

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

EXCHANGE CONTROL

EXPLANATORY MEMORANDUM

This Bill seeks to replace the Exchange Control Ordinance (Cap. 63) enacted in the year 1950, and to provide for the independent status of Nigeria by simplifying, as far as is practicable, the existing law and practice as to the control of transactions affecting gold, foreign exchange and securities. The principal changes reflected in the Bill are as follows:—

(a) All currencies other than Nigerian pounds are to be "foreign currency"; and

(b) All persons resident outside Nigeria are to be regarded as non-residents.

The Bill also seeks to confer power for the Minister of Finance to delegate, with certain exceptions, powers conferred upon him subject to such conditions as he may impose—an arrangement more conducive to speed and flexibility in the administration of exchange control.

The Bill is divided into Parts, of which,—

(a) Part I prohibits, subject to such exemptions as may be granted by the Minister of Finance, all dealings in gold and foreign currency except through authorised dealers:

(b) Part II seeks to provide or impose necessary restrictions on the making of payments both in Nigerian pounds and in foreign currencies:

(c) Part III relates to the control of transactions in securities, and is designed to facilitate the transfer and registration of certain types of transactions in which only residents of Nigeria are concerned, but will restrict dealings in some cases:

(d) Part IV will control the import and export of gold, sundry currency notes and securities and other documents, as a necessary complement to the powers to be conferred under Parts I, II and III of the Bill:

(e) Parts V and VI relate to miscellaneous and supplemental provisions, and with reference thereto, *clause 26* will enable the Minister of Finance to make exemption orders to mitigate the possible severity of the application of the Bill as an Act; *clause 27* will provide a method whereby a debtor may discharge his debt to a non-resident without involving any immediate drain on foreign exchange resources by payment to a blocked account as therein defined; and *clause 30* seeks to provide that official payments and other transactions within the scope of this Bill shall conform to exchange control requirements; and public corporations will likewise be affected.

If this Bill is passed into law the policies to be pursued will be as stated in my Budget Speech on the 29th March, 1962.

F. S. OKOTIE-EBOH,
Federal Minister of Finance

EXCHANGE CONTROL

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SCHEDULES

A BILL

FOR

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO EXCHANGE CONTROL BY CONFERRING POWERS AND IMPOSING DUTIES AND RESTRICTIONS IN RELATION TO GOLD, CURRENCY, PAYMENTS, SECURITIES, DEBTS AND THE IMPORT, EXPORT, TRANSFER AND SETTLEMENT OF PROPERTY AND FOR OTHER PURPOSES CONNECTED THEREWITH.

Date of 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.—(1) This Act may be cited as the Exchange Control Act 1962
5 and shall apply throughout the Federation.

(2) This Act shall come into operation on a day to be appointed by the Minister by notice in the Gazette and different days may be appointed for different provisions of this Act.

Interpre-

10 2.—(1) In this Act, unless the context otherwise requires—
“authorised dealer” means, in relation to gold and any foreign currency, a person for the time being authorised under this Act by the Minister by notice in the Gazette as a dealer in gold or, as the case may be, that foreign currency ;

15 "authorised depository" means a person for the time being authorised by the Minister by notice in the Gazette to accept the custody of securities and documents of title to securities for the purposes of this Act :

"bearer certificate" means a certificate of title to securities which is transferable by delivery with or without endorsement;

20 "certificate of title", in relation to a security, means any document whereby a person recognizes the title of another to a security issued or to be issued by the first-mentioned person, and in the case of any such document with coupons (whether attached or on separate coupon sheets) includes any coupons which have not been detached ;

25 "contract note" means a note sent by a broker or agent to his principal, or by any person who by way of business deals, or holds himself out as dealing, as a principal in any stock or marketable securities, advising the principal or the vendor or purchaser, as the case may be, of the sale or purchase of any stock or marketable security, but does not include a note sent by a broker or agent to his principal where the principal is himself acting as a broker or agent for a principal;

"coupon" means a coupon representing dividends or interest on a security;

"foreign currency" means any currency other than Nigerian currency and includes any notes which are or have at any time been legal tender in any territory outside Nigeria, and where reference is made to foreign currency, the reference includes the right to receive foreign currency in respect of any credit or balance at a bank ;

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"gold" means gold coin and gold bullion and includes raw gold as defined in the Gold Trading Act ;

"Minister" means the Federal Minister charged with responsibility for finance ;

"policy of assurance" means any policy securing the payment of a capital sum or annuity on the occurrence of a specified event which is certain to happen and includes—

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(a) any policy by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life ; and

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(b) any policy securing the payment of an immediate annuity ; and the reference to the occurrence of a specified event which is certain to happen includes the occurrence, which is certain to happen, of one of specified events none of which by itself is certain to happen ;

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"securities" means shares, stock, bonds, notes, debentures, debenture stock, units under a unit trust scheme and shares in an oil royalty, and includes any letter of allotment which may be renounced, letter of rights, warrant conferring an option to acquire a security, deposit certificate in respect of securities and such other document conferring, or evidencing, rights as may be prescribed from time to time, but does not include any receipt by an authorised depository for any certificate of title deposited for the purposes of this Act or any promissory note ;

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"specified currency" means any foreign currency referred to in or affected by an order of the Minister under section 4 of this Act ;

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"unit" means, in relation to a unit trust scheme, a right or interest (whether described as a unit, as a sub-unit or otherwise) which may be acquired under the scheme ;

"unit trust scheme" means any arrangement made for the purpose or having the effect of providing for persons having funds available for investments, facilities for the participation by them as beneficiaries under a trust, in profits and income arising from the acquisition, holding, management or disposal of any property whatsoever.

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(2) The obligations and prohibitions imposed by this Act shall, unless otherwise prescribed, apply to all persons notwithstanding that they are not in Nigeria and are not Nigerian citizens.

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(3) References in any order or notice under this Act to "Scheduled Territories" shall, unless the context otherwise requires, be read as references to such countries or territories as the Minister by order may from time to time prescribe for the purposes of this Act.

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(4) References to control of a body corporate shall be construed as references to the power of any person or persons either separately or collectively and wherever resident to override or outvote any other person or persons however interested in the body corporate.

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PART I.—GOLD AND FOREIGN CURRENCY

3.—(1) Except with the permission of the Minister, no person other than an authorised dealer, shall, in Nigeria, and no person resident in Nigeria other than an authorised dealer, shall, outside Nigeria, buy or borrow any gold or foreign currency from or sell or lend any gold or foreign currency to any person other than an authorised dealer.

Dealings
in gold and
foreign
currency
prohibited.

(2) Where a person buys or borrows any gold or foreign currency in Nigeria, or, being a person resident in Nigeria, buys or borrows gold or foreign currency outside Nigeria, he shall comply with such conditions as to the use to which it may be put or the period for which it may be retained as may be notified by the Minister before, or at the time of, such purchase or borrowing, or at any time thereafter.

4.—(1) The Minister may from time to time by order declare any foreign currency to be specified currency; and on the making of the order, every person in Nigeria who is not an authorised dealer but is entitled to sell or procure the sale of any gold or foreign currency declared to be specified currency shall offer or cause to be offered the gold or specified currency for sale to an authorised dealer, unless the Minister consents to the retention and use thereof by that person, or the gold or specified currency is disposed of to any other person with the permission of the Minister.

Surrender
of gold and
certain
foreign
currency.

(2) If any person having obtained the consent of the Minister to the retention and use by that person of any gold or specified currency, and having stated in an application for the consent that he requires the gold or specified currency for a particular purpose, no longer requires the gold or specified currency for that purpose, the preceding subsection shall have effect as if the consent of the Minister to the retention and use of the gold or specified currency as the case may be had been revoked.

(3) A person who acquires any gold or specified currency from an authorised dealer shall be treated for the purposes of this section as if the Minister had consented to the retention and use by him of the gold or specified currency subject to any conditions notified to him in accordance with subsection (2) of section 3 of this Act, and as if any statement made by him in an application for the gold or specified currency as to the purpose for which he requires it had been made by him in an application for the Minister's consent to his retention and use thereof.

(4) Where a person is bound under this section to offer or cause to be offered any gold or specified currency for sale to an authorised dealer, it shall be no compliance with this Act that an offer to sell is made or caused to be made by that person at a price which exceeds the price authorised by the Minister, or does not provide for payment of usual and proper charges of the authorised dealer, or is otherwise on any unusual terms.

(5) Where a person bound under this section to offer any gold or specified currency for sale to an authorised dealer fails to do so, the Minister may direct payment of the gold or specified currency to the Accountant-General of the Federation; and the gold or specified currency shall be paid accordingly and be held on behalf of the Crown free from any mortgage, pledge or charge. The direction of the Minister under this subsection shall be sufficient authority for the Accountant-General of the Federation to pay out of the Contingencies Fund to the person who would, but for the direction of the Minister, be entitled to

the gold or specified currency, such sum as the person would have received, if at the date of the payment to the Accountant-General of the Federation the person entitled had sold the gold or specified currency to an authorised dealer as prescribed by this section; and the Accountant-General of the Federation shall deal with the gold or specified currency as the Minister may require. 5

(6) In any proceedings for failure to comply with the requirements of this section, it shall be presumed, until the contrary is shown, that the gold or specified currency in question has not been offered for sale to an authorised dealer. 10

Bailees of
gold and
specified
currency.

5.—(1) Every person in Nigeria by whom or to whose order (whether directly or indirectly) any gold or specified currency in the form of notes is held in Nigeria, who is not entitled to sell or procure the sale of the gold or specified currency, shall notify the Minister in writing that he so holds the gold or specified currency. 15

(2) The Minister may direct any person in Nigeria by whom or to whose order (whether directly or indirectly) any gold or specified currency in the form of notes is held in Nigeria, whether or not he is entitled to sell or procure the sale of the gold or specified currency, to cause the gold or specified currency to be kept at all times in the custody of the banker specified in the direction. 20

Travellers'
cheques,
etc.

6.—(1) This section applies to any document of a kind intended to enable the person to whom the document is issued to obtain foreign currency from some other person on the credit of the person issuing it, and in particular to any traveller's cheque or other draft or letter of credit so intended. 25

(2) For the purposes of this Act, the person issuing a document to which this section applies, and the person to whom it is issued, shall be deemed respectively to sell and buy foreign currency and where foreign currency is obtained by means of the document to sell and buy that foreign currency. 30

(3) Any document to which this section applies which is not expressed in terms of Nigerian pounds shall, if it is of a kind intended to enable the person to whom it is issued to obtain any specified currency, be treated also for the purposes of this Act as itself being specified currency. 35

(4) Every person in Nigeria and any Nigerian citizen wherever resident who holds or to whose order there is held any document to which this section applies, being a document expressed in terms of Nigerian pounds, shall encash it or cause it to be encashed in Nigeria with the person issuing it or with a banker, unless the Minister consents to his retention and use thereof and, where in his application for that consent he has stated that he requires it for a particular purpose, unless also he still requires it for that purpose. 40

(5) A person who acquires any document to which subsection (4) of this section applies from an authorised dealer shall be treated for the purposes of that subsection as if the Minister had consented to the retention and use by him of that document, subject however, to any conditions notified to him in accordance with subsection (2) of section 3 of this Act, and as if any statement made by him in an application for that document as to the purpose for which he requires it had been made by him in an application for the Minister's consent to his retention and use thereof. 45 50

PART II—PAYMENTS

7. Except with the permission of the Minister, no person shall do any of the following things in Nigeria, that is to say —

Payments
in Nigeria.

5 (a) make any payment to or for the credit of a person resident outside Nigeria ; or

(b) make any payment to or for the credit of a person resident in Nigeria by order or on behalf of a person who is resident outside Nigeria ; or

10 (c) make any payment whatsoever in respect of any loan, bank overdraft or other credit facilities outside Nigeria ; or

(d) place any sum to the credit of any person resident outside Nigeria :

15 Provided that where a person resident outside Nigeria has paid a sum in or towards the satisfaction of a debt due from him, paragraph (c) or (d) of this section shall not prohibit the acknowledgment or recording of the payment.

20 8.—(1) Subject to the provisions of this section, no person resident in Nigeria shall, without the permission of the Minister, make any payment outside Nigeria to or for the credit of a person resident outside Nigeria, or take or accept any loan, bank overdraft or other credit facilities.

Payments
outside
Nigeria.

25 (2) Nothing in this section shall prohibit the doing of anything otherwise lawful by any person with any foreign currency obtained by him under the provisions of Part I of this Act, or retained by him with the consent of the Minister.

9.—(1) Except with the permission of the Minister, no person shall in Nigeria, and no person resident in Nigeria shall outside Nigeria, make any payment to or for the credit of a person resident in Nigeria as consideration for or in association with—

Compensa-
tion deals.

30 (a) the receipt by any person of a payment made outside Nigeria, or the acquisition by any person of property which is outside Nigeria ; or

35 (b) the transfer to any person, or the creation in favour of any person, of a right (whether present or future, and whether vested or contingent) to receive a payment outside Nigeria or to acquire property which is outside Nigeria.

(2) Nothing in this section shall prohibit the making of any payment in accordance with the terms of a permission or consent granted under this Act.

40 PART III—SECURITIES

10—(1) No person shall, except with the permission of the Minister—

Issue of
securities.

(a) transfer any security or create or transfer any interest in a security, to or in favour of a person resident outside Nigeria ;

45 (b) transfer any security from a register in Nigeria to a register outside Nigeria or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in or registered in Nigeria of any security which is either outside or registered outside Nigeria ;

(c) issue, whether in Nigeria or elsewhere, any security which is registered or to be registered in Nigeria to a person resident outside Nigeria ; or

(d) acquire or dispose of any foreign security.

(2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the rights of the holder in respect of a security is controlled shall, without the permission of the Minister, do any act whereby the holder recognises or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the person previously instructing him and the person substituted for that person were, immediately before the substitution, resident in Nigeria.

(3) The Minister may, if he thinks fit, require any transfer of a security to be supported by a declaration by the parties to the effect that the transferee is not resident outside Nigeria.

(4) Notwithstanding anything contained in this or any other Act, no person shall, without the permission of the Minister—

(a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer contravenes the provisions of this section, or

(b) enter in any such register or book in respect of any security whether in connection with the issue or transfer of the security or otherwise, an address outside Nigeria except by way of substitution for any such address in the same country or for the purpose of any transaction for which permission has been granted under this section with knowledge that it involves the entry of the said address.

(5) For the purposes of this section—

(a) "foreign security" means any security issued in any country other than Nigeria and includes any security where the principal or interest is payable in any foreign currency or is payable elsewhere than in Nigeria ;

(b) "holder", in relation to a bearer security where it is deposited with a person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, means the person entitled to authorise its removal and in any other case means the person in whose physical custody the security is ;

(c) "nominee" means a holder of any security (including a bearer security) or any coupon representing dividends or interest who is not entitled to exercise any rights whether of ownership or otherwise save in accordance with instructions given to him by some other person, and includes any person who is entitled to give instructions either directly or through the agency of one or more persons as to the exercise of any rights in respect of the security or coupon, and is, in so doing, himself under a duty to comply with instructions given by some other person ;

(d) "security" includes coupons and warrants representing dividends and interest.

Deposit of
securities
and coupons.

11.—(1) The Minister may, by order, require every person by or for whom a security or certificate of title to a security specified in the order is held in Nigeria to place the security or certificate of title, as the case may be, in the custody of an authorised depository. Every security
5 or certificate of title deposited under this subsection may be withdrawn with the consent of the Minister on such conditions as he may impose.

(2) No authorised depository shall, without the permission of the Minister, part with any security or certificate of title affected by an order under subsection (1) of this section, save to or to the order of another
10 authorised depository.

(3) No authorised depository shall, without the consent of the Minister—

(a) accept or part with any security or certificate of title affected by an order under subsection (1) of this section whereby the security or certificate of title may be transferred into the name of a person
15 resident outside Nigeria; or

(b) do any act whereby the authorised depository recognises or gives effect to the substitution of another person as the person from whom the authorised depository directly receives instructions relating to the security or certificate of title, unless the person previously
20 instructing the authorised depository and the person substituted for that person were, immediately before the substitution, resident in Nigeria.

(4) Except with the permission of the Minister, no person shall
25 buy, sell or transfer any security or certificate of title affected by an order under subsection (1) of this section unless the security or certificate of title has been deposited as prescribed by an order.

(5) No capital moneys, interest or dividends in respect of any security or certificate of title affected by an order under subsection (1) of this section shall, without the permission of the Minister, be paid in
30 Nigeria except to or to the order of the authorised depository having custody of the security.

(6) For the purposes of this section "security" includes coupons.

12. Except with the permission of the Minister no person shall,
35 in Nigeria, and no person resident in Nigeria shall, outside Nigeria, issue any bearer certificate or coupon or alter any document so that it becomes a bearer certificate or coupon.

Issue of
bearer
certificates
and coupons
prohibited.

13.—(1) The Minister may by order direct—

(a) that subject to the provisions of the order, no person shall,
40 without the permission of the Minister, sell, transfer, or do anything which involves the creation of a charge on, securities whether by way of mortgage or pledge or otherwise of any such class as may be specified in the order, being a class of securities which in the opinion of the Minister, is likely to be marketable outside Nigeria; and

(b) that the owner of securities affected by the order shall, as
45 prescribed in the order, make a return to the Minister giving such particulars with respect to those securities as may be required.

Control of
specified
securities.

(2) During the continuance of an order made under this section if the Minister thinks fit for the purpose of strengthening the financial
50 position of Nigeria, he may by a further order made generally with respect to specified securities of that class, or by directions given with respect to any securities of that class of which any particular person is the owner, require—

(a) that the securities to which the further order or the directions relate shall be sold in such manner and within such period as he may specify;

(b) that any foreign currency representing the proceeds of sale of those securities shall be disposed of in such manner as the Minister may prescribe; and

(c) that there shall be furnished to such person as may be prescribed in the order or directions such documents or information relating to the matters aforesaid as the circumstances may require.

(3) Any person who at the date of the further order or the giving of the directions is an owner of securities affected shall do all such things as are necessary or prescribed in the further order or the directions as the case may be and required to be done to give full effect to the order or directions.

Disclosure
of foreign
currency,
etc., held.

14.—(1) In addition to and not in derogation of any other power conferred by this Act, the Minister may by order in the Gazette require every person resident in Nigeria, who owns or has in any relevant period any interest in the foreign currency or securities specified in the order, to furnish a return of such foreign currency or securities to the Minister, or to such other person as the Minister may by the same or any other order, direct.

(2) For the purposes of this section, "relevant period" means the period on or after the date of publication of the order or the period specified in the order, as the case may be.

Validation
of certain
transfers.

15.—(1) The title of any person to a security for which he has given value on a transfer thereof, and the title of all persons claiming through or under him, shall, notwithstanding that the transfer, or any previous transfer, or the issue of the security, was by reason of the residence of any person concerned other than the first-mentioned person prohibited by the provisions of this Act relating to the transfer or issue of securities, be valid unless the first-mentioned person had notice of the facts by reason of which it was prohibited.

(2) Without prejudice to the provisions of subsection (1) of this section, the Minister may issue a certificate declaring, in relation to a security, that any acts done before the issue of the certificate purporting to effect the issue or transfer of the security, being acts which were prohibited by this Act, are to be, and are always to have been, as valid as if they had been done with the permission of the Minister, and the said acts shall have effect accordingly.

(3) Nothing in this section shall affect the liability of any person to prosecution for any offence against this Act.

PART IV—IMPORT AND EXPORT

Prohibition
on import.

16.—(1) Except with the permission of the Minister, no person shall import into Nigeria—

(a) any notes which are or have at any time been legal tender in Nigeria;

(b) any such other notes as may be specified by order of the Minister, being notes issued by a bank or notes of a class which are or have at any time been legal tender in any territory;

(c) any Treasury Bills;

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(d) any certificate of title to any security, including any such certificate which has been cancelled and any document certifying the destruction, loss or cancellation of any certificate of title to a security.

5 (2) For the purposes of this section, "note" includes part of a note.

17.—(1) Except with the permission of the Minister, no person shall export from Nigeria— Prohibition
on export.

(a) any notes which are or have at any time been legal tender in Nigeria or in any other territory;

10 (b) any Treasury Bills;

(c) any postal orders;

(d) any gold;

(e) any of the following documents (including any such document which has been cancelled), that is to say—

15 (i) any certificate of title to a security and any coupon, and

(ii) any bill of exchange or promissory note expressed in terms of currency other than Nigerian pounds, and

(iii) any policy of assurance, and

20 (iv) any document to which section 6 of this Act applies not issued by an authorised dealer or in pursuance of permission granted by the Minister;

(f) any document certifying the destruction, loss or cancellation of any of the documents in paragraph (e) of this subsection;

25 (g) any such articles exported on the person of a traveller or in a traveller's baggage as may be prescribed by order of the Minister.

(2) For the purposes of this section, "note" includes part of a note, and "coupon" shall be construed in accordance with the meaning of "security".

30 18.—(1) Subject to the provisions of this section, no person shall without the consent of the Minister, export goods of any class or description from Nigeria to a destination in any territory prescribed by order of the Minister, unless the Comptroller of Customs is satisfied—

Payment
for exports.

35 (a) that payment for the goods has been made to a person resident in Nigeria in such manner as may be prescribed by order of the Minister in relation to goods of that class or description exported to a destination in that territory, or is to be so made not later than six months after the date of exportation; and

40 (b) that the amount of the payment made or to be made is such as to represent a return for the goods which is, in all the circumstances, satisfactory in the interest of Nigeria.

45 (2) The Minister may direct that, in cases to which the direction applies, paragraph (a) of subsection (1) of this section shall have effect as if for the reference to six months there were substituted a reference to such longer or shorter period as may be specified in the direction, or as if the words "or is to be so made not later than six months after the date of exportation" were omitted.

(3) Where the Comptroller of Customs is required to be satisfied, he may require the person making entry of the goods for export to deliver to the Collector or other proper officer together with the entry

a declaration signed by such persons as he may require; and where a declaration is required under this section, the goods shall not be exported until the declaration has been delivered to the Collector or other proper officer. If he is not satisfied in the case of any goods as to the matters specified in paragraph (b) of subsection (1) of this section, he shall give his reasons to the person making entry of the goods for export, and shall take into consideration any representations made by the person making such entry of goods for export. 5

(4) Any reference in this section to the destination of any goods includes a reference to the ultimate destination thereof. 10

PART V—MISCELLANEOUS

Duty to
collect
certain
debts.

19.—(1) Except with the permission of the Minister, no person resident in Nigeria who has a right (whether present or future and whether vested or contingent) to receive any foreign currency or to receive from a person resident outside Nigeria a payment in Nigerian pounds, shall do or refrain from doing any act with intent to secure or shall do any act which involves, is in association with, or is preparatory to any transaction securing— 15

(a) the delay in receipt by him of the whole or any part of the foreign currency, or of the payment as the case may be, or 20

(b) that the foreign currency, or payment as the case may be, shall cease in whole or in part to be receivable by him.

(2) Unless the Minister otherwise directs, nothing in subsection (1) of this section shall—

(a) impose on any person the obligation, in relation to any debt arising in the carrying on of any trade or business to procure the payment thereof at an earlier time than is customary in the course of that trade or business; or 25

(b) prohibit any transfer to a person resident in Nigeria, and not elsewhere, of the right to receive any foreign currency or payment in Nigerian pounds. 30

(3) Where a person contravenes the provisions of this section, the Minister may give to him or to any other person in or resident in Nigeria, and having authority on behalf of that person, such directions as appear to the Minister to be necessary to obtain the foreign currency or payment as the case may be. In addition the Minister may direct the assignment to the Accountant-General of the Federation of the right to demand and receive the foreign currency or payment, and where the direction is given, the provisions of subsection (5) of section 4 of this Act shall have effect with all necessary changes. 40

Property
obtained by
infringe-
ment of Act.

20.—(1) Where a person—

(a) makes any payment prohibited by this Act, or

(b) being bound under this Act to offer or cause to be offered any specified currency to an authorised dealer otherwise disposes of that currency, 45

the Minister may direct that person to sell or procure the sale of any property which he is entitled to sell or of which he is entitled to procure the sale, being property which represents, whether directly or indirectly, the payment or the specified currency, as the case may be, and may by the same or any other directions prescribe the manner in which and the persons to whom, and the terms on which the property is to be sold. 50

(2) The powers conferred on the Minister by this section shall in any particular case extend and apply to the giving of directions that the property shall be assigned to the Ministry of Finance Incorporated and where the property is assigned it may be dealt with under the provisions of the Ministry of Finance Incorporated Act, 1959.

No. 7 of 1959.

21. Where any right or other property is assigned to the Ministry of Finance Incorporated under this Part of this Act, and no provision for payment is made, the Minister shall direct payment out of the Contingencies Fund of the net sum recovered by the Minister in respect of the assigned right, or other property, to the person making the assignment, or to the person who, but for the direction, would be entitled to the right or other property.

Provisions supplemental to preceding provisions of Part V.

22.—(1) Except with the permission of the Minister, no person resident in Nigeria shall transfer to a person resident outside Nigeria, or who is a nominee for a person resident outside Nigeria, any right to the sums assured by any policy of assurance so, however, that where the person liable for the sums so assured makes any payment thereof to a person resident in Nigeria or makes with the permission of the Minister, any payment thereof to any other person—

Transfer of annuities, etc.

(a) he shall not be bound to enquire as to the residence of any person other than the person to whom and (if it is not the same person) the person to whose order the payment is made; and

(b) the payment shall, to the extent of the sum paid discharge him from his liability under the policy, notwithstanding that the payment is made to or to the order of a person who was not entitled thereto otherwise than by virtue of a transfer prohibited by this subsection.

(2) Where any transfer is prohibited by this section, the provisions of subsections (2) and (3) of section 15 of this Act shall have effect to the same extent as they apply without prejudice to validate a transfer of a security in special cases.

(3) For the purposes of this section, "nominee" has, in relation to any policy, annuity or insurance, the same meaning as it has in Part III of this Act in relation to a security.

23.—(1) Except with the permission of the Minister, no person resident in Nigeria shall settle any property, otherwise than by will, so as to confer an interest in the property on a person who, at the time of the settlement, is resident outside Nigeria, or shall exercise, otherwise than by will, any power of appointment whether created by will or otherwise in favour of a person who, at the time of the exercise of the power, is resident outside Nigeria.

Settlements.

(2) A settlement or the exercise of a power of appointment shall not be invalid by reason only that it is prohibited by this section, and shall have effect except so far as it purports to confer any interest on any person who, at the time of the settlement or the exercise of the power, is resident outside Nigeria.

(3) Where any settlement or exercise of a power of appointment is prohibited by this section, the provisions of subsections (2) and (3) of section 15 of this Act shall have effect to the same extent as they apply without prejudice to validate a transfer of a security in special cases.

(4) For the purposes of this section—

(a) any reference to settling property includes a reference to the making of any disposition, covenant, agreement or arrangement whereby the property becomes subject to a trust, or (in the case of a resettlement) to a different trust;

(b) a person shall be deemed to have an interest in property if he has any beneficial interest therein, whether present or future and whether vested or contingent, or if he falls within a limited class of persons in whose favour a discretion or power in respect of the property is exercisable ;

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(c) "will" includes any testamentary disposition.

Foreign
companies.

24. Where there is served on any person resident in Nigeria a notice in writing that the Minister requires compliance with the requirements mentioned in this section by a foreign company (being any body corporate within the First Schedule to this Act) and that person can, by doing or refraining from doing any act—

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(a) cause the foreign company to comply with any of the requirements, or

(b) remove any obstacle to the foreign company complying with any of the requirements, or

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(c) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Minister, that person shall as the case may be do, or refrain from doing, that act. The requirements mentioned in this section are that the foreign company shall—

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(i) furnish to the Minister such particulars as to its assets and business as may be mentioned in the notice ;

(ii) sell or procure the sale to an authorised dealer of any gold or specified currency mentioned in the notice, being gold or specified currency which it is entitled to sell or of which it is entitled to procure the sale ;

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(iii) declare and pay such dividends as may be mentioned in the notice ;

(iv) realise any of its assets mentioned in the notice in such manner as may be so mentioned ;

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(v) refrain from selling or transferring or doing anything which affects its rights or powers in relation to any such Treasury Bills or securities as may be mentioned in the notice.

Nigerian
companies.

25.—(1) Except with the permission of the Minister, no person resident in Nigeria shall do any act whereby a body corporate controlled (whether directly or indirectly) by persons resident in Nigeria ceases to be controlled by persons resident in Nigeria : Provided that nothing in this subsection shall prohibit any person from selling any securities authorised to be dealt in on any recognised Stock Exchange in Nigeria if the sale takes place in pursuance of an agreement entered into in the ordinary course of business on that Stock Exchange.

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(2) Except with the permission of the Minister, no person resident in Nigeria shall lend any money or securities to any body corporate resident in Nigeria which is by any means controlled (whether directly or indirectly) by persons resident outside Nigeria : Provided that this subsection shall not apply where the lender after making such enquiries as are reasonable in the circumstances of the case does not know and has no reason to suspect that the body corporate is controlled as aforesaid.

45

PART VI—SUPPLEMENTAL

26. Any provision of this Act imposing an obligation or prohibition shall have effect subject to such exemptions, absolute or conditional, as the Minister by order may grant.

Exemptions.

5 27.—(1) Where—

Blocked Accounts.

(a) under Part II of this Act the permission of the Minister is required for making any payment or placing any sum to the credit of a person resident outside Nigeria, or

10 (b) any payment falls to be made by an authorised dealer, on the sale by a foreign company, within the provisions of section 24 of this Act, of any gold or specified currency, being a sale made to comply with any requirement of which notice was given under that section,

15 the Minister may direct payment or credit, as the case may be, of the sum to a blocked account only; and if a direction is given, the provisions of the Second Schedule to this Act shall apply.

20 (2) For the purposes of this section and of the Second Schedule "blocked account" means an account opened as a blocked account at any office or branch in Nigeria in favour of any person by a banker authorised by the Minister to open blocked accounts, and "banker", in relation to any person, means a banker who opens a blocked account in favour of that person.

25 28.—(1) It shall be an implied condition in any contract that where by virtue of this Act the permission or consent of the Minister is at the time of the contract required for the performance of any term thereof, that term shall not be performed except in so far as the permission or consent is given or is not required. Nothing in this subsection shall apply to a contract where it is shown to be inconsistent with the intention of the parties that it should apply, whether by reason of the parties

30 having contemplated the performance of that term in despite of the provisions of this Act, or for any other reason.

Contracts, legal proceedings, etc.

(2) Notwithstanding anything in the Bills of Exchange Act, neither the provisions of this Act nor any condition whether express or to be implied having regard to those provisions, that any payment shall

35 not be made without the permission of the Minister under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

Cap. 21.

40 (3) The provisions of the Third Schedule to this Act shall have effect with respect to legal proceedings, arbitrations, the administration of the estates of deceased persons, the winding up of companies, and proceedings under deeds of arrangement or trust deeds for behoof of creditors.

29.—(1) The provisions of the Fourth Schedule to this Act (being general provisions as to evidence and information) shall have effect

45 for the purpose of the enforcement of this Act.

Enforcement and administration.

(2) Persons belonging to the following classes, that is to say—

(a) bankers, authorised dealers, authorised depositaries;

(b) persons to whom any powers of the Minister under this Act are delegated;

(c) persons who, with the permission of the Minister, are in possession of documents which, if an order is or has been made under subsection (1) of section 11 of this Act, would, but for the permission, have to be in the custody of an authorised depository;

(d) persons concerned with the keeping in Nigeria of any register of securities; and

(e) persons entrusted with the payment of capital moneys, dividends or interest in Nigeria,

shall comply with such directions as may be given to them respectively by the Minister, being—

(i) in the case of any such persons, directions as respects the exercise of any functions exercisable by them by virtue of, or by virtue of anything done under, any provision of this Act; and

(ii) in the case of authorised dealers, such directions as aforesaid or directions as to the terms on which they are to accept gold or foreign currency or directions requiring them to offer their gold or specified currency to the Central Bank of Nigeria on such terms as may be specified in any such directions.

Application
to Crown.
cf No. 7 of
1959.

30. This Act shall bind the Crown and apply to transactions by a Government Department whether incorporated or unincorporated or other person acting on behalf of the Crown; and the Minister shall not, by virtue of any contract made by him or on behalf of the Ministry of Finance or by the Ministry of Finance Incorporated in relation to any securities, be under any obligation to grant any permission under, or exemption from, Part III of this Act.

Transitional
provisions.

31.—(1) The Minister may by order make such transitional provisions as appear to him necessary or expedient in consequence of the exercise by him of any other power to make orders under this Act.

(2) The power for the Minister to make transitional provisions consequent on the making of an order under this Act shall extend to the revocation, in consequence of any order made under this section, of any of the provisions of any enactment repealed by this Act.

Other
powers of
Minister.

32.—(1) Any permission, consent or authority granted by the Minister under this Act—

(a) may be either general or special; and

(b) may be revoked by the Minister; and

(c) may be absolute or conditional; and

(d) may be limited so as to expire on a specified date, unless renewed; and

(e) shall be published in such a way as, in the opinion of the Minister, to give any person entitled to the benefit of it an adequate opportunity of getting to know of it, unless in his opinion publication is not necessary for that purpose.

(2) Any directions given by the Minister under any provision of this Act—

(a) may be either general or special; and

(b) may be revoked or varied by subsequent directions; and

(c) shall be given to such person and in such manner as the Minister thinks appropriate, and if so given shall be valid for all purposes.

(3) Notwithstanding paragraph (c) of subsection (2) of this section, a person shall not by virtue of any direction given by the Minister under this Act, be convicted of an offence against this Act, unless the direction was served on him or he knew, or avoided getting to know, of the giving thereof: Provided that where reasonable steps were taken for the purpose of bringing the purport of the direction to the notice of any person, it shall be for the person charged with an offence to show that he neither knew nor avoided getting to know of the giving of the direction.

(4) The Minister to such extent and subject to such restrictions and conditions as he thinks proper may delegate or authorise the delegation of any of his powers (other than the power to make orders or give authority to apply for a search warrant) to any person or class or description of persons, approved by him, and references in this Act to the Minister shall, save as to payments out of any Fund, be construed accordingly.

(5) Any document stating that any permission, consent, authority or direction is given under any of the provisions of this Act by the Minister, and purporting to be signed on his behalf, shall be evidence of the facts stated in the document.

33.—(1) The Minister may direct or by order provide that, for such of the purposes of this Act as are specified in the order or direction—

(a) any transaction with or by a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated; and

(b) the making of any book entry or other statement recording a debit against a branch of any business in favour of any other branch of that business shall be treated as a payment to that other branch; and

(c) any property held by or on behalf of the person carrying on the business shall be deemed to be held by such of the branches of the business as may be determined in accordance with the order or direction,

and any such order or direction which makes, for any of the purposes of Part III of this Act, such provision as is mentioned in paragraph (c) of this subsection, may contain provisions declaring the circumstances in which a branch is to be treated as nominee for any other branch.

(2) Any reference in subsection (1) of this section to a branch of a business shall be deemed to include a reference to the head office of that business.

(3) The provisions of this section shall apply in relation to any body of persons (whether corporate or unincorporated) carrying on any activity, whether for the purpose of profit or not, as they apply in relation to business.

34. Where a person resident in Nigeria leaves Nigeria, the Minister may, before, at or after the time he leaves Nigeria, direct that, for such period as may be specified in the direction, payments by him or on his behalf or to him or to his credit, and transactions in or in relation to securities in which he is in any way concerned shall, whether or not he continues to be resident in Nigeria, be subject to such restrictions as may be specified in the direction.

Branches.

Persons
leaving
Nigeria.

Determina-
tion of
residence.

35.—(1) For the purposes of this Act, a personal representative of a deceased person shall, unless the Minister otherwise directs, be treated in all respects as resident in the territory where the deceased person was resident for the purposes in question at the time of his death and as not resident elsewhere, so far as relates to any matters in which the personal representative is concerned solely in his capacity as such.

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(2) The Minister may give directions declaring that for all or any of the purposes of this Act a person is to be treated as resident or not resident in such territories as may be specified in the directions.

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Payment
to be in
Nigerian
pounds.

36.—(1) Nothing in this Act or any other Act shall be construed as requiring the payment by or on behalf of the Minister in Nigeria of any sum otherwise than in Nigerian pounds or the payment by or on his behalf of any sum otherwise than in Nigeria.

(2) Where by this Act payment is required to be made by or on behalf of the Minister of any sum to any person and that sum is in a specified currency, the specified currency shall for all purposes be treated as if it had been offered for sale to an authorised dealer as prescribed by this Act, and the amount due shall be calculated and paid in Nigerian pounds to the person otherwise entitled to the specified currency.

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Obligations
to be joint
and several.

37.—(1) Any provision however worded of this Act, the effect of which is to prohibit the doing of any act if a person to or by whom the act is to be done or who stands in a specified relation to any property possesses any specified attribute as to residence or otherwise howsoever, shall where the act is done to or by two or more persons or, as the case may be, two or more persons stand jointly in that relation to the property, operate to prohibit the doing of that act if any of those persons possess the attribute.

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(2) Where any provision of this Act imposes an obligation on any person to do an act if he possesses any specified attribute as to residence or otherwise howsoever, that provision shall, in relation to any act which can only be done by two or more persons possessing that attribute, operate to impose a joint obligation on all of those persons to do the act.

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Declara-
tions.

38. The power to prescribe any declaration for the purposes of this Act shall include the power to require the declaration to be made by specified persons and be verified in a specified manner.

Exemption
from stamp
duty.

39.—(1) Notwithstanding the provisions of any other Act, no stamp duty shall be chargeable on any security affected by this Act by reason only of the assignment, transfer or negotiation thereof as the Minister may direct, nor shall stamp duty be chargeable—

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(a) on any instrument whereby any security is assigned or transferred as the Minister may direct (whether on sale or otherwise), or

(b) on any contract note for, or relating to, any sale of securities for the purposes of this Act by direction of the Minister.

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(2) Where a contract note advises the sale or purchase of more than one description of stock or marketable security, the note shall be deemed to be as many contract notes as there are descriptions of stocks or securities sold or purchased.

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40.—(1) The Acts mentioned in the Fifth Schedule are hereby repealed to the extent therein mentioned.

Repeals and
Savings.

- 5 (2) It is hereby declared that without limiting the provisions of the Interpretation Act the repeal or revocation of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or revoked or under any corresponding former provision, and every order, requirement, certificate, notice, direction, decision, authorisation, consent, application request or thing made, issued, given or done under any enactment repealed by this Act shall, if in force at the commencement of this Act, and so far as it could have been made, issued, given or done under this Act, continue in force and have effect as if made, issued, given or done under the corresponding enactment of this Act.
- 10

SCHEDULES

FIRST SCHEDULE

Section 24

15

FOREIGN COMPANIES

1. The bodies corporate in question are bodies corporate not incorporated under the law of Nigeria in the case of which any of the following conditions is fulfilled—

- 20 (a) that the body corporate is by any means controlled (whether directly or indirectly) by persons resident in Nigeria;

- (b) that more than one-half of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital would be receivable directly or indirectly by or for the benefit of persons resident in Nigeria;
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- (c) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors would be receivable directly or indirectly by or for the benefit of persons resident in Nigeria; or

- 30 (d) that more than one-half—

- (i) of the interest payable on its loans and loan capital, if any, or

- (ii) of the dividends payable on its preference share capital, if any, or

- 35 (iii) of the dividends payable on its share capital, if any, not being preference share capital, is receivable, directly or indirectly, by or for the benefit of persons resident in Nigeria.

2. Where the identity of the persons by whom or for whose benefit any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by a person resident in Nigeria of a power of appointment or similar power, the sum, assets, interest or dividends shall, for the purposes of this Schedule, be deemed to be receivable directly or indirectly by or for the benefit of persons resident in Nigeria.
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SECOND SCHEDULE

Section 27

BLOCKED ACCOUNTS

- 45 1. Where a direction is given that a payment is to be made to a blocked account only, then, subject to the next following paragraph—

- (a) the manner in which the payment may be made shall be either—

(i) to the banker, with a direction that it is to be credited to a blocked account of that person (which direction may, in the case of a payment by means of a cheque or warrant, be made by marking the cheque or warrant with the words "blocked account of" (naming the person in question) or words to the same effect); or

(ii) by a crossed cheque or warrant drawn in favour of that person, marked with the words "payable only to blocked account of payee" or words to the same effect; and

(b) the sum collected shall be credited by the banker to a blocked account of that person.

2. Where a direction is given that a sum is to be paid or credited to a blocked account only, then, notwithstanding the direction, the sum may, with the consent of the person to whom it is to be paid or credited, and subject to the requirements of Part III of this Act, be invested instead in the purchase for that person of any such investments as may be prescribed for the purposes of paragraph (a) of the proviso to the next following paragraph.

3. Any sum standing to the credit of a blocked account shall not be dealt with except with the permission of the Minister: Provided that, subject to compliance with the requirements of Part III of this Act—

(a) the whole or any part of any such sum may, at the request of the person in whose name the account stands, be invested through the banker in such investments as may be prescribed; and

(b) nothing in this Schedule shall be construed as restricting the manner in which the investments acquired may be dealt with.

4. Where a person in whose name a blocked account is standing dies, the banker may, notwithstanding anything in paragraph 3 of this Schedule, transfer the account to the name of the personal representative, but, save as aforesaid, no change shall, except with the permission of the Minister, be made in the name in which the account stands; and where any such change is made (whether or not the permission of the Minister is necessary therefore) the account shall remain a blocked account notwithstanding the change, and the provisions of this Schedule shall apply accordingly.

5. Where—

(a) a sum is due from any person to any other person but the Minister directs that it shall be paid or credited to a blocked account only; and

(b) the person to whom the sum is due nominates such an account to the person from whom the sum is due, the last mentioned person is under a duty to the person to whom the sum is due to cause the sum to be paid or credited to that blocked account and the crediting of any sum to a blocked account in pursuance of a direction of the Minister, shall, to the extent of the sum credited, be a good discharge to the person from whom the sum is due: Provided that in the case of a sum due under a contract, this paragraph shall not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply.

THIRD SCHEDULE LEGAL PROCEEDINGS, ETC.

Section 28 (3)

1. The provisions of Part II of this Act shall apply to sums required to be paid by any judgment or order of any court or by any award as they

5 apply in relation to other sums, and it shall be implied in any judgment or order of any court in Nigeria, and in any award given under the law of Nigeria, that any sum required to be paid by the judgment, order or award (whether as a debt, as damages or otherwise) to which the said provisions apply shall not be paid except with the permission of the Minister.

10 2. Nothing in this Act shall be construed as preventing the payment by any person of any sum into any court in Nigeria, but the provisions of Part II of this Act shall apply to the payment of any sum out of court, whether under an order of the court or otherwise, to or for the credit of any person resident outside Nigeria.

3. Without prejudice to the provisions of any enactments relating to the making of rules of court, rules of court—

15 (a) enabling any person who is required by any judgment, order or award to pay any sum, if he apprehends that the payment of that sum is unlawful under this Act except with the permission of the Minister, to pay that sum into court; and

20 (b) declaring that payment of a sum into court by virtue of the preceding sub-paragraph, together with the delivery to the other party concerned of such evidence of the payment as may be prescribed by the rules, shall, to the extent of the payment, be a good discharge to the person making the payment; and

25 (c) so regulating the process of execution which may issue in respect of any sum required to be paid by any judgment, order or award as to secure that, unless it is shown, in such manner as may be prescribed by the rules, that the permission of the Minister for the payment of the sum is not required under this Act or has been given without conditions, the proceeds of the execution will be paid into court, and, so far as is necessary for that purpose, varying the form of any writ of execution or other similar document or the duties of the sheriff or other officer to whom any such writ or other similar document is directed—
30 may be made for the Federal Supreme Court by the Chief Justice, and as respects the High Court or any court inferior thereto in a Region or in Lagos as the case may be, by such authority as may be designated in that behalf by the Chief Justice of the particular High Court; Provided
35 that nothing in this paragraph shall affect the provisions of any legislation which requires rules of court for any such inferior courts to have the concurrence of the rule-making authority for the High Court.

40 4.—(1) In any proceedings in a prescribed court and in any arbitration proceedings, a claim for the recovery of any debt shall not be defeated by reason only of the debt not being payable without the permission of the Minister and of that permission not having been given or having been revoked.

45 (2) No court shall be prescribed for the purpose of this paragraph unless the Minister is satisfied that adequate provision has been made therefor by rules of court for the purposes specified under the last preceding paragraph.

50 5. In the winding up of any company or in the administration of the estate of any deceased person (being a winding up or administration carried on under the law of Nigeria), a claim for a sum not payable without the permission of the Minister shall, notwithstanding that the permission has not been given or has been revoked, be admitted to proof

as if it had been given and had not been revoked : Provided that nothing in this paragraph shall be construed as affecting the application of the provisions of Part II of this Act to payments by any trustee, liquidator, personal representative or other person in any such winding up or administration.

FOURTH SCHEDULE

Section 29

PART I.—GENERAL PROVISIONS AS TO EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provisions of this Act, the Minister may give to any person in or resident in Nigeria directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to him or to any person designated in the directions as a person authorised to require it, any information in his possession or control which the Minister or the person so authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of this Act.

(2) A person required by any such directions as aforesaid to furnish information shall also produce such books, accounts or other documents (hereafter in this Part of this Schedule collectively referred to as "documents") in his possession or control as may be required for the said purpose by the Minister or by the person authorised to require the information, as the case may be.

(3) Nothing in the preceding provisions of this paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(4) Where a person is convicted on indictment for failing to give information or produce documents when required so to do under this paragraph, the Court may make an order requiring the offender, within such period as may be specified in the order, to comply with the requirement to give the information or produce the documents.

2.—(1) If a Justice of the Peace is satisfied, by information on oath given by a person authorised by the Minister to act for the purposes of this paragraph, either—

(a) that there is reasonable ground for suspecting that an offence against this Act has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information, or in any vehicle, vessel or aircraft so specified, or

(b) that any documents which ought to have been produced under the preceding paragraph and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft,

he may grant a search warrant authorising any police officer, together with any other person named in the warrant and any other police officers, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft, may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft, as the case may be, and may seize any article found in the premises or in the vehicle, vessel or aircraft which he has reasonable ground for believing to be evidence of the commission of any offence

against this Act or any documents which he has reasonable ground for believing ought to have been produced under the preceding paragraph : Provided that no female shall, in pursuance of any warrant issued under this paragraph, be searched except by a female.

- 5 (3) Where, by virtue of this paragraph, a person has any power to enter any premises, he may use such force as is reasonably necessary for the purpose of exercising that power.

- 10 3.—(1) Any article coming into the possession of an executive authority (whether in consequence of the seizure of the article under or by virtue of this Act or otherwise) which the authority has reasonable ground for believing to be evidence of the commission of an offence against this Act, may be retained for a period of three months, or if within that period there are commenced proceedings in respect of such an offence in which the article is, or can properly be, adduced in evidence, 15 until the final determination of those proceedings.

(2) For the purposes of this paragraph—

- 20 (a) any person to whom any powers of the Minister under this Act are delegated or on whom any functions are conferred by or by virtue of this Act, including any police officer, shall be deemed to be an executive authority ; and

- 25 (b) any proceedings shall be deemed not to have been finally determined so long as there is pending any appeal in the matter of the proceedings, and an appeal in that matter shall be deemed to be pending during the ordinary time within which such an appeal may be lodged, and, if such an appeal is duly lodged, the appeal shall be deemed to be pending until it is decided or withdrawn.

(3) The powers conferred by this paragraph in relation to any article shall be in addition to, and not in derogation of, any powers otherwise exercisable in relation thereto.

- 30 4. No person in or resident in Nigeria shall—

(a) with intent to evade the provisions of this Act, destroy, mutilate, deface, secrete or remove any documents ;

- 35 (b) in furnishing any information for any of the purposes of this Act, make any statement which he knows to be false in a material particular, or recklessly make any statement which is false in a material particular ;

(c) obstruct any person in the exercise of any powers conferred on him by virtue of this Part of this Schedule.

PART II.—GENERAL PROVISIONS AS TO OFFENCES

- 40 5.—(1) Any person in or resident in Nigeria who contravenes any restriction or requirement imposed by or under this Act, and any such person who conspires or attempts, or aids, abets, counsels or procures any other person, to contravene any such restriction or requirement as aforesaid, shall be guilty of an offence punishable under this Part of this 45 Schedule : Provided that an offence punishable by virtue of Part III of this Schedule shall not be punishable under this Part of this Schedule.

- 50 (2) Where an offence punishable under this Part of this Schedule has been committed by a body corporate, any person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity, shall be deemed to be guilty of that offence,

unless he proves that the contravention was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(3) Any person who commits an offence punishable under this Part of this Schedule shall be liable—

(a) on summary conviction, to imprisonment for not more than three months or to a fine or to both;

(b) on conviction on indictment, to imprisonment for not more than two years or to a fine or to both;

and where the offence is concerned with any currency, security, gold, goods or other property whatsoever, the Court may, if it thinks fit so to do, order the currency, security, gold, goods or property to be forfeited.

(4) Except in the case of a body corporate convicted on indictment, the maximum fine which may be imposed for an offence punishable under this Part of this Schedule shall be—

(a) on summary conviction, five hundred pounds; and

(b) on conviction on indictment, one thousand pounds;

so, however, that (in either case) where the offence is concerned with any currency, security, payment, gold, goods or other property, and does not consist only of a failure to give information or produce books, accounts or other documents with respect thereto when required so to do under Part I of this Schedule, a larger fine may be imposed not exceeding three times the amount or value of the currency, security payment, gold, goods or property.

6. (1) No proceedings for an offence punishable under this Part of this Schedule shall be instituted except by or with the consent of a law officer: Provided that this sub-paragraph shall not prevent the issue or execution of a warrant for the arrest of any person in respect of such an offence, or the remanding in custody or on bail of any person charged with such an offence.

(2) Proceedings against any person in respect of an offence punishable under this Part of this Schedule may be taken before the appropriate court in Nigeria having jurisdiction in the place where that person is for the time being.

(3) Any proceedings under a law establishing summary jurisdiction which may be taken against any person in respect of any offence punishable under this Part of this Schedule may, notwithstanding anything to the contrary in that law, be taken at any time within twelve months from the date of the commission of the offence or within three months from the date on which evidence sufficient in the opinion of the Minister to justify the proceedings comes to the knowledge of the Minister, whichever period last expires, or, where the person in question was outside Nigeria at the date last mentioned, within twelve months from the date on which he first arrives in Nigeria thereafter.

(4) For the purposes of this paragraph, a certificate of the Minister as to the date on which such evidence as aforesaid came to the knowledge of the Minister shall be conclusive evidence thereof.

7. The maximum period of imprisonment that may be imposed by a court of summary jurisdiction in Nigeria—

(a) in respect of the non-payment of a sum adjudged to be paid by a conviction for an offence punishable under this Part of this Schedule ;
or

5 (b) in respect of the default of a sufficient distress to satisfy any such sum,

shall, in cases where the sum exceeds twenty pounds, be increased in accordance with the following scale, that is to say—

<i>Where the amount of the sum adjudged to be paid by the conviction, as ascertained by the conviction—</i>	<i>The said period shall not exceed—</i>
Exceeds twenty pounds but does not exceed	four months
one hundred pounds	six months.
Exceeds one hundred pounds	

PART III—IMPORT AND EXPORT

15 8. (1) The enactments relating to customs shall, subject to such modifications, if any, as may be prescribed to adapt them to this Act, apply in relation to anything prohibited to be imported or exported by any of the provisions of Part IV of this Act except with the permission of the Minister as they apply in relation to goods prohibited to be imported or exported by or under any of the said enactments, and any reference in the said enactments to goods shall be construed as including a reference to anything prohibited to be imported or exported by any of the provisions of the said Part IV except with the permission of the Minister.

25 (2) References in this paragraph to the enactments relating to customs shall be taken as including references to section 26 of the Post Office Act.

Cap. 156.

9. Any declaration required to be given under Part IV of this Act shall, for the purposes of the Customs and Excise Management Act 1958 be deemed to be a declaration in a matter relating to customs.

No. 55 of
1958.

30 10. If anything prohibited to be exported by any provision of Part IV of this Act is exported in contravention thereof, or is brought to a quay or other place, or water-borne, for the purpose of being so exported, the exporter or his agent shall be liable to the same penalty as that to which a person is liable for an offence to which the Customs and
35 Excise Management Act 1958 applies.

11. Without prejudice to any of the preceding provisions of this Part of this Schedule, any person who, on any occasion, is about to leave Nigeria or arrives in Nigeria (which person is hereafter in this paragraph referred to as "the traveller") shall, if on that occasion he is
40 required so to do by an officer of Customs or an immigration officer—

(a) declare whether or not he has with him anything prohibited to be imported or exported by any of the provisions of Part IV of this Act except with the permission of the Minister ; and

45 (b) produce any such thing as aforesaid which he has with him— and the officer may examine or search any article which the traveller has with him for the purpose of ascertaining whether he is conveying or has in his possession any such thing, and, if the officer has reasonable ground for suspecting that the traveller has about his person

any such thing, search him, and may seize anything produced as aforesaid or found upon such examination or search as aforesaid as to which the officer has reasonable ground for suspecting that it is prohibited to be imported or exported by any of the provisions of Part IV of this Act except with the permission of the Minister: 5
 Provided that no female shall be searched in pursuance of this paragraph except by a female.

12. Sub-paragraph (2) of paragraph 5 of this Schedule shall apply also to offences punishable by virtue of this Part of this Schedule.

FIFTH SCHEDULE

section 40 (1) 10

<i>Chapter or number</i>	<i>Enactments affected</i>	<i>Extent of repeal</i>
Cap. 63 1961 to 27.	The Exchange Control Act The Exchange Control Act 1961	The whole Act The whole Act.

THE CENTRAL BANK OF NIGERIA (AMENDMENT) BILL

EXPLANATORY MEMORANDUM

It has become necessary to bring into line with Nigeria's current status the general powers of the Central Bank, and also to correct ambiguities which have come to light over the past three years. This Bill seeks to achieve those objects.

The main provisions are contained in *clause 2*, dealing with the parity of the Nigerian pound, in *clauses 3* and *4*, dealing with the external assets of the Central Bank, and in *clause 7*, dealing with the powers of the Central Bank to hold a greater proportion of long-term securities issued by the Federal Government.

The purpose of *clause 2*, is to enable Nigeria, in keeping with her present status, to retain the right to decide for herself what adjustments should be made in her official exchange rates with other currencies.

With the widening and increasing volume of overseas trade, some diversification in the composition of the external assets of the Central Bank is essential. This has already been achieved in practice; but the amendment to be made by *clause 3* is necessary to enable the Central Bank to include in its official external reserves all such reserves which are fully convertible into gold or sterling. For example, at the present time the Central Bank have a portion of their reserves in United States dollars but, under existing legislation, this cannot be included in official reserves.

Clause 4 will give the Central Bank more flexibility in providing short-term finance to both the Government and the banking system, and while it is of great importance to impose on the Central Bank an obligation to maintain sufficient external reserves, and thereby to maintain both internal and external confidence in Nigerian currency, it is considered that external reserves equivalent to 40 per cent of the Bank's total demand liabilities will be sufficient to maintain this confidence.

It is necessary also to enable the Central Bank to participate more fully in the Development Programme by subscribing to long-term Federal Government securities, the proceeds of which will be utilised during the current Development Programme. *Clause 7* seeks to confer the power by way of suitable amendments.

F. S. OKOTIE-EBOH,
Federal Minister of Finance

CENTRAL BANK OF NIGERIA AMENDMENT

Draft of 19-3-1962

ARRANGEMENT OF CLAUSES

Clause

1. Section 11 of principal Act amended.
2. Parity of Nigerian pound. Repeal.
3. Section 25 of principal Act amended.
4. Value of external reserve.
5. Obligation in respect of currency.
6. Sections 26, 27 and 28 of principal Act repealed.
7. Section 29 of principal Act amended.
8. Section 40 of principal Act amended.
9. Short title, etc.

A BILL

FOR

AN ACT TO AMEND THE CENTRAL BANK OF NIGERIA ACT 1958

[]

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. Subsection (3) of section eleven of the Central Bank of Nigeria Act 1958 (which prescribes disqualifications in respect of certain appointments) is amended by substituting in paragraph (e) the words "the Commonwealth" for the words "Her Majesty's dominions".

Section 11.
of principal
Act
amended.

2.—(1) Subject to the provisions of this section the parity of the Nigerian pound shall be equivalent to 2.48828 grams fine gold.

Parity of
Nigerian
pound.
Repeal.

(2) The parity of the Nigerian pound may from time to time be changed by the Bank with the approval of the Governor-General in Council. Notice of the change shall as soon as possible thereafter be published in the Gazette.

(3) Section seventeen of the principal Act is hereby repealed.

3. Section twenty-five of the principal Act (which provides for maintenance of external reserves) is amended by repealing paragraphs (b) to (f) and substituting the following new paragraphs,—

Section 25
of principal
Act
amended.

"(b) balances at any bank outside Nigeria where the currency is sterling or is freely convertible into gold or sterling, and in such currency any notes, coin, money at call and where they bear at least two good signatures and have a maturity not exceeding ninety days exclusive of days of grace, any bill of exchange ;

(c) Treasury Bills having a maturity not exceeding one hundred and eighty-four days issued by the Government of any country outside Nigeria whose currency is sterling or is freely convertible into gold or sterling ;

(d) securities of or guaranteed by a Government of any country outside Nigeria whose currency is sterling or is freely convertible into gold or sterling where the securities held under this paragraph do not exceed thirty per centum of the reserve of external assets and not more than two-thirds of the securities held will mature in a period exceeding five years."

4. The value of the reserve of external assets shall be not less than forty per centum of the total demand liabilities of the Bank.

Value of
external
reserve.

5.—(1) Unless otherwise prohibited by any law relating to the control of exchange the Bank shall, on demand at its head office in Lagos—

Obligation
in respect of
currency.

(a) issue and redeem Nigerian currency against sterling, and

(b) at its discretion issue and redeem Nigerian currency against gold or other currencies eligible for inclusion in the reserve of external assets under this Act: provided that the rates of exchange quoted by the Bank for spot transactions shall not differ by more than one *per cent* from the parity of the Nigerian pound with the parity of the other currency. 5

(2) Nothing in this section shall be construed to require the Bank to sell or buy sterling for an amount less than ten thousand pounds in respect of any one transaction.

Sections 26,
27 and 28 of
principal
Act repealed.

6. Sections twenty six, twenty seven and twenty eight of the principal Act are hereby repealed. 10

Section 29
of principal
Act
amended.

7. Subsection (1) of section twenty-nine of the principal Act (which prescribes the general powers of the Central Bank) is amended in manner following that is to say—

(a) by substituting in paragraph (g) the words "thirty three and one-third" for the word "twenty"; 15

(b) by substituting in paragraph (i) the words "fifty per centum of the aggregate of the Bank's paid up capital and" for the words "twenty *per cent* of";

(c) in sub-paragraph (ii) of paragraph (h) by inserting the word "five" immediately after the word "twenty"; 20

(d) by substituting in paragraph (l) the words "one hundred and eighty-four" for the words "ninety-three";

(e) by substituting in paragraph (n) the words "securities of or guaranteed by any Government whose currency is sterling or is freely convertible into gold or sterling or securities issued by international financial institutions, of which Nigeria is a member, which are also expressed in currencies which are sterling or are freely convertible into gold or sterling;" for all words immediately following the word "sell". 25
30

Section 40 of
principal
Act
amended.

8. Section forty of the principal Act (which empowers the Central Bank to prescribe liquidity minimum) is amended in manner following that is to say—

(a) by substituting in subsection (1) the words "the minimum amount of specified liquid assets which each bank operating in Nigeria under the Banking Act 1958 is required to hold" for all words immediately following the word "Gazette"; and 35

(b) by substituting in subsection (2) the words "of the demand liabilities of each such bank, together with a percentage of the time liabilities of each such bank arising out of its time and savings deposits. No bank shall be required to maintain a higher percentage than any other bank" for all words immediately following the word "percentage" where it first occurs. 40

Short title,
etc.
No. 24 of
1958.

9.—(1) This Act may be cited as the Central Bank of Nigeria Amendment Act, 1962 and shall be construed as one with the Central Bank of Nigeria Act, 1958. 45

(2) This Act shall apply throughout the Federation.

BANKING AMENDMENT BILL

EXPLANATORY MEMORANDUM

The object of this Bill is to bring the Banking Act into line with current development in Nigeria's banking system and to make some existing provisions clearer. The Bill seeks by its main provisions,—

(a) to increase the minimum paid up capital of banks registered in Nigeria and to ensure that banks registered abroad retain sufficient assets within Nigeria to meet at all times their obligations to the public ;

(b) to give the Central Bank powers to influence the banking system's rates of interest on overdrafts and other credit facilities by linking these rates to the Central Bank's minimum rediscount rate ;

(c) to allow the inclusion by banks of certain overseas assets (not hitherto included) in computing the liquidity ratio which is prescribed by the Central Bank under its Act and to extend the Central Bank's authority to determine the proportions of eligible assets which may qualify for inclusion ; and

(d) to make sundry other provisions of an administrative nature designed to ensure the smooth and efficient working of the banking system and the necessary control which the Central Bank must exercise on the system.

F. S. OKOTIE-BOH,
Federal Minister of Finance

799/3

BANKING AMENDMENT

ARRANGEMENT OF CLAUSES

Clause

1. Definition of banking business amended.
2. Section 3 of principal Act amended.
3. Section 4 of principal Act amended.
4. Certain licences saved from requirement as to minimum paid up capital.
5. Section 5 of principal Act amended.
6. Section 7 of principal Act amended.
7. Minimum specified liquid assets. Repeal.
8. Section 9 of principal Act amended.
9. Section 10 of principal Act amended.
10. Section 13 of principal Act amended.
11. Section 15 of principal Act amended.
12. Section 18 of principal Act amended.
13. Short title, etc.

A BILL

FOR

AN ACT TO AMEND THE BANKING ACT 1958

[

]

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. In section two of the Banking Act 1958 (in this Act referred to as "the principal Act") there shall be substituted in the definition of "banking business" for the words "of paying and", the words "from the general public, of paying or".

Definition
of banking
business
amended.
No. 19 of
1958.

10 2. Subsection (3) of section three of the principal Act (which relates to licences and applications therefor) is amended by inserting immediately following the word "association" when it secondly occurs, the words "or equivalent documents acceptable to the Minister".

Section 3
of principal
Act
amended.

3. Section four of the principal Act (which prescribes the minimum paid up capital requisite before the issue of a licence) is amended in manner following that is to say,—

Section 4
of principal
Act
amended.

15 (a) by inserting at the commencement the words "Subject to the provisions of this Act";

(b) in paragraph (a) by substituting the words "two hundred and fifty thousand" for the words "twelve thousand five hundred";

20 (c) in paragraph (b) by substituting the words "the board of management or other controlling authority gives an undertaking satisfactory to the Minister to keep within Nigeria at all times during the currency of its licence out of its own funds assets amounting to not less than two hundred and fifty thousand pounds" for all words following the word "Nigeria".

25 4.—(1) Where a bank holds a licence validly granted under the principal Act or any Act repealed by that Act and the licence was in force immediately before the passing of this Act, the bank shall, not later than seven years from the date of the passing of this Act, comply with the provisions of paragraph (a) or (b) of section four of the principal Act as
30 the case may require, and subject thereto the licence shall continue to have effect according to its tenor.

Certain
licences
saved from
require-
ments as to
minimum
paid up
capital.

35 (2) The failure when required under this section to comply with section four of the principal Act as to the capital of the bank shall be deemed to be a ground for revocation of the licence under subsection (3) of section 3 of the principal Act.

Section 5
of principal
Act
amended.

5. Section five of the principal Act (which relates to maintenance of reserve fund) is amended,—

- (a) by adding at the end of subsection (1) the following *proviso* :
“provided that no such transfer shall be made until any past losses have been made good.”; and
(b) by repealing subsection (3).

5

Section 7
of principal
Act
amended.

6. Section seven of the principal Act (which restricts activities of licensed banks) is amended in manner following that is to say,—

- (a) in subsection (1),—

- (i) by inserting immediately after paragraph (a) a new paragraph (aa) as follows—

“(aa) For the purposes of paragraph (a), all advances or credit facilities extended to any person shall be aggregated and include all advances or credit facilities extended to any subsidiaries or associates of what kind soever of that person;”;

15

- (ii) by adding to paragraph (c) a new sub-paragraph (iii) as follows—

“(iii) to any public company in which it or any one or more of its directors jointly or severally maintains a controlling interest;”;

- (iii) in paragraph (g),—

20

- (a) by inserting immediately after the word “business”, the words “including provision for future expansion or other exceptional circumstances where the agreement of the Central Bank is obtained”, and

- (b) by substituting for paragraph (ii) of the *proviso* the following new paragraph—

25

“(ii) a bank may secure a debt on any real or other property and in default of repayment may acquire such property for resale by the bank as soon as possible thereafter.”;

- (b) in subsection (2) by inserting immediately following the word “security” when it last occurs the words “or where the Minister is satisfied there is no established market value, on the basis of a valuation approved by the Minister”;

30

- (c) by inserting immediately after subsection (3) a new subsection (4) as follows—

35

“(4) Rates of interest charged on advances or other credit facilities by licensed banks shall be linked to the minimum rediscount rate of the Central Bank subject to a stated minimum rate of interest, and the interest rate structure of each licensed bank shall be subject to the approval of the Central Bank; and the minimum rate of interest when so approved shall be the same for all licensed banks.”

40

Minimum
of specific
liquid
assets.
Repeal.

7.—(1) Every licensed bank shall maintain at all times a holding of specified liquid assets not less than such amount as may from time to time be prescribed by the Central Bank by virtue of section forty of the Central Bank of Nigeria Act, 1958. In computing the amount of specified liquid assets to be held by a licensed bank operating in Nigeria and elsewhere the offices and branches in Nigeria shall be deemed to constitute a separate bank.

45

No. 24 of
1958.

- (2) Where the amount of the holding of specified liquid assets to be maintained is prescribed under section forty of the Central Bank of Nigeria Act 1958, the Central Bank shall for the purposes thereof have power to prescribe the extent to which assets outside Nigeria of a licensed bank shall be included in the holding, and the nature of any such assets to be included; and for the purposes of subsection (2) of that section, "demand liabilities" means the total of liabilities payable in cash on demand, and "time liabilities" means the total liabilities payable in cash otherwise than on demand.
- (3) Where there are both assets and liabilities due by or to other banks they shall be offset accordingly and any surplus of assets or liabilities shall be included as specified liquid assets or demand liabilities as the case may be: provided that in the case of long term advances to a licensed bank by any other bank or by an overseas branch or office of the licensed bank, the advances may with the approval of the Central Bank be excluded from the demand liabilities of the licensed bank.
- (4) A licensed bank shall be guilty of an offence if,—
- (a) it fails to furnish within a reasonable time any information required by the Central Bank to satisfy the Central Bank that the licensed bank is observing the requirements of subsection (1) of this section, or
- (b) it allows its holding of specified liquid assets to be less than is from time to time prescribed by the Central Bank, or
- (c) during the period of any such deficiency of specified liquid assets, the licensed bank grants or permits increases in advances or overdrafts without the prior approval of the Central Bank.
- (5) Any licensed bank which commits an offence under subsection (4) of this section shall be liable on conviction to a fine of fifty pounds—
- (a) for every day during which a default under paragraph (a) thereof exists,
- (b) for every day during which a deficiency under paragraph (b) thereof exists, and
- (c) for every offence under paragraph (c) thereof.
- (6) For the purposes of this section, "specified liquid assets" provided they are freely transferable and free from any lien or charge of any kind shall consist of all or any of the following namely,—
- (a) notes and coin which are legal tender in Nigeria;
- (b) balances at the Central Bank;
- (c) nett balances at any other bank in Nigeria and money at call in Nigeria;
- (d) Treasury Bills issued by the Federal Government and maturing within ninety-three days;
- (e) inland bills of exchange and promissory notes re-discountable at the Central Bank to be included in such maximum proportion of each class as the Central Bank may from time to time determine;
- (f) nett balances at any bank, including the offices and branches of a licensed bank in such monetary areas as the Central Bank may approve for the purpose;
- (g) money at call in monetary areas approved by the Central Bank under paragraph (f), bills of exchange bearing at least two good

signatures and drawn on and payable at any place in the approved monetary area, and Treasury Bills issued by the Government of a country in an approved monetary area and maturing within one hundred and eighty-four days.

(7) Section eight of the principal Act is hereby repealed.

5

Section 9
of principal
Act
amended.

8. Subsection (1) of section nine of the principal Act (which requires publication of certain accounts and other matters) is amended in manner following that is to say,—

(a) by substituting for the words "circulating in", the words "printed in and circulating throughout"; and

10

(b) by inserting immediately after the figure "15", the words "unless in the case of any licensed bank having its head office outside Nigeria alternative information is accepted by the Minister as reasonable for the purposes of this subsection".

Section 10
of principal
Act
amended.

9. Subsection (1) of section ten of the principal Act (which prescribes times for delivery of returns for the Central Bank) is amended in manner following that is to say,—

15

(a) by repealing all words in paragraph (a) immediately following the word "Schedule", and

(b) by inserting immediately after paragraph (b) a new paragraph (c) as follows,—

20

"(c) on request such information as is required by the Central Bank for statistical purposes."

Section 13
of principal
Act
amended.

10. In subsection (3) of section thirteen of the principal Act (which relates to examinations by a bank examiner) there shall be substituted for the words "the examination", the words "an examination under section twelve of this Act".

25

Section 15
of principal
Act
amended.

11. Section fifteen of the principal Act (which relates to the annual appointment of an approved auditor) is amended by inserting immediately after subsection (5), a new subsection (5) (a) as follows—

30

"(5) (a) Notwithstanding the provisions of subsections (1) to (5) of this section the Minister may in the case of a bank having its head office outside Nigeria, approve such alternative arrangements as he thinks reasonable."

Section 18
of principal
Act
amended.

12. Section eighteen of the principal Act (which prescribes penalties on failure by certain directors and others to comply with the requirements of that Act) is amended by substituting the words, "manager or other official" for the words "or manager".

35

Short title,
etc.
No. 19 of
1958.

13.—(1) This Act may be cited as the Banking Amendment Act 1962 and shall be construed as one with the Banking Act 1958.

40

(2) This Act shall apply throughout the Federation.

THE POOL BETTING TAX BILL

EXPLANATORY MEMORANDUM

The purpose of this Bill is to provide for the levy of a tax to be paid by the proprietor of every pool betting business operating in the Federal territory, from the moneys placed as stakes with such pool betting business.

F. S. OKOTIE-EBOH,
Federal Minister of Finance

(805/3)

POOL BETTING TAX

Draft of 20th March, 1962

ARRANGEMENT OF CLAUSES

Clause

1. Pool betting business tax.
2. Production of accounts and inspections, etc.
3. Offences.
4. Regulations.
5. Short title, etc.

A BILL

FOR

AN ACT TO MAKE PROVISION FOR A TAX ON CERTAIN POOL BETTING BUSINESS
AND FOR OTHER PURPOSES 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) There shall be levied on all moneys placed as stakes with every pool betting business not operated solely as an agency, and be paid by the proprietor of the pool betting business (in this Act referred to as "the proprietor") a tax at a rate of not more than twenty per cent of the money so placed as stakes. For the purposes of this subsection proof of agency shall be on the operator.

Pool Betting
business
tax.

(2) The House of Representatives may from time to time by resolution fix the percentage of the tax at a lower rate not being less than ten per cent; and until the House of Representatives so resolves, the amount of the tax to be levied and payable under this Act shall be ten per cent of the moneys staked with a proprietor.

(3) A proprietor shall from time to time as required by the Federal Minister charged with responsibility for finance (in this Act referred to as "the Minister") by notice in the Gazette and in at least one newspaper published in Nigeria and circulating in the Federal territory, make returns to the Minister of all pool betting business transacted by such proprietor; and the amount of tax shall be calculated and paid by the proprietor to the Ministry of Finance for the purposes of the Consolidated Revenue Fund at the time of making a return, or within such extended time not being more than one month thereafter as the Minister by writing under his hand may allow. The returns shall if the minister so directs, and notwithstanding the requirements of any other Act, be certified by accountants approved by him.

(4) For the purposes of this section "pool betting business" means any business involving the receiving or negotiating of bets made by way of pool betting and includes,—

(a) business involving the receiving or negotiating of such bets on behalf of any person, whether in any case the person on whose behalf the bet is received or negotiated is inside or outside the Federal territory, and

(b) where as a part of or incidental to pool betting each of the persons making a bet knows at the time the bet is placed the amount likely to be won, the business known as "betting at fixed odds".

2. (1) The Minister may from time to time by notice in writing addressed to a proprietor require the proprietor to produce to him copies of accounts of the pool betting business duly certified by an accountant likewise approved by the Minister; and any officer of the Ministry of Finance may be authorised as an inspector under this Act to enter at all reasonable times on premises where pool betting business is carried on and inspect and take copies of entries in the books of account of the pool betting business.

Production
of accounts
and inspec-
tions etc.

(2) The production by an inspector of a certificate or warrant setting out his full name or names and purporting to be signed by the Permanent Secretary of the Ministry of Finance shall, if it states that the person named therein is to exercise the functions of an inspector under this Act, be accepted by all courts and persons as sufficient evidence of his authority as an inspector.

(3) No inspector entering on premises for the purposes of this section shall be liable to any action or proceedings civil or criminal for anything done or said by him in the lawful exercise of his powers under this Act.

Offences.

3.—(1) Any person required by this Act or by regulations under this Act to produce copies of accounts or to give information who fails without lawful excuse to produce the copies of accounts or to give the information, and any person who obstructs or wilfully misleads or attempts to mislead an inspector in the performance of his duties shall be guilty of an offence and liable on conviction to a fine of not less than one hundred pounds or more than two hundred pounds or to imprisonment for a term of twelve months or to both such fine and imprisonment.

(2) Any proprietor who without reasonable excuse supplies or causes to be supplied an incorrect copy of his accounts by omitting or understating the amount or money placed as stakes for a prescribed period, or gives or causes to be given any incorrect information in relation thereto shall be guilty of an offence and liable on conviction to the penalties prescribed in subsection (1) of this section; and in addition to such fine and imprisonment a proprietor shall be liable to double the amount of tax which has been undercharged in consequence of the incorrect information, or would have been so undercharged if the copy of the accounts or information had been accepted as correct.

(3) A certificate under the hand of the Minister shall in proper case be sufficient evidence of the amount of the tax without proof of signature; and where in the course of a prosecution under subsection (2) of this section it appears that the amount of the tax penalty claimed or to be imposed is in excess of the jurisdiction of the court before whom the case is heard, the court may hear and determine the case as if jurisdiction had been specially conferred by this Act for the purpose.

(4) No person shall be liable to any penalty under this section unless complaint as to the offence is made within twelve months after the date of the offence; but the Minister may in respect of any offence under subsection (2) of this section compound the offence and before judgment may stay or compound proceedings for any reason which appears to be adequate.

(5) Any person aggrieved by a decision of a magistrates' court may within fourteen days thereafter appeal to the High Court or from the High Court to the Federal Supreme Court on a question of law but not on any question of fact or of sentence: provided that no appeal from the High Court shall lie without the leave of that court.

Regulations.

4. The Minister may make regulations generally for the purposes of this Act; and without limiting the generality of the foregoing it is hereby declared that regulations may be made for all or any of the following purposes—

- (a) prescribing the periods in respect of which returns are required;
- (b) prescribing the qualifications for certifying accountants;
- (c) prescribing the form of returns or of copies of accounts.

5.—(1) This Act may be cited as the Pool Betting Tax Act, 1962.

(2) This Act shall apply to the Federal territory.

OFFICIAL SECRETS BILL

EXPLANATORY MEMORANDUM

The main purpose of this Bill is to provide for the protection of official information against espionage and against abuse and neglect by persons responsible for its safe custody or who have access to it.

The Bill also makes provision for safeguarding defence establishments and similar places, for restricting photography of defence equipment in times of emergency, and for regulating the conduct of mail forwarding agencies.

(780)

ABUBAKAR TAFAWA BALEWA,
Prime Minister

OFFICIAL SECRETS BILL

ARRANGEMENT OF CLAUSES

Clause

1. Protection of official information, etc.
2. Protection of defence establishments, etc.
3. Restrictions on photography, etc., during periods of emergency.
4. Control of mail forwarding agencies, etc.
5. Power to require information as to offences under this Act.
6. Search warrants.
7. Penalties, and legal proceedings.
8. Supplementary provisions as to offences.
9. Interpretation, etc.
10. Short title, extent and repeal.

A BILL

FOR

AN ACT TO MAKE FURTHER PROVISION FOR SECURING PUBLIC SAFETY ; AND FOR
PURPOSES CONNECTED THEREWITH.

[]

Commence-
ment.

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

1.—(1) Subject to subsection (3) of this section, a person who—

Protection
of official
information,
etc.

(a) transmits any classified matter to a person to whom he is not authorised on behalf of the government to transmit it ; or

(b) obtains, reproduces or retains any classified matter which he is not authorised on behalf of the government to obtain, reproduce or retain, as the case may be,

shall be guilty of an offence.

(2) A public officer who fails to comply with any instructions given to him on behalf of the government as to the safeguarding of any classified matter which by virtue of his office is obtained by him or under his control shall be guilty of an offence.

(3) In proceedings for an offence under subsection (1) of this section relating to any classified matter, it shall be a defence to prove that—

(a) when the accused transmitted, obtained, reproduced or retained the matter, as the case may be, he did not know and could not reasonably have been expected to believe that it was classified matter ; and

(b) when he knew or could reasonably have been expected to believe that the matter was classified matter, he forthwith placed his knowledge of the case at the disposal of the Nigeria Police Force.

Protection
of defence
establish-
ments, etc.

2.—(1) A person who, for any purpose prejudicial to the security of Nigeria,—

(a) enters or is in the vicinity of or inspects a protected place; or

(b) photographs, sketches or in any other manner whatsoever makes a record of the description of, or of anything situated in, a protected place; or 5

(c) obstructs, misleads or otherwise interferes with a person engaged in guarding a protected place; or

(d) obtains, reproduces or retains any photograph, sketch, plan, model or document relating to, or to anything situated in, a protected place, 10

shall be guilty of an offence.

(2) A person charged with an offence under the foregoing subsection shall, unless the contrary is proved, be deemed to have acted for a purpose prejudicial to the security of Nigeria if from his character or general conduct and from all the circumstances of the case it appears that he acted for such a purpose; but nothing in this subsection shall be construed as precluding the giving in evidence of matters tending to show that the accused acted for such a purpose. 15

Restrictions
on photo-
graphy, etc.,
during
periods of
emergency.

3.—(1) The Minister may, during any period of emergency within the meaning of section sixty-five of the Constitution of the Federation, by order provide that during the continuance of that period no person shall, without permission in writing given by the Minister, photograph, sketch, or in any other manner whatsoever make a record of the description of, such things designed or adapted for use for defence purposes as may be specified by the order. 20 25

(2) A person who contravenes the provisions of an order under this section shall be guilty of an offence.

Control
of mail
forwarding
agencies, etc.

4.—(1) The Minister may make regulations—

(a) for controlling the manner in which any person conducts any organisation for receiving letters, telegrams, packages or other matter for delivery or forwarding to any other person; and 30

(b) without prejudice to the generality of the foregoing paragraph, providing for the furnishing of information and the keeping of records by persons having or ceasing to have the conduct of such an organisation. 35

(2) Regulations under this section may contain such incidental and supplementary provisions as the Minister considers expedient for the purposes of the regulations, including in particular provisions imposing penalties (not exceeding imprisonment for a term of three months or a fine of fifty pounds or both) for any failure to comply with the regulations; and the regulations may make different provision for different circumstances. 40

(3) Regulations under this section shall not come into force until they are approved by resolution of each House of Parliament. 45

Power to
require
information
as to offences
under this
Act.

5.—(1) Where an officer of the Nigeria Police Force not below the rank of assistant commissioner suspects that an offence under section one, two or three of this Act has been committed and that a particular person is likely to be able to furnish information with respect to the suspected offence, he may, after obtaining the consent in writing of the Minister 50

for the issue of a warrant under this subsection in respect of that person, issue a warrant to any superior police officer of that force authorising him—

5 (a) to require that person to furnish to the superior officer all information in that person's possession relating to the suspected offence; and

10 (b) in any case where it appears necessary to the superior officer so to do, to afford that person adequate facilities for attending at a time and place specified by the officer and to require that person so to attend for the purpose of furnishing the information aforesaid.

(2) Where it appears to an officer proposing to issue a warrant under the foregoing subsection that the delay likely to be involved in obtaining the consent mentioned in that subsection would seriously prejudice the security of Nigeria, he may issue the warrant without obtaining that consent but shall on so doing forthwith report his action to the Minister.

(3) If any person—

(a) fails to comply with a requisition under subsection (1) of this section; or

20 (b) in pursuance of such a requisition furnishes any information which he believes to be, or recklessly furnishes any information which is, false in a material particular,
he shall be guilty of an offence.

25 6.—(1) Where an officer of the Nigeria Police Force not below the rank of assistant commissioner has reasonable cause to believe that an offence under section one, two or three of this Act has been committed and that matter relating to the offence is likely to be found on particular premises, he may issue a warrant to any superior police officer of that force authorising him, and such other police officers as may accompany
30 him, to enter and search those premises and to seize and remove any matter found on the premises which the superior police officer considers is evidence of an offence under any of those sections.

(2) A police officer may use such force as may be reasonably necessary for the purpose of executing a warrant issued under this section.

35 7.—(1) A person who commits an offence under section one, two or three of this Act shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding fourteen years;

40 (b) on summary conviction, to imprisonment for a term not exceeding two years or a fine of an amount not exceeding one hundred pounds or both.

(2) A person who commits an offence under section five of this Act shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine of an amount not exceeding fifty
45 pounds or both.

(3) No proceedings in respect of an offence under section one, two or three of this Act shall be begun except with the consent of the Attorney-General of the Federation or a Region or by or on the instructions or authority of the Director of Public Prosecutions of the Federation or a Region; and the instrument by which permission is signified for the beginning of any such proceedings shall state whether the proceedings shall be summary or on indictment.

Search
warrants.

Penalties,
and legal
proceedings.

(4) Nothing in the last foregoing subsection shall be construed as preventing the detention of any person with a view to the taking of proceedings against him.

Supplementary provisions as to offences.

8.—(1) Without prejudice to any other provisions relating to the matters mentioned in the following paragraphs or cognate matters, a person who—

(a) attempts to commit an offence under this Act or regulations made thereunder; or

(b) aids, abets, counsels, incites, procures or commands the commission of such an offence; or

(c) becomes an accessory before or after the fact to such an offence; or

(d) conceals or procures the concealment of such an offence which he knows has been committed,

shall be liable to be proceeded against and punished as a principal offender; and references in this Act to such an offence, or to an offence under any provision of this Act, shall include references to an offence in pursuance of this subsection.

(2) Where it is alleged that an offence under this Act or regulations made thereunder has been committed outside Nigeria by a citizen of Nigeria, proceedings in respect of the offence may be brought in any court in Nigeria which would have had jurisdiction in the matter if the offence had been committed in the part of Nigeria for which the court acts.

(3) Without prejudice to any other power of arrest, a police officer may arrest without warrant any person whom he finds committing an offence under section one, two or three of this Act, or whom he reasonably suspects of having committed such an offence.

Interpretation, etc.

9.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“classified matter” means any information or thing which, under any system of security classification from time to time in use by or by any branch of the government, is not to be disclosed to the public and of which the disclosure to the public would be prejudicial to the security of Nigeria;

“the government” means the government of the Federation;

“the Minister” means the Minister of the government responsible for security and public safety;

“protected place” means—

(a) any naval, military or air-force establishment in Nigeria, any other place in Nigeria used for or in connection with the production, storage or testing, by or on behalf of the government, of equipment designed or adapted for use for defence purposes, and any other building, structure or work in Nigeria used by the government for defence purposes; and

(b) any area in Nigeria or elsewhere for the time being designated by an order made by the Minister as being an area from which the public should be excluded in the interests of the security of Nigeria, and includes a part of a protected place within the meaning of paragraph (a) or (b) of this definition;

"public officer" means a person who exercises or formerly exercised, for the purposes of the government, the functions of any office or employment under the Crown.

- 5 (2) For the purposes of this Act, classified matter remains classified matter notwithstanding that it is properly transmitted to, or obtained from, or otherwise dealt with by, a person acting on behalf of the government of a Region.

10.—(1) This Act may be cited as the Official Secrets Act, 1962.

Short title,
extent and
repeal.

- 10 (2) This Act shall apply throughout the Federation, and shall apply to citizens of Nigeria elsewhere than in the Federation.

- 15 (3) The Official Secrets Act is hereby repealed, so however that section five of the Official Secrets Act, 1920 (which provides for the control of mail forwarding agencies) shall not cease to have effect in its application to Nigeria until the first regulations made in pursuance of section four of this Act come into force.

Cap. 144

SURVEY CO-ORDINATION BILL

EXPLANATORY MEMORANDUM

This Bill will enable the Director of Federal Surveys to obtain and use information on all major surveys not carried out by governments, except surveys for determining property boundaries.

The Bill will also require the surveyor concerned, if so directed, to erect permanent survey marks and to connect the survey with any permanent government survey mark in the vicinity.

M. I. WADA,
Minister of Works and Surveys

A BILL

FOR

AN ACT TO PROVIDE FOR THE FURNISHING TO THE DIRECTOR OF FEDERAL SURVEY OF INFORMATION RELATING TO SURVEY WORK ; TO PROVIDE FOR THE CARRYING OUT OF CERTAIN ADDITIONAL OPERATIONS BY PERSONS DOING THE WORK ; AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[]

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) No survey work within the meaning of this Act shall be carried out unless the person responsible for carrying out the work has, not later than the beginning of the period of one month ending with the day on which the work is begun, given to the Director of Federal Surveys (hereafter in this Act referred to as "the Director") notice of the work in accordance with the provisions of this section.

Duty to
furnish
information
and power
to require
works in
connection
with certain
surveys.

10 (2) A notice under the foregoing subsection shall state—

(a) the name and address of the person giving the notice and, if he is carrying out the survey work in question in pursuance of a contract or arrangement with any other person, the name and address of that other person ;

15 (b) particulars of the work and the purposes of the work, and of the area to which the work relates ; and

(c) the dates on which it is proposed to begin and end the work ;
and shall contain a sketch map illustrating the work.

20 (3) The Director shall, on receiving a notice in pursuance of this section, forthwith give notice of its receipt to the person who gave it and may, at any time before the expiration of the period of one month beginning with the date on which the first-mentioned notice was given, give a counter-notice to that person requiring him to do all or any of the following things, that is to say—

25 (a) to erect in connection with the survey work in question survey marks of such descriptions and at such reasonable points or within such reasonable limits as may be specified in the counter-notice ;

(b) within the period of one month beginning with the date of the completion of the work or of the production of the thing or information in question, whichever last occurs, to furnish the Director with—

(i) two copies of every map and plan produced by or on behalf of that person in consequence of the work, showing the date on which they were made and indicating all connections with any such survey marks as are mentioned in paragraph (c) of this subsection;

(ii) the original or a copy of the negatives of all aerial photographs produced in connection with the work; and

(iii) the original or a copy of all field observations, notes and computations made for the purposes of the work and particulars of all permanent survey marks erected (otherwise than in pursuance of paragraph (a) of this subsection) in the course or in consequence of the work;

(c) in a case where there is a survey mark, or two or more survey marks, under the control of the government of the Federation or a Region and situated within a distance of less than ten miles from any point at which the work is carried out, to secure that the work is connected to the mark or, as the case may be, to such one of the marks as that person may select.

(4) It shall be the duty of the Director to give one copy of each map and plan which relates to a Region and is furnished to him in pursuance of paragraph (b) of the last foregoing subsection to the Surveyor-General of the Region.

(5) The following survey marks, that is to say—

(a) all marks erected in pursuance of paragraph (a) of subsection (3) above; and

(b) any of the marks of which particulars are furnished in pursuance of sub-paragraph (iii) of paragraph (b) thereof as to which the Director gives to the person mentioned in that subsection, within the period of one month beginning with the date of the giving of the particulars, notice that the marks are to vest in the Minister,

shall, by virtue of this section and without further assurance, vest in the Minister for an estate in fee simple free from encumbrances; and any matter furnished to the Director in pursuance of paragraph (b) of that subsection shall be the property of the Minister and may be used by the Director for the purposes of his office in such manner as he thinks fit.

(6) Without prejudice to any other means of service, a document authorised or required to be served under this section may be served by post, but shall not be treated as duly served by post unless it is sent in a registered letter.

(7) In this Act, "survey work" means the carrying out or ascertaining, with a view to determining the shape or size of any part of the surface of any land (including any natural feature of the land), of all or any of the following, that is to say—

(a) traverses with a length of ten miles or more observed by angular and linear measurements;

(b) lines of levels with a length of ten miles or more observed by optical or hydrostatic methods;

(c) linear measurements by means of radio transmission, radar or any electronic means in cases where the total linear measurements exceed a distance of ten miles;

(d) topographical or hydrophic surveys or triangulation or trilateration covering in any case an area of more than twenty-five square miles;

5 (e) terrestrial photography specially made for survey purposes by means of a camera-theodolite, stereo camera or similar instrument;

(f) aerial photography for survey purposes;

(g) heighting of points over an area of more than twenty-five square miles by aneroid barometer, altimeter, hypsometer or aircraft profile recorder;

10 (h) astronomical observations for the determination of azimuth, latitude or longitude;

but does not include any activity mentioned in the foregoing paragraphs which is undertaken—

15 (i) by or on the instructions of the government of the Federation or a Region; or

(ii) in any part of Nigeria specified for the purposes of this paragraph by regulations made by the Minister; or

(iii) solely for the purpose of determining boundaries of any property.

20 2.—(1) A person (other than the Director) who fails to comply with any requirement made by or in pursuance of the foregoing section shall be guilty of an offence and liable—

Offences.

(a) on summary conviction, to a fine of an amount not exceeding two hundred pounds;

25 (b) on conviction on indictment, to a fine of an amount not exceeding five hundred pounds.

(2) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

35 3.—(1) Any person whose property is transferred to the Minister by section one of this Act, or who incurs expense or suffers loss by reason of the provisions of subsection (3) or (5) of that section, shall—

Compensation.

(a) be paid adequate compensation by the Minister in respect of the property, expense or loss; and

40 (b) be entitled to refer any question as to his interest in any relevant property and as to the amount of any compensation payable in pursuance of this section for determination by the High Court having jurisdiction in the area in which the property is situated or, in so far as the value of any property is not involved in relation to any compensation, by the High Court having jurisdiction in the area in which any part of the relevant survey work was carried out.

45 (2) Any expenses incurred by the Minister by virtue of the foregoing subsection shall be defrayed out of moneys provided by Parliament.

4. This Act may be cited as the Survey Co-ordination Act, 1962, and shall apply throughout the Federation.

Short title and extent.

MINERAL OILS BILL
EXPLANATORY MEMORANDUM

This Bill seeks to correct retrospectively an error made in the Mineral Oils Act when the 1958 edition of the Laws of Nigeria was compiled.

The Bill will also amend that Act, as from the date of Independence, to enable oil concessions to be granted to non-British companies.

MAITAMA SULE,
Minister of Mines and Power

A BILL

FOR

AN ACT TO CORRECT AN ERROR IN SECTION SIX OF THE MINERAL OILS ACT, AND TO REPEAL A RESTRICTION IMPOSED BY THAT SECTION ON THE POWER TO GRANT RIGHTS TO SEARCH FOR AND WIN MINERAL OILS ; AND FOR PURPOSES CONNECTED THEREWITH.

[]

Commence-
ment.

WHEREAS by section six of the Mineral Oils Ordinance printed as Chapter 135 of the 1948 edition of the Laws of Nigeria the grant of powers to search for and win mineral oils was restricted to British subjects and companies ;

5 AND WHEREAS by the Mineral Oils (Amendment) Ordinance, 1958, provision was made for waiving that restriction in certain cases ;

No. 5 of
1958.

10 AND WHEREAS in section six of the Mineral Oils Act (which reproduced the enactments aforesaid) for the reference to that restriction there was erroneously substituted a reference to a provision requiring the payment of compensation ;

Cap. 120.

AND WHEREAS it is proper that the error should be corrected in respect of the period which preceded the date of the Independence of the Federation and that the restriction should be abolished from that date ;

15 NOW THEREFORE 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 :—

20 1. In subsection (3) of section six of the Mineral Oils Act the reference to paragraph (b) of subsection (1) shall, as respects the period beginning with the commencement of that Act and ending with the thirtieth day of September, nineteen hundred and sixty, be deemed to have been a reference to paragraph (a) of subsection (1) ; and the said paragraph (a) and subsections (2) and (3) of that section shall be deemed to have been repealed at the end of that day.

Correction
and repeal
of provi-
sions of
Cap. 120
s. 6.

25 2. This Act may be cited as the Mineral Oils Act, 1962, and shall apply throughout the Federation.

Short title
and extent.

TIN BILL

EXPLANATORY MEMORANDUM

As tin smelting plant has now been brought into use in Nigeria, Part I of the Tin (Production and Export Restriction) Act no longer provides proper control of the disposal of tin. This Bill therefore seeks to replace Part I of the Act with provisions required to meet the new situation.

The Bill also provides for a levy on tin for the purposes of contributions to the International Tin Research Council. The levy is at present made through the machinery of the customs tariff, which does not enable the levy to be made on tin used in Nigeria. It is intended to revoke the relevant provisions of the tariff in consequence of the Bill.

The Bill also makes provision for smelters to furnish information on the stocks of tin which they hold. This is necessary for purposes of statistics kept by the Federal government and the Tin Council.

MAITAMA SULE,
Minister of Mines and Power

TIN BILL

ARRANGEMENT OF CLAUSES

Clause

1. Control of export and delivery to smelters of tin and tin ore.
2. Levy on tin for research purposes.
3. Duty of smelters to furnish information.
4. Interpretation and repeals.
5. Short title, extent and commencement.

(778)

A BILL

FOR

AN ACT TO REGULATE THE EXPORT OF TIN AND TIN ORE AND THE DELIVERY OF TIN ORE TO SMELTERS ; TO PROVIDE FOR THE FURNISHING OF INFORMATION BY SMELTERS ; AND FOR CONNECTED PURPOSES.

[See section 5(2)]

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) Where it appears to the Minister appropriate for the purpose of giving effect to any international agreement to which Nigeria is a party that the production and export of tin and tin ore should for the time being be controlled, he may by order provide that this section shall have effect as respects such period or further period as may be specified by the order.

Control of
export and
delivery to
smelters of
tin and tin
ore.

10 (2) During any period specified by an order under the foregoing subsection, no person shall export any quantity of tin or tin ore or deliver any quantity of tin ore to a smelter unless that person is authorised by a licence issued to him by the Minister to export it or, as the case may be, to deliver it to that smelter.

15 (3) A person who contravenes the provisions of the last foregoing subsection shall be guilty of an offence and liable—

(a) on summary conviction, to a fine of an amount not exceeding one hundred pounds ;

20 (b) on conviction on indictment, to a fine of an amount not exceeding one thousand pounds or to imprisonment for a term not exceeding twelve months or both.

25 (4) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Levy on tin
for research
purposes.

2.—(1) No person shall deliver to a smelter or export any quantity of tin ore unless he has paid to the Minister the prescribed levy in respect of that quantity.

(2) The Minister may make regulations—

(a) prescribing the amounts of the levies payable under the foregoing subsection in respect of any quantity of tin and tin ore respectively;

(b) prescribing the manner in which any such levy is to be paid; and

(c) for securing that the levy is not paid more than once in respect of the same ore;

and the regulations may contain such supplemental and incidental provisions as the Minister considers expedient for the purposes of the regulations and may make different provision (other than provision as to the rate of a levy) for different circumstances.

(3) If any person fails to pay a levy payable by him under this section, then—

(a) he shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding one hundred pounds; and

(b) the Minister may recover the amount of the levy in any court of competent jurisdiction.

(4) The Minister shall in each financial year pay over to the research council, out of moneys provided by Parliament, an amount equal to not less than the aggregate amount of the sums received and the sums he estimates will be received by him during that year by way of levies under this section.

(5) In this section, "the research council" means the body commonly known as the International Tin Research Council.

Duty of
smelter to
furnish
information.

3.—(1) Every smelter shall, within twenty days after the end of each month, give to the Minister a report in writing containing particulars of—

(a) his name and the addresses of all premises at which he carries on business as a smelter;

(b) the quantities of tin and tin ore respectively under his control on the last day of that month;

(c) the quantities of tin ore acquired by him during that month;

(d) the quantities of tin and tin ore respectively despatched to a destination or disposed of outside Nigeria by him during that month, specifying the countries in question;

(e) the quantities of tin and tin ore respectively disposed of within Nigeria by him during that month; and

(f) the quantity of tin, estimated in a reasonably accurate manner, in each quantity of ore mentioned in the report.

(2) A smelter who—

(a) fails to furnish a report required by the foregoing subsection; or

(b) furnishes such a report which he knows to be, or recklessly furnishes such a report which is, false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding one hundred pounds.

4.—(1) In this Act—

“export” means export from Nigeria ;

“the Minister” means the Minister of the government of the Federation responsible for minerals ;

5 “smelter” means a person who carries on the business of smelting tin ore whether or not as part of any other business carried on by him.

(2) Part I of the Tin (Production and Export Restriction) Act is hereby repealed.

Interpreta-
tion and
repeal.

Cap. 197.

10 5.—(1) This Act may be cited as the Tin Act, 1962, and shall apply throughout the Federation.

(2) This Act shall come into force on such a day as the Minister may by order appoint, and different days may be appointed for the purposes of different provisions.

Short title,
extent and
commence-
ment.