

The following Bills, which will in due course be presented to Parliament for enactment, are published for general information.

NIGERIAN CITIZENSHIP

MEMORANDUM

The Nigerian Citizenship Ordinance, 1960 prescribed the conditions under which certain persons might apply for Nigerian citizenship. The main provisions of citizenship law and affecting Nigerians generally are however embodied in the Second Schedule to the Nigeria (Constitution) Order in Council, 1960 ; and under the powers thereby conferred, Parliament is the authority to prescribe sundry forms for use by those Nigerians whose citizenship may only be established by registration under the law.

This Bill seeks to give effect to the requirements of Chapter II of the said Second Schedule to the Order in Council aforesaid ; and at the same time effects sundry amendments to the Nigerian Citizenship Ordinance, 1960 consequential upon the coming into operation of the said Order in Council.

USMAN SARKI,
Minister of Internal Affairs

NIGERIAN CITIZENSHIP

ARRANGEMENT OF CLAUSES

Clause

1. Short title, etc.
2. Interpretation.
3. Section 3 of the Ordinance amended.
4. Sections added to the Ordinance.
5. Section 5 of the Ordinance amended.
6. Section 7 of the Ordinance amended.
7. Section 8 of the Ordinance amended.
8. Sections added to the Ordinance.
9. Fees.
10. Third Schedule added to the Ordinance.
Schedule.

A BILL

FOR

AN ACT TO AMEND THE LAW AS TO CITIZENSHIP AND TO MAKE FURTHER
PROVISION FOR REGISTRATION AS CITIZEN OF NIGERIA

[]

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 :—

Short title,
etc.

1. This Act may be cited as the Nigerian Citizenship Act 1961 and shall be read as one with and be deemed part of the Nigerian Citizenship Ordinance, 1960 (hereinafter referred to as the Ordinance).

(2) This Act shall be of Federal application.

Interpreta-
tion.

2. (1) Where reference is made in this Act to a Third Schedule to the Ordinance, the Schedule to this Act shall be construed as the Third Schedule.

(2) Where under this Act reference is made to sponsors in any prescribed form, the reference shall be construed as reference to persons who are citizens of Nigeria otherwise than by naturalisation, and if provision is made in any form for more than one sponsor, one of the sponsors shall be in the prescribed class; and for the purposes of this subsection "the prescribed class" means:— 5

(a) a Senator or Member of the House of Representatives,

(b) a Minister of Religion, that is to say, a Minister of a recognised church or mosque,

(c) a barrister or solicitor, 10

(d) a doctor,

(e) a dentist,

(f) an accountant,

(g) any Civil Servant in receipt of a salary of not less than £2,000 per annum. 15

(3) Where by this Act any declaration is to be made for the purposes of a prescribed form, it shall be sufficient compliance with this Act if the declaration is made in the presence of a judge of the High Court, or a Magistrate or a Commissioner for Oaths.

Section 3 of
Ordinance
amended.

3. Subsection (3) of section 3 of the Ordinance is amended by substituting for the word and figure "subsection (4)" the words "this Ordinance". 20

Sections
added to
Ordinance.

4. The Ordinance is amended by the insertion immediately after section 3 of the following new sections,—

"Application for registration as a special case by person born in Nigeria. 3A. (1) Any person born in the former Colony or Protectorate in Nigeria who, but for the fact that none of his parents or grandparents was born in the former Colony or Protectorate of Nigeria, would on the 1st day of October, 1960 have become a citizen of Nigeria by birth, may apply for registration as a citizen of Nigeria in the Form A in the Third Schedule to this Ordinance. 25 30

(2) Every application under this section by an infant, not being a married woman or a widow, may be made by the parent or guardian of the infant as the case may be; but nothing in this or any other Ordinance shall be construed so as to require the application of an infant who is a married woman or a widow to be made by any person on her behalf. 35

"Application by married woman or widow as special case. 3B. Any woman who on the 30th day of September, 1960 being a citizen of the United Kingdom and Colonies or a protected person and married or having been married to a person who on the 1st day of October, 1960 by reason of his birth or the birth of his father is a citizen of Nigeria, or but for his death before such last-mentioned date the husband would have become a citizen of Nigeria by birth or by the birth of his father, may apply for registration as a citizen of Nigeria in the Form B in the Third Schedule to this Ordinance. 40 45

“Application
by wife of
citizen by
registration
as special
case.”

3c. (1) Any woman married or having been married to a person who by reason of his birth in Nigeria before the 1st day of October, 1960 becomes a citizen of Nigeria by registration on or after the 1st day of October, 1960, and being herself a citizen of the United Kingdom and Colonies or a protected person at the date of such registration, may apply to be registered as a citizen of Nigeria within 12 months or such extended period as the Minister may allow after the date of registration of her husband as a citizen of Nigeria.

(2) Applications under this section may be made in the Form B in the Third Schedule to this Ordinance.

“Application
by widow as
special case.”

3d. (1) Subject to the provisions of this section, any woman who on the 30th day of September, 1960 being a citizen of the United Kingdom and Colonies or a protected person has been married to any person shall, if that person has died before the 1st day of October, 1960 and would, but for his death, have been entitled to have been registered as a citizen of Nigeria, be herself entitled to be registered as a citizen of Nigeria.

(2) Applications under this section shall be lodged with the Minister before the 1st day of October, 1962 and may be made in the Form B in the Third Schedule to this Ordinance.

“Application
by natura-
lised citizen
of United
Kingdom
and
Colonies.”

3e. Any person who on the 30th day of September, 1960 was a citizen of the United Kingdom and Colonies by reason of his naturalisation or registration as the case may be in the former Colony or Protectorate of Nigeria, whether before or after the passing of the British Nationality Act, 1948, shall be entitled to registration as a citizen of Nigeria on application made by him before the 1st day of October, 1962 in the Form C in the Third Schedule to this Ordinance.

“Dual
citizenship
or
nationality.”

3f. Where any person is entitled to citizenship of Nigeria and to citizenship or nationality of any other country and by any enactment or rule of law is required to elect whether to retain his Nigerian citizenship or the citizenship or nationality as the case may be of that other country, he shall when of the age of 21 years,—

(a) if of sound mind and desirous of remaining a citizen of Nigeria and before he attains the age of 22 years, renounce his citizenship or nationality of that other country by such means as the Minister may prescribe, or where renunciation is not possible under the law of that other country, make a declaration in the Form D in the Third Schedule to this Ordinance, and thereupon take the prescribed oath of allegiance; and where as a former citizen of the United Kingdom and Colonies or a protected person on the 30th day of September, 1960, he became a citizen of Nigeria by reason of the fact that his father was born in the former Colony or Protectorate of Nigeria he shall, in addition, declare his intentions as to residence or employment, as the case may be, in the Form E in the Third Schedule to this Ordinance;

- (b) if resident in Nigeria and of unsound mind to the satisfaction of the Minister, be deemed for the purposes of his citizenship of Nigeria to be under the age of 21 years; and where the person of unsound mind is, on such evidence as the Minister may require, thereafter of sufficient mental capacity to understand the nature and quality of his acts, he shall cease to be a citizen of Nigeria at the expiry of such time as the Minister may prescribe after considering the report on the case, unless the person shall within the prescribed time take the oath of allegiance and do all such other acts as the case may require and as are prescribed for a person of sound mind under this section; 5
- (c) if resident outside Nigeria and of unsound mind be deemed for the purposes of his citizenship of Nigeria to be under the age of 21 years unless the Minister on such evidence as he may require is satisfied to the contrary; and if the person arrives in Nigeria without having made his election, the person may at any time thereafter be dealt with as prescribed by this section. 10
- Section 5 of Ordinance amended. 5. Section 5 of the Ordinance is amended by substituting for the words and figures "section 3 or section 4" the words "this Part of this Ordinance". 20
- Section 7 of the Ordinance amended. 6. Subsection (1) of section 7 of the Ordinance is amended,—
(a) by adding after the word "also" the words "or on ceasing to be a citizen of Nigeria will become"; 25
(b) by substituting for the word "may" where it first occurs, the word "shall".
- Section 8 of the Ordinance amended. 7. Subsection (1) of section 8 of the Ordinance is amended by substituting for all words from "exercised" to "Commonwealth" in paragraph (b), the words "exercised in a foreign country, or in any other country under the law of which provision is in force for conferring on its own citizens rights not available to Commonwealth". 30
- Sections added to Ordinance. 8. The Ordinance is further amended by the insertion immediately after section 14 of the following new sections,—
- "British subject without citizenship. 14A. (1) If by any enactment for the time being in force in any country mentioned in subsection (5) of section 3 of this Ordinance provision is made for enabling persons to remain or to become British subjects without citizenship, any person who by virtue of that enactment is a British subject without citizenship, shall be deemed also to be a British subject without citizenship by virtue of this section. 35
- (2) So long as a person remains a British subject without citizenship, he shall be treated for the purposes of any application made by him for registration as a citizen of Nigeria under this Ordinance, as if he were a citizen of one of the countries mentioned in subsection (5) of section 3 of this Ordinance. 40
- "Power to appoint commissioners for oaths. 14B. (1) Notwithstanding the provisions of any Act or rule of law, the Minister after consultation with the Chief Justice may— 45

(a) for any Region appoint fit persons to be commissioners for oaths, and

(b) for Lagos appoint any officer in the Ministry not below the substantive rank of senior assistant secretary to be a commissioner for oaths.

(2) Appointments under this section shall be published in the Gazette and have effect only for the purposes of this Ordinance."

9. (1) The fees payable in respect of any application for citizenship under this Act shall be as prescribed by regulations under the Ordinance; and until the making of regulations, the fee prescribed for the making of any application under the Ordinance shall be deemed to be the total fee payable for a certificate of a naturalisation under this Act and the fee shall be paid with the application.

Fees.

(2) No fees paid under this section shall be refunded.

10. (1) The Ordinance is amended by inserting the Schedule to this Act as a third schedule to the Ordinance immediately following the Second Schedule.

Third
Schedule
added.

(2) The Governor-General in Council may by Order published in the Gazette, add to, alter, amend or replace the Third Schedule to the Ordinance.

(3) Any Order made under subsection (2) of this section shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament is then in session, and if not, shall be laid before both Houses of Parliament as soon as may be after the commencement of this next ensuing session. If the Order is not so laid or either House of Parliament within seven sitting days after the laying passes a resolution disallowing the Order, it shall thenceforth be void but without prejudice to the validity of anything previously done under the Order.

SCHEDULE

Section 10 (1)

THIRD SCHEDULE

FORM A

Application for Registration as a Citizen of Nigeria
(Under section 3A of the Nigerian Citizenship Ordinance, 1960)

PART I—APPLICATION

1. I, _____

Full name
in block
letters.

of _____
hereby apply to be registered as a citizen of Nigeria on the grounds that I was born in the former Colony/Protectorate of Nigeria before the 1st day of October, 1960, and would but for the fact that none of my parents or grandparents were born there have been a citizen of Nigeria by birth.

Address in
block letters.

2. In support of my application, particulars of my birth are set out in Part II of this Application.

DATED at _____ this _____ day of _____ 19____

Signature or mark

Witness to signature or mark—

PART II—PARTICULARS OF APPLICATION

3. Place and date of birth of applicant.....

4. Place, name of country and date of birth of Parents :

Father.....

Mother.....

5. (To be completed as additional information by married women applicants only).

Name of husband.....

Place and date of birth of husband.....

Nationality (citizenship) of husband now or at time of death.....

Is the marriage still subsisting ? (YES) or (NO).

6. Applicant's Nationality (citizenship) status is :

(a) British subject, citizen of.....

(b) British protected person.

7. The nationality (citizenship) status stated by me in paragraph 7 was acquired (by birth) (by birth of father) (by registration) (by naturalisation) (by marriage).

8. Particulars of all proceedings taken against the applicant at any time and in any country in civil or criminal courts of law, including those relating to traffic offences :

PART III—CERTIFICATES OF SPONSORS

9. I,

of
being a citizen of Nigeria, otherwise than by naturalisation, hereby certify that the applicant herein is a person known to me and of good character and that the particulars in Part II of this application are correct to the best of my knowledge and belief.

DATED this day of 19.....

Signature of Sponsor

Witness to signature—

Note.—The sponsor in the case of paragraph 9 must be a Senator, a member of the House of Representatives, a Minister of Religion, a barrister, solicitor, doctor, dentist, accountant, or a Civil Servant specially qualified by salary.

10. I,

of
being a citizen of Nigeria, otherwise than by naturalisation, hereby certify that the applicant herein is a person known to me and of good character and that the particulars in Part II of this application are correct to the best of my knowledge and belief.

DATED this day of 19.....

Witness to signature or mark—

Signature or mark of Sponsor

(Note.—The sponsor in the case of paragraph 10 need not be in the class mentioned in the note to paragraph 9)

PART IV—DECLARATION BY APPLICANT

11. I, _____

Full name
of applicant.

do solemnly and sincerely declare that the particulars stated in Part II
of this application are true, and in the event of my application being
granted I undertake to do all things necessary to evidence my new
allegiance.

Signature or Mark of Applicant

Declared at _____ this _____ day of _____ 19____

Before me —

Signature

(Judge of the High Court) (Magistrate) (Commissioner for Oaths).

Delete words
() which
do not apply.

FORM B

Application by Married Woman or Person entitled

(Under sections 3B, 3C, or 3D of the Nigerian Citizenship
Ordinance 1960)

PART I—APPLICATION

1. I, _____

Full name in
block letters.
Address in
block letters.
(Delete
section
references
not
applicable).

of _____
being a citizen of the United Kingdom and Colonies or a British pro-
tected person, hereby apply for registration as a citizen of Nigeria,
under section 3B, 3C, 3D of the Nigerian Citizenship Ordinance 1960
on the grounds that I am or have been married to a citizen of Nigeria
or to a person who but for his death would have been a citizen of Nigeria.

2. I am aware that notwithstanding my marriage to (insert name of
husband) my application may be rejected as being made out of time.

DATED at _____ this _____ day of _____ 19____

Signature or mark

Witness to signature or mark—

PART II—PARTICULARS OF APPLICANT

3. Place and date of marriage _____

4. Place and date of birth _____

5. Previous name _____

6. Present nationality (citizenship) status _____

How acquired: (by birth) (by descent) (by registration) (by
naturalisation) (by marriage).Delete ()
words which
do not apply.

7. Place and date of birth of husband.....

8. Husband's present address (or last address if deceased).....

Delete ()
words which
do not apply.

9. How husband's citizenship was acquired : (by birth) (by descent)
(by registration) (by naturalisation). 5

Delete ()
word which
does not
apply.

10. Is the marriage still subsisting ? (YES) (NO).

If marriage is terminated state reason.....

11. Particulars of previous marriage(s).....

10

PART III—CERTIFICATES OF SPONSORS

12. I,
of
being a citizen of Nigeria, otherwise than by naturalisation, hereby
certify that the applicant herein is a person known to me and of good 15
character and that the particulars in Part II of this application are
correct to the best of my knowledge and belief.

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

.....
Signature of Sponsor 20

Witness to signature—

*Note.—The sponsor in the case of paragraph 12 must be a member of
the House of Representatives, a Minister of Religion, a barrister, solicitor,
doctor, dentist, accountant, or Civil Servant specially qualified by salary.*

13. I, 25

of
being a citizen of Nigeria, otherwise than by naturalisation, hereby
certify that the applicant herein is a person known to me and of good
character and that the particulars in Part II of this application are 30
correct to the best of my knowledge and belief.

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

.....
Signature or mark of Sponsor

Witness to signature or mark—

*Note :—The sponsor in the case of paragraph 13 need not be in the 35
class mentioned in the note to paragraph 12.*

PART IV—DECLARATION BY APPLICATION

Full name.

14. I,
do solemnly and sincerely declare that the particulars stated in Parts
I and II of this application are true, and in the event of my application
being granted I undertake to do all things necessary to evidence my
new allegiance.

Declared at this day of 19.....

Before me :—

(Judge of High Court) (Magistrate)
(Commissioner for Oaths)

Delete words
() which
do not apply.

NOTES: 1. The applicant in any case must be a citizen of the United Kingdom and Colonies or a British protected person, and references in the application to the Ordinance are to be amended to suit the case.

2. Applicants under section 3B are women whose husbands became citizens of Nigeria by birth or but for their deaths before 1st October, 1960 would have been such citizens by birth. There is no time limit.

3. An applicant under section 3C is required to apply for registration within 12 months or such extended time as may be allowed after her husband is registered as a citizen of Nigeria.

4. Widow applicants under section 3D must apply before the 1st October, 1962, for registration as citizens of Nigeria.

FORM C

Application for registration as a Citizen of Nigeria

(Under section 3E of the Nigerian Citizenship Ordinance, 1960)

PART I — APPLICATION

1. I,

Full name
in block
letters.
Address in
block letters.

being a citizen of the United Kingdom and Colonies by naturalisation in the former Colony or Protectorate of Nigeria before the 1st day of October, 1960 which citizenship has not been revoked, hereby apply to be registered as a citizen of Nigeria.

State
Common-
wealth
country.
Delete words
() which
do not apply.

2. I am aware that my application may be rejected as being made out of time.

DATED at this day of 19.....

Signature or Mark

Witness to signature or Mark—

PART II—PARTICULARS OF APPLICANT

3. Citizenship status as set out in the application was acquired by registration at in on the day of 19....., and attached hereto and marked with the letter "A" is a true copy of the certificate of naturalisation. 5

4. Reasons for present application.....

PART III—CERTIFICATES OF SPONSORS

5. I, 10

of.....

being a citizen of Nigeria otherwise than by naturalisation hereby certify that the applicant herein is a person known to me and of good character and that the particulars in Part II of this application are correct to the best of my knowledge and belief. 15

DATED this day of 19.....

.....
Signature of Sponsor

Witness to signature—

NOTE :—*The sponsor must be a Senator, a member of the House of Representatives, a Minister of Religion, a barrister, solicitor, doctor, dentist, accountant, or a Civil Servant specially qualified by salary.* 20

6. I, 25

of.....

being a citizen of Nigeria otherwise than by naturalisation hereby certify that the applicant herein is a person known to me and of good character and that the particulars in Part II of this application are correct to the best of my knowledge and belief. 25

Dated this day of 19.....

.....
Signature of Sponsor

Witness to signature—

PART IV—DECLARATION BY APPLICANT

I, _____
do solemnly and sincerely declare that the particulars stated in Parts I and
II of this application are true, and in the event of my application being
5 granted I undertake to do all things necessary to evidence my new
allegiance.

Signature or Mark of Applicant

Declared at _____ this _____ day of _____ 19 _____

10 Before me :—

(Judge of the High Court) (Magistrate) (Commissioner for Oaths)

NOTE :—*This form of application is intended for use by a naturalised
citizen of the United Kingdom and Colonies and must be lodged before
15 the 1st day of October, 1962.*

* Delete words which do not apply.

FORM D

Renunciation of Citizenship Declaration

(Under section 3F of the Nigerian Citizenship Ordinance, 1960)

20 I, _____
do solemnly and sincerely declare :—

1. That I was born at _____
in Nigeria/(name of the country) and am of the age of 21 years.

25 2. That I am a citizen of Nigeria by birth/registration and am also
a national of (state country concerned).

3. That as I am desirous of retaining my status as a citizen of
Nigeria I hereby renounce so far as it lies within my power my status as a
citizen/national of (name of country) and any claim I have to the protec-
tion of that country.

30 _____
Signature or Mark of Applicant

Declared at _____ this _____ day of _____ 19 _____,

before me _____

(Judge of the High Court) (Magistrate) (Commissioner for Oaths),

35 * Delete words which do not apply.

FORM E

Declaration by registered Citizen of Nigeria
(Under section 3F of the Nigerian Citizenship Ordinance, 1960)

I, of
do solemnly and sincerely declare as follows :—

5

1. That as a citizen of Nigeria by registration I am affected by the provisions of section 3F of the Nigeria Citizenship Ordinance 1960 and am required to declare my intention as to residence/employment.

*2. That so far as it lies within my power, I have renounced my nationality/citizenship of
and intend to reside permanently in Nigeria if permitted.

10

or

*2. That I have declared my willingness to renounce my citizenship of and intend to reside permanently in Nigeria if permitted.

15

*3. That while in Nigeria I shall be employed by.....

...../be self employed.
(name of employer)

or

*3. That although I have renounced my nationality/citizenship of/declared my willingness to renounce my nationality/citizenship of and intend my domicile of choice to be Nigeria it may be necessary in the course of my employment with/as self employed to be absent from time to time from Nigeria.

25

.....
Signature or Mark of Applicant

Declared at this day of 19.....
before me :—

.....
*Judge of the High Court or Magistrate or
Commissioner for Oaths*

30

* Delete paragraphs or words not applicable.

CIVIL LIABILITY (MISCELLANEOUS PROVISIONS) BILL.

MEMORANDUM

The purpose of this Bill is to provide :—

(i) for the survival of certain claims which might be expected to lapse with the death of a wrongdoer after the institution of a civil action against him.

(ii) for contributions as between joint wrongdoers in civil proceedings in certain circumstances : and

(iii) for the taking into account of the degree of liability for negligence in a case where it is found that the actions of both plaintiff and defendant have contributed to an accident or other happening.

2. The existing law of Nigeria contains none of these provisions which are essential in a modern legal system.

T. O. ELIAS,
*Attorney-General of the Federation
and Minister of Justice*

(Bills 601)

CIVIL LIABILITY (MISCELLANEOUS PROVISIONS)

ARRANGEMENT OF CLAUSES

Clause

1. Short title, etc.
2. Interpretation.

PART I—SURVIVAL OF CERTAIN CAUSES OF ACTION

3. Effect of death on certain causes of action.
4. Special application.
5. Measure of damages.
6. Rights to be additional to other rights.
7. Insolvency.

PART II—JOINT TORT-FEASORS

8. Proceedings against joint tort-feasors, etc.
9. Amount of contribution.
10. Savings.

PART III—CONTRIBUTORY NEGLIGENCE

11. Liability in case of contributory negligence.
12. Proceedings against joint tort-feasors applicable to this Part.
13. Damages to be reduced in special cases of death.
14. Effect of avoidance of liability on special plea.
15. Jury to assess damages in proper cases.
16. Liability in cases of carriage by air.
17. Savings.

A BILL FOR

AN ACT TO MAKE FURTHER PROVISION FOR THE SURVIVAL OF CAUSES OF ACTION IN SPECIAL CASES, TO AMEND THE LAW AS TO TORT-FEASORS AND TO CONTRIBUTORY NEGLIGENCE, AND FOR OTHER PURPOSES CONNECTED THEREWITH.

Title.

[]

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—

5 1. (1) This Act may be cited as the Civil Liability (Miscellaneous Provisions) Act, 1961, and shall come into operation on the *first day of June, 1961*.

Short title,
etc.

(2) This Act shall apply to the Federal Territory of Lagos.

2. (1) In this Act unless the context otherwise requires—

Interpreta-
tion.

10 “court” means, in relation to any claim, the court or arbitrator as the case may be by or before whom the claim falls to be determined;

“damage” includes loss of life and personal injury.

15 (2) Where reference is made in this Act to “immediate family”, it shall have the same meaning as it has for the purposes of the *Fatal Accidents Act, 1961* but modified to the extent that references therein to a system of customary law shall, as the case may require, include references to Moslem Law.

PART I—SURVIVAL OF CERTAIN CAUSES OF ACTION

3. (1) Subject to the provisions of this Part of this Act, on the death of any person after the commencement of this Act all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of his estate.

(2) No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section has survived against the estate of a deceased person, unless either—

(a) proceedings against him in respect of that cause of action were pending at the date of his death ; or

(b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative is authorised to act as such.

(3) Nothing in this section shall apply to causes of action for defamation or seduction or inducing one spouse to leave or remain apart from the other, or to claims for damages on the ground of adultery.

4. Where damage has been suffered by reason of any act or omission in respect of which a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the purposes of this Part of this Act, to have been subsisting against him before his death such cause of action in respect of that act or omission as would have subsisted if he had died after the damage was suffered.

5. Where a cause of action survives under this Part of this Act for the benefit of the estate of a deceased person, the damages recoverable for the benefit of the estate of that person—

(a) shall not include any exemplary damages ;

(b) in the case of a breach of promise to marry, shall be limited to such damage, if any, to the estate of that person as flows from the breach of promise to marry ;

(c) where the death of that person has been caused by the act or omission which gives rise to the cause of action, shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

6. The rights conferred by this Part of this Act for the benefit of the estate of deceased persons shall be in addition to and not in derogation of any rights conferred on the members of the immediate family of deceased persons by the *Fatal Accidents Act*, 1961, or on the members of the family of the deceased person by the *Carriage by Air Act*, 1932 (as applied to Nigeria by the *Carriage by Air (Colonies, Protectorates and Mandated Territories) Order*, 1953), and so much of this Part of this Act as relates to causes of action against the estates of deceased persons shall apply in relation to causes of action under the said enactments as it applies in relation to other causes of action not expressly excepted by subsection (3) of section 3 of this Act.

7. In the event of the insolvency of an estate against which proceedings are maintainable by virtue of this Part of this Act, any liability in respect of the cause of action in respect of which the proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate, notwithstanding that it is a demand in the nature of unliquidated damages arising otherwise than by contract, promise or breach of trust.

Effect of
death on
certain
causes of
action.

Special
application.

Measure of
damages.

Rights to
be addi-
tional to
other rights.

Insolvency.

5

10

15

20

25

30

35

40

45

50

PART II—JOINT TORT-FEASORS

8. (1) Where damage is suffered by any person as a result of a tort (whether a crime or not)—

Proceedings
against joint
tort-feasors,
etc.

(a) judgment recovered against any tort-feasors liable in respect of that damage shall not be a bar to an action against any other person who would, if sued, have been liable as a joint tort-feasor in respect of the same damage;

(b) if more than one action is brought in respect of that damage by or on behalf of the person by whom it was suffered, or for the benefit of the estate or of any of the members of the immediate family of that person against tort-feasors liable in respect of the damage (whether as joint tort-feasors or otherwise), the sums recoverable under the judgments given in those actions by way of damages shall not in the aggregate exceed the amount of the damages awarded by the judgment first given, and in any of those actions other than that in which judgment is first given, the plaintiff shall not be entitled to costs unless the court is of the opinion that there was reasonable ground for bringing the action;

(c) any tort-feasor liable in respect of that damage may recover contribution from any other tort-feasor who is, or would if sued have been, liable in respect of the same damage, whether as a joint tort-feasor or otherwise, so, however, that no person shall be entitled to recover contribution under this section from any person entitled to be indemnified by him in respect of the liability in respect of which the contribution is sought.

(2) For the purposes of this section, the reference to "the judgment first given" shall, in a case where that judgment is reversed on appeal, be construed as a reference to the judgment first given which is not so reversed, and in a case where a judgment is varied on appeal, be construed, as a reference to that judgment as so varied.

9. (1) In any proceedings for contribution under this Part of this Act, the amount of the contribution recoverable from any person shall be such as the court finds just and equitable having regard to the extent of the responsibility of that person for the damage.

Amount of
contribution.

(2) The court in the exercise of its powers may exempt any person from liability to contribute, or may direct that the contribution to be recovered from any person shall amount to a complete indemnity.

10. Nothing in this Part of this Act shall—

Savings.

(a) apply with respect to any tort committed before the commencement of this Act; or

(b) affect any criminal proceedings against any person in respect of any wrongful act; or

(c) render enforceable any agreement for indemnity which would not have been enforceable if this Act had not been passed.

PART III—CONTRIBUTORY NEGLIGENCE

Liability in
case of con-
tributory
negligence.

11. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the share of the claimant in the responsibility for the damage. 5

(2) Where damages are recoverable by any person by virtue of subsection (1) of this section subject to such reduction as therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault. 10

(3) For the purposes of this section, "fault" includes negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort, or would, but for this Part of this Act, give rise to the defence of contributory negligence. 15

(4) Nothing in this section shall operate to defeat any defence arising under a contract; and where any contract or enactment provides for the limitation of liability as applicable to the claim, the amount of damages recoverable by the claimant under this section shall not exceed the maximum limit applicable. 20

Proceedings
against joint
tort-feasors
applicable
to this Part.

12. The provisions of section 8 of this Act (which relates to proceedings against and contributions between joint tort-feasors) shall apply where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection (1) of section 11 of this Act in respect of the damage suffered by any person. 25

Damages to
be reduced
in special
cases of
death.

13. Where any person dies as the result of his own fault and partly of the fault of any other person and accordingly if an action were brought for the benefit of the estate under Part I of this Act the damages recoverable would be reduced under subsection (1) of section 11 of this Act, any damages recoverable in an action brought for the benefit of the members of the immediate family of that person under the Fatal Accidents Act, 1961, shall be reduced to a proportionate extent. 30

Effect of
avoidance
of liability
on special
plea.

14. Where under this Part of this Act one of the persons at fault avoids liability to any other such person or his personal representative by pleading any enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of this part of this Act. 35

Jury to
assess
damages in
proper cases.

15. Where any case to which subsection (1) of section 11 of this Act applies is tried with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced. 40

Liability in
cases of
carriage by
air.

16. Where under any law in force in Nigeria relating to carriage by air a carrier proves that the damage was caused by or contributed to by the negligence of the injured person, the court in affixing liability, shall take into consideration the provisions of this Part of this Act. 45

17. Nothing in this Part of this Act shall apply—

Savings.

(a) to any claim in respect of which the Workmen's Compensation Ordinance applies ; or

Cap. 222.

5 (b) to any claim in respect of which the liability to make good any damage or loss occasioned by the fault of two or more vessels shall be in proportion to the degree in which each vessel was at fault as provided for in any other Act ; or

(c) to any case where the act or omission giving rise to the claim occurred before the coming into operation of this Act.

FATAL ACCIDENTS BILL

MEMORANDUM

Some doubt exists about the validity in Nigeria of certain English legislation relating to fatal accidents. Whereas all statutes of general application in England on 1st January, 1900, are deemed to apply here, some of them may not always suit our local circumstances without modification.

In the Northern Nigeria the Fatal Accidents Law was passed in 1956 to resolve all doubt. The time is now opportune to do the same for the Federal territory, and the Fatal Accidents Bill seeks to achieve this.

Its provisions are relatively simple and, if passed into law, will create a right of action in cases where death occurs to one person as the result of any neglect or default of another. The period during which such an action may be brought is limited.

Provision is also made for the invoking of customary law in appropriate cases and for the taking into account of contributory negligence and other defaults of the deceased person.

T. O. ELIAS,

*Attorney-General of the Federation
and Minister of Justice*

FATAL ACCIDENTS

ARRANGEMENT OF CLAUSES

Clause

1. Short title, etc.
2. Interpretation.
3. Death by wrongful act, etc.
4. Limitation of action.
5. Particulars to be given by plaintiff.
6. Assessment of damages.
7. Damages on death by contributory negligence.
8. Payment into court.
9. Saving as to accrued rights.

A BILL FOR

AN ACT TO PROVIDE FOR COMPENSATION FOR THE FAMILIES OF PERSONS
KILLED IN ACCIDENTS. Title.

[

]

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—

1. (1) This Act may be cited as the Fatal Accidents Act, 1961, and
5 shall come into operation on the first day of June, 1961.

Short title,
etc.

- (2) This Act shall apply to the Federal Territory of Lagos.

Interpre-
tation.

2. (1) In this Act unless the context otherwise requires—

“administrator” includes a person appointed according to any system of customary law as representative of a deceased person or his estate ;

“child” means a son or daughter and includes a grandson or granddaughter, and stepson or stepdaughter, of a deceased person and includes a child adopted before or after the coming into operation of this Act under any law as to adoption recognised in Nigeria ;

“deceased person” means a person in respect of whom under this Act a cause of action survives his death ;

“immediate family”—

(a) in relation to a deceased person not subject to a system of customary law, includes—

(i) the widow or widows, as the case may be,

(ii) the widower ;

(iii) any parent ; and

(iv) any child ;

(b) in relation to a deceased person who was subject to a system of customary law not being Moslem Law, means in addition to any of the persons specified in paragraph (a) of this definition, surviving brothers and sisters of a deceased person, which expression includes step brothers and step sisters ;

(c) in relation to a deceased person who was subject to the system of customary law known as Moslem Law, means the person entitled to share in the award of *diya* prescribed by Moslem Law for involuntary homicide ;

“parent” means the father or mother of the deceased person and includes any grandfather, grandmother, stepfather or stepmother ;

“system of customary law” includes Moslem Law.

(2) For the purposes of this Act, a person shall be deemed to be the parent or child of the deceased person notwithstanding that he was only related to him illegitimately ; and in deducing relationship under this section an illegitimate person shall if acknowledged as his by the reputed father, be treated as the legitimate offspring of his mother and reputed father.

Death by
wrongful
act, etc.

3. (1) Where after the coming into operation of this Act, the death of a person is caused by wrongful act, neglect or default, and the wrongful act, neglect or default is such as would, if death had not ensued, have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured.

(2) Every action under this section shall be for the benefit of the members of the immediate family of the deceased person and shall—

(a) if the deceased person was not subject to a system of customary law, be brought by and in the name of the executor or administrator of the deceased person ; or

(b) if the deceased person was immediately before his death subject to a system of customary law relating to estate, be brought at the option of his immediate family, by and in the name of such person as the court is satisfied is under the customary law, entitled or empowered to represent the deceased person or his estate.

(3) If there is no executor or administrator, or where there is an executor or administrator but no action is brought by the executor or administrator within six months after the death of the deceased person, then action may be brought by and in the names of all or any of the persons for whose benefit the action would have been, if it had been brought by the executor or administrator; and every action brought shall be for the benefit of the same persons and be subject to the same regulations and procedure, as nearly as may be, as if it had been brought by an executor or administrator.

4. (1) Every action under this Act shall be commenced within three years after the death of the deceased person, and not more than one award of damages shall be made in respect of the same subject-matter of complaint.

Limitation of action.

(2) This section shall have effect notwithstanding the provisions of the Public Officers Protection Ordinance, but shall not apply to any other case for which a special period of limitation for the commencement of any action is prescribed by any Act.

Cap. 168.

5. In every action under this Act, the plaintiff shall give to the court full particulars of the persons for whom and on whose behalf the action is brought, and of the nature of the claim for damages.

Particulars to be given by plaintiff.

6. (1) Subject to the provisions of this section, the court may, in assessing and apportioning damages in an action brought under this Act, award such damages as it may think proportionate to the injury resulting from the death of the deceased person to the persons respectively for whom and for whose benefit such action is brought; and the amount so recovered, less the costs not recovered from the defendant, shall be apportioned in such shares as the court directs amongst the persons entitled:

Assessment of damages.

Provided that where the deceased person was, immediately before his death, subject to any system of customary law relating to estate, the court shall have regard to the particular system of customary law, and decide which members (if any) of the immediate family of the deceased person are entitled to share in damages, and shall apportion the shares amongst the persons entitled.

(2) No account shall be taken of any sums paid or payable on the death of the deceased person under any contract of assurance, and the award of damages may include reasonable funeral expenses of the deceased person incurred by the persons for whose benefit the action is brought.

7. Where action is brought under this Act and the court or jury as the case may be is satisfied that death was the result partly of the fault of the deceased person and partly the fault of some other person, it shall in assessing damages, take into account the provisions of any other Act relating to liability in cases of contributory negligence, and the damages recoverable by the immediate family shall in proper case be reduced to a proportionate extent.

Damages on death by contributory negligence.

Payment
into court.

8. (1) Where the defendant pays any money into court as compensation and to abide the event, it shall not be necessary for him to specify the shares into which the compensation is to be apportioned. If issue is joined as to its sufficiency, and the court considers the amount paid to be sufficient, defendant shall be entitled to judgment on that issue. 5

(2) If the amount of compensation is accepted, the plaintiff may apply by motion for an order apportioning the compensation; and the court in granting an application may invoke the provisions of section 7 of this Act and make the apportionment.

Saving as
to accrued
rights.

9. Nothing in this Act shall affect any rights which may have accrued to any person before the commencement of this Act. 10

NATIONAL PROVIDENT FUND BILL

MEMORANDUM

This Bill seeks to establish a Fund to be known as the National Provident Fund as part of the social services in Nigeria.

For various reasons it may not be practicable to implement its provisions entirely at the one time and provision is made for its introduction in stages as and when required.

The Bill is divided into Parts, of which the first is concerned with the establishment of the Fund and general administration. Parts II and III provide for the classes or groups of workers to benefit and for the contributions to be made by both workers and employers to the Fund. Part IV prescribes the benefits to accrue and in general terms relates to age and invalidity with subsidiary benefits in the case of sickness, or where a worker contributor may withdraw from paid employment in Nigeria. Provision is also made for a benefit to be paid to the survivors of a contributor.

Other provisions elsewhere in the Bill are largely machinery provisions.

J. M. JOHNSON,
Minister of Labour

(Bills 718)

NATIONAL PROVIDENT FUND

ARRANGEMENT OF CLAUSES

Clause

1. Short title, etc.
2. Interpretation.

PART I—NATIONAL PROVIDENT FUND

3. National Provident Fund established.
4. Director of the National Provident Fund.
5. Deputy Director of the Fund.
6. Inspectors.
7. Other officers.
8. National Provident Fund Advisory Council.

PART II—COVERAGE

9. Liability to contribute to the Fund.
10. Liability in special cases.
11. Voluntary coverage.
12. Casual workers.

PART III—CONTRIBUTIONS

13. Contributions to Fund.
14. Credit of unpaid worker's contributions.
15. Penalty for non-payment.
16. Employment by several employers.
17. Accounts of members of Fund.
18. Contributions where benefit drawn.
19. Contributions, etc., to be inalienable.

PART IV—BENEFITS

20. Classes of benefits.
21. Age benefit.
22. Survivors' benefit.
23. Invalidity benefit.
24. Sickness benefit.
25. Limitation on application of sickness benefit.
26. Emigration grant.
27. Withdrawal grant.
28. Restriction on double grant or benefit.

PART V—FINANCE AND LEGAL

29. National Provident Fund Investment Committee.
30. Investment of moneys in the Fund.
31. National Provident Reserve Fund.
32. Accounts and audit.
33. Interest on accounts.
34. Refund of excess contributions.
35. Criminal proceedings, etc.
36. Civil proceedings.
37. Protection of contributions in certain cases.
38. Liability for acts of association of persons.
39. Certificates as evidence.

PART VI—MISCELLANEOUS

40. Power for inspectors to prosecute, etc.; proceedings in certain courts.
41. Saving for certain persons as committee members.
42. Exemption from stamp duty.
43. Power for Director to determine questions in special cases.
44. Existing schemes.
45. Regulations.
46. Advisory Council to consider certain regulations.
47. Reciprocal agreements.

Schedules.

A BILL FOR

AN ACT TO ESTABLISH A NATIONAL PROVIDENT FUND AND TO PROVIDE FOR
CONTRIBUTIONS THERETO AND FOR PAYMENT THEREOUT OF SUNDRY BENEFITS
AND FOR OTHER MATTERS CONNECTED THEREWITH.

[]

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 :—

1. (1) This Act may be cited as the National Provident Fund
5 Act, 1961 and shall apply throughout the Federation.

Short
title, etc.

(2) This Act shall come into force on such day or days as the
Minister may by Order in the Gazette appoint, and different days may
be appointed for different provisions of this Act or for the application
thereof to any person or class of persons.

Interpreta-
tion.

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

“Advisory Council” means the National Provident Fund Advisory Council under this Act :

“appointed day” means the day on which this Act comes into force, or where the Order of the Minister relates to certain provisions only of this Act, means the day on which those provisions come into force or are applied to any particular person or class of persons as the case may be :

“benefit” means any benefit payable under this Act :

“casual worker” means any worker engaged on a daily contract of service who has not been employed by one employer for a continuous period of three months, the continuity of which shall not be construed as interrupted if broken by not more than fourteen days during the period of three months :

“child” means any person under the apparent age of sixteen years or any person between the apparent ages of sixteen and eighteen years who is receiving full-time education or training and is not paid wages ; and includes a step-child, an illegitimate child and any child adopted in a manner recognised as lawful in Nigeria :

“contract of service” includes service as a tributer, which for the purposes of this Act has the same meaning as in the Minerals Ordinance :

“contribution period” means where wages are paid to a worker—

(a) at intervals of more than a fortnight, the month during which the wages are paid ; or

(b) at intervals of more than a week but not more than a fortnight, the fortnight ending with the last day of the week in which the wages are paid ; or

(c) at intervals of a week or less, the week in which the wages are paid :

“contributions” means the contributions of the employer or of the worker, as the case may be, payable under this Act :

“court” or “the court” means any court of competent jurisdiction :

“the Director” means the Director of the National Provident Fund under this Act :

“employer” in respect of any worker employed or engaged as a member of the crew of any ship means the owner or owners of the ship, or the agents in Nigeria of the ship as the case may be, and in any other case means the person with whom the worker entered into a contract of service or apprenticeship, and who is responsible for the payment of the wages of the worker :

“the Fund” means the National Provident Fund established under this Act :

“incapable of work” and cognate expressions mean in relation to any person an incapacity for work by reason of some specific disease or bodily or mental disablement, and include any person under this Act deemed to be so incapable :

“the Investment Committee” means the National Provident Fund Investment Committee under this Act :

Cap. 121.

"member of the Fund" means any person to whose credit there is an amount standing in the Fund :

"Minister" means the Federal Minister charged with responsibility for the Fund :

5 "paid" means paid in money or money's worth, and where it has reference to a date of payment means the date on which the payment was made in cash, or as the case may be, the bill of exchange or promissory note was met :

10 "the Reserve Fund" means the National Provident Reserve Fund under this Act :

"survivor" means any person who, on the death of a member of the Fund, may be entitled to a survivor's benefit under this Act :

15 "wages" means remuneration in money paid to a worker under his contract of service or apprenticeship as the case may be, and whether agreed to be paid at fixed or determinable intervals of time,—

(a) in respect of normal periods of work to be performed by the worker ; or

(b) where payment is calculated in relation to set tasks, in respect of the number of tasks completed by the worker ; or

20 (c) where payment is calculated in relation to the volume of work done, in respect of the volume completed by the worker,—
and includes any allowance payable by the employer to the worker either directly or by implication in respect of the cost of living :

"work" includes piece work :

25 "worker" means any person who not being a child,—

(a) is employed in Nigeria under any contract express or implied of service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise and howsoever paid, such contract not being one of employment as a member of the crew of any ship ; or

30 (b) is a permanent resident in Nigeria and is employed under a contract of service or other agreement entered into in Nigeria as a member of the crew of any ship, the owners of which have a place of business, or have agents, in Nigeria ; or

35 (c) is a permanent resident of Nigeria and is employed outside Nigeria under a contract of service with an employer in Nigeria by whom he is paid.

40 (2) In this Act, a person shall be deemed to be over or under any age therein mentioned if he has or has not attained that age, and shall be deemed to be between two ages therein mentioned if he has attained the first mentioned age but has not attained the second mentioned age.

PART I.—NATIONAL PROVIDENT FUND

3. (1) There is hereby established a Fund to be called the National Provident Fund into which shall be paid all contributions and other
45 moneys required or prescribed by this Act.

National
Provident
Fund
established.

(2) There may from time to time be paid out of the Fund such benefits and other payments as are directed to be paid under this Act.

(3) Every payment approved by the Minister of Finance in that behalf made before the first appointed day shall, where it relates to expenditure otherwise than upon assets for the purposes of this Act and is otherwise valid, be deemed to have been lawfully made out of the Consolidated Revenue Fund, and shall not be recoverable under this Act. 5

Director of
the National
Provident
Fund.

4. There shall from time to time be appointed a fit person to be called the Director of the National Provident Fund, who shall be the administrative head of the Fund; and subject to the direction of the Minister, the Director shall be responsible—

(a) for the assessment of contributions under this Act and for the collection and payment of moneys into the Fund; 10

(b) for the payment out of the Fund of the benefits and claims authorised under this Act;

(c) for the investment, where not inconsistent with this Act or any other Act, of surplus funds from time to time; and 15

(d) for accounting for all moneys collected, paid or invested under this Act.

Deputy
Director of
the Fund.

5. (1) There may from time to time be appointed a fit person to be deputy of the Director of the National Provident Fund.

(2) On the occurrence from any cause of a vacancy in the office of Director (whether by reason of death, resignation or otherwise) and in the case of the illness, absence, or temporary incapacity of the Director (from whatever cause arising), and so long as such vacancy, illness, absence or temporary incapacity continues, the deputy shall have and may exercise all the powers, duties, and functions of the Director. 20 25

(3) The fact that the deputy exercises any power, duty, or function as aforesaid shall be sufficient evidence of his authority so to do, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorising him so to do.

Inspectors.

6. (1) There may from time to time be appointed inspectors for the purposes of this Act. 30

(2) An inspector under this Act, if he has reasonable cause to believe that there are workers on any premises or place may, on production of his certificate of appointment as an inspector, enter at all reasonable times on the premises or place and there make any examination and inquiry necessary to obtain information for the purposes of this Act. In the performance of his duties under this subsection, an inspector may require production of documents relating to contributions or liability to contribute to the Fund, for inspection by him on the premises or place; and the failure by any person without lawful excuse to produce any such document on request by an authorised inspector shall be an offence under this Act. 35 40

(3) Nothing in this section shall authorise entry of any premises or place occupied by a department or office of the Federal Government or of any Regional Government. 45

(4) For the purposes of this section,—

“document” has the meaning assigned by section 463 of the Schedule to the Criminal Code Ordinance;

“premises” means any building or other erection used for the purpose of business, but does not include a dwelling used exclusively for residential purposes. 50

7. There may from time to time be appointed as officers or employees subject to the general control of the Director, such other officers and employees as may be necessary for the administration of this Act.

Other
Officers.

5 8. (1) There shall be for the purposes of this Act an Advisory Council to be called the National Provident Fund Advisory Council and the provisions of the First Schedule to this Act shall have effect as respects the constitution of the Advisory Council and its proceedings.

National
Provident
Fund
Advisory
Council.

10 (2) The Secretary to the Advisory Council shall be a member of the staff of the Fund appointed by the Minister.

(3) The members of the Advisory Council shall be paid out of the Fund such expenses and allowances as the Federal Minister of Finance may from time to time approve.

15 (4) The Advisory Council shall consider all matters from time to time referred to it, by the Minister, but the Minister shall not be bound to follow the advice given by the Advisory Council. For the purposes of this subsection the Minister shall furnish to the Advisory Council such information as in the opinion of the Minister is reasonably necessary from time to time to assist the Advisory Council in its deliberations.

20 PART II—COVERAGE

9. (1) Subject to the provisions of this Act, an employer shall, from the appointed day, be liable to contribute to the Fund in respect of any worker employed by him.

Liability to
contribute
to the Fund.

25 (2) Nothing in this section shall be construed so as to impose liability on an employer for payments in respect of any worker in the categories mentioned in the Second Schedule to this Act, and the exemption shall enure so long as the worker continues to be employed in any such category.

30 (3) The Governor-General in Council may from time to time by Order published in the Gazette add to, amend, or vary the Second Schedule to this Act.

35 10. (1) Subject to the provisions of this section, where any class of workers by reference to the number of workers in the service of an employer becomes subject to this Act, workers in that class shall not cease to be subject to this Act while in the service of that employer, by reason only of the fact that the number of workers in the service of the employer at any time is less than the number prescribed.

Liability in
Special cases.

40 (2) An employer who continuously for a period of not less than two consecutive years has employed less workers than the number prescribed, may apply on behalf of himself and the workers in his service to cease to be subject to this Act; and the application when granted shall have effect from such date, not later than three months from the date of application, as the Director thinks fit.

45 (3) Where a person enters into a contract whereby some other person is to provide workers for any lawful purpose of the person entering into the contract, the workers shall, unless the Director otherwise requires, be deemed for the purposes of this Act to be in the employ of the person entering into the contract; and the failure to comply with the requirements of this subsection by any party to the
50 contract shall be an offence under this Act.

Voluntary
coverage.

11. (1) Where an employer has in his service less workers than the number for the time being prescribed (whether the workers have previously been subject to this Act or not) he may, if a majority of the workers who are not exempted signify their desire in writing to become subject to this Act, at any time apply to the Director in writing to bring the workers under the provisions of this Act. The application if approved shall have effect from such date as the Director may determine and the employer and the workers shall have and be subject to the same rights and obligations under this Act as if the employer had in his service not less than the number of workers prescribed.

(2) Where a majority of the workers to whom this section applies desire in writing to cease to be subject to this Act, the employer may apply to the Director for exemption and the workers shall cease to be subject to this Act from such date not being later than three months from the date of the application as may be reasonable. If an employer obtains the consent in writing of his workers or any of them under this subsection by duress or undue influence, he shall be guilty of an offence under this Act.

(3) Any member of the Fund who for any reason ceases to be affected by this Act, may apply to the Director for approval to continue to be subject to this Act; and if approved, the member of the Fund shall make consecutive monthly payments of an amount not less than the worker's contribution nor more than the joint contributions of the employer and the worker for each period, computed at the rate for a completed month immediately before the date when the member of the Fund ceased to be subject to this Act.

(4) Any missionary society desirous of becoming subject to this Act in respect of any missionary may at any time apply to the Director in writing together with a copy of the resolution passed by it and duly certified as required by the rules of the missionary society; and if the Director is satisfied he shall notify the missionary society accordingly, and the missionary society shall on receipt of the notice be deemed to be an employer of its missionaries for the purposes of this Act.

(5) For the purposes of this section,—

“missionary” includes any clerk in holy orders, minister of religion or person acting as a missionary;

“missionary society” includes any church or religious body by whom a missionary is paid.

Casual
workers.

12. Until the Minister prescribes the date for the application of this Act to casual workers, either generally or in relation to any particular class, nothing in this Part of this Act shall apply to any casual worker whose employer is subject to this Act in respect of any other workers in his employment.

PART III—CONTRIBUTIONS

Contribu-
tions to
Fund.

13. (1) Every employer shall as from the appointed day unless otherwise exempted under this Act, pay into the Fund the contributions for the relevant contribution period prescribed for workers and employers in the Third Schedule to this Act. Moneys when deducted shall be held by the employer and be paid to the Fund at the end of the month in which the deduction was made, or within one month thereafter.

(2) The employer may deduct the worker's contributions at the time when the wages are paid to the worker ; and where for any reason other than negligence, the employer fails to deduct the worker's contribution when required by this Act, he may within six months thereafter make any deduction necessary in one amount or by instalments as the worker may agree.

(3) Where a worker dies during a contribution period, no contribution shall be due from his wages for that contribution period ; and any contribution if deducted and paid to the Fund may be retained in the Fund, and be dealt with under this Act.

(4) Where an employer deducts contributions from the wages of workers under this section, the contributions shall be deemed to be held by the employer in trust for the purposes of this Act, and the failure by the employer to pay the contributions to the Fund shall be an offence under this Act.

(5) Nothing in this section shall be construed to authorise an employer to deduct the amount of the employer's contribution from the wages of a worker, and any attempt by an employer to make such deduction shall be an offence under this Act.

14. Where the Director is satisfied that any contribution to the Fund has been deducted from the wages of a worker, but the employer has failed to pay the moneys to the Fund, the Director may credit the amount of the worker's contribution out of the general revenues of the Fund and recover the amount from the employer as a debt owing to the Federal Government.

Credit of unpaid worker's contributions.

15. (1) If any contribution is not paid within the time prescribed or approved under this Part of this Act, a sum equal to five *per centum* of the amount unpaid shall be added for each month or part of a month after the date when payment should have been made ; and any amount added shall be recoverable as a debt owing by the employer to the Federal Government.

Penalty for non-payment.

(2) Notwithstanding the provisions of subsection (1) of this section, the Director may if he thinks fit, remit in whole or in part any penalty imposed under this section.

16. Where a worker is employed successively or concurrently in a contribution period or part of a contribution period by more than one employer, the employers shall, in addition to any other liability under this Act and unless the Director otherwise approves, be jointly and severally liable to pay to the Fund the amount prescribed for each employer for the whole of the contribution period.

Employment by several employers.

17. The Director shall establish and maintain for each member of the Fund an account into which shall be paid all contributions made, and against which shall be charged all benefits from time to time, in respect of the member.

Accounts of members of Fund.

18. Nothing in this Act shall relieve an employer from liability to continue to contribute to the Fund in respect of any worker who is in receipt of or becomes entitled to any benefit other than a subsidiary benefit under this Act.

Contributions where benefit drawn.

Contributions, etc., to be inalienable.

19. (1) Subject to the provisions of this section, contributions to the Fund shall be inalienable except under this Act, and shall not be assets for the benefit of creditors in the event of the bankruptcy or insolvency of a member of the Fund, or be liable to attachment for debt under any process of law; and any security, pledge or assignment given before or after the coming into force of this Act in respect to contributions by a member of the Fund shall be void. 5

(2) Payment of contributions to the Fund shall continue to be made notwithstanding the bankruptcy or insolvency of a worker and any moneys paid during the bankruptcy or insolvency shall not be deemed to be after acquired property while held in the Fund. 10

(3) Where a worker while a member of the Fund is convicted of an offence involving dishonesty and the court convicting the offender is satisfied that the employer has suffered financial loss as a result of the commission of the offence, the court may order payment to be made to the employer out of the Fund. The amount ordered to be paid under this subsection shall not exceed the employer's contributions in the Fund in respect of the worker as a member of the Fund, together with accrued interest. 15

PART IV—BENEFITS

20

Classes of benefits.

20. (1) Subject to this Part of this Act, there shall be payable the following classes of benefits—

(a) main benefits in respect of age, survivorship and invalidity;

(b) subsidiary benefits in respect of sickness; and

(c) withdrawal benefits in respect of emigration and withdrawal from the Fund. 25

(2) The Minister may by notice in the *Gazette*,—

(a) defer payment of any benefit other than a subsidiary benefit for a period of not more than twelve months after the coming into operation of this Act, and 30

(b) in the case of a subsidiary benefit, direct that no payment shall be made until he is satisfied that an adequate system of medical certification is in operation.

(3) Any benefit under this Act may be paid in one amount or with the approval of the Director may be converted and paid as an annuity. 35

Age benefit.

21. An age benefit to the extent prescribed in the Fourth Schedule to this Act shall be payable to any person who being a member of the Fund attains the age of fifty-five years, and satisfies the Director that he has retired from regular employment.

Survivors' benefit.

22. (1) Subject to the provisions of this section, a survivors' benefit in favour of the widow or widower or next of kin as the case may be shall, on the death of a member of the Fund, be payable to the extent prescribed in the Fourth Schedule to this Act; but no survivors' benefit shall be payable in excess of moneys already held for credit of the member of the Fund at the time of his death. 40 45

(2) Where a survivors' benefit is payable and the deceased immediately before his death was not subject to customary law or Moslem law, the Director may,—

(a) on such evidence as he may require and if the moneys in the Fund do not exceed the sum of £20, pay the moneys direct to the widow or widower or the next of kin of the deceased as the case may be; or

(b) if there are more claimants than one as widow or widower, or as the case may be the moneys in the Fund exceed the sum of £20, pay the moneys to the executor or administrator of the deceased; or

(c) in any other case, pay the moneys to the Administrator-General who shall hold the moneys in trust for the persons found to be entitled under this section.

(3) Where a survivors' benefit is payable and the deceased was immediately before his death subject to customary law or Moslem law, the Director on the application in writing of any person interested as claimant shall, and in any other case may, pay the survivors' benefit to the Administrator-General.

(4) Where moneys are paid to the Administrator-General under the authority of subsections (2) or (3) of this section, the Administrator-General shall give public notice of the payment by such means as he may think fit having regard to the amount of payment; and claims made after the time limited by the notice may be ignored under the authority of this subsection, and the amount may be paid accordingly to the persons who have given notice of their claims to the Administrator-General within the prescribed time:

Provided that where customary law or Moslem law applies, the Administrator-General may refuse payment to claimants except under the authority of an order of a court of competent jurisdiction.

(5) Moneys paid under the authority of this section to the Administrator-General shall, if unclaimed for a period of five years from the date of payment, be paid into the National Provident Reserve Fund under this Act.

23. An invalidity benefit to the extent prescribed in the Fourth Schedule to this Act shall be payable to any person who is a member of the Fund and is subject to such physical or mental disability as to be unemployable save in work approved by the Minister.

Invalidity benefit.

24. (1) Subject to this Part of this Act, where any person has been a member of the Fund for not less than one year, he shall if the period of his incapacity for work is more than one month, be entitled to a sickness benefit at the rate prescribed in the Fourth Schedule to this Act.

Sickness benefit.

(2) Nothing in this section shall authorise the payment of any sickness benefit in excess of the amount of the worker's contribution to the Fund.

25. (1) No sickness benefit under this Act shall be payable—

(a) in the case of a female member of the Fund where the employer pays for maternity leave an amount not less than the sickness benefit;

Limitation on application of Sickness benefit.

(b) to any member of the Fund where the employer pays for sick leave an amount not less than the sickness benefit ; or

Cap. 222.

(c) to any member of the Fund who receives or is entitled to a lump sum payment or periodical payments under the Workmen's Compensation Ordinance in respect of the same contingency or injury, until after the expiry of the number of months for which earnings are reckoned in calculating the lump sum payable, or during the periods of incapacity from work as the case may be.

(2) Where a person in receipt of sickness benefit appears to be entitled to a payment under the Workmen's Compensation Ordinance, the Director shall give notice of the fact to the employer and the employer shall, before making payment of compensation deduct therefrom the amount of sickness benefit paid to that person in excess of the amount of the benefit that would have been paid if he had received compensation from the date from which he was entitled ; and the employer shall, subject to the directions (if any) of the court, pay the sum so deducted to the Director for the credit of that person's account in the Fund.

(3) If an employer continues to pay wages to a worker in respect of any day on which the worker is entitled to sickness benefit, the sum paid shall be deducted from the sickness benefit to the extent that with the sickness benefit it exceeds the daily wages of the worker.

Emigration grant.

26. An emigration grant of the amount prescribed for withdrawal benefits in the Fourth Schedule to this Act shall be paid to a member of the Fund if he satisfies the Director that he is emigrating or has emigrated from and has no present intention of returning to Nigeria.

Withdrawal Grant.

27. (1) Subject to the provisions of this section, a withdrawal grant of the amount prescribed in the Fourth Schedule to this Act shall be paid to a member of the Fund if he satisfies the Director,—

(a) that for at least two years immediately preceding the application the member of the Fund has not been employed as a worker ; and

(b) that the member of the Fund has attained the age of 55 years.

(2) Where the Director is not satisfied that a member of the Fund has attained the age of 55 years he may, if he thinks fit, pay to the member by instalments or otherwise from the Fund such sum as, with the cumulative total of subsidiary benefits, does not exceed the worker's contribution to the Fund.

Restriction on double grant or benefit.

28. No member of the Fund shall be entitled at any time to an emigration grant and a withdrawal grant, or to a main benefit and a withdrawal benefit ; and if a main benefit or a withdrawal benefit is paid to a member of the Fund, no further payment shall be made to him out of the Fund until he again becomes a contributor under this Act.

PART V—FINANCE AND LEGAL

National Provident Fund Investment Committee.

29. (1) There shall be for the purposes of this Act an Investment Committee to be known as the National Provident Fund Investment Committee which shall consist of three members appointed by the Minister.

(2) The membership of the Investment Committee shall consist of—

(a) one fit officer of the Central Bank of Nigeria nominated by the Governor of that Bank,

(b) one fit officer of the Federal Ministry of Finance, and

(c) the Director.

(3) Subject to the provisions of this Act, the Investment Committee may appoint its own chairman, and regulate the procedure at its meetings.

5 (4) The Investment Committee shall meet at such time or times as the chairman or the Minister in the absence of the chairman may appoint.

10 (5) In the absence of the Director he may nominate some other officer of the Fund who shall for the purpose of any meeting attended be deemed to be a member of the Investment Committee.

15 (6) The Investment Committee shall have power to give general or special directions from time to time on the investment of moneys in the Fund which are surplus to current needs; and the Director shall give the Investment Committee any information required for the proper discharge of the functions of the Investment Committee.

20 30. The investment of moneys in the Fund not otherwise required shall be subject to any directions given by the Investment Committee; and for the purposes of this section it shall be lawful for moneys in the Fund to be expended in the purchase of land and buildings for the administration of this Act.

Investment
of moneys
in the Fund.

31. (1) There shall be a reserve fund of the National Provident Fund to be known as the National Provident Reserve Fund into which shall be paid—

National
Provident
Reserve
Fund.

25 (a) all fines and penalties under this Act;

(b) contributions by employers or workers which for any reason may not be allocated to individual accounts in the Fund; and

(c) any other moneys authorised to be so paid under this Act.

30 (2) If the net rate of interest added to the accounts of contributors for the previous financial year is not less than three *per centum*, there may be appropriated to the Reserve Fund on the certificate of the Federal Minister of Finance any part of the general income of the Fund for the next ensuing financial year not allocated to individual accounts.

(3) Moneys in the Reserve Fund shall not be appropriated without the authority of Parliament.

35 32. Accounts shall be kept of moneys in the Fund and in the Reserve Fund in such form as the Minister after consultation with the Federal Minister of Finance or the Director of Audit of the Federation as the case may be, may approve; and subject to the provisions of this Act, the accounts shall form part of the public accounts of the Federation, and
40 notwithstanding the requirements of any other Act, Part II of the First Schedule to the Finance (Control and Management) Ordinance, 1958 shall be deemed to be amended by the addition of the title to the Fund and to the Reserve Fund and the specific purposes for which those Funds are allocated.

Accounts
and audit.

No. 33 of
1958

45 33. (1) Subject to the provisions of this section, the Minister may with the concurrence of the Federal Minister of Finance and after consultation if he thinks fit with the Advisory Council, from time to time fix the rate of interest to be allowed on accounts of members of the Fund at the end of each financial year.

Interest on
accounts.

50 (2) In determining the rate of interest, the Minister shall have regard to the nett income of the Fund for the previous financial year, and the rate shall be fixed so that the amount of interest allocated shall not exceed the nett income of the Fund for the previous financial year.

Refund of
excess con-
tributions.

34. Moneys paid to the Fund in excess of the amount for which an employer is liable in respect of a worker may be refunded to the employer in such manner as the Director may approve.

35. (1) Any person who—

Criminal
proceedings,
etc.

(a) for the purpose of evading payment of any contribution by him or some other person knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular ; or

(b) for the purpose of obtaining any benefit for himself or some other person, knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular ; or

(c) misrepresents or fails to disclose any material fact ; or

(d) fails to pay to the Fund within such period as may be prescribed any amount which he is liable to pay under this Act ; or

(e) obstructs or assaults any inspector, officer or servant of the Fund in the discharge of his duties as such ; or

(f) fails to comply with any regulations made under this Act as a result of which there is a loss to the Fund ; or

(g) commits any other offence under this Act,—

shall be liable, on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

(2) The court before which any person is convicted of an offence under this Act may, without prejudice to any civil remedy, order such person to pay to the Fund the amount of any contributions, together with any interest or penalty thereon, certified to be due from such person to the Fund at the date of conviction ; and such amount may be recovered in the same manner as a fine and shall be paid into the Fund for the credit, where applicable, of the accounts of the workers or members of the Fund concerned.

(3) Proceedings in respect of any offence under this Act may be commenced at any time within the period of three months from the date on which evidence in the opinion of the Director to justify a prosecution for the offence comes to his knowledge, or within a period of twelve months after the commission of the offence, whichever is the later.

(4) For the purposes of this section and notwithstanding any other Act, an employer may be charged with more than one offence under paragraph (d) of subsection (1) of this section, and where the offences charged do not exceed thirty-six in number they shall be deemed to form part of the same transaction or series of offences of the same or similar character.

Civil
proceedings.

36. (1) Notwithstanding any other provisions of this Act, a contribution to the Fund may be recoverable by action as a debt owing to the Federal Government, at any time within six years from the date when the contribution became due.

(2) Any action for the recovery of contributions under this section may be instituted by any inspector or officer of the Fund on behalf of the Director or by any other person approved by the Minister, and where the action is instituted in a magistrate's court, any person authorised by this subsection may appear and conduct the case.

(3) For the purposes of this section, "contribution" includes any interest or penalty payable or imposed for non-payment, or for late payment as the case may be.

37. (1) Where—

(a) any attachment is issued against the property of an employer in execution of a decree against him and any such property is seized or sold or otherwise realised in pursuance of such execution, or

(b) on the application of a secured creditor the property of an employer is sold,—

the proceeds of the sale or other realisation of such property shall not be distributed to any person entitled thereto until the court ordering the sale or other realisation has made provision for the payment of any amounts due in respect of contributions payable by the employer under this Act during the twelve months before the date of such order.

(2) For the purposes of this section, "employer" includes any company in liquidation under the Companies Ordinance.

38. Where an offence under this Act by any association of persons whether corporate or unincorporate, is found to have been committed with the consent or connivance of, or is attributable to any act or default on the part of any person or persons in apparent control of the association of persons, the person or persons in apparent control and the association of persons shall be deemed to have committed the offence.

39. A copy of an entry in the accounts of the Fund or other extract from the records of the Fund shall, when certified by the Director or as the case may be by the deputy of the Director, be received in all courts as *prima facie* evidence of the truth of the contents thereof and, as the case may be, of the debt due to the Fund by any person.

PART VI.—MISCELLANEOUS

40. With the consent of the Director, an inspector may prosecute, conduct or defend before a magistrate's court in his own name any complaint or other proceeding arising under this Act or in the discharge of his duty as an inspector.

41. Notwithstanding the provisions of any Act or rule of law, the seat of a member of the Parliament of the Federation or of a member of the Legislature of any Region shall not become vacant, nor shall any person be incapable of election or appointment as the case may be to Parliament or the Legislature of any Region by reason of his appointment to any committee under this Act:

Provided that no person being a member of the Parliament of the Federation or of the Legislature of any Region shall be entitled to receive payment in respect of his services as a member of any committee other than such travelling allowances and expenses as may be prescribed or allowed under this Act.

Protection of contributors in certain cases.

Cap. 37.

Liability for acts of association of persons.

Certificates as evidence.

Power for inspectors to prosecute, etc. in certain courts.

Saving for certain persons as Committee members.

Exemption
from stamp
duty.

42. No stamp duty shall be payable on any receipt, contract, instrument or other document given or executed by the Director on behalf of the Fund or by any person in respect of benefits or refund of contributions under this Act; but nothing in this section shall be construed to exempt any person from liability to pay stamp duty on any power of attorney or on any document otherwise liable under the Stamp Duties Ordinance. 5

Cap. 191.

Power for
Director to
determine
questions in
special cases.

43. (1) If any question of fact arises as to the liability of an employer or any other person to pay contributions under this Act, the question shall be determined by the Director whose decision shall be final. 10

(2) Where the right of a person to a benefit is in dispute or doubt or any question arises as to the total amount of the benefit payable and the amount involved does not exceed twenty pounds, the matter shall be determined by the Director whose decision thereon shall be final.

Existing
schemes.

44. (1) The employer of any worker, who is a member of or is entitled to participate in an existing pension scheme or provident fund of his employer providing benefits for old age, shall not thereby be exempt from contributing to the Fund except to the extent that he has in his service workers who are within the classes of exempt persons under this Act. 15

(2) Any employer who on the appointed day is, by himself or in association with other employers, operating a scheme to provide benefits comparable with any under this Act for his workers or any of them may, under the authority of this subsection and whether or not the rules of the scheme allow, amend the scheme; and any amendment may take into account contributions made to the Fund, and provide for a reduction of the contributions to the scheme where the scheme is contributory or, as the case may be, for an adjustment of the benefits under the scheme where it operates on a non-contributory basis. 20

(3) Nothing in this section shall be construed so as— 25

(a) to authorise the amendment of a scheme whereby the benefits to a worker are reduced below those to which he would have been entitled if this Act had not been passed; or 30

(b) to require an employer to contribute to both the scheme and the Fund an amount in excess of that paid by the employer to the scheme for any comparable period before the appointed day. 35

Regulations.

45. The Governor-General in Council may from time to time make all regulations necessary or desirable to give effect to the provisions of this Act, and without limiting the general power it is hereby declared that regulations may be made for all or any of the following purposes— 40

(a) Prescribing conditions for registration and exemption under this Act;

(b) Providing for contributions in anticipation of the application of this Act to any particular class of worker;

(c) Prescribing conditions under which payment of contributions by employers may be made for the purposes of this Act; 45

(d) Providing that any provisions of this Act shall not apply or shall apply with such modification (if any) as may be specified in the regulations to any person or class of persons;

(e) Prescribing the mode of collecting contributions, the payment of claims and the computation of annuities ;

(f) Prescribing any forms for the purposes of this Act ;

5 (g) Prescribing the type of any medical examination for the purposes of this Act ;

(h) Prescribing the procedure for dealing with unclaimed moneys in the Fund.

10 46. (1) Where regulations are to be made under this Act the Minister may if he thinks fit prepare a draft of the regulations for consideration by the Advisory Council.

Advisory Council to consider certain regulations.

15 (2) If a draft is submitted to the Advisory Council the Advisory Council shall publish, in such manner as it thinks best adapted for notifying the persons affected, notice of the fact and of the place where copies of the draft may be obtained and of the time, not less than fourteen days nor more than twenty-eight days, within which objection may be lodged with the Advisory Council.

(3) Objections shall be in writing and shall state the portions of the draft which are objectionable together with the grounds of objection and any amendment proposed by the objector.

20 (4) Objections received within the prescribed time shall be considered by the Advisory Council at its next meeting and after hearing if it thinks fit any objector, the Advisory Council shall report its findings in writing to the Minister.

25 (5) Regulations when made shall be laid before both Houses of Parliament as soon as may be after they are made together with the report (if any) made by the Advisory Council on the draft and a statement showing amendments made since the report of the Advisory Council and the effect given to any recommendation of the Advisory Council, or the reasons for not adopting a recommendation of the Advisory Council.

30 (6) If either House of Parliament passes a resolution within seven sitting days after the laying, disallowing the regulations, the regulations shall be void but without prejudice to the validity of anything previously done thereunder.

35 47. (1) The Governor-General in Council may enter into a reciprocal agreement with the Government of any other territory in which a fund or scheme similar to the Fund has been established in that other territory and there may be included in the agreement provision,—

Reciprocal agreements.

40 (a) that any period of membership of such a fund or scheme in the territory of that Government may be treated as a period of membership of the Fund and *vice versa* ; and

45 (b) that subject to such conditions as may be agreed, any amount standing to the credit of a member of the Fund who works for any employer in the territory of that Government may be transferred to his credit in such fund or scheme, and any amount standing to the credit in such fund or scheme of any person who becomes a member of the Fund may be transferred to his credit in the Fund.

(2) Any reciprocal agreement made under this section may modify, adapt or amend the provisions of this Act to give effect to the agreement and when made shall be laid before both Houses of Parliament within

three sitting days after the commencement of the next ensuing session. If either House of Parliament passes a resolution within seven sitting days after the laying, disallowing the agreement, the agreement shall be void, but without prejudice to the validity of anything previously done thereunder.

5

(3) If a reciprocal agreement made under this section is not disallowed, it shall be published in the Gazette and come into force on the date of such publication or on such later date as may be provided in the agreement.

SCHEDULES

10

FIRST SCHEDULE

Section 8

CONSTITUTION, ETC., OF THE NATIONAL PROVIDENT FUND ADVISORY COUNCIL

1. The National Provident Fund Advisory Council shall consist of fifteen members appointed by the Minister of whom :—

15

- (a) five shall represent the Federal Government ;
- (b) three shall represent the Regional Governments as employers ;
- (c) two shall represent all other employers ; and
- (d) five shall represent workers in Nigeria.

2. The three members representing Regional Governments as employers shall be appointed from amongst nominations made by and after consultation with the Regional Governments.

20

3. The two members representing employers other than Regional Governments shall be appointed after consultation with associations of employers or persons or bodies likely to produce representation for employers generally throughout Nigeria.

25

4. The five members representing workers shall be appointed by the Minister after consultation with such associations of Trades Unions or individual Trades Unions as appear to him to be representative of workers generally throughout Nigeria.

30

5. The Minister shall appoint the Chairman and Vice-Chairman of the Advisory Council from amongst the members, and shall convene the first meeting of the Advisory Council.

6. The Chairman and other members shall hold office for a period which, in the case of each of the members first appointed and of any member appointed to fill a casual vacancy shall be of such duration not exceeding three years as may be determined by the Minister, and in any other case members shall be appointed for a term of three years. Any member of the Advisory Council shall be eligible for reappointment.

35

7. A member of the Advisory Council may at any time by notice in writing addressed to the Minister resign his office ; and if a member becomes, in the opinion of the Minister, unfit to continue in office or incapable of performing his duties, the Minister shall in such manner as he thinks fit declare the office of the member to be vacant.

40

8. The quorum for any meeting of the Advisory Council shall be seven of whom not less than one from each group shall be present ; but the Advisory Council may act notwithstanding any vacancy in the membership of the Advisory Council. For the purposes of this paragraph, the five representatives of the Regional Governments and of all other employers shall together comprise one group.

9. The Advisory Council may with the approval of the Minister make standing orders for the purposes of regulating the procedure at its meetings.

10

SECOND SCHEDULE

Section 9

EXEMPT PERSONS

1. Workers employed in any public department who are entitled to the benefit of any scheme of pensions on terms substantially similar to those prescribed by the Pensions Ordinance.
- 15 2. Workers in any University or College who are subject to the Superannuation Schemes for Universities.
3. All workers employed as teachers covered by any scheme for superannuation of Non-Government Certificated Teachers.
- 20 4. Persons who in their official capacity are accorded diplomatic status or equivalent status.
5. Workers whether citizens of Nigeria or not, whose terms of service or engagement wherever executed provide that they are subject to service for any period of not less than one year outside Nigeria.
- 25 6. Any worker not being a citizen of Nigeria who is to be employed in Nigeria for periods not exceeding six years at a time.
- 30 7. In any case to which paragraphs 5 or 6 of this Schedule apply, the employer shall satisfy the Director that the worker is liable to contribute to, or is prospectively entitled to benefits from, the social security scheme of any country other than Nigeria or any benefit scheme of his employer or under his employment, on terms that would provide the worker with benefits substantially not less favourable than the like benefits to which he would have been entitled under this Act.

THIRD SCHEDULE

Section 13

CONTRIBUTIONS

<i>Contribution period</i>	<i>Worker's contribution deductible from wage by employer</i>	<i>Employer's contributions for each worker</i>	
One month	Three pence for every complete five shillings of wages with maximum of two pounds.	Three pence for every complete five shillings of wages with maximum of two pounds.	5
One fortnight	Three pence for every complete five shillings of wages with maximum of one pound.	Three pence for every complete five shillings of wages with maximum of one pound.	10
One week	Three pence for every complete five shillings of wages with maximum of ten shillings.	Three pence for every complete five shillings of wages with maximum of ten shillings.	15

FOURTH SCHEDULE

BENEFITS

- (a) *Main benefits* Sections 21, 22 and 23 20
(being age, survivors', or invalidity benefits)

The amount of the benefit payable shall be the balance of the member's account in the Fund at the date of payment with accrued interest after taking into account any sickness benefit drawn; and in the case of a survivors' benefit estate duty (if any) shall be deducted before payment. 25

- (b) *Sickness benefits* Section 24

The amount payable to a member of the Fund for the period of his sickness (Sundays excepted) shall not exceed the rate of 3s 6d a day.

- (c) *Withdrawal benefits* Sections 26 and 27 30
(being emigration and withdrawal grants)

The amount of the benefit shall be the balance of the member's account in the Fund at the date of payment with accrued interest after taking into account any sickness benefit drawn.