



ADMINISTRATIVE DIRECTIONS TO AID EXPEDITIOUS DISPOSAL OF TRIAL BY JURY

2024



JUDICIAL SERVICE

COMPENDIUM OF PRACTICE DIRECTIONS &
ADMINISTRATIVE GUIDELINES IN GHANA
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CONTENTS

1. DIRECTIONS ON DELIVERIES AFTER COMMITTAL PROCEEDINGS-----	3
2. PREPARATION OF LIST OF JURORS-----	4
3. EXPEDITIOUS DISPOSAL OF CASES-----	7
4. CONSEQUENCES FOR DELAYING EXPEDITIOUS DISPOSAL OF CASES--	9
5. SUMMARY OF ETHICAL CONSIDERATIONS-----	20
6. APPLICATION-----	21
7. INTERPRETATION-----	22

Administrative Directions to

- (a) highlight legal and procedural framework that can assist with the efficient conduct of trials on indictment,**
- (b) provide for the efficient administration and management of trials by Jury and related matters,**
- (c) set out the repercussions for non-compliance with such framework by Judges, Magistrates, Jurors, Lawyers and Prosecutors.**

Being guided by the constitutional provision that Citizens may exercise popular participation in the administration of justice through the institutions of public and customary tribunals and the jury and assessor systems;

And being guided by the statutory requirement in section 204 of the Criminal and Other Offences Act, 1960, Act 30 (hereinafter referred to as Act 30), that trials on indictment shall be by a jury or with the aid of assessors;

In accordance with Act 30, I direct that until statutory provisions are made to guide same in a contrary, the appointment of jurors and conduct of trial on indictment by jury system shall be administered in the following manner:

A. DIRECTIONS ON DELIVERIES AFTER COMMITTAL PROCEEDINGS

Section 193(1) and (2) of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) state;

- 1) *On committal for trial on bill of indictment, the summary of evidence, a recorded statement of the accused, the answer of the accused respecting the court before which the accused desires to be tried, the recognizances of the witnesses, and of bail and any other documents and things which have been delivered into the custody of the District Court, shall be transmitted in proper time to the trial court*

- 2) *An authenticated copy of the document referred to in subsection (1) shall be transmitted to the Attorney-General*

Reasonable time for remitting record and things set as seven (7) days

Magistrates and Registrars of District Courts are to ensure that the record and things in their custody after Committal Proceedings in indictable offences are transmitted to the trial court and copied to the office of the Attorney-General in the relevant region within seven (7) days of completion of Committal Proceedings.

Supervising High Court Judges are to ensure compliance with this direction.

B. DIRECTIONS ON PREPARATION OF LIST OF JURORS

Duties of Magistrates:

- a) A District magistrate shall procure through the registrar of the court the list of all persons within the ages of 25 to 60 being the age requirement of a juror under the law, who is resident within the District at or near which sessions of the High Court or Circuit Court are or shall be held. Such lists shall be obtained by Registrars from the Electoral Commission, National Identification Authority and various institutions within their various districts by the end of February of each year.

- b) A District Magistrate shall within 30 days of procurement of the list of persons resident within the district from the EC, NIA and various institutions in the district, make a list of persons who are qualified to serve as jurors, setting out the name and surname, the occupation and place of abode of each person. The magistrate shall cause same to be posted at the Notice Board of all courts within and near the District including Circuit Courts and High Courts, Police Stations and District /Municipal/ Metropolitan Assemblies within the said District.

- c) A District Magistrate shall further cause notice of the date, time and place for public sitting for settling the list of jurors to be served on persons on the list of eligible jurors through any of their contact details available, such as mobile phone number, postal address or email address and shall cause this said notice to be posted along with the list of eligible jurors at the places mentioned in paragraph 2 for a period of twenty-one (21) days.
- d) A District Magistrate shall at the end of the period of posting, hold the Public Sitting for considering and disposing of the responses to the notices received and shall revise and settle the lists by the addition to, or cancellation of names and by correcting errors as to the name, occupations, places of abode of person included in the list on or before the **thirtieth day of April of every year**.
- e) The District Magistrate shall mark on each list, the time for the commencement of the use of the list.
- f) The District Magistrate shall on settlement of the lists, send signed copies of the list to the Registrars of the High Court and Circuit Courts for the appropriate sessions in towns on or before the last day of May each year. Same shall constitute the Juror List.

Duties of the Registrar

- a) The Registrar of a court shall issue summons requiring the attendance at sitting, of the persons selected as jurors within 3 days, upon receipt of the courts precept.
- b) Summons issued by the Registrar to the selected jurors shall be in writing and shall inform the selected juror of his right to notify the Registrar in writing not later than 3 days after receipt of the summons, of any good cause why the person should be excused from performing jury duties.
- c) Summons for requiring the attendance sent via mobile phone number, postal address or email address of selected jurors at the court sitting shall be served before the court sitting or as directed by the court.
- d) The Registrar of the court shall produce to the court any application received from persons asking to be excused from attendance as required in the summons and correspondence relating to the applications two (2) days before the date fixed by the court for sitting.
- e) The Registrar shall not list the name of any person who has served as a juror twice for empaneling as a juror in any subsequent matter.

- f) The Registrar shall ensure that the claims of traveling allowances of jurors who have served on a case is processed for payment not later than 14 days after trial.

C. EXPEDITIOUS DISPOSAL OF CASES

Duties of the Trial Judge

- a. In a trial on indictment, a trial judge shall first conduct the case management pursuant to '*Practice Direction Disclosures and Case Management in Criminal Proceedings 2018*'. After case management, the trial judge shall notify the Registrar of the court to summon jurors to appear before the court for empaneling on a specific date and time no longer than 21 days from the date of the summons.
- b. A challenge for cause made under section 252 of Act 30, shall be tried and determined forthwith by the court and whenever possible, shall be determined within 3 days.
- c. The judge shall immediately after the empaneling of the jury, agree with the prosecution, lawyer(s) and the jury on the date and time for commencement of the trial which shall be not later than fourteen (14) days thereafter where accused person is on remand, and 30 days where the accused is on bail.

- d. The judge shall further agree with the prosecutor, lawyer(s) and the jury, specific dates for the hearing of the witnesses of both prosecution and accused person, dates for delivery of closing address by counsel for both sides and date for delivery of summing up and shall draw up a case completion plan with counsel for parties.
- e. That unless the exigency of the matter demands otherwise, the court shall hear the case on day by day basis.
- f. Where the court is unable to hear a matter as scheduled due to the absence of a juror, the case shall be adjourned to the next scheduled date on the case completion plan.
- g. Where the judge is of the opinion that in the interest of justice, the jury is required to be kept together during an adjournment or hearing, the judge shall notify the Honourable Chief Justice in writing stating the reasons necessitating same forthwith and;
- h. In the instance where the jury is kept together during an adjournment or hearing, the judge shall hear the matter on day to day basis and shall conclude the hearing of the matter including summing up within a maximum period of 30 days.
- i. In the instance where the jury is kept together after hearing of the closing address but prior to summing up, the judge shall adjourn

the matter for a maximum period of two (2) working days and deliver same for consideration by jury.

D. REPERCUSSIONS OF DELAYS IN DISPOSAL OF CASES

Constitutional rights and obligations

The 1992 Constitution guarantees jury trials as a constitutional right. Therefore, it is a duty to honour a national call by a person selected to be a juror. After being selected as a juror, it is the juror's responsibility to make himself/herself available at any time that person is required to be in court to serve as a juror except where that person is excused from attending court.

It is also a requirement of any legal system to decide cases expeditiously. Article 14(4) of the 1992 Fourth Republican Constitution provides thus;

(4) Where a person arrested, restricted or detained under paragraph (a) or (b) of clause (3) of this article is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released wither unconditionally or upon reasonable conditions, including in particular, conditions

reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

Further, Article 19 of the 1992 Constitution provides thus;

(1) A person charged with a criminal offence shall be given a fair hearing within a reasonable time by a court.

From the above, expeditious trial and trials that avoid delays, is a guaranteed constitutional right.

Punishment, if any, must also be applied close to the time of the commission of the crime for which punishment is passed. This underscores the need not to delay the application of punishment, if it has to serve its purpose in the nature of deterrence, rehabilitation or retribution. Punishment is efficient when it is applied sooner than later. Again, where the trial and delivery of judgments delay, in a matter affecting criminal conduct, applying a punishment would lead to the loss of its function.

Further, where there is delay in jury trials, witnesses tend to forget some of the pieces of evidence, some move out of where they previously lived at the time the crime was committed, some may be dead at the time of the trial, some records can get lost, etc. In sum, where society has a legitimate interest in the expeditious disposal of criminal cases, a delay

in trials and punishment if necessary, does not help to strengthen the confidence of the citizenry in the judicial system.

In that regard, it is incumbent on the judiciary to ensure that, all stakeholders including, judges, lawyers, jurors, accused persons, prison officers, the police, witnesses etc. play their respective roles effectively, thereby avoiding inordinate delays in jury trials. One way of avoiding delays in jury trials and to ensure the attendance to court by relevant category of persons, is to enforce existing directions enshrined in our statutes and further ensure that, disciplinary measures are taken against defaulting stakeholders.

The following are some consequences a stakeholder may face for non-attendance in court in a pending jury trial.

Judges and Magistrates:

In compliance with the Code of Conduct for Judges and Magistrates, a judge shall be faithful to the law and maintain professional competence. Further, a judge shall dispose of all judicial matters, including jury trials promptly, efficiently and fairly. Judges' and Magistrates' compliance with the code of conduct would help deepen public confidence in the judiciary and in the fair and efficient administration of justice in Ghana. A breach of any of the above, thereby occasioning among others, delay,

or miscarriage of justice, may lead to a disciplinary action including a disciplinary action that borders on incompetence.

Jurors:

Sections 222 – 224 of the Criminal Procedure and Other Offences Act, 1960 Act 30 provide for consequences for non-attendance in court by a juror.

- a. Section 222 of the Criminal (and other Offences) Procedure Act, 1960 Act, provides as follows:

A person commits an offence and is liable on conviction to a fine not exceeding one hundred penalty units;

a) who is summoned to attend the Court as a juror and does not, without reasonable excuse, duly attend and be present at the Court, and at the times appointed by the Court for adjournment; or

b) who is present in Court to serve as a juror but refuses without reasonable excuse to serve until discharged by the Court.

- b. Section 223 of the **Criminal (and other Offences) Procedure Act, 1960 Act**, regarding punishment, summary, punishment enforced, merit of punishment and fines provides:

(1) Punishments may be inflicted summarily on an order to that effect by the Court.

(2) A fine imposed under subsection (1) is recoverable;

(a) by distress and sale of the movable or immovable property of the person fined, and

(b) by warrant of distress signed by the Registrar of the Court.

(3) A warrant of distress signed by the registrar of the Court shall be issued by the registrar without further order of the Court, where the amount of the fine is not paid within six days,

(a) of the fine being imposed, if imposed in the presence of the person fined; or

(b) of its having to come to the knowledge by notice or otherwise of the person fined, that the fine has been imposed, if imposed in the absence of that person.

(4) In default of the recovery of the fine by distress and sale, the person fined may be imprisoned for a period of twenty-one days, if the fine is not paid sooner.

(5) The Court may remit a fine imposed under this section.

Section 224 of the Criminal (and other Offences) Procedure Act, 1960 Act, regarding notice to persons fined in absentia provides thus;

“Where a person is fined in absentia the registrar shall forthwith send that person a written notice of the fact, requiring that person to pay the fine, or to show cause before the Court within four days for not paying it”.

Further to the above, if a juror who has been empanelled fails to attend court on a day, the allowance payable for the entire panel of seven (7) jurors will be forfeited, as no work has been done to warrant payment. In this regard, the foreman is to ensure that, all jurors on a panel are present when a case on which they sit as jurors, is to be heard.

Accused Person on Bail:

To avoid inordinate delay, trial may be conducted in absentia. This is to prevent accused persons from manipulating the judicial system by deciding with their presence whether or not a case can be heard. Article 19 of the 1992 Constitution provides:

- (3) The trial of a person charged with a criminal offence shall take place in his presence unless; -*
- (a) he refuses to appear before the court for the trial to be conducted in his presence after he has been duly notified of the trial; or*
 - (b) he conducts himself in such a manner as to render the continuation of the proceedings in his presence impracticable and the court orders him to be removed for the trial to proceed in his absence.*

Once it is established that, the accused person is aware of the date the case is to be heard and is absent without any just cause, the trial ought to continue in the absence of the accused person. The sitting judge examines what reasons have been proffered, and determines what just

cause is, under the circumstances, after having regard to the available reasons.

The bail granted will be reviewed or rescinded having regard to the conduct of the accused person.

Lawyers: (Private Legal Practitioners, Prosecutors, Lawyers at the Legal Aid Service, Etc.)

a. **Regulations 56(1) and 57(1), (2) and (3) of the Legal Profession (Professional Conduct and Etiquette) Rules, 2020, LI 2324** provide as follows:

56(1) A prosecutor shall;

- 1. Assist the Court to arrive at the truth;*
- 2. Seek to have the whole of the relevant evidence placed intelligibly before the Court; and*
- 3. Seek to assist the Court with a submission of law to enable the proper application of the law to the facts.*

57(1). A prosecutor shall, as soon as practicable, disclose to the opposing party every material available to the prosecutor, including;

- a) The name and means of finding a prospective witness in connection with the material, and*
- b) Any other information that the prosecutor becomes aware of which may constitute evidence relevant to the guilt or innocence of the accused*

- (2). *Subrule (1) does not apply where a partial or full disclosure threatens the integrity of the administration of justice in the proceedings or the safety of a person.*
- (3). *A prosecutor who has reasonable grounds to believe that a material available to the prosecution may have been unlawfully or improperly obtained shall promptly;*
- a. inform the opposing party if the prosecutor intends to use the information;*
 - b. make available to the opposing party a copy of the information if the information is in a documentary form; and*
 - c. inform the opposing party of the grounds for believing that the material was unlawfully or improperly obtained.*

Where a prosecutor's failure to assist the court and to disclose information in line with Regulations 56 (1) and 57 of L.I. 2324, occasions delay in a jury trial, that prosecutors conduct constitutes a professional misconduct.

Regulation 95 of L.I. 2324 on the subject negligence and delay provides:

A lawyer commits professional misconduct if that lawyer conducts the business of a client with negligence or delays as to;

- a. damage the interest of the client; or*

b. *bring the legal profession into disrepute or discredit*

Regulation 98 of L.I. 2324 on the failure of a lawyer to attend court, it provides:

A lawyer commits professional misconduct if without reasonable excuse that lawyer does not;

a. *personally attend court proceedings in relation to a matter; or*

b. *not arrange for another lawyer or a representative of the firm of that lawyer or an agent of that lawyer to be present throughout in court proceedings.*

In relation to a matter in which that lawyer is acting.

Where a lawyer breaches any of the above stated regulations, the sitting judge reserves the right to refer the said lawyer to the General Legal Council for disciplinary action to be taken against the said lawyer.

Police:

If by the action or inaction of a Police Officer, who is a witness, or investigator (s), a delay or inordinate delay is occasioned, his conduct will be referred to the Ghana Police Service through the Inspector General Police for disciplinary action to be taken. In situations where the relevant Police Officer performs his duties and responsibilities excellently, a comment/commendation on the Officer's conduct may be made in the record book by the sitting judge and a certified true copy

forwarded to the Inspector General of Police of the Ghana Police Service, which commendation may form the basis of promotion.

Prison Officers:

If by the action or inaction of a Prison Officer, e.g., failure to produce Accused person or delays in the producing accused persons before the court, which delay or non-production of accused occasions a delay or inordinate delay, his conduct may be referred to the Ghana Prisons Service through the Comptroller of the Ghana Prison Service, for disciplinary action to be taken against such Prison Officer. In situations where the relevant Prison Officer performs his/her duties and responsibilities excellently, a comment/commendation on the Officer's conduct may be made in the record book by the sitting judge and a certified true copy forwarded to the Comptroller of the Ghana Prisons Service, which commendation may form the basis of promotion.

Witnesses:

It is the duty of the prosecution and the defence to produce respective witnesses in court for adduction of evidence in chief and cross examination. The prosecution and the defence, may secure the attendance of their witnesses either voluntarily or by the service of a subpoena. If a witness is subpoenaed and fails to appear, a bench warrant may be issued for his immediate arrest. Since it is the duty of

both the prosecution and the defence to produce their respective witnesses, failure to produce named witnesses to adduce evidence in support of their respective cases, will leave the sitting judge with no option than to strike out the evidence of, and or dispense with the evidence of the said witness(es).

Sections 58 and 59 of the Court's Act, 1993, Act 459 as amended, gives the court;

- i. the power to summon a witness on its own motion or on an application by a party, to either adduce evidence or to produce any document in his possession.
- ii. the power to compel a witness to attend court when the evidence to be adduced is material. A court can issue an arrest warrant in that regard.

Section 61 of the Courts Act, 1993, Act 459 as amended provides the penalty for a witness' non-attendance to court as a fine not exceeding 50 penalty units or six months' imprisonment or both

E. SUMMARY OF ETHICAL CONSIDERATIONS

- **Judges and Magistrates:** Must adhere to codes of conduct, ensuring trials are conducted promptly, efficiently and fairly, with disciplinary actions for non-compliance.
- **Jurors:** Are legally bound to attend court sessions, with penalties for non-attendance to ensure their contribution to the timely progress of trials.
- **Accused Persons:** Trials in absentia are to be conducted to prevent accused persons from causing delays, ensuring that the judicial process continues smoothly.
- **Lawyers:** Are required to assist in the truthful and efficient conduct of trials, and may face professional misconduct charges for causing delays or withholding information.
- **Police and Prison Officers:** Play crucial roles in facilitating trials by producing evidence and accused persons in a timely manner. They may face disciplinary actions for failures that cause delays.
- **Witnesses:** Are essential for the trial process, with the prosecution and defense responsible for their timely appearance.

F. APPLICATION

This direction shall apply to all indictment cases triable by jury.

G. INTERPRETATION

In this Direction,

- a. "Accused person" includes counsel for the Accused person
- b. "Court" means a Court with criminal jurisdiction.
- c. "He" and "His" include their criminal jurisdiction.
- d. "Participants in criminal proceedings" includes the Parties, the Complainant(s), the Case Investigator, Witnesses, Counsel for the Accused person, Counsel watching brief for the Complainant(s), etc
- e. "Parties" refers to the Prosecution and the Accused person
- f. "Prosecution" covers the Attorney-General and all persons authorized by the Attorney-General to prosecute criminal offences in Ghana.
- g. "Witness Statement" refers to a written statement signed or thumb printed by a witness for the Prosecution or the Defence which contains the evidence which that witness would be allowed to give orally at the trial.

This Administrative Direction comes into force on

Sgd.

**GERTRUDE SACKY TORKORNOO
CHIEF JUSTICE OF THE REPUBLIC OF GHANA**