

The applicant proposes to apply to withdraw his applicant on the following
grounds:-

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

(Here state the grounds)

Signed:..... E. F.
.....

.....Solicitor

SIGNED before me this day of 19.....

.....
Secretary

SCHEDULE 2

Section 24

**PROCEDURE FOR TRIAL OF OFFENCES BEFORE THE FAILED
BANKS (RECOVERY OF DEBTS) AND FINANCIAL MALPRACTICES
IN BANKS TRIBUNAL**

Commencement and Conduct of Trial of Offences

1. The trial of offences under this Decree shall be by way of summary trial. Institution of proceedings.
- 2.-(1) When the Tribunal is ready to commence the trial the accused shall be brought before it and the Tribunal shall read or cause to be read to him the substance of the complaint against him and he shall be asked whether he is guilty of the offence or offences charged. Commencement of trial.
- (2) If the accused pleads guilty, the plea shall be recorded and he may in the discretion of the Tribunal be convicted of the offence.
3. If the accused pleads not guilty or makes no plea or refuses to plead or if the Tribunal enters a plea of not guilty on behalf of the accused the Tribunal shall proceed to try the case. Plea of not guilty or no plea.
- 4.-(1) After a plea of not guilty has been taken or no plea has been made, the prosecutor may open the case against the accused, stating shortly by what evidence he intends to prove the guilty of the accused. Presentation of case for prosecution.
- (2) The prosecutor shall then examine the witnesses for the prosecution who may be cross-examined by the accused and may thereafter be re-examined by the prosecutor.
- 5.-(1) After the conclusion of the presentation of evidence by the prosecutor, the Tribunal shall ask the accused- Procedure after presentation of evidence by the prosecutor.
 - (a) whether he wishes to give evidence on his own behalf; and
 - (b) whether he intends to call witnesses other than witnesses to character.
- (2) If the accused says that he does not intend to call any witnesses other than witnesses to character, the prosecutor may sum up his case against the accused and the Tribunal shall then call upon the accused to enter upon the defence.
- (3) Notwithstanding the provisions of paragraphs (2) of this rule, the Tribunal may, after hearing the evidence for the prosecution, if it considers that the evidence against the accused or any of several accused is not sufficient to justify the continuation of the trial, record a finding of not guilty in respect of such accused without calling upon him or them to enter the defence and such accused shall thereupon be discharged and acquitted and the Tribunal shall then call upon the remaining accused, if any, to enter upon the defence.
- (4) If the accused or any one of several accused says that he intends to call any witness, other than a witness to character, the Tribunal shall call upon the accused to enter upon the defence.

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

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

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

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

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this rule, the prosecution may, with the leave of the Tribunal, be heard in reply on a point of law or on any new matter or evidence other than evidence as to character introduced by the accused.

8. When the case for the defence and the reply of the prosecution, if any, are concluded and the Tribunal does not desire to put any further question to the accused, the Tribunal shall retire or adjourn to consider its findings. Considerations of findings.

9. After the Tribunal has made its findings, the Tribunal shall announce such findings, and, where the accused is found guilty, it shall impose the appropriate penalty prescribed in this Decree and issue appropriate order accordingly. Announcement of findings.

10. The Tribunal may, in addition to its sentence, make appropriate recommendation as to mercy but in any such case shall give reasons for such recommendation. Recommendation as to mercy.

11.-(1) The judge shall in every case take notes in writing of the oral evidence, or so much thereof as he considers material, in a book to be kept for that purpose and such book shall be signed by the judge at the conclusion of each day's proceeding. Notes of evidence to be taken.

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

Supplemental

12. If the Tribunal is satisfied that any person is likely to give material evidence Issue of summons for

- for the prosecution or for the defence, the Tribunal may issue a summons to such person requiring him to attend, at a time and place to be mentioned therein, before the Tribunal to give evidence in respect of the case and to bring with him any specified documents or things and any other documents or things relating thereto which may be in his possession or power or under his control. witness.
13. If the person to whom any such summons is directed does not attend before the Tribunal at the time and place mentioned therein, and there does not appear to the Tribunal on inquiry to be any reasonable excuse for such non-attendance then after proof to the satisfaction of the Tribunal that the summons was duly served or that the person to whom the summons is directed wilfully avoided service the Tribunal, on being satisfied that such person is likely to give material evidence, may issue a warrant to apprehend him and to bring him, at the time and place to be mentioned in the warrant, before the Tribunal in order to testify as aforesaid. Warrant of witness after summons.
14. It shall be the duty of the Tribunal to make or cause to be made such local inspection as the circumstances of the case may require. Local inspections.
15. Subject to the express provisions, if any, of these Rules the forms contained in the Appendix to these Rules may, in accordance with any instructions contained in the said forms, and with such variations as the circumstances of the particular case may require be used in the case to which they apply, and when so used shall be good and sufficient in law. Forms.
- 16.-(1) Whenever two or more persons are summoned to appear before the judge or charged with an offence under this Decree, the Tribunal may require one or more of them to give evidence as a witness. Witness compellable in certain cases.
- (2) A person who refuses to be sworn or to answer a lawful question after having been required to give evidence as a witness under paragraph (1) of this rule may be dealt with in the same manner as a witness refusing to do so in a High Court in Nigeria.
17. Notwithstanding anything to the contrary in any law (including any rule of law) no witness shall, in a proceeding under this Decree be presumed to be unworthy of credit by reason only that he took part in the granting of any loan and advance or the commission of any offence under this Decree. Evidence of accomplices.
18. Where these rules contain no provision in respect of any matter relating to or connected with the trial of offences under this Decree, the provisions of the Criminal Procedure Code or, depending on the venue, the Criminal Procedure Act shall, with such modifications as the circumstances may require, apply in respect of such matter to the same extent as they apply to the trial of offences generally. Application of Criminal Procedure Code or Act.
19. In these Rules, "the prosecutor" means the Attorney General of the Federation or any other person authorized by him pursuant to section 24(2) of this Decree to conduct the prosecution of an offence before the Tribunal or to assist therein. Meaning of prosecutor.

APPENDIX

Rule 15

FORMS

FORM 1

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

APPLICATION TO COMMENCE TRIAL

To: The Judge,

The Failed Banks (Recovery of Debts) and Financial Malpractices in Banks
Tribunal

Pursuant to section 24(1) of the Failed Banks (Recovery of Debts) and Financial
Malpractice's in Banks Decree 1994, I hereby apply for the commencement of a
trial for the offence of Under section
..... of the said Decree against the under-mentioned persons:-

(i)

(ii)

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

.....

Prosecutor

FORM 2

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

SUMMONS TO ACCUSED

To: - A. B. of

Complaint has been made this day by for that on the
..... day of at
..... in the aforesaid
did*

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

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

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

on to answer the said complaint

DATED the day of 19.....

.....
Judge of the Tribunal

*State concisely the substance of the offence.

FORM 3

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

WARRANT FOR APPREHENSION OF ACCUSED

Between

The Federal Republic of Nigeria

And

..... Accused

To Police Officer.

Complaint has been made onof
..... By that
hereinafter called the accused, on the day of
..... did*
.....
.....
.....

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

DATED the day of 19.....

.....
Judge of the Tribunal

*State concisely the substance of the offence.

FORM 4

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

SUMMONS TO WITNESS

Between

The Federal Republic of Nigeria

And

..... Accused

To: (i)
(ii) has been charged by
(iii) at in that he did
(iv)
.....
.....
.....

and it appearing to me on the application of (iii)..... That you are likely to give material evidence therein on behalf of the prosecutor (or accused).

You are therefore summoned to appear before the Tribunal named above sitting at On the day of 19..... at the hour of in the noon, to testify what you know concerning the said matter.

DATED the day of 19.....

.....
Judge of the Tribunal

- (i) Insert name of witness
- (ii) Insert name of accused
- (iii) Insert name of prosecutor or, if applicable, the accused
- (iv) State concisely the substance of the offence.

FORM 5

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

**WARRANT FOR APPREHENSION OF WITNESS IN THE FIRST
INSTANCE**

To.....

A. B. has been charged by for that he on
the day of at in the
..... State aforesaid did*
.....
.....
.....

And it appearing to me by the oath of that
..... is likely to give material evidence concerning the said matter,
and that it is probable he will not attend to give evidence unless compelled to do
so.

You are therefore hereby commanded to bring him before the Tribunal named
above sitting at ?????? to testify what he knows
concerning the said matter.

DATED the day of 19.....

.....
Judge of the Tribunal

*State concisely the substance of the offence.

FORM 6

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

WARRANT FOR APPREHENSION OF A WITNESS

Between

The Federal Republic of Nigeria

And

..... Accused

To Police Constable or to each and all
the Constables of

(i) was duly summoned to appear before the
Tribunal named above sitting aton
..... at the hour of in the
..... Noon, to testify what he knows concerning a certain
complaint against

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

And he has neither appeared thereto, nor offered any just excuse for his neglect.

And it has been proved on oath that the summons has been duly served on him
(and that a reasonable sum has been paid (or tendered) to him for his costs and
expenses in that behalf).

You are therefore hereby commanded to bring him before the Tribunal named
above sitting at Forthwith to testify what he knows
concerning the said matter.

DATED the day of 19.....

.....

Judge of the Tribunal

(i) Insert name of witness.

FORM 7

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

WARRANT FOR COMMITMENT OF WITNESS

Between

The Federal Republic of Nigeria

And

..... Accused

To And to the Superintendent of
..... Prison

(i) having appeared or been brought before
the Tribunal named above sitting at on the
day of 19..... to testify what he knows
concerning a certain matter against (ii)
refused to take an oath (or having taken an oath) refused to answer any (or a
certain) question put to him concerning the matter and did not offer any just
excuse for his refusal.

You the said Police Officer are hereby commanded to convey the said
..... safely to the prison and deliver him to the
Superintendent thereof, together with this Warrant and you, the Superintendent of
the said prison, to receive him into your custody and keep him for the period of
..... Unless, he in the meantime consents to be examined and
to answer concerning the matter.

DATED the day of 19.....

.....
Judge of the Tribunal

- (i) Insert name of witness.
- (ii) Insert name of accused.

FORM 8

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

COMMITMENT ON REMAND

Between

The Federal Republic of Nigeria

And

..... Accused

To and Officer-in-charge of
..... Prison.

- (i) hereinafter called the accused
being brought before the Tribunal named above sitting at
..... charged with having
- (ii)

The hearing of the case being adjourned:

You the said Police Officer are hereby commanded to convey the accused to police custody at or to the said prison and thereto deliver him to the Officer-in-Charge*/Superintendent thereof, together with this Warrant and you, the Officer-in-Charge*/ the Superintendent of the said prison, to receive him into your custody, and keep him until the day of 19..... and on that day to convey him before the said Tribunal at the hour of in the noon to be further dealt with according to law.

DATED the day of 19.....

.....
Judge of the Tribunal

- (i) Insert name of witness.
 - (ii) State the offence or offences
- *Delete whichever does not apply

FORM 9

**FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS DECREE 1994**

**IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL
MALPRACTICES IN BANKS TRIBUNAL**

WARRANT OF CONVICTION

Between

The Federal Republic of Nigeria

And

..... Accused

(i) having appeared before the Tribunal
named above sitting at Is this day convicted for that he, on the
..... day of 19..... at within the
..... did

(ii) and it is adjudged that the accused, for his
said offence, be sentenced to (iii) and the accused shall be
kept in custody at
.....
.....
.....

DATED the..... day of 19.....

.....
Judge of the Tribunal

- (i) Insert name of accused.
- (ii) State concisely the substance of the offence.
- (iii) State sentence imposed on accused.

MADE at Abuja this 9th day of November 1994.

GENERAL SANI ABACHA,
*Head of State, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria.*

EXPLANATORY NOTE

(This note does not form part of the above Decree but is intended to explain its purport)

The Decree establishes the Failed Bank (Recovery of Debts and Financial Malpractices) Tribunal with to, among other things:-

- (a) recover the debts owed to failed banks arising in the ordinary course of business of the banks and which remain outstanding at the date the banks are closed or declared failed banks by the Central Bank of Nigeria; and
- (b) try offences, created under the Decree, relating to certain financial malpractices in banks.

**FAILED BANKS (RECOVERY OF DEBTS) AND
FINANCIAL MALPRACTICES IN BANKS
(AMENDMENT) DECREE 1999**



Decree No. 11

[16th November, 1998] Commencement

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:-

1. The Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Decree 1994 (in this Decree referred to as “the principal Decree”), as amended is hereby further amended as set out in this Decree. Amendment of 1994 No. 18 1995 No. 18.
2. Section 2 of the principal Decree is amended – Amendment of section 2.

(a) by inserting immediately after subsection (2) thereof the following new subsection (3), that is –

“(3) Any part heard proceeding which is pending before a Tribunal constituted under this Decree in which the Judge has been-

- (a) appointed as a Justice of the Court of Appeal; or
- (b) appointed as the Chief Judge of a State or the Chief Judge of the High Court of the Federal Capital Territory, Abuja; or
- (c) transferred to another Court within the jurisdiction of the Federal High Court, the High Court of a State or the High Court of the Federal Capital Territory, Abuja, shall be continued and completed by that Judge as if he had not been appointed or transferred as the case may be;”;
- (d) by renumbering the existing subsection (3) as subsection (4).

3. Section 20 of the principal Decree is amended by substituting for subsection (2) thereof the following new subsection, that is- Amendment of section 20.

“(2) The Tribunal shall order the refund of the value equal to the amount involved in the offence or such other value as the Tribunal may deem fair and just in the circumstance or the confiscation of the property, movable or immovable of a person convicted of an offence under this Decree.”

4. This Decree may be cited as the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks (Amendment) Decree 1999. Citation.

MADE at Abuja this 23rd day of March 1999.

GENERAL ABDULSALAMI ALHAJI ABUBAKAR,
Head of State, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria.

EXPLANATORY NOTE

(This note does not form part of the above Decree but is intended to explain its purport)

The Decree amends the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Decree 1994, as amended, to provide, among other things, for the conferment of powers on a Judge who is presiding over a part heard matter before a Tribunal constituted under the Decree and who has been appointed or transferred to another court to continue and complete the matter as if he had not been appointed or transferred.