

ROYAL NIGERIAN NAVY ACT, 1960

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FIRST SCHEDULE—Application of the Naval Discipline Act, 1957, and of Queen's Regulations and Admiralty Instructions.

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A BILL

FOR

AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT, GOVERNMENT AND DISCIPLINE OF THE ROYAL NIGERIAN NAVY AND TO PROVIDE FOR THE MAINTENANCE OF A NAVAL RESERVE FORCE, FOR APPEALS FROM COURTS-MARTIAL AND FOR PURPOSES CONNECTED THEREWITH AND ANCILLARY THERETO.

Title.

[*By notice, see section 1*]

Commence-
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows—

Enactment.

PART I—PRELIMINARY

1. (1) This Act may be cited as the Royal Nigerian Navy Act, 1960, and shall be of Federal application.

(2) This Act shall come into operation on a day to be appointed by the Governor-General in Council by notice in the Gazette.

Short title,
application
and
commence-
ment.

Interpreta-
tion.

2. In this Act except where the context otherwise requires—

“the Commander” means the person for the time being appointed by the Governor-General in Council to be in command of the Navy ;

“court-martial” means a court-martial under this Act ;

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“the Naval Discipline Act, 1957” means the Naval Discipline Act, 1957, of the United Kingdom ;

“the Navy” means the Royal Nigerian Navy established pursuant to subsection (1) of section 3 ;

“the Navy Board” means the Royal Nigerian Navy Board established pursuant to subsection (1) of section 5 ;

“officer” means an officer appointed by the Governor-General by commission or warrant pursuant to section 10 ;

“rating” means a member of the Navy of or below the rank of Chief Petty Officer ;

“the reserve” means the Royal Nigerian Naval Reserve established pursuant to subsection (1) of section 4 ;

“ship of the Navy” means a commissioned ship flying the Nigerian Naval Ensign.

Establish-
ment and
functions of
Navy.

3. (1) There shall be established and maintained a naval force to be known as the Royal Nigerian Navy which shall consist of such vessels and establishments as the Navy Board may think fit and of such numbers of officers and other members as the Governor-General in Council may by regulations prescribe.

(2) The Navy shall be charged with—

(a) the naval defence of Nigeria ;

(b) the enforcement of the customs laws of Nigeria ;

(c) the making of hydrographic surveys to such extent as the Minister charged with responsibility for matters relating to Defence may require ;

(d) training in naval and maritime duties ;

(e) such other duties as that Minister may direct.

(3) The Navy shall cease to be part of the public service of the Federation.

Constitution
of reserve.

4. (1) There shall be maintained a reserve force to be known as the Royal Nigerian Naval Reserve.

(2) The reserve shall consist of—

(a) all officers and ratings who are transferred to the reserve on completion of their period of service in the Navy ;

(b) such other officers and ratings as the Governor-General in Council may by regulations provide.

PART II—ROYAL NIGERIAN NAVY BOARD

Establish-
ment of
Royal
Nigerian
Navy
Board.

5. (1) There shall be a Royal Nigerian Navy Board which shall, subject to the provisions of subsection (2), be responsible under the general authority of the Minister charged with responsibility for matters relating to Defence for the command, discipline and administration of, and all other matters relating to, the Navy.

(2) The responsibility of the Navy Board shall not extend to the operational use of the Navy, for which use responsibility shall be vested in the Commander subject to the overall directions of the Governor-General in Council :

Provided that the Prime Minister may give to the Commander such directions with respect to the operational use of the Navy in Nigeria and in Nigerian waters for the purpose of maintaining and securing public safety and public order, notwithstanding that the directions of the Governor-General in Council have not been obtained, and the Commander shall comply with those directions or cause them to be complied with.

6. (1) The members of the Navy Board shall be—

(a) the Minister charged with responsibility for matters relating to Defence, who shall be the Chairman of the Board ;

(b) such other Minister as may be appointed under subsection (2) ;

(c) the Commander ;

(d) the Permanent Secretary of the Ministry responsible for Defence.

(2) The Prime Minister may, if he sees fit, appoint a Minister, other than the Minister charged with responsibility for matters relating to Defence, to be a member of the Navy Board.

(3) The Chairman may nominate any member to perform the duties of the Chairman at any meeting of the Navy Board at which the Chairman is absent, and such nomination may be either general or in respect of a particular occasion.

(4) In the event of any member being for any reason unable to perform his duties as a member he may with the approval of the Chairman nominate a person to perform such duties during his inability.

7. The Secretary to the Navy Board shall be the Permanent Secretary of the Ministry responsible for Defence.

8. The Navy Board may provide for all or any of the following matters—

(a) the organisation of the work of the Board and the manner in which it shall perform its functions and the duties and responsibilities of the members thereof ;

(b) the delegation by notification in the *Gazette* to any member of the Board of any of the powers or duties of the Board ;

(c) the consultation by the Board with persons other than members thereof ;

(d) the procedure to be followed by the Board in conducting its business.

PART III.—ADMINISTRATION AND GOVERNMENT

9. The Governor-General on the advice of the Prime Minister after consultation by the Prime Minister with the Navy Board may appoint such officer (in this Ordinance called "the Commander") as he thinks fit, in whom the command of the Navy and the reserve shall be vested and subject to the terms of such appointment and to such directions in relation to the operational use thereof as may be given under subsection 2 of section 5 such person shall have the command, direction and general superintendence of the Navy and the reserve.

Member-
ship of
Navy
Board.

Secretary.

Powers of
Navy Board.

Command
of the Navy.

Appointment of officers.

10. (1) No person shall be appointed to a commission in the Navy unless he has been recommended by a board of officers set up by the Commander.

(2) A person recommended for appointment to a commission in the Navy shall be appointed to a commission either for an indefinite period or for a specified time.

(3) Every officer on appointment shall be issued with a commission in the form prescribed by regulations made under section 17 and signed by the Governor-General.

(4) The appointment of a person to a commission in the Navy shall be notified in the *Gazette*.

Promotion, etc., of officers.

11. (1) All promotions of officers shall be notified in the *Gazette*.

(2) Any retirement or resignation of an officer shall be notified in the *Gazette*.

Pensions provisions. Cap. 147.

12. (1) For the purpose of the Pensions Ordinance, service with the Navy shall be deemed to be service in the public service of the Federation, and the provisions of that Ordinance shall apply in respect of members of the Navy subject to such modifications as may be prescribed.

(2) Service with the Navy shall be deemed to be service in the Government of the Federation for the purpose of the Widows' and Orphans' Pensions Ordinance, notwithstanding the provisions of paragraph (c) of subsection (1) of section 4 of that Ordinance, and the provisions of that Ordinance shall apply in respect of officers of the Navy and their dependants subject to such modifications as may be prescribed.

Cap. 220.

Provisions for death or injury. Cap. 147

13. (1) Every officer or rating of the Navy who in the actual discharge of his duty and without his own default has received wounds or injuries or suffered illness in such circumstances as may be prescribed shall be entitled to such benefits under the Pensions Ordinance as may be prescribed.

(2) The family of any officer or rating of the Navy who has been killed or has died of wounds received on active service, or who has died through illness directly attributable to fatigue or exposure incidental to such service, shall be entitled to such benefits under the Pensions Ordinance as may be prescribed.

(3) For the purpose of this section "family" and "active service" shall bear the meanings assigned thereto by regulations made under section 17.

Liability for service anywhere.

14. Officers and ratings of the Navy shall be liable for service in any ship, establishment or other place whether within or outside the limits of Nigeria.

Discipline.

15. (1) Every officer and rating of the Navy and the reserve shall be subject to the provisions, as modified in accordance with the provisions of subsection (2) and of the First Schedule, of the Naval Discipline Act, 1957, and of Queen's Regulations and Admiralty Instructions and of all other laws and regulations for the time being in force for the government of Her Majesty's ships, vessels and shore establishments.

First Schedule.

(2) In the application of the Naval Discipline Act, 1957, to officers and ratings of the Navy, the powers of summary trial and punishment which, in Part II of that Act are expressed to be conferred upon a commanding officer shall be exercised by officers holding the posts specified in the Second Schedule to the extent permitted by and in accordance with that Schedule.

Second Schedule.

(3) Where an officer holding a post specified in the Second Schedule has been absent from his post on duty or approved leave for more than ninety-six hours continuously or has otherwise ceased to carry out his duties through sickness or any other cause, any officer temporarily authorised to carry out the duties of the post may while so authorised exercise the same powers of punishment as may be exercised by the substantive holder of the post, and subsection (2) and the said Second Schedule shall be construed accordingly.

(4) The Governor-General in Council may by order amend the First Schedule or the Second Schedule.

16. (1) If any officer or rating of the Navy or the reserve thinks he has suffered any personal oppression, injustice or other ill-treatment he may make a complaint in accordance with such procedure as may be determined by the Navy Board, and, if the complainant is not satisfied with the decision of the authority to whom his complaint is made as aforesaid and that authority neglects or refuses when requested to do so to forward the complaint to the next superior authority, the complainant shall be entitled to make his complaint direct to the next superior authority, and so on up to the Navy Board whose decision shall be final.

Complaints.

(2) It shall be the duty of any authority receiving a complaint under this section to have it investigated as soon as practicable and to take any steps for redressing the matter complained of which appear to that authority to be necessary.

(3) No officer or rating shall be penalized for having made a complaint under this section.

17. (1) The Governor-General in Council may make regulations generally for the better carrying into effect of the provisions of this Act and for the government, control, organisation and administration of the Navy and the reserve.

Regulations and rules.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

(a) the division of the Navy into units, including training, reserve and cadet units ;

(b) the persons in whom command over ships, craft or establishments or any officer or rating serving therein is vested, and as to the circumstances in which such command is to be exercised, and for the duties, functions and powers of any officer or rating ;

(c) appointments, emoluments, periods of service, seniority, dismissal, discipline, salaries, pay, allowances and leave ;

(d) appeals against dismissal or other disciplinary measures ;

(e) attendance at courses of instruction of officers and ratings whether in Nigeria or elsewhere ;

(f) the uniform which shall be worn by officers and ratings ;

(g) the requisitioning of craft, goods or accommodation in time of emergency for naval use ;

(h) deductions from the salary or wages of officers or ratings of sums properly owing to the Government of the Federation ;

(i) the numerical establishment, control, organisation, administration, pay, duties and method of recall of the reserve, and such other matters relating to the reserve as the Governor-General in Council may see fit ;

(j) any other matter which, under the provisions of this Act, is authorized or required to be prescribed or provided for by regulations.

(3) The Commander may make rules for the internal management of the Navy in so far as they are not inconsistent with the regulations made in pursuance of this section.

PART IV.—APPEALS FROM COURTS-MARTIAL

18. Subject to the following provisions of this Part, an appeal shall lie from decisions of a court-martial to the Federal Supreme Court with the leave of the Federal Supreme Court :

Provided that an appeal as aforesaid shall lie as of right without the leave of the Federal Supreme Court from any decision of a court-martial involving a sentence of death.

19. (1) (a) Leave to appeal to the Federal Supreme Court shall not be given except in pursuance of an application in that behalf made by or on behalf of the appellant, and lodged, subject to subsection (2), within forty days of the date of promulgation of the finding of the court-martial in respect of which the appeal is brought, with the Registrar of the Federal Supreme Court, being an application in the prescribed form and specifying the grounds on which leave to appeal is sought and such other particulars, if any, as may be prescribed.

(b) An appeal against a decision involving a sentence of death shall not be entertained by the Federal Supreme Court unless the appeal is lodged by or on behalf of the appellant, within ten days of the date of promulgation of the finding of the court-martial in respect of which the appeal is brought, with the Registrar of the Federal Supreme Court in the prescribed manner.

(2) Rules of court may provide that, in such circumstances as may be specified in the said rules, any such application or appeal which is lodged with such person (other than the Registrar) as is specified in the said rules shall be treated, for the purposes of subsection (1), as having been lodged with the Registrar.

(3) The Federal Supreme Court may extend the period within which an application for leave to appeal is required by paragraph (a) of subsection (1) to be lodged, whether that period has expired or not.

(4) In considering whether or not to give leave to appeal, the Federal Supreme Court shall have regard to any expression of opinion made by a judge advocate, if any, who acted at the court-martial that the case is a fit one for appeal, and, if any such expression is made, may give leave to appeal.

(5) Where the Federal Supreme Court dismisses an application for leave to appeal it may, if it considers the application to have been frivolous or vexatious, order that any sentence passed upon the applicant in the proceedings from which it was sought to bring the appeal shall begin to run from the day on which the Court dismisses the application.

Right of appeal.

Procedure for applying for leave to appeal or lodging appeal.

20. (1) Subject to the provisions of section 21 on an appeal under this Part against a conviction, the Federal Supreme Court shall allow the appeal if it thinks that the finding of the court-martial is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any ground, there was a miscarriage of justice, and in any other case shall dismiss the appeal :

Determina-
tion of
appeals in
ordinary
cases.

Provided that the Federal Supreme Court may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(2) If the Federal Supreme Court allows an appeal against a conviction under this Part, it shall quash the conviction.

(3) On an appeal under this Part against sentence the Federal Supreme Court shall, if it is of opinion that a different sentence should have been passed, quash the sentence passed by the court-martial and pass such other sentence (whether more or less severe) in substitution therefor as it thinks ought to have been passed, being a sentence which could lawfully have been passed for the offence of which the appellant was convicted, or, if it is not of that opinion, dismiss the appeal.

(4) The term of any sentence passed by the Federal Supreme Court under subsection (3) shall, unless the Federal Supreme Court otherwise directs, begin to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal is brought, and any such sentence shall be deemed for the purposes of this Act to be a sentence passed by the court-martial being a sentence that has been confirmed.

21. (1) If it appears to the Federal Supreme Court that an appellant, though not properly convicted on some charge preferred against him before the court-martial by which he was tried, was properly convicted on some other charge so preferred, then, if the sentence passed by the court-martial on the appellant was not one which could lawfully be passed by the court-martial for the offence of which he was convicted on the other charge, the Federal Supreme Court shall pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as it thinks proper, being a sentence which might lawfully be passed in respect of the charge on which the appellant was properly convicted, but not being a sentence of greater severity.

Powers of
the Federal
Supreme
Court in
special
cases.

(2) Where an appellant has been convicted of an offence and the court-martial by which he was tried could lawfully have found him guilty of some other offence, and it appears to the Federal Supreme Court that the court-martial must have been satisfied of facts which proved him guilty of that other offence, the Federal Supreme Court may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the other offence and pass on the appellant, in substitution for the sentence passed on him by the court-martial such sentence as it thinks proper, being a sentence which could lawfully have been passed for that other offence but not being a sentence of greater severity.

(3) Where—

(a) an appellant has been convicted of an offence committed under circumstances involving the higher of two degrees of punishment and it appears to the Federal Supreme Court that the court-martial by which he was tried ought to have found him guilty of the offence as being committed under circumstances involving the lower degree of punishment ; or

(b) an appellant has been convicted of an offence and it appears to the Federal Supreme Court that the court-martial by which he was tried ought to have found him guilty of the offence subject to exceptions or variations,

the Federal Supreme Court may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the offence as being committed under circumstances involving the lower degree of punishment or, as the case may be, guilty of the offence subject to exceptions or variations and pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as it thinks proper, being a sentence which could lawfully have been passed for the offence specified or involved in the substituted finding, but not being a sentence of greater severity.

(4) If, on an appeal, it appears to the Federal Supreme Court that, although the appellant committed the act or omission charged against him, he was insane at the time the act was done, or the omission made, so as not to be responsible according to law for his actions, the Federal Supreme Court may quash the sentence passed at the trial and order the appellant to be kept in custody, in like manner as on a special finding of insanity by the court-martial by which the appellant was convicted.

(5) The term of any sentence passed by the Federal Supreme Court under any of the foregoing provisions of this section shall, unless the Federal Supreme Court otherwise directs, begin to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal is brought, and any such sentence shall be deemed for the purposes of this Act to be a sentence passed by the court-martial being a sentence that has been confirmed.

Appeals to be final.

22. Subject to the provisions of any written law relating to appeals to Her Majesty in Council from judgments of the Federal Supreme Court, any determination by the Federal Supreme Court of any appeal or other matter which it has power to determine under the provisions of this Part shall be final and no appeal shall lie from the Court to any other court.

Supplementary powers of the Federal Supreme Court.

23. For the purposes of this Part the Federal Supreme Court may, if it thinks it necessary or expedient in the interests of justice, appoint any person with special expert knowledge to act as assessor to the Court in any case where it appears to the Federal Supreme Court that such special knowledge is required for the proper determination of the case.

Proceedings to be heard in absence of appellants.

24. An appellant shall not be entitled to be present at the hearing of an appeal to the Federal Supreme Court under this Part or at any proceedings preliminary or incidental to such an appeal except where rules of court provide that he shall have the right to be present or the Federal Supreme Court gives him leave to be present, and accordingly any power of the Court under this Part to pass a sentence may be exercised notwithstanding the absence of the appellant.

Defence of appeals.

25. It shall be the duty of the Attorney-General of the Federation on an appeal against a decision of a court-martial to undertake the defence of the appeal.

Right of appellant to present his case in writing.

26. An appellant may if he so desires, instead of presenting his case orally, present it in writing in the prescribed form.

27. Where a conviction by court-martial involves a sentence of death—

(a) the sentence shall not in any case be executed until the expiration of the period within which an appeal to the Federal Supreme Court against the conviction shall be lodged;

(b) if such an appeal is duly lodged, the sentence shall not be executed until the appeal is determined or abandoned;

(c) if the appeal is dismissed, the sentence shall not be executed until the expiration of the period within which an application for leave to appeal to Her Majesty in Council may be made under any written law relating to such an application; and

(d) if an application for leave to appeal to Her Majesty in Council is duly made, the sentence shall not be executed until the application is finally refused or is withdrawn or the appeal to Her Majesty in Council is determined or abandoned.

Suspension
of death
sentences.

28. Where the conviction of a person by a court-martial for an offence has been quashed under this Part, he shall not be liable to be tried again for that offence by a court-martial or by any other court.

Persons not
to be tried
again where
conviction
quashed.

29. In the case of every appeal, or application for leave to appeal, under this Part to the Federal Supreme Court against a decision of a court-martial, it shall be the duty of the Commander to furnish to the Registrar of the Federal Supreme Court, in accordance with rules of court, the proceedings of the court-martial with respect to the confirmation of the finding and sentence of the court-martial.

Furnishings,
on appeal,
of
documents
relating to
trial.

30. (1) The Registrar of the Federal Supreme Court shall take all necessary steps for obtaining the determination of an appeal or application under this Part, and shall obtain and lay before the Federal Supreme Court in proper form all documents, exhibits and other things relating to the proceedings in the court-martial before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

Duties of
Registrar of
the Federal
Supreme
Court with
respect to
appeals, etc.

(2) The Registrar of the Federal Supreme Court shall furnish the necessary forms and instructions relating to appeals or applications for leave to appeal under this Part to any person who demands them, to persons in charge of places where persons sentenced by court-martial may lawfully be confined for the purpose of serving their sentences and to such other persons as he thinks fit; and every person in charge of such a place as aforesaid shall cause the forms and instructions to be placed at the disposal of persons confined in that place who desire to lodge an appeal or make application for leave to appeal under this Part.

31. (1) The Chief Justice of the Federation may make rules of court for regulating the procedure and practice to be followed in the Federal Supreme Court for the purposes of this Part.

Rules of
court.

(2) Rules of court made for the purposes of any provision of this Part may make different provision in relation to different classes of cases and may provide for any incidental or supplementary matters for which it appears to the Federal Supreme Court to be necessary or expedient for the purposes of that provision to provide.

(3) Reference in this Part to "prescribed" means prescribed by such rules of court.

Saving of Governor-General's powers.

32. Nothing in this Part shall affect the exercise by the Governor-General of the prerogative of mercy.

Composition of court.

33. Upon the hearing of any appeal from a court-martial the Federal Supreme Court shall consist of at least three judges.

Exercise of certain powers of the Federal Supreme Court by a judge.

34. Notwithstanding the provisions of section 33, any judge of the Federal Supreme Court may—

(a) give leave to appeal ; or

(b) extend the period within which an application for leave to appeal is required by paragraph (a) of subsection (1) of section 19 to be lodged ; or

(c) allow an appellant to be present at any proceedings under this Part, but if the judge refuses an application on the part of an appellant to exercise in his favour any of the powers hereinbefore mentioned, the appellant, upon making a requisition in that behalf within the prescribed period and in the prescribed form and manner, shall be entitled to have the application determined in accordance with the provisions of section 33.

General provisions as to procedure. No. 12 of 1960.

35. Subject to the provisions of this Part and to any rules of court, the provisions of the Federal Supreme Court Ordinance, 1960, relating to the hearing of appeals from subordinate courts shall apply to the hearing and determination of an appeal under this Part.

PART V.—GENERAL

General offences.

36. Any person who—

(a) knowingly obstructs any portion of the Navy or the reserve or any officer or rating thereof, or any civilian employee, in the performance of any service or duty under this Act ; or

(b) knowingly induces, or aids or abets, any officer or rating of the Navy or the reserve or civilian employee to neglect, or to act in conflict with his duty as an officer or rating of the Navy or the reserve or as a civilian employee, as the case may be ; or

(c) knowingly incites, or aids or abets, any officer or rating of the Navy or the reserve to commit any act of indiscipline, or any act whereby any lawful order given to any officer or rating of the Navy or the reserve or any law or regulation with which it is the duty of any officer or rating of the Navy or the reserve to comply, may be evaded or infringed ; or

(d) knowingly supplies, or aids or abets in supplying, any officer or rating of the Navy or the reserve with intoxicating liquor when such officer or rating is on duty and prohibited from receiving or taking intoxicating liquor ; or

(e) without lawful authority wears the uniform, or part of the uniform, or any badge, or emblem, of the Navy or falsely represents himself as entitled to wear such uniform, badge or emblem,

shall be guilty of an offence against this Act and shall be liable to a fine of fifty pounds or to imprisonment for three months.

37. (1) Any officer or rating of the Navy or the reserve who—

(a) fails without just cause (the proof whereof shall lie upon him) to attend at any time or place lawfully appointed by proper authority for duty, instruction, training or exercise ; or

Offences by officers and ratings.

(b) when in uniform or on duty or under instruction, training, or exercise, is drunk or is guilty of insubordinate conduct ; or

(c) without proper authority, gives, sells, pledges, lends, or otherwise disposes of, or loses by neglect, or causes damage to, any arms, ammunition, accoutrements, clothing, supplies, or any other article or thing, entrusted to or held by him or in his charge for the service of the Navy or the reserve, or fails to deliver up such property when so required by, or by order of, the Commander ; or

(d) does any act to hazard or to cause any stranding, loss, or damage to, any ship or vessel used for the purposes of the Navy or the reserve, shall be guilty of an offence against this Act and shall be liable to a fine of fifty pounds or to imprisonment for three months.

(2) Any officer or rating convicted of an offence against paragraph (c) of subsection (1) shall, in addition to any other punishment, be liable to be ordered to pay to the Government of the Federation a sum of money not exceeding the cost of replacement or repair of the article disposed of, lost, damaged or not delivered up, and in default of payment thereof he shall be liable to imprisonment for a further term not exceeding three months.

(3) Nothing in this section shall be construed as derogating from the provisions of section 15 or prejudicing in any way any action which may be taken against any officer or rating of the Navy or the reserve by virtue of the provisions of that section or of any regulations made under this Act :

Provided that no officer or rating of the Navy or the reserve shall be liable to be punished for any offence under the provisions of this Act as well as under the provisions of the Naval Discipline Act, 1957, and no such officer or rating who has been convicted or acquitted of any offence pursuant to the provisions of this Act or of the Naval Discipline Act, 1957, shall be liable to be tried again for the same offence.

38. The officers and ratings of the Navy and the reserve shall, in relation to the Navy, be exempt from the provisions of any enactment relating to the storage, possession or transmission of firearms, explosives, gunpowder or munitions of war to the same extent and in the same manner as members of any other of Her Majesty's armed forces are so exempt.

Arms and
explosives.

39. (1) Subject to the provisions of this section, the provisions of sections 15, 16, 17, 37 and 38 and of Part IV shall (so far as applicable) apply to a member of the military forces when attached to the Navy as they apply to officers and ratings of the Navy.

Attached
military
forces.

(2) In the application of section 15 to a member of the military forces attached to the Navy, he shall be subject to the provisions of the Naval Discipline Act, 1957, Queen's Regulations and Admiralty Instructions and of any other laws and regulations for the time being in force for the government of Her Majesty's ships, vessels and shore establishments to the same extent as a member of Her Majesty's military forces attached to Her Majesty's naval forces is, by virtue of section 113 of the Naval Discipline Act, 1957, so subject.

(3) None of the provisions of this Act shall apply to any woman by virtue of this section.

40. (1) Subject to the provisions of this section, the provisions of section 15 and of Part IV shall (so far as applicable) apply to persons embarked as passengers on board ships of the Navy (not being officers or ratings of the

Passengers.

Navy or persons who are subject to military law under the Royal Nigerian Military Forces Ordinance, 1960) as they apply to officers and ratings of the Navy.

(2) In the application of section 15 to a person embarked as a passenger on board a ship of the Navy as aforesaid, he shall be subject to the provisions of the Naval Discipline Act, 1957, Queen's Regulations and Admiralty Instructions and of any other laws and regulations for the time being in force for the government of Her Majesty's ships and vessels to the same extent as a person embarked as a passenger on board one of Her Majesty's ships is, by virtue of section 117 of the Naval Discipline Act, 1957, so subject.

Seconded members of Royal Navy.

41. (1) It is hereby declared that persons who, being members of the Royal Navy, are subject to the Naval Discipline Act, 1957, and are seconded to serve with the Navy shall remain subject to that Act and shall not be subject to this Act.

(2) The powers of arrest conferred by section 45 of the Naval Discipline Act, 1957, and the provisions of sections 103 to 110 (which relate to deserters, absentees and other offenders) shall apply in Nigeria to the persons referred to in subsection (1) as they apply in a colony of the United Kingdom.

(3) In the event of a person referred to in subsection (1) committing an offence against the provisions of the Naval Discipline Act, 1957, he may be held, tried and punished in Nigeria for the offence thereunder.

Powers of command of members of co-operating military forces.

42. (1) In so far as powers of command depend on rank or rate, an officer, warrant officer or non-commissioned officer of the military forces who—

(a) is acting with any body of the Navy; or

(b) is a member of a body of the military forces which is acting with any body of the Navy,

shall have the like such powers as an officer or rating of the Navy of corresponding rank or rate.

(2) For the purposes of section 11, paragraph (b) of section 12 and section 45 of the Naval Discipline Act, 1957, any such officer, warrant officer or non-commissioned officer as aforesaid shall be treated as an officer or rating of corresponding rank or rate, and shall have the like powers under the said section 45 as if he were a person subject to that Act.

Repeal. Cap. 138.

43. The Royal Nigerian Navy Ordinance is repealed.

FIRST SCHEDULE

(s. 15)

APPLICATION OF THE NAVAL DISCIPLINE ACT, 1957, AND OF QUEEN'S REGULATIONS AND ADMIRALTY INSTRUCTIONS

Certain provisions not to apply.

PART I—The following provisions of the Naval Discipline Act, 1957, shall not apply—

Sections 1, 53, 54 and 58.

Interpretation.

PART II—(1) The Naval Discipline Act, 1957, Queen's Regulations and Admiralty Instructions and all other laws and regulations for the time being in force for the government of Her Majesty's ships, vessels and naval forces shall, in their application to members of the Royal Nigerian Navy by virtue of section 15 of this Act, be read and construed with such formal alterations as to names, ranks, localities, courts, officers, persons, moneys, penalties and otherwise as may be necessary to make the same applicable to the circumstances.

(2) Without prejudice to the generality of paragraph (1), in the construction of the Naval Discipline Act, 1957, Queen's Regulations and Admiralty Instructions and all other laws and regulations aforesaid, unless the context or subject matter otherwise requires—

(i) references to "the Admiralty" and "the Lords of the Admiralty" shall be construed as references to the Navy Board ;

(ii) references to "the Commander-in-Chief" shall be construed as references to the Commander ;

(iii) references to "a court-martial" shall be construed as references to a court-martial constituted under Part III of this Schedule ;

(iv) references to the United Kingdom shall be construed as references to the Federation of Nigeria ;

(v) references to the White Ensign shall be construed as references to the Nigerian Naval Ensign ;

(vi) references to the Royal Navy and Royal Naval Reserve shall be construed as references to the Royal Nigerian Navy and Royal Nigerian Naval Reserve respectively ;

(viii) references to Her Majesty's Military Forces shall be construed as references to the Royal Nigerian Military Forces.

(3) The Courts-Martial (Appeals) Act, 1951, to which reference is made in Queen's Regulations and Admiralty Instructions, shall not be deemed to be applied to members of the Royal Nigerian Navy in respect of convictions and sentences by a court-martial constituted under Part III of this schedule, and references to appeals under that Act shall be construed as references to appeals under Part IV of this Act.

PART III—The application of the Naval Discipline Act, 1957, Queen's Regulations and Admiralty Instructions and other laws and regulations aforesaid to members of the Royal Nigerian Navy shall be subject to the following modifications—

Modifica-
tions.

(1) Without prejudice to the provisions of subsection (1) of section 129 of the Naval Discipline Act, 1957, with respect to the powers of any ordinary court of civil or criminal jurisdiction, when a member of the Royal Nigerian Navy is alleged to have committed any offence punishable under that Act the charge shall in the case of an officer of warrant rank and may in the case of a rating be determined by a court-martial constituted and regulated as follows—

(a) the Commander shall have power to order a court-martial to be assembled for the trial of such offence ;

(b) a court-martial shall consist of not less than three officers who shall be officers of or seconded to the Royal Nigerian Navy ;

(c) the president shall be of a rank not less than that of commander ;

(d) the president and members of every court-martial shall be named by the authority convening the same ;

(e) the authority convening a court-martial shall not be eligible to sit thereon.

(2) Every sentence imposed by a court-martial constituted under this Part shall be subject to confirmation by the authority convening the court-martial.

(3) Every sentence of dismissal from the Royal Nigerian Navy with disgrace or of imprisonment for a period exceeding six months imposed by a court-martial constituted under this Part shall be subject to confirmation by the Navy Board.

(4) Every conviction and sentence by a court-martial constituted under this Part in respect of an officer or warrant rank, who has been admitted to Special List "A" or Special List "B" of Her Majesty's Overseas Civil Service, shall be subject to confirmation by the Secretary of State in accordance with the provisions of the Special List Agreements made between Her Majesty's Government in the United Kingdom and the Government of the Federation of Nigeria.

(5) The provisions of section 121 of the Naval Discipline Act, 1957, shall apply to members of the Royal Nigerian Navy modified as follows—

"121.—*Attachment to Commonwealth and other forces—*

(1) Any officer or rating of the Royal Nigerian Navy may by order of the Navy Board be required to serve with any naval, military or air force of the United Kingdom, a Commonwealth country or of any other country ;

(2) A person shall not cease to be subject to the Royal Nigerian Navy Act, 1960, and this Act by reason only of his being required to serve with any naval, military or air force in pursuance of this section."

SECOND SCHEDULE

(s. 15)

POWERS OF SUMMARY PUNISHMENT

(a)—THE COMMANDER

<i>Punishment</i>	<i>Qualifications</i>
1. Imprisonment	Not exceeding three calendar months.
2. Dismissal from the Royal Nigerian Navy.	
3. Detention	Not exceeding three calendar months.
4. Disrating.	
5. Reduction to 2nd Class for conduct.	
7. Deprivation of good conduct badges.	
8. Reprimand.	
9. Extra work and drill	Not exceeding 14 days.
10. Stoppage of leave	Not exceeding 30 days.
11. Mulcts for improper absence.	
12. Mulcts of pay for drunkenness.	
14. Extra work or drill	Not exceeding 7 days, and for not longer than two hours on any one day.
15. Admonition.	

(b)—EXECUTIVE OFFICER OF H.M.N.S. "BEECROFT" IF HE IS OF THE RANK OF COMMANDER OR ABOVE

<i>Punishment</i>	<i>Qualifications</i>
9. Extra work and drill	Not exceeding 14 days.
10. Stoppage of leave	Not exceeding 14 days.
11. Mulcts for improper absence	Except as provided hereunder, only in respect of a first leavebreaking offence of up to 36 hours' absence in accordance with Article 1978.
12. Mulcts of pay for drunkenness	Except as provided hereunder, only in respect of a first offence of returning from leave drunk or drunkenness on shore.
14. Extra work or drill	Not exceeding 7 days, and for not longer than two hours on any one day.
15. Admonition.	

If the Commander is absent from Lagos, the Executive Officer of H.M.N.S. "Beecroft" may award mulcts for aggravated or repeated leavebreaking offences and repeated offences of drunkenness with or without the other punishments authorized above. The reasons preventing the Commander from dealing with such cases are to be noted against the punishments awarded.

(c)—EXECUTIVE OFFICER OF H.M.N.S. "BEECROFT" IF HE IS OF THE RANK OF LIEUTENANT-COMMANDER OR LIEUTENANT

9. Extra work and drill	Not exceeding 7 days.
10. Stoppage of leave	Not exceeding 14 days, and not to Chief Petty Officers and Petty Officers.
14. Extra work or drill	Not exceeding 7 days, and for not longer than two hours on any one day.
15. Admonition.	

(d)—OFFICER IN COMMAND OF H.M.N.S. "QUORRA"

14. Extra work or drill	Not exceeding 5 days, and for not longer than two hours on any one day.
15. Admonition.	

(e)—COMMANDING OFFICER OF AN INDEPENDENT COMMAND WHEN ABSENT FROM NIGERIAN WATERS

1. Imprisonment	Subject to approval by the Commander of the warrant, and in any case not exceeding three calendar months.
2. Dismissal from the Royal Nigerian Navy	Subject to approval by the Commander of the warrant.
3. Detention	Subject to approval by the Commander of the warrant, and in any case not exceeding three calendar months.
4. Disrating	Subject to approval by the Commander of the warrant in the case of Chief Petty Officers and Petty Officers.

<i>Punishment</i>	<i>Qualifications</i>
5. Reduction to 2nd Class for conduct.	
7. Deprivation of good conduct badges.	
8. Reprimand by the Captain.	
9. Extra work and drill	Not exceeding 14 days.
10. Stoppage of leave	Not exceeding 30 days.
11. Mulcts for improper absence.	
12. Mulcts of pay for drunkenness.	
14. Extra work or drill	Not exceeding 7 days, and for not longer than two hours on any one day.
15. Admonition.	
(f)—COMMANDING OFFICER OF A SHIP OR NAVAL ESTABLISHMENT WHICH IS AN INDEPENDENT COMMAND IF IN NIGERIAN WATERS AND IF HE IS OF THE RANK OF COMMANDER OR ABOVE	
1. Imprisonment	Subject to approval by the Commander of the warrant, and in any case not exceeding three calendar months.
2. Dismissal from the Royal Nigerian Navy	Subject to approval by the Commander of the warrant.
3. Detention	Subject to approval by the Commander of the warrant, and in any case not exceeding three calendar months.
4. Disrating	Subject to approval by the Commander of the warrant.
5. Reduction to 2nd Class for conduct.	
7. Deprivation of good conduct badges.	
8. Reprimand by the Captain.	
9. Extra work and drill	Not exceeding 14 days.
10. Stoppage of leave	Not exceeding 30 days.
11. Mulcts for improper absence.	
12. Mulcts of pay for drunkenness.	
14. Extra work or drill	Not exceeding 7 days, and for not longer than two hours on any one day.
15. Admonition.	

(g) COMMANDING OFFICER OF A SHIP OR NAVAL ESTABLISHMENT WHICH IS AN INDEPENDENT COMMAND IF IN NIGERIAN WATERS AND IF HE IS OF THE RANK OF LIEUTENANT-COMMANDER OR LIEUTENANT

<i>Punishment</i>	<i>Qualifications</i>
1. Imprisonment	Subject to approval by the Commander of the warrant, and in any case not exceeding three calendar months.
2. Dismissal from the Royal Nigerian Navy	Subject to approval by the Commander of the warrant.
3. Detention	Subject to approval by the Commander of the warrant, and in any case not exceeding three calendar months.
4. Disrating	Subject to approval by the Commander of the warrant.
5. Reduction to 2nd Class for conduct	Subject to approval by the Commander of the warrant.
7. Deprivation of good conduct badges	Subject to approval by the Commander of the warrant.
8. Reprimand by the Captain.	
9. Extra work and drill	Not exceeding 14 days.
10. Stoppage of leave	Not exceeding 30 days.
11. Mulcts for improper absence.	
12. Mulcts of pay for drunkenness.	
14. Extra work or drill	Not exceeding 7 days, and for not longer than two hours on any one day.
15. Admonition.	

(h) EXECUTIVE OFFICER OF A SHIP WHETHER ABROAD OR IN NIGERIAN WATERS

9. Extra work and drill	Not exceeding 7 days.
10. Stoppage of leave	Not exceeding 7 days, and not to Chief Petty Officers and Petty Officers.
14. Extra work or drill	Not exceeding 7 days, and for not longer than two hours on any one day.
15. Admonition.	

WARRANT PUNISHMENTS

Punishments No. 1 to No. 7 inclusive (which may be known as warrant punishments) shall not have effect unless a warrant is made out, approved as required by this Schedule, and formally read in accordance with Queen's Regulations and Admiralty Instructions, Article 1950.

INTERPRETATION

In this Schedule references to punishments by number and to Articles are references to the corresponding punishments or Articles, respectively, in the Queen's Regulations and Admiralty Instructions.

Objects and Reasons

The purpose of this Bill is to replace the Royal Nigerian Navy Ordinance, 1956, with an enactment more suited to the role of the Royal Nigerian Navy after Independence.

2. The provisions of the present Ordinance are substantially repeated where appropriate, and new provisions are added as follows—

Clause 4 : provides for the establishment of a reserve force to be known as the Royal Nigerian Naval Reserve.

Clauses 5 to 8 (Part II) : provide for the establishment of a Royal Nigerian Navy Board to be responsible, under the general authority of the Minister of Defence, for all matters relating to the Navy other than its operational use. The operational use of the Navy will be under the control of the Commander subject to the overall directions of the Council of Ministers (*see Clause 5 (2)*).

Clauses 18 to 35 (Part IV) : provide for appeals from courts-martial to the Federal Supreme Court.

Clause 39 : provides for the application of certain provisions of the Act to attached members of the military forces.

Clause 40 : provides for the application of certain provisions of the Act to passengers on naval ships.

Clause 41 : expressly declares that seconded members of the Royal Navy will not be subject to the Act, but will be subject to the United Kingdom Naval Discipline Act, 1957, and be liable to be tried and punished in Nigeria for any offence.

Clause 42 : provides that members of co-operating military forces will be able to exercise powers of command under the Act.

Second Schedule : sets out the powers of summary punishment to be conferred on various specified officers and the conditions in which they may be exercised. For the most part this Schedule contains the same provisions as are at present contained in the Second Schedule to the Royal Nigerian Navy Regulations, 1958, as added by Legal Notice 213 of 1959.

3. The comparative table below indicates the provision, if any, in the Royal Nigerian Military Forces Ordinance, 1960, corresponding to each clause of the Bill.

COMPARATIVE TABLE

<i>Cause of Bill</i>	<i>Corresponding section in Royal Nigerian Military Forces Ordinance, 1960</i>
1	1
2	2
3	4
4	5
5	6
6	7
	8
8	9
9	156
10	10 and 11
11	12
12	—
13	—
14	—
15	—
16	161 and 162
17	203
18	129
19	130
20	131
21	132
22	133
23	134
24	135
25	136
26	137
27	138
28	139
29	141
30	142
31	143
32	144
33	145
34	146
35	147
36	—
37	—
38	—
39	—
40	—
41	194
42	—
43	208

(Bills 662)

ABUBAKAR TAFAWA BALEWA,
*Minister of Defence,
Federation of Nigeria*