

COMPANIES INCOME TAX (APPEAL COMMISSIONERS) ACT, 1962



1962, No. 15

AN ACT TO INCREASE THE NUMBER OF PERSONS WHO MAY BE APPOINTED
APPEAL COMMISSIONERS IN PURSUANCE OF THE COMPANIES INCOME
TAX ACT, 1961.

[5th June, 1962]

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. The body of Appeal Commissioners appointed in pursuance
of section fifty-five of the Companies Income Tax Act, 1961, shall,
instead of consisting of not more than six persons appointed in accord-
ance with the provisions of that section, consist of not more than eight
such persons ; and accordingly for the word "six" in subsection (2)
of that section there shall be substituted the word "eight".

Power to
appoint two
additional
appeal
commis-
sioners.
1961 No. 2

2. This Act may be cited as the Companies Income Tax (Appeal
Commissioners) Act, 1962, and shall apply throughout the Federation.

Short title
and extent

EXCHANGE CONTROL ACT, 1962

A 51



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SCHEDULES

1962, No. 16

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.

[By notice, see section 1 (2)]

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 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-
tation.

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;

“authorised depositary” 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;

“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;

“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;

"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—

(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

(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;

"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 depositary for any certificate of title deposited for the purposes of this Act or any promissory note;

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

"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.

(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.

(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.

(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.

PART I.—GOLD AND FOREIGN CURRENCY

Dealings
in gold and
foreign
currency
prohibited.

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.

(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.

Surrender
of gold and
certain
foreign
currency.

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.

(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.

(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.

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.

Bailees of
gold and
specified
currency.

(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.

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.

Travellers'
cheques,
etc.

(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.

(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.

(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.

(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.

PART II—PAYMENTS

Payments
in Nigeria.

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

(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

(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 :

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.

Payments
outside
Nigeria.

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.

(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.

Compensa-
tion deals.

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—

(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

(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.

PART III—SECURITIES

Issue of
securities.

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

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

(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 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 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 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 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 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 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.

Issue of
bearer
certificates
and coupons
prohibited.

12. Except with the permission of the Minister no person shall, 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.

Control of
specified
securities.

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

(a) that subject to the provisions of the order, no person shall, 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 prescribed in the order, make a return to the Minister giving such particulars with respect to those securities as may be required.

(2) During the continuance of an order made under this section if the Minister thinks fit for the purpose of strengthening the financial 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.

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.

Disclosure
of foreign
currency,
etc., held.

(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.

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.

Validation
of certain
transfers.

(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

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

Prohibition
on import.

(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 ;

(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.

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

Prohibition
on export.

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

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

(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—

(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

(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 ;

(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".

Payment
for exports.

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 Board of Customs is satisfied—

(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

(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.

(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 Board 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.

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

PART V—MISCELLANEOUS

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—

(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

(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

(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.

(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.

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,

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.

Duty to
collect
certain
debts.

Property
obtained by
infringe-
ment of Act.

No. 7 of 1959.

Provisions
supple-
mental to
preceding
provisions
of Part V.

Transfer of
annuities,
etc.

Settle-
ments.

(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.

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.

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—

(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.

(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 exerciseable ;

(c) "will" includes any testamentary disposition.

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—

Foreign
companies.

(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

(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—

(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 ;

(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 ;

(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.

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.

Nigerian
companies.

(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.

PART VI—SUPPLEMENTAL

Exemptions.

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.

Blocked Accounts.

27.—(1) Where—

(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

(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,

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.

(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.

Contracts, legal proceedings, etc.

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

Cap. 21.

(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 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.

(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.

Enforcement and administration.

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

(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 depositary ;

(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.

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.

Application
to Crown.
cf No. 7 of
1959.

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.

Transitional
provisions.

(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.

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

Other
powers of
Minister.

(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.

Branches.

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.

**Persons
leaving
Nigeria.**

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.

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.

Determina-
tion of
residence.

(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.

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.

Payments
by Minister
to be in
Nigerian
pounds.

(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.

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.

Obligations
to be joint
and several.

(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.

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.

Declara-
tions.

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—

Exemption
from stamp
duty.

(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.

(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.

Repeals and
Savings.

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

(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.

SCHEDULES

FIRST SCHEDULE

Section 24

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—

(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 ;

(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

(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

(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.

SECOND SCHEDULE

Section 27

BLOCKED ACCOUNTS

1. Where a direction is given that a payment is to be made to a locked 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

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.

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—

(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

(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

(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—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 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.

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.

(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.

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.

(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.

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, until the final determination of those proceedings.

(2) For the purposes of this paragraph—

(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

(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.

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;

(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

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 Schedule: Provided that an offence punishable by virtue of Part III of this Schedule shall not be punishable under this Part of this Schedule.

(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
- (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 one hundred pounds	four months
Exceeds one hundred pounds	six months.

PART III—IMPORT AND EXPORT

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.

(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.

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 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 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

(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: 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)

<i>Chapter or number</i>	<i>Enactments affected</i>	<i>Extent of repeal</i>
Cap. 63	The Exchange Control Act	The whole Act
1961, No. 27.	The Exchange Control Act 1961	The whole Act.