

L.N. 35 of 1959

STATUTORY INSTRUMENTS

(Remaining effective provisions reprinted, see G.N. 153 of 1959)

1958 No. 1958

NIGERIA

The Nigeria (Constitution) (Amendment No. 4)

Order in Council, 1958

Made 21st November, 1958

Laid before Parliament .. . 27th November, 1958

Coming into Operation .. . 28th November, 1958

At the Court at Buckingham Palace, the 21st day of November, 1958

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order and it is hereby ordered, as follows:—

Citation,
construction
and com-
mencement.

1.—(1) This Order may be cited as the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958, and shall be construed as one with the Nigeria (Constitution) Orders in Council, 1954 to 1957(b), the Nigeria (Constitution) (Amendment) Order in Council, 1958(c), the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958(d), and the Nigeria (Constitution) (Amendment No. 3) Order in Council, 1958(e).

(2) The Nigeria (Constitution) Orders in Council, 1954 to 1957, the Nigeria (Constitution) (Amendment) Order in Council, 1958, the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958, the Nigeria (Constitution) (Amendment No. 3) Order in Council, 1958, and this Order may be cited together as the Nigeria (Constitution) Orders in Council, 1954 to 1958.

(S.I. (3) amends S.I. 1958/1522)

(4) This Order shall come into operation on the twenty-eighth day of November, 1958.

2—(1) (amends S.I. 1954/1146, S.2)

(2) Any appointment of any person to any judicial office of any Region or the Southern Cameroons made by any person or authority during the period between the thirty-first day of March, 1958, and the commencement of this Order in purported exercise of any power conferred upon that person or authority by or under the Native Courts Law, 1956, of the Northern Region(f) the Customary Courts Law, 1957, of the Western Region(g), the Customary Courts Law, 1956, of the Eastern Region(h), or the Customary Courts Law, 1956, of the Southern Cameroons(i), as the case may be, shall for all purposes whatsoever be, and be deemed always to have been, duly made notwithstanding that, by virtue of the provisions of sub-paragraph (iv) of paragraph (a) of subsection (4) of section 2 of the principal Order (as set out in subsection (1)

(a) 53 & 54 Vict. c. 37. (b) S.I. 1954/1146, 1955/432, 1956/836, 1957/1363, 1530
(1954 II, p. 2829; 1955 II, p. 3163; 1956 II, p. 2953; 1957 II, pp. 3028, 3030)
(c) S.I. 1958/429. (d) S.I. 1958/1257. (e) S.I. 1958/1522.
(f) Law No. 6 of 1956. (g) Law No. 26 of 1957. (h) Law No. 21 of 1956.
(i) Law No. 9 of 1956.

of section 3 of the Nigeria (Constitution) (Amendment) Order in Council, 1958), the provisions of the principal Order relating to the making of appointments to offices in the public service of the Federation or the public service of a Region, as the case may be, applied during that period in relation to the making of appointments to that judicial office, and all acts and things done by the person so appointed to that judicial office in exercise of the functions of that judicial office shall accordingly be deemed to have been validly and effectively done.

(Ss. 3—6 amend S.I. 1954/1146)

7—(1) (amends S.I. 1954/1146)

(2) The provisions of subsections (2), (3) and (4) of section 190 of the principal Order shall apply in relation to any benefits granted under any regulations made under Part 2 of Chapter VII of the principal Order and payable by the Western Region or the Eastern Region as they apply in relation to benefits granted under a pensions law in force in that Region :

Provided that the provisions of section 5 of the Nigeria (Retirement Benefits) Order in Council, 1958, shall apply in relation to any additional allowance granted under those regulations as they apply in relation to an additional allowance granted under that Order.

(Ss. 8—11 amend S.I. 1954/1146)

Adaptation
of existing
laws.

12.—(1) The Governor-General may, by Order published in the *Official Gazette* of the Federation, at any time within twelve months after the commencement of this Order provide that any existing law shall be read and construed with such adaptations and modifications as may appear to the Governor-General to be necessary or expedient for bringing the provisions of that law into conformity with the provisions of the Nigeria (Constitution) Orders in Council, 1954 to 1958, or otherwise for giving effect or enabling effect to be given to those provisions; and any such law shall have effect accordingly from such date as may be specified in the Order, not being a date earlier than the commencement of this Order.

(2) In this section "existing law" means a law in force or having effect immediately before the commencement of this Order that was enacted by any legislature in Nigeria and includes any instrument made in pursuance of any such law.

W. G. AGNEW

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to explain its general purport.)

This Order amends the provisions of the Nigeria (Constitution) Order in Council, 1954, relating to the judges of the Federal Supreme Court and the High Courts of the Northern Region and Lagos and to certain other judicial offices, the grant of pensions, offences involving disqualification for election and the Judicial Service Commissions and the Directors of Public Prosecutions of the Western and Eastern Regions. It also validates certain appointments of judicial officers.

L.N. 20 of 1959

STATUTORY INSTRUMENTS

(Reprinted with all amendments see G.N. 102 of 1959)

1954 No. 1147

NIGERIA

The Nigeria (Offices of Governor-General and Governors)
Order in Council, 1954(a)*[This O. is printed as am., by O., S.I. 1955/431, 1957/1531, 1958/430, 1258
(1955 II, p. 3167; 1957 II, p. 3053; 1958 II, pp.)]*

Made 30th August, 1954

Laid before Parliament 3rd September, 1954

Coming into Operation 1st October, 1954

At the Court at Balmoral, the 30th day of August, 1954

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(b), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954.

(2) This Order shall come into operation on the first day of October, 1954.

(3) The Nigeria Letters Patent, 1951(c), and the Nigeria (Supplementary Provisions) Order in Council, 1951(d), are hereby revoked without prejudice to anything lawfully done thereunder.

(4) Her Majesty hereby reserves power, with the advice of Her Privy Council, to amend or revoke this Order.

2.—(1) In this Order, unless it is otherwise expressly provided or required by the context—

"the Constitution Order" means the Nigeria (Constitution) Order in Council, 1954(e);

"the Eastern Region" means the Eastern Region of Nigeria established by the Constitution Order;

"the Federation" means the Federation of Nigeria established by the Constitution Order;

"the Governor-General" means the Governor-General and Commander-in-Chief of the Federation;

"Lagos" means the Federal Territory of Lagos established by the Constitution Order;

"the Northern Region" means the Northern Region of Nigeria established by the Constitution Order;

"oath" includes an affirmation;

"Region" means the Northern Region, the Western Region or the Eastern Region;

"the Southern Cameroons" means the Southern Cameroons established by the Constitution Order; and

"the Western Region" means the Western Region of Nigeria established by the Constitution Order.

Citation,
commence-
ment,
revocation
and reserva-
tion of
power.

Interpreta-
tion.

(a) Collective title "Nigeria (Offices of Governor-General and Governors) Orders in Council, 1954 to 1959," *see* *amdg.* O.

(b) 53 and 54 Vict. c.37.

(d) S.I. 1951/1957 (1951 II, p.89).

(c) S.I. 1951 II, p.1417.

(e) S.I. 1954/1146 (1954 II p.2829).

(2) (a) Where by or under this Order a power is conferred upon Her Majesty or any other person to make any appointment to any office, a person may be appointed to that office, notwithstanding that some other person is holding that office when that other person is on leave of absence pending relinquishment of the office.

(b) Where two or more persons are holding the same office by reason of an appointment made pursuant to paragraph (a) of this subsection, then for the purposes of section 5 or section 14 of this Order or for the purposes of any function conferred upon the holder of that office the person last appointed to the office shall be deemed to be the holder of the office.

(a)(3) Any reference to an officer, by the term designating his office shall be construed as a reference to the officer for the time being lawfully discharging the functions of that office and shall include, in the case of the Governor-General and the High Commissioner for the Southern Cameroons, the Deputy Governor-General, to the extent to which he is authorised to discharge the functions of the office of Governor-General or the office of High Commissioner, as the case may be, in the case of the Governor of a Region, the Deputy Governor of the Region, to the extent to which he is authorised to discharge the functions of the office of Governor, and in the case of the Commissioner of the Cameroons, the Deputy Commissioner of the Cameroons, to the extent to which he is authorised to discharge the functions of the office of Commissioner.

(b)(4) Save as is in this Order otherwise provided, or required by the context, the Interpretation Act, 1889(c), shall apply for the purposes of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

3.—(1) The office of Governor-General and Commander-in-Chief of the Federation is hereby constituted.

(2) Appointments to the office of Governor-General shall be made by Commission under Her Majesty's Sign Manual and Signet.

(3) A person appointed to the office of Governor-General shall, before entering upon the duties of that office, make oaths or affirmations of allegiance and for the due execution of that office in the form set out in the Schedule to this Order.

4. The Governor-General shall have such powers and duties as are conferred upon him by or under this Order, the Constitution Order or any other law, and such other powers and duties as Her Majesty may from time to time be pleased to assign to him and, subject to the provisions of this Order and the Constitution Order and of any other law by which any such powers or duties are conferred, shall do or execute all things that belong to his office (including the exercise of any powers and the performance of any duties with respect to which he is empowered by the Constitution Order to act in his discretion) according to such instructions, if any, as Her Majesty may from time to time see fit to give him :

Provided that the question whether or not the Governor-General has in any matter complied with such instructions shall not be enquired into in any court.

(d) 4A.—(1) The office of Deputy Governor-General of the Federation is hereby constituted.

(a) S. 2(3) as subst., S.I. 1958/430.

(b) S. 2(4) inserted, S.I. 1955/431.

(c) 52 and 53 Vict. c. 63.

(d) S. 4A inserted, S.I. 1957/1531 and as am., S.I. 1958/430.

Office of
Governor-
General and
Commander-
in-Chief.

Powers and
duties of
Governor-
General.

Office of
Deputy
Governor-
General.

OFFICES OF GOVERNOR-GENERAL AND GOVERNORS

(2) Appointments to the office of Deputy Governor-General shall be made by the Governor-General in pursuance of instructions given by Her Majesty through a Secretary of State.

(3) If the office of Deputy Governor-General is vacant or the Deputy Governor-General is absent from Nigeria or is from any other cause prevented from or incapable of discharging the functions of his office, the Governor-General may appoint a person to act as Deputy Governor-General, and any person so appointed shall continue to act until his appointment is revoked by the Governor-General.

(a) 5.—(1) Whenever the office of Governor-General is vacant or the Governor-General is absent from Nigeria or is from any other cause prevented from or incapable of discharging the functions of his office—

Succession
to govern-
ment of
Federation.

(a) the Deputy Governor-General; or

(b) if the office of Deputy Governor-General is vacant or the Deputy Governor-General is absent from Nigeria or is from any other cause prevented from or incapable of discharging the functions of the office of Governor-General, such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State

shall, during Her Majesty's pleasure, discharge the functions of the office of Governor-General and administer the Government of the Federation accordingly.

(2) Before entering upon the discharge of the functions of the office of Governor-General under subsection (1) of this section the Deputy Governor-General or the person designated under paragraph (b) of that subsection shall make the oaths to be made under subsection (3) of section 3 of this Order by a person appointed to the office of Governor-General.

(3) The Deputy Governor-General shall not continue to discharge the functions of the office of Governor-General after the Governor-General has notified him that he is about to enter upon, or resume, the discharge of those functions and the person designated under paragraph (b) of subsection (1) of this section shall not continue to discharge those functions after the Governor-General or the Deputy Governor-General has so notified him.

(4) For the purposes of this section—

(a) the Governor-General or the Deputy Governor-General shall not be regarded as absent from Nigeria during his passage from one part of Nigeria to another, or as prevented from discharging the functions of the office of Governor-General by reason only that he is so passing;

(b) the Governor-General shall not be regarded as absent from Nigeria, or as prevented from or incapable of discharging the functions of the office of Governor-General, at any time when the Deputy Governor-General is discharging those functions in pursuance of an authority given by the Governor-General under section 6 of this Order;

(c) when the Deputy Governor-General has entered upon the discharge of the functions of the office of Governor-General under subsection (1) of this section, he shall not be regarded as absent from Nigeria, or as prevented from or incapable of discharging those functions, at any time when the person acting in the office of Deputy Governor-General is discharging those functions in pursuance of an authority given by the Deputy Governor-General under section 6 of this Order;

(d) "the Governor-General" means the person holding the office of Governor-General and "the Deputy Governor-General" means the person holding the office of Deputy Governor-General,

Discharge
of Governor-
General's
functions by
Deputy
Governor-
General,

(b)6.—(1) The Governor-General may, by Instrument under the Public Seal of the Federation, authorize the Deputy Governor-General to discharge for and on behalf of the Governor-General on such occasions and subject to such exceptions and conditions as may be specified in that Instrument such of the functions of the office of Governor-General as may be specified in that Instrument.

(2) The powers and authority of the Governor-General shall not be affected by any authority given to the Deputy Governor-General under subsection (1) of this section otherwise than as Her Majesty may at any time think proper to direct, and the Deputy Governor-General shall conform to and observe such instructions relating to the discharge by the Deputy Governor-General of any of the functions of the office of Governor-General as the Governor-General may from time to time address to him for his guidance.

(3) Any authority given under subsection (1) of this section may at any time be varied or revoked by Her Majesty by instructions through a Secretary of State or by the Governor-General by Instrument under the Public Seal of the Federation.

(4) For the purposes of this section "the Governor-General" means the person holding the office of Governor-General and includes any person discharging the functions of that office under section 5 of this Order.

(5) In subsection (1) of this section the reference to the functions of the office of Governor-General does not include a reference to any function conferred upon the Governor-General by any Act of Parliament or by any Order of Her Majesty in Council or other instrument made under any Act of Parliament other than this Order and the Constitution Order.

Office of
High Com-
missioner
for Southern
Cameroons.

(c)6A.—(1) The office of High Commissioner for the Southern Cameroons is hereby constituted.

(2) The person for the time being holding the office of Governor-General shall hold the office of High Commissioner for the Southern Cameroons.

(3) The reference in section 4 of this Order to things belonging to the office of Governor-General and the references in sections 5 and 6 of this Order to the functions of the office of Governor-General include references to the functions of the office of High Commissioner for the Southern Cameroons.

Privy
Council for
Federation.

7. There shall be a Privy Council for the Federation constituted in such manner as Her Majesty may direct by Instructions under Her Sign Manual and Signet.

Constitution
of offices for
Federation,
Southern
Cameroons
and Lagos.

(d)8.—(1) The Governor-General, in Her Majesty's name and on Her Majesty's behalf, may constitute all such offices for the Federation, and Lagos as may lawfully be constituted by Her Majesty and, subject to the provisions of any Order of Her Majesty in Council, may make appointments (including appointments on promotion and transfer) to any such office.

(b) S. 6 as subst., S.I. 1957/1531, and as am., S.I. 1958/430.

(c) S. 6A inserted, S.I. 1958/430. (d) S. 8 as am., S.I. 1958/430, 1258.

OFFICES OF GOVERNOR-GENERAL AND GOVERNORS

(2) The Governor-General shall, in exercise of the powers conferred upon him by this section, constitute the following offices, being offices required for the purposes of the Constitution Order—

- (a) the office of Attorney-General of the Federation ;
- (b) the office of Director of Federal Audit ;
- (c) the office of Clerk to the House of Representatives ; and
- (d) the office of Secretary to the Council of Ministers.

(a) 8A.—(1) The High Commissioner for the Southern Cameroons, in Her Majesty's name and on Her Majesty's behalf, may constitute all such offices for the Southern Cameroons as may lawfully be constituted by Her Majesty.

Constitution of offices for Southern Cameroons.

(2) The High Commissioner for the Southern Cameroons shall, in exercise of the powers conferred upon him by this section, constitute the following offices, being offices required for the purposes of the Constitution Order—

- (a) the office of Commissioner of the Cameroons ;
- (b) the office of Deputy Commissioner of the Cameroons ;
- (c) the office of Legal Secretary of the Southern Cameroons ;
- (d) the office of Financial Secretary of the Southern Cameroons ;
- (dd) the office of Director of Audit of the Southern Cameroons ;
- (e) the office of Clerk to the House of Assembly of the Southern Cameroons ; and
- (f) the office of Secretary to the Executive Council of the Southern Cameroons.

(3) The High Commissioner for the Southern Cameroons, subject to the provisions of any Order of Her Majesty in Council, may make appointments (including appointments on promotion and transfer) to any office constituted under this section.

9.—(1) The Governor-General may, in Her Majesty's name and on Her Majesty's behalf—

Governor-General's powers of pardon etc.

(a) grant to any person concerned in or convicted of any offence to which this section applies a pardon, either free or subject to lawful conditions ; or

(b) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person for such an offence ; or

(c) substitute a less severe form of punishment for that imposed by any sentence for such an offence ; or

(d) remit the whole or any part of any sentence passed for such an offence or of any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

(b)(2) The offences to which this section applies are offences against any law in force in Nigeria other than—

(a) offences against a law enacted by the Legislature of a Region or the Legislature of the Southern Cameroons, as the case may be, or against any instrument made under any law so enacted ;

(b) offences against any instrument made by the Governor of a Region or the High Commissioner for the Southern Cameroons otherwise than under any law so enacted ; or

(a) S. 8A inserted, S.I. 1958/430, and as am., S.I. 1958/1258.

(b) S. 9(2) as subst., S.I. 1958/1258.

(c) such offences against any other law in force in a Region or the Southern Cameroons, as the case may be, not being a law enacted by a legislature in Nigeria or an instrument made under a law so enacted, as the Governor-General may by Order published in the Official Gazette of the Federation prescribe.

Discharge of functions of Commissioner of Cameroons in case of vacancy, etc.

(c)9A.—(1) Whenever the office of Commissioner is vacant or the Commissioner is absent from Nigeria or is from any other cause prevented from or incapable of discharging the functions of his office—

(a) the Deputy Commissioner; or

(b) if the office of Deputy Commissioner is vacant or the Deputy Commissioner is absent from Nigeria or is from any other cause prevented from or incapable of discharging the functions of the office of Commissioner, such person as the High Commissioner for the Southern Cameroons may designate by Instrument under the Public Seal of the Southern Cameroons shall, during the pleasure of the High Commissioner, discharge the functions of the office of Commissioner of the Cameroons.

(2) The Deputy Commissioner shall not continue to discharge the functions of the office of Commissioner of the Cameroons after the Commissioner has notified him that he is about to enter upon, or resume, the discharge of those functions, and the person designated under paragraph (b) of subsection (1) of this section shall not continue to discharge those functions after the Commissioner or the Deputy Commissioner has so notified him.

(3) For the purposes of this section—

(a) the Commissioner or the Deputy Commissioner shall not be regarded as absent from Nigeria during his passage from one part of Nigeria to another, or as prevented from discharging the functions of the office of Commissioner by reason only that he is so passing;

(b) the Commissioner shall not be regarded as absent from Nigeria, or as prevented from or incapable of discharging the functions of the office of Commissioner, at any time when the Deputy Commissioner is discharging those functions in pursuance of an authority given by the Commissioner under section 9B of this Order;

(c) when the Deputy Commissioner has entered upon the discharge of the functions of the office of Commissioner under subsection (1) of this section, he shall not be regarded as absent from Nigeria, or as prevented from or incapable of discharging those functions, at any time when the person acting in the office of Deputy Commissioner is discharging those functions in pursuance of an authority given by the Commissioner under section 9B of this Order;

(d) "the Commissioner" means the person holding the office of Commissioner of the Cameroons and "the Deputy Commissioner" means the person holding the office of Deputy Commissioner of the Cameroons.

Discharge of functions of Commissioner of Cameroons by Deputy Commissioner.

(d)9B.—(1) The Commissioner may, by Instrument under his hand, authorize the Deputy Commissioner to discharge for and on behalf of the Commissioner on such occasions and subject to such exceptions and conditions as may be specified in that Instrument such of the functions of the office of Commissioner of the Cameroons as may be specified in that Instrument.

(c) S. 9A, 9C inserted, S.I. 1958/430 and as am., S.I. 1958/1258.

(d) S. 9B inserted, S.I. 1958/430.

OFFICES OF GOVERNOR-GENERAL AND GOVERNORS

(2) The powers and authority of the Commissioner shall not be affected by any authority given to the Deputy Commissioner under this section otherwise than as the High Commissioner for the Southern Cameroons may at any time think proper to direct, and the Deputy Commissioner shall conform to and observe such instructions relating to the discharge by the Deputy Commissioner of any of the functions of the office of Commissioner of the Cameroons as the Commissioner may from time to time address to him for his guidance.

(3) Any authority given under subsection (1) of this section may at any time be varied or revoked by the High Commissioner for the Southern Cameroons by Instrument under the Public Seal of the Southern Cameroons or by the Commissioner by Instrument under his hand.

(4) For the purposes of this section "the Commissioner" means the person holding the office of Commissioner of the Cameroons and includes any person discharging the functions of that office under section 9A of this Order.

(c)9c.—(1) The High Commissioner for the Southern Cameroons may, in Her Majesty's name and on Her Majesty's behalf—

(a) grant to any person concerned in or convicted of any offence to which this section applies a pardon, either free or subject to lawful conditions; or

(b) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person for such an offence; or

(c) substitute a less severe form of punishment for that imposed by any sentence for such offence; or

(d) remit the whole or any part of any sentence passed for such an offence or of any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

(2) The offences to which this section applies are offences against any law in force in the Southern Cameroons other than offences to which section 9 of this Order applies.

(e)10. The Governor-General shall keep and use the Public Seal of the Federation.

(e)10A. The High Commissioner for the Southern Cameroons shall keep and use the Public Seal of the Southern Cameroons.

11.—(1) The office of Governor of the Northern Region, the office of Governor of the Western Region and the office of Governor of the Eastern Region are hereby constituted.

(2) Appointments to the said offices shall be made by Commission under Her Majesty's Sign Manual and Signet.

(3) A person appointed to the office of Governor of a Region shall, before entering upon the duties of that office, make oaths or affirmations of allegiance and for the due execution of that office in the form set out in the Schedule to this Order.

(c) S. 9A, 9c inserted, S.I. 1958/430 and as am., S.I. 1958/1258.
) S. 10 as subet., S. 10A inserted, S.I. 1958/430.

Powers of
pardon, etc.
of High
Commis-
sioner for
Southern
Cameroons.

Public Seal of
Federation.

Public Seal
of Southern
Cameroons.

Offices of
Governors
of Regions.

Powers and
duties of
Governors
of Regions.

12. The Governor of a Region shall have such powers and duties as are conferred upon him by or under this Order, the Constitution Order or any other law, and such other powers and duties as Her Majesty may from time to time be pleased to assign to him and, subject to the provisions of this Order and the Constitution Order and of any other law by which any such powers or duties are conferred, shall do or execute all things that belong to his office (including the exercise of any powers and the performance of any duties with respect to which he is empowered by the Constitution Order to act in his discretion) according to such instructions, if any, as Her Majesty may from time to time see fit to give him :

Provided that the question whether or not the Governor has in any matter complied with such instructions shall not be enquired into in any court.

Offices of
Deputy
Governors
of Western
and Eastern
Regions.

(a)13.—(1) The offices of Deputy Governor of the Northern Region, Deputy Governor of the Western Region and Deputy Governor of the Eastern Region are hereby constituted.

(2) Appointments to the office of Deputy Governor of a Region shall be made by the Governor of the Region in pursuance of instructions given by Her Majesty through a Secretary of State.

(3) If the office of Deputy Governor of a Region is vacant or the Deputy Governor is absent from Nigeria or is from any other cause prevented from or incapable of discharging the functions of his office, the Governor may appoint a person to act as Deputy Governor, and any person so appointed shall continue to act until his appointment is revoked by the Governor.

Succession
to govern-
ment of
Regions.

(b)14.—(1) Whenever the office of Governor of a Region is vacant or the Governor is absent from Nigeria or is from any other cause prevented from or incapable of discharging the functions of his office—

(a) the Deputy Governor ; or

(b) if the office of Deputy Governor is vacant or the Deputy Governor is absent from Nigeria or is from any other cause prevented from or incapable of discharging the functions of the office of Governor, such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State

shall, during Her Majesty's pleasure, discharge the functions of the office of Governor of the Region and administer the government of the Region accordingly.

(2) Before entering upon the discharge of the functions of the office of Governor of a Region under subsection (1) of this section the Deputy Governor or the person designated under paragraph (b) of that subsection shall make the oaths to be made under subsection (3) of section 11 of this Order by a person appointed to the office of Governor.

(3) The Deputy Governor shall not continue to discharge the functions of the office of Governor of a Region after the Governor has notified him that he is about to enter upon, or resume, the discharge of those functions and the person designated under paragraph (b) of subsection (1) of this section shall not continue to discharge those functions after the Governor or the Deputy Governor has so notified him.

(4) For the purposes of this section—

(a) the Governor or the Deputy Governor shall not be regarded as absent from Nigeria during his passage from one part of Nigeria to another, or as prevented from discharging the functions of the office of Governor by reason only that he is expassing ;

OFFICES OF GOVERNOR-GENERAL AND GOVERNORS

(b) the Governor shall not be regarded as absent from Nigeria, or as prevented from or incapable of discharging the functions of the office of Governor of a Region, at any time when the Deputy Governor is discharging those functions in pursuance of an authority given by the Governor under section 15 of this Order;

(c) when the Deputy Governor has entered upon the discharge of the functions of the office of Governor of a Region under subsection (1) of this section, he shall not be regarded as absent from Nigeria, or as prevented from or incapable of discharging those functions, at any time when the person acting in the office of Deputy Governor of the Region is discharging those functions in pursuance of an authority given by the Deputy Governor under section 15 of this Order;

(d) in relation to a Region, "the Governor" means the person holding the office of Governor of the Region and "the Deputy Governor" means the person holding the office of Deputy Governor of the Region.

(a) 15.—(1) The Governor may, by Instrument under the Public Seal of the Region, authorize the Deputy Governor to discharge for and on behalf of the Governor on such occasions and subject to such exceptions and conditions as may be specified in that Instrument such of the functions of the office of Governor of a Region as may be specified in that Instrument.

Discharge of Governor's functions by Deputy Governor

(2) The powers and authority of the Governor shall not be affected by any authority to the Deputy Governor under subsection (1) of this section otherwise than as Her Majesty may at any time think proper to direct and the Deputy Governor shall conform to and observe such instructions relating to the discharge by the Deputy Governor of any of the functions of the office of Governor as the Governor may from time to time address to him for his guidance.

(3) Any authority given under subsection (1) of this section may at any time be varied or revoked by Her Majesty by instructions through a Secretary of State or by the Governor by Instrument under the Public Seal of the Region.

(4) For the purposes of this section "the Governor" means in relation to a Region, the person holding the office of Governor of the Region and includes any person discharging the functions of that office under section 14 of this Order.

(5) In subsection (1) of this section the reference to the functions of the office of Governor does not include a reference to any function conferred upon the Governor by any Act of Parliament or by any Order of Her Majesty in Council or other instrument made under any Act of Parliament other than this Order and the Constitution Order.

16. There shall be a Privy Council for each Region constituted in such manner as Her Majesty may direct by Instructions under Her Sign Manual and Signet.

Privy Councils for Regions.

17.—(1) The Governor of a Region, in Her Majesty's name and on Her Majesty's behalf, may constitute all such offices for the Region as may lawfully be constituted by Her Majesty and, subject to the provisions of any Order of Her Majesty in Council, may make appointments (including appointments on promotion and transfer) to any such office.

Constitution of offices for Regions.

OFFICES OF GOVERNOR-GENERAL AND GOVERNORS

(a)(2) (a) The Governor of the Northern Region shall, in exercise of the powers conferred upon him by this section, constitute the following offices, being offices required for the purposes of the Constitution Order—

[S.17 (2) (a) (i) *rev. S.I. 1957/1531.*]

(ii) the office of Attorney-General of the Northern Region; and

(iii) the office of Director of Audit of the Northern Region;

(iv) the office of Clerk to the Northern Regional Legislature;

(v) the office of Clerk Assistant to the Northern Regional Legislature; and

(vi) the office of Secretary to the Executive Council of the Northern Region.

(b) The Governor of the Western Region shall, in like manner, constitute the following offices:—

(i) the office of Clerk to the Western House of Chiefs;

(ii) the office of Clerk to the Western House of Assembly; and

(iii) the office of Secretary to the Premier and Executive Council of the Western Region.

(c) The Governor of the Eastern Region shall, in like manner, constitute the following offices:—

(i) the office of Clerk to the Eastern House of Assembly;

(ii) the office of Chief Secretary to the Premier of the Eastern Region; and

(iii) the office of Secretary to the Executive Council of the Eastern Region.

18.—(1) The Governor of a Region may, in Her Majesty's name and on Her Majesty's behalf—

(a) grant to any person concerned in or convicted of any offence to which this section applies a pardon, either free or subject to lawful conditions; or

(b) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person for such an offence; or

(c) substitute a less severe form of punishment for that imposed by any sentence for such an offence; or

(d) remit the whole or any part of any sentence passed for such an offence or of any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

(b)(2) The offences to which this section applies in relation to a Region are offences against any law in force in that Region other than offences to which section 9 of this Order applies.

19. The Governor of a Region shall keep and use the Public Seal of that Region for sealing all things whatsoever that shall pass the said Seal.

20.—(1) Any person appointed to an office constituted by this Order shall hold that office during Her Majesty's pleasure.

(2) Any person appointed to an office constituted under sections 8 or 17 of this Order shall hold that office during Her Majesty's pleasure, unless—

(a) in the case of an office constituted for the Federation or Lagos, not being an office mentioned in paragraph (a) of subsection (2) of section 8, it is otherwise provided by a law enacted by the Legislature of the Federation;

Governors' powers of pardon etc.

Public Seals of Regions.

Tenure of offices constituted by or under this Order.

OFFICES OF GOVERNOR-GENERAL AND GOVERNORS

(b) in the case of an office constituted for the Southern Cameroons not being an office mentioned in paragraph (b) of subsection (2) of section 8, it is otherwise provided by a law enacted by the Legislature of the Southern Cameroons;

(c) in the case of an office constituted for a Region, not being an office mentioned in subsection (2) of section 17, it is otherwise provided by a law enacted by the Legislature of that Region.

Obedience to
Governor-
General and
Governors
of Regions.

21.—(1) All officers, civil and military, and all other inhabitants of Nigeria shall be obedient, aiding and assisting unto the Governor-General.

(2) All officers, civil and military, and all other inhabitants of a Region shall be obedient, aiding and assisting unto the Governor of that Region.

W. G. Agnew

SCHEDULE

OATH OR AFFIRMATION OF ALLEGIANCE

I, _____ do swear (or solemnly affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors according to law. (So help me God.)

OATH OR AFFIRMATION FOR THE DUE EXECUTION OF THE
OFFICE OF GOVERNOR-GENERAL

I, _____ do swear (or solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors in the office of Governor-General of the Federation of Nigeria. (So help me God.)

OATH OR AFFIRMATION FOR THE DUE EXECUTION OF THE
OFFICE OF GOVERNOR

I, _____ do swear (or solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors in the office of Governor of the _____ Region of Nigeria. (So help me God.)

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order constitutes the offices of the Governor-General of the Federation of Nigeria and the Governors of the Northern, Western and Eastern Regions of Nigeria, and makes certain other provisions for the government and administration of Nigeria.

L.N. 21 of 1959

STATUTORY INSTRUMENTS

(Remaining effective provisions reprinted, see G.N. 102 of 1959)

1958 No. 430

NIGERIA

The Nigeria (Offices of Governor-General and Governors)
(Amendment) Order in Council, 1958*[This O. is printed as am., by O., S.I. 1958/1258 (1958 II, p. ...)]*

Made 14th March, 1958

Laid before Parliament 20th March, 1958

Coming into Operation 1st April, 1958

At the Court at Buckingham Palace, the 14th day of March, 1958

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1958, and shall be construed as one with the Nigeria (Offices of Governor-General and Governors) Orders in Council, 1954 to 1957(b).

(2) *[Deleted by S.I. 1958/1258]*

(3) This Order shall come into operation on the first day of April, 1958.

[Ss. 2-4 amend S.I. 1954/1147]

[S. 5 inserts new S. 6A in S.I. 1954/1147]

[S. 6 amends S.I. 1954/1147]

7.—(1) *[Inserts new S. 8A in S.I. 1954/1147]*

(2) Any offices constituted by the Governor-General for the Southern Cameroons under subsection (1) of section 8 of the principal Order and in existence immediately before the commencement of this Order shall be deemed to have been constituted by the High Commissioner for the Southern Cameroons under subsection (1) of section 8A of the principal Order, as set out in subsection (1) of this section.

[S. 8 amends S.I. 1954/1147]

[S. 9 inserts new Ss. 9A, 9B and 9C in 1954/1147]

[S. 10 substitutes new S. 19 in S.I. 1954/1147]

[S. 11 inserts new S. 10A in S.I. 1954/1147]

[Ss. 12-14 amend S.I. 1954/1147]

W. G. AGNEW

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order amends the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954, in order to provide for the office of High Commissioner for the Southern Cameroons. It also amends the provisions of the Order relating to the exercise of the functions of the Governor-General of Nigeria and the Governors of the Regions by a deputy and the constitution of offices.

(a) 53 & 54 Vict. c. 37.

(b) S.I. 1954/1147, 1955/431, 1957/1531 (1954 II, p. 2939; 1955 II, p. 3167).

Citation,
construction
and com-
mencement.

L.N. 22 of 1959

STATUTORY INSTRUMENTS

(Remaining effective provisions reprinted, see G.N. 102 of 1959)

1958 No. 1253

NIGERIA

The Nigeria (Offices of Governor-General and Governors)
(Amendment No. 2) Order in Council, 1958

Made	.. ..	30th July, 1958
Laid before Parliament	.. ..	7th August, 1958
Coming into Operation	.. ..	8th August, 1958

At the Court at Buckingham Palace, the 30th day of July, 1958

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Nigeria (Offices of Governor-General and Governors) (Amendment No. 2) Order in Council, 1958, and shall be construed as one with the Nigeria (Offices of Governor-General and Governors) Orders in Council, 1954 to 1957(b), and the Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1958(c).

(2) The Nigeria (Offices of Governor-General and Governors) Orders in Council, 1954 to 1957, the Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1958, and this Order may be cited together as the Nigeria (Offices of Governor-General and Governors) Orders in Council, 1954 to 1958.

[*Ss. 1-3 amend S.I. 1958/430, S. 1*]

(4) This Order shall come into operation on the eighth day of August, 1958.

[*Ss. 2-3 amend S.I. 1954/1147*]

4.—(1) [*Amends S.I. 1954/1147, S. 9*]

(2) For the purposes of section 9 of the principal Order, as amended by subsection (1) of this section, an offence against any law that, at the time the offence was committed, was deemed for the purposes of the Constitution Order to be a law enacted by the Legislature of a Region or the Legislature of the Southern Cameroons, as the case may be, or an offence against any instrument made under any such law shall be deemed to be an offence against a law enacted by that Legislature or an offence against an instrument made under such a law, as the case may be.

[*Ss. 5-7 amend 1954/1147*]

[*S. 8 amends S.I. 1958/430, S. 6*]

W. G. Amodu

Citation,
construction
and com-
mencement.

(a) 53 & 54 Vict. c. 37.

(b) S.I. 1954/1147, 1955/431, 1957/1531 (1954 II, p. 2939; 1955 II, p. 3167).

(c) S.I. 1958/430.

OFFICES OF GOVERNOR-GENERAL AND GOVERNORS

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order amends the provisions of the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954, as amended, relating to the constitution of offices for the Federation of Nigeria and for the Southern Cameroons, powers of pardon and the discharge of the functions of the Commissioner of the Cameroons.

55322/S. 6/T 3.

L.N. 23 of 1959

*(Reprinted with all amendments, see G.N. 102 of 1959)***NIGERIA**

INSTRUCTIONS passed under the Royal Sign Manual and Signet to the Governor-General and Commander-in-Chief of the Federation of Nigeria.

These Instructions are printed as amended by Additional Instructions bearing date the 30th August, 1957, the 1st April, 1958, and the 18th July, 1958.

3rd September, 1954.

ELIZABETH R.

INSTRUCTIONS to Our Governor-General and Commander-in-Chief of the Federation of Nigeria or other Officer for the time being Administering the Government of the Federation.

We do hereby direct and enjoin and declare Our will and pleasure as follows:—

1.—(1) These Instructions shall have effect from the first day of October, 1954.

Commence-
ment and
revocation.

(2) The Instructions under the Royal Sign Manual and Signet given on the twenty-seventh day of November, 1951, to the Governor of Nigeria shall be revoked without prejudice to anything lawfully done thereunder.

(a)—1A. These Instructions may be cited as the Federation of Nigeria Royal Instructions, 1954.

Citation.

2.—(1) In these Instructions, unless it is otherwise expressly provided or required by the context—

Interpreta-
tion.

"the Constitution Order" means the Nigeria (Constitution) Order in Council, 1954;

"the Offices Order" means the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954;

"the Privy Council" means the Privy Council established for the Federation;

"public office" means any office in the service of the Crown; and

"the Trusteeship Agreement" means the Trusteeship Agreement with respect to the Cameroons under United Kingdom Trusteeship that was approved by the General Assembly of the United Nations on the thirteenth day of December, 1946.

(2) Save as aforesaid, the provisions of section 2 of the Constitution Order shall apply for the purpose of interpreting these Instructions as they apply for the purpose of interpreting that Order.

(b)3.—(1) Whenever the Deputy Governor-General is discharging any of the functions of the office of Governor-General under section 6 of the Offices Order, these Instructions, so far as they are applicable to any such function, shall be deemed to be addressed to the Deputy Governor-General and shall be observed by him.

Instructions
to be
observed by
Deputy
Governor-
General.

(2) The Deputy Governor-General, while discharging any of the functions of the office of Governor-General, may, if he thinks fit, apply to Us through a

(a) Cl. 1A inserted, Additional Instructions of 18th July, 1958.

(b) Cl. 3 as subat., Additional Instructions of 30th August 1957.

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

Secretary of State for Instructions in any matter; but he shall forthwith transmit to the Governor-General a copy of every despatch or other communication addressed to Us in that behalf.

Instructions to be communicated to Council of Ministers and Privy Council.

4. The Governor-General shall forthwith communicate to the Council of Ministers and the Privy Council these Instructions and all such others as, from time to time, he finds it convenient for Our service to impart to them.

Discharge of Governor-General's functions by Deputy Governor-General during absence or illness.

(a) 4A. The Governor-General shall not authorise the Deputy Governor-General to discharge any of the functions of the office of Governor-General under section 6 of the Offices Order during any period in which he expects to be absent from Nigeria or from any other cause prevented from or incapable of discharging the functions of that office unless in his opinion that period is likely to be of short duration.

Appointment of Speaker and Deputy Speaker of House of Representatives.

5. Before appointing a person to be Speaker or Deputy Speaker of the House of Representatives, the Governor-General shall consult with those members of that House who appear to him to be the leaders of the parties represented in that House.

Dismissal of Prime Minister.

(b) 6. The Governor-General shall not dismiss the Prime Minister unless it appears to him that the Prime Minister no longer commands a majority in the House of Representatives.

Membership of Police Service Commission.

(c) 7.—(1) In the exercise of his power to make regulations regarding the Police Service Commission the Governor-General shall provide that—

(a) the Police Service Commission shall consist of either two or four members in addition to the Chairman;

(b) a person shall not be qualified for appointment as a member of the Commission unless

(i) he is a person who is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of her Majesty's dominions or a court having jurisdiction in appeals from any such court; or

(ii) not being such a person, he is a person who is not a member of a Legislative House and does not hold and is not acting in any office of emolument under the Crown other than the office of member of the Public Service Commission of the Federation or member of the Public Service Commission of a Region or member of the Judicial Service Commission of the Western Region or the Eastern Region;

Provided that a person who is not an officer in the public service of the Federation may be appointed to be a member of the Commission other than the Chairman notwithstanding that he holds or is acting in an office of emolument under the Crown if the Governor-General is satisfied that he will be required to perform only part-time duties as a member of the Commission.

(c) a member of the Commission shall vacate his office—

(i) if he resigns;

(a) Cl. 4A inserted, Additional Instructions of 1st April, 1958.

(b) Cl. 6. as subst., Additional Instructions of 30th August, 1957.

(c) Original cl. 7 rev., Additional Instructions of 30th August, 1957; new cl. 7 inserted, Additional Instructions of 1st April, 1958.

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

(ii) at the expiration of five years from the date of his appointment of at such earlier date as may be specified in the Instrument by which he is appointed;

(iii) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(d) The Inspector-General of Police of the Federation shall be entitled to state his views to the Commission on any matter referred to it by the Governor-General and the Commission shall convey those views to the Governor-General when it advises on that matter.

(2) If there are two members of the Police Service Commission in addition to the Chairman, the Governor-General shall consult the Council of Ministers before appointing one of those members and shall consult the Chief Justice of the Federation before appointing the other, and if there are four members of the Commission in addition to the Chairman, the Governor-General shall consult the Council of Ministers before appointing two of those members and the Chief Justice of the Federation before appointing the other two.

(3) Before terminating the appointment of a member of the Commission other than the Chairman the Governor-General shall consult the Council of Ministers, in the case of a member appointed after consultation with the Council, and shall consult the Chief Justice of the Federation, in the case of a member appointed after consultation with the Chief Justice.

(4) (i) Nothing in this clause shall be construed as applying to any power conferred upon the Governor-General by the Constitution Order.

When
Council of
Ministers to
be consulted.

(2) In relation to matters to which the executive authority of the Federation extends, the Governor-General shall, subject to the provisions of clause 9 of these Instructions, consult with the Council of Ministers in the formulation of policy and in the exercise of all other powers conferred upon him, except—

(a) the powers conferred upon the Governor-General by sections 4A, 5, 6, 8 and 9 of the Offices Order;

(b) any power conferred upon the Governor-General by these Instructions that he is by these Instructions directed or empowered to exercise in his discretion;

(c) any power conferred upon the Governor-General (other than a power expressed to be conferred upon the Governor-General in Council) that, in his judgment—

(i) is a power pertaining to the administration of justice or is a judicial or quasi-judicial power; or

(ii) is a power pertaining to the remission or mitigation of penalties, fees, duties or other charges; or

(iii) relates to the appointment (including appointment on promotion or transfer) or dismissal of, or the exercise of disciplinary control over, any public officer or any officer of a corporation directly incorporated by law, or the grant of a pension, gratuity or other like benefit to any such officer or his widow, children, dependants or personal representatives; or

(iv) relates to the appointment of any person for the execution of any law or the dismissal of such person (other than the chairman or a member of a corporation directly incorporated by law); or

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

(v) relates to external affairs, that is to say, such external relations as may from time to time be entrusted to the Federation by Our Government in the United Kingdom; or

(vi) relates to aliens, including naturalisation of aliens, deportation or immigration into Nigeria; or

(vii) relates to the armed forces of the Crown;

(d) any other power conferred upon the Governor-General in respect of which it is provided by law, either expressly or by implication, that he shall not be obliged to consult with the Council of Ministers in the exercise thereof.

(3) The Governor-General shall, subject to the provisions of clause 9 of these Instructions, act in accordance with the advice of the Council of Ministers in any matter on which he is by this clause obliged to consult with the Council of Ministers.

When
Council need
not be
consulted.

(a)9.—(1) The Governor-General shall not be obliged to consult with the Council of Ministers in the exercise of any power conferred upon him (including any power so conferred by the Constitution Order) in any case—

(a) that is of such a nature that, in his judgment, Our service would sustain material prejudice by reason of his consulting the Council thereon; or

(b) in which the matters to be decided are, in his judgment, too unimportant to require their advice; or

(c) in which the matters to be decided are, in his judgment, too urgent to admit of the giving of their advice by the time within which it may be necessary for him to act.

In every case falling within sub-paragraph (c) of this paragraph the Governor-General shall, as soon as is practicable, communicate to the Council of Ministers the measures that he has adopted, with the reasons therefor.

(2) (a) If in any case in which he consults with the Council of Ministers, whether in pursuance of section 89 of the Constitution Order or of clause 8 of these Instructions or otherwise, the Governor-General considers it expedient in the interests of public faith, public order or good government (which expressions shall, without prejudice to their generality, include the responsibility of Nigeria as a territory within the British Commonwealth of Nations, and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer) that he should not act in accordance with the advice of the Council of Ministers, then he may act otherwise than in accordance with that advice.

(b) Whenever the Governor-General so acts otherwise than in accordance with the advice of the Council of Ministers—

(i) he shall report the matter to Us through a Secretary of State, at the first convenient opportunity, with the reasons for his action; and

(ii) any member of the Council of Ministers may require that there be recorded in the minutes of the Council any advice or opinion that he may give upon the question, with the reasons therefor.

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

(a) 10.—(1) The Governor-General, acting in his discretion but subject to the provisions of the Constitution Order and of these Instructions, shall decide what business is to be proposed from time to time for transaction in the Council of Ministers.

Proposal of business for transaction in Council of Ministers

(2) If the Prime Minister requests in writing that there should be submitted to the Council for their consideration any question relating to a matter on which the Governor-General is, by the Constitution Order or these Instructions, obliged to consult with the Council, then, subject to the provisions of paragraph (1) of clause 9 of these Instructions, the Governor-General shall submit such question to the Council for their consideration.

11.—(1) In the making of laws the Federal Legislature shall observe, so far as is practicable, the following rules:—

Rules for the enactment of laws.

(a) All laws shall be styled "Ordinances" and the words of enactment shall be "Enacted by the Legislature of the Federation of Nigeria".

(b) All Ordinances shall be distinguished by titles and shall be divided into successive sections consecutively numbered, and to every section there shall be annexed in the margin a short indication of its contents.

(c) All Ordinances shall be numbered consecutively in a separate series for each year commencing with the number one, so that—

(i) an Ordinance assented to by the Governor-General is included in the series for the year in which it is passed or deemed to have been passed by the House of Representatives and its position in such series is determined with reference to the day on which the Governor-General shall have given his assent thereto;

(ii) an Ordinance assented to by Us through a Secretary of State is included in the series for the year in which the Governor-General shall have signified Our assent thereto by Proclamation published in the Official Gazette of the Federation, and its position in such series is determined with reference to the day on which Our assent shall have been so signified.

(d) Copies of all Ordinances shall be printed, and shall bear the following:—

(i) in the case of an Ordinance assented to by the Governor-General, particulars of the day on which the Governor-General shall have given his assent thereto;

(ii) in the case of an Ordinance assented to by Us through a Secretary of State, particulars of the day on which the Governor-General shall have signified Our assent thereto by Proclamation, published in the Official Gazette of the Federation;

(iii) particulars of the day on which each Ordinance shall have come into operation, or, if that day shall not have been determined, a reference to any provision in the Ordinance whereby it may be determined.

(e) Matters having no proper relation to each other shall not be provided for by the same Ordinance; no Ordinance shall contain anything foreign to what the title of the Ordinance imports; and no provision having indefinite duration shall be included in any Ordinance expressed to have limited duration.

(2) Paragraph (1) of this clause shall apply in relation to the making of laws by the Legislature of the Southern Cameroons as it applies in relation

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

to the making of laws by the Federal Legislature, and for that purpose that paragraph shall have effect—

(a) as if for rule (a) there were substituted the following rule—

"(a) All laws shall be styled 'Laws' and the words of enactment shall be 'Enacted by the Legislature of the Southern Cameroons'"; and

and if for the references in rules (b) to (e) to Ordinances there were substituted references to Laws.

Certain Bills
not to be
given assent
without
instructions.

(a) 12. The Governor-General shall not, without having previously obtained Our Instructions through a Secretary of State, assent to any Bill passed by the House of Representatives within any of the following classes unless such Bill contains a clause suspending the operation thereof until the signification of Our pleasure thereon, that is to say—

(a) any Bill for the divorce of married persons ;

(b) any Bill whereby any grant of land or money or other donation or gratuity may be made to himself ;

(c) any Bill affecting the currency of Nigeria or relating to the issue of bank notes ;

(d) any Bill establishing any banking association or altering the constitution, rights or duties of any banking association ;

(e) any Bill imposing differential duties ;

(f) any Bill the provisions of which appear to him to be inconsistent with obligations imposed upon Us by any treaty, convention or agreement with or other obligation towards or arrangement relating to any country or international or similar organisation outside Nigeria, including the Trusteeship Agreement ;

(g) any Bill affecting the discipline or control of Our naval, military or air forces ;

(h) any Bill whereby persons of any racial community may be subjected or made liable to disabilities or restrictions to which persons of other such communities are not subjected or made liable ;

(j) any Bill empowering any court to enforce or apply any native law or custom that is repugnant to natural justice, equity or good conscience ;

(k) any Bill of an extraordinary nature and importance whereby Our prerogative, or the rights or property of Our subjects not residing in Nigeria, or the trade or transport or communications of any part of Our dominions may be prejudiced ;

(l) any Bill containing provisions to which Our assent has once been refused or that have been disallowed by Us :

Provided that the Governor-General may, without such Instructions as aforesaid, and although the Bill contains no such clause as aforesaid, assent in Our name to any Bill falling within any of the classes described in this clause (except such a Bill as is described in sub-paragraph (f) of this clause), if he is satisfied that an urgent necessity exists requiring that the Bill be brought into immediate operation ; but in any such case he shall forthwith transmit to Us the Bill to which he has assented together with his reasons for so assenting.

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

(a)13.—(1) Every Bill (not being a Government measure) intended to affect or benefit some particular person, association or corporate body shall contain a clause saving the rights of Us, all bodies politic and corporate, and all others except such as are mentioned in the Bill and those claiming by, from, or under them.

Private Bills.

(2) No such Bill shall be introduced in the House of Representatives until due notice has been given by not less than three successive publications of the Bill in the Official Gazette of the Federation; and the Governor-General shall not assent thereto in Our name unless it has been so published. A certificate, under the hand of the Governor-General, signifying that such publication has been made shall be transmitted to Us with the Bill or law.

(b)14.—(1) When any law has been enacted by the Federal Legislature, the Governor-General shall forthwith transmit to Us, through a Secretary of State, for the signification of Our pleasure, a transcript in duplicate of the law, duly authenticated under the Public Seal of the Federation, and by his own signature, together with an explanation of the reasons and occasion for the enactment of the law.

Laws to be sent through Secretary of State.

(2) Whenever the Governor-General has reserved any Bill for the signification of Our pleasure, he shall forthwith transmit to Us, through a Secretary of State, a transcript in duplicate of the Bill, duly authenticated under the Public Seal of the Federation and by his own signature, together with an explanation of the reasons and occasion for the passing of the Bill.

(c)15.—As soon as practicable after the commencement of each year the Governor-General shall cause a complete collection of all laws enacted by the Federal Legislature enacted during the preceding year to be published for general information.

Laws to be published.

16.—The Governor-General shall not, directly or indirectly, purchase for himself any land or building in Nigeria vested in Us without Our special permission given through a Secretary of State.

Purchase of property by Governor-General.

17. Every appointment made by, or on behalf of, the Governor-General of any person to any office or employment shall, unless it is otherwise provided by law, be expressed to be during pleasure only.

Appointments to be during pleasure.

18.—The Governor-General, acting in his discretion, may, whenever he thinks fit, require any person in the public service to take the oath of allegiance, together with such other oaths as may be prescribed by any law enacted by the Federal Legislature or having effect as if it had been so enacted.

Governor-General to administer oaths.

19.—(1) Subject to the provisions of these Instructions, the Privy Council shall consist of such number of Official Members, and such number of Appointed Members, as the Governor-General, acting in his discretion, may from time to time appoint by Instrument under the Public Seal of the Federation:

Constitution of Privy Council.

Provided that the total number of members of the Privy Council shall not at any time be less than four.

(2) (a) No person shall be appointed as an Official Member of the Privy Council unless he is an officer in the public service of the Federation.

(b) No officer in the public service of the Federation shall be appointed as an Appointed Member of the Privy Council.

(a) Cl. 13 as am., Additional Instructions of 1st April, 1958.

(b) Cl. 14 as am., Additional Instructions of 30th August, 1957 and 1st April, 1958.

(c) Cl. 15 as am., Additional Instructions of 1st April, 1958.

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

(3) An Official Member of the Privy Council may be appointed either by name or by reference to his office.

Tenure of
seats in
Privy
Council.

20.—(1) The members of the Privy Council shall hold office during Our pleasure :

Provided that every Official Member of the Privy Council who is appointed by name, and every Appointed Member of the Privy Council, shall in any case vacate his seat in the said Council at the end of three years from the date of the Instrument by which he is appointed, or at such earlier date as may be provided by such Instrument, or before either such date if—

(a) being an Official Member, he ceases to be an officer in the public service of the Federation ; or

(b) being an Appointed Member, he is appointed permanently to any office in the public service of the Federation ; or

(c) he absents himself from Nigeria without written permission given by the Governor-General acting in his discretion.

(2) An Official Member of the Privy Council who is appointed by name, or an Appointed Member of the Privy Council, may, by writing under his hand addressed to the Governor-General, resign his seat in the Council and upon receipt of such resignation by the Governor-General the seat of such member shall become vacant :

Provided that an Official Member shall not so resign his seat without permission given by the Governor-General acting in his discretion.

(3) If any Appointed Member of the Privy Council is appointed temporarily to any public office or to act in any such office he shall not sit in, or take any other part in the proceedings of, the Privy Council so long as he continues to hold, or to act in, that office.

(4) Any question that may arise as to the right of any person to be or remain a member of the Privy Council shall be determined by the Governor-General acting in his discretion.

Summoning
and quorum.

21.—(1) The Privy Council shall not be summoned except by the authority of the Governor-General acting in his discretion.

(2) No business except that of adjournment shall be transacted in the Privy Council if objection is taken by any member present that there are less than three members present besides the Governor-General or member presiding.

(3) Any proceedings in the Privy Council shall be valid notwithstanding that some person who was not entitled so to do sat in the Council or took part in the proceedings.

Governor-
General to
attend and
preside.

22.—The Governor-General shall, so far as it is practicable, attend and preside at all meetings of the Privy Council, and in his absence such member as the Governor-General, acting in his discretion, may appoint.

Power of
pardon.

(a)23.—(1) Subject to the provisions of paragraph (2) of this clause, the Governor-General, acting in his discretion, may consult with the Privy

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

Council in the exercise of the powers conferred upon him by section 9 of the Offices Order but he shall not in any such case be obliged to act in accordance with the advice of the Privy Council.

(2) (a) Whenever any offender has been condemned by any civil court in Nigeria to suffer death for any offence to which section 9 of the Offices Order applies, the Governor-General shall cause a written report of the case of that offender from the judge who tried the case, together with such other information derived from the record of the case or elsewhere as the Governor-General may require, to be taken into consideration at a meeting of the Privy Council.

(b) The Governor-General shall not pardon or reprieve any such offender unless it appears expedient to him so to do upon receiving the advice of the Privy Council thereon; but he is to decide either to extend or to withhold a pardon or reprieve according to his own deliberate judgment, whether the members of the Privy Council concur therein or otherwise; entering, nevertheless, in the minutes of the Privy Council, his reasons, in case he should decide any such question in opposition to the judgment of the majority of the members thereof.

24.—Except in the circumstances in which he is not regarded as absent from Nigeria for the purposes of section 5 of the Offices Order, the Governor-General shall not absent himself from Nigeria without having first obtained leave from Us for so doing through a Secretary of State.

Governor-General's absence.

(a) 25.—(1) The High Commissioner for the Southern Cameroons shall give the following directions to the Commissioner of the Cameroons:—

Directions to Commissioner of Cameroons

1. (a) In relation to matters to which the executive authority of the Southern Cameroons extends, the Commissioner of the Cameroons shall, subject to the provisions of paragraph 2 of these directions, consult with the Executive Council of the Southern Cameroons in the formulation of policy and in the exercise of all other powers conferred upon him, except—

(i) any power conferred upon the Commissioner in respect of which it is provided by law, either expressly or by implication, that he shall not be obliged to consult with the Executive Council in the exercise thereof; or

(ii) any power that the Commissioner is directed by the High Commissioner for the Southern Cameroons to exercise without consulting with the Executive Council.

(b) Nothing in this paragraph shall be construed as applying to any power conferred upon the Commissioner by the Constitution Order.

2. The Commissioner shall not be obliged to consult with the Executive Council in the exercise of any power conferred upon him (including any power so conferred by the Constitution Order) in any case—

(a) that is of such a nature that, in his judgment, Our service would sustain material prejudice by reason of his consulting the Council thereon; or

(b) in which the matters to be decided are, in his judgment, too unimportant to require their advice; or

(c) in which the matters to be decided are, in his judgment, too urgent to admit of the giving of their advice by the time within which it may be necessary for him to act.

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

In every case falling within sub-paragraph (c) of this paragraph the Commissioner shall, as soon as practicable, communicate to the Executive Council the measures that he has adopted, with the reasons therefor.

3. (a) The Commissioner shall decide what business is to be proposed from time to time for transaction in the Executive Council.

(b) If the Premier requests in writing that there shall be submitted to the Council for their consideration any question relating to a matter on which the Commissioner is, by paragraph 1 of these directions, obliged to consult with the Executive Council, then, subject to the provisions of paragraph 2 of these directions, the Commissioner shall submit such question to the Council for their consideration.

4. The Commissioner shall, subject to the provisions of paragraph 5 of these directions, act in accordance with the advice of the Executive Council on any matter on which he is by those directions obliged to consult with the Executive Council.

5. (a) If in any case in which he consults with the Executive Council in pursuance of section 125 of the Constitution Order or paragraph 1 of these directions, the Commissioner considers it expedient in the interests of public faith, public order or good government (which expressions shall without prejudice to their generality include the responsibility of Nigeria as a territory within the British Commonwealth of Nations, and all matters pertaining to the creation and abolition of any public office or to the salary or other conditions of service of any public officer) that he should not act in accordance with the advice of the Executive Council, then he may act otherwise than in accordance with that advice.

(b) Whenever the Commissioner so acts otherwise than in accordance with the advice of the Executive Council—

(i) he shall report the matter to the High Commissioner for the Southern Cameroons at the first convenient opportunity, with the reasons for his action; and

(ii) any member of the Executive Council may require that there be recorded in the minutes of the Council any advice or opinion that he may give on the question, with the reasons therefor.

6. The Commissioner shall not authorise the Deputy Commissioner to discharge any of the functions of Commissioner under section 9a of the Offices Order during any period in which he expects to be absent from Nigeria or from any other cause prevented from or incapable of discharging the functions of that office unless in his opinion that period is likely to be of short duration.

(2) If the Commissioner of the Cameroons makes a report to the Governor-General in pursuance of paragraph 5 of the directions set out in this clause, the Governor-General shall report the matter to Us through a Secretary of State at the first convenient opportunity.

(a) 26. The High Commissioner for the Southern Cameroons shall not dismiss the Premier of the Southern Cameroons unless it appears to him that the Premier no longer enjoys the confidence of the House of Assembly of the Southern Cameroons.

Dismissal of
Premier.

ROYAL INSTRUCTIONS TO THE GOVERNOR-GENERAL

(a)27. Clauses 12, 13, 14, 15 and 23 of these Instructions shall apply in relation to the Southern Cameroons as they apply in relation to the Federation, and for that purpose they shall be construed as if references therein to the Governor-General, the House of Representatives, the Federal Legislature, the Public Seal of the Federation and section 9 of the Offices Order were references to the High Commissioner for the Southern Cameroons, the House of Assembly of the Southern Cameroons, the Legislature of the Southern Cameroons, the Public Seal of the Southern Cameroons and section 9c of the Offices Order, and as if the words "acting in his discretion" were deleted from paragraph (1) of clause 23.

Application
of clauses 12,
13, 14, 15 and
23 to
Southern
Cameroons.

GIVEN at Our Court at Saint James's, this third day of September, in the
Third year of Our Reign.

L.N. 24 of 1959

*(Reprinted with all amendments see G.N. 102 of 1959)***NIGERIA**

INSTRUCTIONS passed under the Royal Sign Manual and Signet to the Governors of the Northern, Western and Eastern Regions of Nigeria.

** These Instructions are printed as amended by Additional Instructions bearing date the 8th August, 1957, the 1st April, 1958, and the 18th July, 1958.*

3rd September, 1954.

ELIZABETH R.

INSTRUCTIONS to Our Governors of the Northern, Western and Eastern Regions of Nigeria or other Officer for the time being Administering the Government of any of the said Regions.

We do hereby direct and enjoin and declare Our will and pleasure as follows :—

1.—(1) These Instructions shall have effect from the first day of October, 1954.

Commence-
ment and
revocation.

(2) The Instructions under the Royal Sign Manual and Signet given on the twenty-seventh day of November, 1951, to the Lieutenant-Governors of the Northern, Western and Eastern Regions of Nigeria shall be revoked without prejudice to anything lawfully done thereunder.

(a) 1A. These Instructions may be cited as the Regions of Nigeria Royal Instructions, 1954.

Citation.

2.—(1) In these Instructions, unless it is otherwise expressly provided or required by the context—

Interpreta-
tion.

"the Constitution Order" means the Nigeria (Constitution) Order in Council, 1954;

"the Offices Order" means the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954;

"the Privy Council" means the Privy Council established for the Region;

"public office" means any office in the service of the Crown; and

"the Trusteeship Agreement" means the Trusteeship Agreement with respect to the Cameroons under the United Kingdom Trusteeship that was approved by the General Assembly of the United Nations on the thirteenth day of December, 1946.

(2) Save as aforesaid, the provisions of section 2 of the Constitution Order shall apply for the purpose of interpreting these Instructions as they apply for the purpose of interpreting that Order.

(b) 3. (1) Whenever any person is discharging any of the functions of the office of Governor of a Region for and on behalf of the Governor under section 15 of the Offices Order, these Instructions, so far as they are applicable to any such function, shall be deemed to be addressed to that person and shall be observed by him.

Instructions
to be obser-
ved by
Deputies to
Governors.

(2) Any such person may, if he thinks fit, apply to Us through a Secretary of State for Instructions in any matter; but he shall forthwith transmit to the Governor a copy of every despatch or other communication addressed to Us in that behalf.

(a) Cl. 1a inserted, Additional Instructions of 18th July, 1958.

(b) Cl. 3 as subst., Additional Instructions of 8th August, 1957.

* For additional instructions not incorporated in these Instructions see clauses 11-13 of the Instructions of the 8th August, 1957.

ROYAL INSTRUCTIONS TO THE GOVERNORS

Instructions to be communicated to Executive Council and Privy Council.

Discharge of Governor's functions by Deputy Governor during absence or illness of Governor.

Appointment of Deputy President of Northern House of Assembly and Speaker of Eastern House of Assembly.

Dismissal of Premier.

Appointment of members of Public Service Commission in Western and Eastern Regions.

When Executive Council to be consulted.

4. The Governor shall forthwith communicate to the Executive Council and the Privy Council these Instructions and all such others as, from time to time, he finds it convenient for Our service to impart to them.

(a) 4a. The Governor shall not authorize the Deputy Governor to discharge any of the functions of the office of Governor under section 15 of the Offices Order during any period in which he expects to be absent from Nigeria or from any other cause prevented from or incapable of discharging the functions of that office unless in his opinion that period is likely to be of short duration.

(b) 5.—(1) Before appointing a person to be Deputy Speaker of the Northern House of Assembly, the Governor shall consult with those members of that House who appear to him to be the leaders of the parties represented in that House.

(2) Before appointing a person to be Speaker of the Eastern House of Assembly, the Governor shall consult with those members of that House who appear to him to be the leaders of the parties represented in that House.

(c) 6.—(1) The Governor shall not dismiss the Premier of a Region unless it appears to him that the Premier no longer commands a majority in the House of Assembly of the Region.

(2) The Governor shall dismiss the Premier of a Region if a vote of no confidence in the Government of the Region is carried in the House of Assembly of the Region and the Premier does not within three days either resign or recommend a dissolution of the Legislative Houses of the Region.

(d) 6a. Whenever the Governor of the Western Region or the Eastern Region has occasion to appoint a person to be a member of the Public Service Commission of the Region (other than a member who will be required to perform only part-time duties), he shall appoint that person to serve for a period of five years unless he is satisfied that there are special reasons making it desirable for that person to be appointed for a shorter period.

(e) 7.—(1) Nothing in this clause shall be construed as applying to any power conferred upon the Governor by the Constitution Order.

(2) In relation to matters to which the executive authority of the Region extends, the Governor shall, subject to the provisions of clause 8 of these Instructions, consult with the Executive Council in the formulation of policy and in the exercise of all other powers conferred upon him, except—

(a) in the case of the Governor of the Northern Region, the powers conferred on the Governor by sections 13, 14, 15, 17 and 18 of the Offices Order;

(aa) in the case of the Governor of the Western Region or the Eastern Region, the powers conferred on the Governor by sections 13, 14, 15 and 18 of the Offices Order and the power to make appointments conferred upon him by section 17 of that Order;

(a) Cl. 4a inserted, Additional Instructions of 1st April, 1958.

(b) Cl. 5 as am., Additional Instructions of 18th July, 1958.

(c) Cl. 6 as subst., Additional Instructions of 8th August, 1957.

(d) Cl. 6a inserted, Additional Instructions of 1st April, 1958.

(e) Cl. 7 as am., Additional Instructions of 1st April, 1958.

ROYAL INSTRUCTIONS TO THE GOVERNORS

(b) any power conferred upon the Governor by these Instructions that he is by these Instructions directed or empowered to exercise in his discretion;

(c) any power conferred upon the Governor (other than a power expressed to be conferred upon the Governor in Council) that, in his judgment—

(i) is a power pertaining to the administration of justice or is a judicial or quasi-judicial power; or

(ii) is a power pertaining to the remission or mitigation of penalties, fees, duties or other charges; or

(iii) in the case of the Governor of the Northern Region, relates to the appointment (including appointment on promotion or transfer) or dismissal of, or the exercise of disciplinary control over, any public officer or any officer of a corporation directly incorporated by law, or the grant of a pension, gratuity or other like benefit to any such officer or his widow, children, dependents or personal representatives; or

(iv) in the case of the Governor of the Northern Region, relates to the appointment of any person for the execution of any law or the dismissal of such person (other than the chairman or a member of a corporation directly incorporated by law);

(d) any other power conferred upon the Governor in respect of which it is provided by law, either expressly or by implication, that he shall not be obliged to consult with the Executive Council in the exercise thereof.

(3) The Governor shall, subject to the provisions of clause 8 of these Instructions, act in accordance with the advice of the Executive Council in any matter on which he is by this clause obliged to consult with the Executive Council.

(a) 8.—(1) The Governor of the Northern Region shall not be obliged to consult with the Executive Council in the exercise of any power conferred upon him (including any power so conferred by the Constitution Order) in any case—

When
Council need
not be
consulted.

(a) that is of such a nature that, in his judgment, Our service would sustain material prejudice by reason of his consulting the Council thereon; or

(b) in which the matters to be decided are, in his judgment, too unimportant to require their advice; or

(c) in which the matters to be decided are, in his judgment, too urgent to admit of the giving of their advice by the time within which it may be necessary for him to act.

In every case falling within sub-paragraph (c) of this paragraph the Governor shall, as soon as is practicable, communicate to the Executive Council the measures that he has adopted, with the reasons therefor.

(2)—(a) If in any case in which he consults with the Executive Council, whether in pursuance of section 105 of the Constitution Order or of clause 7 of these Instructions or otherwise, the Governor considers it expedient in the interests of public faith, public order or good government (which expressions shall, without prejudice to their generality, include the responsibility of Nigeria as a territory within the British Commonwealth of Nations, and

ROYAL INSTRUCTIONS TO THE GOVERNORS

all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer) that he should not act in accordance with the advice of the Executive Council, then he may act otherwise than in accordance with that advice.

(b) Whenever the Governor so acts otherwise than in accordance with the advice of the Executive Council—

(i) he shall report the matter to Us through a Secretary of State, at the first convenient opportunity, with the reasons for his action; and

(ii) any member of the Executive Council may require that there be recorded in the minutes of the Council any advice or opinion that he may give upon the question, with the reasons therefor.

Proposal of
business for
transaction
in Executive
Council.

(a) 9.—(1) The Governor of the Northern Region, acting in his discretion but subject to the provisions of the Constitution Order and of these Instructions, shall decide what business is to be proposed from time to time for transaction in the Executive Council of the Region.

(2) If the Premier of the Northern Region requests in writing that there should be submitted to the Executive Council of the Region for their consideration any question relating to a matter on which the Governor is, by the Constitution Order or these Instructions, obliged to consult with the Council, then subject to the provisions of paragraph (1) of clause 8 of these Instructions, the Governor shall submit such question to the Council for their consideration.

Rules for the
enactment of
laws.

10. In the making of laws the Legislature of the Region shall observe, so far as is practicable, the following rules:—

(a) All laws shall be styled "Laws".

(b) The words of enactment shall be—

(i) in the case of the Northern Region, "Enacted by the Legislature of the Northern Region of Nigeria";

(ii) in the case of the Western Region, "Enacted by the Legislature of the Western Region of Nigeria"; and

(iii) in the case of the Eastern Region, "Enacted by the Legislature of the Eastern Region of Nigeria".

(c) All Laws shall be distinguished by titles and shall be divided into successive sections consecutively numbered, and to every section there shall be annexed in the margin a short indication of its contents.

(d) All Laws shall be numbered consecutively in a separate series for each year commencing with the number one, so that—

(i) a Law assented to by the Governor is included in the series for the year in which it is passed or deemed to have been passed by the Legislative Houses of the Region and its position in such series is determined with reference to the day on which the Governor shall have given his assent thereto;

(ii) a Law assented to by Us through a Secretary of State is included in the series for the year in which the Governor shall have signified Our assent thereto by Proclamation published in the Official Gazette of the Region, and its position in such series is determined with reference to the day on which Our assent shall have been so signified.

ROYAL INSTRUCTIONS TO THE GOVERNORS

(e) Copies of all Laws shall be printed, and shall bear the following:—

(i) in the case of a Law assented to by the Governor, particulars of the day on which the Governor shall have given his assent thereto;

(ii) in the case of a Law assented to by Us through a Secretary of State, particulars of the day on which the Governor shall have signified Our assent thereto by Proclamation published in the Official Gazette of the Region;

(iii) particulars of the day on which each Law shall have come into operation, or, if that day shall not have been determined, a reference to any provision in the Law whereby it may be determined.

(f) Matters having no proper relation to each other shall not be provided for by the same Law; no Law shall contain anything foreign to what the title of the Law imports; and no provision having indefinite duration shall be included in any Law expressed to have limited duration.

(a) 11. The Governor of the Northern Region shall not, without having previously obtained Our Instructions through a Secretary of State, assent to any Bill within any of the following classes unless such Bill contains a clause suspending the operation thereof until the signification of Our pleasure thereon, that is to say—

Certain
Bills not to
be given
assent
without
Instructions.

(a) any Bill for the divorce of married persons;

(b) any Bill whereby any grant of land or money or other donation or gratuity may be made to himself;

(c) any Bill imposing differential duties;

(d) any Bill the provisions of which appear to him to be inconsistent with obligations imposed upon Us by any treaty, convention or agreement with or other obligation towards or arrangement relating to any country or international or similar organisation outside Nigeria, including the Trusteeship Agreement;

(e) any Bill whereby persons of any racial community may be subjected or made liable to disabilities or restrictions to which persons of other such communities are not subjected or made liable;

(f) any Bill empowering any court to enforce or apply any native law or custom that is repugnant to natural justice, equity or good conscience;

(g) any Bill of an extraordinary nature and importance whereby Our prerogative, or the rights of property of Our subjects not residing in Nigeria, or the trade or transport or communications of any part of Our dominions may be prejudiced;

(h) any Bill containing provisions to which Our assent has once been refused or that have been disallowed by Us:

Provided that the Governor may, without such Instructions as aforesaid, and although the Bill contains no such clause as aforesaid assent in Our name to any Bill falling within any of the classes described in this clause (except such a Bill as is described in sub-paragraph (d) of this clause), if he is satisfied that an urgent necessity exists requiring that the Bill be brought into immediate operation; but in any case he shall forthwith transmit to Us the Bill to which he has assented together with his reasons for so assenting.

ROYAL INSTRUCTIONS TO THE GOVERNORS

Private Bills.

12.—(1) Every Bill (not being a Government measure) intended to affect or benefit some particular person, association or corporate body shall contain a clause saving the rights of Us, all bodies politic and corporate, and all others except such as are mentioned in the Bill and those claiming by, from, or under them.

(2) No such Bill shall be introduced in a Legislative House of the Region until due notice has been given by not less than three successive publications of the Bill in the Official Gazette of the Region; and the Governor shall not assent thereto in Our name unless it has been so published. A certificate, under the hand of the Governor, signifying that such publication has been made shall be transmitted to Us with the Bill or law.

Laws to be sent through Secretary of State.

(a) 13.—(1) When any law has been enacted by the Legislature of a Region, the Governor shall forthwith transmit to Us, through a Secretary of State, for the signification of Our pleasure, a transcript in duplicate of the law, duly authenticated under the Public Seal of the Region and by his own signature, together with an explanation of the reasons and occasion for the enactment of the law.

(2) Whenever the Governor of a Region has reserved any Bill for the signification of Our pleasure, he shall forthwith transmit to Us, through a Secretary of State, a transcript in duplicate of the Bill, duly authenticated under the Public Seal of the Region and by his own signature, together with an explanation of the reasons and occasion for the passing of the Bill.

Laws to be published.

14. As soon as practicable after the commencement of each year the Governor shall cause a complete collection of all laws enacted by the Legislature of the Region during the preceding year to be published for general information.

Purchase of property by Governor.

15. The Governor shall not, directly or indirectly, purchase for himself any land or building in Nigeria vested in Us without Our special permission given through a Secretary of State.

Appointments to be during pleasure.

16. Every appointment made by, or on behalf of the Governor of any person to any office or employment shall, unless it is otherwise provided by law, be expressed to be during pleasure only.

Governor to administer oaths.

17. The Governor, acting in his discretion, may, whenever he thinks fit, require any person in the public service to take the oath of allegiance, together with such other oaths as may be prescribed by any law enacted by the Legislature of the Region or having effect as if it had been so enacted.

Constitution of Privy Council.

18.—(1) Subject to the provisions of these Instructions, the Privy Council shall consist of such number of Official Members, and such number of Appointed Members, as the Governor, acting in his discretion, may from time to time appoint by Instrument under the Public Seal of the Region:

Provided that the total number of members of the Privy Council shall not at any time be less than four.

(2) (a) No person shall be appointed as an Official Member of the Privy Council unless he is an officer in the public service of the Region.

(b) No officer in the public service of the Region shall be appointed as an Appointed Member of the Privy Council.

(3) An Official Member of the Privy Council may be appointed either by name or by reference to his office.

ROYAL INSTRUCTIONS TO THE GOVERNORS

19.—(1) The members of the Privy Council shall hold office during Our pleasure;

Tenure of
seats in Privy
Council.

Provided that every Official Member of the Privy Council who is appointed by name, and every Appointed Member of the Privy Council, shall in any case vacate his seat in the said Council at the end of three years from the date of the Instrument by which he is appointed, or at such earlier date as may be provided by such Instrument, or before either such date if—

(a) being an Official Member, he ceases to be an officer in the public service of the Region; or

(b) being an Appointed Member he is appointed permanently to any office in the public service of the Region; or

(c) he absents himself from Nigeria without written permission given by the Governor acting in his discretion.

(2) An Official Member of the Privy Council who is appointed by name, or an Appointed Member of the Privy Council, may, by writing under his hand addressed to the Governor, resign his seat in the Council and upon receipt of such resignation by the Governor the seat of such member shall become vacant:

Provided that an Official Member shall not so resign his seat without permission given by the Governor acting in his discretion.

(3) If any Appointed Member of the Privy Council is appointed temporarily to any public office or to act in any such office he shall not sit in, or take any other part in the proceedings of, the Privy Council so long as he continues to hold, or to act in, that office.

(4) Any question that may arise as to the right of any person to be or remain a member of the Privy Council shall be determined by the Governor acting in his discretion.

20.—(1) The Privy Council shall not be summoned except by the authority of the Governor acting in his discretion.

Summoning
and quorum.

(2) No business except that of adjournment shall be transacted in the Privy Council if objection is taken by any member present that there are less than three members present besides the Governor or member presiding.

(3) Any proceedings in the Privy Council shall be valid notwithstanding if some person who was not entitled so to do sat in the Council or took part in the proceedings.

21. The Governor shall, so far as it is practicable, attend and preside at all meetings of the Privy Council, and in his absence such member as the Governor, acting in his discretion, may appoint.

Governor to
attend and
preside.

22.—(1) Subject to the provisions of paragraph (2) of this clause the Governor, acting in his discretion, may consult with the Privy Council in the exercise of the powers conferred upon him by section 18 of the Offices Order but he shall not in any such case be obliged to act in accordance with the advice of the Privy Council.

Power of
pardon.

(2) (a) Whenever any offender has been condemned by any civil court in Nigeria to suffer death for any offence to which section 18 of the Offices Order applies, the Governor shall cause a written report of the case of that offender from the judge who tried the case, together with such other information derived from the record of the case or elsewhere as the Governor may require, to be taken into consideration at a meeting of the Privy Council.

ROYAL INSTRUCTIONS TO THE GOVERNORS

(b) The Governor shall not pardon or reprieve any such offender unless it appears expedient to him so to do upon receiving the advice of the Privy Council thereon; but he is to decide either to extend or to withhold a pardon or reprieve according to his own deliberate judgment, whether members of the Privy Council concur therein or otherwise; entering, nevertheless, in the minutes of the Privy Council, his reasons, in case he should decide any such question in opposition to the judgment of the majority of the members thereof.

Governor's
absence.

23. Except in circumstances in which he is not regarded as absent from Nigeria for the purposes of section 14 of the Offices Order, the Governor shall not absent himself from Nigeria without having first obtained leave from Us for so doing through a Secretary of State.

Given at Our Court at Saint James's, this third day of September, in the Third year of Our Reign.

L.N. 25 of 1959

*(Remaining effective provisions reprinted see G.N. 102 of 1959)***NIGERIA****ADDITIONAL INSTRUCTIONS PASSED UNDER THE ROYAL SIGN MANUAL AND SIGNET TO THE GOVERNORS OF THE NORTHERN, WESTERN AND EASTERN REGIONS OF NIGERIA.***[These Additional Instructions are printed as amended by Additional Instructions bearing date the 1st April, 1958.]*

Dated 8th August, 1957.

ELIZABETH R.**ADDITIONAL INSTRUCTIONS TO OUR GOVERNORS OF THE NORTHERN, WESTERN AND EASTERN REGIONS OF NIGERIA, OR OTHER OFFICER FOR THE TIME BEING ADMINISTERING THE GOVERNMENT OF ANY OF THE SAID REGIONS.**

We do hereby direct and enjoin and declare Our will and pleasure as follows :—

Can-
struction.

1. These Instructions shall be construed as one with the Instructions under Our Sign Manual and Signet to the Governors of the Northern, Western and Eastern Regions of Nigeria bearing date the third day of September, 1954 (hereinafter called "the principal Instructions").

2. *[Clause 2 substitutes new Clause 3 to Instructions of 3rd September, 1954.]*

3. *[Clause 3 substitutes new Clause 6 to Instructions of 3rd September, 1954.]*

4. *[Clause 4 amends Instructions of 3rd September, 1954, Clause 7.]*

5. *[Clause 5 amends Instructions of 3rd September, 1954, Clause 8 (2) (a).]*

6. *[Clauses 6; 7, 8 rev., Additional Instructions of 1st April, 1958.]*

9. *[Clause 9 amends Instructions of 3rd September, 1954, Clause 13.]*

10. *[Clause 10 rev., Additional Instructions of 1st April, 1958.]*

11. The Governor of the Western Region or the Eastern Region shall, in the exercise of his power to dissolve the Legislative Houses of the Region, act on the recommendation of the Premier of the Region :

Exercise of
power to
dissolve
Legislative
Houses of
Western and
Eastern
Regions

Provided that—

(a) if the Premier recommends a dissolution and the Governor, acting in his discretion, considers that the government of the Region can be carried on without a dissolution and that a dissolution would not be in the interests of the Region, he may refuse to dissolve the Legislative Houses of the Region ;

(b) if a vote of no confidence in the Government of the Region is passed by the House of Assembly of the Region and the Premier does not within three days either resign or recommend a dissolution, the Governor, acting in his discretion, may dissolve the Legislative Houses of the Region ;

(c) if the Governor, acting in his discretion, is satisfied that the House of Assembly of the Region has been unable to deal with a motion of no confidence in the Government of the Region within a reasonable time by reason of an adjournment of the House due to lack of a quorum, he may, acting in his discretion, dissolve the Legislative Houses of the Region ;

(d) if the office of Premier is vacant and the Governor, acting in his discretion, is satisfied that no person who commands a majority in the House of Assembly can be found within a reasonable time, he may, acting in his discretion, dissolve the Legislative Houses of the Region.

ROYAL INSTRUCTIONS TO THE GOVERNORS

Summoning
meetings of
Houses of
Assembly
of Western
and Eastern
Regions.

Powers
exercisable
on recom-
mendation
of Premier.

12. The Governor of the Western Region or the Eastern Region, acting in his discretion, may summon a meeting of the House of Assembly of the Region if he is satisfied that notice of a motion of no confidence in the Government of the Region has been given and that the House is not otherwise likely to meet within a reasonable time after the giving of the notice.

13. Where by these Instructions the Governor of a Region is directed to exercise any power on the recommendation of the Premier of the Region, he shall exercise the power in accordance with that recommendation, and shall not be obliged to consult with the Executive Council of the Region in the exercise of the power.

GIVEN at Our Court at Saint James's this eighth day of August, in the Sixth year of Our Reign.

L.N. 26 of 1959

STATUTORY INSTRUMENTS

The following Order made by Her Majesty the Queen in Council has been published as Statutory Instrument No. 915 of 1958 and is re-published for information.

1958 No. 915

NIGERIA

Nigeria (Electoral Provisions) Order in Council, 1958

Made 3rd June, 1958

Laid before Parliament 9th June, 1958

Coming into Operation 10th June, 1958

At the Court at Buckingham Palace, the 3rd day of June, 1958

Present,

The Queen's Most Excellent Majesty in Council

Whereas it is proposed that in due course there should be established for the Federation of Nigeria a House of Representatives (hereinafter referred to as "the proposed House of Representatives") containing three hundred and twenty elected members and it is expedient that the Governor-General and Commander-in-Chief of the Federation of Nigeria should be empowered to make provision for the election of those members:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Nigeria (Electoral Provisions) Order in Council, 1958.

Citation
and com-
mencemen

(2) This Order shall come into operation on the 10th day of June, 1958.

2. The provisions of section 2 of the Nigeria (Constitution) Order, 1954, as amended, shall apply for the purpose of interpreting this Order as they apply for the purpose of interpreting that Order.

3.—(1) There shall be for the Federation an Electoral Commission.

(2) The members of the Commission shall be—

(a) a Chief Electoral Commissioner, who shall be Chairman and

(b) four other members, or such other number of members as the Governor-General, acting in his discretion, may from time to time prescribe.

(3) The members of the Commission shall be appointed by the Governor-General, acting in his discretion, by Instrument under the Public Seal.

(4) A person shall not be qualified for appointment as a member of the Commission if he is a member of a Legislative House or if he holds or is acting in any office of emolument under the Crown other than the office of member of the Public Service Commission of the Federation, the Police Service Commission of the Federation or the Public Service Commission of a Region or (unless the Governor-General, acting in his discretion, otherwise directs) if he is a party to, or is a partner in a firm that is a party to, or is a director or manager of a company that is a party to, any contract on account of public services with the government of the Federation:

Provided that the Governor-General may appoint a person who is not an officer in the public service of the Federation or the public service of a Region to be a member of the Commission other than the Chief Electoral Commissioner notwithstanding that he holds or is acting in an office of emolument under the Crown if he is satisfied that he will be required to perform only part-time duties as a member of the Commission.

(5) The office of a member of the Commission shall become vacant—

(a) at the expiration of five years from the date of his appointment, or at such earlier date as may be specified in the Instrument by which he is appointed; or

(b) if he resigns his office by writing under his hand addressed to the Governor-General; or

(c) if he becomes a member of a Legislative House; or

(d) if the Governor-General, acting in his discretion, directs that he shall be removed from office for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) If the office of a member of the Commission is vacant or a member is for any reason unable to perform the functions of his office, the Governor-General, acting in his discretion, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall continue to act until his appointment is revoked by the Governor-General, acting in his discretion.

(7) The Governor-General may make regulations providing for the salaries and allowances to be paid to members of the Commission:

Provided that the salary of a member of the Commission and his conditions of service other than allowances shall not be altered to his disadvantage during his continuance in office.

(8) The salaries and allowances of the members of the Commission shall be a charge on the Consolidated Revenue Fund of the Federation and shall be statutory expenditure for the purposes of section 154a of the Nigeria (Constitution) Order in Council, 1954, as amended.

Electoral
districts.

4. The Governor-General, acting in his discretion, may by Proclamation published in the *Official Gazette* of the Federation direct that Nigeria shall be divided into areas and that each such area shall be an electoral district for the purpose of returning members to the proposed House of Representatives.

Electoral
regulations.

5.—(1) The Governor-General may by regulation make provision for the election of persons as Representative Members of the proposed House of Representatives to represent the electoral districts prescribed under section 4 of this Order, including (without prejudice to the generality of the foregoing power) the following matters:—

(a) qualifications for registration as a voter or for voting at elections;

(b) the registration of voters;

(c) the ascertainment of the qualifications of candidates for election and voters;

(d) the division of electoral districts for any purpose connected with elections;

(e) the holding of elections.

(2) Regulations made under this section shall provide that the registration of voters and the conduct of elections shall be subject to the direction and supervision of the Electoral Commission in such manner as may be provided in those regulations.

(3) The Governor-General may by regulation make provision for—

(a) the disqualification of any person for membership of the proposed House of Representatives by reason of his holding, or acting in, any office the functions of which involve—

ELECTORAL PROVISIONS

(i) any responsibility for, or in connection with, the conduct of any election; or

(ii) any responsibility for, or in connection with, the compilation or revision of any electoral register;

(b) the definition and trial of offences relating to elections and the imposition of penalties for such offences, including disqualification for membership of the proposed House of Representatives or for registration as a voter, or for voting at elections, of any person concerned in any such offence; and

(c) the definition and trial of offences connected with the functions of the Electoral Commission (including, without prejudice to the generality of this paragraph, offences relating to the bringing of improper influence on the Commission and misconduct by members of the Commission) and the imposition of penalties for such offences.

(4) No elections of members to the proposed House of Representatives shall be held under regulations made under subsection (1) of this section until provision shall have been made by Order of Her Majesty in Council for the establishment of the proposed House of Representatives and that provision shall have come into operation; but electoral districts may be established, registration of voters may take place and all other things necessary or expedient to prepare for such elections may be done in pursuance of such regulations at any time after the commencement of this Order.

6.—(1) The Governor-General, acting in his discretion, may by writing under his hand give directions to the members of the Commission for the purposes of ensuring the impartial discharge of their functions as such.

Power to give directions.

(2) The members of the Commission shall comply with any directions given to them under this section or shall cause them to be complied with.

7. The references in section 180c of the Nigeria (Constitution) Order in Council, 1954, as amended, and clause 7 of the Instructions under Her Majesty's Sign Manual and Signet to the Governor-General bearing date the third day of September, 1954, as amended, to an office of emolument under the Crown shall not include references to the office of member of the Electoral Commission.

Construction of Nigeria (Constitution) Order in Council, 1954, and Royal Instructions to Governor-General.

W. G. Agnew

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport)

This Order enables the Governor-General of the Federation of Nigeria to make provision for the election of members to a new House of Representatives that it is proposed should hereafter be established for the Federation of Nigeria in accordance with the recommendations of the Nigeria Constitutional Conference held in London in May and June 1957 and permits registration of voters to take place and other preliminary measures to be taken in pursuance of any such provision.

(Ni. 20/5)

L.N. 27 of 1959

STATUTORY INSTRUMENTS

The following Order made by Her Majesty the Queen in Council has been published as Statutory Instrument No. 1523 of 1958, and is re-published for information.

1958 No. 1553

NIGERIA

The Nigeria (Retirement Benefits)

Order in Council, 1958

Made 11th September, 1958

Laid before Parliament .. 17th September, 1958

Coming into Operation .. 18th September, 1958

At the Court at Balmoral, the 11th day of September, 1958

Prescrit,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Nigeria (Retirement Benefits) Order in Council, 1958.

Citation and commencement.

(2) This Order shall come into operation on the eighteenth day of September, 1958.

2.—(1) The provisions of section 2 of the Nigeria (Constitution) Order in Council, 1954(b), as amended(c), shall apply for the purpose of interpreting this Order as they apply for the purpose of interpreting that Order.

Interpretation.

(2) The provisions of subsection (4A) of section 2, subsections (2), (3) and (4) of section 89 and subsections (2); (3) and (4) of section 105 of the Nigeria (Constitution) Order in Council, 1954, as amended, shall apply in relation to this Order as they apply in relation to that Order, and for that purpose reference to that Order shall be construed as if they were references to this Order.

3.—(1) The provisions contained in the First Schedule to this Order shall have effect in relation to the public service of the Federation and the public service of the Northern Region.

Provisions of First Schedule to have effect in relation to public services of Federation and Northern Region.

(2) An officer in the public service of the Federation or the public service of the Northern Region who retired after the twenty-ninth day of August, 1957, and before the commencement of this Order and who would have been eligible to retire under the First Schedule to this Order if the provisions of that Schedule had been in force at the date of his retirement, may be granted such benefits as could have been granted to him if those provisions had been in force at that date and he had retired thereunder.

(a) 53 & 54 Vict. c. 37.

(b) S.I. 1954/1146 (1954 II, p. 2829).

(c) S.I. 1955/432, 1956/836, 1957/1363, 1530, 1958/429 1287 (1955 II, p. 3163; 1956 II, p. 2953).

RETIREMENT BENEFITS

Provisions of Second Schedule to have effect in relation to public services of Western and Eastern Regions.

4.—(1) The provisions contained in the Second Schedule to this Order shall have effect in relation to the public service of the Western Region and the public service of the Eastern Region.

(2) If any officer in the public service of the Western Region or the public service of the Eastern Region who is not an entitled officer for the purposes of the Second Schedule to this Order is an entitled officer for the purposes of the interim scheme he shall be deemed to be an entitled officer for the purposes of that Schedule.

(3) Where any officer in the public service of the Western Region or the public service of the Eastern Region has before the commencement of this Order in pursuance of the interim scheme applied for or been granted permission to serve in the public service of the Region for any period with rights similar to the special rights for which provision is made in the Second Schedule to this Order, or given notice of his intention to retire from that public service at any time, he shall be deemed to have applied for or been granted permission to serve in that public service for that period with special rights or to have given notice of his intention to retire from that public service at that time, as the case may be, in pursuance of the Second Schedule to this Order.

(4) Any benefits granted in pursuance of the interim scheme to officers in the public service of the Western Region or the public service of the Eastern Region on their retirement or transfer or to any other person on the death of any such officer shall be deemed to have been granted in pursuance of the Second Schedule to this Order, whether or not those benefits differ from the benefits that may be granted in pursuance of that Schedule:

Provided that where the benefits granted upon the retirement, transfer or death of any officer would have been greater if the provisions of the Second Schedule had been in force at the date of such retirement, transfer or death and they had been granted in pursuance of those provisions, those benefits shall be recalculated and regranted in accordance with those provisions as if those provisions had been in force on that date, and any sums paid or payable to that officer or any other person shall be adjusted accordingly.

(5) For the purposes of this section "the interim scheme" in relation to the public service of the Western Region means the compensation scheme published by the government of that Region on the sixth day of August, 1957, and in relation to the public service of the Eastern Region means the compensation scheme published by the government of that Region on the nineteenth day of August, 1957.

Financial responsibility for additional allowance, etc.

5.—(1) Where any additional allowance or additional gratuity is granted under this Order to any officer in the public service of a Region, then—

(a) in the case of an officer whose whole service that qualifies for pension has been in Nigeria, the cost of such allowance or gratuity shall be shared by the Federation and each Region in the public service of which that officer has served, so that the Federation shall pay such amount of the allowance or gratuity as is proportionate to the aggregate amount of the pensionable emoluments received by the officer in respect of his service in the public service of the Federation and each such Region shall pay such amount of the allowance or gratuity as is proportionate to the aggregate amount of the pensionable emoluments received by the officer in respect of his service in the public service of that Region; and

RETIREMENT BENEFITS

(b) in the case of any other officer, such allowance or gratuity shall be paid by the Region in the public service of which the officer is serving at the time when he retires.

(2) For the purposes of this section service in the former public service of Nigeria shall be deemed to be service in the public service of the Federation.

(3) Any sum that is payable under this section by the Federation shall be a charge on the Consolidated Revenue Fund of the Federation and any sum that is so payable by a Region shall be a charge on the Consolidated Revenue Fund of the Region, and every sum so charged shall be statutory expenditure for the purposes of section 154a of the Nigeria (Constitution) Order in Council 1954, as amended.

6.—(1) In this section—

"pensions law" means a law that governs the grant of pensions, gratuities and other like benefits ; -

"dependants" in relation to any person means the widow, children, dependants and personal representatives of that person.

(2) Subject to the provisions of this Order, any pensions law enacted by any legislature in Nigeria that applied immediately before the commencement of this Order in relation to any person in respect of his service in the former public service of Nigeria, the public service of the Federation or the public service of a Region or in relation to the dependants of any such person in respect of any such service shall continue to apply in relation to that person or to those dependants as the case may be.

(3) Any law enacted by the Federal Legislature may be applied in relation to any person mentioned in subsection (2) of this section in respect of his service in the former public service of Nigeria or the public service of the Federation and in relation to his dependants in respect of any such service instead of the pensions law that applies by virtue of that subsection if the law enacted by the Federal Legislature is not less favourable to that person or his dependants, as the case may be, than that pensions law.

(4) Any law enacted by the Legislature of a Region may be applied in relation to any person mentioned in subsection (2) of this section in respect of his service in the public service of that Region and in relation to the dependants of any such person in respect of any such service instead of the pensions law that applies by virtue of that subsection if the law enacted by the Legislature of the Region is not less favourable to that person or his dependants, as the case may be than that pensions law.

(5) Subject to the provisions of this Order, any pension, gratuity or other like benefit that may be granted to any person who is appointed to the public service of the Federation or the public service of a Region after the commencement of this Order or to the dependants of any such person shall be governed by the law in force on the date on which that person is first appointed to a pensionable office in that public service or by any law made thereafter that is not less favourable to that person or his dependants, as the case may be, and is applicable in his or their case.

(6) Where any person is entitled to exercise an option whether one of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this section, be deemed to be more favourable than the other law or laws.

Application
of pensions
laws.

RETIREMENT BENEFITS

FIRST SCHEDULE

Section 3.

RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF
THE FEDERATION AND THE NORTHERN REGIONInterpre-
tation.

1.—(1) In this Schedule, unless the context otherwise requires—

"appropriate law" in relation to an officer in the public service of the Federation or the public service of the Northern Region means the law that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the former public service of Nigeria or the public service of the Federation or the public service of a Region ;

"existing overseas officer" in relation to the public service of the Federation or the public service of the Northern Region means an overseas officer in that public service—

(a) who was before the thirtieth day of August, 1957, appointed or selected for appointment as the substantive holder of an office in the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law ; and

(b) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment,

and includes any other person who is declared by a Secretary of State, with the concurrence of the Governor-General, in the case of an officer in the public service of the Federation, or with the concurrence of the Governor, in the case of an officer in the public service of the Northern Region, to be an existing overseas officer ;

"future overseas officer" in relation to the public service of the Federation or the public service of the Northern Region means an overseas officer in that public service—

(a) who was after the twenty-ninth day of August, 1957, selected for appointment and appointed as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law ; and

(b) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment ;

"overseas officer" means an officer in the public service of the Federation or the public service of the Northern Region who is, either individually or as a member of a class, declared by the Governor-General, acting in his discretion, to be an overseas officer ;

"pensionable emoluments" in relation to an officer in the public service of the Federation or the public service of the Northern Region means emoluments that may be taken into account for the purpose of computing the pension of that officer under the appropriate law ;

"pensionable service" in relation to an officer in the public service of the Federation or the public service of the Northern Region means the aggregate amount of service that may be taken into account for the purpose of computing the pension of that officer under the appropriate law ;

RETIREMENT BENEFITS

"substantive holder" in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in that office for a specified term under a contract.

(2) Where a person has been gazetted as the substantive holder of any office with effect from a date earlier than the date of the gazette, he shall for the purposes of this Schedule be deemed to have become the substantive holder of that office on that earlier date.

(3) Where an officer in the public service of the United Kingdom was on any date appointed or selected for appointment as the holder of an office in the public service of the Federation or the public service of the Northern Region and for any period thereafter was entitled to revert to the public service of the United Kingdom he shall not for the purposes of this Schedule be regarded as having been appointed to be the substantive holder of an office in that public service or as having been selected for appointment as such, as the case may be, on that date, but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceased to be entitled so to revert if on that date he was the holder of an office in that public service.

(4) A person who was before the commencement of this Order declared by the Governor-General to be an overseas officer shall for the purposes of this Schedule be deemed to be an overseas officer.

(5) Where under the appropriate law an officer in the public service of the Federation or the public service of the Northern Region may be granted two or more pensions, references in this Schedule to the pension that may under the appropriate law be granted to that officer shall include references to both or all of those pensions.

(6) Any question concerning the interpretation of this Schedule may be referred to and determined by a Secretary of State, whose decision thereon shall be final.

2.—(1) Subject to the provisions of sub-paragraph (4) of this paragraph, an existing overseas officer in the public service of the Federation may, after giving four months' notice in writing to the Governor-General or such shorter notice as the Governor-General, acting in his discretion, may allow, retire at any time.

(2) Subject to the provisions of sub-paragraph (4) of this paragraph, a future overseas officer in the public service of the Federation may, after giving six months' notice to the Governor-General or such shorter notice as the Governor-General, acting in his discretion, may allow, retire at any time if he has completed ten years' service, being service that may be taken into account in determining whether he is eligible for the grant of a pension or gratuity under the appropriate law, of which the three years immediately before his retirement were served—

(a) in the public service of the Federation ;

(b) in the public service of one or more Regions ; or

(c) partly in the public service of the Federation and partly in the public service of one or more Regions ;

Provided that nothing in this sub-paragraph shall prevent an officer from retiring without having served the three years immediately before his retirement in the manner specified as aforesaid if he is entitled to do so under the appropriate law.

Existing
and certain
future
overseas
officers may
retire at
any time.

RETIREMENT BENEFITS

(3) An officer who has given notice of his intention to retire under this paragraph on any date may, with the permission of the Governor-General, acting in his discretion, withdraw the notice at any time before that date.

(4) No officer in the public service of the Federation shall retire under this paragraph without the permission of the Governor-General, acting in his discretion :

Provided that the Governor-General shall not withhold his permission unless proceedings for the officer's dismissal are being taken or about to be taken.

(5) The foregoing provisions of this paragraph shall apply in relation to officers in the public service of the Northern Region as they apply in relation to officers in the public service of the Federation, and for that purpose references to the Federation and the Governor-General shall be construed as if they were references to the Northern Region and the Governor of that Region.

Pensions
etc. for
existing
and future
overseas
officers.

3.—(1) If an existing overseas officer in the public service of the Federation or the public service of the Northern Region retires under paragraph 2 of this Schedule he may be granted at his option either—

(a) such pension as may under the appropriate law be granted to him ;
or

(b) a reduced pension equal to three-quarters of that pension together with a gratuity equal to one quarter of the annual amount of that pension multiplied by twelve and one half ; or

(c) a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region.

(2) If a future overseas officer in the public service of the Federation or the public service of the Northern Region retires under paragraph 2 of this Schedule he may be granted such pension, gratuity or other benefit as may under the appropriate law be granted to him.

(3) For the purposes of this paragraph an officer shall be deemed to be eligible for the grant of a pension under the appropriate law—

(a) notwithstanding that he may have retired before attaining the age specified in the appropriate law as qualifying him for the grant of a pension ; and

(b) notwithstanding that he may not have completed at the date of his retirement the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension.

(4) References in this paragraph to the pension that may under the appropriate law be granted to an officer include, in the case of an officer who retires on account of injury or ill-health, references to any additional pension that may be granted under the appropriate law to that officer in respect of retirement on the ground of injury or ill-health.

4. If an existing overseas officer in the public service of the Federation or an existing overseas officer in the public service of the Northern Region who has been transferred to that public service under section 185 of the Nigeria

Additional
benefits.

RETIREMENT BENEFITS

(Constitution) Order in Council, 1954, retires under paragraph 2 of this Schedule he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 3 of this Schedule either—

(a) an additional allowance which shall be calculated at the annual rate of one one hundred and eightieth part of the officer's pensionable emoluments at the date of his retirement for each complete period of one year of pensionable service ;

Provided that the allowance shall not exceed such annual sum as would, if it were added to such pension as could be granted to him under head (a) of sub-paragraph (1) of paragraph 3 of this Schedule, make an annual sum equal to the pension for which he would have been eligible under that law if he had continued to hold the office held by him on the date of his retirement until he had reached the age of fifty-five years, or, in the case of a judge of the High Court of Lagos or the High Court of the Northern Region, sixty-two years, or, in the case of a judge of the the Federal Supreme Court, sixty-five years, and had then retired, having been granted all increments of salary for which he would have been eligible by that date ; or

(b) a reduced additional allowance, which shall be calculated at the annual rate of three quarters of that additional allowance together with a gratuity equal to one quarter of the annual amount of that additional allowance multiplied by twelve and one half ; or

(c) an additional gratuity equal to one sixteenth part of the aggregate amount of his pensionable emoluments during the whole of his pensionable service :

Provided that the additional gratuity shall be subject to a reduction proportionate to the reduction to which, if the officer had been granted an additional allowance, his additional allowance would have been subject by virtue of the proviso to sub-paragraph (a) of this paragraph.

5.—(1) Where an existing overseas officer in the public service of the Federation retires in consequence of the abolition of his office or for the purpose of facilitating improvements in the organization of the part of the public service to which he belongs by which greater efficiency or economy may be effected, he shall, if he gives notice in writing that he so desires to the Governor-General within six months after the date of his retirement or such longer period after that date as the Governor-General, acting in his discretion, may allow, be deemed to have retired under sub-paragraph (1) of paragraph 2 of this Schedule :

Abolition of
office, etc.

Provided that an officer who is deemed to have retired under that paragraph shall not be granted any additional benefits for which he may be eligible under the appropriate law by virtue of his having retired in consequence of the abolition of his office or for the purpose of facilitating such improvements.

(2) The foregoing provisions of this paragraph shall apply in relation to existing overseas officers in the public service of the Northern Region as they apply in relation to existing overseas officers in the service of the Federation, and for that purpose references to the Federation and the Governor-General shall be construed as if they were references to the Northern Region and the Governor of that Region.

RETIREMENT BENEFITS

Exercise of options.

6.—(1) Any option exercisable by an officer in the public service of the Federation for the purposes of this Schedule—

(a) shall be exercisable on or before the date of the officer's retirement :

Provided that the Governor-General, acting in his discretion, may, if he thinks fit, and subject or not to conditions, extend the period for the exercise of the option ;

(b) shall be irrevocable after the end of the period within which it must be exercised ;

(c) shall be exercised by notice in writing to the Governor-General ; and

(d) shall be deemed to have been exercised on the date on which such notice is received.

(2) The foregoing provisions of this paragraph shall apply in relation to existing overseas officers in the public service of the Northern Region as they apply in relation to existing overseas officers in the public service of the Federation, and for that purpose references to the Federation and the Governor-General shall be construed as if they were references to the Northern Region and the Governor of the Region.

7. Where an officer in the public service of the Federation or the public service of the Northern Region retires under paragraph 2 of this Schedule, the provisions of the appropriate law—

(a) shall subject to the provisions of this Order apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as they apply in relation to the grant of a pension or gratuity and to any pension or gratuity granted, under the appropriate law ; and

(b) shall, subject as aforesaid, apply in relation to the grant of any additional allowance under this Schedule and to any additional allowance granted thereunder as they apply in relation to the grant of a pension, and to any pension granted, under the appropriate law.

Exemption from tax.

8. Any gratuity granted under paragraph 3 or paragraph 4 of this Schedule shall be exempt from tax under any law enacted by the Legislature of the Federation, any Region or the Southern Cameroons relating to the taxation of incomes or imposing any other form of taxation.

Application of Schedule to officers who are not overseas officers.

9.—(1) If an officer in the public service of the Federation or the public service of the Northern Region who is not an overseas officer can show to the satisfaction of the appropriate authority that his career in the public service has been prejudiced by the provisions of the Nigeria (Constitution) Order in Council, 1954, as amended, or that, because of those provisions, he has reasonable grounds for anxiety about his career in the public service, the foregoing provisions of this Schedule (other than sub-paragraph (2) of paragraph 2 and sub-paragraph (2) of paragraph 3) shall apply in relation to him as they apply in relation to an overseas officer.

(2) In this paragraph "the appropriate authority" in relation to an officer in the public service of the Federation or the public service of the Northern Region means—

(a) in the case of an officer who was selected for appointment to the public service by a Secretary of State or whose appointment to an office in the public service was approved by a Secretary of State, a Secretary of State ;

RETIREMENT BENEFITS

(b) in the case of any other officer in the public service of the Federation, the Governor-General, acting in his discretion; and

(c) in the case of any other officer in the public service of the Northern Region, the Governor of that Region, acting in his discretion.

SECOND SCHEDULE

Section 4.

RETIREMENT BENEFITS FOR CERTAIN OFFICERS IN THE PUBLIC SERVICE OF THE WESTERN REGION AND THE EASTERN REGION

1.—(1) In this Schedule, unless the context otherwise requires—

“appropriate law” in relation to any officer in the public service of the Western Region or the public service of the Eastern Region means the law that governs the grant of pensions, gratuities and other like benefits in respect of the service of that officer in the former public service of Nigeria, the public service of the Federation or the public service of a Region;

Interpretation.

“entitled officer” in relation to the public service of the Western Region or the public service of the Eastern Region means an existing overseas officer in that public service—

(a) who was before the first day of October, 1956, appointed or selected for appointment as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law;

(b) the whole of whose pensionable service for the purposes of the appropriate law since he was appointed as such has been in that public service; and

(c) who has been, since the first day of October, 1954, until he was appointed as such, the substantive holder of an office in the public service of the Federation or the public service of another Region, being a pensionable office for the purposes of the appropriate law;

and includes any other person who is declared by a Secretary of State, with the concurrence of the Governor, to be an entitled officer;

“existing overseas officer” in relation to the public service of the Western Region or the public service of the Eastern Region means an overseas officer in that public service—

(a) who was on or before the first day of October, 1954, appointed or selected for appointment as the substantive holder of an office in the former public service of Nigeria or the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law; and

(b) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment,

and includes any other person who is declared by a Secretary of State, with the concurrence of the Governor, to be an existing overseas officer;

“future overseas officer” in relation to the public service of the Western Region or the public service of the Eastern Region means an overseas officer in that public service—

(a) who was after the first day of October, 1954, selected for appointment and appointed as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law; and

(b) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment;

RETIREMENT BENEFITS

"operative period" in relation to an entitled officer in the public service of the Western Region or the public service of the Eastern Region means the period for which he is permitted to serve in that public service with special rights;

"overseas officer" means an officer in the public service of the Western Region or the public service of the Eastern Region who is, either individually or as a member of a class, declared by the Governor to be an overseas officer;

"pensionable emoluments" in relation to an officer means emoluments that may be taken into account in computing the pension of that officer under the appropriate law;

"pensionable service" means in relation to an officer in the public service of the Western Region or the public service of the Eastern Region the aggregate amount of service that may be taken into account for the purpose of computing the pension of that officer under the appropriate law;

"substantive holder" in relation to any office includes a person serving in that office on probation but does not include a person (other than a person serving under a probationary agreement) serving in that office for a specified term under a contract.

(2) Where a person has been gazetted as the substantive holder of any office with effect from a date earlier than the date of the gazette, he shall for the purposes of this Schedule be deemed to have become the substantive holder of that office on that earlier date.

(3) Where an officer in the public service of the United Kingdom was on any date appointed or selected for appointment as the holder of an office in the public service of the Western Region or the public service of the Eastern Region and for any period thereafter was entitled to revert to the public service of the United Kingdom he shall not for the purposes of this Schedule be regarded as having been appointed to be the substantive holder of an office in that public service or as having been selected for appointment as such, as the case may be, on that date, but shall for those purposes be regarded as having been so appointed or selected on the date on which he ceased to be entitled so to revert if on that date he was the holder of an office in that public service.

(4) A person who was before the commencement of this Order declared by the Governor-General to be an overseas officer shall for the purposes of this Schedule be deemed to be an overseas officer.

(5) Where under the appropriate law an officer in the public service of the Western Region or the public service of the Eastern Region may be granted two or more pensions references in this Schedule to the pension that may under the appropriate law be granted to that officer shall include references to both or all of those pensions.

(6) Any question concerning the interpretation of this Schedule may be referred to and determined by a Secretary of State, whose decision thereon shall be final.

2.—(1) Any entitled officer in the public service of the Western Region or the public service of the Eastern Region may apply to the Governor for permission to serve with special rights in that public service for such period as the officer may desire.

(2) The Governor, acting on the recommendation of the Public Service Commission of the Region, may grant to any entitled officer in the public service of the Western Region or the public service of the Eastern Region

Permission
to serve
with special
rights.

RETIREMENT BENEFITS

who applies for permission to serve with special rights in that public service for any period, permission to serve with such rights for that period, or if the officer consents, for a lesser period.

3.—(1) Where an entitled officer in the public service of the Western Region or the public service of the Eastern Region has been granted permission to serve with special rights in that public service for any period the Governor, acting on the recommendation of the Public Service Commission of the Region, may vary that period.

Variation of operative period.

(2) No variation of the period in respect of which special rights are granted to an entitled officer shall be made without the consent of the officer.

4.—(1) The Public Service Commission of the Western Region or the Eastern Region shall—

Public Service Commission to consult.

(a) consult from time to time with the appropriate authority as to the classes of officers in the public service of the Region to whom permission to serve with special rights in that public service should be granted;

(b) consult with the appropriate authority before recommending any variation of an operative period in accordance with paragraph 3 of this Schedule.

(2) For the purposes of this paragraph the appropriate authority shall be—

(a) in relation to the Western Region, the Director of Recruitment of the Region;

(b) in relation to the Eastern Region, the Nigerianisation Committee established by the government of the Region or such other officer or authority of the Region as the Governor may designate.

5.—(1) Subject to the provisions of sub-paragraph (4) of this paragraph, an existing overseas officer in the public service of the Western Region or the public service of the Eastern Region may, after giving four months' notice in writing to the Governor or such shorter notice as the Governor, acting in his discretion, may allow, retire at any time.

Existing and certain future overseas officers may retire at any time.

(2) Subject to the provisions of sub-paragraph (4) of this paragraph, a future overseas officer in the public service of the Western Region or the public service of the Eastern Region may, after giving six months' notice to the Governor or such shorter notice as the Governor, acting in his discretion may allow, retire at any time if he has completed ten years' service, being service that may be taken into account in determining whether he is eligible for the grant of a pension or gratuity under the appropriate law, of which the three years immediately before his retirement were served—

(a) in the public service of the Federation;

(b) in the public service of one or more Regions; or

(c) partly in the public service of the Federation and partly in the public service of one or more Regions:

Provided that nothing in this sub-paragraph shall prevent an officer from retiring without having served the three years immediately before his retirement in the manner specified as aforesaid if he is entitled to do so under the appropriate law.

(3) An officer who has given notice of his intention to retire under this paragraph on any date may, with the permission of the Governor, acting on the recommendation of the Public Service Commission of the Region, withdraw the notice at any time before that date.

RETIREMENT BENEFITS

(4) No officer in the public service of the Western Region or the public service of the Eastern Region shall retire under this paragraph without the permission of the Governor, acting in his discretion:

Provided that the Governor shall not withhold his permission unless proceedings for the officer's dismissal are being taken or about to be taken.

Pensions,
etc. for
existing
overseas
officers.

6.—(1) If an existing overseas officer in the public service of the Western Region or the public service of the Eastern Region retires under paragraph 5 of this Schedule he may be granted at his option either—

- (a) such pension as may under the appropriate law be granted to him; or
- (b) a reduced pension equal to three-quarters of that pension together with a gratuity equal to one quarter of the amount of that pension multiplied—

- (i) in the case of an entitled officer, by the factor set out in Table I of the Annex to this Schedule that is appropriate to the age of the officer on his birthday last preceding the date of his retirement; and

- (ii) in any other case, by twelve and one half; or

- (c) a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region; or

- (d) in the case of an entitled officer whose pension under the appropriate law would not exceed two hundred and fifty pounds per annum, a gratuity equal to the annual amount of the pension multiplied by the factor set out in Table I of the Annex to this Schedule that is appropriate to the age of that officer on his birthday last preceding the date of his retirement; or

- (e) in the case of an entitled officer whose pension under the appropriate law would exceed two hundred and fifty pounds per annum, a gratuity equal to the sum of two hundred and fifty pounds multiplied by the factor set out in Table I of the Annex to this Schedule that is appropriate to the age of that officer on his birthday last preceding the date of his retirement.

(2) If a future overseas officer in the public service of the Western Region or the public service of the Eastern Region retires under paragraph 5 of this Schedule he may be granted such pension, gratuity or other benefit as may under the appropriate law be granted to him.

(3) For the purposes of this paragraph an officer shall be deemed to be eligible for the grant of a pension under the appropriate law—

- (a) notwithstanding that he may have retired before attaining the age specified in the appropriate law as qualifying him for the grant of a pension; and

- (b) notwithstanding that he may not have completed at the date of his retirement the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension.

(4) References in this paragraph to the pension that may under the appropriate law be granted to an officer include, in the case of an officer who retires on account of injury or ill-health, references to any additional pension that may be granted under the appropriate law to that officer in respect of retirement on the ground of injury or ill-health.

7. If an existing overseas officer in the public service of the Western Region or the public service of the Eastern Region who has been transferred to that public service under section 185 of the Nigeria (Constitution) Order in Council, 1954, and who is not an entitled officer retires under paragraph 5 of this Schedule he may be granted additional benefits in addition to the benefits that may be granted under paragraph 6 of this Schedule.

Benefits
for existing
overseas
officers
other than
entitled
officers.

RETIREMENT BENEFITS

8. If an entitled officer in the public service of the Western Region or the public service of the Eastern Region (not being an officer who has been granted permission to serve with special rights) retires under paragraph 5 of this Schedule he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(a) additional benefits ; or

(b) compensation to be calculated as at the date of his retirement.

9.—(1) If an entitled officer in the public service of the Western Region or the public service of the Eastern Region who has been granted permission to serve with special rights—

(a) retires under paragraph 5 of this Schedule at the end of the operative period or upon such date within six months before or after the end of that period as the Governor, acting on the recommendation of the Public Service Commission of the Region, may allow ; or

(b) retires under paragraph 5 of this Schedule before the end of the operative period on the ground of injury or ill-health,

he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(i) additional benefits ; or

(ii) compensation to be calculated as at the date within the operative period (not being a date later than the date of his retirement) that is most advantageous to him.

(2) If an entitled officer in the public service of the Western Region or the public service of the Eastern Region who has been granted permission to serve with special rights retires under paragraph 5 of this Schedule before the end of the operative period otherwise than in the circumstances described in sub-paragraph (1) of this paragraph he may be granted at his option and in addition to the benefits that may be granted to him under paragraph 6 of this Schedule either—

(i) additional benefits ; or

(ii) compensation to be calculated as at the date of his retirement.

10.—(1) If an entitled officer dies while he is a member of the public service of the Western Region or the public service of the Eastern Region, the Governor, acting in his discretion, may direct that there shall be paid to the personal representatives of that officer or, if he shall think fit, to any member of the family of that officer either—

(a) a sum equal to the compensation which would have been granted to the officer under paragraph 8 or paragraph 9 of this Schedule had he retired under paragraph 5 of this Schedule on the day of his death ; or

(b) a sum equal to the gratuity that would have been payable under the appropriate law,

whichever is the greater :

Provided that the Governor, acting in his discretion, may direct that such sum shall be divided among any two or more of the members of the family of the officer in such proportions as he may think fit.

(2) Where an entitled officer in the public service of the Western Region or the public service of the Eastern Region who has been granted permission to serve with special rights—

(a) dies within the operative period ; or

Benefits for entitled officers without special rights.

Benefits for entitled officers with special rights.

Benefits payable on death of entitled officer.

RETIREMENT BENEFITS

(b) in the case of an officer who has been granted permission by the Governor under sub-paragraph (1) of paragraph 9 of this Schedule to retire on a date within six months after the end of the operative period, dies between the end of the operative period and that date,

he shall be deemed for the purposes of this paragraph to have been eligible for compensation to be calculated as at the date within the operative period (not being a date after the date of his death) that is most advantageous.

(3) For the purposes of this paragraph "member of the family" in relation to an entitled officer means his wife or husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, adopted son, adopted daughter, brother, sister, half-brother or half-sister.

Additional
benefits.

11. Where an officer in the public service of the Western Region or the public service of the Eastern Region is granted additional benefits under paragraph 7, paragraph 8 or paragraph 9 of this Schedule he shall receive at his option either—

(a) an additional allowance which shall be calculated at the annual rate of one one hundred and eightieth part of the officer's pensionable emoluments at the date of his retirement for each complete period of one year of pensionable service :

Provided that the allowance shall not exceed such annual sum as would if it were added to such pension as could be granted to him under head (a) of sub-paragraph (1) of paragraph 6 of this Schedule, make an annual sum equal to the pension for which he would have been eligible under that head if he had continued to hold the office held by him on the date of his retirement until he had reached the age of fifty-five years, or, in the case of a judge of the High Court of the Western Region or the High Court of the Eastern Region, sixty-two years, and had then retired having been granted all increments of salary for which he would have been eligible by that date ; or

(b) a reduced additional allowance, which shall be calculated at the annual rate of three quarters of that additional allowance together with a gratuity equal to one quarter of the annual amount of that additional allowance multiplied—

(i) in the case of an entitled officer, by the factor set out in Table I of the Annex to this Schedule that is appropriate to the age of that officer on his birthday last preceding the date of his retirement ; and

(ii) in any other case, by twelve and one half ; or

(c) an additional gratuity equal to one sixteenth part of the aggregate amount of his pensionable emoluments during the whole of his pensionable service :

Provided that the additional gratuity shall be subject to a reduction proportionate to the reduction to which, if the officer had received an additional allowance, his additional allowance would have been subject by virtue of the proviso to sub-paragraph (a) of this paragraph.

Calculation
of compen-
sation.

12.—(1) Where an entitled officer in the public service of the Western Region or the public service of the Eastern Region is granted compensation to be calculated at any date under paragraph 8 or paragraph 9 of this Schedule the amount of that compensation shall be calculated by multiplying the amount of the officer's annual emoluments at that date by the factor relevant to that officer and the resulting amount, or nine thousand pounds, whichever is the less, shall be the amount to which he is entitled,

RETIREMENT BENEFITS

(2) The factor relevant to an entitled officer shall be the factor in the appropriate Table opposite to the age of the officer on his birthday immediately preceding the date to be taken for calculation set out in the column that relates to the years of pensionable service completed by the officer on that date.

(3) (a) The appropriate table for entitled officers in the public service of the Western Region or the public service of the Eastern Region other than judges of the High Court of the Region shall be Table II of the Annex to this Schedule.

(b) The appropriate table for entitled officers in the public service of the Western Region or the public service of the Eastern Region who are judges of the High Court of the Region shall be Table III of the Annex to this Schedule.

(4) For the purposes of this paragraph—

“annual emoluments” means in relation to an entitled officer in the public service of the Western Region or the public service of the Eastern Region the annual pensionable emoluments attaching to the office held by that officer at the date of his retirement :

Provided that in relation to an officer who was transferred after the seventh day of August, 1957, to an office carrying pensionable emoluments higher than those attaching at the date of his transfer therefrom to the office from which he was transferred “annual emoluments” means either—

(a) one third of the aggregate amount of his pensionable emoluments in respect of the period of three years ending on the date of his retirement ;
or

(b) the annual pensionable emoluments attaching at the date of his transfer therefrom to the office that he was holding on the seventh day of August, 1957,

whichever is the greater ;

“pensionable service” means in relation to an entitled officer in the public service of the Western Region or the public service of the Eastern Region the aggregate amount of service that may be counted in full for the purpose of computing the pension of that officer under the appropriate law.

13.—(1) An entitled officer in the public service of the Western Region or the public service of the Eastern Region who is transferred from an office in the public service of the Region to an office in a service outside Nigeria that is other public service for the purposes of the appropriate law carrying at the date of his transfer annual pensionable emoluments that are less than the annual pensionable emoluments attaching at that date to the office from which he was transferred may be granted—

(a) a sum equal to five times the difference between the annual pensionable emoluments attaching to the respective offices at that date ; or

(b) a sum equal to the compensation to which he would have been entitled had he retired under paragraph 5 of this Schedule at that date, whichever is the less.

(2) The grant of benefits under this paragraph shall be without prejudice to the grant of a pension, gratuity or other like benefit under the appropriate law.

Special
benefits for
transferred
officers.

RETIREMENT BENEFITS

Abolition of
office, etc.

14.—(1) This paragraph applies to any officer in the public service of the Western Region or the public service of the Eastern Region—

(a) who retires in consequence of the abolition of his office or for the purpose of facilitating improvements in the organisation of the part of the public service to which he belongs by which greater economy or efficiency may be effected; and

(b) in the case of an officer whose appointment is subject to confirmation, who has been confirmed in his appointment.

(2) An officer to whom this paragraph applies who is eligible for the grant of a pension under the appropriate law may be granted at his option and in addition to that pension or any other benefit for which he may be eligible under that law in lieu of that pension either—

(a) such additional benefits as may be granted to him under the appropriate law; or

(b) an additional pension at the annual rate of one sixtieth of his pensionable emoluments for each completed period of three years' pensionable service:

Provided that an additional pension granted under this paragraph—

(i) shall not exceed ten sixtieths; and

(ii) shall not exceed such annual sum as is equal to the difference between such pension as could be granted to him under the appropriate law and the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement until he had reached the age of fifty-five years or, in the case of a judge of the High Court of the Region, sixty-two years and had then retired, having been granted all increments of salary for which he would have been eligible by that date; or

(c) a reduced additional pension equal to three quarters of that additional pension together with a gratuity equal to one quarter of that additional pension multiplied by twelve and one half.

(3) An officer to whom this paragraph applies who at the date of his retirement was the holder of a pensionable office for the purposes of the appropriate law but who had not completed at that date the period of qualifying service required by the appropriate law to render him eligible for the grant of a pension may be granted at his option either—

(a) such benefits as may be granted to him under the appropriate law; or

(b) a gratuity at the rate of one month's pensionable emoluments for each completed six months of pensionable service; or

(c) a pension equal to the pension that could have been granted to him under the appropriate law if that law had not required him to have been in qualifying service for any period to render him eligible for the grant of a pension; or

(d) a reduced pension equal to three quarters of that pension together with a gratuity equal to one quarter of that pension multiplied by twelve and one half.

(4) If an officer to whom this paragraph applies who was at the date of his retirement—

(a) an existing overseas officer in the public service of the Western Region or the public service of the Eastern Region; or

RETIREMENT BENEFITS

(b) a future overseas officer in the public service of the Eastern Region who was appointed or selected for appointment as the substantive holder of an office in that public service, being a pensionable office for the purposes of the appropriate law, before the eighth day of August, 1957,

gives notice in writing that he so desires to the Governor within six months of the date of his retirement or within such longer period after that date as the Governor, acting in his discretion, may allow, he shall be deemed to have retired under paragraph 5 of this Schedule and the provisions of this Schedule shall apply accordingly, and, in the case of an officer in the public service of the Eastern Region who is not an entitled officer, he shall for that purpose be deemed to be an entitled officer:

Provided that an officer who is deemed to have retired under that paragraph shall not be granted any benefits under the foregoing provisions of this paragraph.

15. Any option exercisable by an officer in the public service of the Western Region or the public service of the Eastern Region for the purposes of this Schedule—

Exercise of options.

(a) shall be exercisable on or before the date of the officer's retirement:

Provided that the Governor, acting in his discretion, may, if he thinks fit, and subject or not to conditions, extend the period for the exercise of the option;

(b) shall be irrevocable after the end of the period within which it must be exercised;

(c) shall be exercised by notice in writing to the Governor; and

(d) shall be deemed to have been exercised on the date on which such notice is received.

16. Where any officer in the public service of the Western Region or the public service of the Eastern Region retires under paragraph 5 of this Schedule the provisions of the appropriate law—

Application of appropriate law.

(a) shall, subject to the provisions of this Order, apply in relation to the grant of any pension or gratuity under this Schedule and to any pension or gratuity granted thereunder as they apply in relation to the grant of a pension or gratuity, and to any pension or gratuity granted, under the appropriate law; and

(b) shall, subject as aforesaid, apply in relation to the grant of any additional allowance under this Schedule and to any additional allowance granted thereunder as they apply in relation to the grant of a pension, and to any pension granted, under the appropriate law.

17. Any sum granted by way of compensation under paragraph 7, paragraph 8 or paragraph 9 of this Schedule, any sum granted under paragraph 10 of this Schedule, any gratuity granted under paragraph 6, paragraph 11 or paragraph 14 of this Schedule and any sum paid upon the transfer of an officer under paragraph 13 of this Schedule shall be exempt from tax under any law enacted by the Legislature of the Federation, any Region or the Southern Cameroons relating to the taxation of incomes or imposing any other form of taxation.

Exemption from tax.

18.—(1). This paragraph applies to an officer in the public service of the Western Region or the public service of the Eastern Region—

(a) who was on or before the first day of October, 1954, appointed or selected for appointment as the substantive holder of an office in the

Application of Schedule to officers who are not overseas officers.

RETIREMENT BENEFITS

former public service of Nigeria or the public service of the Federation or the public service of a Region, being a pensionable office for the purposes of the appropriate law;

(b) who is not an overseas officer; and

(c) in the case of an officer whose appointment is subject to confirmation who has been confirmed in his appointment,

and to any other officer in that public service, not being an overseas officer, to whom this section is declared by the appropriate authority, with the concurrence of the Governor, to be applicable.

(2) If an officer to whom this section applies can shew to the satisfaction of the appropriate authority that his career in the public service has been prejudiced by the provisions of the Nigeria (Constitution) Order in Council, 1954, as amended, or that, because of those provisions, he has reasonable grounds for anxiety about his career in the public service, the provisions of this Schedule that otherwise would apply only in relation to overseas officers shall apply in relation to him as if he were an overseas officer.

(3) In this paragraph "the appropriate authority" in relation to an officer in the public service of the Western Region or the public service of the Eastern Region means—

(a) in the case of an officer who was selected for or offered appointment to the public service of the Region by a Secretary of State or whose appointment to an office in the public service of the Region was approved by a Secretary of State, a Secretary of State;

(b) in the case of an officer not falling within the foregoing provisions of this sub-paragraph who holds an office to which section 180z of the Nigeria (Constitution) Order in Council, 1954, as amended, applies, the Governor acting on the recommendation of the Judicial Service Commission of the Region; and

(c) in any other case, the Governor acting on the recommendation of the Public Service Commission of the Region.

ANNEX TO THE SECOND SCHEDULE

TABLE I

Paragraphs 6 and 11

Age of officer	Factor	Age of officer	Factor
29 and under	16.50	41	14.82
30	16.44	42	14.64
31	16.31	43	14.46
32	16.18	44	14.28
33	16.05	45	14.07
34	15.91	46	13.86
35	15.77	47	13.65
36	15.62	48	13.43
37	15.47	49	13.20
38	15.32	50	12.96
39	15.16	51	12.72
40	14.99	52 and over	12.50

RETIREMENT BENEFITS

TABLE III

Paragraph 12

<i>Age of officer</i>				<i>Factor where length of service is 10 years or more</i>				<i>Age of officer</i>				<i>Factor where length of service is 10 years or more</i>			
37	..	..	..	2.82	50	..	..	3.31	..	..	..	3.11	..	..	..
38	..	..	..	3.22	51	..	..	2.91	..	..	..	2.71	..	..	..
39	..	..	..	3.56	52	..	..	2.51	..	..	..	2.31	..	..	..
40	..	..	..	3.83	53	..	..	2.11	..	..	..	1.88	..	..	..
41	..	..	..	4.01	54	..	..	1.58	..	..	..	1.25	..	..	..
42	..	..	..	4.10	55	..	..	0.75	..	..	..	0.25	..	..	..
43	..	..	..	4.12	56	..	..	Nil	..	..	..		..	..	..
44	..	..	..	4.07	57	..	..		..	..	..		..	..	..
45	..	..	..	3.97	58	..	..		..	..	..		..	..	..
46	..	..	..	3.85	59	..	..		..	..	..		..	..	..
47	..	..	..	3.73	60	..	..		..	..	..		..	..	..
48	..	..	..	3.61	61	..	..		..	..	..		..	..	..
49	..	..	..	3.47	62 or more	..	..		..	..	..		..	..	..

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes provision for special retirement benefits for officers in the public services of the Western and Eastern Regions of Nigeria in accordance with the recommendations of the Nigeria Constitutional Conference held in London in May and June, 1957, and makes fresh provision for the retirement benefits of officers in the public services of the Federation of Nigeria and the Northern Region of Nigeria.

LAGOS LOCAL GOVERNMENT ORDINANCE, 1959

(Reprinted in accordance with section 55 (2) of the Lagos Local Government (Amendment) Ordinance, 1959 (No. 18 of 1959))

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14. Regulations as to election of traditional members.
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20. Chief registration officer and returning officer.
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23. Registration and revising officers.
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L.N. 249 of 1959

Assented to in Her Majesty's name this 9th day of July, 1953.

T. M. SHANKLAND,
*Officer Administering the Government
of the Western Region*

(L.S.)

No. 4

1953



Western Region of Nigeria

IN THE SECOND YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

THOMAS MURRAY SHANKLAND

Officer Administering the Government of the Western Region

* A LAW TO MAKE PROVISION FOR LOCAL GOVERNMENT IN LAGOS AND FOR
PURPOSES CONNECTED THEREWITH.

Title.

[1st August, 1953]

Commence-
ment.

BE IT ENACTED by the Legislature of the Western Region of Nigeria
as follows:

Enactment.

PART I.—PRELIMINARY

1. This Law may be cited as the Lagos Local Government Ordinance,
1959.

Short title
and
commence-
ment.

* Note—This enactment was a Law enacted by the Legislature of the
Western Region, but by virtue of the Constitution it takes effect as
an Ordinance of the Federation, and by Ordinance 18 of 1959 it has
been re-designated as an Ordinance and as though it had been
enacted in 1959.

Interpreta-
tion.

Third
Schedule.

(No. 15 of
1952).

2. In this Ordinance, unless the context otherwise requires :

"annual meeting of the council" means the annual meeting for which provision is made in rule 1 of the rules contained in the Third Schedule hereto ;

"bank" means a bank licensed under the Banking Ordinance, 1952 ;

"building" includes any house, hut, shed and roofed enclosure whether used for the purposes of human habitation or otherwise, and also any wall ;

"council" means the town council established under the provisions of section 10 ;

"councillor" means a person elected to membership of the council in accordance with the provisions of sections 15 to 29 and section 37 ;

"financial year" means the period of twelve months ending on the 31st day of March ;

"functions" includes powers and duties ;

"land" means all land, other than Crown Land and land which is the subject of a lease under the Crown Lands Ordinance, and includes any interest in land and any easement or right in, to or over land ;

"local government purposes" means exclusive local government use, or carrying out any of the functions imposed by this Law, or the provision of any public service (whether partly or wholly provided by the council), or the preservation and development of natural resources, and without derogation from the generality of the foregoing shall include provision for any of the following :

(a) water and electricity supplies ;

(b) installations, structures or schemes in connection with sanitation or public health ;

(c) schemes for laying out or planning existing or new towns or villages ;

(d) community centres and places of public assembly under the control of the council ;

(e) schools, colleges, laboratories and training institutions ;

(f) public reading rooms, libraries and museums ;

(g) hospitals and dispensaries ;

(h) markets and pounds ;

(i) open spaces and recreation grounds ;

(j) burial grounds ;

(k) grazing grounds and cattle staging posts ;

(l) offices and buildings for council departments ;

(m) housing ;

(n) experimental and demonstration farms or seed or stock multiplication centres ;

(o) schemes for planned rural development or settlement ;

"Oba of Lagos" means the Oba of Lagos recognised in accordance with the Oba and Chiefs of Lagos Ordinance, 1959 ;

"officer of the council" means an employee of the council in receipt of an annual salary ;

"old council" means the town council constituted under the provisions of the Lagos Local Government Ordinance, 1950 ;

(No. 17 of 1950).

"polling division" means a division of a ward sub-divided in accordance with section 25 ;

"property" includes all property, real or personal, and all estates, interests, easements and rights whether equitable or legal, in, to and out of property, real and personal ;

"qualifying date" means, in any case where the preparation of a preliminary list of voters is undertaken under the provisions of rule 1 of Part I of the rules contained in the First Schedule hereto, the date upon which the preparation of such list is first begun, and in any other case, the date of publication of the preliminary list of voters under the provisions of rule 2 of Part I of the said rules ; Provided that when in accordance with the rules in Part I of the First Schedule the Federal Register of Electors constitutes the official list of voters the qualifying date shall be the date utilised for the purpose of that Register ;

First
Schedule

"registered voter" means a person whose name is upon the official list of voters ;

"servant of the council" means an employee of the council other than an officer ;

"street" includes roads (other than trunk roads), bridges (other than bridges carrying trunk roads), carriageways, cartways, horseways, footways, causeways, and promenades, and any drains appurtenant thereto ;

"town" means the town of Lagos as delimited in accordance with section 3 ;

"traditional member" means a Chief elected as a traditional member of the council in accordance with the provisions of sections 13 and 14 ;

"trunk road" means any road which the Governor-General shall have declared to be a trunk road ;

"ward" means a portion of the town sub-divided in accordance with section 3.

3. For the purposes of this Ordinance, the Governor-General in Council may from time to time by order delimit the town and divide the same into such number of wards as may be deemed expedient ;

Delimitation
of the town
of Lagos.

Provided that no such delimitation and division shall take effect in respect of any election held within three months after the date of such Order.

PART II.—POWERS OF THE GOVERNOR-GENERAL IN COUNCIL AND THE MINISTER

4. (1) The Governor-General in Council may cause such inquiries to be held at such times and in such places as he may consider necessary or desirable for the purpose of carrying out the provisions of this Ordinance and ensuring the efficient local government of the town.

Power to
hold
inquiries.

(2) The Governor-General in Council may appoint in writing any person to conduct any such inquiry.

(3) A person so appointed may sit with or without assessors and shall submit a report of such inquiry to the Governor-General in Council.

(4) The Governor-General in Council or person appointed by him under this section shall cause a notice of the time and place of the inquiry to be given to the council and persons appearing to him to be interested.

(5) Where the Governor-General in Council causes any inquiry to be held the costs of such inquiry shall be defrayed by the council or such person as he may direct and the amount certified by him to be paid by the council or such person shall be a debt due to the Governor-General in Council from the council or that person.

Powers of
Governor-
General
in Council
or person
appointed
to hold
inquiry.

5. The Governor-General in Council and any person appointed by him in writing under section 4 shall have the following powers :

(a) to procure all such evidence, written or oral, and to examine all such persons as witnesses as the Governor-General in Council or person appointed by him may think necessary ;

(b) to require the evidence of any witness to be made on oath or declaration, such oath or declaration to be that which could be required of the witness if he were giving evidence in a magistrate's court ;

(c) to summon any person or procure any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession ;

(d) to issue a warrant to compel the attendance of any person who, after having been summoned to attend, fails to do so, and does not excuse such failure to the satisfaction of the Governor-General in Council or person appointed by him, and to order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his refusal to obey the summons, and also to fine such a person a sum not exceeding fifty pounds, such fine to be recoverable in the same manner as a fine imposed by a magistrate's court ;

(e) to enter upon any land, including Crown land, for the purpose of obtaining information or evidence ; and

(f) to admit any evidence whether written or oral which might be inadmissible in civil or criminal proceedings.

6. A person called as a witness in any inquiry held under section 4 shall not be excused from answering any questions on the ground that the answer thereto might criminate or tend to criminate him or on the ground of privilege :

Provided that an answer by a person to a question put by or before the person presiding at the inquiry shall not, except in the case of any criminal proceedings for perjury in respect of such evidence, be in any proceedings, civil or criminal, admissible in evidence.

7. If the council shall fail to do or carry out any work or thing which it is or may be empowered under the provisions of this or any other Law or Ordinance to do or carry out, or shall fail to make, amend, revoke or enforce any bye-laws on any matters upon which it is empowered to make, amend, revoke or enforce bye-laws, and such failure on the part of the council constitutes, in the opinion of the Governor-General in Council, a danger to the health, safety, or welfare of the public within or without the town, the Governor-General in Council may give notice to the council, requiring it to take measures within its powers under the provisions of this or any other

Obligation
of witness
at inquiry
to answer.

Failure of
council to
carry out
work or
make or
enforce
bye-laws.

Law or Ordinance to abate and remove such danger within such time as he may specify and if the council shall fail to take and properly carry out the required measures, the Governor-General in Council, upon being satisfied that the council has so failed without reasonable cause, may :—

(a) make such bye-laws as may be necessary to abate and remove such danger, and such bye-laws shall, until revoked by the Governor-General in Council, have the force and effect of law within the town ;

(b) authorise any person or persons to do or carry out any works or things and to spend such moneys in so doing or carrying out any works or things as to him may seem necessary and such person or persons shall be deemed to have vested in him or them all of the powers of the council in respect of the doing or carrying out of the particular work or thing ; and any moneys so expended under the authority of the Governor-General in Council shall be a debt due to the Governor-General in Council charged on the revenue of the council.

8. The Governor-General in Council may by notice in the Gazette appoint for, in and over the town of Lagos, a Local Government Inspector and such Assistant Local Government Inspectors as may be deemed necessary.

Appointment
of a Local
Government
Inspector
and
Assistant
Inspectors.

9. The said Local Government Inspector and Assistant Local Government Inspectors shall, in addition to such powers as are conferred upon them in this Ordinance and as may be delegated to them, have a right of access to all council and committee meetings and shall at all reasonable times have access to and be entitled to inspect all books, accounts, cash, bank books and records of the council, and may advise the council in regard to any of its functions under this Ordinance.

Powers of
Local
Government
Inspectors.

9A. The Governor-General may make regulations prescribing or providing for—

Power to
make
regulations.

(a) means of ensuring that any service provided by the council in respect of which a grant may be paid under section 93A is maintained in accordance with such standards as the Minister may require ;

(b) the establishment of a commission to be known as the Municipal Service Commission for the purpose of advising the council on matters relating to appointments and conditions of service of employees of the council, and the constitution, powers, duties, procedure and other matters relating to the commission ;

(c) the establishment of a board to be known as the Municipal Transport Board for the purpose of administering the transport service provided by the council ;

(d) the form in which estimates shall be submitted under section 94.

PART III.—CONSTITUTION OF THE COUNCIL, MEMBERSHIP,
QUALIFICATIONS AND ELECTIONSEstablish-
ment of
council.

10. (1) There shall be in and for the town of Lagos a town council consisting of a President, traditional members, and councillors, and the council shall have all such functions as are vested in it by this Ordinance or otherwise.

(2) The council shall be a body corporate by the name of "The Lagos Town Council", and shall have perpetual succession and a common seal.

Provision for
President of
the council.

11. (1) The Oba of Lagos shall be the President of the council.

(2) The remuneration of the President shall, with effect from the 1st day of April, 1959, be eighteen hundred pounds per annum which shall be paid from the funds of the council, together with such allowances as may be voted by the council and approved by the Minister."

(3) The President shall preside at and open every meeting of the council at which he is present and may address the council at such opening but subject to the provisions of section 12 (2) shall not take any further part in the proceedings of a meeting of the council.

Election of a
Chairman,
etc.,

12. (1) The council shall elect annually from among the traditional members and councillors a Chairman who shall preside at its meetings other than meetings presided over by the President in accordance with subsection (3) of section 11 and subsection (2) of this section and shall act as President whenever the President is absent from Lagos or there is no Oba of Lagos or if for any other reason the President is unable to perform his duties.

(1A) The remuneration of the chairman shall be such as may be voted by the council with the approval of the Minister, together with such allowances as may be so voted and approved.

(1B) The members of the council shall receive such sitting allowances as may be voted by the council and approved by the Minister.

(2) The election of the Chairman shall be the first business transaction at the annual meeting of the council (held in accordance with rule 1 of the rules in the Third Schedule hereto). The meeting shall be presided over by the President but only Councillors shall have a vote at such election, and in the event of an equality of votes the election shall be determined by lot.

(3) The Chairman shall, unless he resigns or becomes disqualified from being a member of the council, hold office until his successor becomes entitled to act as chairman.

(4) No person shall be elected as Chairman without his consent to be so elected.

(5) The Chairman, at any time during his term of office, may resign from his office, or may be removed from his office by a resolution carried by three-fourths of the total membership of the council other than traditional members.

(6) If the Chairman is absent from a meeting of the council at which he is entitled to preside such member as the members of the council other than traditional members present shall elect for the purpose shall preside.

Third
Schedule.Traditional
members.

13. (1) The traditional members of the council shall be the four persons recognised by the Governor-General, acting in his discretion, as the persons elected from among their own number by the members of each of the three classes of White Cap Chiefs and the War Chiefs in Lagos to represent them.

(2) A traditional member shall come into office on the day that his election is recognised by the Governor-General and shall hold office until the next election of traditional members.

14. Subject to the provisions of this Ordinance, the Governor-General in Council may make regulations for the election of traditional members including (without prejudice to the generality of the foregoing power) the following matters that is to say :

- (a) the qualifications of candidates for election ;
- (b) the method of nominating candidates ;
- (c) the holding of elections and the method of voting ;
- (d) the conditions on which traditional members shall remain in the council ; and
- (e) the filling of casual vacancies,

15. (1) Each ward shall be represented in the council by such number of councillors as the Governor-General in Council may in accordance with the provisions of this section and by notification in the Gazette determine to be appropriate, but so that there shall be a total of not more than forty-two councillors returned by all wards.

(2) In determining the number of seats to be allocated to each ward, the Governor-General in Council shall have regard to the population of each ward, and for such purpose may consider such census returns and voters lists then in existence and such other information as he may consider appropriate.

(3) A determination in accordance with the provisions of this section shall be notified as aforesaid not later than the 15th day of October, 1956, and no determination thereafter made shall be effective in respect of any election held within three months after the date of the notification of such determination.

15A. (1) Councillors shall be elected in accordance with the remaining provisions of this Part.

(2) There shall be an election on the 15th day of January, 1957, and on the 15th day of October, 1959, and thereafter there shall be an election every three years.

(3) A newly elected councillor shall come into office on the day of his election and his term of office shall be until the next election thereafter.

16. (1) The persons entitled to vote at an election of a councillor for a ward shall be those persons whose names appear upon the official list of voters for the ward in which they reside on the qualifying date.

(2) A voter shall not give more than one vote for any one candidate, and shall not give more votes in all than the total number of councillors to be elected for the ward in which he votes.

Number, qualifications, term of office and retirement of traditional members.

Regulations as to election of traditional members.

Allocation of seats.

Election of councillors, times of election, and terms of office.

Persons entitled to vote.

Qualifica-
tions and
disqualifica-
tions of
voters.

17. (1) Every person, whether male or female, shall be qualified to vote and entitled to be registered as a voter for any one ward on the list of voters prepared and revised under this Ordinance for the ward in which he or she resides who—

(a) on the qualifying date, has attained the age of twenty-one years, and

(b) on the qualifying date was ordinarily resident in Lagos and is a British subject or a British protected person, and for the purpose of this paragraph ordinary residence shall be determined by reference to the tests applied for the purpose of an election to the House of Representatives.

(2) Notwithstanding the provisions of subsection (1) of this section, no person who—

(a) is by virtue of his own act under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;

(b) has, in any part of Her Majesty's dominions or in any territory under Her Majesty's protection or in any territory in which Her Majesty has from time to time jurisdiction, been sentenced to death or imprisonment by whatsoever name called for a term exceeding six months, and has not suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor or received a free pardon;

(c) is under any law in force in Nigeria declared to be of unsound mind or adjudged to be a lunatic; or

(d) is disqualified in accordance with any law relating to corrupt practices at elections,

shall be registered as a voter or being registered shall be entitled to vote at the election of a councillor.

18. Subject to the other provisions of this Ordinance, the preparation of the official lists of voters shall be carried out in accordance with the rules contained in the First Schedule hereto.

Preparation
of official
lists of
voters.
First
Schedule.

19. The Governor-General in Council may for the purpose of an election under this Ordinance appoint a chief electoral officer who shall—

(a) exercise general direction and supervision over the administrative conduct of elections;

(b) issue such instructions as from time to time he may deem necessary to ensure effective execution of the provisions of this Ordinance;

(c) execute and perform all other powers and duties which in this Ordinance are imposed upon him; and

(d) receive from the funds of the council such remuneration as the Governor-General in Council may determine.

Appointment
of chief
electoral
officer.

20. The Governor-General shall appoint a chief registration officer and a returning officer as occasion may arise and may provide that one person shall hold both offices.

Chief registration officer and returning officer.

21. The returning officer shall receive from the funds of the council such remuneration as the Minister may determine.

Remuneration.

22. (1) The returning officer may, by writing under his hand, appoint one or more fit persons (but not more than there are wards in which elections are taking place) to be his deputy or deputies for all or any purposes of an election.

Deputy returning officer.

(2) A deputy shall receive such remuneration as the Minister may determine.

(3) Any functions which the returning officer is authorised or required to discharge in relation to the election may be discharged by a deputy so appointed.

23. The chief registration officer may, with the approval of the Minister, appoint registration officers and revising officers who shall receive such remuneration from the funds of the council as the Minister may determine.

Registration and revising officers.

24. Subject to the other provisions of this Ordinance, an election of councillors shall be conducted in accordance with the regulations contained in the Second Schedule hereto.

Conduct of election.
Second Schedule.

25. (1) For the purposes of an election there may be constituted in each ward such number of polling divisions with such boundaries as the returning officer may by order appoint.

Polling divisions optional.

(2) Each polling division shall contain such number of persons entitled to vote as the returning officer may determine.

26. (1) All expenditure properly incurred by the chief electoral officer or by a returning officer in relation to the preparation or revision of lists of voters or to the holding of an election of councillors or traditional members shall be paid by the council.

Expenses of election.

(2) Before a poll is taken at an election of councillors, the council shall, at the request of the returning officer, advance to him such sum as the returning officer may consider necessary.

(3) The Minister may by regulation prescribe a scale of maximum charges in respect of services rendered and expenses incurred by the returning officer for the purposes of or in connection with an election of councillors, and may revise the scale as and when he thinks fit.

(4) Subject to the preceding subsection, the returning officer shall be entitled to his reasonable charges, not exceeding the sums specified in the said scale, in respect of services and expenses of the several kinds so specified which have been properly incurred by him for the purposes of or in connection with an election of councillors.

Qualifications for election and holding office.

27. Every person shall, unless disqualified by virtue of this Ordinance or any other enactment, be qualified to be elected and to be a councillor if—
(a) he is a British subject or British protected person of not less than twenty-one years of age, and
(b) his name appears in the official lists of voters.

Re-election.

28. A person ceasing to hold any office to which he is elected under this Ordinance shall, unless he is not qualified or is disqualified, be eligible for re-election.

Disqualifications for election and holding office.

29. (1) Subject to the provisions of this section, a person shall be disqualified for being elected or being a councillor if he—

(a) holds any paid office or other place of profit (other than that of chairman of the council) in the gift or disposal of the council or of any committee thereof, or

(b) is a person who has made a composition or arrangement with his creditors, or

(c) has within five years before the day of election or since his election been surcharged to an amount exceeding two hundred pounds by the auditor, or

(d) is disqualified for being elected or for being a councillor under any enactment relating to corrupt or illegal practices, or

(e) has been convicted of treason, or within five years before the date of the election, or since his election, has been convicted of felony, and has been sentenced to a term of imprisonment exceeding three years therefor, or of any offence involving dishonesty; or

(f) is under any law in force in Nigeria declared to be of unsound mind or adjudged to be a lunatic.

(2) Notwithstanding anything in subsection (1)—

(a) a person who is appointed or nominated by the council either as its representative on, or as a member of, any authority, board or body, and as such representative or member receives any remuneration in respect of his services, shall not be deemed to hold any paid office or other place of profit in the gift or disposal of the council if he pays to the council the amount so received, less any allowance in respect of travelling or subsistence expenses;

(aa) a person who is appointed or nominated by the council either as its representative on, or as a member of, any authority, board or body, and as such representative or member receives any remuneration in respect of his services, shall not, if the receipt and retention by such person of such remuneration and the amount of such remuneration have been approved in writing by the Minister, be disqualified for being elected or being a councillor;

(b) the disqualification attaching to a person by reason of his having made a composition or arrangement with his creditors shall cease—

(i) if he pays his debts in full, on the date on which the payment is completed, or

(ii) in any other case, on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled;

(c) for the purposes of paragraphs (c) and (e) of subsection (1) of this section, the person concerned shall be deemed to have been surcharged or convicted, as the case may be, as on the ordinary date on which the period allowed for making an appeal or application with respect to the surcharge or conviction expires or, if such an appeal or application is made, as on the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof.

30. The acts and proceedings of a person elected to an office under this Ordinance and acting in that office shall, notwithstanding his want of qualification or his disqualification, be as valid and effectual as if he had been qualified or not disqualified.

Validity of acts done by unqualified persons.

31. (1) A person elected to the office of councillor shall not, unless he has made a declaration of acceptance of office in a form to be prescribed by the Minister and the declaration has within two months after the day of election been delivered to the town clerk, act in the office except for the purpose of making such a declaration.

Declaration of acceptance of office.

(2) If the declaration aforesaid is not made and delivered to the town clerk within the appointed time, the office of the person elected shall, at the expiration of that time, become vacant.

(3) The declaration shall be made before—

- (a) two members of the council, or
- (b) the town clerk, or
- (c) a magistrate or a justice of the peace at any place within Her Majesty's dominions, or
- (d) a commissioner for oaths, or
- (e) a British consular officer.

(4) A person before whom a declaration is authorised to be made under this section may take the declaration.

32. (1) A person elected to the office of councillor may at any time resign his office by writing signed by him (in this Ordinance referred to as the "notice of resignation") and delivered to the town clerk.

Resignation.

(2) The resignation shall take effect on the receipt by the town clerk of the notice of resignation.

33. If a member of the council fails throughout a period of three consecutive months to attend any meeting of the council or of a committee thereof, he shall, unless the failure was due to some reason approved by the council, cease to be a member of the council: Provided that a member of any branch of Her Majesty's naval, military or air force, when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of Her Majesty in connection with war or any emergency is such as, in the opinion of the Governor-General to entitle him to relief from disqualification on account of absence, shall not cease to be a member of the council by reason only of failure to attend meetings of the council or of a committee thereof if the failure is due to that employment.

Vacation of office by failure to attend meetings of council.

Declaration
of vacancy
in office in
certain cases.

34. If a member of the council—

- (a) ceases to be qualified to be a member of the council, or
- (b) becomes disqualified from being a member of the council by reason of any matter other than a surcharge, a conviction, or a breach of any enactment relating to corrupt or illegal practices, or
- (c) ceases to be a member of the council by reason of failure to attend meetings of the council,

the town clerk (with the approval of the chairman) shall, except in any case in which a declaration has been made by the High Court of Lagos under the provisions of section 51 of this Ordinance (which relate to proceedings in respect of disqualification), forthwith declare his office to be vacant and signify the vacancy by notice signed by him and affixed to the office of the council.

Date of
casual
vacancies.

35. For the purpose of filling a casual vacancy in any office for which an election is held under this Ordinance, the vacancy shall be deemed to have occurred—

- (1) in the case of non-acceptance of office by any person who is required to make and deliver a declaration of acceptance of office, on the expiration of the period appointed under section 31 for the delivery of the declaration ;
- (2) in the case of resignation, on the receipt of the notice of resignation by the town clerk ;
- (3) in the case of death, on the date of death ;
- (4) in the case of disqualification by reason of a surcharge or conviction on the expiration of the ordinary period allowed for making an appeal or application with respect to the surcharge or conviction or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof ;
- (5) in the case of an election being declared void on an election petition, on the date on which the report or certificate of the High Court of Lagos is made or given ;
- (6) in the case of a person ceasing to be qualified to be a member of the council or becoming disqualified from being such a member for any reason other than any of those set out in the foregoing paragraphs of this section or ceasing to be a member of the council by reason of failure to attend meetings of the council, on the date on which his office is declared to have been vacated either by the High Court of Lagos or by the town clerk, as the case may be.

Filling of
casual
vacancy in
case of
Chairman.

36. On a casual vacancy occurring in the office of Chairman, an election to fill the vacancy shall be held after the expiration of a period of fourteen days from the date on which the vacancy occurs, and shall be conducted in the same manner as an ordinary annual election to the office of Chairman ; and a meeting of the council for the election may be convened by the town clerk.

Filling of
casual
vacancy in
case of
councillors.

37. (1) Subject to the provisions of this section, on a casual vacancy occurring in the office of councillor, an election to fill the vacancy shall be held—

- (a) in a case in which the High Court of Lagos or the town clerk has declared the office to be vacant, within sixty days after the date of the declaration ;

(b) in any other case, within sixty days after the town clerk has declared the office to be vacant;
and shall be conducted in the same manner as an ordinary election.

(2) The day of election to fill a casual vacancy shall be fixed by the returning officer.

(3) Where a casual vacancy occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, an election under this section shall not be held to fill the vacancy, but the vacancy shall be filled at the next ordinary election: Provided that if on a vacancy, or a number of simultaneous vacancies, so occurring the total number of unfilled vacancies in the membership of the council exceeds one-third of the whole number of members of the council this subsection shall not apply to that vacancy or those vacancies.

38. A person elected under this Ordinance to fill a casual vacancy shall, unless he resigns or becomes disqualified from being a member of the council, hold office until the date on which the person in whose place he is elected would in ordinary course have retired, and shall then retire, but shall be eligible for re-election.

Term of office of persons filling casual vacancies.

39. Any notice required to be given in connection with an election held under this Ordinance may relate to more than one ward.

Notice as to elections.

40. (1) Notwithstanding the date specified in section 15A for the holding of any election, if for any reason the holding of the election on the date specified shall appear to be impracticable the Governor-General in Council shall by order appoint a different date for the holding of such election (such date to be subsequent but as near as possible to the date specified), and for the purpose of facilitating the holding of that election may by the same or another order appoint dates, for all or any of the purposes for which dates are specified in the First and Second Schedules hereto, different from the dates so specified.

Special provisions relating to the holding of first election.

PART IV.—ELECTION OFFENCES

41. (1) If any corrupt practice, or any offence against sections 48 or 50 of this Ordinance or against regulation 43 of the regulations in the Second Schedule hereto, is committed by any candidate elected at an election held under the provisions of this Ordinance the election of such candidate shall be invalid.

Corrupt practices. Second Schedule.

(2) The expression "corrupt practice" as used in this Ordinance includes any of the following offences:

(a) personation;

(b) treating;

(c) undue influence;

(d) bribery, and

(e) aiding, abetting, counselling or procuring the commission of any of the aforesaid offences.

(3) A corrupt practice shall be deemed to be committed by a candidate if it is committed with his knowledge and consent, or with the knowledge and consent of a person who is acting under the general or special authority of such candidate with reference to the election.

Personation
and punish-
ment for
personation.

42. (1) Any person who at an election applies for a ballot paper in the name of some other person, whether that name be the name of a person living or dead, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation.

(2) Every person who is guilty of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation, shall be liable on conviction to a fine of fifty pounds or to imprisonment for six months.

(3) It shall be the duty of the returning officer at an election to institute proceedings against any person whom he may have reasonable cause to believe to have been guilty of the offence of personation.

(4) A person charged with the offence of personation shall not be convicted except on the evidence of not less than two credible witnesses.

Costs of
returning
officer in
legal
proceedings.

43. All costs properly incurred by the returning officer in the institution of legal proceedings arising out of an election under this Ordinance shall be deemed to form part of the expenses properly incurred by him in relation to the holding of the election.

Persons
deemed to
be guilty of
treating.

44. The following persons shall be deemed guilty of treating—

(a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides, or pays, wholly or in part, the expense of giving or providing any food, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election and

(b) every voter who corruptly accepts or takes any such food, drink, entertainment, or provision.

Undue
influence.

45. Every person who directly or indirectly by himself or by any other person on his behalf, makes use of or threatens to make use of, any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person, in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting, at any election, or who by abduction, duress, or any fraudulent device or contrivance impedes or prevents the free use of the vote by any voter or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any election, shall be guilty of undue influence.

Persons
deemed to
be guilty of
bribery.

46. The following persons shall be deemed guilty of bribery—

(a) every person who directly or indirectly by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money

or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or for any other person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting, at any election ;

(b) every person who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure, any office, place or employment to or for any voter or to or for any person on behalf of any voter or to or for any other person, in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election ;

(c) every person who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person, in order to induce such person to procure, or to endeavour to procure, the return of any person as a member of the council or the vote of any voter at any election ;

(d) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures, or engages, or promises or endeavours to procure the return of any person as a member of the council or the vote of any voter at any election ;

(e) Every person who advances or pays, or causes to be paid, any money to or for the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly pays, or causes to be paid, any money to any person, in discharge or payment of any money wholly or in part expended in bribery at any election ;

(f) every voter who, before or during any election, directly or indirectly by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election ;

(g) every person who after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at any such election : Provided that the aforesaid provisions shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bona fide* incurred at or concerning any election.

47. (1) Every person who is guilty of bribery, treating or undue influence shall be liable on conviction to a fine of one hundred pounds or to imprisonment for one year.

(2) Every person who is convicted of bribery, treating, undue influence, or personation, or of aiding, abetting, counselling, or procuring the commission of any of the said offences, shall (in addition to any other punishment) be incapable, during a period of seven years from the date of his conviction—

(a) of being registered as a voter or voting at any election of a councillor ;

Punishment
of bribery,
treating and
undue
influence.

(b) of being elected as a councillor or as a traditional member or, if elected before his conviction, of retaining his seat as such councillor or traditional member.

Punishment
for defacing,
destroying,
etc., any
ballot paper.

48. (1) Every person who—

(a) forges, counterfeits or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing the same to be forged, or

(b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper, or

(c) without due authority supplies any ballot paper to any person, or

(d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in, or

(e) fraudulently takes out of the polling station any ballot paper, or

(f) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of the election,

shall be guilty of an offence, and be liable to a fine of fifty pounds or to imprisonment for six months.

(2) Any attempt to commit any offence specified in this paragraph shall be punishable in the manner in which the offence itself is punishable.

(3) In any prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes and instruments, as well as the property in the counterfoils, may be stated to be in the returning officer.

Infringement
of secrecy.

49. (1) The returning officer and his assistants at the taking of the poll and every candidate and candidate's agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any voter who has or who has not applied for a ballot paper or voted at that station, or as to the official mark in use for marking ballot papers; and no person whatsoever shall interfere with or attempt to interfere with a voter when casting his vote or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number of the ballot paper given to any voter at such station.

(2) The returning officer and his assistants at the counting of the votes and every candidate and candidate's agent, and every other person whatsoever in attendance at the counting of the votes, shall maintain, and aid in maintaining, the secrecy of the voting and shall not attempt to ascertain at such counting the number of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given on any particular ballot paper.

(3) Every person who acts in contravention of the provisions of this section shall be liable on conviction to a fine of fifty pounds or to imprisonment for six months.

50. Every person who—

(a) votes, or induces or procures any person to vote, at any election, knowing that he or such other person is prohibited by the provisions of this Ordinance or by any other law, from voting at such election; or

(b) before or during an election, knowingly or recklessly publishes any false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate; or

(c) before or during an election, for the purpose of influencing the election, publishes any false statement of fact in relation to the personal character or conduct of any candidate;

shall be guilty of an illegal practice, and being convicted thereof, shall be liable to a fine not exceeding fifty pounds or to imprisonment for six months, and shall be incapable, during a period of five years from the date of his conviction, of—

(i) being registered as a voter or of voting at any election of a councillor

(ii) being elected as councillor or as a traditional member, or if elected before his conviction of retaining his seat as such councillor or traditional member.

Punishment
of persons
guilty of
certain illegal
practices.

PART V.—LEGAL PROCEEDINGS IN RESPECT OF DISQUALIFICATION
AND ELECTIONS

51. (1) Proceedings may be instituted in the High Court of Lagos against any person acting or claiming to be entitled to act as Chairman or councillor or traditional member on the ground of his being disqualified within the meaning of this section from so acting: Provided the proceedings under this section on the ground of a person acting as aforesaid shall not be instituted after the expiration of six months from the date on which he so acted.

Proceedings
in respect of
disqualifica-
tion.

(2) If in proceedings under this section it is proved that the defendant acted as Chairman or councillor or traditional member while disqualified for so acting, the court may—

(i) make a declaration to the effect that the defendant acted as aforesaid while disqualified for so acting and declare that the office in which he acted is vacant;

(ii) grant an injunction restraining him from so acting;

(iii) order that he shall forfeit to Her Majesty such sum as the court thinks fit, not exceeding fifty pounds for each occasion on which he so acted while disqualified.

(3) If in proceedings under this section it is proved that the defendant claims to be entitled to act as Chairman or councillor or traditional member and is disqualified from so acting, the court may make a declaration to the effect that the defendant claims to be entitled so to act and is disqualified for so acting and declare that the office in which the defendant claims to be entitled to act is vacant, and grant an injunction restraining him from so acting.

(4) No proceedings shall be instituted under this section by any person other than a registered voter, or the Attorney-General of the Federation.

Limitation
of proceed-
ings in
respect of
disqualifica-
tion.

52. Except as provided by section 51, no proceedings shall be instituted against a person on the ground that he has, while disqualified for acting as Chairman or councillor or traditional member, so acted or claimed to be entitled so to act.

Persons
deemed
to be
disqualified.

53. For the purposes of section 51 a person shall be deemed to be disqualified for acting as Chairman or councillor or traditional member—

(a) if he is not qualified, or is disqualified, to be a councillor or traditional member or to hold the office of Chairman; or

(b) if by reason of failure to make and deliver the declaration of acceptance of office within the period required, or by reason of resignation or failure to attend meetings of the council, he has ceased to be a councillor or traditional member or to hold the office of Chairman.

Presentation
of election
petition.

54. A petition complaining of an undue return or undue election of a councillor or traditional member (hereinafter called an election petition) may within one month from the date of the publication of the result of the election be presented to the High Court of Lagos in its civil jurisdiction by any one or more of the following persons, that is to say—

(1) some person who voted or had a right to vote at the election to which the petition relates, or

(2) some person who claims to have had a right to be returned or elected at such election, or

(3) some person who alleges himself to have been a candidate at such election, or

(4) the Attorney-General of the Federation.

Security
for costs.

55. (1) At the time of presenting an election petition, or within such time as the Court may order, the petitioner shall give security for the payment of all costs, charges and expenses which may become payable by him to any witness summoned on his behalf or to any respondent.

(2) The security shall be of such amount and shall be given in such manner as the Court may order, and in the event of any failure to comply with such order no further proceedings shall be had on the petition.

Trial of
election
petition.

56. (1) Every election petition shall be tried by the High Court of Lagos, in open court.

(2) At the conclusion of the trial, the Court shall determine whether the Councillor or traditional member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination to the town clerk; and, upon such certificate being given, such determination shall be final and shall not be subject to review in any other legal proceedings whatsoever; and the election shall be confirmed, or a new election shall be held, as the case may require, in accordance with such certificate.

Procedure.

57. The procedure in proceedings under this Part shall, as near as circumstances will admit, be the same, and the Court shall have the same power, jurisdiction, and authority, as if it were trying a civil action; and witnesses shall be subpoenaed and sworn in the same manner, as near as circumstances will admit, as in the trial of a civil action in the High Court of Lagos, and shall be subject to the same penalties for perjury.

PART VI.—MEETINGS AND PROCEEDINGS OF THE COUNCIL

58. The provisions of the Third Schedule hereto shall have effect as regards the meetings and proceedings of the council.

Meetings
and pro-
ceedings.
Third
Schedule.

59. (1) If a member of the council has any pecuniary interest direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the council at which the contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter: Provided that this section shall not apply to an interest in a contract or other matter which a member may have as rate-payer or inhabitant of the town, or as an ordinary consumer of electricity, or water, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

Disability
of members
for voting in
certain cases.

(2) For the purposes of this section, a person shall (subject to the succeeding provisions of this subsection) be treated as having indirectly a pecuniary interest in a contract or other matter if—

(a) he or any nominee of his is a member of a company or other body with which the contract is made or is proposed to be made, or which has a direct pecuniary interest in the contract or other matter under consideration; or

(b) he is a partner, or is in the employment, of a person with whom the contract is made or is proposed to be made, or who has a direct pecuniary interest in the contract or other matter under consideration: Provided that—

(i) this subsection shall not apply to membership of, or employment under, any public body;

(ii) a member of a company or other body shall not, by reason only of his membership, be treated as being so interested if he has no beneficial interest in any shares or stock of that company or other body.

(3) In the case of married persons living together, the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

(4) A general notice given in writing to the town clerk by a member of the council to the effect that he or his spouse or any nominee of his is a member, or in the employment, of a specified company or other body, or that he or his spouse or any nominee of his is a partner or in the employment of a specified person, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company, or other body, or to that person, which may be the subject of consideration after the date of the notice.

(5) The town clerk shall record in a book to be kept for the purpose particulars of any disclosure made under subsection (1) of this section, and of any notice given under subsection (4) thereof, and the book shall be open at all reasonable hours to the inspection of any member of the council.

(6) If any person fails to comply with the provisions of subsection (1) of this section, he shall for each offence be liable on summary conviction to a fine not exceeding fifty pounds, unless he proves that he did not know that contract, proposed contract, or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(7) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Attorney-General of the Federation.

(8) The Minister may, subject to such conditions as he may think fit to impose, remove any disability imposed by this section in any case in which the number of members of the council so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Minister that it is in the interest of the inhabitants of the town that the disability should be removed.

(9) The council or any committee thereof may by standing orders provide for the exclusion of a member of the council from a meeting of the council or of a committee whilst any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration.

PART VII.—COMMITTEES

Appointment
of finance
committee.

60. (1) The council shall appoint a finance committee consisting of members of the council for regulating and controlling the finances of the town.

(2) The number of members of the finance committee and their term of office shall be such as may be fixed from time to time by the council.

Appointment
of commit-
tees other
than finance
committee.

61. (1) The council may appoint a committee for any such general or special purpose as in the opinion of the council would be better regulated and managed by means of a committee.

(2) The number of the members of a committee appointed under this section and their term of office shall be such as may from time to time be fixed by the council.

(3) The local education committee constituted under the Education (Lagos) Ordinance, 1957, shall be deemed to be the education committee of the council and subject to the provisions of that Ordinance shall be exclusively charged with the functions of the council in relation to education.

(4) With the exception of the education committee, committees constituted under this section shall consist of members of the council.

Sub-
committees.

62. (1) A committee appointed under the provisions of this Part may appoint a sub-committee for any such special purpose as the committee may deem expedient, but in the absence of express authority from the council in that behalf, it shall not be lawful for a committee to delegate any of its executive functions to any such sub-committee.

(2) The number of members of a sub-committee and their term of office shall be such as may from time to time be fixed by the committee appointing such sub-committee.

(3) A committee may make, vary and revoke standing orders respecting the place of meeting, quorum and proceedings of any sub-committee appointed by such committee, but save as otherwise provided by any such standing orders, the place of meeting, quorum and proceedings of a sub-committee shall be such as the sub-committee may determine.

63. A person who is disqualified for being elected or being a councillor in accordance with the provisions of section 29 shall be disqualified for being a member of a committee or sub-committee of the council and the provisions in Part V of this Ordinance relating to proceedings in respect of disqualification shall apply as regards any person so disqualified with the substitution therein of references to a member of the committee or sub-committee for references to a member of the council.

Disqualification for membership of committee.

64. The provisions of section 59 relating to the disability of members of the council for voting on, or taking part in the discussion of, certain matters, shall apply in respect of members of a committee or sub-committee, as those provisions apply in respect of members of the council, with the substitution of references to the committee or sub-committee for references to the council; Provided that the right of persons who are members of a committee or sub-committee but not members of the council to inspect the book to be kept under subsection (5) of section 59 shall be limited to an inspection of the entries in the book relating to members of that committee or sub-committee.

Disability for acting as member of committee on account of pecuniary interest

65. (1) The council may, with or without restrictions or conditions, as it thinks fit, delegate to a committee any functions relating to a matter referred to that committee; Provided that the council shall not delegate to a committee the power of levying a rate or of borrowing money, nor power to incur any expenditure on behalf of the council other than expenditure previously authorised in accordance with estimates approved in accordance with section 95.

Delegation to committee.

(2) A committee shall not incur any expenditure in excess of the amount allowed by the council.

66. (1) The council may make, vary and revoke standing orders respecting—

Standing orders.

(a) the matters to be referred, and the functions to be delegated, to a committee;

(b) the place of meeting, quorum and proceedings of any committee.

(2) Except as otherwise provided by any such standing orders the place of meeting, quorum and proceedings of a committee shall be such as the committee may determine.

67. (1) In the case of an equality of votes at a meeting of a committee, the person presiding at the meeting, whether or not he voted or was entitled to vote in the first instance, may give a casting vote.

Proceedings.

(2) Minutes of the proceedings of a meeting of a committee shall be drawn up and shall be signed at the same or a subsequent meeting of the committee by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of a committee in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified, and the committee shall be declared to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

(4) The proceedings of a committee shall not be invalidated by any vacancy among its number or by any defect in the qualification of any of its members.

PART VIII.—OFFICERS AND SERVANTS

Appointment
of officers
and servants.

68. (1) The council shall appoint fit persons to be town clerk, town engineer, medical officer of health, municipal treasurer and chief education officer.

(2) The council shall also appoint such other officers and servants as it may think necessary for the efficient discharge of its functions.

(3) No officer shall render professional assistance or advice to private persons or firms whether on payment or otherwise except by the permission of the Minister and if in exceptional cases such permission is given any remuneration shall be paid into the funds of the council.

Qualifica-
tions for
office of town
clerk.
Cap. 130.

69. A person shall not be appointed as town clerk unless he is a person qualified to practise as a barrister, an advocate or a solicitor in England, Scotland, Northern Ireland, any British Dominion, Colony or Protectorate, or the Republic of Ireland.

Qualifica-
tions for
office of town
engineer.

70. A person shall not be appointed as a town engineer unless he is a member or an associate member of the Institution of Civil Engineers or of the Institution of Structural Engineers or of the Institution of Municipal Engineers.

Qualifica-
tions for
office of
medical
officer of
health.
Cap. 130.

71. (1) A person shall not be appointed as medical officer of health, unless—

(a) he is a duly qualified medical practitioner, registered in accordance with section 8 of the Medical Practitioners and Dentists Ordinance, and

(b) is the holder of a diploma in sanitary science, public health or state medicine.

Qualifica-
tions for
office of
municipal
treasurer.

72. A person shall not be appointed as municipal treasurer unless he is a member or an associate member of the Institute of Municipal Treasurers and Accountants or of the Institute of Chartered Accountants or Association of Certified and Corporate Accountants or of the Society of Incorporated Accountants and Auditors.

Appointment
of deputy
town clerk,
etc.

73. Where the council appoints a town clerk, town engineer, medical officer of health, municipal treasurer or chief education officer, it shall appoint a deputy of that officer for the purpose of acting in the place of the officer whenever the office is vacant or the holder thereof is for any reason

unable to act, and any person appointed as deputy under this section shall, when acting as such, and subject to the terms of his appointment, have all the functions of the holder of the office: Provided that no person shall be appointed deputy town clerk, deputy town engineer, deputy medical officer of health or deputy municipal treasurer unless he is qualified to be appointed as a town clerk, town engineer, medical officer of health or municipal treasurer respectively under the provisions of this Ordinance: Provided further that it shall be a term of the appointment of a deputy medical officer that he shall not engage in private practice as a medical practitioner.

74. (1) No person shall be appointed to or act in any of the offices set out in subsection (1) of section 68 or in section 73 or any other office under the council of which the emoluments, or the maximum of the scale applicable to the post, exceed eight hundred pounds per annum, without the approval in writing of the Minister.

Control of senior appointments.

(2) A person appointed in accordance with the provisions of subsection (1) shall not be dismissed without the approval in writing of the Minister.

75. (1) A vacancy in any of the offices set out in subsection (1) of section 68 or in section 73 shall be filled within six months after its occurrence and where such a vacancy is not so filled the Minister shall be entitled to appoint a fit and proper person to fill such vacancy subject to such person possessing the qualifications required by this Ordinance.

Senior appointments to be made within six months.

(2) Where the period of six months prescribed in subsection (1) has elapsed and the Minister has by writing under his hand notified the town clerk of his intention to appoint a fit and proper person to fill a vacancy, the council shall not thereafter appoint or proceed to appoint any other person.

76. (1) If the office of town clerk, town engineer, medical officer of health, municipal treasurer or chief education officer is vacant, or the holder of the office is for any reason unable to act, and no deputy has been appointed under the provisions of section 73, or the deputy so appointed is unable to act, the council may, subject to section 74 and to the proviso to section 73, appoint a person to act temporarily in that office.

Appointment of persons to act temporarily as senior officers.

(2) Any person so appointed shall, subject to the terms of his appointment, have all the functions of the holder of the office.

77. Notwithstanding the other provisions of this Part the council may, with the approval of the Governor-General appoint to any office in its service a Government officer seconded to the service of the council for that purpose, for such period and on such terms and conditions as the Governor-General may determine.

Appointment of seconded Government officers.

78. (1) The council shall, subject to the provisions of subsection (2) and Part X, determine the remuneration to be paid to, and the terms and conditions of service of, its officers and servants, and may require any officer or servant to give such security as it may think proper for the due execution of the duties of his office.

Remuneration of staff.

(2) The terms and conditions of service of the officers mentioned in subsection (1) of section 68 and in section 73 and in section 76 shall be subject to the approval of the Minister.

Tenure of
office by
staff.

79. (1) Subject to the remaining provisions of this Part, every officer and servant of the council shall hold office during the pleasure of the council, but there may be included in the terms on which he holds office a provision that the appointment shall not be terminated by either party without giving to the other party such reasonable notice as may be agreed; and where, at the date of commencement of this Ordinance, an officer of the council holds office upon terms which purport to include such a provision, that provision shall, as from the commencement of this Ordinance be deemed to be valid.

(2) Where an officer is dismissed or his appointment is terminated (other than in the case of an officer on probation) and the ground of his misconduct was inefficiency such officer may appeal in writing to the Minister.

(3) The Minister may after consideration of any appeal and the representations thereon made by the council, either confirm or set aside the decision of the council and where such decision is set aside the council shall forthwith retrospectively reinstate the officer concerned in his former post on terms and conditions no less favourable than those on which he was formerly employed, subject only to any variation thereof as the Minister may sanction.

(4) The right of appeal shall not apply to such classes of officers, or to officers holding such posts, as the Minister may by order declare, and no appeal shall be entertained unless it is lodged with the Permanent Secretary of the Ministry concerned within three months of the date of dismissal or termination.

Status and
duties of
town clerk.

80. (1) The town clerk shall be the chief administrative officer of the council and shall be responsible for co-ordinating the whole of the work of the council.

(2) He shall devote his whole-time service to the work of the council and shall not engage in any other business or take up any other additional appointment without the consent of the council and the Minister.

(3) He shall be responsible for convening all meetings of the council and its committees and for the preparation of minutes and reports of such council and committees.

(4) He shall advise the council and its committees on all matters upon which his advice is necessary, including the standing orders of the council and local government legislation, and shall be entitled to attend all meetings of the council and of its committees.

(5) He shall advise the President and Chairman of the council on all matters appertaining to their respective offices.

(6) The town clerk shall have the additional powers and duties specified in the Eighth Schedule.

Status and
duties of
town engineer,
medical
officer of
health and
municipal
treasurer.

80A. The status, powers and duties of the town engineer, medical officer of health and municipal treasurer shall be as specified in the Eighth Schedule.

Amendment
of Eighth
Schedule.

80B. The Minister may at the request of the council amend or add to the provisions in the Eighth Schedule."

81. A person shall, so long as he is, and for six months after he ceases to be, a member of the council be disqualified for being appointed by the council to any paid office, other than to the office of President or Chairman.

Members of the council not to be officers.

82. (1) The council may, from time to time, as it considers necessary make and, when made, amend, add to or rescind staff regulations for any or all of the following matters relating to its officers and servants—

Staff regulations.

(a) discipline ;

(b) appointments, remuneration, promotions, termination of appointments, dismissals, and leave ;

(c) the payment of allowances, the grant of advances, and the terms and conditions of service generally ; and

(d) such other matters relating to departmental procedure and the duties and responsibilities of officers and servants as the council considers can be best regulated by such regulations.

(2) Any such regulations in so far as they relate to discipline may, in particular, provide for :—

(a) the suspension from duty of any officer or servant who is accused of misconduct or breach of duty in the exercise of his official functions ;

(b) where such misconduct or breach of duty does not merit dismissal, some lesser punishment including the withholding or deferring of increments, or reduction in rank or salary either permanently or for a stated period ; and

(c) the deduction from salary due or about to become due of such sum (if any) as may be appraised in respect of damage to property.

(3) Staff regulations under this section shall be subject to the approval of the Minister who may amend them before giving approval.

(4) Notwithstanding the provisions of subsection (1) the Governor-General in Council may make staff regulations, relating to officers and servants of the council, for all or any of the purposes set out in this section and any such staff regulations, when made shall prevail over any staff regulations made by the council.

(5) The General Orders and Financial Regulations of the Government of the Federation relating to matters for which provision may be made by regulations under this section shall, if no corresponding regulations under this section are in force, apply to officers and servants of the council with such modifications as may be necessary to make them so applicable.

83. (1) The council may, subject to the provisions of this section make regulations governing the grant of pensions, gratuities and allowances to persons who have been employed by the council, gratuities or allowances to the legal personal representatives, estates, or relatives or persons who die while so employed, and pensions to the widows and children of deceased persons who have been so employed ; and such regulations shall be subject to the approval of the Governor-General in Council.

Pensions and gratuities.

(2) The council may recommend to the Minister that any office shall be declared to be pensionable, and the Minister may thereupon, by notice published in the Gazette, declare such office to be pensionable :

Provided that any office declared to be pensionable may, at any time, on the recommendation of the council, be declared by the Minister by a notification published in the Gazette, to be non-pensionable, due regard being had to existing rights.

(3) For the purposes of this section, where the council has made no regulations under subsection (1), the provisions of the law for the time being in force relating to the granting of pensions, gratuities and other allowance to persons who have been in the service of the Government or to the legal personal representative, estates, relatives, widows, and children of such persons, shall be deemed to apply *mutatis mutandis* to the grant of pensions, gratuities and allowances by the council.

(4) Notwithstanding the provisions of any written Law or Ordinance, no pension, gratuity or other allowances shall be unreasonably reduced or withheld.

84. The council may, subject to the approval of the Minister, grant *ex-gratia* gratuities and allowances to persons who have been employed by the council and who are not qualified for benefit under the provisions of section 83, or where such persons die while so employed, to their legal representatives, estates or relatives.

85. No pension or gratuity or other allowance granted in pursuance of the provisions of this Part, and no rights acquired by any officer in respect of contributions made in pursuance of provisions for the grant of pensions to widows and children of deceased officers, shall be assignable or transferable, or liable to be attached or sequestered, or levied upon for or in respect of any debt or claim whatsoever: Provided that the provisions of this section shall not affect the right of the council or the Government to recover from any sums due or payable to or in respect of any officer any amount owing to the council or the Government by such officer.

86. (1) No officer or servant appointed under this Ordinance shall have any pecuniary concern or interest directly or indirectly by himself or as a member of a partnership (otherwise than as a minority shareholder in a company) in any contract or work made with or executed for the council.

(2) Any officer or servant who is so concerned or interested shall be incapable of holding any office or employment under this Ordinance, and shall be liable on summary conviction to a fine not exceeding twenty-five pounds.

87. Without prejudice to other powers of terminating the employment of any officer or servant it shall be lawful for the council to require an officer or servant to retire from the service of the council when he attains the age of fifty-five years or at any time thereafter, and unless the council by resolution in a particular case, or with regard to any particular class of officers, otherwise determines, all officers shall retire on attaining that age.

PART IX.—MUNICIPAL PROPERTY, ETC.

88. (1) The title to all land immediately before the 12th day of November, 1953, vested in the old council shall be and is hereby, upon the 12th day of November, 1953, vested in the council without further assurance.

(2) All assets, funds and investments, and all rights and liabilities, whether contractual or otherwise, of the old council shall be and are hereby, on the 12th day of November, 1953, transferred to the council.

Gratuities
and
allowances
ex-gratia.

Gratuities,
etc., not
liable to
attachment.

Staff not
to be
interested in
contracts.

Age of
compulsory
retirement.

Transfer
and vesting
of property,
etc.

89. The council shall have power to acquire and to hold, manage and dispose of property for the purposes of its functions under this or any other Ordinance.

Powers to acquire and hold property.

90. (1) All the moneys specified in subsection (2) hereof which may be received by the council shall constitute a fund, to be called the municipal fund, and shall, subject to the provisions of this Ordinance, be under the control of the council.

Municipal fund.

(2) The municipal fund shall consist of:—

(a) all rates, fees, fines, penalties and charges imposed, and all other revenues accruing under this Ordinance, except revenue accruing from any transport services provided by, or trading undertaking engaged in and maintained by, the council;

(b) except as the law may otherwise provide or as may be ordered by the Governor-General, all rates, fees, tolls, penalties, charges and taxes imposed and collected under the provisions of any Ordinance or any Law conferring powers or imposing duties upon the council or any officer of the council;

(c) any grants or other sums payable out of the general revenues of Nigeria, or out of the revenues of any water, electricity, railway or other undertaking established and maintained by the Government, in lieu of rates or for any general or specific purpose or for services rendered;

(d) such part of the profits of any transport or trading undertaking engaged in and maintained by the council as the council may determine;

(e) all revenue of any kind arising from the property of the council or from any Crown lands set aside by the Governor-General in Council for the use of the council; and

(f) all other sums of whatever nature, not hereinbefore specifically mentioned, accruing to the council.

91. The revenues accruing in respect of any transport or trading undertaking engaged in and maintained by the council under the provisions of this Ordinance shall not be paid to or form part of the municipal fund but shall, subject to the provisions of paragraph (d) of section 90, be applied and used solely for the purposes of such undertaking.

Certain revenues not to form part of municipal fund.

92. (1) Subject to the provisions of Part X, the council is hereby authorised to expend:—

Authorised expenditure.

(a) such sums as may be necessary for the due and proper execution of its functions or to meet liabilities and obligations properly incurred by the council or any officer of the council under this or any other Ordinance; and

(b) such sums as it may think fit for the special or general purposes specified in the Fourth Schedule hereto.

Fourth Schedule.

(2) Notwithstanding any other provisions of this Ordinance the Governor-General in Council may by order add to, or delete from the Fourth Schedule any item on which expenditure may be incurred, or amend the Schedule so as to proscribe a limit to the expenditure which may be incurred in any particular case.

(3) All expenditure incurred under the authority of this section shall be met from the municipal fund, except any portion thereof as may properly relate to any transport or trading undertaking engaged in and maintained by the council which shall be met from the funds of any such undertaking.

Power to
accept gifts.

93. The council may accept, hold and administer any gift of property for any public purpose, or for the benefit of the inhabitants of the town or any part thereof, and may execute any works (including works of maintenance and improvement) incidental to or consequential on the exercise of the powers conferred by this section.

Grants
payable
from public
revenues.

93A. (1) Grants may be paid to the council in accordance with the provisions of this section out of the general revenues of Nigeria in respect of expenditure by the council on the services specified in the first column of the Table hereunder of amounts equivalent to—

- (a) in respect of expenditure other than capital expenditure, the percentage of such expenditure specified in the second column of the Table; and
- (b) in respect of capital expenditure, the percentage of such expenditure specified in the third column of the Table.

TABLE

Service	Percentage of Grant	
	Ordinary Expen- diture	Capital Expen- diture
Health	50	50
Roads Maintenance—Trunk	100	—
Maintenance—Special list	50	—
Improvement and alteration	50	—
Traffic lights	75	100
Street lighting	50	50
Fire Brigade:		
First and second year of expenditure	100	100
Third year of expenditure	75	75
Thereafter	50	50
Welfare	50	50
Education	70	100
Parks Amenity	50	50

(2) Any grant payable under this section shall be paid in accordance with the following provisions—

(a) in respect of expenditure other than capital expenditure—

(i) the grant shall normally be assessed on the audited expenditure of the year preceding the year in which the grant is made;

(ii) the grant shall be paid at the end of each quarter of the year in arrears;

(b) in respect of capital expenditure—

(i) where the expenditure relates to a project and is incurred over a period of time, the grant shall be paid in instalments as the work on the project proceeds ;

(ii) where the expenditure relates to a single payment, the grant shall be paid on a claim, supported by confirming vouchers issued by the council.

(3) No grant shall be paid under this section in respect of capital expenditure unless the expenditure was approved by the Minister before it was incurred and such requirements in relation to the expenditure as the Minister may have made were complied with.

(4) The amount of a grant paid under this section may be reduced by the amount of any debt or part of a debt owed by the council to the Government of the Federation.

(5) The Governor-General may by order amend the Table set out in subsection (1).

93a. The council shall make safe and efficient arrangements for the receipt of monies paid to it and those arrangements shall be carried out under the supervision of the municipal treasurer.

Safe-guarding of monies.

PART X.—ANNUAL ESTIMATES AND ACCOUNTS

94. (1) The council shall, before the end of December in each year, or before any date prescribed in substitution therefor by the Minister, submit to the Minister for approval, estimates of revenue and expenditure for the financial year next following in such a manner as in the opinion of the Governor-General in Council is best calculated to show in sufficient detail the basis of the council's proposals for expenditure in accordance with the provisions of this or any other Ordinance and the proposals for raising revenue to meet the same.

Submission of estimates.

(2) Such estimates shall include—

(i) estimates of the ordinary revenue, including rates to be levied ;

(ii) a statement of the amount (if any) of the surplus balances to be utilised ;

(iii) in the case of the municipal fund, a statement of the amounts (if any) to be transferred to or from revenue from the profits or funds of any transport or trading undertaking ;

(iv) a financial statement ;

(v) estimates of ordinary expenditure ;

(vi) estimates of expenditure from loan balances and proposals as to loans to be raised ; and

(vii) a schedule of the proposed establishment of the staff of each of the council's departments, showing the scale of salary which is proposed for each office or grade therein together with a nominal list of the persons occupying such offices.

(3) Estimates submitted under this section shall be in such form as may be prescribed by regulations made under section 9A.

Powers of
Minister
with regard
to estimates.

95. (1) On consideration of the estimates so submitted the Minister may—

- (a) approve, or disapprove, such estimates as a whole; or
- (b) approve or disapprove of any item, or items, contained therein, and shall notify the council accordingly.

(2) When the Minister approves the estimates as a whole, the council may forthwith incur the expenditure, collect the revenue, and generally put into operation the provisions of the approved estimates, but where the estimates are disapproved as a whole no expenditure shall be incurred and no revenue collected, nor shall any of the general provisions of the estimates be put into operation except such as may be directed by the Minister.

(3) Where the Minister disapproves of any item, or items, in the estimates submitted for approval, the remainder of any such estimates shall be deemed to be the approved estimates, but the council shall not incur any expenditure, nor collect any revenue, as the case may be, in respect of the item or items disapproved.

(4) Where the Minister has disapproved the estimates as a whole, or has disapproved of any item or items in the estimates, and subsequently approves such estimates, or such item or items (as originally submitted or subsequently amended or varied), then such estimates, or such item or items, shall be deemed to be and to have been approved from the beginning of the financial year to which such estimates, or item or items, relate.

Council's
powers
where
approval of
estimates
delayed.

96. If by the first day of the financial year the Minister has not approved or disapproved the estimates, the council shall be deemed to be authorised, until the estimates are finally approved or disapproved, to receive such sums and make such payments as are of a recurrent and ordinary nature, and to make such necessary payments as may relate to continuing expenditure of a special nature, for which an item in the estimates for the previous financial year was duly approved.

Council's
powers
to vary
estimates.

97. (1) The council shall be bound by the Estimates as finally approved by the Minister and shall not incur expenditure unless it is covered by an item in the approved estimates, save as provided in subsections (2), (3) and (4) hereof.

(2) Save as hereinafter provided, the council may reallocate the approved provisions between items within the same sub-head of the approved estimates (but not from one sub-head to another under any head) provided that the total amount reallocated by the council within all sub-heads of a head relating to any committee shall not exceed twenty-five per cent of the original approved provision for that committee, and provided further that no expenditure shall in any case be incurred for a purpose in respect of which an item in the estimates has been disapproved by the Minister.

(3) Save as hereinafter provided, the council may approve expenditure on new items under any sub-head (other than any item already disapproved for the financial year) provided that the total of expenditure so approved is covered by equivalent savings under other items within the same sub-head.

(4) The council may not effect any increase in the approved staff establishment or the regrading of an approved office unless the Minister approves such increase or regrading and (without necessarily requiring the submission of revised estimates) any additional expenditure necessary to give effect to the same.

Revised estimates.

(5) The Minister may approve expenditure on new items of any sub-head without necessarily requiring the submission of revised estimates providing that the total of new items of expenditure so approved shall not exceed ten per cent of the original approved provision for the head.

98. Where in any financial year it appears to the council or the Minister to be necessary, the council may, and if required by the Minister shall, prepare revised estimates of revenue and expenditure in respect of that year, and the provisions of sections 94, 95 and 97 shall *mutatis mutandis* apply to such revised estimates.

99. (1) Notwithstanding any other provisions of this Part, the submission to the Minister of the estimates in respect of expenditure from renewals funds, sinking funds, or any other funds created by the council for specific purposes, shall not, unless the Minister so directs, be necessary, but the council shall not incur any expenditure from any such fund otherwise than for the specific purpose for which it has been created.

Expenditure from special funds.

(2) Where the Minister directs the submission of estimates in respect of any such fund, the provisions of sections 94, 95 and 97 shall apply *mutatis mutandis*.

(3) The council may make advances and operate deposit and suspense accounts within such limits and upon such conditions as shall be approved in writing by the Minister.

100. (1) The council shall cause a true account to be kept of all money received and paid and shall keep separate accounts of any transport or trading undertaking provided or engaged in and maintained by the council and such accounts and the accounts of special funds shall be kept separate from the accounts relating to the municipal fund.

Form of accounts.

(2) Subject to any special directions of the Minister the accounts of the council shall be kept in such manner as in the opinion of the Minister is best calculated to show all transactions and the financial position of the council both in relation to the municipal fund and to any transport or trading undertaking.

101. (1) Such fit and proper person as the Governor-General in Council may appoint shall be the auditor of the accounts of the council, and he shall, if the Governor-General in Council so directs, maintain and keep a continuous audit of such accounts.

Appointment of auditor, and audit of accounts.

(2) The council shall pay such reasonable remuneration to the auditor, or make such payments in respect of his services, as the Governor-General in Council may determine.

102. (1) For the purpose of any audit and examination of accounts under this Ordinance, the auditor may in writing require the production before him of all books, deeds, contracts, accounts, vouchers and other documents or cash which he may deem necessary and may require any person holding or accountable for any such document or cash to appear before him at any such audit and require any such person to make and sign a declaration as to the correctness of the document or cash balance.

Powers of auditor to require production of documents, etc.

(2) If any person neglects or refuses to comply with any such requirement he shall be liable on summary conviction to a fine not exceeding five pounds and if any person knowingly makes or signs any such declaration which is untrue in any material particular he shall be deemed to be guilty of the offence of perjury.

Right of
objection.

103. (1) A registered voter may make any objection to the accounts of the council before the auditor and at the hearing of such objection the voter shall be entitled to be represented by counsel.

(2) The auditor shall, on the application of any person who is aggrieved by his decision on any matter with respect to which that person has made an objection, or of any person aggrieved by a disallowance or surcharge made by the auditor, state in writing the reasons for his decision.

(3) If the auditor is of opinion that an objection made by a registered voter under the provisions of subsection (1) is without merit and either frivolous or vexatious, he may order that reasonable costs be paid by such registered voter to the council, and such order shall have the same effect as a judgment of a court of competent jurisdiction and shall not be the subject of appeal.

Powers of
auditor to
surcharge.

104. (1) It shall be the duty of the auditor :

(a) to disallow every item of account which is contrary to law ;

(b) to surcharge the amount of any expenditure disallowed upon any person responsible for incurring or authorising such expenditure or upon any councillors or traditional members voting in favour of such expenditure ;

(c) to surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account ;

(d) to surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred ;

(e) to certify the amount due from any person upon whom he has made a surcharge ;

(f) to certify at the conclusion of the audit his allowance of the accounts, subject to any disallowance or surcharges which he may have made : Provided that no expenses paid shall be disallowed by the auditor if they have previously been sanctioned by the Minister.

(2) Any loss represented by a charge for interest, or any loss for interest, shall be deemed to be a loss within the meaning of this section, if it arises from failure through wilful neglect or wilful default to make or collect such rates as are necessary to cover the expenditure of the council for any financial year, or to collect other revenues.

105. (1) Any person who is aggrieved by a decision of the auditor on any matter with respect to which he made an objection at the audit, and any person aggrieved by a disallowance or surcharge or other decision relating to an amount not exceeding two hundred pounds, may appeal to a magistrate's court, and may in any other case appeal either to the High Court of Lagos or to the Minister ; Provided that in the case of an appeal to the Minister the decision of the Minister shall be final and shall not be questioned in any court.

Appeals
against
decisions of
auditor.

(2) The Court or Minister on such an appeal shall have power to confirm, vary or quash the decision of the auditor, and to remit the case to the auditor with such directions as the Court or Minister thinks fit for giving effect to the decision on appeal, and if the decision of the auditor is quashed or is varied so as to reduce the amount of the surcharge to two hundred pounds or less, the appellant shall not be subject to the disqualification, by reason of the surcharge, imposed by paragraph (c) of subsection (1) of section 29.

106. (1) In the case of a surcharge, the person surcharged may, whether or not he appeals under the provisions of section 105, apply to the High Court of Lagos for a declaration that in relation to the subject matter of the surcharge he acted reasonably or in the belief that his action was authorised by law, and the Court, if satisfied that there is proper ground for doing so, may make a declaration to that effect.

Applications
for relief.

(2) Where such a declaration is made the person surcharged, if by reason of the surcharge he is subject to the disqualification imposed by paragraph (c) of subsection (1) of section 29, shall not be subject to that disqualification, and the Court may, if satisfied that the person surcharged ought fairly to be excused, relieve him either wholly or in part from personal liability in respect of the surcharge, and the decision of the Court under this section shall be final and shall not be called into question further in any legal proceedings whatsoever.

107. Provision shall be made by rules of court for limiting the time within which appeals and applications may be made to the High Court of Lagos or to a magistrate's court under this Part, and for securing that where an application is made, public notice of the hearing shall be given, and for enabling any registered voter to appear at the hearing and object.

Supplemental provisions
as to appeals
and
applications.

108. Where under this Part of this Ordinance an appeal is made to the Minister, the appellant shall be entitled, if he so desires, to a personal hearing by a person appointed for the purpose by the Minister.

Appellant to
Minister
entitled to
personal
hearing.

109. Every sum certified by the auditor to be due from any person shall be paid by that person to the municipal treasurer, or other officer whose duty it is to keep the accounts, within fourteen days after it has been so certified, or if an appeal or application with respect to that sum has been made, within fourteen days after the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof.

Payment of
sums
certified by
auditor to
be due.

110. (1) Any sum which is certified by the auditor to be due and has become payable shall, on complaint made or action taken by or under direction of the auditor, be recoverable as a civil debt.

Recovery of
sums
certified
by auditor
to be due.

(2) In any proceedings for the recovery of such a sum, a certificate signed by the auditor shall be *prima facie* evidence of the facts certified, and a certificate signed by the municipal treasurer, or other officer whose duty it is to keep the accounts, that the sum certified to be due has not been paid to him shall be *prima facie* evidence of non-payment, unless it is proved that the sum certified to be due has been paid since the date of the certificate.

(3) Unless the contrary is proved, a certificate purporting to be signed by the auditor, or by the municipal treasurer or other officer whose duty it is to keep the accounts, shall be deemed to have been signed by such auditor, municipal treasurer or other officer, as the case may be.

(4) Proceedings to recover sums certified by the auditor to be due shall be commenced within six months from the date of the disallowance or surcharge or, in the event of an appeal or application being made to the High Court of Lagos or to a magistrate's court, within six months from the date on which the appeal or application is finally disposed of or abandoned, or fails by reason of the non-prosecution thereof.

Writing
off of
irrecoverable
arrears of
revenue and
deficiencies
of cash and
stores.

III. (1) The council may from time to time by resolution authorise the writing off (as an irrevocable debt in regard to which no further proceedings need be taken) any sum due or payable to the council from or by any person, on the ground of the poverty of such person or for other sufficient cause: Provided that no such sum shall be written off as an irrecoverable debt without the approval of the Minister if it exceeds fifty pounds in any one case, or if by so writing it off the total sum written off in any financial year will thereby exceed the sum of three hundred pounds.

(2) The council may, from time to time, by resolution write off deficiencies of cash or stores or unserviceable stores: Provided that no sum or stores shall be written off without the approval of the Minister if it exceeds fifty pounds in value in any one case, or if by so writing it off the total sum written off in respect of cash and stores in any one year will thereby exceed the sum of one hundred pounds, or if theft or fraud or an offence against Chapter XLII of the Criminal Code is involved or suspected in connection with the deficiency.

Accounts and
auditor's
report.

112. (1) Within six months of the close of the financial year the council shall cause a summary of the accounts to be prepared and laid before the auditor for examination and report, and shall furnish two copies thereof to the Minister.

(1A) The summary shall include a balance sheet and shall specify—

(a) amounts set aside during the year for repayment of debt by way of periodical contribution to a sinking fund, to a loans fund, or otherwise;

(b) sums borrowed;

(c) sums received from sale or alteration of property;

(d) the amount of the annual revenue, the amount of rates collected and the amount of sums in arrear or remaining unpaid at the close of the accounts;

(e) the amounts of all sums paid and sums remaining unpaid of any expense incurred during the year distinguishing capital expenditure from expenditure out of annual revenue.

(2) The auditor shall after such examination and audit issue the certificate referred to in paragraph (f) of subsection (1) of section 104, and make and sign a report on the audit of the accounts, and shall forward the summary of the accounts and his certificate and report to the council, and two copies thereof to the Minister.

(2A) The Council shall cause the audited accounts to be laid before them and taken into consideration within nine months after the end of the financial year, or within such time as the Minister may in each year prescribe.

(3) The council shall cause copies of the balance sheet and the certificate and report of the auditor thereon to be exhibited at the offices of the council.

(4) The originals of the summary of accounts and the auditor's certificate and report shall be open to the inspection of any voter, at the offices of the council, at all reasonable times, on payment of a fee of one shilling.

PART XI.—BORROWING

113. In this Part, the expression "fixed period" means the period originally fixed as the period within which moneys borrowed by way of mortgage are to be repaid.

Interpretation.

114. (1) The council may borrow by way of temporary loan or overdraft from a bank any sums of money which the council may temporarily require.

Temporary loans, etc.

(2) For the purpose of financing capital expenditure, the council may, subject to the approval of the Minister, borrow moneys from its revenue cash.

115. It shall be lawful for the council to receive a loan from the Government or from the Governor-General in Council for the discharge of any of its functions under this or any other Law upon such terms, including terms as to security, as may be agreed by and between the Government or the Governor-General in Council and the council.

Loans by Government or Governor-General in Council

116. (1) Save as expressly provided in sections 114 and 115, the council shall not borrow money otherwise than—

General borrowing powers.

(a) with the prior sanction of the Minister; and

(b) by way of mortgage, issue of stock, debentures or annuity certificates, as may be approved by the Minister;

(c) for the purposes specified in subsection (2); and

(d) in accordance with the relevant provisions of the succeeding sections contained in this Part.

(2) The purposes for which the council may borrow money otherwise than under the provisions of sections 114 and 115 are hereby declared to be as follows—

(a) for acquiring any land which the council has power to acquire;

(b) for erecting any building which the council has power to erect;

(c) for the execution of any permanent work, the provision of any plant, or the doing of any other thing which the council has power to execute, provide, or do, if, in the opinion of the Minister, the cost of carrying out that purpose ought to be spread over a term of years;

(d) for any other purpose for which the council is authorised under any other Ordinance or Law to borrow.

117. The power of borrowing conferred by this Part shall not be exercised so as to make the total indebtedness of the council for loans, after deducting from such indebtedness the total amount of any sums standing to the credit of any sinking fund created under this Part, exceed such sum as the Minister may from time to time in writing declare.

Limitation upon amount borrowed.

118. A mortgage created by the council shall be made by deed in a form approved by the Minister or in a form to the like effect.

Form of mortgage.

Transfer of
mortgage.

Register o
mortgages.

Entries in
register of
mortgages.

119. The person entitled to the mortgage created by the council may transfer it by deed in a form approved by the Minister or in a form to the like effect.

120. The town clerk shall keep at the office of the council a register of mortgages created by the council (in this Part referred to as the register).

121. (1) Within fourteen days after the date of a mortgage, the town clerk shall cause the entry to be made in the register of the number and date of the mortgage, of the names and descriptions of the parties thereto, and of the amount borrowed, as stated in the deed of mortgage.

(2) On production to the town clerk of the deed of mortgage and—

(a) in the case of a transfer of a mortgage, of a duly executed deed of transfer,

(b) in the case of transmission of a mortgage by the death of a person solely entitled thereto, of probate of the will or letters of administration of the estate of the deceased,

(c) in the case of a transmission of a mortgage otherwise than as aforesaid, of satisfactory evidence of the transmission, and on payment of such sum, if any, not exceeding five shillings, as the council may determine, the town clerk shall cause an entry to be made in the register of the date of transfer or transmission, and of the name and description of the person who under the transfer or transmission becomes entitled to the mortgage.

(3) Any change of name or address on the part of a person entitled to a mortgage shall forthwith be notified to the town clerk, who, on being satisfied therewith, shall make the necessary alterations in the register.

(4) The register shall be open at all reasonable hours to public inspection without payment.

(5) If any person—

(a) having the custody of the register, refuses to allow any person to inspect the register, or

(b) being required under this section to make an entry in the register, refuses or wilfully neglects so to do,

he shall be liable on summary conviction, in respect of each offence, to a fine not exceeding, in the case of an offence against paragraph (a) of this subsection, five pounds, and, in the case of an offence against paragraph (b) of this subsection, twenty pounds.

Title to
mortgages,
and
rectification
of register.

122. (1) Where any entries have been duly made in the register in respect of any mortgage, the council shall be entitled to treat as exclusively entitled to the mortgage the person appearing by the latest of those entries to be entitled thereto.

(2) If the name of any person is without sufficient cause entered in or omitted from the register or default is made or unnecessary delay takes place in making any entry required to be made in the register, the High Court of Lagos may, on the application by the person aggrieved or by the council, make an order for the rectification of the register.

(3) In any proceedings under this section, the court may decide any question relating to the title of any party thereto to have his name entered in or omitted from the register and generally any question which it may be necessary or expedient to decide for the purpose of the rectification of the register.

123. No notice of any trust, expressed, implied or constructive, affecting a mortgage created by the council, shall be entered in the register, or be receivable by the council or by any officer of the council.

Notice of trusts.

124. (1) Where two or more persons are jointly entitled to a mortgage created by the council, any one of those persons may give an effectual receipt for any interest thereon, unless notice in writing to the contrary has been given to the council by any other of those persons.

Receipts on behalf of joint holders and infants.

(2) The receipt of the guardian of an infant shall be sufficient discharge to the council for any money payable to the infant in respect of a mortgage created by the council.

125. (1) Every sum borrowed by way of mortgage by the council shall be repaid within such period as the council, with the approval of the Minister, may determine: Provided that the period for the repayment of a sum so borrowed shall not in any case exceed sixty years.

Period for repayment of moneys borrowed on mortgage.

(2) Where any sum is borrowed by the council for the purpose of meeting expenditure on the construction of new, or the extension or alteration of existing, works forming or to form part of an undertaking of a revenue-producing character, it shall be lawful for any annual provision required to be made by the council for the repayment of the sum so borrowed to be suspended for such period and subject to such conditions as the Minister may determine: Provided that the period aforesaid shall not be longer than the period during which the expenditure remains unremunerative or a period of five years from the commencement of the financial year next after the year in which the expenditure is first incurred, whichever is the shorter.

126. (1) Every sum borrowed by the council by way of mortgage shall be paid off either by equal yearly, half-yearly or quarterly instalments of principal, or of principal and interest combined, or by means of a sinking fund, or partly by one of those methods and partly by another or others of them.

Method of repayment of moneys borrowed on mortgage.

(2) Subject to the provisions of subsection (2) of section 125 the payment of the first instalment or the first payment to the sinking fund shall be made within twelve months or, where the money is repayable by half-yearly instalments, within six months, or, where the money is repayable by quarterly instalments, within three months, from the date of borrowing.

127. (1) If the council determines to repay by means of a sinking fund any sum borrowed by way of mortgage, the sinking fund shall be established and maintained either—

Sinking fund.

(a) by payment to the fund throughout the fixed period of such equal annual sums as will be sufficient to pay off within that period the money for the repayment of which the sinking fund is established, or

(b) by payment to the fund throughout the fixed period of such equal annual sums as will, with accumulation at a rate approved by the Minister, be sufficient to pay off within that period the money for the repayment of which the sinking fund is established.

(2) In this Part, a sinking fund established and maintained by such payment as is mentioned in paragraph (a) of subsection (1) is referred to as a non-accumulating sinking fund, and a sinking fund established and maintained by such payment as is mentioned in paragraph (b) thereof is referred to as an accumulating sinking fund.

(3) Every sum paid to a sinking fund shall, unless applied in repayment of the money for the repayment of which the sinking fund was established, or in such other manner as may be authorised by any other Law, be forthwith invested in securities approved by the Minister, and the council may from time to time vary and transpose the investments subject to the approval of the Minister.

(4) In the case of an accumulating sinking fund, the interest received in any year from the investment of the sums set apart for the purposes of the sinking fund shall form part of the revenue for that year of the municipal fund, but the contribution to be made to the sinking fund out of the municipal fund shall in that year be increased by a sum equal to the interest that would have accrued to the sinking fund during that year if interest had been accumulated therein at the rate *per centum per annum* on which the annual payments to the sinking fund are based.

(5) The council may at any time apply the whole or any part of a sinking fund in or towards the discharge of the money for the repayment of which the sinking fund was established: Provided, that, in the case of an accumulating sinking fund, the council shall pay into the fund each year and accumulate during the residue of the fixed period a sum equal to the interest which would have been produced by the sinking fund or the part thereof applied as aforesaid if invested at the rate *per centum per annum* on which the annual payments to the sinking fund are based.

(6) Any surplus of a sinking fund remaining after the discharge of the whole of the money for the repayment of which it was established shall be applied to such purpose as the council, with the approval of the Minister, may determine.

128. (1) If at any time it appears to the council, that the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part, and, in the case of an accumulating sinking fund, with the accumulations thereon, will not be sufficient to repay within the fixed period the money for the repayment of which the sinking fund was established, the council shall, either temporarily or permanently, make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose, and if it appears to the Minister that any such increase is necessary, the council shall increase the payments to such extent as the Minister may direct.

(2) If the council desire to accelerate the repayment of any money borrowed by the council by way of mortgage, they may increase the amounts payable to the sinking fund.

(3) If the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part, and also in the case of an accumulating sinking fund, together with the accumulations thereon, will, in the opinion of the Minister, be more than sufficient to repay within the fixed period the money for the repayment of which the sinking fund was established, the council may reduce the payments to the sinking fund either temporarily or permanently to such amounts as will, in the opinion of the Minister, be sufficient to repay within the fixed period the money for the repayment of which the sinking fund was established.

(4) If at any time the amount in a sinking fund, together with, in the case of an accumulating sinking fund, the accumulations thereon, will, in the opinion of the Minister be sufficient to repay the money for the repayment of which the sinking fund was established within the fixed period, the Minister may authorise the council to suspend the annual payments to the sinking fund until the Minister otherwise directs.

129. (1) If at any time any principal money or interest due under a mortgage created by the council remains unpaid for a period of two months after demand in writing, the person entitled thereto may, without prejudice to any other remedy, apply to the High Court of Lagos for the appointment of a receiver, and the court may, if it thinks fit, appoint a receiver on such terms and with such powers as the court thinks fit: Provided that no such application shall be entertained unless the sums due to the applicant, or in the case of a joint application by two or more persons the sums due to them in the aggregate, amount to not less than five hundred pounds.

Appointment
of receiver.

(2) The court may confer on the receiver any such powers of collecting, receiving and recovering the revenues of the council, and of levying, collecting and recovering rates, as are possessed by the council or its officers.

130. Where a loan is raised to meet any expenditure of the council which is chargeable to a particular account, there shall be debited to that account all sums required for repayment of the principal of the loan, and for payment of interest thereon, or for making payments to any sinking fund established for the purposes thereof.

Charge of
service of
loan to
particular
account.

131. The balance of any money borrowed by the council and not required for the purposes for which the money was borrowed, may, with the approval of the Minister, and subject to any conditions which he may impose, be applied to any other purpose for which capital money may be applied.

Balance of
unexpended
moneys.

132. A person lending money to the council shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money was properly applied, and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of any such money.

Lenders
relieved
from certain
inquiries.

133. (1) The town clerk shall, within one month after being requested so to do by the Minister, transmit to the Minister a return showing the provision made by the council for the repayment of moneys borrowed by the council.

Return
showing
provision for
repayment
of loans.

(2) The return shall show such particulars, shall be made up to such date and shall be in such form as the Minister may require, shall be certified by the municipal treasurer or other person whose duty it is to keep the accounts of the council, and shall, if it is so required by the Minister, be verified by a statutory declaration made by that person.

(3) If it appears to the Minister from any return made under this section or otherwise that the council—

(a) has failed to pay any instalment or annual payment required to be paid; or

(b) has failed to appropriate to the discharge of any loan any sum required to be so appropriated; or

(c) has failed to set apart any sum required for a sinking fund; or

(d) has applied any portion of a sinking fund to a purpose other than those authorised;

the Minister may by writing direct that such sum as is specified in the direction, not exceeding the amount in respect of which default has been made, shall be paid or applied in the manner and by the date set out in the direction, and the council shall notify the Minister as soon as the direction has been complied with.

(4) A direction given under the last preceding subsection may be enforced, at the instance of the Attorney-General of the Federation, by *mandamus*.

(5) If a return required to be made under this section is not made, the person in default shall be liable on summary conviction to a fine not exceeding twenty pounds and notwithstanding the recovery of any such fine, the making of the return may be enforced, at the instance of the Attorney-General of the Federation by *mandamus*.

PART XII.—RATING

Interpreta-
tion.

134. In this Part the expression "annual value", "capital value", "occupier", "owner", "tenement" and "unimproved value" shall have the meanings respectively assigned to them by section 2 of the Assessment Ordinance.

(Cap. 16).

Power to
levy a
general rate.

135. (1) For the purpose of raising revenue for the discharge of its functions under this Ordinance or any other Law or Ordinance, the council may, in respect of any financial year or part thereof, levy a general rate on the capital, annual or unimproved value of the tenements in the town, or in any part thereof, and the council shall, in fixing the rate, have regard to the charges of expenditure to be met by the rate during such financial year or part thereof.

(2) Such rate shall be levied by order made by the council with approval of the Minister and any such order may—

(a) fix the amount of the rate to be levied generally throughout the town or any part thereof, or with regard to any class of tenement; and

(b) exempt from the rate any part of the town, or any tenement or class of tenement: Provided that any tenement or part of a tenement occupied by such consular officers as the Governor-General acting in his discretion may from time to time specify shall be exempted from rates; and

(c) determine the period in respect of which the rate is payable; and

(d) determine the date when the rate falls due and the place, time and manner of payment.

(3) Failure to publish or late publication, by the council of such order as aforesaid shall be no grounds for refusal or neglect to pay the rate, and shall be no bar to the collection of the rate.

Power to
levy supple-
mentary
general rate.

136. (1) The council may at any time, in any financial year, by order levy a supplementary general rate to meet any increased charges or expenditure which could not reasonably have been foreseen at the time the amount of the general rate was fixed.

(2) The provisions of subsections (2) and (3) of section 135 shall apply in the case of an order levying the supplementary general rate.

137. The owner and occupier of every tenement at the date upon which any rate levied under this Part or any instalment thereof falls due shall be liable for the payment of such rate or instalment, but the rate shall be deemed to be an owner's rate and as between the occupier and the owner of any tenement shall, in the absence of any agreement to the contrary, be borne by the owner; and the amount of the rate or of any instalment thereof, if paid by the occupier, may be recovered by him from the owner in an action for money paid to his use, or may be deducted from any rent due, or to become due, in respect of the tenement.

Liability for
payment of
rate.

138. (1) If any person fails to pay any rate or any part thereof, for which he is liable within one month after the same becomes due and payable, the council may recover the same with costs, and if any rate or any part thereof is not paid within six months after the same becomes due and payable it shall be increased by a sum equal to five *per cent* thereof and shall be similarly increased by five *per cent* of the original rate or such part thereof in respect of each complete period of six months for which it is outstanding: Provided that the council may in any particular case by resolution for good reason waive any percentage increase or part thereof provided for by this subsection.

Recovery
of rate, and
penalties.

(2) The claim for the amount of such rate or instalment shall have priority over all other claims against the person liable to pay the same except claims due to the Crown or the Government.

(3) Any person who, without lawful justification or excuse, the proof of which shall lie on the person charged, refuses to pay any rate payable by him under this Ordinance on or before the date on which it is payable, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or in default of payment to imprisonment for a term not exceeding one year.

(4) Any person who wilfully misrepresents in any way his rateable capacity shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(5) Any person who without lawful justification or excuse, the proof of which shall lie on the person charged, incites any person to refuse to pay any rate payable by him under this Ordinance on or before the day on which it is payable or who incites or assists any person to misrepresent in any way his rateable capacity, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

139. (1) Without prejudice to the provisions of section 138, where the owner of a tenement fails to pay the amount of any rate or any instalment of rate due in respect of such tenement, it shall be lawful for the council to serve upon any person paying rent to such owner in respect of the tenement or any part thereof a notice stating the amount of the rate or instalment due and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the council until the amount of such rate has been duly paid, and such notice shall operate to transfer to the council the right to recover, receive and give a discharge for such rent.

Collection of
rent in
payments
rate.

(2) Any person who, without lawful excuse, fails to comply with a notice served upon him in accordance with the provisions of subsection (1) shall be liable upon conviction to a fine not exceeding fifty pounds or to imprisonment for six months.

Duty. to give
information.

(3) Any person who may be required so to do shall give all such information as may reasonably be required of him by the council with a view to obtaining information for the assessment or collection of the rate.

Penalty for
refusing to
give
information.

(4) Any person who having been required to give information under the provisions of subsection (3) shall neglect or refuse to give such information or who shall wilfully mislead or attempt to mislead the council or rate collector or their agents in any matter connected with the collection of the rate shall be liable to a fine of one hundred pounds or to imprisonment for one year or to both such fine and imprisonment.

PART XIII.—GENERAL FUNCTIONS OF THE COUNCIL.

140. It shall be the duty of the council within the town—

Duties of
council.

(1) to prevent or regulate the keeping of swine, sheep and goats, and to regulate the keeping of animals and birds, so that their keeping shall not be a public nuisance or injurious to health;

(2) to provide for the treatment of congested areas, for the closing and demolition of buildings or parts of buildings unfit for human or other habitation, either from structural or insanitary causes or from the narrowness, closeness or bad arrangement of such buildings or of the streets; and for the prohibition of the use of such buildings for such habitation; and to pay compensation if it shall so think fit;

(3) to provide for the inspection of all meat, fish, vegetables and all other foodstuffs of whatever kind or nature, and of liquids intended for human consumption, whether exposed for sale or not; and to seize and destroy all such foodstuffs or liquids as are unfit for human consumption (or to seize and otherwise deal with any foodstuffs or liquids intended for human consumption when and in such manner as may by bye-laws be directed or allowed), and to supervise and control all bakeries;

(4) to provide and maintain public markets, pounds and slaughterhouses and all such things as may be necessary for the convenient use of the same and to impose fees, rents and toll for the use of the same, and to supervise and control them together with all private markets and slaughterhouses;

(5) to keep and maintain in good order and repair all public latrines, urinals, cesspits, dustbins and other receptacles for the temporary deposit and collection of rubbish, and public bathing and washing places, and to provide for the removal of all refuse and filth from any public or private place, and provide for the removal of nightsoil and the disposal of sewage from all premises and houses in the town, so as to prevent injury to health.

(6) to provide for and maintain a supply of electric lighting or other means of lighting the streets and trunk roads (including bridges carrying trunk roads) and to provide such lamps, lamp posts, and other materials and apparatus as may be deemed necessary for lighting the town;

(7) to provide for the prevention and abatement of public nuisances or of nuisances which may be injurious to the public health or to the good order of the town;

(8) to name or re-name where necessary all streets (such names to be affixed in conspicuous places therein), and to cause the buildings in such streets to be numbered;

(9) to make, keep and maintain clean and in good order and repair all streets and sewers together with all buildings, machinery, works and things belonging thereto which have or shall become vested in the council by virtue of section 187, and to provide for the drainage of surface water. The council shall have power to divert or alter the course of any of the said streets or sewers and to keep the same clear of obstructions so as not to be a nuisance or injurious to health;

(10) to keep clean all trunk roads within the town;

(11) to regulate any trade or business which may be noxious, injurious to the public health or a source of public danger, or which otherwise it is in the public interest expedient to regulate, and to provide for the issue of licences or permits to facilitate the regulation of any such trade or business, and for the imposition of fees in respect of such licences or permits;

(12) to regulate the use and conduct of public vehicles plying for hire and the fares thereof, to regulate the routes and parking places to be used by such vehicles, to appropriate particular routes, roads, streets and parking places to specified classes of traffic, and when necessary to provide for the identification of all licensed vehicles;

(12A) to provide in accordance with the Education (Lagos) Ordinance, 1957, such primary or other education as may be prescribed by such Ordinance;

(12B) to provide a school health service;

(13) to undertake all other works, matters and services necessary for or conducive to the public safety, health or convenience, as it shall think fit, or which the Governor-General in Council may from time to time declare by notice published in the Gazette to be transferred to the council.

141. In addition to the duties conferred upon the council by section 140, the council shall have power—

Powers of
council.

(1) to construct new and necessary works in connection with any of the purposes mentioned in this Ordinance;

(2) to provide for the establishment, management, layout, planting, improvement, maintenance and regulation of parks, gardens, swimming baths, public libraries, museums and other places of public resort, recreation or entertainment for the use of the public, and to contribute to the cost of maintenance of any parks, gardens, swimming baths, public libraries, museums and other places of public resort, recreation or entertainment provided by persons for the use of the public;

(3) to provide and maintain appliances for extinguishing fires, and water-buckets, pipes, fire escapes and other implements for safety or use in case of fire;

(4) to undertake the abatement of fire and the prevention of the spread thereof and for such purposes to enter any premises;

(4A) to undertake fire-fighting outside the Federal Territory of Lagos when necessary, if responsibility for fire-fighting services has been transferred to the council under paragraph (13) of section 140;

(5) to design the layout of streets, building areas and other areas, and to provide for and authorise the adoption of such measures with respect to expropriation or limitation of user, and with respect to the assessment and time of payment of compensation, as the council may consider necessary or desirable for the purpose of the convenient design and construction of such layouts: Provided that before any layout be effected or any alteration to an existing layout be made, the plan or plans of such layout or alteration shall be submitted for the approval of the Minister.

(6) to plant trees in any street and to erect tree guards to protect such trees: Provided that the streets shall not be unduly obstructed thereby;

(7) with the approval of the Minister to engage in any form of municipal trading or industry;

(8) with the approval of the Minister to provide any form of transport service;

(9) to provide for the imposition and fixing of charges to be paid in respect of services rendered by the council;

(10) to provide for the licensing of building surveyors and for the examination of candidates for licences or otherwise for ensuring their technical ability, for the professional conduct of such building surveyors for the cancellation of licences in cases of misconduct and for the scale of fees chargeable by licensed building surveyors for services rendered;

(11) to provide for the establishment and management of a provident fund for the benefit of the servants or any class of servant of the council;

(12) to appropriate particular routes, roads and streets to the use of public vehicles employed in the transport services undertaken and conducted by the council, to the exclusion of the use of such routes, roads and streets by other public vehicles plying for passenger hire: Provided always however that no such appropriation shall substantially affect to its detriment traffic proceeding to or from places outside the limits of the town;

(13) to provide for the control, management and treatment of domestic animals;

(14) to prohibit or regulate the establishment and conduct of markets other than public markets established by the council;

(15) to prohibit or regulate the hawking of wares or the erection of stalls on or near any street;

(16) to provide for the control and management of cinemas, theatres, circuses, dance-halls and places of public entertainment generally;

(17) to provide for the care and welfare of the aged and destitute;

(18) to provide for the control, use and licensing of vehicles other than motor vehicles;

(19) to open and operate banking accounts with any duly licensed bank;

(20) to provide for the construction, leasing, sale and control of houses;

(21) to undertake works and measures for or in connection with any local government purposes.

(22) to collect any water rate in accordance with any arrangement so to do, and to declare such rate to be part of the rate levied under Part XII of this Ordinance for the purpose of such collection, and to nominate a representative upon the board of any water authority;

(23) to establish maternity homes;

(24) to restrict or prohibit beggars and loiterers in places to which the public have access.

142. (1) The council may make bye-laws for the purposes mentioned in sections 140 and 141 and for the prevention and suppression of nuisances in the whole or any part of the town and may, in such bye-laws, specify a fine not exceeding fifty pounds or in default of payment imprisonment not exceeding two months for the breach of any such bye-laws, and in the case of a continuing offence, a further penalty not exceeding one pound for each day after written notice of the offence has been served on the offender.

Bye-laws.

(2) Such bye-laws may provide for the abatement of nuisances by the council and for the recovery of any expenses incurred.

143. The council may make bye-laws for the control, under permit or otherwise, of the construction of buildings and other structures and of the execution of work on existing buildings and structures and may by such bye-laws prescribe the conditions subject to which the construction of buildings and other structures, and the execution of work on existing buildings and structures, may be undertaken and carried out.

Power to
make
building
bye-laws.

144. Without prejudice to the generality of section 143, such bye-laws may make provision—

Scope of
building
bye-laws.

(a) for the making and maintenance of passages, lanes and roads for the purpose of giving access to premises;

(b) for the space about new buildings and buildings which are to be extended or altered, so as to ensure free circulation of air;

(c) for building lines and the layout of buildings;

(d) for the level of the ground floor of buildings;

(e) for the lighting and ventilation of buildings, the height of buildings and the dimensions of rooms and corridors;

(f) for reducing the risk of fire in buildings and ensuring sufficient means of exit from new or extended or altered buildings in the event of fire;

(g) preventing the construction of buildings and other structures which would be a disfigurement to the town or neighbourhood or not be in keeping with the architectural character of the neighbourhood and the execution of any work which would tend to make existing buildings and structures a disfigurement to the town or neighbourhood or not be in keeping with the architectural character of the neighbourhood;

(h) respecting the repair and renovation of buildings and other structures, and compelling necessary repairs and renovations to buildings and other structures to be carried out;

(i) for the certification of dwelling-houses as having been constructed in accordance with the requirements of bye-laws made under this section as a condition precedent to the habitation thereof;

(j) respecting the construction of hoardings and similar structures and temporary buildings;

(k) for the use of proper building scaffolding, hoardings, machinery and appliances in connection with the construction, extension, alteration, repair and renovation of buildings and other structures;

(l) prescribing the conditions to be satisfied by a site for any building or for any class of building;

(m) respecting the provision of sanitary arrangements and conveniences of or in connection with new or extended or altered buildings;

(n) for cutting into, laying open and pulling down any work suspected to have been executed in contravention of any bye-law made under this section or any permit granted under any such bye-law;

(o) for the designation of streets as residential streets or shopping streets or business streets, and prescribing special requirements to be satisfied by buildings constructed therein;

(p) for the drainage of streets, lands, compounds and new buildings;

(q) respecting the level, width and construction of streets;

(r) regulating or prohibiting the construction of wells;

(s) respecting the period of duration of any permit provided for under any bye-laws made under this section and the extension of such period, and for the revocation of such permit if the construction of the building or execution of the work to which it relates is not begun within a time specified in such permit;

(t) for the refusal of a permit to an applicant who has not completed a building or any work under a permit previously granted to him;

(u) prescribing the forms to be used;

(v) prescribing the fees to be paid in respect of any matter or thing prescribed by bye-laws made under this section;

(w) for matters connected with or incidental to the foregoing matters.

(3) The Council may further provide for the observance of such bye-laws by including therein such provisions as it may think necessary as to the giving of notices, as to the deposit of plans, sections and specifications and other particulars by persons intending to lay out streets or to construct, extend, alter, repair and renovate buildings, as to inspection by such officers as such provisions may specify and for the maintenance of building agents on the sites of works, and the keeping of proper plans thereon.

(4) Such bye-laws may be made with respect to the town generally, or with respect to particular areas, buildings or works in the town.

145. (1) Bye-laws made under the provisions of section 142 and bye-laws made under the provisions of sections 143 and 144, shall be subject to the approval of the Governor-General in Council, who before approving may amend the same.

(2) Such bye-laws shall be published in the Gazette and shall have the force of law upon such publication or from the date named therein.

PART XIV.—POWERS TO ACQUIRE AND DISPOSE OF LAND

146. The council may let any land vested in it—

(a) with the consent of the Minister, for any term;

(b) without the consent of the Minister for a term not exceeding one year.

Bye-laws
subject to
approval of
Governor-
General in
Council.

Power to
lease land.

147. The council may, with the consent of the Minister—

(a) sell any land vested in it which is not required for the purpose for which it was acquired or is being used; or

(b) exchange any land which may be vested in it for other land, either with or without paying or receiving any money for equality of exchange.

Power to sell or exchange land.

148. The council may, subject to the provisions of Part XI, mortgage any land vested in it which is not required for the purpose for which it was acquired or is being used.

Power to mortgage land.

149. The council may, with the consent of the Minister previously obtained, acquire compulsorily any lands within the town required for local government purposes either absolutely or for a term of years or for such time as it may be required for local government purposes.

Power of council to acquire land compulsorily.

150. (1) Whenever it appears to the council that any land within the town is likely to be needed for any local government purpose it shall be lawful for the council in this behalf and for its officers and servants to do all or any of the following things—

Preliminary investigation.

(a) to enter upon and survey and take levels of any land in the town;

(b) to dig or bore under the sub-soil;

(c) to do all other acts necessary to ascertain whether the land is adapted for such purpose;

(d) to clear, set out and mark the boundaries of the land proposed to be acquired and the intended line of the work (if any) proposed to be made thereon;

Provided that no person authorised as aforesaid shall enter into any building or upon any enclosed court or garden attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice of his intention to do so.

(2) As soon as conveniently may be after any entry made under subsection (1) the person so authorised as aforesaid shall pay for all damage done and in the case of dispute as to the amount to be paid either such person or the person claiming compensation may refer such dispute to the High Court of Lagos or a magistrate's court.

151. (1) When the council decides that any lands shall be acquired for local government purposes and the Minister has given his consent thereto, the council shall give notice to the persons interested or claiming to be interested in such lands or to such of them as shall after reasonable enquiry be known to the council.

Notice to be given.

(2) The notice to be given under subsection (1) hereof may be in the Form A in the Seventh Schedule hereto or to the like effect and shall specify:

Seventh Schedule.

(a) the purpose for which the land is being acquired; and

(b) whether the land is being acquired absolutely or for a term of years or for such time as it may be required for the purpose aforesaid.

(3) If under the provisions of section 159 the council shall decide to allocate other land to the person entitled to the lands acquired, the notice shall state in addition to the matters specified in Form A the fact that other land is to be allocated to the persons entitled and the situation of such land.

(4) All notices required to be served in accordance with subsection (1) hereof shall be displayed at the office of the council and upon the land to be acquired and shall be made known by public notice as provided in Part XV of this Ordinance.

Power to
take
possession.

152. (1) The council may by such notice aforesaid or by any subsequent notice direct the persons aforesaid to yield up possession of such lands after the expiration of the period specified in the notice which period shall not be less than six weeks from the service of such notice, unless the land is urgently required for local government purposes. At the expiration of such period the council and all persons authorised by it shall be entitled to enter into and take possession of such lands accordingly.

(2) A duplicate of such notice shall be served on the occupier or occupiers of such lands.

Vesting of
lands
acquired.

153. (1) Any lands acquired as aforesaid by the council shall vest in the council at the date of the entry of the council into possession thereof for the estate or interest specified in the notice published in accordance with section 151 against all persons, free from all adverse or competing rights, titles, interests, trusts, claims and demands whatsoever.

(2) Upon the entry of the council into possession all leases and all rights of occupancy in respect of the lands acquired which are existing at the time of entry shall be deemed to be terminated but without prejudice to any leases or occupiers rights in any compensation payable under section 160.

Claims by
persons
served.

154. (1) If for six months after the service of a notice under section 151 no objection to the offer made in such notice shall have been made, the amount specified in such offer shall be paid forthwith to the person specified in the notice in full discharge of any claim for compensation.

(2) If an objection is lodged within the prescribed time, any question as to the amount of compensation payable in respect of the land acquired and any questions as to the apportionment of such compensation among the persons having an interest in the land shall in default of agreement be determined by the High Court of Lagos or an arbitrator in the manner hereinafter provided.

Claims by
persons not
served.

155. (1) All persons not served with a notice in accordance with section 151 claiming any interest in any lands acquired shall within six months of the publication of the notice acquiring the land notify the council either in writing or by attending personally at the office of the council of—

(a) the interest of the claimant in the said land; and

(b) the amount of compensation claimed.

(2) No person claiming after the expiration of the period of six months shall be entitled to recover compensation by way of land or money.

Matters of
dispute to be
referred.

156. If the person who may have lodged any claim and the council shall not agree as to the amount of the compensation by way of land or money to be given for the estate or interest in such lands belonging to such person, or if such person has not given satisfactory evidence of such claim or if separate and conflicting claims are made in respect of the same lands, the amount of compensation due, if any, and every such case of disputed interest or title shall be settled by the High Court of Lagos or an arbitrator in the manner hereinafter provided.

157. (1) If any claimant shall require that any matter in dispute shall be referred to an arbitrator in accordance with sections 154 (2) and 156, such arbitrator shall be appointed by agreement between the council and the person claiming compensation. In the absence of such agreement or in the event of the person claiming compensation failing to nominate an arbitrator within one month of being called upon by the council to do so, the arbitrator shall be appointed by the Minister upon the application of the council.

Settlement of dispute by arbitrator.

(2) The award of an arbitrator under the provisions of this section shall be final.

158. (1) The written report of any officer of the Public Works, Lands, Survey, Agriculture or Forestry Departments as to the value of the lands or of any buildings or trees or crops thereon shall be evidence thereof.

Written report of Government officer to be evidence.

(2) Any such officer may on giving three days' notice in writing to the occupier enter upon any such lands or into any buildings thereon for the purposes of ascertaining the value of such land and the buildings, trees or crops thereon.

(3) Any party having an interest in such lands or the court or an arbitrator may require the attendance of such officer as a witness.

(4) The report of such officer may be proved by a copy thereof under his hand, and proof of the signature on such copy shall not be required unless the court sees reason to doubt the genuineness thereof.

159. (1) If there shall be any land subject to the disposition of the council available for allocation, the council may allocate to the persons entitled to the land acquired land equivalent in value and interest to the holdings of such persons over the land acquired.

Council may offer alternative land.

(2) In addition to any land allocated in accordance with subsection (1) hereof the person entitled to the land acquired shall be entitled to compensation for the value at the date of acquisition of the land of his unexhausted improvements and for the inconvenience caused by his disturbance.

160. If no land shall be allocated to the person entitled to the land acquired under the provisions of section 159, the court or an arbitrator shall in estimating the compensation to be given for any land or any estate or interest therein act on the principles laid down for the assessment of compensation in the Public Lands Acquisition Ordinance from time to time.

Rules for assessment of compensation.

(Cap. 185).

161. Nothing in this Ordinance shall be taken to compel the council to complete the acquisition of any land unless it shall have entered into possession or failed within one month of the judgment of the court or the finding of an arbitrator to intimate to the person entitled to the land that it does not intend to proceed to acquire the land: Provided however that the owner of the land and all persons entitled to any interest therein shall be entitled to receive from the council all such costs as may have been incurred by them by reason or in consequence of the proceedings to acquire the land.

Council may withdraw from completing acquisition.

162. The payment to any person to whom any compensation shall be paid or the payment into court of any compensation upon the decision of a court shall discharge the council from seeing to the application or being answerable for the misapplication thereof.

Council not responsible for application of compensation.

Documents,
may be filed
in Land
Registry and
effect thereof.

163. (1) The council may after entering into possession of any land acquired under the provisions of this Ordinance file in the office of the Land Registry at Lagos a copy of the notice published in accordance with section 151 together with—

(i) a plan, prepared by a licensed surveyor, on which are delineated the boundaries of the land affected; and

(ii) a certificate signed by the town clerk certifying—

(a) that the approval of the Governor-General in Council has been given; and

(b) that notice was published as required by section 151; and

(c) that notice was served upon the persons required to be served under this Ordinance.

(2) After the date of the filing of such documents the proceedings previous thereto shall not be questioned or defeasible by reason of any irregularity or error or defect in the notice or want of notice, or of any other irregularity, error or defect.

Divesting of
land no
longer
required;

164. (1) Any lands vested in the council by virtue of the provisions of section 153 shall, subject to the provisions of subsection (2) hereof, remain so vested notwithstanding that the particular purpose for which the land was acquired shall have failed.

(2) (i) If in the opinion of the council any land acquired for such term as it may be required for a local government purpose is no longer required for the purpose for which it was acquired the council shall give notice to the person entitled to the reversion of the land,

Seventh
Schedule.

(ii) Such notice shall be in Form B in the Seventh Schedule hereto and shall be published once in the Gazette and displayed at the office of the council.

(iii) From the date of the publication of the notice in the Gazette the land shall cease to be vested in the council.

Penalty for
obstructing
authority.

165. Every person who shall wilfully hinder or obstruct any person duly authorised by the council from entering upon or taking possession of or using any land in pursuance of the provisions of this Ordinance, or who shall molest, hinder or obstruct such authorised person when in possession of such lands, shall be liable on summary conviction before any court to a fine of twenty-five pounds or to imprisonment for three months.

Notice not
to be
admission
that land
not council
land.

166. The fact that a notice has been served upon any person under section 151 shall not be taken as an admission by the council that the person on whom such notice has been served or any other person has any estate or interest in the land or any part of the land specified in the notice or debar the council from alleging in any proceedings under this Ordinance or otherwise that such land is subject to the disposition of the council.

Service of
notices

167. Every notice required by this Part of this Ordinance to be served on any person may be served by the methods set out in section 175 and, in addition, if the name of such person is not known or if service cannot with reasonable diligence be effected in accordance with the provisions of section 175, may be served by fixing the notice on a conspicuous part of the premises in respect of which the notice is issued.

168. The title to all lands acquired or leased by the council shall be taken in the corporate name of the council; and deeds and contracts (other than contracts which, if entered into or executed by a person not being a body corporate, would not require to be under seal) requiring to be executed by the council shall be executed in the corporate name of the council and shall be sealed with the common seal of the council in pursuance of a resolution of the council to that effect, and shall be signed by the person presiding and by the town clerk.

Form of
title deeds,
etc.

PART XV.—LEGAL PROCEEDINGS, NOTICES, ETC.

169. The council may prosecute or defend any legal proceedings where it deems it expedient so to do for the promotion or protection of the interests of the inhabitants of the town.

Power to
prosecute or
defend legal
proceedings.

170. (1) The council may appear in any legal proceedings by the town clerk or by an officer of the council authorised generally or in respect of any proceedings by resolution of the council:

Appearance
of council
in legal
proceedings.

(2) The town clerk or any officer so authorised as aforesaid, shall be at liberty to prosecute or defend any proceedings which the council is authorised to prosecute or defend under this or any other Ordinance, subject always to any directions which may be given to him by the council.

171. In any proceedings instituted by or against the council it shall not be necessary to prove the corporate name of the council or the constitution or limits of its area: Provided that nothing in this section shall prejudice the right of a defendant to take or avail himself of any objection which he might have taken or availed himself of if this Ordinance had not been passed.

Name of
council need
not be
proved.

172. (1) The Governor-General in Council or the Minister may, by notice in the Gazette, depute any person by name or by office to exercise or perform on his behalf, subject to such conditions exceptions or qualifications as may be specified in the notice, such of the powers and duties conferred upon him by this Ordinance as may be so specified, and thereupon or from the date specified in the notice the person so deputed shall have and exercise such powers and perform such duties as aforesaid: Provided that no delegation shall be made of the powers conferred by sections 3, 4 and 14 of this Ordinance.

Delegation
of powers
by
Governor-
General in
Council.

(2) The Governor-General in Council or the Minister may, in the like manner, revoke any such notice, and may exercise any powers or perform any duties conferred upon him by this Ordinance notwithstanding the delegation by him of such powers or duties.

173. (1) If any person having the charge or possession of any property or thing vested in the council fails on demand to deliver up that property or thing to the council, or to such person as the council may direct, he shall in respect of each offence be liable on summary conviction to a fine not exceeding five pounds and to pay to the council the value of the property or thing not given up,

Withholding
or damaging
property
vested in
council.

(2) If any person wilfully damages any property vested in the council, he shall in respect of each offence be liable on summary conviction to a fine not exceeding five pounds and to pay to the council the expenses incurred by it in making good the damage.

(3) If any person accidentally or carelessly damages any property vested in the council, the council may recover from him as a civil debt the expenses incurred by it in making good the damage.

174. Any notice, order or other documents required or authorised by this Ordinance, or by any other written Ordinance, to be sent, delivered or served to or upon the council or the town clerk shall be addressed to the council or the town clerk, as the case may be, and left at, or sent by post in a prepaid letter to, the offices of the council.

175. (1) Subject to the provisions of this section, any notice, order or other document required or authorised by this Ordinance or by any other written Ordinance, to be served by or on behalf of the council, or by an officer of the council, on any person shall be deemed to be duly served—

(a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business, and is either—

(i) sent by post in a prepaid letter, or

(ii) delivered at the registered office, or at the principal office or place of business, of the company;

(b) where the person to be served is a partnership if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which his business is carried on, and is either—

(i) sent by post in a prepaid letter, or

(ii) delivered at the said place of business;

(c) where the person to be served is a public body, or a corporation, society or other body, if the document is addressed to the clerk, secretary, treasurer, or other principal officer of that body, corporation or society at its principal office and is either—

(i) sent by post in a prepaid letter, or

(ii) delivered at that office;

(d) in any other case, if the document is addressed to the person to be served, and is either sent to him by post in a prepaid letter or delivered at his residence or place of business.

(2) Any document which is required or authorised to be served on the owner or occupier of any premises may be addressed "*the owner*" or "*the occupier*", as the case may be, of those premises (naming them) without further name or description, and shall be deemed to be duly served—

(a) if the document so addressed is sent or delivered in accordance with paragraph (d) of subsection (1); or

(b) if the document so addressed, or a copy thereof so addressed, is delivered to some person on the premises or is affixed to some conspicuous part of the premises.

(3) Where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of proving the service by post of any document, it shall (except where the document is sent by registered post) be sufficient to prove that it was properly addressed and was put into the post.

Service of
notices on
the council.

Service of
notice by the
council.

(5) For the purpose of enabling any document to be served on the owner of any premises, the council may by notice in writing require the occupier of the premises to state the name and address of the owner thereof, and if the occupier refuses, or wilfully neglects to do so or wilfully misstates the name and address of the owner, he shall, unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal, be liable on summary conviction in respect of each offence to a fine not exceeding five pounds.

(6) In this section the word "document" means any notice, order or other document which is required or authorised to be served as set out in subsection (1) of this section.

(7) For the purpose of this section, a notice, order or other document shall be deemed to be a notice, order or other document which is required or authorised to be served on a person if it is required or authorised to be notified, given or transmitted, or (in the case of a demand) if it is required or authorised to be made, to that person, and in this section the expression "served" and "service" shall be construed accordingly.

176. (1) Any notice, order or other document which the council is authorised or required by this or any other written law to give, make or issue may be signed on behalf of the council by the town clerk of the council or by any other officer of the council authorised by the council in writing to sign documents of the particular kind or the particular document as the case may be.

Authentica-
tion of
documents.

(2) Any document purporting to bear the signature of the town clerk or of any officer stated therein to be duly authorised by the council to sign such a document or the particular document, as the case may be, shall be deemed, until the contrary is proved, to have been given, made or issued by the authority of the council.

(3) In this section the word "signature" includes a facsimile of a signature by whatever process reproduced.

177. Except as otherwise expressly provided in any written law, a public notice required to be given by the council shall be given—

Public
notices given
by council.

(a) by affixing it to the office of the council; and

(b) by posting it in some conspicuous place or places within the town; and

(c) in such other manner, if any, as appears to the council to be desirable for giving publicity to the notice.

178. A notice or other document required to be affixed to the office of the council shall be exhibited in some conspicuous place on or near the outer door of such office.

Notices on
council office.

179. Any person who destroys, tampers with, pulls down, injures or defaces—

Penalty for
destroying
notices, etc.

(a) any board on or to which any bye-law, notice or other matter is inscribed or affixed by the authority of the council; or

(b) any advertisement, placard, bill or notice put up by or under the direction of the council,
shall in respect of each offence be liable on summary conviction to a fine of exceeding five pounds.

PART XVI.—MISCELLANEOUS PROVISIONS

Crown
rights.

180. Save as otherwise expressly provided, nothing in this Ordinance shall affect prejudicially any estate, right, power, privilege or exemption of the Crown.

Construction
of penal
provisions of
Ordinance.

181. The provisions of this Ordinance with respect to offenders, punishments and penalties shall be additional to and in no wise in derogation of any other provisions of law applicable thereto: Provided that no person shall be punished or penalised twice for the same offence.

Powers of
Governor-
General in
Council if
council fails
properly to
discharge its
functions.

182. Notwithstanding anything contained in this Ordinance and without prejudice to any other remedy available, if at any time the Governor-General in Council is of the opinion that the council is no longer discharging its functions under this Ordinance in a manner conducive to the welfare of the town, the Governor-General in Council may by order dissolve the council, and—

(a) direct that a general election be held and appoint the day for the holding thereof; or

(b) appoint a committee of management which shall, during the continuance of such appointment, discharge the functions of the council under this Ordinance.

Power to
vary
Schedules.

183. The Governor-General in Council may, from time to time by order add to, vary or amend the provisions or forms in the First, Second, Third, Fourth or Seventh Schedules to this Ordinance.

Supply of
information.

184. It shall be the duty of the council and its officers to furnish the Local Government Inspector or the Governor-General in Council with such information as they may require in relation to their functions under this or any other Law or Ordinance.

Payments.

185. All payments by the council shall be made in pursuance of an order of the finance committee of the council signed by two members of that committee present at the meeting of the committee at which the order is made and countersigned by the town clerk. The same order may include several payments and all cheques for payment of monies issued in pursuance of such an order shall be signed by the municipal treasurer.

Transitional
provisions.
(No. 17 of
1950).

186. The town council for the town of Lagos existing immediately before the passing of this Ordinance, shall, notwithstanding the provisions of the Lagos Local Government Ordinance, 1950, and notwithstanding any vacancy among the members of that council, remain in being until immediately before the 12th day of November, 1953, and no further election shall be held under the provisions of Part II of the said Ordinance.

Vesting of
public streets
and sewers
in the
council.

187. (1) There shall be vested in and be under the control of the council all existing public streets including the pavements, stones, and materials thereof, and in respect of such streets the council may exercise all or any of the powers granted to it for the purpose of carrying into effect the provisions of this Ordinance: Provided that the council may stipulate such conditions as may be approved by the Minister before taking over any street which falls to become vested in it under this section and before the same becomes vested, and the street shall not become vested nor shall its maintenance become the responsibility of the council under paragraph (9) of section 140 if the Minister is satisfied that such conditions have not been fulfilled.

(2) There shall be vested in and be under the control of the council all sewers together with all buildings, works, materials and things belonging thereto.

(3) When a road is declared by the Governor-General to be a trunk road, then the property and rights in any such road, and in any bridges carrying such road, which immediately before the date on which such declaration took effect were vested in the council shall become vested in the Government of Nigeria on that date.

187A. (1) Where, under powers conferred by any enactment, a corporation intends to carry out works in any street vested in the council, the corporation shall (save in the case of an emergency) give at least four weeks notice to the town clerk of its intention before commencing such works.

(2) A corporation carrying out works in any such street shall pay to the council the cost of restoring or repairing any damage caused to the property of the council by the carrying out of such works.

188. The Lagos Local Government Ordinance shall, as from the 12th day of November, 1953, cease to apply within the town: Provided that—

(a) any officer or servant holding an office or appointment under the old council shall continue in such office or appointment as though he had been appointed under the provisions of Part VIII of this Ordinance notwithstanding anything therein contained;

(b) this declaration shall be without prejudice to anything done or suffered or any right, privilege, obligation or liability acquired, accrued or incurred under the said Ordinance;

(c) the approved estimates of revenue and expenditure of the old council, for the current financial year under the said Ordinance, shall be deemed to have been approved under the provisions of Part X of this Ordinance and shall be deemed to be the estimates of revenue and expenditure of the council established under this Ordinance for the said financial year;

(d) all regulations and bye-laws and all orders establishing public markets made by the old council and in force at the commencement of this Ordinance shall be deemed to have been made under the provisions of this Ordinance and shall remain in force until revoked, annulled or repealed under the provisions of this Ordinance; and

(e) any proceeding or cause of action pending or existing immediately before the 12th day of November, 1953, by or against the old council may thereafter be continued or enforced by or against the council established by this Ordinance as it might have been against the old council if this Ordinance had not been enacted.

189. Notwithstanding any other written Ordinance, the Ordinances mentioned in the first column of the Fifth Schedule hereto shall, as from the 12th day of November, 1953, apply within the town to the extent and with the modification specified in the second column of the said Schedule.

190. Notwithstanding any other written Ordinance, the Ordinances mentioned in the first column of the Sixth Schedule hereto shall, as from the 12th day of November, 1953, be modified in their application within the town to the extent specified in the second column of the said Schedule.

Notice of
street works
to be given.

Cesser of
Ordinance
No. 17 of
1950 and
savings.

Application
of certain
Ordinances.

Fifth
Schedule.

Modification
of certain
Ordinances.

Sixth
Schedule.

Repeal:

191. The Lagos Town Council (Appointment of Senior Officers) Law, 1952, and the Lagos Town Council (Transitional Provisions) Law, 1952, are hereby repealed.

FIRST SCHEDULE

(SECTION 18)

PART I

Rules relating to Preparation of List of Voters

Preparation
of pre-
liminary lists
of voters.

1. (1) Not less than eighty days before the date appointed under section 15 for the first election of councillors, the chief electoral officer shall cause to be prepared a list of the names and addresses of all persons of not less than twenty-one years of age believed by him to be resident in each ward.

(2) In preparing any preliminary list under this rule the chief electoral officer shall have regard to information derived from any census taken and from any other source that he may see fit.

(3) The chief electoral officer shall cause the preliminary lists so prepared to be sent to the returning officer.

Publication
of pre-
liminary lists.

2. (1) So soon as may be after the receipt of any preliminary list, the returning officer shall affix or cause to be affixed one copy of the preliminary list at a police station, post office, market or public building, or in any prominent position, in the ward to which such list relates and on the door or outer wall of one or more buildings in the said ward to which the public have access, or if there be no such police station, post office, market or other buildings so situate, to the door or outer wall of the police station or post office nearest to any of the boundaries of the said ward.

(2) There shall be affixed as near as may be to every such list a revision notice which shall state—

- (a) the boundaries of the ward to which the list relates;
- (b) the date, time and place at which the preliminary list will be revised;
- (c) the right of any person qualified to vote to make a claim in accordance with paragraph (1) of rule 3;
- (d) the right of every person qualified to vote to object in accordance with paragraph (2) of rule 3 to the inclusion in the list of any other person;
- (e) the officers to whom and the addresses to which claims and objections may be sent and the officers from whom the prescribed forms may be obtained;
- (f) the date of publication of the notice;
- (g) the last day for the making of any claim or objection in accordance with rule 3.

(3) A copy of each preliminary list shall be made available for inspection by members of the public during normal office hours at the office of the council for a period of fourteen days after publication under the provisions of paragraph (1).

3. (1) Every person qualified to vote whose name is omitted or inaccurately stated in any preliminary list may give notice in writing in Form A of Part II of this Schedule to the returning officer at any time within fourteen days of the publication of the revision notice referred to in paragraph (2) of rule 2, claiming to have his name, address and occupation inserted therein or have corrected the entry in the list relating thereto.

Claims and
objections.

Form A.

(2) Every person qualified to vote whose name appears in the preliminary list or who has made a claim for the inclusion of his name in such list may object to the inclusion therein of the name of any other person and shall give notice in writing in Form B of Part II of this Schedule to the returning officer and to the person objected to any time within fourteen days of the publication of the revision notice referred to in paragraph (2) of rule 2.

Form B.

(3) Immediately after the expiration of the period for making claims or objections, the returning officer shall prepare in respect of each preliminary list a list of such claims and objections and of the names of the persons who have made them.

4. The returning officer shall allot to the revising officer the revision of the preliminary lists for the wards.

Allotment of
preliminary
lists.

5. (1) The revising officer shall on the day and at the time and place specified in the revision notice referred to in paragraph (2) of rule 2 hold an open court for the purpose of revising such list.

Revision of
lists.

(2) The returning officer shall deliver or cause to be delivered to the revising officer before the holding of the said court the preliminary list together with the list of claims and objections prepared in accordance with paragraph (3) of rule 3 and all forms of claims and objections received by him in connection with such list.

(3) The revising officer shall go through the list of claims and objections and shall insert in the preliminary list the name, address and occupation of every person who is proved, to his satisfaction, to be entitled to have his name inserted therein and shall strike out of the list the name of every person therein who, on the application of the objector, or some person qualified to appear for him, is proved to the satisfaction of the revising officer to be not entitled to have his name retained in the preliminary list.

(4) If the objector neither appears in person nor by some agent duly authorised by him in that behalf, the objection shall be overruled and the name of person objected to shall be retained in the preliminary list.

(5) The revising officer shall expunge from the preliminary list the name of every person proved to be dead and shall correct any error or supply any omission which is proved to exist in the list in respect of any person included therein.

(6) If the returning officer is satisfied that for any reason it is impracticable for the revising officer to whom the revision of any preliminary list is allotted to hold a court for purpose of the revision on the day specified in the revision notice, he may appoint some other revising officer to hold the said court on the day and at the time and place specified.

6. (1) The revising officer holding a court under these rules shall have power to adjourn the same to such time and as often as may be necessary.

Powers of
revising
officer.

(2) The revising officer shall also have power to administer oaths to all persons claiming to have their names inserted in any preliminary list or claiming to have any mistake or omission corrected or objecting to the inclusion of any name in the preliminary list and all witnesses produced on either side.

(3) Every person who is authorised by law to make an affirmation instead of taking oath may make such affirmation in every case where under this rule an oath is required to be taken, and if any person taking such oath wilfully swears or affirms falsely such person shall be deemed guilty of perjury, and shall be liable to be punished in accordance with the law of Nigeria.

(4) If the revising officer is of the opinion that the claim or objection of any person is without foundation or is frivolous, he may order such person to pay the cost of the inquiry, including the cost of witnesses and such costs shall be recoverable by an action before any court of competent jurisdiction against the person by whom such claim or objection was made.

Settlement of
preliminary
list.

7. The revising officer shall in open court, determine all claims or objections made before him and shall sign his initials against each name struck out of the preliminary list or inserted therein, and against any mistake or omission corrected, and shall sign his name to every page of the preliminary list when the same is finally settled.

Procedure
after
revision.

8. (1) Upon the completion of the revision of the preliminary list, the revising officer shall transmit such list as revised to the returning officer.

(2) The returning officer shall forthwith cause all such lists to be printed, typed or stencilled as soon as possible.

(3) When so printed, typed or stencilled, the list shall contain all changes and additions made to the preliminary list by the revising officer and shall be certified accordingly by both the revising officer and the returning officer in the Form C of Part II of this Schedule, and when so certified shall constitute the official list of voters to be used for taking the vote upon polling day for the first election.

(4) A copy of the official list of voters shall be made available for inspection by members of the public during normal office hours at the office of the council, and any member of the public shall be entitled to purchase a copy of such list at a price to be fixed by the chief electoral officer.

9. (1) The official list of voters prepared for each election shall, until the Governor-General directs the preparation of a new preliminary list, be deemed to be the preliminary list for the following election:

Provided that any change after any election in the particulars contained in the official list concerning any voter may be notified in writing to the chief electoral officer who shall make the necessary alterations.

(2) The preparation of any new preliminary list of voters shall be by the chief electoral officer and in accordance with rule 1.

(3) Where before the preparation of a new preliminary list a person whose name appears on the list of voters in any year changes his address, he may give notice of such change to the chief electoral officer who shall make the necessary change in the list of voters.

(4) Not less than 80 days before the date appointed for the holding of any election, the chief electoral officer shall send to the returning officer

Preparation of
voters' list for
subsequent
elections.

copies of the preliminary list relating to each ward and the returning officer shall cause the same to be published and revised in accordance with the provisions of these rules.

(5) Upon completion of revision, the returning officer shall forthwith cause all such lists to be printed, typed or stencilled as soon as possible.

(6) When so printed, typed or stencilled the lists shall contain all changes and additions made by the revising officer and shall be certified in accordance with paragraph (3) of rule 8 and when so certified shall, subject to the provisions of rule 10, constitute the official list of voters to be used for taking the vote upon polling day.

10. (1) The determination of a revising officer as to the inclusion or exclusion of any name in the list shall be final and shall not be questioned in any proceedings.

Correction of errors as to determination of revising officer.

(2) Without prejudice to the provisions of paragraph (1), if the final list of voters is at any time not less than 7 days before the date of an election found to be incorrect, in that it does not correctly record the determination of a revising officer under rule 7 in respect of any name struck out or inserted by such determination or in respect of any mistake or omission corrected by such determination, a person who duly appeared before the revising officer at the time of such determination in person or by his representative may make summary *ex parte* application to a magistrate who shall give priority to such application and to any subsequent hearing and who shall have power to order the rectification of such list upon such evidence as he may consider necessary, and to record the correct determination of such revising officer, and the returning officer shall thereupon correct or cause to be corrected all material copies of such list and such list as amended shall be deemed to be the certified list for the purpose of paragraph (6) of rule 9.

(3) Upon a hearing under paragraph (2) the magistrate shall have power to award costs against an applicant who in the opinion of the magistrate has no adequate grounds for disputing the record of a revising officer's determination.

11. The Governor-General may in respect of any election by order declare that the Register of Electors prepared for Lagos for the purpose of elections to the House of Representatives shall constitute the official list of voters for the purpose of such election and such order shall take effect accordingly.

FIRST SCHEDULE

(Court)

PART II

Form A

Notice of Omission from Preliminary List of Voters

To the Returning Officer, Lagos.

I, _____ of _____ hereby give you notice that I object to the omission of my name from the preliminary list of voters for the _____ ward, and that I claim to

have my name inserted in the said list as a voter on the grounds

Dated this _____ day of _____ 19____

Signed

(Claimant)

Address _____

FORM B

NOTICE OF OBJECTION TO RETENTION OF NAME IN LIST OF VOTERS

1. Notice to returning officer,

To the returning officer, Lagos.

I, _____ of _____ ward being a person whose name appears in the preliminary list of voters for the _____ ward being a person who made a claim for the inclusion of his name in the preliminary list of voters for the _____ ward, hereby give you notice that I object to the name of _____ of _____ being retained in the said list for the said ward on the grounds that _____

Dated this _____ day of _____ 19____

Signed

(Objector)

2. Notice to person objected to.

To _____

I, _____ of _____ ward being a person whose name appears in the preliminary list of voters for the _____ ward being a person who has made a claim for the inclusion of his name in the preliminary list of voters for the _____ ward, hereby give you notice that I object to your name being retained in the preliminary list of voters for the said ward on the grounds that _____

and that you will be required to prove your qualification at the time of revising the said list.

Dated this _____ day of _____ 19____

Signed

(Objector)

Address _____

FORM C
(Rule 8 (3))CERTIFICATE OF REVISING OFFICER AND OF
RETURNING OFFICER

We hereby certify that the above list contains all changes and additions made to the preliminary list for the ward by the revising officer at on the day (or days) of 19.....

Dated this day of 19.....

(Returning Officer)

(Revising Officer)

SECOND SCHEDULE
(SECTION 24)*Regulations regarding the Election of Councillors*

1. Whenever an election of councillors is required, the returning officer shall cause to be published in the ward or wards concerned—

(a) a notice of the date of the election, such notice being published not less than twenty-eight days before the date of the election; and

(b) a notice of the place and last date for the delivery to the returning officer of nomination papers, such date being not less than seven days after the date of publication of such notice.

2. (1) Every person submitting himself for election, hereinafter referred to as a candidate, shall be nominated in writing by two persons registered as voters in the ward for which he is candidate, and no candidate may be nominated for more than one ward.

(2) The nomination form which shall be as in the Form A of the Appendix to these regulations shall be subscribed by the candidate and by the persons nominating him and shall contain the following particulars:—

(a) the name, address and occupation of the candidate;

(b) the names, addresses and occupations of the nominators of the candidate;

(c) a certification by the candidate that he is willing and qualified to stand for election; and

(d) a statement by the candidate as to his choice of symbols for his candidature.

(3) The returning officer shall provide nomination papers and shall supply any voter with such number of nomination papers as he may require, and shall at the request of any voter, the candidate and all his nominators being present, complete any such nomination paper on such voter's behalf.

(4) Each candidate, or one of the persons nominating him, shall deliver his nomination paper subscribed as hereinbefore provided at the place appointed by the returning officer under regulation 1 not later than one o'clock in the afternoon of the last day for the delivery of nomination papers.

(4A) Upon the delivery of a nomination to the returning officer each candidate shall supply such number of photographs of himself not more than six inches long or six inches wide as may be specified by the returning officer.

Notice of election and nomination days.

Nomination of candidates.

Form A.

(5) Every candidate, before his nomination paper is delivered to the returning officer as aforesaid, shall deposit or cause to be deposited with the returning officer the sum of five pounds in notes, and no nomination shall be valid unless such sum is deposited in the manner required by this sub-regulation.

(6) The deposit referred to in sub-regulation (5) shall be returned to the candidate or to his personal representative if—

(a) the candidate withdraws his nomination in accordance with regulation 5 ; or

(b) the candidate dies before the date of the election ; or

(c) there is no contested election ; or

(d) the candidate is successful or polls at least one eighth of the total number of votes cast for all candidates in the ward.

Validity of
nominations.

3. (1) When a nomination paper is delivered and a deposit is made in accordance with sub-regulation (5) of regulation 2 the candidate shall be deemed to stand nominated unless and until the returning officer decides that the nomination paper is invalid or proof is given to the satisfaction of the returning officer of the candidate's death.

(2) The returning officer's decision that a candidate has been validly nominated shall be final and shall not be questioned in any legal proceedings whatsoever.

(3) Where the returning officer decides that a candidate has not been validly nominated he shall endorse and sign on the nomination paper the fact and reasons for his decision and such decision shall only be subject to review on an election petition under the provisions of Part V of the Law.

(4) The returning officer shall scrutinise the nomination papers of all candidates and shall allot to each candidate a symbol as far as possible in accordance with his choice as declared in the nomination paper.

(5) The decisions of the returning officer as to the allotting of symbols, made in accordance with sub-regulation (4), shall be final and shall not be questioned in any legal proceedings whatsoever.

Publication
of statement
of persons
nominated.

4. (1) The returning officer shall at least twelve days before the day of election publish by displaying it or causing it to be displayed at the place appointed for the delivery of nomination papers at such place or places and in such other manner as he may think fit, a statement of the full names of all persons nominated and of the persons nominating them with their respective addresses and occupations, and a pictorial representation of the symbol allotted to each candidate.

(2) With each statement referred to in paragraph (1) there shall be displayed in each case a copy of the photograph of each candidate supplied in accordance with regulation 2.

Withdrawal
of candidates.

5. Any candidate may withdraw from his candidature by notice in writing signed by him, and delivered by himself or one of the persons nominating him to the returning officer not later than one o'clock in the afternoon of the eleventh day before the day of election.

6. (1) If the number of persons remaining nominated in any ward exceeds one the ballot shall be taken, but if only one person remains nominated in any ward that person shall be deemed to be elected.

(2) Where under the provisions of sub-regulation (1) any person is deemed to be elected, the returning officer shall, on the day appointed for the election, publish the name of the person so elected.

(3) Where no person is or remains nominated in any ward, the returning officer shall appoint some other convenient day for the election in that ward.

7. If after the latest time for delivery of nomination papers and before the commencement of the poll, a nominated candidate dies, the returning officer shall, upon being satisfied of the fact of death, countermand the poll, and shall appoint some other convenient day for the election.

Death of
candidate.

8. (1) In the case of a contested election, the returning officer shall on or before the fourth day before the day of election, cause to be published in every ward in such manner as he may think fit a notice showing—

Notice of
poll.

(a) the day and the hours fixed for the poll ;

(b) that only one person is to be elected ;

(c) the full names, arranged in the alphabetical order of their surnames, place of residence, and occupation of each candidate remaining nominated together with a photograph of each such candidate supplied in accordance with regulation 2 ;

(d) a pictorial representation of the symbol allotted to each candidate remaining nominated ;

(e) the names, places of residence, and occupations of the persons who nominated each candidate ;

(f) the situation of the polling station or stations in each ward and an indication of the persons entitled to vote thereat in accordance with the arrangements made under paragraphs (a) and (g) of regulation 9.

(2) The hours fixed for the taking of the poll shall be a continuous period of not less than six hours.

9. Before polling-day the returning officer shall—

(a) provide a sufficient number of polling stations in each ward and, in accordance with the terms of any notice given under the provisions of sub-regulation (1) of regulation 8 of these regulations, allot the voters within the ward to the polling stations in such manner as seems to him most convenient ;

Arrange-
ments for
elections.

(b) appoint, in respect of each ward, such persons as he may think fit to assist at the voting and counting in the election, and such persons shall be known as polling officers ;

(c) appoint from such polling officers a person to be in charge of each polling station to be known as the presiding officer ;

(d) furnish each polling station with such number of compartments, as in the opinion of the returning officer may be necessary, in which the voters can, screened from observation, record their votes ;

(e) provide each presiding officer with such number of ballot boxes and ballot papers as may be necessary ;

(f) provide each polling station with instruments for making an official mark on the ballot papers, with pads impregnated with indelible ink of a distinctive colour, and with copies of the register of voters for the ward or such part thereof as contains the names of the voters entitled to vote at the polling station; and

(g) do such other acts and things as may be necessary for conducting the election in the manner provided in these regulations.

Form of
ballot paper
Form B.

10. Every ballot paper shall be in the Form B of the Appendix to these regulations and shall—

(a) be capable of being folded up;

(b) have a serial number printed or stamped on the back; and

(c) be attached to a counterfoil bearing the same serial number as is printed or stamped on the back of the ballot paper.

Polling
agents.

11. (1) Each candidate may appoint an agent, hereinafter referred to as a polling agent, to attend at each polling station within the ward for which he is a candidate for the purpose of detecting personation and persons not qualified to vote; and except for the aforesaid purposes an agent so appointed shall not in any way interfere with any voter or with the conduct of the poll.

(2) Notice in writing of the appointments, stating the names and addresses of the polling agents, together with the polling stations to which they have been assigned, shall be given by the candidate to the returning officer not later than three days before the day fixed for the election.

(3) If any polling agent dies or becomes incapable of acting as such, the candidate may appoint another polling agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the polling agent so appointed.

(4) The polling agents in respect of whom notice shall have been given in accordance with sub-regulation (2) or (3) may, during the hours of the poll, attend at the polling stations to which they have been appointed.

(5) The returning officer may, for the purpose of identification, issue to polling agents badges which he may require the polling agents to wear in a conspicuous position on their persons at all times when within a polling station.

(6) It shall be an offence for a polling agent to enter or remain in a polling station without wearing a badge if he has been required to wear a badge in accordance with the provisions of sub-regulation (5).

(7) It shall be an offence for any person, other than a polling agent who is wearing an authorised badge in accordance with sub-regulation (5), to wear such badge within a polling station.

(8) An agent may act for more than one candidate but no candidate may have more than one agent.

Voting by
election
officers and
polling
agents.

12. Notwithstanding anything contained in these regulations, it shall be lawful for the returning officer, the deputy returning officer, the polling officers and the polling agents to vote on the day immediately preceding the polling day at such time and place as the chief electoral officer may appoint.

13. The presiding officer shall cause to be placed in each polling station ballot boxes equivalent in number to the persons nominated for election. Each such ballot box shall be clearly marked with a candidate's name and with a copy of his photograph supplied in accordance with regulation 2 and with the symbol allotted in accordance with regulation 4 of these regulations, and shall be shown to such persons as may lawfully be present to be so marked before being placed in the polling station and before any voting commences. When in use for voting the ballot boxes shall be screened from observation by all persons other than the voter casting his vote and shall be so constructed that a ballot paper can be put therein by the voter but cannot by him be withdrawn.

Symbols to be marked on ballot boxes.

14. Immediately before the commencement of the voting, the presiding officer at the polling station shall show the ballot boxes empty to such persons as may lawfully be present so that they may see that they are empty and shall then close and seal the boxes in such manner as to prevent them being opened without breaking the seal.

Sealing the empty ballot boxes.

15. The voting at an election shall be conducted in the following manner:—

Method of voting.

(a) every voter desiring to record his vote shall present himself to a polling officer at the polling station at which he is entitled to vote, and the polling officer after satisfying himself that the name of such voter appears on the copy of the register of voters, or part thereof, provided for that polling station, and that he has not already voted, shall deliver to him a ballot paper.

(b) immediately before the polling officer delivers a ballot paper to a voter—

(i) the ballot paper shall be marked on both sides, or punched, with an official mark;

(ii) the number, name, address and occupation of the voter as stated in the copy of the register of voters, or part thereof, shall be called out;

(iii) the number of the voter in the register of voters shall be marked on the counterfoil; and

(iv) a mark shall be placed against the number of the voter in the copy of the register of voters, or part thereof, to denote that a ballot paper has been received by the voter, but without showing the serial number of the ballot paper which has been received;

(c) a polling officer may, and if required by a candidate or a polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions or either of them:—

(i) are you the person whose name is on the register of voters as follows (reading out the copy of the entry in the register)?

(ii) have you already voted at the present election at this or any other polling station?

(d) a voter on receiving a ballot paper shall go immediately into one of the screened compartments in the polling station and shall there secretly record his vote by placing his ballot paper in the ballot box of his choice;

(e) a voter shall not vote for more than one candidate nor record more than one vote in favour of any candidate;

(f) a voter who has accidentally dealt with his ballot paper in such a manner that it cannot be conveniently used as a valid ballot paper may, on delivering such ballot paper to the presiding officer and after satisfying the presiding officer that the ballot paper has been spoilt by accident, obtain another ballot paper in the place of the paper so delivered up, and the spoilt ballot paper shall be immediately cancelled;

(g) immediately before recording his vote a voter shall submit to having the ball of his left thumb or the outer edge of the lower part of his left forefinger marked with ink sufficiently indelible to leave a mark to the satisfaction of the presiding officer;

(h) a voter who is unable to distinguish symbols or who suffers from blindness or any other physical disability preventing his voting may call the presiding officer aside and may tell him, no other person being present within hearing, the name or symbol of the candidate for whom he wishes to vote, and the presiding officer shall, in the presence of the voter, place the ballot paper in the appropriate ballot box.

Admission
of persons
to polling
station.

16. (1) No person shall be permitted to vote at any polling station other than the one allotted to him under the provisions of paragraph (a) of regulation 9 of these regulations.

(2) The presiding officer shall regulate the admission of voters to the polling station, and shall exclude all other persons except candidates, polling agents, polling officers, police officers on duty, and any other person who in his opinion has lawful reason to be admitted.

Personation.

17. (1) If at the time a person applies for a ballot paper, or after he has so applied and before he has left the polling station, a polling agent declares to the presiding officer that he has reasonable cause to believe that the applicant has committed the offence of personation and undertakes to substantiate the charge in a court of law, the presiding officer may order a police officer to arrest such person, and the order of the presiding officer shall be sufficient authority for the police officer so to do.

(2) A person in respect of whom a polling agent makes a declaration in accordance with the provisions of paragraph (1) of this regulation shall not, by reason thereof, be prevented from voting, but the presiding officer shall cause the words "*protested against for personation*" to be placed against his name in the marked copy of the register of voters or portion thereof: Provided that where a person in respect of whom such declaration is made admits to the presiding officer that he is not the person he held himself out to be, he shall not be permitted to vote if he has not already done so, and if he has already voted the presiding officer shall make a note of the number of the ballot paper delivered to him, and, upon the count being taken, such ballot paper shall be invalid.

(3) A person arrested under the provisions of this regulation shall be deemed to be a person taken into custody by a police officer for an offence in respect of which he may be arrested without a warrant.

Tendered
ballot papers.

18. If a person representing himself to be a voter named in the register of voters applies for a ballot paper after another person has voted as such voter, the applicant shall, upon giving satisfactory answers to the questions set out in paragraph (c) of regulation 15 of these regulations, be entitled to receive a ballot paper in the same manner as any other voter, but each

such ballot paper, hereinafter called a tendered ballot paper, shall be of a colour different from the ordinary ballot papers, and instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside, in accordance with the wishes of the person voting, in one of a number of separate packets each of which shall correspond to and bear the same name or symbol as one of the ballot boxes provided in accordance with regulation 13 and shall not be counted by the returning officer as hereinafter provided; and the name of the voter and his number on the register of voters shall be entered on a list to be called the tendered votes list, and this list shall be admissible in any legal proceedings arising out of the election.

19. (1) The presiding officer shall keep order and ensure compliance with these regulations at the polling station.

Conduct in
polling
stations.

(2) If any person misconducts himself in a polling station, or fails to obey any lawful order of the presiding officer, he may, by order of the presiding officer, be removed from the polling station by any police officer, or by any other person authorised in writing by the presiding officer in that behalf; and the person so removed shall not, without the permission of the presiding officer, again enter the polling station during the day of the election; and any person so removed may, if charged with the commission of an offence in such station, be deemed to be a person taken into custody by a police officer for an offence in respect of which he may be arrested without a warrant: Provided that the provisions of this regulation shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station from having an opportunity of so voting.

20. When the prescribed hour for the closing of the poll has been reached the presiding officer shall declare that no more persons shall be admitted to the polling station, and thereafter only those persons already inside the polling station shall be permitted to vote.

Closing of
poll.

21. (1) As soon as practicable after the termination of the voting the presiding officer shall, in the presence of the polling agents, make up into separate packets, each sealed with his own seal:—

Presiding
officer's
duties at
close of
voting.

(a) each ballot box in use at his polling station, unopened and sealed so as to prevent the introduction of additional ballot papers;

(b) the unused and spoilt ballot papers, placed together;

(c) the tendered ballot papers;

(d) the marked copy of the register of voters;

(e) the counterfoils of the used ballot papers; and

(f) the tendered votes list;

and shall deliver the packets to the returning officer for the appropriate ward.

(2) The packets shall be accompanied by a statement to be called the ballot papers account, prepared by the presiding officer, showing—

(a) (i) the number of ballot papers entrusted to him;

(ii) the number of spoilt ballot papers;

(iii) the number of unused ballot papers; and

(b) the number of tendered ballot papers.

Counting
agents.

22. (1) Each candidate may appoint one person, hereinafter referred to as a counting agent, to attend at the counting of votes.

(2) Notice in writing of the appointment, stating the name and address of the counting agent, shall be given by the candidate to the returning officer not later than one day before the day of the election; and the returning officer may refuse to admit to the place where the votes are counted any person purporting to be a counting agent in respect of whom such notice has not been given.

(3) If a counting agent dies or becomes incapable of acting as such, the candidate may appoint another counting agent in his place, and shall immediately give to the returning officer notice in writing of the name and address of the counting agent so appointed.

(4) A counting agent may act for more than one candidate but no candidate may appoint more than one counting agent.

Counting of
votes.

23. (1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall, so far as is practicable, proceed continuously with the counting, allowing only reasonable time for refreshment.

(2) A candidate or his counting agent may if present when the counting or any re-count of the votes is completed request the returning officer to have the votes re-counted or again re-counted, but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(3) No action shall be taken under regulations 30, 31 or 32 until the candidates and counting agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by sub-regulation (2).

(4) Except with the consent of the returning officer, who shall have sole charge of the counting, no person other than the returning officer, the persons appointed to assist him, and the candidates and their counting agents may be present at the counting of the votes.

Misconduct
at the
counting.

24. (1) If any person misconducts himself in the counting room or fails to obey the lawful orders of the returning officer, he may immediately, by order of the returning officer, be taken into custody by any police officer, or by any other person authorised in writing by the returning officer to take such person into custody; and any such person so taken into custody as aforesaid may be detained in the counting room until after the result of the counting has been announced by the returning officer, and shall be dealt with as a person taken into custody by a police officer for an offence in respect of which he may be arrested without a warrant.

(2) Save with the consent of the returning officer, it shall be an offence for any person to announce the result of the count before the returning officer does so.

(3) It shall be an offence for any person to bring into or consume in the counting room alcoholic liquor.

25. (1) The returning officer shall, in the presence of the counting agents, open each ballot box one by one and, after taking out the ballot papers, shall separate the valid ballot papers (as defined in regulation 26) from any other papers found therein.

(2) The returning officer shall then proceed to count the valid ballot papers found in the box and shall record the total number thereof as the number of votes cast in favour of the candidate whose name and symbol is borne by the ballot box concerned.

(3) While counting the valid votes the returning officer shall keep the ballot papers with their faces upwards.

26. Any ballot paper—

(a) which does not bear the official mark; or

(b) on which anything is written or marked by which a voter can be identified, other than the printed or stamped serial number,

shall be deemed invalid and shall not be counted. All other ballot papers which bear the official mark and printed or stamped number shall be deemed valid and shall be counted.

27. (1) The returning officer shall endorse the word "rejected" on any ballot paper which, under the provisions of regulation 26, is not to be counted.

(2) The returning officer shall add to the endorsement the words "rejection objected to" if an objection to his decision is made by any counting agent.

28. The returning officer shall prepare a statement showing the number of ballot papers rejected under the following heads:—

(a) want of official mark;

(b) writing or mark by which the voter could be identified;

and shall on request allow any counting agent to copy the statement.

29. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, and shall be subject to review only on an election petition questioning the election.

30. (1) Upon the conclusion of the counting of the votes the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers, or the sealed packet containing the marked copy of the register of voters, or the sealed packet containing the counterfoils of used ballot papers, but shall proceed, in the presence of the counting agents, to verify the ballot papers account given by each presiding officer in accordance with regulation 21 (2) by comparing it with the total number of ballot papers recorded in accordance with regulations 25 and 26 and with the number of unused and spoilt papers delivered to him in accordance with regulation 21 (1).

(2) The returning officer shall prepare a statement as to the result of the verification and shall on request allow any counting agent to copy such statement.

(3) After examination, the returning officer shall re-seal the packets containing the unused and spoilt papers and shall packet and seal those papers which he has rejected in pursuance of the provisions of regulations 25 and 26.

31. When an equality of votes is found to exist between any candidates so that the addition of a vote would entitle any one of the candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot and proceed as if the candidate on whom the lot falls had received an additional vote.

Votes to be counted.

Endorsement by returning officer.

Returning officer's decision final.

Returning officer's duties at conclusion of counting.

Equality of votes.

Notification
of results.

32. After having counted the votes and ascertained the result of the poll in accordance with regulations 25 and 26, and (where applicable) regulation 31, the returning officer shall—

Form C.

(a) complete the certificate of return as set out in Form C of the Appendix to these regulations;

(b) declare the result of the poll by reading such completed form aloud inside the place of counting;

(c) cause to be posted at the office of the council concerned a copy thereof;

(d) deliver or cause to be delivered the original of such certificate to the chief electoral officer;

Form D.

(e) furnish the persons elected with a certificate of election as set out in Form D of the Appendix to these Regulations;

(f) cause to be published in the *Gazette* of the Federation and in such other manner as he may think fit, a declaration of the result of the poll and a statement showing the names of the candidates elected, the names of the unsuccessful candidates and the number of votes recorded for each candidate whether elected or not.

Custody of
documents.

33. (1) The returning officer shall ensure the safe custody of all documents relating to the conduct of the election.

(2) The returning officer shall cause all such documents to be destroyed after the expiration of six months from the date of the election unless otherwise directed by an order of the Court arising from proceedings relating to the election.

Powers of
presiding
officers to
act through
assistants.

34. A presiding officer may do, by any officer appointed to assist him any act which the presiding officer is required or authorised to do at a polling station by these regulations, except ordering the arrest of any person, or the exclusion or removal of any person from the polling station.

Meaning of
returning
officer.

34a. Any reference in these regulations to the returning officer shall be deemed to include any polling officer carrying out duties upon his direction.

Candidate
has power
of his agent.

35. A candidate may do any act or thing which his agent would have been authorised or required to do, and may assist his agent in the doing of any such act or thing.

Non-
attendance
of agents not
to invalidate
proceedings.

36. Where in these regulations any act or thing is required or authorised to be done in the presence of the agents of the candidates, the non-attendance of any agent or agents at the time and place appointed for the purpose shall not, if any act or thing is otherwise properly done, invalidate the act or thing done.

Remunera-
tion of
electoral
staff.

37. The polling officers and their assistants shall receive from the returning officer such reasonable remuneration as the chief electoral officer may see fit to authorise.

Election
expenses.

38. (1) All sums properly received by the returning officer in connection with the election shall be paid into the municipal fund after payment therefrom of all reasonable expenses incurred by the returning officer for the purpose of the election.

(2) All costs properly incurred by the returning officer in the institution of legal proceedings arising out of an election shall be deemed to be expenses reasonably incurred by him for the purposes of the election.

39. (1) An election shall not be invalidated for non-compliance with these regulations and any variations thereof duly made, or a *bona fide* mistake in the use of the prescribed forms, if it appears to the court having cognisance of the question that the election was conducted substantially in accordance with the principles laid down in these regulations and that the non-compliance or mistake did not effect the result of the election.

Non-compliance with certain provisions, etc., not to invalidate election.

(2) No inaccuracy or inaccurate description of any person or place named in any official list of voters, nomination paper, ballot paper, voting paper, or notice shall affect the full operation of that document with respect to that person or place, in any case where the description of the person or place is such as to be commonly understood.

(3) An election shall not be liable to be questioned by reason of a defect in the title, or want of title, of the person conducting the election; if that person was then in actual possession of, or acting in, the office giving the right to conduct the election.

40. No person who has voted at an election shall, in any legal proceedings arising out of the election, be required to state for whom he voted.

Secrecy of vote.

41. Any person who wilfully makes a false answer to either of the questions mentioned in regulation 15 (c) shall be guilty of an offence and shall be liable on conviction to a fine of ten pounds or to imprisonment for two months.

False answers.

42. Any person who, at the same election, votes at an election in more than one ward or polling division shall be guilty of an offence.

Plural voting.

43. (1) No person shall convene, hold or attend any public meeting within any ward on the date or dates on which a poll is taken for an election in that ward: Provided that attendance in any gathering or queue by voters waiting to vote shall not be deemed attendance at a public meeting.

Miscellaneous offences.

(2) No person shall on the date or dates on which a poll is taken at any polling station commit any of the following acts within the polling station or in any public or private place within a distance of two hundred yards of the polling station, namely:

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(c) persuading any elector not to vote for any particular candidate; or

(d) persuading any elector not to vote at the election; or

(e) bearing, wearing, exhibiting or tendering any notice, sign, token, symbol, slogan, badge, photograph or party card referring to the election, other than an official document, badge or notice; or

(f) operating, or permitting the use of, any megaphone, amplifier or public address apparatus for announcements (other than official announcements) concerning the election; or

(g) shouting slogans concerning the election.

(3) No candidate or his agent, or other person, with the connivance of a candidate or his agent, shall, whether on payment or otherwise, use, hire or procure any vessel or vehicle for the conveyance of any elector (other than the candidate himself or his agent) to or from any polling station.

Offences
relating to
certificates
of return.

44. Any person who, being a returning officer at an election—
(a) gives a certificate of return which is, to his knowledge, false in any material particular; or
(b) perversely and without lawful excuse refuses to render any certificate of return relating to that election to the officer to whom it is required to be delivered,
shall be guilty of an offence.

Disorderly
conduct at
elections.

Penalties.

45. Any person who at any election held under these regulations acts or incites others to act in a disorderly manner shall be guilty of an offence.

46. Any person who contravenes, or fails to comply with, the provisions of regulations 11 (1), 11 (6), 11 (7), 19 (2), 23 (4), 24 (1), 24 (2), 24 (3), 42, 43, 44, or 45 of these regulations shall be guilty of an offence and shall be liable on conviction to a fine of one hundred pounds or to imprisonment for one year or to both such fine and imprisonment.

47. If any offence against regulation 43 is committed by a candidate elected in accordance with these regulations the election of such candidate shall be invalid.

APPENDIX

FORM A (REGULATION 2 (2))

Nomination Paper for Lagos Town Council Election

Ward for which candidate seeks election.....

Date of election.....

1. I, the undersigned, am the candidate to whom this nomination paper relates and I hereby state that I am willing to stand for election to the Lagos Town Council as a member for the.....

2. I also hereby state that I am qualified, and not disqualified, for election to the aforesaid council in accordance with the requirements of the Lagos Local Government Law, 1953, (and, in particular, as the same has been amended by the Lagos Local Government (Amendment) Ordinance, 1959).

3. I further declare that the symbols which I have chosen for my candidature are shown below in order of my preference.

- 1.....
- 2.....
- 3.....

Name.....

Address.....

Occupation.....

Date.....

Signature.....

We, the undersigned, are the two nominators of the above candidate and are registered voters of the ward for which this candidate seeks election.

1
Name _____
Address _____
Occupation _____
Date _____

Signature _____

2
Name _____
Address _____
Occupation _____
Date _____

Signature _____

Received by me at _____ o'clock _____ m. on the _____ day of _____, 19____

Signature _____

Returning Officer

FORM B (REGULATION 10)
Form of Front of Ballot Paper

Counterfoil Serial No. (The counterfoil is to have a number to correspond with that on the back of the ballot paper.)	Ballot Paper Election to Lagos Town Council by Voters of _____ ward. day of _____, 19____
--	--

Form of Back of Ballot Paper

Serial No. _____
NOTE.—The above number is to correspond with that on the face of the counterfoil.

FORM C (REGULATION 32 (a))
Certificate of Return at Lagos Town Council Election

- I, _____ hereby certify—
1. That I was the returning officer for the election appointed to be held in the _____ ward(s) of Lagos on the _____ day of _____, 19____
 2. That the election was contested/uncontested ;
 3. That the candidates received the following votes :

WARD _____

WARD _____

WARD _____

4. That the following persons, and no other persons, are declared to be elected.

WARD

WARD

WARD

Signature

Returning Officer

Date

FORM D (REGULATION 32 (e))

Certificate of Election to Lagos Town Council

This is to certify that
has been elected a member of the Lagos Town Council at an election held
in ward on the day of 19
Date

THIRD SCHEDULE

RULES RELATING TO MEETINGS AND PROCEEDINGS OF THE
COUNCIL (SECTION 58)

Days and
hours of
meeting.

1. (1) The council shall in every year hold an annual meeting and at least eight other meetings for the transaction of its business.

(2) The annual meeting shall be held on the seventh day following the date of the first election appointed under section 15, and thereafter annually on a date to be determined by the council, at 3 o'clock in the afternoon, or at such other hour as the council may determine.

Convening
meetings.

(3) The other meetings shall be held on such other days and such hours as the council may determine.

2. (1) The President may call a meeting of the council at any time.

(2) If the President refuses to call a meeting after a requisition for that purpose, signed by one-fourth of the whole number of members of the council, has been presented to him, or if, without so refusing, the President does not within seven days after the requisition has been presented to him call a meeting, any members of the council, not being less than one-fourth of the whole number thereof, may forthwith on his so refusing, or on the expiration of these seven days, as the case may be, call a meeting of the council.

(3) Three clear days at least before a meeting of the council—

(a) notice of the time and place of the intended meeting, signed by the President or by the councillors calling the meeting, shall be published at the office of the council, and where the meeting is called by councillors the notice shall specify the business proposed to be transacted thereat; and

(b) a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the town clerk, shall be left at, or sent by post to, the last known place of residence of every member of the council: Provided that want of service of the summons on any member of the council shall not affect the validity of a meeting.

(4) Except in the case of business required by this Law to be transacted at the annual meeting of the council, no business shall be transacted at a meeting of the council other than specified in the summons relating thereto.

3. (1) At a meeting of the council the President, if present, shall preside.

Chairman of meetings.

(2) If the President is absent from a meeting of the council, the Chairman, if present, shall preside.

(3) If both the President and the Chairman are absent, such traditional member or councillor as the members of the council present shall choose, shall preside.

4. (1) No business shall be transacted at a meeting unless at least one-third of the whole number of members of the council are present thereat: Provided that, where more than one-third of the members of the council become disqualified at the same time, the foregoing provision shall, until the number of members in office is increased to not less than two-thirds of the whole number of members of the council, have effect as if for the reference to the whole number of members of the council there were substituted a reference to the number of members of the council remaining qualified.

Quorum.

(2) For the avoidance of doubts, the expression "the whole number of members of the Council" shall include the President, the traditional members and the councillors.

5. (1) Subject to the provisions of any enactment (including any enactment in this Ordinance), all acts of the council and all questions coming or arising before the council, shall be done and decided by a majority of the members of the council present and voting thereon at a meeting of the council.

Decisions on questions.

(2) In the case of an equality of votes, the person presiding at the meeting, whether or not he voted, or was entitled to vote, in the first instance, may give a casting vote.

6. (1) The names of the members present at a meeting of the council shall be recorded.

Names of members present to be recorded.

(2) The names of the members voting on any question shall, on the requisition of any member present, be recorded so as to show the names of those comprising the majority by which the question is decided.

7. (1) Minutes of the proceedings of a meeting shall be drawn up and printed, typed or stencilled and shall be signed at the same or next ensuing meeting by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

Minutes.

(2) Until the contrary is proved, a meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified.

8. Subject to the provisions of this Ordinance, the council shall make standing orders for the regulation of its proceedings and business, and may vary or revoke any such orders.

Standing Orders.

9. The proceedings of the council shall not be invalidated by any vacancy among its number, or by any defect in the election or qualification of any of its members.

Vacancies, etc., not to invalidate proceeding.

FOURTH SCHEDULE

(Section 92)

Special and General Purposes of Expenditure

1. Making donations for public charitable purposes.
2. Contributing to the funds of any organisation of a national or international character, provided that its activities are of a non-political nature.
3. The establishment and maintenance of renewal funds, reserve funds, pension funds and any other special funds considered necessary for the purpose of this Ordinance or any other Law or Ordinance to which the council is required to give effect.
4. Making *ex gratia* payments in settlement of claims against the council.
5. The execution of works for the Government or the public on repayment.
6. The qualification, training and welfare of the officers and servants of the council.
7. The refund of out-of-pocket expenses of members of the council and officers thereof whilst engaged on municipal business.
8. Expenditure incurred in connection with the preparation of official lists of voters.
9. Expenditure incurred in connection with the publication of matter relating to the work of the council or designed to stimulate interest in local government in Lagos.
10. A loan to the President of the council, not exceeding such amount and on such terms as to repayment as may be approved by the Governor-General in Council, for the purpose of purchasing a motor vehicle for his personal and official use.

FIFTH SCHEDULE

APPLICATION OF ORDINANCES

(Section 189)

<i>Ordinance</i>	<i>Extent of Modification</i>
Assessment Ordinance, Cap. 16	The whole Ordinance.
Public Health Ordinance, Cap. 183.	The town of Lagos shall be deemed to be a township of the first class and the medical officer of health appointed by the council shall be deemed to be medical officer of health for the town.
Townships Ordinance, (Cap. 216) section 53, 54 and 55.	The town of Lagos shall be deemed to be a township of the first class. The council shall exercise the functions conferred by sections 53 and 54 upon the local authority of a township and a Regional Director of Public Works, and the Minister shall exercise the functions conferred by section 55 on the Governor.

SIXTH SCHEDULE

MODIFICATION OF ORDINANCES

(Section 190)

*Ordinance**Extent of Modification*

Destruction of Mosquitoes
Ordinance, Cap. 52.

1. The Ordinance shall apply to property belonging to or vested in or maintained by the council.
2. The medical officer of health appointed by the council shall be the sanitary authority within the town for the purposes of the Ordinance to the exclusion of any person who may previously have been appointed as such authority.
3. In Part III of the Ordinance, "the council" shall be substituted for the "the Lieutenant-Governor" and "the medical officer of health" shall be substituted for "the Regional Director".

Dogs Ordinance,
Cap. 52.

1. In section 2 in the definition of the expression "the authority" delete paragraph (a) and substitute the following as paragraph (a): "in the case of the town of Lagos the Town Council established under the provisions of the Lagos Local Government Law, 1953."
2. In sections 4 and 17 the expression "the town of Lagos" shall be substituted for the expression "the township of Lagos."
3. Notwithstanding the provisions of section 26, licence fees and all fees paid for the keep of dogs and for medicines supplied for their use during detention or quarantine within the town of Lagos shall be credited to the municipal fund.

Waterworks Ordinance,
Cap. 127.

The council shall be deemed to be the prescribed authority.

SEVENTH SCHEDULE

FORM A

(Section 151)

Notice is hereby given that the following lands (*describe lands, giving measurements and showing boundaries whenever practicable*) are required for local government purposes by the Lagos Town Council and the Minister has given his consent to their acquisition.

*The amount of compensation offered to _____
in respect of the interest _____ as claimed
in the said land, is the sum of _____

Any person claiming to have any right or interest in the said land is required within six weeks from the date of this notice to send to the Lagos Town Council a statement of his right and interest and of the evidence thereof, and of any claim made by him in respect of such right or interest.

*And notice is also hereby given that the Lagos Town Council intends to enter into possession of the said lands at the expiration of _____ weeks from the date of this notice and _____ is hereby directed to yield up possession of the said lands before expiry of such period.

Any person who shall wilfully hinder or obstruct any person authorised by the council from taking possession of the said lands is liable under the provision of the Ordinance above mentioned on conviction to a fine of twenty-five pounds or to imprisonment for three months.

*The Lagos Town Council will allocate the following land (*describe land, giving measurements and showing boundaries whenever possible*) to

The _____ day of _____ 19____

Town Clerk, Lagos Town Council

* Delete if not applicable.

FORM B (Section 164)

Notice is hereby given that the following lands (*describe lands, giving measurements and showing boundaries whenever practicable*) which were acquired for so long as they might be required for the purpose of _____

are no longer required for the said purpose by the Lagos Town Council.

The _____ day of _____ 19____

Town Clerk, Lagos Town Council

EIGHTH SCHEDULE (secs. 80 and 80A)

PART I.—STATUS, POWERS AND DUTIES OF TOWN CLERK

- (1) The powers and duties specified in section 80.
- (2) The preparation of an agenda for each meeting of council and any committee.
- (3) The custody of and responsibility for the records and documents of the council, which shall be kept as the council may direct.
- (4) The duty of ensuring that the business of the council is carried out with order, regularity and expedition in accordance with the bye-laws, regulations and resolutions of the council, and the responsibility for the

general correspondence of the council and the conduct of such negotiations on behalf of the council as the council may require.

(5) The responsibility for conveying decisions of the council to officers of the council relating to their work or conduct.

(6) General legal advice to the council, and to officers of the council on questions arising with regard to their duties and obligations.

(7) The submission not later than the 30th of June in each year to the Chairman, for the information of the council, of a report on the administration of the council, for the previous period ending the 31st March, including a summary of the general state of the town, together with such observations and recommendations as he may consider expedient or necessary.

PART II.—STATUS, POWERS AND DUTIES OF TOWN ENGINEER

(1) The maintenance and repair of all roads, drains and bridges within the municipality (but excluding the trunk roads), including street lighting, traffic signals and street furniture, lorry parks, taxi parks, and other similar amenities.

(2) The collection and disposal of all refuse and sewage arising within the municipality and maintenance of sewage pumping stations, sewers and public lavatories.

(3) The maintenance of all cemeteries, markets and parks including a municipal pool.

(4) The construction and maintenance of all municipal buildings including offices and quarters.

(5) The control of workshops, handling repairs and maintenance of all council vehicles and plant.

(6) The control of works yards producing precast concrete products, bituminous macadam and asphalt, joinery work, and other similar works.

(7) Maintenance and repair of municipal abattoirs and dairies and distribution of meat to the markets.

(8) The examination and approval of all plans submitted in respect of new buildings or alterations to existing buildings, the inspection of all buildings under construction or alteration, the demolition of buildings contravening the bye-laws, the inspection of dangerous buildings and the testing, repair or demolition of same.

PART III.—STATUS, POWERS AND DUTIES OF MEDICAL OFFICER OF HEALTH

The Medical Officer of Health shall be the chief medical officer of the council and shall be responsible for all matters relating to health for which the council is responsible and in particular without prejudice to the generality of the foregoing—

- (a) births, deaths and burials;
- (b) destruction of mosquitoes;
- (c) dogs;
- (d) leprosy;
- (e) markets;
- (f) sale of food;
- (g) vaccination;
- (h) the school care service;
- (i) the infectious diseases hospital;
- (j) maternity homes.

PART IV.—STATUS, POWERS AND DUTIES OF MUNICIPAL TREASURER

- (1) The municipal treasurer shall be the principal financial officer of the council.
- (2) He shall be primarily charged with all matters of finance and accounts of the council and for such purpose shall in such books as may be necessary record and keep true and proper accounts of all money received and receivable and paid and payable on behalf of the council for the correctness of which he shall be responsible.
- (3) He shall attend all meetings of the finance committee and such other meetings as his duties may render necessary.
- (4) He shall keep true accounts of all moneys received and receivable and paid and payable by the Chairman or the council for any charitable purpose of which the Chairman or the council may assume the charge.
- (5) He shall be responsible for the raising of all loans, the issuing of bonds, the opening and closing of all accounts, the preparation of the annual accounts and balance sheet and such monthly or other statements as may be desirable, or as he may be directed to prepare by the council.
- (6) He shall, subject to the bye-laws and regulations of the council and the approval of the finance committee, supervise the storekeeping of the council and ensure that proper records are kept of all stores.
- (7) He shall be responsible for establishing and maintaining a proper and adequate system of accounting in such a way that the assets and liabilities of the council are properly recorded and that the cost of any particular service may be easily ascertained. He shall also ensure the effective financial control of the revenue and expenditure of the council and the balancing of all accounts and the safe keeping of all records of his department.
- (8) He shall from time to time carry out departmental inspection of all financial transactions of the council and shall immediately bring to the notice of the town clerk for the information of the finance committee and the council any error or discrepancy apparent in the books of the council.
- (9) He shall whenever required submit to the finance committee a trial balance sheet and such other financial reports and statements as may be necessary for their information and shall, not later than the last day of November in every year, submit to the finance committee a report along with the accounts and balance sheets showing the complete accurate financial position of the council for the period ended the 31st March of the preceding accounts year.
- (10) He shall, not later than the last day of November in each year, prepare and submit to the finance committee (after review by the other committees of their own estimates) a full and proper estimate of the income receivable and the expenditure to be incurred on revenue and capital account during the financial year commencing on the 1st April next following.
- (11) He shall at the request in writing of any member or members of the council and with the consent of the finance committee submit for inspection of such member or members any book of account or record of the council.