

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



ARRANGEMENT OF SECTIONS

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SCHEDULES

Decree No. 18

[9th November 1994]

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:-

PART I - 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 purposes 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").

(2) The Tribunal shall consist of a serving or retired Judge of the Federal High Court or of the High Court of State or of the Federal Capital Territory, Abuja.

(3) All criminal or civil causes or matters before the Tribunal and every proceeding 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.

Cap. 62 LFN  
1994 No. 107

Establishment of  
the Failed Banks  
(Recovery of Debts)  
and Financial  
Malpractices in  
Banks Tribunals

(Government)

(6) Subject to section 2 of this Decree, if any proceedings relating to the supervisory jurisdiction or power 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.

2-(1) Any part-heard proceeding, relating to a matter for which the Tribunal has jurisdiction, which is pending before any court on the date of the commencement of this Decree -

(a) may, in a civil case, be discontinued with the leave of that court and 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 -

(a) recover, in accordance with the provisions of this Decree, the debts 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 1988, and

(d) try other offences relating to the business or operation of a bank under any enactment;

(2) The Tribunal shall exercise 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 -

(i) conduct its proceedings in such manner as to avoid undue delay;

Pending procedural  
etc.

Powers of  
the Tribunal

1991 No. 2  
1988 No. 2



(b) lift the corporate veil of a body corporate where it is necessary for the purpose of revealing its members who may be guilty of an offence under this Decree;

(ii) liable, jointly or severally, for the debts owed by or to the body corporate to a limited bank;

(c) have all the powers of the Federal High Court (in the exercise of its jurisdiction) and, accordingly, the judgments and orders of the Tribunal shall be executed and enforced in the same manner as the judgments and orders of the Court of Appeal; and

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

4. (1) The Tribunal shall deliver its judgment not later than 14 days from the day of its first sitting.

(2) The decision of a Tribunal shall not be set aside or annulled solely on the ground of non-compliance with the provisions of section 24(6) of this Decree unless the Special Appeal Tribunal has jurisdiction by way of appeal from or review of that decision, and 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 has been rendered by this Decree may, within 21 days of the conviction or judgment, appeal to the Special Appeal Tribunal established under the Recovery of Movable Property (Special Military Tribunal) Decree, 1984, as amended, in accordance with the provisions of that Decree.

(2) The decision of the Special Appeal Tribunal shall be final where there is no appeal, the decision of the Tribunal shall be subject to appeal to the Federal High Court (in the exercise of its jurisdiction) and, accordingly, the judgments and orders of the Tribunal shall be executed and enforced in the same manner as the judgments and orders of the Court of Appeal; and

(3) Notwithstanding the provisions of any other law relating to search, if the Tribunal is satisfied that there is a reasonable suspicion that there may be found in any building or other place, or in any other form whatsoever which, in its opinion, is or may be in the possession or control of any member of the armed forces or of any other police officer or any member of the armed forces or of any other person, any document or other property or any book, record, account, statement or other thing which may be of any value or interest to the Tribunal, it may, if necessary, enter, if necessary by force, the building or other place, and search it, and seize any such document or other property or any book, record, account, statement or other thing which may be of any value or interest to the Tribunal.

(a) enter, if necessary by force, the building or other place, and search it, and seize any such document or other property or any book, record, account, statement or other thing which may be of any value or interest to the Tribunal.

(b) lift the corporate veil of a body corporate where it is necessary for the purpose of revealing its members who may be guilty of an offence under this Decree;

(ii) liable, jointly or severally, for the debts owed by or to the body corporate to a limited bank;

(c) have all the powers of the Federal High Court (in the exercise of its jurisdiction) and, accordingly, the judgments and orders of the Tribunal shall be executed and enforced in the same manner as the judgments and orders of the Court of Appeal; and

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

4. (1) The Tribunal shall deliver its judgment not later than 14 days from the day of its first sitting.

(2) The decision of a Tribunal shall not be set aside or annulled solely on the ground of non-compliance with the provisions of section 24(6) of this Decree unless the Special Appeal Tribunal has jurisdiction by way of appeal from or review of that decision, and 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 has been rendered by this Decree may, within 21 days of the conviction or judgment, appeal to the Special Appeal Tribunal established under the Recovery of Movable Property (Special Military Tribunal) Decree, 1984, as amended, in accordance with the provisions of that Decree.

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

(1) Where at any stage of a hearing or trial, the Tribunal is satisfied that a *mitigation* 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, movable 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;

(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 if it were made by the Tribunal, 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 subsection;

and in the case of a fine of an amount equal to two times the estimated value of the property affected by the non-compliance or more than 100, whichever is higher.

Jurisdiction unaffected by separation from service, etc.

8. The jurisdiction or authority of the Tribunal shall not be affected by the fact that a person charged or brought before the Tribunal for trial or hearing

(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 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, agreement or memorandum of understanding, the Tribunal shall have jurisdiction to hear and determine all matters brought before it concerning 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.

10. In addition to any other primary source of evidence -

(a) the examination reports and recommendations of the Central Bank of Nigeria or the Nigeria Deposit Insurance Corporation or their 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 or advance is owed to a failed bank and is due for recovery under this Part

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 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

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

(a) the name and address of the borrower;

Application for recovery of debt Form A

Proof of debt

Recovery of debt owed to failed banks

(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 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-(c) The Tribunal shall on the return date and on receipt of a reply to the notice of an application made under section 11(1) of this Decree, if the debtor admits the debt, enter judgment 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.

(2) The Tribunal shall, if satisfied with the explanation of the debtor, the debtor not later than 30 days to pay to the Receiver or Liquidator the amount of 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 -

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

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

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

(b) disputes the loan or interest,

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

Hearing, judgment  
and execution.

Form G.

Form F.

Debtor to appear  
before Tribunal to  
show cause



(7) 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, the debtor shall pledge as security for the loan.

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

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

(1) A property against which an order is made under section 15 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 registered in accordance with the various registration laws, without the compliance required under sections 21, 22 and 26 of the Land Use Act, 1992.

(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 bank after all the recovery expenses have been deducted.

(5) If the money obtained from the sale under subsection (4) of this section is not sufficient to offset the outstanding loan and interest thereon, the Tribunal may, where the debtor 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, execution on the other properties of the body corporate, partnership or association of individuals.

(6) Where the Tribunal levies execution under subsection (a) of this section, the properties shall be sold as specified in subsection (c) 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) 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, the debtor shall pledge as security for the loan.

16

(a)

(i)

(ii)

(iii)

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(v)

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14. A Receiver or Liquidator may, with leave of the Tribunal at any time before judgment is entered, withdraw an application made under section 14 of this Decree.

(1) A property against which an order is made under section 15 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 registered in accordance with the various registration laws, without the compliance required under sections 21, 22 and 26 of the Land Use Act, 1992.

(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 bank after all the recovery expenses have been deducted.

(5) If the money obtained from the sale under subsection (4) of this section is not sufficient to offset the outstanding loan and interest thereon, the Tribunal may, where the debtor 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, execution on the other properties of the body corporate, partnership or association of individuals.

(6) Where the Tribunal levies execution under subsection (a) of this section, the properties shall be sold as specified in subsection (c) 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) 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, the debtor shall pledge as security for the loan.

(8) 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, the debtor shall pledge as security for the loan.

(9) 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, the debtor shall pledge as security for the loan.

Withdrawal of application Form H Sale of property

Cap. 202 L.F.N.

1990 No. 1



(7) If the money obtained from the sale of properties under subsection 1990, levy execution on the personal properties of the directors of the company, partners of the partnership or individuals of the company, 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.

1990, (1) Where

(a) the information and details on the security pledged for the loan and pledged 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 undeterminable.

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

1990 (1) of this section, jointly and severally the outstanding loan and interest thereon in accordance with the provisions of this Decree, unless the court is satisfied that the debt was incurred without the consent of the shareholder, manager, officer or employee and that he exercised such diligence as he ought to have exercised having regard to the circumstances and all the circumstances of the case.

1990 Capital Territory, Abuja shall not apply to matters brought before the provisions of the Limitation Law of a State or Limitation Act under this Part of this Decree.

1990 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.

PART III - OFFENCES AND PENALTIES

1990 (1) Any director, manager, officer or employee of a bank who

(a) knowingly, recklessly, negligently, willfully or otherwise grants,

Offences

Schedule 1

Rules of procedure

etc

Exclusion of statutes

of limitation

Indequite securities

etc

approves the grant, or is otherwise connected with the grant, approval of a loan, an advance, a guarantee or any other financial accommodation to any person

(1) without adequate security or collateral, contrary to 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, approval of a loan, an advance, a guarantee or any other financial accommodation to any person, or

(c) grants, approves the grant or is otherwise connected with the grant, approval of a loan, an advance, a guarantee or any other financial accommodation to any person, or

(d) receives, or participates in sharing, for personal gratification, money, profit, property or pecuniary benefit towards or in connection with the grant, approval of a loan, an advance, a guarantee or any other financial accommodation to any person, or

(e) recklessly grants or approves a loan or an investment, or borrows or 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, willfully or recklessly —

(a) makes a statement, whether written or oral, or gives information, or

(b) fills any form to a bank,

knows conceals advances guilty body who refer liable Decree case (or in value Tribu ante involu foris prop involu decell

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

(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 discharge the penalty specified in subsection (1) of this section.

Penalties.

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.

(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 a person 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.

(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 paid 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 presumed

unworthy of credit

(2) Where a person is charged with an attempt to commit an offence and punished as provided

(3) Where a person is charged with an offence and punished as provided and the evidence establishes that the offender shall not be

(4) Where a person is charged with an offence and liable on conviction to commit an offence under this Decree

24-(1) The rules of procedure under this Decree shall be set out in Schedule 2

(2) Prosecutions for offences under this Decree shall be instituted in the name of the Tribunal or may be instituted in the name of the Minister of Justice

(a) after consultation with the Attorney General and the Minister of Justice

(b) if a Tribunal is established under this Decree, the Tribunal shall be a body corporate

(4) A person accused 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 paid to the Federal Government.

(5) Where the rules of procedure under this Decree are inconsistent with any provisions in respect of

Attempt to commit

offence, etc

by bodies corporate

and punished accordingly

deemed to be guilty of that offence and shall be liable to be proceeded against

and punished accordingly

Government

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 paid 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 presumed

unworthy of credit

offence

provision in respect of



worth of credit by reason only that he took part in the commission of

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

(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 shall not be entitled to acquittal but he may be convicted of that offence and punished as provided under this Decree.

(4) Where a person aids, abets, counsels, procures or conspires with another person to commit any of the offences under this Decree, he is guilty of those offences and liable on conviction to the same punishment as prescribed for those offences 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 provided in Schedule 2 to this Decree.

(2) Prosecutions for offences under this Decree shall be instituted before a court 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 authorize so to do, and in addition thereto, he may —

(a) after consultation with the Attorney-General of any State in the Federation, authorize 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, authorize any other legal practitioner in Nigeria.

to make any such prosecution directly or assist therein.

(3) The question whether any or what authority has been given in subsection (2) of this section shall not be inquired into by any court 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 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

Schedule 2.

Prosecutions, rules of procedure, etc. Schedule 2.

Interpretation  
Inconsistency  
Cap. 112 LFN

Trial in absentia

Bail

Powers of arrest

29. In this Decree, unless the context otherwise requires —

28. Where a provision of this Decree is inconsistent with that of 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. (2) An order of the Tribunal made pursuant to a hearing or trial of the debtor or person convicted, where expedient, be executed in the imprisonment shall be deferred until his return to Nigeria.

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

PART IV - MISCELLANEOUS

(c) hands over his passport to the Tribunal for the duration of the trial; (b) provides surety for the balance of the amount; and (a) deposits half the amount in the Tribunal as security for the trial.

(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

26.-(1) Subject to subsection (2) of this section, the Tribunal may grant bail to a person charged with an offence punishable with imprisonment without the option of fine under this Decree.

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.

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

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.

30. This Decree shall apply to 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.

"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;

"bank" has the meaning assigned to it under the Banks and Other Financial Institutions Decree 1991 and includes

(a) a financial institution as defined under that Decree or under the Nigeria Deposit Insurance Decree 1988; and

(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 arranged 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;

"Liquinator 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 Financial Malpractices in Banks Decree 1994.

Citation

PROCEDURE FOR THE RECOVERY OF DEBTS AT THE TRIBUNAL

SCHEDULE 1

SCHEDULES

1. In this Schedule, unless the context otherwise requires

"Civil Procedure Rules" means the Federal High Court (Procedure) Rules, or rules of court amending or replacing those

"Registry" means the Registry of the Tribunal;

"Secretary" means the Secretary in charge of the Registry, or if absent, the Senior Clerk present at the Registry;

"Tribunal notice board" means a notice board at the Registry where notice of hearing is being or has been given, a notice board

the place of the hearing;

2-(1) Application for the recovery of debts owed to a failed bank made by the Receiver or Liquidator in Form A as set out in the Appendix

this Schedule leaving it in person, or by the hand of the solicitor (if any), at the foot of the application, with the Secretary, and the Secretary shall

(required) give a receipt which may be in Form B in the Appendix to Schedule

(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 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 an application, pay the fees for its service and application, and for certifying 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 in the schedule specified in section 1(2) of this Decree.

(2) There shall be stated at the foot of the application an address for service within 5 kilometres 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.

Interpretation

Presentation of application

Form A  
Form B

Contents of application



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

(4) There shall be added at the foot of the application a note signed by the Receiver or Liquidator giving the name of his solicitor, if any, or stating that he is for himself, as the case may be.

(5) Evidence need not be stated in the application, but the Tribunal may direct such particulars as may be necessary to prevent surprise and unnecessary delay and to ensure a fair and effectual hearing in the same way as in a civil suit in the Court, and upon such terms as to costs and otherwise as may be directed.

4 For the purpose of service of the application on the respondent, the Receiver or Liquidator shall furnish the Secretary with the address of the respondent's abode or the address of a place where personal service can be effected on the respondent.

5 - (1) On the presentation of an application and payment of the requisite fee, the Secretary shall forthwith -

(a) cause notice in Form C in the Appendix to this Schedule, of the presentation of the application and a certified copy of the application, to be served on the debtor;

(b) post up on the Tribunal notice board a certified copy of the application;

(c) send a certified copy of the application by registered post or messenger to the person or authority to whom it is required by law that the determination of the application shall be certified.

(2) In the notice of presentation of the application, the Secretary shall state the date of the notice, within which the debtor is to enter an appearance, and in fixing such time the Secretary shall have regard to the necessity of a speedy hearing of the application, and to the distance from the place of the address furnished under paragraph 2 of this Schedule.

(3) Subject to sub-paragraphs (2) and (3) of this paragraph, service of the application on the respondent of the documents mentioned in sub-paragraph (1) (a) of this Schedule and of any other documents required to be served upon the respondent, shall be personal.

(2) Where the Receiver or Liquidator has furnished, under paragraph 2 of this Schedule, the address of a place where personal service can be effected upon the respondent, the Secretary shall have regard to the necessity of a speedy hearing of the application, and to the distance from the place of the address furnished under paragraph 2 of this Schedule.

(1) Subject to sub-paragraphs (2) and (3) of this paragraph, service of the application on the respondent of the documents mentioned in sub-paragraph (1) (a) of this Schedule and of any other documents required to be served upon the respondent, shall be personal.

(2) Where the Receiver or Liquidator has furnished, under paragraph 2 of this Schedule, the address of a place where personal service can be effected upon the respondent, the Secretary shall have regard to the necessity of a speedy hearing of the application, and to the distance from the place of the address furnished under paragraph 2 of this Schedule.

Address for service.

Action by Secretary.

Form C.

Service.

on the respondent, and the respondent cannot be found at that place showing what has been done, that all reasonable efforts have been made in personal service, may order that service of any document mentioned in paragraph (1) of this paragraph be effected in any of the ways mentioned in 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 if the respondent may not have been served personally or if the document of which substituted service has been effected pursuant to paragraph (2) of this paragraph did not reach the respondent's hands; and in such circumstances as aforesaid the proceedings may be continued as if the respondent had been served personally with the document which shall be valid and effective for all purposes.

7-(1) The debtor shall -

- (a) within such time after being served or deemed to be served as may be stated in the notice; or
- (b) where an order has been made under sub-paragraph (a) 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 12 in the Appendix to this Schedule stating that he admits the debt or 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, in the Judicial Division and the name of its occupier, at which address either case giving an address for service within five kilometers of the intended for the debtor may be left.

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

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

(4) At the time of filing the memorandum of appearance the debtor shall leave a duplicate thereof for each other party to the proceedings and three other duplicates thereof and pay the fees for service and such duplicate being left and such fees being paid 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, a document intended for the debtor may be posted on the Tribunal and such posting shall be sufficient notice thereof.

Entry of appearance.

Form 12

Default of appearance

Notice 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.

Filing of reply.

10. (1) The debtor shall, within six days of entering an appearance, file with 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.

(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 for each party to the complaint and three other duplicates 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.

Admission of debt.

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.

Amendment of application

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".

Further particulars or direction.

13. (1) If any party to the application wishes to have further particulars of 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.

(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 of 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 deemed fit.

Open court

14. Every application shall be heard in open court.

15. (1) Subject to the provisions of sub-paragraph (2) of this paragraph and notice of the time and place of the hearing shall be fixed by the Secretary 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.

(a) by posting or causing to be posted, the notice on the Tribunal board; or  
(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 by any messenger or by any means shall not be valid unless the copy of the notice and such notice shall not be valid unless the copy of the notice is taken to be good notice on the Tribunal notice board pursuant to paragraph 15 of this Schedule.

17. No formal adjournment of the Tribunal for the hearing of an application shall be necessary, but the hearing is to be deemed adjourned 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 recommended and concluded by another Judge appointed by the Head of State, Commander-in-Chief of the Armed Forces, or the Head of State, if the case cannot be continued on the existing day or if that day is a Sunday or a public holiday, on the day following the same, the hearing shall not be adjourned *quid die* but to a definite day which is 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.

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.

20. At the conclusion of the hearing, the Tribunal shall deliver judgment and make such order as it deems appropriate for the purposes of Part II of this Decree.

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

(a) on the part of the petitioner, wherever such address on

(2) After a document is served in lieu of serving

(11) After a document is served on any person

(7) A document shall be filed in the office of the or

(6) After notice to all creditors

(5) The Tribunal shall



Enlargement and abridgement of time

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

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

(3) When the time for delivering any pleading or document or filing any 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 an order of the Tribunal, the costs of any application to extend such time or any order made thereon shall be borne by the party making the application unless the Tribunal shall otherwise order.

(1) An application for enlargement or abridgement of time shall be made by affidavit.

(2) 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.

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

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

(1) Where any summons, notice or document, other than a notice mentioned in paragraph 5(1) of this Schedule is required to be served either by delivering it to such person or by leaving it at his last place of abode with any person there found who is a resident thereof and is not less than fifteen years of age or more.

(2) After a party has given an address for service, it shall be sufficient of serving him personally with any document intended for him, such as a summons, notice or document, if such person is not found at his office, on the clerk there apparently in charge; or

(3) on the person appearing on the paper last filed on his behalf as his solicitor where such person may be found or, if such person is not found at his office, 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 on

Service of notice

(1) Where any summons, notice or document, other than a notice mentioned in paragraph 5(1) of this Schedule is required to be served either by delivering it to such person or by leaving it at his last place of abode with any person there found who is a resident thereof and is not less than fifteen years of age or more.

(2) After a party has given an address for service, it shall be sufficient of serving him personally with any document intended for him, such as a summons, notice or document, if such person is not found at his office, on the clerk there apparently in charge; or

(3) on the person appearing on the paper last filed on his behalf as his solicitor where such person may be found or, if such person is not found at his office, 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 on

(i) the person there found apparently in charge, if such add...

(ii) any person other than a domestic servant there found...

(3) A party may change his address for service by giving notice of...

(4) Where service on one of the foregoing modes has pro...

service shall be sufficient, or may dispense with service of notice...

24. In the absence of express provision for the furnishing of copie...

25. (1) Non-compliance with any of the provisions of this Schedu...

(2) No application to set aside any proceeding for irregularity shall...

(3) Where an application is made to set aside proceedings...

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

(5) An application shall not be delayed by any objection merely...

Duplicate of documents  
Non-compliance with rules, etc.

26. (1) accordance with variations as the court may direct in which law...

(2) Where the terms of the contract are such that the contract is to be governed by the law...

27. Where the contract is to be governed by the law of a country...

24. In the absence of express provision for the furnishing of copies...

25. (1) Non-compliance with any of the provisions of this Schedule...

(2) No application to set aside any proceeding for irregularity shall...

(3) Where an application is made to set aside proceedings...

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

(5) An application shall not be delayed by any objection merely...

G. H. ...  
B. F. ...  
C. D. ...  
A. B. ...

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 variations 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.

(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.

Application of Rules of Court

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.

APPENDIX Paragraph 26

FORM A Section 11 and Paragraphs 2 and 26

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

IN THE FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL MALPRACTICES IN BANKS TRIBUNAL APPLICATION FOR THE RECOVERY OF DEBT

Between

Applicant

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

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

And

Respondent(s)

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.

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 1984

(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;

(v) 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 .....

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.

SIGNATURE before me this ..... day of ..... 19.....

Secretary

FORM B

Paragraphs 2 and 26

FAILED BANKS (RECOVERY OF DEBTS) AND FINANCIAL MALPRACTICES IN BANKS DECREE 1984

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

TAKE NOTICE

The applicant and C.D. of

G.H. (Debit)

E.F. (Debit)

C.D. (Rece)

A.B. (Rece)

NOTICE OF P

FINANCIAL

FAILED BANK

DATED th

Registry of the Failed Banks Tribunal

RECEIPT OF

Received



RECEIPT OF APPLICATION FOR THE RECOVERY OF DEBT

Received on the ..... day of ..... 19..... at the  
Tribunal an application for the recovery of debt owed to

DATED this ..... day of ..... 19.....

Secretary

FORM C Paragraphs 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

And

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

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

G. H. ....  
(Debtor)

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

TAKE NOTICE that an application, 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 taken at your address set out below, or as the Tribunal may direct by order under paragraph 6 of Schedule I to the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Decree 1994 otherwise proceedings upon the application may be continued as 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.....

to E.F. of ..... Secretary

G.H. of .....

FORM D

Paragraphs 7 and 8

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

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

MEMORANDUM OF APPEARANCE

Between

Applicant

A. B.

(Receiver/Liquidator of .....

C. D.

(Receiver/Liquidator .....

And

E. F.

(Debtor) .....

G. H.

(Debtor) .....

subscribed

The application of A. B. of .....

or as the case may be) whose names are

The applicant

subscribed

Respondent(s)

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

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

MEMORANDUM OF APPEARANCE

Applicant

A. B.

(Receiver/Liquidator of .....

C. D.

(Receiver/Liquidator .....

And

E. F.

(Debtor) .....

G. H.

(Debtor) .....

The applicant

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) acting for myself (or ourselves)

Dated the ..... day of 19.....

Signed

E.F.

G.H.

FORM E

Paragraphs 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.

(Receiver/Liquidator of

C. D.

(Receiver/Liquidator of

And

E. F.

(Debtor)

G. H.

(Debtor)

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

Respondent(s)

Applicant

(list documents and properties here)

It is ordered that all documents and properties, namely

**ORDER FOR THE RELEASE OF SECURITY**

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

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

**FORM C Section 18 and Paragraph**

Judge of the Tribunal

Dated this ..... day of ..... 19.....

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

**CERTIFICATE OF CLEARANCE**

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

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

**FORM E Section 12 and Paragraph**

Secretary

DATED this ..... day of ..... 19.....

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

and Financial Malpractice (in Banks)



pledged as Security for the loan, the subject matter of the application, be

And it is ordered that all parties be at liberty to apply to the Tribunal

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

NOTICE OF MOTION TO WITHDRAW APPLICATION

Between

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

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

And

E. F. ....  
(Debtor) .....

G. H. ....  
(Debtor) .....

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

specified

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

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

(2) who may be re-examined

5.-(a) prosecutor, (b) other than the accused and defence.

(2) (b) (a) Tribunal may justify the evidence

(3) Tribunal may justify the evidence

(4) call upon the accused shall

(5) call upon the accused shall

(6) call upon the accused shall

(7) call upon the accused shall

(8) call upon the accused shall

(9) call upon the accused shall

(10) call upon the accused shall

(11) call upon the accused shall

(12) call upon the accused shall

(13) call upon the accused shall

(14) call upon the accused shall

(15) call upon the accused shall

(16) call upon the accused shall

(17) call upon the accused shall

(18) call upon the accused shall

(19) call upon the accused shall

(20) call upon the accused shall

(21) call upon the accused shall

(22) call upon the accused shall

(23) call upon the accused shall

(24) call upon the accused shall

(25) call upon the accused shall

(26) call upon the accused shall

(27) call upon the accused shall

(28) call upon the accused shall

(29) call upon the accused shall

(30) call upon the accused shall

(31) call upon the accused shall

(32) call upon the accused shall

(2) The prosecutor shall then examine the witnesses for the prosecution who may be cross-examined by the accused or his counsel and may thereafter be re-examined by the prosecutor.

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.

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, and, after their cross-examination, and re-examination, if any, the accused or his counsel may sum up his case.

Right of prosecutor to reply.

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.

(7) 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.

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.

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.

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.

(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 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.

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

Considerations of findings.

Announcement of findings.

Recommendation as to mercy.

Notes of evidence to be taken.

Issue of summons for witnesses.

Warrant of witness after summons.



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

APPENDIX  
FORMS  
FORM I

Rule 15

14. It shall be the duty of the Tribunal to make or cause to be made local inspection as the circumstances of the case may require.

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 variation 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.

16. (1) Whenever two or more persons are summoned to appear before a Judge or charged with an offence under this Decree, the Tribunal may require one or more of them to give evidence as a witness.

(2) A person who refuses to be sworn or to answer a lawful question 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 the High Court in Nigeria.

17. Notwithstanding anything to the contrary in any law (including any law of law) no witness shall, in a proceeding under this Decree be presumed to be worthy 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.

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.

19. In these Rules, "the prosecutor" means the Attorney-General or the Director or any other person authorised by him pursuant to section 24(2) of the Decree to conduct the prosecution of an offence before the Tribunal or to prosecute thereon.

**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 Malpractices 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 undermentioned 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 .....

To .....

FAILED B  
M  
IN THE  
FINANC  
WAR

\*State

DATE

ON .....

You are the  
sitting at .....

afforded

in the ..... fore said did\*

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

..... 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

Police Officer.

by 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 according 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 DEGREE 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) .....
- (iii) .....
- (iv) .....

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

To.....  
A. B. P.  
that he  
And it  
matter,  
compelle  
You are  
above all  
knows co

(i)  
(ii)  
(iii)  
(iv)

18  
Yo  
at



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

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

(b) 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 ..... 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 ..... forthwith 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 DEGREE 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 at ..... on ..... 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).

To of (i) defo who certu excu You of d Sup of d and

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.

For the said Police Officer are hereby commanded to convey the said safety 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.

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.

Judge of the Tribunal

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

FORM 8



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

19 .....

Judge of the Tribunal

- (i) Insert name of accused.
- (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

..... having appeared before the Tribunal named above  
..... is this day convicted for that he, on the  
..... at ..... 19..... within the  
..... did

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

DATED

day of ..... 19 .....

Judge of the Tribunal

12  
11  
10  
9

(b) try offences, created under the Decree, relating to certain financial malpractices in banks.

(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

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

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

**EXPLANATORY NOTE**

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

MADE at Abuja this 9th day of November 1994.

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