

QUEEN'S COUNSEL (ABOLITION) ACT, 1964



1964, No. 12

AN ACT TO ABOLISH THE RANK OF QUEEN'S COUNSEL; AND FOR CONNECTED PURPOSES.

[1st May, 1964]

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) Any person upon whom there has been conferred the rank of counsel to Her Majesty as respects Nigeria shall cease to hold that rank on the commencement of this Act.

Abolition
of rank of
Q.C.

(2) Accordingly, the Legal Practitioners Act, 1962, shall be amended as follows:—

1962, No. 33

(a) the following provisions (which relate to the rank aforesaid) shall be omitted, that is to say—

in section two, subsection (2);

in section ten, subsection (6);

in the First Schedule, the words from the first "in" to "thereafter" in paragraph 2; paragraph 3; the words "not of counsel to Her Majesty" in paragraph 6; and the words "letters patent"; and

(b) in subsection (2) of section four (which relates to practising fees) for the words "counsel to Her Majesty" there shall be substituted the words "ten or more years standing as a legal practitioner at the beginning of that year," and for the words "five years or more" there shall be substituted the words "more than five and less than ten years";

but no person shall, by virtue of paragraph (b) of this subsection, be entitled to a refund of any part of, or required to pay any sum in addition to, the practising fee previously paid by him in respect of the year nineteen hundred and sixty-four in pursuance of section four of the Act aforesaid.

2. This Act may be cited as the Queen's Counsel (Abolition) Act, 1964, and shall apply throughout the Federation.

Short title
and extent.

PRESIDENTIAL PROCEEDINGS ACT, 1964



ARRANGEMENTS OF SECTIONS

Section

- Joint meetings of Houses of Parliament*
1. Procedure at certain joint meetings of Houses of Parliament.
 - Presidential ballots, etc.*
 2. Arrangements connected with ballots.
 3. Voting.
 4. Counting of votes, etc.
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Declaration of election of President, etc.

6. Declaration and evidence of election.

Investigation of conduct of President

7. Establishment and attendance at meetings of investigating committee.

8. Powers and procedure of committee.

9. Report to Parliament.

Supplemental

10. Short title, extent and interpretation.

1964, No. 13

AN ACT TO MAKE SUPPLEMENTARY PROVISION FOR THE PURPOSES OF CHAPTER IV OF THE CONSTITUTION OF THE FEDERATION AS RESPECTS THE ELECTION AND REMOVAL OF THE PRESIDENT OF THE REPUBLIC; AND FOR PURPOSES CONNECTED THEREWITH.

[1st May, 1964]

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:—

Joint meetings of Houses of Parliament

1.—(1) At any joint meeting of both Houses of Parliament held in pursuance of Chapter IV of the Constitution of the Federation (which among other things provides for the election and removal of the President) the following person shall preside, that is to say—

(a) the President of the Senate;

Procedure
at certain
joint
meetings
of Houses
of Parlia-
ment.

- (b) in his absence, the Speaker of the House of Representatives ;
- (c) in their absence, the Deputy President of the Senate ;
- (d) in the absence of the persons aforesaid, the Deputy Speaker of the House of Representatives ;

and while none of those persons is present, such member of either House as the Prime Minister may designate from time to time shall preside at the joint meeting.

(2) The President of the Senate and the Speaker of the House of Representatives, acting jointly, may make rules regulating, subject to the provisions of the said Chapter IV and this Act, the conduct of joint meetings ; and except so far as it is otherwise provided by rules made in pursuance of this subsection, the Standing Orders of the House of Representatives which on the twelfth day of December, 1962, were ordered by that House to be printed shall, subject as aforesaid, apply with the necessary modifications to joint meetings as they apply to meetings of that House.

(3) Any question arising at a joint meeting as to the application or interpretation of provisions of the rules or standing orders aforesaid shall be determined by the person presiding at the joint meeting when the question arises ; and any question arising at a joint meeting which in the opinion of that person is not regulated by those provisions shall be determined by him.

Presidential ballots, etc.

Arrangements connected with ballots.

2.—(1) It shall be the duty of the President of the Senate to make arrangements for securing that, when a presidential ballot is ordered, there are available for the purposes of the ballot—

(a) a list of the persons entitled to vote at the relevant election meeting ;

(b) five hundred ballot papers capable of being folded and bearing on their reverse sides consecutive serial numbers only, each of which is attached to a counterfoil bearing only the same number as the ballot paper to which it is attached ;

(c) an instrument for affixing the special mark mentioned in subsection (2) of the next following section ;

(d) such number of compartments (not being less than twelve) at the place where the relevant election meeting is held as he considers appropriate for securing that each person voting in the ballot is able to mark his ballot paper screened from observation and that the ballot is speedily concluded ; and

(e) a single ballot box.

(2) The person by whom a presidential ballot is ordered shall specify the premises to be used for the purposes of the ballot and shall secure—

(a) that the premises are adequate to accommodate at the same time all the persons entitled to vote at the relevant election meeting and such officials as he may designate to assist at the ballot ;

(b) that no person other than the persons so entitled and the officials aforesaid is admitted to those premises after the ballot is ordered ;

(c) that every person so entitled (other than a witness designated in pursuance of paragraph (e) of this subsection) leaves those premises forthwith after casting his vote and is not thereafter admitted to those premises before the ballot is declared closed ;

(d) that no person so entitled who is not already on those premises is admitted to the premises after the expiration of one hour from the time when the ballot was ordered and before the ballot is declared closed ;

and

(e) that, subject to subsection (4) of this section, the compartments, ballot-box and unused ballot papers aforesaid allocated to the ballot are, throughout the period beginning with the ordering of the ballot and ending with the declaration of its result, within the immediate view of the following persons, that is to say—

(i) one member of each House of Parliament designated for the purposes of the ballot by the Prime Minister ; and

(ii) one member of either House of Parliament designated for the purposes of the ballot by each candidate in the ballot respectively.

(3) A designation in pursuance of paragraph (e) of the last foregoing subsection shall be made by notice in writing served on the person who ordered the ballot in question ; and in relation to that ballot the persons designated in pursuance of that paragraph by the Prime Minister are hereafter in this Act referred to as "the official witnesses" and a person so designated by a candidate is hereafter in this Act referred to as a "candidate's witness".

(4) If the power of designation conferred on a particular candidate by sub-paragraph (ii) of the said paragraph (e) is not exercised by him before the expiration of the period of five minutes beginning with the time when the relevant ballot is ordered, that power shall not be exercised by him in relation to that ballot ; but nothing in the foregoing provisions of this section shall be construed as preventing an official witness or a candidate's witness from complying with the provisions of subsection (3) of the next following section for the purpose of voting in a presidential ballot.

3.—(1) Each ballot paper for use in a presidential ballot shall, without prejudice to the requirements of the next following subsection, bear on its face only the names of the persons who are candidates for election in the ballot.

Voting.

(2) When a presidential ballot is ordered, the person who ordered it shall forthwith determine what special mark shall be affixed to ballot papers and counterfoils to be used in the ballot, and the mark shall—

(a) be such as will identify the papers and counterfoils as valid only for that particular ballot ; and

(b) be affixed by embossing or perforating it on the paper and its counterfoil immediately before the paper is detached from its counterfoil and handed to the voter by whom it is to be used ;

and the ballot paper issued to each voter shall be taken at random from among the remaining ballot papers allocated to the ballot and not in such a sequence or other manner as to permit the identification of the voter to whom it was issued.

(3) A person voting in a presidential ballot shall cast his vote by—

(a) obtaining in person a ballot paper marked with the appropriate special mark from the officer instructed by the person who ordered the ballot to issue the ballot papers for that ballot; and

(b) immediately thereafter entering one of the compartments provided in pursuance of the last foregoing section so that he is screened from view and there—

(i) marking a cross on the paper at the end of the name of a single candidate for whom he casts his vote; and

(ii) folding the paper so that the face of it is not visible; and

(c) immediately thereafter and without unfolding the paper, showing the special mark on it to the official from whom he received the paper and placing the paper in the ballot box indicated by that official.

(4) A person to whom a ballot paper is issued in pursuance of the last foregoing subsection shall, subject to the following provisions of this subsection, not be entitled to dispose of the paper otherwise than in the manner provided by that subsection; but if such a person marks his ballot paper in a manner other than that which he intends, he may, before placing the paper in the ballot box in accordance with the last foregoing subsection but not thereafter, return the paper to the official from whom he received it, and the official shall thereupon—

(a) issue him with a further ballot paper for that ballot; and

(b) burn the returned paper and record on its counterfoil the fact that it has been burnt and the number of the further paper.

(5) Not more than two further ballot papers shall be issued in pursuance of subsection (4) of this section to the same person for the purposes of the same presidential ballot; and where the number of ballot papers provided for a particular ballot in pursuance of paragraph (b) of subsection (1) of the last foregoing section is insufficient to enable effect to be given to the foregoing provisions of this section, the person by whom the ballot was ordered shall make such arrangements as he considers appropriate for furnishing such additional similar ballot papers as may be necessary for meeting the deficiency.

(6) When a ballot paper or further ballot paper is issued to any person in pursuance of this section, the official who issued the paper shall record against the name of that person on the list of persons entitled to vote at the relevant election meeting the fact that a ballot paper or further paper has been issued to him; but no record shall be made, either on the list or elsewhere, of the number of any ballot paper issued to a particular person.

(7) When, at any time after the expiration of one hour from the time when a presidential ballot was ordered, it appears to the person who ordered it that all persons eligible to vote in the ballot and present in the premises specified in pursuance of subsection (2) of the last

foregoing section have had a reasonable opportunity of casting their votes, he shall declare the ballot to be closed; and no vote shall be cast in the ballot after the declaration is made.

4.—(1) When a presidential ballot is declared closed, the ballot papers used in the ballot shall forthwith be scrutinised, and the votes entered on the papers in favour of each candidate respectively counted and recorded, by the official witnesses and the person who ordered the ballot acting jointly (hereafter in this section referred to as "the scrutineers") and shall be so scrutinised, counted and recorded in the premises specified in pursuance of subsection (2) of section two of this Act and in the immediate view of the candidates' witnesses.

Counting
of votes, etc.

(2) In counting and recording the votes aforesaid there shall be disregarded any ballot paper which, in the opinion of the scrutineers or any two of them,—

(a) does not bear the appropriate special mark; or

(b) is not marked with a vote; or

(c) is marked with a vote in such manner as not to indicate a particular candidate as the sole candidate for whom the vote is cast; or

(d) is marked in such a manner as to enable the voter to be identified; or

(e) bears the same serial number as any other ballot paper which purports to have been used in the ballot and which does not fall to be disregarded in pursuance of any of the foregoing paragraphs of this subsection;

but, subject to the foregoing provisions of this subsection, the fact that a ballot paper is marked elsewhere than at the proper place or otherwise than by means of a cross shall not entitle the scrutineers to disregard the paper if they or any two of them are of opinion that the paper clearly indicates an intention to vote for a particular candidate.

(3) On completing the recording of the votes cast in a presidential ballot the scrutineers shall exhibit the record to the candidates' witnesses; and if—

(a) in the opinion of the scrutineers or any two of them a recount of the votes is appropriate; or

(b) any candidate's witness demands a recount of the votes and in the opinion of the scrutineers or any two of them the demand is reasonable,

the scrutineers shall forthwith order a recount of the votes and proceed in accordance with subsections (1) and (2) of this section as upon a declaration that the ballot is closed.

(4) Where a record is exhibited to the candidates' witnesses in pursuance of the last foregoing subsection and no recount is ordered, the person who ordered the ballot shall forthwith announce the result of the ballot to the joint meeting.

5. The provisions of sections two to four of this Act shall, subject to the provisions of subsection (9) of section thirty-five of the Constitution of the Federation, apply to a ballot held in pursuance of subsection (8) of that section (which provides for the elimination of one of two candidates in a presidential ballot where each receives the same number of votes which is less than the number received by a further candidate) as those provisions apply to a presidential ballot.

Application
of ss. 2 to 4
to ancillary
ballots.

Declaration of election of President, etc.

Declaration
and
evidence
of election.

6.—(1) Where the result of a presidential ballot is that a candidate is elected as the President of the Republic, the person presiding at the joint meeting when the result is announced shall forthwith—

(a) declare that candidate to be so elected; and

(b) execute in duplicate in the presence of the official witnesses and in accordance with subsection (11) of section thirty-five of the Constitution of the Federation (which provides for proof of the election of a person as the President) such an instrument as is mentioned in that subsection.

(2) Each of the official witnesses shall sign his name upon the instruments aforesaid in witness of their execution, and one of those instruments shall be deposited and preserved in the records of the Senate and the other in the records of the House of Representatives; and rules made by the President of the Senate and the Speaker of the House of Representatives, acting jointly, may provide for the issue of authenticated copies of the instruments.

Investigation of conduct of President

Establish-
ment and
attendance
at meetings
of
investiga-
ting
committee.

7.—(1) Subject to the next following subsection, the committee mentioned in subsection (5) of section thirty-eight of the Constitution of the Federation (which provides for a committee of members of Parliament to investigate and report to Parliament on the conduct of the President of the Republic where a motion for the investigation is passed by a joint meeting) shall consist of—

(a) four persons nominated in writing by the Prime Minister, of whom two shall be Senators and the others shall be members of the House of Representatives and of whom one shall be designated by the Prime Minister as the chairman of the committee; and

(b) four Senators nominated by resolution of the Senate; and

(c) four members of the House of Representatives nominated by resolution of that House.

(2) The powers of nomination conferred by paragraphs (b) and (c) of the foregoing subsection shall, without prejudice to any nomination made in the exercise of those powers during the period of four days beginning with the date of the passing of the motion in consequence of which the committee is set up, not be exercisable as respects the committee after the expiration of that period.

(3) There shall be a legal assessor to the committee, who shall be a judge of the Supreme Court nominated in writing by the Prime Minister.

(4) It shall be the duty of every member of the committee and the legal assessor to be present throughout every meeting of the committee unless he is excused from attendance by the committee on the ground of serious illness; and a person who—

(a) is so excused; or

(b) without being so excused is absent from a meeting of the committee,

shall cease to be a member of the committee or its assessor, as the case may be, and shall, in a case falling within paragraph (b) of this subsection, be guilty of contempt of the committee and punishable accordingly.

(5) Where the chairman of the committee or its legal assessor dies or ceases to hold office by virtue of the last foregoing subsection, then—

(a) in the case of the chairman, the Prime Minister shall designate an existing member of the committee (whether or not a person nominated as a member by the Prime Minister) to be its chairman; and

(b) in the case of the legal assessor, the power to nominate a legal assessor shall again be exercised;

but no person shall be nominated as a member of the committee in the place of a person who has ceased to be such a member.

8.—(1) The committee shall, during the period beginning with the date of its first meeting and ending with the date of its dissolution, be a superior court of record.

(2) The committee shall meet at such times and places as the chairman of the committee may determine, and the chairman shall so exercise his powers under this subsection as to secure that the business of the committee is concluded with all reasonable speed and within the period of three months mentioned in subsection (5) of section thirty-eight of the Constitution of the Federation; and every meeting of the committee shall, except so far as the committee otherwise determines, be held in public.

(3) Any question for determination by the committee shall be determined by the votes of a majority of the members of the committee; and in case of an equality of votes the chairman of the committee shall exercise a second or casting vote.

(4) Subject to subsections (2), (3) and (9) of this section, the President of the Senate, the Speaker of the House of Representatives and the Attorney-General of the Federation, acting jointly, may make rules as to the procedure to be followed and the rules of evidence to be observed in proceedings before the committee; and except so far as is otherwise provided by this Act or by rules made in pursuance of this subsection, the rules of procedure to be followed and the rules of evidence to be observed in proceedings before the committee shall, subject to the necessary modifications, be the same as those having effect with respect to proceedings on indictment in the High Court of Lagos.

(5) Any question as to the application or interpretation, in relation to proceedings of the committee, of any such rules as are mentioned in the last foregoing subsection shall be determined by the committee, and the committee shall, before making a determination in pursuance of this subsection, take into consideration the advice of the legal assessor on the question; and where such a determination is, in the opinion of the assessor, not in accordance with his advice, the assessor shall state his opinion and the reasons for it to the committee and the committee shall include in its report to Parliament a statement of the determination and of the advice, opinion and reasons aforesaid.

Powers
and
procedure
of
committee.

(6) The committee may, if it thinks fit, appoint such legal practitioners as it considers appropriate to assist the committee in the conduct of its proceedings.

(7) No process touching the committee or its proceedings shall issue out of any court except—

(a) at the instance of the committee; or

(b) for the purpose of securing the attendance of witnesses or the production of evidence in connection with proceedings before the committee; or

(c) in connection with an alleged offence of perjury committed in connection with such proceedings.

(8) No punishment for contempt of the committee shall be imposed by the committee on any person except with the concurrence of the legal assessor.

(9) Where a new legal assessor is nominated in pursuance of subsection (5) of the last foregoing section then, except so far as the committee otherwise determines with the consent of the person whose conduct is the subject of its proceedings, it shall be the duty of the committee, without prejudice to its power to take again any evidence previously given before the committee, to disregard for the purposes of its report any proceedings before the committee which took place before the nomination of the new assessor.

Report to
Parliament.

9.—(1) The report of the committee on the conduct of the President of the Republic shall be in writing and the committee shall present the report to Parliament by causing a copy of the report to be served on the Clerk to the Senate.

(2) It shall be the duty of the Clerk to the Senate forthwith to cause a report served on him in pursuance of this section to be printed and a printed copy of it to be made available to each Senator and each member of the House of Representatives respectively.

(3) On the presentation of its report to Parliament, the committee shall stand dissolved.

Supplemental

Short
title,
extent and
interpreta-
tion.

10.—(1) This Act may be cited as the Presidential Proceedings Act, 1964, and shall apply throughout the Federation.

(2) In this Act—

“candidate’s witness” and “official witnesses” have the meanings assigned to them by subsection (3) of section two of this Act;

“election meeting” and “presidential ballot” have the same meanings as in section thirty-five of the Constitution of the Federation; and

“joint meeting” means a joint meeting of both Houses of Parliament held in pursuance of Chapter IV of the Constitution of the Federation.

DEFENCE INDUSTRIES CORPORATION OF NIGERIA ACT, 1964



ARRANGEMENT OF SECTIONS

Section

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|---|--|
| 1. Defence Industries Corporation of Nigeria. | 8. Interest of member to be disclosed on any contract. |
| 2. Corporation to act under directions of Minister. | 9. Restricted application of Firearms Act. |
| 3. Appointment and powers of general manager. | 10. Application of Factories Act. |
| 4. Staff. | 11. Taking part in any strike an offence. |
| 5. Operation of ordnance factories. | 12. Regulations. |
| 6. Funds of corporation. | 13. Interpretation. |
| 7. Accounts and records to be kept. | 14. Short title, application and commencement. |
| | * Schedule—Constitution, etc., of the corporation. |

1964, No. 14

AN ACT TO ESTABLISH A CORPORATION TO OPERATE, MAINTAIN AND CONTROL FACTORIES FOR THE MANUFACTURE, STORAGE AND DISPOSAL OF ORDNANCE AND ANCILLARY STORES AND MATERIEL; TO PROVIDE FOR ALTERATION IN ANY SUCH MANUFACTURE, STORAGE AND DISPOSAL AT ANY TIME; AND FOR RELATED MATTERS.

[Section 14 (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 :—

1.—(1) On a day to be appointed by order of the Minister in the Gazette (in this Act referred to as "the appointed day") the assets of the Government of the Federation in any land or any building thereon erected or in course of erection as an ordnance factory (as hereafter referred to in this section) and so designated in such order as to sufficiently identify it shall vest in and be operated, maintained and controlled by the corporation hereafter mentioned.

Defence
Industries
Corporation
of Nigeria.

(2) There shall be established with effect from the appointed day, a corporation to be known as the Defence Industries Corporation of Nigeria (in this Act referred to as "the corporation") which shall be a body corporate and be charged with—

(a) the operation, maintenance and control in such place or places in Nigeria as the Minister may require, of factories (in this Act referred to as "ordnance factories") for the manufacture, storage and disposal of ordnance and ancillary stores and materiel intended for or capable of being used by the armed forces and such other forces or persons as the Council of Ministers may authorise, and vested in the corporation under subsection (1) of this section or hereafter erected on land the location of which is approved by the Minister;

(b) the inspection or testing, as the case may be, of ordnance and materiel;

(c) such other duties as may be prescribed under this Act.

(3) The provision of the schedule to this Act shall have effect as regards the membership, proceedings and contractual powers of the corporation:

2.—(1) The Minister may for all or any of the purposes of this Act initiate or approve policy; and accordingly the Minister may give to the corporation directions of a general or special nature as to—

Corporation
to act
under
directions
of
Minister.

(a) the manner in which the corporation is to exercise its powers, or

(b) the payment of allowances to members of the corporation,

and it shall be the duty of the corporation to give effect to any such directions.

(2) No policy initiated by the corporation shall be implemented without prior reference to and approval by the Minister, and the Minister may, if he thinks it necessary, consult with the corporation before approving any policy; but the question whether there was any such consultation or what was decided shall not be inquired into by any court.

Appointment and powers of general manager.

3.—(1) The Minister may from time to time appoint a fit person to be general manager of the corporation. The general manager shall be the chief executive officer of the corporation, and as and when directed so to do, he shall give to the corporation such information as to the activities of the corporation as the Minister or the corporation may reasonably require.

(2) The corporation may delegate to the general manager all or any of the powers mentioned in this section; and subject thereto the general manager may authorise programmes and plans for giving effect to policy approved by the Minister or to any direction or recommendation of the corporation as to any ordnance factory in Nigeria or as to staff training therein.

(3) The fact that any such powers have been delegated to the general manager shall not preclude the corporation itself from exercising them in any special case.

(4) The powers mentioned in this section are—

(a) the executive control over other servants of the corporation,

(b) the supervision of accounts and records,

(c) the preparation for approval of sectional programmes and plans necessary to carry into effect approved policy or any directions of the corporation,

(d) the interpretation of such policy to other servants of the corporation where necessary,

(e) the making of any staff recommendations to the corporation,

(f) the establishment of organisational structures and definition of responsibilities.

Staff.

4.—(1) Subject to the provisions of this section, the corporation may appoint such persons as members of its staff as it considers necessary and may approve conditions of service, including provision for the payment of pensions:

Provided that no pension scheme shall be put into operation without the prior approval in writing of the Federal Minister charged with responsibility for pensions.

(2) The secretary of the corporation shall be appointed subject to the approval of the Minister, and shall keep the records and conduct correspondence and perform such other duties of a clerical nature as the corporation may from time to time direct or require.

(3) The general manager and other members of the staff of the corporation shall, unless exempted by the Minister, take such oaths as to secrecy and other matters as the Minister may from time to time direct.

(4) If the Minister deems it expedient that any staff vacancy should be filled by a person holding office in the public service of the federation he shall inform the Federal Minister charged with responsibility for establishments to that effect, and thereafter the public service commission of the federation may fill the vacancy by way of secondment or transfer.

(5) Where any member of the public service is seconded to the staff of the corporation, he shall be notified of the terms and conditions thereof, and any such secondment shall be without prejudice to any pension rights, which, but for the secondment, would still accrue or become due, owing and payable to such public servant. Any person

seconded to such staff may elect to be transferred to the staff, and any previous service in the public service of the federation shall count as service for the purposes of any pension subsequently payable.

(7) Where any member of the public service is transferred to the corporation, his former service with the public service of the federation shall be taken into account when computing any requirements of the Pensions Act, and where the Federal Minister of Pensions approves, the said Minister shall do all things necessary and that Act shall be construed and have effect as if the service with the corporation thereafter of the person so transferred were service with such public service of the federation.

Cap. 147.

5.—(1) The corporation shall operate any ordnance factory under its control on a sound commercial basis and so as to fill the normal defence requirements of the armed forces; and shall plan its activities so far as may be necessary to meet other needs from time to time prescribed by the Council of Ministers.

Operation of ordnance factories.

(2) If there is any surplus capacity in the operation of an ordnance factory, the general manager shall so advise the Minister through the corporation and the Minister with the approval of the Council of Ministers may direct that any such surplus capacity may be adapted where necessary and be used towards meeting the civilian needs of Nigeria.

(3) Where the corporation undertakes the inspection and testing of ordnance and materiel for use by the armed forces, it shall recommend adoption or rejection as the case may be to the Minister, and the Minister shall give any directions necessary in the circumstances.

(4) The corporation may on behalf of any of the governments of Nigeria, test and inspect any substance, material, machine or other thing whatsoever intended for or capable of being used by the armed forces, whether or not it is thereafter so used, or is rejected.

(5) For all or any of the purposes of this section, the corporation may, in its discretion, institute a system of technical standards of classes of materials, structures and machines.

6. The Funds of the corporation shall consist of—

Funds of corporation.

- (a) such sum as may be required for the completion of any building erected as an ordnance factory and taken over on the appointed day;
- (b) moneys from time to time voted by Parliament,
- (c) moneys received from the process of any sale or hire.

7.—(1) The corporation shall keep proper accounts and other records and shall not later than the thirtieth day of September in each year prepare estimates of receipts and expenditure of the corporation for the next ensuing financial year and shall submit the estimates for the approval of the Minister.

Accounts and records to be kept.

(2) If the estimated expenditure approved for a financial year is exceeded without the prior approval in writing of the Minister, members of the corporation shall be liable to a surcharge on salary or allowances as the case may be, at the instigation of the Director of Audit.

(3) Separate accounts shall be kept in relation to moneys received and expended by the corporation in connection with the manufacture, production, sale and letting on hire of any equipment authorised for release under this Act.

(4) The accounts of the corporation shall be audited by auditors to be appointed annually by the corporation with the approval of the

Minister ; and as soon as may be after each audit the corporation shall furnish a copy of the statement of accounts to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the corporation.

Interest of member to be disclosed on any contract.

8.—(1) A member of the corporation who has any interest in any company or concern with which the corporation proposes to make any contract or any interest in such contract, shall disclose to the corporation the fact of such interest and the nature thereof, and such disclosure shall be recorded in the minutes of the corporation.

(2) A member having any such interest shall take no part in any deliberation or decision of the corporation relating to such contract.

Restricted application of Firearms Act.
Cap. 69.

9.—(1) Nothing in the Firearms Act shall be construed to preclude the importation by the corporation of any firearm as therein defined or ammunition, or the manufacture, assembly, repair, or disposal of any such firearm or ammunition in an ordnance factory:

(2) Every ordnance factory under the control of the corporation shall, for the purposes of the Firearms Act be deemed to have been recognised as a public armoury without further authority than this Act ; but firearms and ammunition therein may be held by the corporation for such period as it thinks fit, anything in the Firearms Act to the contrary notwithstanding.

Application of Factories Act.
Cap. 66.

10. In the application of the Factories Act, it shall not be necessary to register any ordnance factory ; and the powers of entry and inspection shall be exercisable during the hours of daylight and then only at such time or times as may be convenient to the general manager, after taking into consideration the nature of the work, or the part of the ordnance factory to be inspected.

Taking part in any strike or offence.

11. It shall be an offence punishable on conviction by a fine of not less than fifty pounds or more than one hundred pounds or by imprisonment for a term of one month, or by both, for any person employed by the corporation in any capacity, and whether or not a member of a trade union to engage, or take part, in any strike.

Regulations.

12.—(1) The Minister may make regulations generally for the purposes of this Act.

(2) Notwithstanding the provisions of subsection (1) of this section, the corporation may, with the approval of the Minister, make regulations—

(a) for prescribing the terms and conditions of service of the general manager and other servants of the corporation ;

(b) for regulating the procedure in the activities of the corporation other than at meetings ;

(c) for prescribing danger zones within or outside an ordnance factory.

Interpretation.

13. In this Act unless the context otherwise requires—

“armed forces” means the army, navy and air force of Nigeria ;

“building” includes fixtures, and any plant, machinery and office furniture supplied or to be supplied under any contract, and whether or not affixed or intended to be affixed to the land ;

“the corporation” means the Defence Industries Corporation of Nigeria established under this Act ;

“materiel” includes any armament, ammunition and equipment ;

“the Minister” means the Federal Minister charged with responsibility for defence ;

"ordnance factory" means any public establishment for the manufacture, storage and disposal of ordnance and ancillary stores and materiel intended for or capable of being used by the armed forces, and includes the manufacture of any other thing that may be approved under this Act.

14.—(1) This Act may be cited as the Defence Industries Corporation of Nigeria Act, 1964 and shall apply throughout the Federation.

(2) This Act shall, as to sections one and six, come into operation on the appointed day which may, in the discretion of the Minister, be the date of its passing; and subject thereto, the provisions of this Act shall commence on a day to be appointed after the passing of this Act, and whether by the same or any further order of the Minister.

Short title,
application
and
commence-
ment.

SCHEDULE

Section 1 (3)

Constitution, etc., of the Corporation

1.—(1) The corporation shall be a body corporate with perpetual succession and a common seal.

(2) Membership of the corporation shall consist of nine fit persons appointed by the Minister of whom—

(a) the chairman shall be the permanent secretary of the Ministry of Defence,

(b) the general manager who shall be deputy chairman; and the following other members so appointed—

(i) one on the recommendation of the Accountant-General of the Federation,

(ii) one from the Ministry of Commerce and Industry on the recommendation of the Federal Minister responsible therefor,

(iii) one from the army on the recommendation of the army council,

(iv) one from the navy on the recommendation of the navy board,

(v) one from the air force on the recommendation of the air council,

(vi) one from the Nigeria police force on the recommendation of the Inspector-General of Police,

(vii) the chief accountant in the Ministry of Defence.

(3) If the chairman or the deputy chairman is unable to attend, the Minister shall in writing appoint the chairman for any particular meeting.

(4) Subject to the foregoing provisions of this paragraph, where any person appointed by virtue of office or otherwise is absent or unable for any reason to attend meetings he may by writing under his hand addressed to the chairman nominate some other person to attend; and any such nominee shall if approved by the chairman and for the purposes of any meeting of the corporation attended by the nominee, be deemed to be a member of the corporation.

(5) A member shall hold office for such period and on such terms as may be specified in the relevant instrument of appointment, but

if directed in writing by the Minister shall vacate office anything to the contrary in the instrument notwithstanding; and any person so required to vacate his office shall cease to be a member of the corporation.

2.—(1) The first meeting of the corporation shall be convened and held at such place, as the Minister may nominate, and any subsequent meeting shall be convened by the chairman.

(2) At any meeting the general manager shall have a deliberative vote, but if at a meeting matters touching or concerning him are being discussed the general manager shall not vote, and if in the chair he shall vacate it in favour of any member appointed for the purpose. For the avoidance of doubt any such temporary chairman may be appointed at the meeting.

(3) The quorum for a meeting shall include the chairman and be three, unless at a meeting matters touching or concerning the general manager are under consideration and he is present, when the quorum shall be four.

(4) Subject to the foregoing provisions of this paragraph, in the case of equality of votes the chairman shall also have a casting vote.

(5) If for any reason the chairman fails to convene a meeting, the Minister may himself convene the meeting.

3.—(1) The corporation may make standing orders for regulating the proceedings of any meeting of the corporation or of any committee of the corporation; but no committee member shall be co-opted from outside the corporation in matters relating to defence.

(2) Where standing orders provide for committees other than of members of the corporation, or comprising partly members thereof and partly persons co-opted for the purpose, they may advise the corporation on matters referred to it by the corporation; but co-opted members shall not be entitled to vote at any meeting they are invited to attend.

4.—(1) The application of the seal of the corporation shall be authenticated by the signature of the chairman or by that of the general manager, as the case may be.

(2) Every document purporting to be an instrument issued by the corporation and to be so sealed or to be signed on behalf of the corporation, shall be received in evidence and be deemed to be an instrument without further proof unless the contrary is shown.

(3) The corporation may sue and be sued in its corporate name and may enter into contracts, and subject to this Act, may engage staff and such technical and other advisers as it deems necessary from time to time. The corporation may also acquire and hold land and any movable property for the purposes of this Act, but no land shall be alienated in any way or be charged as security without the consent in writing of the Minister.

(4) Where the Minister satisfies the Council of Ministers that any land to which the Public Lands Acquisition Act applies is required for the purposes of the corporation and that it has been found impracticable to acquire such land by private treaty or agreement, the President may by order direct that proceedings be taken to acquire such land for the federal government; and any land so acquired may thereafter be vested in the corporation under the authority of this subsection by means of a certificate under the hand and seal of the chief federal land officer.

Cap. 167.

LAGOS EXECUTIVE DEVELOPMENT BOARD (POWERS) ACT, 1964



1964, No. 15

AN ACT TO EXTEND THE POWERS OF THE LAGOS EXECUTIVE DEVELOPMENT BOARD; AND FOR CONNECTED PURPOSES.

[1st May, 1964]

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) The Lagos Executive Development Board established by the Lagos Town Planning Act shall have, and be deemed always to have had, power to act as the agent of the President of the Republic and any Minister of the government of the Federation, on such terms as may be agreed between the Board and the President or the Minister in question, as respects any matter as respects which the President or the Minister has, either before or after the passing of this Act, requested the Board to act as aforesaid.

Extension
of powers
of Board.
Cap. 95.

(2) References in the foregoing subsection to the President shall be construed, in relation to any period before the first day of October, nineteen hundred and sixty-three, as references to the Governor-General of the Federation.

2. This Act may be cited as the Lagos Executive Development Board (Powers) Act, 1964, and shall apply throughout the Federation.

Short title
and extent.

SUPPLEMENTARY APPROPRIATION (1963-64) (No. 2) ACT, 1964



1964, No. 16

AN ACT TO AUTHORISE THE ISSUE OUT OF THE CONSOLIDATED REVENUE FUND OF THE SUM OF TWO HUNDRED AND THIRTY THOUSAND, SIX HUNDRED POUNDS FOR THE PURPOSE OF REPLACING ADVANCES FROM THE CONTINGENCIES FUND FOR THE YEAR ENDING ON THE THIRTY-FIRST DAY OF MARCH, ONE THOUSAND, NINE HUNDRED AND SIXTY-FOUR; AND TO APPROPRIATE THAT SUM FOR THE PURPOSES SPECIFIED IN THIS ACT.

[1st May, 1964]

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 aggregate amount mentioned in section one of the Appropriation Act, 1963, section one of the Supplementary Appropriation (1963-64) Act, 1963 and in section one of the Supplementary Appropriation (1963-64) Act, 1964 (which together provide for the issue out of the Consolidated Revenue Fund in respect of the year ending on the 31st day of March, 1964, of sums not exceeding in aggregate £58,823,560) shall be increased by two hundred and thirty thousand, six hundred pounds; and the additional amount shall be appropriated for the replacement of advances from the Contingencies Fund.

Issue and
appropriation
of
£230,600
from Con-
solidated
Revenue
Fund for
Contin-
gencies
Fund.
1963, Nos. 2
and 18;
1964, No. 7.

2. This act may be cited as the Supplementary Appropriation (1963-64) (No. 2) Act, 1964, and shall apply throughout the Federation.

Short title
and
extent.

NATIONAL PROVIDENT FUND ACT, 1964



ARRANGEMENT OF SECTIONS

Section

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Additional representation on Advisory Council from new Regions. 2. Liability of employer to pay certain moneys into the Fund. 3. Member may receive further benefit in certain cases. | <ol style="list-style-type: none"> 4. National Provident Fund Committee and sub-committee. 5. Failure to produce certain records an offence. 6. Miscellaneous amendments. 7. Short title, citation and application. |
|--|---|

1964, No. 17

AN ACT TO AMEND THE NATIONAL PROVIDENT FUND ACT, 1961.

[1st May, 1964]

Commencement.

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) If before or after the passing of this Act further Regions are created and the like representation on the Advisory Council as constituted under section eight of the National Provident Fund Act 1961 (in this Act referred to as "the principal Act") as is accorded to other Regions is desired by any such Region, the Minister may by order in the Gazette amend the Constitution of that Council to the extent necessary to give effect to such desire and the First Schedule to the principal Act shall have effect accordingly, so however that the total membership of the Advisory Council shall not at any one time exceed twenty-five; and if the membership is increased under this subsection the Minister may, by the same or any other order, fix a quorum for any meeting.

Additional representation on Advisory Council from new Regions.

(2) Where the said First Schedule is amended under the foregoing subsection and persons are appointed to membership, they shall have all the powers of members of the Advisory Council and the provisions of the principal Act as to payment of expenses and allowances of members shall be so construed and have effect.

Liability of employer to pay certain moneys into the Fund.
1961 No. 20.

Member may receive further benefit in certain cases.

National Provident Fund Committee and sub-committee.

2. It is declared for the avoidance of doubt that where by the principal Act an employer is required to deduct a worker's contribution and pay it into the Fund within a prescribed time, the employer shall pay into the Fund at the same time his own contribution as an employer of the worker concerned; and section thirteen of the principal Act (which requires an employer to deduct a worker's contribution for payment into the Fund) shall be construed accordingly.

3. If a member receives a benefit under the principal Act and at any time thereafter qualifies for a further benefit he shall, to the extent to which he still has moneys in the Fund and notwithstanding anything to the contrary in section twenty-eight of the principal Act (which imposes restrictions on double grant or benefit), be entitled to such further benefit although he may not have again become a contributor.

4.—(1) There shall be a committee to be known as the National Provident Fund Investment Committee (hereafter called "the investment committee") for the control of investment of moneys in the Fund not required for the acquisition of property of any description under the principal Act; and the investment committee shall consist of one member from each Region to be appointed by the Minister on the nomination of the Minister in that Region charged with responsibility for finance, and the following representatives or holders of office appointed by the Minister as Federal territory members that is to say,—

- (a) one fit officer of the Federal Ministry of Finance,
- (b) one fit officer of the Central Bank of Nigeria nominated by the Governor of that Bank, and
- (c) the Director.

(2) Regional members appointed under the foregoing subsection shall hold office for a period of two years, or if appointed by office then during the tenure of such office, but with that reservation they shall be eligible for reappointment; and Federal territory members so appointed shall hold office during the continuance of their employment in the Federal territory, but may be removed from office by the Minister without the necessity for assigning any reason.

(3) The persons who, immediately before the commencement of this Act were members of the investment committee, shall be deemed to have been reappointed by the Minister under this subsection as Federal territory members of the investment committee; and members so reappointed or, as the case may be, appointed as Federal territory members by the Minister shall, while they continue to be employed in the Federal territory, comprise the sub-committee referred to in the next following subsection.

(4) The every day business of investment under this Act shall be transacted by the Federal territory members who shall comprise a sub-committee of the investment committee for the purpose and be responsible only to the Minister. The Minister shall appoint a date for the first report to the investment committee, and thereafter the sub-committee shall at intervals of not more than three months report to the investment committee on investments made by the sub-committee under its powers conferred by this subsection.

(5) Moneys for investment shall be invested only in securities in Nigeria authorised by the Trustee Investment Acts 1957 and 1962, and unless the Minister, after consultation with the Federal Minister charged with responsibility for finance otherwise directs, investments shall be restricted to securities created or issued by or on behalf of the Government of the Federation. In the application of this subsection, the question whether the Minister has in any case so acted and whether he has received such advice shall not be enquired into by any court.

of 1962,
No. 13.

(6) Subject to the provisions of this section the investment sub-committee may, and if required by the investment committee shall, from time to time give directions either generally or specially as to the investment of any moneys held for such purpose; and for the guidance of the investment committee or of the sub-committee as the case may require, the Director shall give such information as to moneys in the Fund and other matters as the investment committee or the sub-committee may reasonably require.

(7) The investment committee and the sub-committee of the investment committee may each regulate its own procedure at meetings and appoint their respective chairman. Meetings of the investment committee shall be held as often as the Minister by notice in writing to the chairman may direct or require; but meetings of the investment sub-committee shall be held at such times and places as the chairman may appoint. If either chairman is absent, or refuses or is unwilling to act, the Minister may appoint a time and place for a meeting, and may nominate the chairman for the meeting.

(8) In the absence of the Director he may nominate some other officer of the Fund to attend meetings; and any officer so-nominated shall, for any meetings attended be deemed to be a member of the investment committee or of the sub-committee, as the case may be.

(9) A Regional member may be removed from office for incompetence or inability to act if his nominator so directs the Minister, or a Regional member may resign his office by notice in writing to the Minister under this Act; and while they continue in office, regional members attending meetings of the investment committee shall be paid out of the Fund such expenses and allowances as the Federal Minister charged with responsibility for finance may from time to time approve.

5. Section thirty-five of the principal Act (which prescribes sundry offences) is amended by adding immediately after subsection (1) a new subsection (1A) as follows—

“(1A) Any employer or other person required to produce to the Fund records of the contributions of a member, who fails without reasonable excuse (the proof whereof shall lie upon him) to produce a quarterly record within three months after the end of the quarter, commits an offence under this Act.”

Failure to
produce
certain
records an
offence.

6. The principal Act is further amended to the extent set out in the Schedule to this Act.

Miscellaneous
amendments.

7.—(1) This Act may be cited as the National Provident Fund Act, 1964 and this Act and the principal Act may be cited together as the National Provident Fund Acts, 1961 and 1964.

Short title
citation and
application.

(2) This Act shall apply throughout the Federation.

SCHEDULE

Section 6

<i>Number</i>	<i>Short title</i>	<i>Extent of amendment</i>
1961 No. 20	The National Provident Fund Act, 1961	In section sixteen by repealing the words "jointly and"; Section twenty-nine is repealed; In section thirty by repealing all words from the commencement as far as the word "section", and by substituting for the marginal note the words "Power to purchase land, etc."



ARRANGEMENT OF SECTIONS

Section

1. Establishment and functions of Nigerian Legion.
2. Management of affairs of Legion.
3. Membership of the Legion.
4. Financial provisions.
5. Annual report.
6. Winding-up of N.E.W.A.

7. Interpretation.
8. Short title, extent and commencement.

SCHEDULES :

First Schedule—Constitutions etc. of councils.

Second Schedule—Enactments repealed.

1964, No. 18

AN ACT TO MAKE FRESH PROVISION WITH RESPECT TO THE WELFARE OF EX-SERVICEMEN ; AND FOR PURPOSES CONNECTED THEREWITH.

[See section 8 (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 :—

1.—(1) There shall be established, as the successor of the Nigerian Ex-Servicemen's Welfare Association, an association to be known as the Nigerian Legion, which shall be a body corporate by the name aforesaid and of which every ex-serviceman shall be entitled to be a member.

Establish-
ment and
functions of
Nigerian
Legion.

(2) The Legion shall be charged with the general function of promoting the welfare of ex-servicemen and comradeship among ex-servicemen.

(3) For the purpose of performing the general function aforesaid it shall in particular be the duty of the Legion to take such steps as it considers to be appropriate and within its resources with a view to—

- (a) raising money for the purposes of the Legion ;
- (b) affording help, either by way of grants of money or otherwise, to ex-servicemen appearing to the Legion to be in need of assistance ;
- (c) establishing and maintaining hostels for ex-servicemen appearing to the Legion to be incapacitated by old age or illness ; and
- (d) providing centres at which advice on matters affecting their interests may be obtained by ex-servicemen.

References in this subsection to ex-servicemen include references to members of the families of ex-servicemen and of deceased ex-servicemen.

(4) The Legion shall have power to do such things as it considers expedient for the purpose of performing its functions, so however that the Legion shall not, without the previous consent in writing of the Minister,—

- (a) dispose of or charge any land held for the purposes of the Legion, or any interest in land so held ; or
- (b) borrow money ; or
- (c) enter into a contract to employ any person.

(5) The Minister may from time to time give to the Legion directions in writing with respect to the performance of its functions ; and it shall be the duty of the Legion to comply with the directions.

Management of affairs of Legion.

2.—(1) There shall be established for the purposes of the Legion a national council as respects the Federation and local councils as respects each territory within the meaning of the Constitution of the Federation ; and the provisions of the First Schedule to this Act shall have effect with respect to the constitutions of those councils and the other matters there mentioned.

(2) Subject to the provisions of subsections (3) to (6) of this section, the affairs of the Legion shall be managed by the national council, and references to the Legion in this Act shall be construed accordingly ; and without prejudice to the generality of the foregoing provisions of this subsection—

(a) any thing falling to be done by or to the Legion shall be done by or to the national council on behalf of the Legion, or by or to such person acting as the representative of the national council as that council may determine ; and

(b) in particular, any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Legion by any person generally or specially authorised to act for that purpose by the national council.

(3) Subject to any directions given by the Minister in pursuance of this Act, the national council may charge a regional council established by this Act or the Lagos council with the performance, in accordance with such conditions as the national council may specify, of any of the functions of the national council falling to be performed within the territory in question.

(4) Subject to any such directions as aforesaid, a regional council may charge the council of any area into which the relevant Region is divided in pursuance of the First Schedule to this Act with the performance, in accordance with such conditions as the regional council may specify, of any of the functions of the regional council falling to be performed within the area in question.

(5) Subject to any such directions as aforesaid, the Lagos council and an area council established by this Act may charge the council of any sub-area into which the Federal territory or, as the case may be, the relevant area is divided in pursuance of the First Schedule to this Act with the performance, in accordance with such conditions as the Lagos or area council may specify, of any of the functions of the Lagos or area council falling to be performed within the sub-area in question.

(6) If it appears to the Minister that any council established by this Act has failed to carry on its activities in a proper manner, he may by order provide that all the functions of that council, or such of those functions as may be specified by the order, shall be exercisable by the Minister or by such other person as may be specified by the order, to the exclusion of that council, during such period as may be so specified ;

and an order under this subsection may require the making of payments to the Minister or the other person aforesaid, out of the fund established in pursuance of this Act, of such amounts specified by the order as the Minister considers appropriate for the purposes of the functions to which the order relates.

3.—(1) A person shall be a member of the Legion if—

(a) he applies to the Legion in the prescribed manner to be enrolled as such a member; and

(b) he satisfies the Legion that he is an ex-serviceman.

(2) It shall be the duty of the Legion—

(a) to establish and maintain a list of the persons who are for the time being members of the Legion; and

(b) to make arrangements for the issue to each member of the Legion of a membership card in the prescribed form bearing a photograph of the member to whom it is issued and stating his name and such other particulars (if any) as may be prescribed.

Membership
of the
Legion.

4.—(1) The Legion shall establish and maintain a fund from which there shall be defrayed all expenditure incurred by the Legion.

Financial
provisions.

(2) There shall be paid or credited to the fund—

(a) such sums out of moneys provided by Parliament as Parliament may from time to time determine; and

(b) the assets of the association mentioned in section six of this Act which are transferred to the Legion in pursuance of that section; and

(c) all other assets from time to time accruing to the Legion.

(3) The fund shall be managed in accordance with rules made by the Minister and the Minister of the government of the Federation responsible for finance, acting jointly; and, without prejudice to the generality of the power to make rules conferred by this subsection, the rules shall in particular include provision—

(a) specifying the manner in which the assets of the fund are to be held and regulating the making of payments to and from the fund;

(b) requiring the keeping of proper accounts and records for the purposes of the fund in such form as may be specified by the rules;

(c) for securing that the accounts are audited periodically by an auditor appointed by the Ministers aforesaid, acting jointly;

(d) requiring copies of the accounts and of the auditor's report on them to be furnished to the Minister as soon as may be after the end of the period to which the accounts relate; and

(e) requiring the Minister to lay before each House of Parliament copies of all accounts and reports received by him in pursuance of the last foregoing paragraph.

5. It shall be the duty of the Legion to furnish to the Minister, as soon as may be after the end of each year, a report on the activities of the Legion during that year; and the Minister shall lay before each House of Parliament a copy of each report received by him in pursuance of this section.

Annual
report.

Winding-up
of N.E.W.A.

Cap. 136.

Interpreta-
tion.

Short title,
extent and
commence-
ment.

6.—(1) The Minister shall by order provide for the winding-up of the affairs of the association established by the Nigerian Ex-Servicemen's Welfare Association Act and for the transfer to the Legion of the assets and liabilities of the association; and an order made in pursuance of this subsection may contain such incidental and supplementary provisions as the Minister considers expedient for the purposes of the order.

(2) When it appears to the Minister that the affairs of the said association have been wound up, he shall by order declare the association to be dissolved on such day as may be specified by the order; and the enactments mentioned in the first and second columns of the Second Schedule to this Act are hereby repealed on the day so specified to the extent shown in the third column of that Schedule.

7. In this Act, except so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“ex-serviceman” means a person of African race who is normally resident in Nigeria and who is not a whole-time member of the armed forces of the Federation but has been either such a member or a whole-time member at any time before the first day of October, 1963, of the armed forces of the Crown;

“functions” includes powers and duties;

“the Lagos council” means the council established in respect of the Federal territory by paragraph 4 of the First Schedule to this Act;

“the Minister” means the Minister of the government of the Federation charged with responsibility for ex-servicemen;

“prescribed” means prescribed by regulations; and

“regulations” means regulations made by the Minister.

8.—(1) This Act may be cited as the Nigerian Legion Act, 1964, and shall apply throughout the Federation.

(2) The provisions of this Act shall come into force on such day as the Minister may by order appoint, and different days may be appointed in pursuance of this subsection as respects different provisions.

SCHEDULES

Section 2.

FIRST SCHEDULE

Constitutions etc. of councils

Area and sub-area councils

1. The Minister may by order make provision for dividing each Region into areas, and each such area and the Federal territory into sub-areas, for the purposes of this Act.

2.—(1) There shall be established in respect of each sub-area a council consisting of such number of members as the Minister may by order specify for that sub-area, who, subject to the provisions of this Schedule, shall be elected by ex-servicemen resident in the sub-area from among their own number.

(2) Each sub-area council shall select a chairman of the council from among the members of the council.

3.—(1) There shall be established in respect of each area a council consisting of—

(a) the chairmen of the councils of the sub-area into which the area is divided ; and

(b) such number of other members as the Minister may by order specify for that area, who, subject to the provisions of this Schedule, shall be elected by ex-servicemen resident in the area from among such of their own number as are not members of a sub-area council.

(2) Each area council shall select a chairman of the council from among the members of the council.

Councils for the Regions and Lagos

4.—(1) There shall be established in respect of each Region and the Federal territory respectively a council consisting, in the case of a Region, of the chairmen of the councils of the areas into which the Region is divided and, in the case of the Federal territory, of—

(a) the chairmen of the councils of the sub-areas into which the territory is divided ; and

(b) such number of other members as the Minister may by order specify for the territory, who, subject to the provisions of this Schedule, shall be elected by ex-servicemen resident in the territory from among such of their own number as are not members of a sub-area council.

(2) Each council established by this paragraph shall select a chairman of the council from among the members of the council.

The national council

5.—(1) There shall be established in respect of the Federation a council, to be known as the National Council of the Nigerian Legion, consisting of the following members, that is to say—

(a) two ex-servicemen nominated by the Minister ;

(b) the chairmen of the regional councils and the Lagos council ;

(c) six members of the regional council for Northern Nigeria selected by that council ;

(d) four members of the regional council for Eastern Nigeria selected by that council ;

(e) two members of the regional council for Western Nigeria selected by that council ;

(f) two members of the regional council for Mid-Western Nigeria selected by that council ; and

(g) two members of the Lagos council selected by that council.

(2) The Minister shall designate one of the two members of the national council nominated by him as the chairman of the council and the other of them as the vice-chairman of the council.

Elections

6.—(1) Provision may be made by regulations for the election of those members of councils who are required to be elected by ex-

servicemen, and, without prejudice to the generality of the powers conferred by the foregoing provisions of this paragraph, the regulations may provide—

(a) for the preparation of lists of ex-servicemen qualified in accordance with the regulations to vote at elections;

(b) for the delimitation of electoral wards;

(c) for the nomination of candidates and for securing that no person is a candidate for election as a member of more than one council;

(d) for the conduct of polls;

(e) for declaring an election void as respects a council or an individual candidate; and

(f) for the determination of questions arising in connection with an election.

(2) Regulations made in pursuance of this paragraph shall contain provision for ensuring that elections of members of councils are held at such time (not being earlier than the beginning of the period of three months ending with the time when existing members vacate office by the effluxion of time in pursuance of sub-paragraph (2) of the next following paragraph) as to secure that the results of the elections are, so far as practicable, declared before existing members vacate office as aforesaid.

(3) Nothing in the foregoing provisions of this Schedule shall be construed as preventing a person from being a candidate at an election held in pursuance of this Schedule by reason only of the fact that he is an existing member of a council.

Tenure of office

7.—(1) A person elected as a member of a council before the expiration of the year nineteen hundred and sixty-five shall take office as such a member at such time as may be prescribed; and a person so elected after the expiration of that year shall take office with effect from the time at which former members of the council in question last vacated office in pursuance of the next following sub-paragraph.

(2) All persons who, immediately before the expiration of the year nineteen hundred and sixty-six, hold office as members of councils shall vacate office at the expiration of that year; and all persons holding office as such members immediately before the expiration of the period of three years beginning with the first day of January, nineteen hundred and sixty-seven, or of any period beginning with that day which is a multiple of three years, shall vacate office on the expiration of that period.

(3) A member of a council (other than a person who is such a member by virtue of his being the chairman of another council) may at any time resign his office by notice in writing to the council.

(4) If it appears to the Minister, after such enquiry as he thinks fit, that a member of a council is incapable by reason of illness of performing the duties of his office or has conducted himself in such a manner as to be unfit to continue as a member of the council, the Minister may, by notice in writing to the council, declare the office of that member to be vacant.

(5) Regulations may provide for the filling of the office of a member of a council which has become vacant otherwise than by virtue of sub-paragraph (2) of this paragraph.

Proceedings of councils

1964, No. 1.

8.—(1) Subject to the provisions of section twenty-six of the Interpretation Act, 1964 (which provides for the decisions of a statutory body to be taken by a majority of the members of the body and for the person presiding at a meeting of such a body to have a second or casting vote), the national council, each regional council and the Lagos council respectively shall make standing orders with respect to its proceedings.

(2) In exercising the power to make standing orders conferred by the foregoing sub-paragraph—

(a) the national council shall comply with any directions given to it in that behalf by the Minister; and

(b) a regional council and the Lagos council shall comply with any directions given to it in that behalf by the national council;

but nothing in this sub-paragraph shall be construed as derogating from the generality of subsection (5) of section one of this Act.

(3) Each regional council shall make standing orders with respect to the proceedings of the councils of the areas and sub-areas into which the relevant Region is divided in pursuance of this Schedule, and the Lagos council shall make standing orders with respect to the proceedings of the councils of the sub-areas into which the Federal territory is so divided.

(4) A council may, subject to the provisions of any standing orders having effect as respects the council, regulate its own procedure.

9. The quorum of the national council shall be twelve, and the quorum of any other council shall be equal to one third of the members of the council (any vacancy being treated as filled and any fraction being disregarded).

10.—(1) Subject to the provisions of any standing orders of the council, a council shall meet whenever it is summoned by its chairman; and if the chairman is required so to do by notice given to him by a number of members of the council who constitute a quorum, he shall summon a meeting of the council to be held within seven days from the date on which the notice is given.

(2) At any meeting of a council its chairman shall preside while he is present, but if he is absent the members of the council present at the meeting shall select one of their number to preside at that meeting during his absence, so however that the vice-chairman of the national council shall, while he is present at a meeting of the council when its chairman is absent, preside at that meeting.

(3) Notwithstanding anything in the last two foregoing paragraphs or the foregoing provisions of this paragraph, the first meeting of each council shall be summoned in the prescribed manner and provision shall be made by regulations as to the person who shall preside and the procedure which shall be followed at that meeting.

11.—(1) At every meeting of a council there shall be recorded in the prescribed form minutes of the proceedings at the meeting.

(2) Copies of the minutes of a meeting of the national council, a regional council and the Lagos council shall, before the expiration of the period of fifteen days beginning with the date of the meeting, be furnished by the council in question to the Minister and—

(a) in the case of a meeting of a regional council, to the Premier of the Region in question and to the national council; and

(b) in the case of a meeting of the Lagos council, to the national council.

Miscellaneous

12. The validity of any proceedings of a council shall not be affected by any vacancy in the membership of the council, or by any defect in the appointment of a member of the council, or by reason that a person not entitled to do so took part in the proceedings.

13. Any member of a council who has a personal interest in any matter proposed to be considered by the council shall disclose his interest to the council and, in so far as the standing orders of the council so provide, shall not vote on any question relating to that matter.

14. In this Schedule, except so far as the context otherwise requires, "council" means any council established by this Schedule.

Section 6.

SECOND SCHEDULE

Enactments repealed

<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal</i>
Cap. 157 of the 1948 edition of the Laws of Nigeria.	The Nigerian Ex-Servicemen's Welfare Association (Vesting of Certain Charitable Funds) Act.	The whole Act.
L.N. 131 of 1954.	The Adaptation of Laws Order, 1954.	Sub-paragraph (1) of paragraph 2 in its application to chapter 157 of the said edition of 1948, and so much of the Third Schedule as relates to that chapter.
Cap. 136.	The Nigerian Ex-Servicemen's Welfare Association Act.	The whole Act.
L.N. 257 of 1959.	The Transfer of Functions (Lagos) Order, 1959.	So much of the First Schedule as relates to chapter 156 of the said edition of 1948.
No. 42 of 1960.	The Nigerian Ex-Servicemen's Welfare Association (Amendment) Act, 1960.	The whole Act.
1961, No. 67.	The Nigerian Ex-Servicemen's Welfare Association (Amendment) Act, 1961.	The whole Act.
L.N. 47 of 1961.	The Adaptation of Laws (Miscellaneous Provisions) Order, 1961.	So much of the Schedule as relates to chapter 136.

INSURANCE (MISCELLANEOUS PROVISIONS) ACT, 1964



1964, No. 19

AN ACT TO PROVIDE FOR THE INVESTMENT IN NIGERIAN SECURITIES, BY PERSONS CARRYING ON BUSINESS AS INSURERS IN NIGERIA, OF CERTAIN ASSETS OF THE BUSINESS; TO MAKE FURTHER PROVISION AS RESPECTS CERTAIN CONTRACTS OF INSURANCE; AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[See section 7 (3)]

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) A contract of insurance to which this section applies shall be void in so far as it makes provision for compensation in respect of local risks unless the party undertaking to pay the compensation is a Nigerian company.

Additional
provisions
as respects
insurance
against local
risks.

(2) Where a person has, as a principal and not as a servant or agent, received in any financial year payments by way of premium made in respect of any period under contracts of insurance to which this section applies he shall, subject to the next following subsection, take such steps as may be necessary to secure that at all times during the next following financial year he is the owner of Nigerian investments which are free from encumbrances and equal in value to not less than two-fifths of such proportion of the aggregate amount of those payments as is attributable in accordance with insurance practice to local risks; and in calculating that proportion there shall be deducted the proportion so attributable to the local risks in question of the aggregate amount of any payments by way of premium made by that person under contracts of re-insurance in respect of the same period or any part of it.

(3) A person who owns Nigerian investments in pursuance of the last foregoing subsection and who satisfies or proposes to satisfy a claim which—

(a) is made in respect of local risks in pursuance of a contract of insurance to which this section applies, or of such a contract as renewed with or without modifications; and

(b) falls to be treated in accordance with insurance practice as an abnormally large claim,

shall not be treated as failing to comply with the provisions of that subsection if—

(i) he realises or charges such of the investments as is appropriate in accordance with insurance practice for the purpose of satisfying that claim or of replacing moneys used to satisfy it; and

(ii) the period in respect of which he relies on the provisions of paragraph (i) of this subsection in connection with that claim does not exceed thirty days.

(4) A person who fails to comply with the provisions of subsection (2) of this section shall be guilty of an offence and liable on conviction on indictment to a fine of an amount not exceeding one thousand pounds.

(5) This section applies to contracts of insurance made on or after the date when this subsection comes into force, other than contracts of endowment insurance and contracts of such descriptions, if any, as may be prescribed for the purposes of this section.

(6) The foregoing provisions of this section shall come into force on such date as the Minister may by order appoint (not being earlier than the first day of April, one thousand nine hundred and sixty-four), and different dates may be so appointed for different subsections; and subsection (2) of this section shall, as respects the financial year next following that in which that subsection comes into force, have effect as if for the words "two-fifths" there were substituted the words "one-fifth".

2.—(1) A contract of endowment insurance made in Nigeria on or after the date when this section comes into force under which payments by way of benefit are expressed to become payable in respect of an individual who is a citizen of Nigeria at the time when the contract is made shall be void unless—

(a) the party undertaking to make the payments is a Nigerian company; and

(b) the contract is a Nigerian contract of endowment insurance; so however that the foregoing provisions of this subsection shall not apply to a contract of re-insurance if it does not provide for the making of payments corresponding to payments by way of benefit in respect of any individual which in the aggregate are less than, or of less value than, forty thousand pounds.

(2) Every person who, as a principal and not as a servant or agent, carries on endowment insurance business shall take such steps as may be necessary to secure that, on and after the first day of April, one thousand nine hundred and sixty-six, he is the owner of Nigerian investments free from encumbrances which are equal in value to the aggregate of—

Additional
provisions
as respects
endowment
insurance.

(a) the value at the time of the close of business on the thirty-first day of March, one thousand nine hundred and sixty-two, of such of the assets of each relevant fund as are attributable in accordance with insurance practice to Nigerian contracts of endowment insurance; and

(b) the value of such of the assets paid or credited to each relevant fund after the time aforesaid as are so attributable,

reduced by the amount of any payments made out of the relevant fund in question after the time aforesaid for the purpose of satisfying liabilities and expenses so attributable which fall to be satisfied out of that fund in accordance with insurance practice and by the amount of such other payments, if any, as may be prescribed.

In this subsection "relevant fund", in relation to a person carrying on endowment insurance business, means a fund maintained by him to which are paid or credited moneys received by him for the purposes of the business.

(3) In relation to a person who begins to carry on endowment insurance business after the thirty-first day of March, one thousand nine hundred and sixty-two, the references in the last foregoing subsection to that date shall be construed as references to the thirty-first day of March of the year next following that in which he begins to carry on the business.

(4) Where apart from this subsection any amount in respect of payments by way of premium under a contract of endowment insurance would, under the provisions of the Income Tax Management Act, 1961, fall to be deducted in ascertaining, in respect of any year of assessment within the meaning of that Act beginning after the end of the year one thousand nine hundred and sixty-four, the income or loss for income tax purposes of any individual, the amount to be so deducted shall not exceed a sum equal to one-third of the payments in question unless either—

1961,
No. 21.

(a) the contract is a Nigerian contract of endowment insurance; or

(b) the individual furnishes to the Board of Inland Revenue a certificate in the prescribed form issued by the person by whom payments by way of benefit fall to be made in pursuance of the contract stating that the last-mentioned person is, or that that person and any relevant re-insurers together are, the owner of Nigerian investments which are—

(i) free from encumbrances; and

(ii) equal in value to the aggregate of the relevant payments by way of premium or of such proportion of them as may be prescribed; and

(iii) allocated to those payments in accordance with regulations made in pursuance of paragraph (b) of section four of this Act; or

(c) the contract was made before the first day of March, one thousand nine hundred and sixty-four.

In this subsection "relevant re-insurer", in relation to a contract of endowment insurance, means a person who, under a contract of re-insurance relating to the contract of endowment insurance, has undertaken to make payments corresponding to any payments by way of benefit payable under the contract of endowment insurance.

This subsection applies to Lagos only.

(5) A person who fails to comply with the provisions of subsection (2) of this section shall be guilty of an offence and liable on conviction on indictment to a fine of an amount not exceeding one thousand pounds; and a person who issues a certificate for the purposes of paragraph (b) of the last foregoing subsection which he knows to be false in a material particular or recklessly issues such a certificate which is false in a material particular shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine of an amount not exceeding two hundred pounds or both.

Appointment and functions of inspector.

1961,
No. 53.

3.—(1) There shall be an inspector for the purposes of this Act, whose office shall be an office in the department of government for which responsibility is assigned to the Minister and who shall be a person having such qualifications and experience as are appropriate for a person required to perform the functions conferred on the inspector by virtue of this Act; so however that, if the Public Service Commission of the Federation so directs, the person who is the registrar for the purposes of the Insurance Companies Act, 1961, shall also be the inspector for the purposes of this Act.

(2) Provision may be made by regulations as to the functions of the inspector and, without prejudice to the generality of the power to make regulations conferred by the foregoing provisions of this subsection, the regulations may in particular include provision—

(a) requiring copies of records maintained in pursuance of this Act to be furnished to the inspector periodically and on such specific occasions as he may determine;

(b) authorising the inspector to examine and take copies of or extracts from any books or papers appearing to him to be connected with contracts of insurance, and requiring persons having such books and papers in their possession or under their control to produce them for examination by the inspector;

(c) requiring persons appearing to the inspector to be, or to have been, carrying on business as insurers in Nigeria to furnish to him, either orally or in writing as he may direct, any information relating to the business which he may reasonably require them to furnish for the purpose of enabling the inspector to satisfy himself whether provisions of this Act or of regulations have been infringed.

(3) It shall be the duty of the inspector in exercising his functions not to interfere unreasonably with the affairs of persons affected by his activities.

(4) Any power conferred on the inspector by virtue of this Act may be exercised by the inspector in person and by any public officer who produces an instrument signed by the inspector authorising him to exercise that power on behalf of the inspector; and references to the inspector in this section shall be construed accordingly.

Supplementary administrative provisions.

4.—Without prejudice to any other power to make regulations conferred by this Act, provision may be made by regulations—

(a) for securing that a person who is required to own Nigerian investments by virtue of this Act shall maintain in accordance with the regulations a record containing—

- (i) particulars of the investments from time to time owned by him for the purposes of this Act ; and
 - (ii) particulars of the contracts in respect of which the investments are owned ; and
 - (iii) such other particulars, if any, as may be prescribed ;
- (b) for requiring a person who proposes to issue a certificate for the purposes of paragraph (b) of subsection (4) of section two of this Act to secure the allocation of Nigerian investments, in accordance with the regulations, to the payments in respect of which he proposes to issue the certificate ; and
- (c) as to the manner of determining—
- (i) any value falling to be determined for the purposes of this Act ; and
 - (ii) whether a loan is adequately secured for those purposes by a mortgage or charge.

5.—(1) In this Act, "Nigerian investments" means property of any of the following descriptions, that is to say—

Nigerian
investments.

- (a) stock, notes, bonds and other securities issued by the government of the Federation or a Region ;
- (b) stock, shares and debentures issued by a body corporate established directly by a law in force in Nigeria, or issued by a Nigerian company ;
- (c) rights to receive payments by way of interest or dividend which have accrued due in respect of any such securities as are mentioned in the foregoing paragraphs ;
- (d) moneys standing to the credit of any current or deposit account maintained with a branch situated in Nigeria of a licenced bank within the meaning of the Banking Act ;
- (e) moneys standing to the credit of any deposit account maintained with a person who is carrying on business in Nigeria as a building society and is approved by the Minister for the purposes of this paragraph ;
- (f) an estate in fee simple absolute in possession in land in Nigeria, and a term of years absolute in possession in such land ;
- (g) rights to be repaid a loan which is adequately secured by a first mortgage of such an estate or term as is mentioned in the last foregoing paragraph, or by a first charge on machinery or plant situated in Nigeria ;
- (h) rights to receive payments by way of premium which have accrued due under contracts of insurance made in Nigeria ;
- (i) rights to be repaid a loan made in Nigeria to any person in consequence of his being a person who has undertaken to make payments by way of premium under a contract of endowment insurance, and rights to receive payments by way of interest which have accrued due on such a loan ;
- (j) property of such other descriptions, if any, as may be prescribed.

Cap. 19.

(2) Where by virtue of any provision of this Act a person is required to own Nigerian investments of any amount, he shall not be treated as satisfying that requirement unless—

(a) the investments allocated by him to satisfy that requirement include investments of the description mentioned in paragraph (a) of the foregoing subsection equal in value to one quarter of the amount in question; and

(b) the investments so allocated do not include investments of the description mentioned in paragraph (f) of that subsection which exceed in value one-tenth of the amount.

Interpretation, etc.

6.—(1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—

“contract of endowment insurance” means a contract of insurance in which benefit is expressed to become payable on the occurrence of an event or circumstance which is certain to occur, or on the occurrence of any of a number of events or circumstances of which at least one is certain to occur, other than a contract of such description, if any, as may be prescribed for the purposes of this definition;

“endowment insurance business” means the business of undertaking liability to make payments by way of benefit under contracts of endowment insurance in so far as the business is carried on in Nigeria;

“insurance” includes re-insurance, and references to contracts of insurance shall be construed accordingly;

“insurance practice” means normal insurance practice in Nigeria;

“local risk” means an event or circumstance occurring within Nigeria;

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

“Nigerian company” means a company which is formed and registered under the Companies Act or which complies with the provisions of subsection (1) of section two hundred and thirty-nine of that Act (which relate to companies incorporated outside Nigeria which establish places of business within Nigeria) and includes, except in section five of this Act, an association of underwriters registered under the Insurance Companies Act, 1961, and any member of such an association;

“Nigerian contract of endowment insurance” means a contract of endowment insurance which provides that all payments falling to be made in pursuance of the contract shall be payable in Nigerian money only;

“prescribed” means prescribed by regulations; and

“regulations” means regulations made by the Minister;

and references in this Act to payments by way of benefit under a contract of endowment insurance shall be construed, in relation to such a contract which is a contract of re-insurance, as references to payments under the contract of re-insurance corresponding to payments by way of benefit.

(2) For the avoidance of doubt it is hereby declared that where a contract of insurance is renewed, the renewal constitutes a new contract of insurance for the purposes of this Act.

(3) Nothing in this Act shall be construed as purporting to affect any insurance undertaken by the government of a Region which does not extend beyond the limits of the Region.

7.—(1) This Act may be cited as the Insurance (Miscellaneous Provisions) Act, 1964.

Short title,
extent,
commence-
ment and
repeals.

(2) Except as provided by subsection (4) of section two of this Act, this Act shall apply throughout the Federation.

(3) Subject to the provisions of subsection (6) of section one of the Act, this Act shall come into force on such date as the Minister may by order appoint.

(4) Section twenty-eight of the Insurance Companies Act, 1961, and paragraph (b) of subsection (2) of section forty-four of that Act (which contain provisions for requiring insurance companies to invest a percentage of their profits in Nigeria) are hereby repealed.

BILLS OF EXCHANGE ACT, 1964



1964, No. 20

AN ACT TO AMEND THE LAW RELATING TO BILLS OF EXCHANGE ; AND FOR PURPOSES CONNECTED THEREWITH.

[See section 5 (2)]

Commencement.

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) Where a banker, in good faith and in the ordinary course of business, pays a prescribed instrument drawn on him to a banker, he does not in doing so incur any liability by reason only of the absence of, or irregularity in, endorsement of the instrument and—

Payment by bankers of unendorsed cheques and other instruments.

(a) in the case of a cheque, he is deemed to have paid it in due course ;

(b) in the case of any other prescribed instrument, the payment discharges the instrument ;

(2) A prescribed instrument which is unendorsed but appears to have been paid by the banker on whom it is drawn is evidence of the receipt by the payee of the sum mentioned in the instrument.

(3) For the purposes of subsection (1) of section sixty of the Bills of Exchange Act (which provides that in certain circumstances a cheque shall be deemed to be paid in due course though its endorsements are forged or unauthorised), a document payable to order which is a prescribed instrument by virtue of paragraph (b) of subsection (1) of section four of this Act shall be deemed to be a bill payable to order on demand.

Cap. 21.

2.—(1) A banker who gives value for, or has a lien on, a cheque payable to order which the payee delivers to him for collection either without endorsing it or without endorsing it regularly has such rights, if any, as he would have had if upon delivery the payee had endorsed it regularly in blank.

Protection of collecting bankers.

(2) Where a banker, in good faith and without negligence,—

(a) receives payment for a customer of a prescribed instrument to which the customer has no title or a defective title ; or

(b) having credited the customer's account with the amount of such a prescribed instrument, receives payment of the instrument for himself,

the banker does not incur any liability to the true owner of the instrument by reason only of his having received payment of it; and a banker is not to be treated for the purpose of this subsection as having been negligent by reason only of his failure to concern himself with the absence of, or irregularity in, endorsement of a prescribed instrument of which the customer in question appears to be the payee.

(3) Section eighty-two of the Bills of Exchange Act (which contains provisions as to crossed cheques which are included in the provisions of subsection (2) of this section) is hereby repealed.

Extension of enactments relating to crossed cheques.

3. The provisions of the Bills of Exchange Act relating to crossed cheques shall, so far as applicable, have effect in relation to a prescribed instrument other than a cheque as those provisions have effect in relation to a cheque.

Interpretation, etc.

4.—(1) In this Act "prescribed instrument" means any of the following instruments, that is to say—

(a) a cheque;

(b) a document issued by a customer of a banker which is not a bill but is intended to enable a person to obtain payment from the banker of the sum mentioned in the document;

(c) a draft drawn by a banker upon himself and payable on demand at an office of his bank.

(2) This Act shall be construed as one with the Bills of Exchange Act, so however that references in this Act to a payee do not include references to an endorsee under a special endorsement.

(3) Nothing in this Act shall make negotiable an instrument which apart from this Act is not negotiable.

Short title, extent and commencement.

5.—(1) This Act may be cited as the Bills of Exchange Act, 1964, and shall apply throughout the Federation.

(2) This Act shall come into force on such day as the Minister of the government of the Federation responsible for finance may by order appoint.



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1964, No. 21

AN ACT TO MAKE OTHER PROVISION FOR THE ESTABLISHMENT, GOVERNMENT AND DISCIPLINE OF THE NIGERIAN NAVY AND OF THE NAVAL RESERVE AND TO PROVIDE FOR OTHER MATTERS CONNECTED THEREWITH OR ANCILLARY THERETO.

[Section 216 (1)]

Commence-
ment.

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

PART I.—ESTABLISHMENT OF NAVY

1.—(1) There shall be established and maintained in and for the Federal Republic a naval force to be known as the Nigerian Navy (hereafter in this Act referred to as "the navy") which shall consist of such establishments as the President may, acting in accordance with the advice of the Council of Ministers, think fit, and such numbers of ships and other vessels, officers, non-commissioned officers and men as the navy board as constituted under this Act may, from time to time, prescribe.

Establish-
ment, etc.,
of navy.

(2) The navy shall be charged with—

- (a) the naval defence of Nigeria;
- (b) the duty of assisting in the enforcement of the customs laws of Nigeria;
- (c) the making of hydrographic surveys;
- (d) training in naval duties; and
- (e) such other duties as the Council of Ministers may from time to time direct.

(3) It is hereby declared that the authority created by this Act to establish and maintain a naval force shall include authority to raise and maintain units of or including women and accordingly the provisions of this Act shall apply to women subject to section one hundred and ninety-five and to such modifications and adaptations as the President may by order specify from time to time.

(4) The navy shall not form part of the public service of the Federation.

2. There shall be established and maintained a naval reserve consisting of such numbers of officers and ratings who are transferred to it on completion of their period of service in the navy and of such others as may be prescribed.

Establish-
ment of
naval reserve.

PART II.—ESTABLISHMENT OF NAVY BOARD

3.—(1) Subject to the provisions of subsection (2) of this section, there shall be established a board to be known as the Navy Board (in this Act referred to as "the board") which shall be responsible under the general authority of the Minister for matters relating to the command, discipline and administration of, and all other matters relating to, the navy.

Establish-
ment of
navy board.

(2) Notwithstanding the provisions of the preceding subsection, the board shall have no responsibility for the operational use of the navy and responsibility for any such use shall be vested in the commander subject to the overall directions of the Council of Ministers :

Provided that the Prime Minister may give to the commander such directions with respect to the operational use of the navy in Nigeria for the purpose of maintaining and securing public safety and public order, notwithstanding that the directions of the Council of Ministers have not been obtained, and the commander shall comply with those directions accordingly.

Membership
of board.

4.—(1) Membership of the board shall consist of—

- (a) the Minister, who shall be the chairman of the board ;
- (b) the Minister of State responsible for the navy ;
- (c) the commander ;
- (d) the permanent secretary of the Ministry responsible for defence, who shall also be the secretary of the board ; and
- (e) such other persons as the Prime Minister may appoint.

(2) The chairman may from time to time nominate any member of the board to perform the duties of the chairman at any meeting of the board at which the chairman is absent and such nomination may be either general or in respect of a particular occasion.

Powers of
board.

5. The board may provide for all or any of the following matters—

- (a) the organisation of the work of the board and the manner in which it shall perform its functions and the duties and responsibilities of the members thereof ;
- (b) the delegation by notification in the Gazette to any member of the board of any of the powers or duties of the board ;
- (c) the consultation by the board with persons other than members thereof ; and
- (d) the procedure to be followed by the board in conducting its business.

PART III—ADMINISTRATION AND GOVERNMENT

Command

Command of
the navy.

6.—(1) The President on the advice of the Prime Minister may appoint such officer (in this Act referred to as "the commander") as he thinks fit, in whom the command of the navy and the naval reserve shall be vested and, subject to the terms of his appointment and to such directions in relation to the operational use of the navy as may be given under subsection (2) of section three of this Act, the commander shall have the command, direction and general superintendence of the navy and the naval reserve.

(2) The Prime Minister before tendering advice shall consult with the board, but the question as to whether any consultation was held or what happened in the course of a consultation, shall not be enquired into by any court.

7. In so far as powers of command depend on rank, a member of any army or air force unit who is acting together with any naval unit (either with or without his unit or any part of it) shall have the like powers as a member of the navy of corresponding rank; and for the purposes of sections forty-four, forty-five and eighty-five of this Act any such member of an army or air force unit shall be treated as if he were a member of the navy of corresponding rank.

Powers of command of members of co-operating army or air force units.

8.—(1) Any member of the navy may be attached temporarily to the army or the air force by order of the competent naval authority.

Attachment of members of the navy to the army or air force.

(2) Regulations made by the appropriate service authorities may prescribe circumstances in which officers, chief petty officers, petty officers and men of the navy shall be deemed to be attached to the army or the air force, as the case may be, under the last foregoing subsection.

(3) In this section the expression "appropriate service authorities" means—

(a) in relation to attachment to the army, the Nigerian Army Council and the board; and

(b) in relation to attachment to the air force, the Nigerian Air Council and the board.

(4) A person shall not cease to be subject to naval law under this Act by reason only of attachment in pursuance of this section.

9.—(1) The Minister may by order direct that this section shall apply to any military, naval, or air force of a country (other than Nigeria) and where the Minister so directs the application of this section, the board—

Attachment of personnel and powers of command.

(a) may attach temporarily to the navy any member of the foreign country to which the other force belongs; or

(b) subject to anything to the contrary in the conditions applicable to his service, may place any member of the navy at the disposal of the service authorities of a foreign country for the purpose of being attached temporarily by those authorities to the foreign force or force of that country.

(2) Where a member of a foreign force is by virtue of this section attached temporarily to the navy as an officer or rating as the case may be he shall, for the period of attachment, be subject to this Act to the extent to which its application to him is not modified by any order which the Minister may make under this subsection, in like manner as if he were a member of the navy of relative rank; and accordingly he shall be so treated and have like powers of command and punishment over members of the navy.

(3) When the navy and a foreign force to which this section applies are serving together whether alone or not—

(a) any member of the foreign force shall be treated and shall have over members of the navy the like powers of command as if he were a member of the navy of relative rank; and

(b) if the forces are acting in combination, any officer of the foreign force appointed by the board, or in accordance with regulations made by the board, to command the combined force, or any part thereof, shall have over members of the navy the like powers of command

and punishment and may be invested with the like authority to convene, and confirm the findings and sentences of, courts martial as if he were an officer of the navy of relative rank and holding the same command.

(4) For the purposes of this section, forces shall be deemed to be serving together, or acting in combination if and only if they are by order of the board declared to be so serving or so acting; and the relative rank of members of the navy and of the foreign force shall be such as may be prescribed by regulations made by the board.

Regulations
as to
command.

10. The President may make regulations as to the persons in whom command over the establishments and units or any member thereof is vested and as to circumstances in which such command as aforesaid is to be exercised and, without prejudice to the generality of the foregoing, may in such regulations provide for the duties, functions and powers of the command, its naval staff and officers, chief petty officers, petty officers and ratings.

Officers

Appointment
of officers.

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

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

(3) Every officer on appointment shall be issued with a commission in the form prescribed by regulations made under section fourteen of this Act and signed by the President.

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

Promotion
of officers,
etc.

12. All promotions of officers and any retirement or resignation of an officer shall be notified in the Gazette.

Recall of
officers who
have retired,
etc.

13. An officer who has retired or was permitted to resign may be recalled in an emergency in accordance with regulations made under this Act, and on such recall, shall be liable to serve until he is released or discharged.

Regulations
as to
officers.

14. The President may make regulations governing the commissioning of officers, their terms of service, promotion, retirement, resignation and such other matters concerning officers of the navy as seem to him necessary.

Enlistment and Terms and Conditions of Service

Recruiting
officers.

15. Any person authorised in that behalf by regulations made under this Part of this Act may enlist recruits in the navy.

16.—(1) A person offering to enlist in the navy shall be given a notice in the prescribed form setting out questions to be answered on attestation and stating the general conditions and engagement to be entered into by him, and a recruiting officer shall not enlist any person in the navy unless satisfied by that person that he has given such a notice, understands it and wishes to be enlisted.

Enlistment.

(2) A recruiting officer shall not enlist a person under the apparent age of eighteen years unless consent to the enlistment has been given in writing by his parents or guardian or, where the parents or guardian are dead or unknown, by some persons approved by an administrative officer of the division of the Region or of the Federal territory, as the case may be, in which such person applying for enlistment resides.

17.—(1) The term for which a person enlisting in the navy may be enlisted shall be such a term, beginning with the date of his attestation, as is mentioned in the following provisions of this section.

Terms of enlistment.

(2) Where the person enlisting has apparently attained the age of eighteen years the term of enlistment shall, as may be prescribed, not exceed twelve years and be classed—

(a) as a term of regular service ; or

(b) as to a prescribed part, a term of regular service, and as to the remainder a term of service in the naval reserve.

(3) Where the person enlisting has not apparently attained the age of eighteen years the term shall be a term ending with the expiration of such period not exceeding twelve years as may be prescribed beginning with the date on which he attained such age, and be classed—

(a) as a term of regular service ; or

(b) as to a prescribed part, a term of regular service and as to the remainder, a term of service in the naval reserve.

18.—(1) Any rating before or after completing the term of his regular service may with the approval of the competent naval authority re-engage for such further period or periods of regular service and service in the reserve as may be prescribed :

Re-engagement and continuance in service.

Provided that—

(a) at the expiration of twelve years of continuous regular service from the date of his original attestation or the date when he apparently attained the age of eighteen years, whichever is the later, all reserve service due by him shall be deemed to have been completed ; and

(b) such further period or periods of regular service, together with the original period of regular service, shall not, except as provided by subsections (2) and (3) of this section, exceed a total continuous period of eighteen years of regular service from the date of the rating's original attestation or the date upon which he apparently attained the age of eighteen years, whichever is the later.

(2) Any rating who has completed a period of eighteen years of regular service may, if he so desires and with the approval of the competent naval authority, continue to serve to complete twenty-two years of regular service in all respects as if his term of regular service was still unexpired :

Provided that—

(a) it shall be lawful for him to claim his discharge at the expiration of three months after he has given notice to his commanding officer of his wish to be discharged; and

(b) it shall be lawful for his commanding officer to give him three months notice of intention to discharge him.

(3) Any rating who has completed a period of twenty-two years of regular service may, if he so desires and with the approval of the competent naval authority, continue to serve in all respects as if his term of regular service was still unexpired.

Prolongation
of service.

19. Any rating whose term of regular service expires during a state of war, insurrection, hostilities or public emergency may be retained in the navy and his service prolonged for such further period as the competent naval authority, with the approval of the Minister, may direct.

Discharge and Transfer to the Reserve

Discharge.

20.—(1) Unless otherwise prescribed by this Act, if a rating becomes entitled to be discharged, he shall be discharged with all convenient speed; but until discharged he shall remain subject to naval law under this Act.

(2) If a rating entitled to be discharged is serving out of Nigeria and his term of service is prolonged under this Act, he shall be returned to Nigeria free of cost with all convenient speed, and be discharged on his arrival in Nigeria or, if he consents to his discharge being delayed, within six months from his arrival.

(3) Except in pursuance of the sentence of a court martial under service law, a rating shall not be discharged unless his discharge has been authorised by order of the competent naval authority in accordance with regulations made under this Part of this Act.

(4) Every rating shall be given on his discharge a certificate of discharge containing such particulars as may be prescribed:

Provided that a rating who is discharged within six months of the date of attestation shall not be entitled to receive a certificate of discharge.

(5) A rating who is discharged in Nigeria shall be entitled to be conveyed free of cost from the place where he is discharged to the place stated in his attestation paper to be the place where he was attested or to any place at which he intends to reside and to which he can be conveyed with no greater cost.

Transfer to
the reserve.

21.—(1) Subject to the provisions of this Act, every rating whose term of service requires his transfer to the naval reserve shall, when so due, be transferred to that reserve; but until he is so transferred, he shall remain subject to this Act.

(2) When a rating due for transfer to the naval reserve is serving outside Nigeria he shall be returned to Nigeria free of cost with all convenient speed and be transferred to such reserve on his arrival in Nigeria; or if he consents to his transfer being delayed he shall be so transferred not later than six months from the date of his arrival in Nigeria.

(3) A rating who is transferred to the reserve in Nigeria shall be entitled to be conveyed free of cost from the place where he is transferred to the place stated in his attestation paper to be the place where he was attested or to any place at which he intends to reside and to which he can be conveyed with no greater cost.

(4) Any rating due for transfer to the naval reserve may, instead of being so transferred, be discharged forthwith by a competent naval authority without assigning any reason; and if a rating is so discharged the provisions of section twenty of this Act shall have effect instead of the foregoing provisions of this section.

22. Notwithstanding anything in this Part of this Act—

(a) a rating shall not be entitled to be discharged or transferred to the naval reserve at a time when he has become liable, as a person subject to service law, to be proceeded against for an offence against any of the provisions of service law by way of trial by court martial;

(b) a rating who is serving a sentence of imprisonment or detention awarded by a court martial under service law or by his commanding officer shall not be entitled to be discharged or transferred to the naval reserve during the currency of the sentence.

Postponement of discharge or transfer pending proceedings for offences, etc.

23. Unless there exists a state of war or public emergency or there is an insurrection or hostilities have commenced, if a chief petty officer is reduced to ordinary rating he may thereupon claim to be discharged.

Right of chief petty officer to discharge on reduction to ordinary rating.

24. A rating may be discharged by a competent naval authority at any time during his term of engagement.

Power to discharge.

25.—(1) Subject to the provisions of section nineteen of this Act, a rating may claim his discharge within six months after the date of his first attestation, and if a competent naval authority approves, he shall, on payment of a sum of not more than ten pounds as may be determined by such authority, be discharged accordingly.

Right of rating to purchase discharge.

(2) Nothing in section twenty of this Act shall apply to any such discharge, and until his discharge the rating shall remain subject to naval law under this Act.

Miscellaneous and Supplementary

26.—(1) In reckoning the service of any rating for discharge or re-engagement or transfer to the naval reserve there shall be excluded therefrom—

Rules for reckoning service.

(a) all periods during which he has been absent from duty for any of the following causes—

(i) imprisonment;

(ii) desertion;

(iii) absence without leave exceeding twenty-eight days; and

(b) any period ordered by a court martial to be forfeited.

(2) Regulations under this Part of this Act may make provision for restoring service excluded by the provisions of subsection (1) of this section in consideration of good service or on other grounds justifying the restoration of service so excluded.

Validity of
attestation
and enlist-
ment.

27.—(1) Where a person has upon attestation made the prescribed declaration and thereafter receives pay as a rating—

(a) the validity of his enlistment shall not be called in question on the grounds of any error or omission in his attestation paper;

(b) after the expiration of a period of three months from the date on which he made the said declaration he shall be deemed to have been validly enlisted notwithstanding any non-compliance with the requirements of this Act or any other ground whatsoever (not being an error or omission in his attestation paper);

and accordingly he shall be a rating until his discharge under this Act.

(2) Where a person has received pay as a rating without having previously made the prescribed declaration for enlisting he may claim his discharge at any time; and if he makes such claim, the claim shall be submitted as soon as may be to the competent naval authority who shall cause him to be discharged with all convenient speed. Until he is discharged, he shall be deemed to be a rating.

(3) Nothing in the foregoing provisions of this section shall be construed as prejudicing the determination of any question as to the term for which a person was enlisted or as preventing the discharge of a person who has not claimed his discharge.

Pensions
provisions.
Cap. 119.

28. For the purpose of the Military Pensions Act, service with the navy shall be deemed to be service in the Nigerian Army, and accordingly the provisions of that Act shall apply in respect of members of the navy as they apply to members of the Army, but subject to such modifications as may be prescribed by the Council of Ministers.

Provisions
as to death
or injury.

Cap. 119.

29.—(1) Every officer or rating of the navy to whom the Military Pensions Act applies who in the actual discharge of his duty and without his own default has received wounds or injuries or suffered illness shall, subject to the provisions of section twenty-eight of this Act, be entitled to the like benefits under the Military Pensions Act as are accorded to members of corresponding rank in the Army.

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

(3) For the purpose of this section "family" and "active service" shall have the respective meanings as may from time to time be assigned to these expressions by regulations made under section thirty-one of this Act.

Liability for
service out-
side Nigeria.

30. The President may by order direct that any officer or rating of the navy shall proceed to any place outside Nigeria for the purpose of undergoing instruction or training or for duty or employment.

Interpreta-
tion of, and
power to
make certain
regulations
for, this Part.

31.—(1) In this Part of this Act, "competent naval authority" means any officer designated as such by the board for the purposes of this Part of this Act.

(2) The board with the approval of the Minister may make such regulations as appear to the board to be necessary or expedient for the purpose of, or in connection with, the enlistment of recruits for the navy

and generally for carrying this Part of this Act into effect. Without prejudice to the generality of the foregoing such regulations may make provision—

- (a) for prescribing the form of attestation paper to be used; and
- (b) for an oath or affirmation to be administered on enlistment.

PART IV.—DISCIPLINE AND TRIAL AND PUNISHMENT OF NAVAL OFFENCES

32. The provisions of this Part of this Act as to discipline and offences shall apply only to persons who, for the time being, are subject to this Act, unless the context otherwise requires.

Application.

Misconduct in Action and Assistance to the Enemy

33. Any officer or other person who, being in command of any ship, vessel, aircraft or shore establishment of the navy—

Misconduct
in action by
persons in
command

(a) fails to use his utmost exertion to bring into action any such ship, vessel or aircraft which it is his duty to bring into action;

(b) surrenders any such ship, vessel or aircraft to the enemy when it is capable of being successfully defended or destroyed;

(c) fails to pursue any enemy whom it is his duty to pursue, or to assist to the utmost of his ability any friend whom it is his duty to assist;

(d) in the course of any action by or against the enemy, improperly withdraws from the action or from his station, or fails in his own person and according to his rank to encourage the persons under his command to fight courageously; or

(e) surrenders any such naval establishment, or any part of such establishment to the enemy when it is capable of being successfully defended or when it is his duty to cause it to be destroyed;

shall, if the offence is committed with intent to assist the enemy, be liable to death or any less punishment authorised by this Act, and in any other case shall be liable to imprisonment for any term or to any less punishment provided by this Act.

34. Any person, who not being in command of any ship, vessel, aircraft or shore establishment of the navy, fails when ordered to prepare for action by or against the enemy, or during any such action, to use his utmost exertions to carry the lawful orders of his superior officers into execution shall, if the offence is committed with intent to assist the enemy, be liable to death or any less punishment authorised by this Act, and in any other case shall be liable to imprisonment or to any less punishment provided by this Act.

Misconduct
in action by
other officers
and ratings.

35. Any person who wilfully delays or discourages, upon any pretext whatsoever, any action or service which has been commanded on the part of any of the armed forces of Nigeria, or of any forces co-operating therewith shall, if the offence is committed with intent to assist the enemy, be liable to death or any less punishment authorised by this Act, and in any other case, shall be liable to imprisonment for any term or to any less punishment provided by this Act.

Obstruction
of operations.

Corresponding with, supplying or serving with the enemy.

36. Any person who—

- (a) communicates with or gives intelligence to the enemy;
- (b) fails to make known to the proper authorities any information received by him from the enemy;
- (c) furnishes the enemy with supplies of any description; or
- (d) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever not authorised by international usage;

shall, if the offence is committed with intent to assist the enemy, be liable to death or any less punishment authorised by this Act, and in any other case, shall be liable to dismissal with disgrace from the armed forces of Nigeria or to any less punishment provided by this Act.

Wilful neglect and failure to rejoin forces, etc.

37.—(1) Any person who, through disobedience to orders or wilful neglect of his duty, is captured by the enemy shall be guilty of an offence against this section.

(2) Any person who, having been captured by the enemy, fails to take, or prevents or discourages any other person subject to service law who has been captured by the enemy from taking, any reasonable steps to rejoin the armed forces of Nigeria which are available to him or, as the case may be, to that other person shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court martial, be liable to imprisonment or to any less punishment provided by this Act.

Offences against morale.

38. Any person who—

(a) spreads (whether orally, in writing, by signal or otherwise) reports relating to operations of the armed forces of Nigeria, or of any forces co-operating therewith, or of any part of any of those forces, being reports calculated to create despondency or unnecessary alarm; or

(b) when before the enemy, uses words calculated to create despondency or unnecessary alarm,

shall, on conviction by court martial, be liable to imprisonment or to any less punishment provided by this Act.

Sleeping on watch or abandoning post.

39.—(1) Any person who, being in the presence or vicinity of the enemy or under orders to be prepared for action by or against the enemy, abandons his post improperly or sleeps upon his watch shall, on conviction by court martial, be liable to imprisonment for any term or to any less punishment authorised by this Act.

(2) Any person who, not being in the presence or vicinity of the enemy or under such orders as aforesaid, abandons his post improperly or sleeps upon his watch shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Neglect of duty.

40. Any person who neglects to perform or negligently performs any duty imposed on him shall be liable to dismissal with disgrace from the armed forces of Nigeria or to any less punishment provided by this Act.

Mutiny

41. In this Act "mutiny" means a combination between two or more persons subject to service law, or between persons two at least of whom are subject to service law—

Definition of mutiny.

(a) to overthrow, or resist lawful authority in any of the armed forces of Nigeria or any forces co-operating therewith, or in any part of any of the said forces ;

(b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline, or with the object of avoiding any duty or service against, or in connection with operations against, the enemy ; or

(c) to impede the performance of any duty or service in any of the armed forces of Nigeria or in any forces co-operating therewith, or in any part of any of the said forces.

42.—(1) Any person who—

Offences of mutiny.

(a) takes part in a mutiny involving the use of violence or the threat of the use of violence; or having as its object or one of its objects the refusal or avoidance of any duty or service against, or in connection with operations against the enemy or the impeding of the performance of any such duty or service ; or

(b) incites any person subject to service law to take part in such a mutiny, whether actual or intended, shall, on conviction by court martial, be liable to suffer death or any other punishment provided by this Act.

(2) Any person who takes part in any other form of mutiny or incites some other person subject to service law to take part therein whether such form of mutiny is actual or intended, shall be liable to imprisonment for any term or to any less punishment provided by this Act.

43. Any person who, knowing that a mutiny is taking place or is intended—

Failure to suppress mutiny.

(a) fails to use his utmost endeavours to suppress or prevent it, or

(b) fails to report without delay that the mutiny is taking place or is intended ;

shall, if the offence is committed with intent to assist the enemy, be liable, on conviction by court martial, to death or any less punishment authorised by this Act, and in any other case shall be liable to imprisonment for any term or to any less punishment provided by this Act.

Insubordination and Similar Offences

44. Any person who strikes or otherwise uses violence to, or offers violence to, his superior officer, whether or not that officer is exercising authority as such, shall, on conviction by court martial, be liable to imprisonment for any term or to any less punishment provided by this Act.

Striking superior officer.

45. Any person who—

(a) wilfully disobeys any lawful command of his superior officer (by whatever means communicated to him) ; or

Disobedience or threatening superior officer.

(b) uses threatening or insulting language to, or behaves with contempt to, his superior officer,

shall, on conviction by court martial, be liable to imprisonment or to any less punishment provided by this Act; but if the offence was not committed on active service or did not involve the striking or other use of violence, or offering of violence, to a superior officer exercising authority as such, a sentence of a term of imprisonment shall not exceed two years.

Fighting
and quarrel-
ling.

46. Any person who—

(a) fights or quarrels with any other person, whether subject to this Act or not; or

(b) uses threatening, abusive, insulting or provocative words or behaviour likely to cause a disturbance,

shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years, or to any less punishment provided by this Act.

Obstruction
of provost
officers.

47. Any person who—

(a) obstructs; or

(b) when called on, refuses to assist,

any person known to him to be a provost officer, or to be a person (whether subject to this Act or not) lawfully exercising authority under or on behalf of a provost officer shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Disobedience
to standing
orders.

48.—(1) Any person who contravenes or fails to comply with any provision of orders to which this section applies, being a provision known to him, or which he might reasonably be expected to know, shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

(2) This section applies to naval regulations, standing orders or memoranda, captain's or departmental orders or routine orders of a continuing nature.

Desertion and Absence without Leave

Desertion.

49.—(1) Any person who—

(a) deserts; or

(b) persuades or procures any person subject to service law to desert,

shall, on conviction by court martial, be liable to imprisonment or any less punishment provided by this Act; but a person shall not be liable to be imprisoned for more than two years unless—

(i) if the offence was against paragraph (a) of this subsection, he was on active service or under orders for active service at the time when it was committed; or

(ii) if the offence was against paragraph (b) of this subsection, the person in relation to whom it was committed was on active service or under orders for active service at that time.

(2) In addition to or in lieu of any punishment authorised by subsection (1) of this section, the court martial by whom a rating is convicted of desertion may direct that the whole or part of his service previous to the period as respects which he is convicted of having been a deserter shall, if he is not a reservist called out on permanent service, be forfeited.

(3) For the purposes of this Act a person deserts who—

(a) leaves any of the armed forces of Nigeria or, when it is his duty to do so, fails to join or rejoin any of those forces with (in either case) the intention, subsisting at the time of the leaving or failure or formed thereafter, of remaining permanently absent from his duty; or

(b) being an officer, enlists in or enters any other of the armed forces of Nigeria without having resigned his commission, or being a rating, enlists in or enters in any other of the armed forces of Nigeria without having been discharged from his previous enlistment; or

(c) absents himself without leave with intent to avoid serving at any place outside Nigeria or to avoid service or any particular service when before the enemy,

and references in this Act to desertion shall be construed accordingly.

50. Any person who—

(a) absents himself without leave; or

(b) persuades or procures any person subject to service law to absent himself without leave,

shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Absence without leave, etc.

51. Any person who—

(a) knowingly assists any person subject to service law to desert or absent himself without leave; or

(b) knowing that any person subject to service law has deserted or absented himself without leave, or is attempting to desert or absent himself without leave, fails to report that fact without delay, or fails to take any steps in his power to cause that person to be apprehended,

shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Assisting and concealing desertion and absence without leave.

Navigation and Flying Offences

52. Any person who, either wilfully or by negligence—

(a) causes or allows to be lost, stranded or hazarded any ship or vessel in the Nigerian service, or

(b) causes or allows to be lost or hazarded any aircraft in the Nigerian service,

shall, on conviction by court martial be liable, if he acts wilfully or with wilful neglect, to imprisonment or to any less punishment provided by this Act, and in any other case shall be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Loss or hazarding ship or aircraft

Dangerous
flying, etc.

53. Any person who is guilty of any act or neglect in flying or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall, on conviction by court martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that if the offender has not acted wilfully or with wilful neglect he shall not be liable to be imprisoned for more than two years.

Low flying.

54. Any person who, being the pilot of a Nigerian service aircraft, flies it at a height less than the height from time to time prescribed by regulations made by the board under this Act except while taking-off or alighting, or in such other situation as may be so prescribed shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Annoyance
by flying.

55. Any person who, being the pilot of a Nigerian service aircraft, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Prize Offences

Prize offences
by com-
manding
officers.

56. Any person who, being in command of a Nigerian service ship, vessel or aircraft—

(a) having taken any ship, vessel or aircraft as prize; fails to send to the most convenient High Court in his opinion, in Nigeria all the ship papers or aircraft papers, as the case may be, found on board;

(b) unlawfully makes any agreement for the ransoming of any ship, vessel, aircraft or goods taken as prize; or

(c) in pursuance of any such agreement as aforesaid, or otherwise by collusion, restores or abandons any ship, vessel, aircraft or goods taken as prize,

shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years, or to any less punishment provided by this Act.

Other prize
offences.

57. Any person who—

(a) strikes or otherwise ill-treats any person who is on board a ship, vessel or aircraft when taken as prize, or unlawfully takes from any such person anything in his possession;

(b) removes out of any ship, vessel or aircraft taken as prize (otherwise than for safe keeping or for the necessary use and service of any of the armed forces of Nigeria) any goods not previously adjudged by a High Court in Nigeria to be lawful prize; or

(c) breaks bulk on board any ship, vessel or aircraft taken as prize or detained in exercise of any belligerent right or under any enactment, with intent to embezzle or fraudulently misapply anything therein;

shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

58. Any person who—

Looting.

(a) steals from, or with intent to steal searches, the person of anyone killed or wounded in the course of warlike operations ; or

(b) steals any property which has been left exposed or unprotected in consequence of warlike operations ; or

(c) takes otherwise than for the service of the public any vehicle, equipment or stores abandoned by the enemy,

shall be guilty of looting and liable, on conviction by court martial, to imprisonment or to any less punishment provided by this Act.

Other Offences in respect of Ships and Aircraft

59. Any person who signs a certificate relating to any matter affecting the seagoing or fighting efficiency of any of the Nigerian service ships or vessels or any certificate relating to any of the Nigerian service aircraft or aircraft material without ensuring the accuracy of the certificate shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Inaccurate
certification
of ships, etc.

60. Any person who, being in command of any of the Nigerian service ships, vessels or aircraft, without lawful authority—

Improper
carriage of
goods.

(a) receives or permits to be received on board the ship, vessel or aircraft any goods or merchandise intended for disposal or delivery by way of trade or business (whether on his own account or on account of any other person), not being merchandise received in the course of salvage ; or

(b) agrees to carry any goods or merchandise on board the ship, vessel or aircraft in consideration of the payment of freight, or demands or receives any payment in respect of such carriage,

shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Malingering and Drunkenness

61. Any person who—

Malingering.

(a) falsely pretends to be suffering from sickness or disability ; or

(b) injures himself with intent thereby to render himself unfit or temporarily unfit for service, or causes himself to be injured by any other person with that intent ; or

(c) injures any other person subject to service law, at the instance of that other person, with intent thereby to render that other person unfit or temporarily unfit for service ; or

(d) with intent to render or keep himself unfit or temporarily unfit for service does or fails to do anything (whether at the time of the act or omission he is in hospital or not) whereby he produces, or prolongs or aggravates, any sickness or disability,

shall be guilty of malingering and shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

62.—(1) Any person who is guilty of drunkenness, whether on duty or not, shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act :

Drunken-
ness.

Provided that where the offence is committed by a rating not on active service or on duty, the sentence imposed shall not exceed imprisonment for a period of six months.

(2) For the purpose of this section a person is guilty of drunkenness if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform, or behaves in a disorderly manner or in any manner likely to bring discredit to the armed forces of Nigeria.

Offences relating to Property

Misapplication and destruction of public and service property.

63. Any person who—

(a) steals or fraudulently misapplies any public or service property, or is concerned in or connives at the stealing or fraudulent misapplication of any public or service property; or

(b) receives or retains any public or service property knowing or having reason to believe it to have been stolen or to have been fraudulently misapplied; or

(c) wilfully damages, or is concerned in the wilful damage of, any public or service property; or

(d) by wilful neglect causes damage to any public or service property, shall, on conviction by court martial, be liable to imprisonment or to any less punishment provided by this Act.

Loss and waste of public and service property.

64. Any person who—

(a) loses any public or service property of which he has the charge or which has been entrusted to his care or which forms part of property of which he has the charge or which has been entrusted to his care; or

(b) by negligence damages any public or service property of which he has the charge or which has been entrusted to his care or which forms part of the property of which he has the charge or which has been entrusted to his care; or

(c) by negligence causes damage to any public or service property; or

(d) fails to take proper care of any animal or bird used in the public service which is in his charge; or

(e) makes away (by pawning or in any other way) with any naval decoration granted to him or any clothing, arms, ammunition or other equipment issued to him for his use for naval purposes, shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act:

Provided that it shall be a defence for any person charged under paragraph (a) of this section with losing any property that he took reasonable steps for the care and preservation thereof.

Offences in relation to property of members of forces.

65. Any person who—

(a) steals or fraudulently misapplies any property belonging to a person subject to service law, or is concerned in or connives at the stealing or fraudulent misapplication of any such property; or

(b) receives or retains any such property knowing or having reason to believe the same to have been stolen or to have been fraudulently misapplied; or

(c) wilfully damages, or is concerned in the wilful damage of, any property belonging to a person subject to service law, shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Offences relating to and by Persons in Custody

66.—(1) Any person who, when an officer or rating or other person subject to naval law is under arrest—

Irregular
arrest and
confinement.

(a) unnecessarily delays the investigation of allegations against that officer, rating or other person or, as the case may be, his trial; or

(b) fails to release, or effect the release of, that officer, rating or other person when it is his duty to do so, shall be guilty of an offence against this section.

(2) Where any person (elsewhere in this section referred to as "the prisoner") is committed to the custody of any provost officer or other officer, or any petty officer, and the person so committing the prisoner fails without reasonable cause to deliver—

(a) at the time of the committal, or

(b) if it is not practicable so to do at the time of the committal, then within twenty-four hours thereafter, to the person to whose custody the prisoner was committed, a report in writing signed by himself of the offence which the prisoner is alleged to have committed, he shall be guilty of an offence against this section.

(3) Where a prisoner is committed to the charge of any person who is in command of a guard, and the guard commander fails without reasonable excuse to give to the officer to whom it is his duty to report, as soon as may be after he is relieved from his guard and any further duty or, if he is not sooner relieved, within twenty-four hours after the committal—

(a) a written statement containing so far as known to him, the name of the prisoner with particulars of the alleged offences, and the name and rank or other description of the officer or other person by whom the prisoner is alleged to have committed the offence; and

(b) (if he has received it) the report required by subsection (2) of this section, he shall be guilty of an offence against this section.

(4) Any person guilty of an offence against this section shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

67.—(1) Any person who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, shall, on conviction by court martial, be liable to imprisonment or to any less punishment provided by this Act.

Permitting
escape and
unlawful
release of
prisoners.

(b) receives or retains any such property knowing or having reason to believe the same to have been stolen or to have been fraudulently misapplied ; or

(c) wilfully damages, or is concerned in the wilful damage of, any property belonging to a person subject to service law, shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Offences relating to and by Persons in Custody

66.—(1) Any person who, when an officer or rating or other person subject to naval law is under arrest—

Irregular
arrest and
confinement.

(a) unnecessarily delays the investigation of allegations against that officer, rating or other person or, as the case may be, his trial ; or

(b) fails to release, or effect the release of, that officer, rating or other person when it is his duty to do so, shall be guilty of an offence against this section.

(2) Where any person (elsewhere in this section referred to as "the prisoner") is committed to the custody of any provost officer or other officer, or any petty officer, and the person so committing the prisoner fails without reasonable cause to deliver—

(a) at the time of the committal, or

(b) if it is not practicable so to do at the time of the committal, then within twenty-four hours thereafter, to the person to whose custody the prisoner was committed, a report in writing signed by himself of the offence which the prisoner is alleged to have committed, he shall be guilty of an offence against this section.

(3) Where a prisoner is committed to the charge of any person who is in command of a guard, and the guard commander fails without reasonable excuse to give to the officer to whom it is his duty to report, as soon as may be after he is relieved from his guard and any further duty or, if he is not sooner relieved, within twenty-four hours after the committal—

(a) a written statement containing so far as known to him, the name of the prisoner with particulars of the alleged offences, and the name and rank or other description of the officer or other person by whom the prisoner is alleged to have committed the offence ; and

(b) (if he has received it) the report required by subsection (2) of this section, he shall be guilty of an offence against this section.

(4) Any person guilty of an offence against this section shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

67.—(1) Any person who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, shall, on conviction by court martial, be liable to imprisonment or to any less punishment provided by this Act.

Permitting
escape and
unlawful
release of
prisoners.

(2) Any person who—

(a) without proper authority releases any person who is committed to his charge ; or

(b) without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard, shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Resisting
arrest.

68.—(1) Any person who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or strikes or otherwise uses violence to, or offers violence to, any such officer, shall be guilty of an offence against this section whether or not the officer is his superior officer.

(2) Any person who strikes or otherwise uses violence to, or offers violence to, any person whose duty it is to apprehend him or in whose custody he is shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Escape from
confinement.

69. Any person who escapes from arrest, prison or other lawful custody (whether naval custody or not) shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Offences in relation to Courts Martial and Civil Authorities.

Offences in
relation to
courts
martial.

70.—(1) Any person who—

(a) having been duly summoned or ordered to attend as a witness before a court martial, fails to comply with the summons or order ; or

(b) refuses to swear an oath or make an affirmation when duly required by a court martial to do so ; or

(c) refuses to produce any document in his custody or under his control which a court martial has lawfully required him to produce ; or

(d) when a witness, refuses to answer any question which a court martial has lawfully required him to answer ; or

(e) wilfully insults any person, being a member of a court martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of the court ; or

(f) wilfully interrupts the proceedings of a court martial, or otherwise misbehaves before the court,

shall, on conviction by court martial, other than the court in relation to which the offence was committed, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

(2) Notwithstanding anything in subsection (1) of this section, where an offence against paragraph (e) or paragraph (f) of that subsection is committed in relation to any court martial held in pursuance of this Act that court, if of opinion that it is expedient that the offender should

be dealt with summarily by the court instead of being brought to trial before another court martial, may by order under the hand of the president of the court order the offender to be imprisoned for a period not exceeding twenty-one days.

(3) References in paragraphs (a) to (f) of subsection (1) of this section to a court martial shall include references to a court martial held in pursuance of service law.

71.—(1) Any person who, having been duly sworn as a witness or as an interpreter in proceedings before a court martial or before any board or person having power to administer an oath under service law, makes a statement material in those proceedings knowing it to be false or recklessly without belief in its truth shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

False evidence.

(3) A person shall not be liable to be convicted of an offence against this section upon the evidence, sworn or unsworn, of one witness alone as to the truth or untruth of any statement alleged to be false.

72. Any person who at any place either within or outside Nigeria prevents or obstructs—

Obstruction of police officer arresting officer or rating.

(a) the execution by a police officer of a warrant for the arrest of a person subject to service law who has committed or is suspected of having committed an offence punishable on conviction by a civil court; or

(b) the arrest of a person subject to service law by a police officer acting in the exercise of his powers of arrest without warrant, shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Miscellaneous Offences

73.—(1) Any person who without authority discloses, by any means whatsoever, information which is or purports to be information useful to an enemy shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Injurious disclosures.

(2) In this section the expression "information useful to an enemy" means information as to any matter such that information as to it would or might be directly or indirectly useful to an enemy, and in particular (but without prejudice to the generality of the foregoing provisions of this subsection) information as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say—

(a) the number, description, armament, equipment, disposition, movement or condition of any of the armed forces of Nigeria or of any forces co-operating therewith, or any of Nigerian ships or aircraft or of the ships or aircraft of any such co-operating force; or

(b) any operations or projected operations of any of such forces, ships or aircraft as aforesaid; or

(c) any code, cipher, call sign, password or countersign; or

(d) any measures for the defence or fortification of any place on behalf of Nigeria; or

(e) the number, description or location of any prisoners of war; or

(f) munitions of war.

Making of
false state-
ments on
enlistment.

74. Any person who, when before a recruiting officer for the purpose of being attested in pursuance of Part III of this Act has knowingly made a false answer to any question contained in the attestation paper and put to him by or by the direction of the recruiting officer shall, on conviction by court martial, if he is subject to naval law, be liable to imprisonment for a term not exceeding three months or to any less punishment provided by this Act.

Scandalous
conduct of
officer.

75. Every officer who behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall, on conviction by court martial, be dismissed with disgrace from the armed forces of Nigeria.

Ill-treatment
of officers or
ratings of
inferior rank.

76. If—

(a) any officer strikes or otherwise ill-treats any officer subject to service law of inferior rank or less seniority or any rating subject to service law; or

(b) any petty officer strikes or otherwise ill-treats any person subject to service law, being a rating of inferior rank or less seniority, any such officer shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Disgraceful
conduct.

77. Any person who is guilty of disgraceful conduct of a cruel, indecent or unnatural kind shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

False
accusation.

78. Any person who—

(a) makes an accusation against any officer or rating subject to service law, knowing it to be false or recklessly without belief in its truth; or

(b) in making a complaint where he thinks himself wronged, makes a statement affecting the character of an officer or rating subject to service law, knowing it to be false or recklessly without belief in its truth, or wilfully suppresses any material facts, shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Conduct to
prejudice of
naval
discipline.

79. Any person who is guilty of any conduct or neglect to the prejudice of good order and naval discipline shall, on conviction by court martial, be liable to imprisonment for a term not exceeding two years or to any less punishment provided by this Act.

Attempts and Aiding and Abetting of Naval Offences

Attempts to
commit naval
offences.

80. Any person who attempts to commit an offence against any of the foregoing provisions of this Part of this Act shall, on conviction by court martial, be liable to the like punishment as for that offence:

Provided that if the offence is one punishable by death he shall not be liable to any greater punishment than imprisonment.

Aiding and
abetting
naval
offences.

81. Any person who aids, abets, counsels or procures the commission by another person of an offence against any of the provisions of this Act shall be guilty of the like offence and shall be liable to be charged, tried and punished as a principal offender.

Civil Offences

82.—(1) Any person who commits a civil offence within the meaning of this Act in Nigeria or elsewhere, shall be guilty of an offence against this section.

Civil offences.

(2) For the purposes of the foregoing subsection, the expression "civil offence" means any act or omission punishable as an offence under the penal provisions of any law enacted in or applicable to Nigeria, and "the corresponding civil offence" means the civil offence the commission of which constitutes the offence against this section.

(3) Subject to the next succeeding subsection, a person convicted by court martial of an offence against this section shall —

(a) if the corresponding civil offence is treason or murder be liable to suffer death, and

(b) in any other case, be liable to suffer the punishment which a civil court might award for the corresponding civil offence, if committed anywhere in Nigeria, being a punishment provided by this Act, or such lesser punishment which a civil court could so award, as is so provided.

(4) Where a court other than a court martial may not award a term of imprisonment for a civil offence, a person convicted of a civil offence shall be liable to suffer such punishment, less than dismissal with disgrace in the case of an officer, or discharge with ignominy in the case of a rating, as is prescribed for the civil offence.

(5) Nothing in this section shall be construed to authorise the charging of a person with an offence against this section committed in Nigeria if the corresponding civil offence is treason, murder, manslaughter, treasonable felony or rape; and for the purposes of this subsection where the corresponding civil offence is murder or manslaughter an offence against this section shall be deemed to have been committed at the place of the commission of the act or occurrence of the negligence which caused the death, irrespective of the place of the death.

Punishments

83.—(1) The punishments which may be awarded to an officer by sentence of a court martial under this Act are, subject to the limitations hereinafter provided on the powers of certain courts martial, those set out in the following scale; and in relation to an officer, references in this Act to punishments provided by this Act are references to those punishments.

Punishment of officers.

(2) The said scale is—

(a) death;

(b) imprisonment;

(c) dismissal with disgrace from the armed forces of Nigeria;

(d) dismissal from the armed forces of Nigeria;

(e) forfeiture of seniority;

(f) a fine of a sum not exceeding the equivalent of ninety days' pay;

(g) severe reprimand or reprimand;

(h) stoppages, where the offence has occasioned any expense, loss or damage.

(3) For the purposes of this Part of this Act, a punishment specified in any paragraph of the said scale shall be treated as less than the punishment specified in the preceding paragraphs, and greater than those specified in the following paragraphs, of the scale.

(4) Save as expressly provided in this Act, not more than one punishment shall be awarded by a court martial for one offence.

(5) Stoppages may be awarded by a court martial either in addition to or without any other punishment.

(6) A severe reprimand or reprimand may be awarded by a court martial in addition to a fine.

(7) Where an officer is sentenced by a court martial to imprisonment, he shall also be sentenced to be dismissed with disgrace from the armed forces of Nigeria :

Provided that if the court martial fails to sentence him to be so dismissed, the sentence of imprisonment shall not be invalid, but shall be deemed to include a sentence of dismissal with disgrace.

Punishment
of ratings.

84.—(1) The punishment which may be awarded to a rating by sentence of a court martial under this Act are, subject to the limitations hereinafter provided on the powers of certain courts martial, those set out in the following scale ; and in relation to a rating reference in this Act to punishments provided by this Act are references to those punishments.

(2) The said scale is—

- (a) death ;
- (b) imprisonment ;
- (c) dismissal with disgrace from the armed forces of Nigeria ;
- (d) dismissal from the armed forces of Nigeria ;
- (e) disrating to any rate not lower than that in which the rating was enlisted ;
- (f) a fine of a sum not exceeding the equivalent of ninety days' pay ;
- (g) in the case of a chief petty officer or petty officer, severe reprimand or reprimand ;
- (h) where the offence is desertion ; forfeiture of service ;
- (i) stoppages, where the offence has occasioned any expense, loss or damage.

(3) For the purposes of this Part of this Act, a punishment specified in any paragraph of the said scale shall be treated as less than the punishments specified in the preceding paragraphs, and greater than those specified in the following paragraphs, of the scale.

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, a court martial may, where it thinks fit, award any punishment specified in the First Schedule to this Act, being a punishment not already specified in subsection (2) of this section ; and where a court martial awards any such punishment the qualification (if any) specified in the said Schedule in respect of such punishment shall not apply.

First
Schedule.

(5) Save as expressly provided in this Act, not more than one punishment shall be awarded by a court martial for one offence.

(6) A rating sentenced by a court martial to imprisonment may in addition thereto be sentenced to be discharged with disgrace from the armed forces of Nigeria.

(7) Where any rating is sentenced by a court martial to imprisonment he shall also be sentenced to be disgraced to the rate in which he enlisted.

Provided that if the court martial fails to sentence him to be so disgraced the sentence shall not be invalid but shall be deemed to include a sentence of disgracing.

(8) In the case of a rating, a severe reprimand or reprimand may be awarded by a court martial in addition to a fine.

(9) Stoppages may be awarded by a court martial either in addition to or without any other punishment.

Arrest

85.—(1) Any person found committing an offence against any provision of this Act, or alleged to have committed or reasonably suspected of having committed any such offence, may be arrested in accordance with the following provisions of this section.

Power to
arrest
offenders

(2) An officer may be arrested by an officer subject to service law of superior rank; or, if engaged in a quarrel or disorder, by such an officer of any rank.

(3) A rating may be arrested by an officer or another rating subject to service law but no rating shall be arrested under this subsection except by a person of superior rank.

(4) A provost officer, or any officer, warrant officer, non-commissioned officer, rating, soldier or airman subject to service law lawfully exercising authority under a provost officer or on his behalf, may arrest any officer or rating; but no officer shall be arrested under this subsection except on the order of another officer.

(5) The power of arrest given to any person by this section may be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.

86.—(1) The allegations against any person who is under arrest shall be duly investigated without unnecessary delay, and as soon as may be, either proceedings shall be taken for punishing his offence or he shall be released from arrest.

Provisions
for avoiding
delay after
arrest.

(2) If any person taken into naval custody remains under arrest for a longer period than eight days without a court martial for his trial being assembled, a special report on the necessity for further delay shall be made by his commanding officer as may be prescribed and a similar report shall be made not later than every eight days thereafter (whichever event happens first) until a court martial is assembled or the offence is dealt with summarily or the person is released from arrest:

Provided that in the case of a person on active service compliance with this subsection shall be excused in so far as it is not reasonably practicable having regard to the exigencies of naval operations.

(3) For the purposes of subsection (1) of section sixty-six, the question whether there has been unnecessary delay in the investigation of allegations against a person under arrest shall be determined without regard to the provisions of subsection (2) of this section.

Investigation of and Summary Dealing with Charges

Investigation
of charges by
commanding
officer.

87. Before an allegation against a person that he has committed an offence against any provision of this Part of this Act is further proceeded with, the allegation shall be reported in the form of a charge to the commanding officer, where the person charged is an officer, or to the officer of the watch, or the officer of the day or the executive officer, as the case may be, where the person charged is a rating, and the officer to whom the charge is reported shall investigate the charge in the prescribed manner.

Summary
trial of
officers.

88.—(1) If an officer of the navy or of the reserve below the rank of commander is charged with an offence to which this section applies, the commander may, if it appears to him that the offence is not of such a nature as to necessitate trial by court martial, and subject to the provisions of this section and of any orders made thereunder, deal with the charge summarily. If he records a finding of guilty, he may award one or more of the following punishments, that is to say—

- (a) a fine not exceeding twenty-five days' pay;
- (b) severe reprimand or reprimand;
- (c) stoppages, where the offence has occasioned any expense, loss or damage.

(2) This section applies to any offence triable by court martial under this Act other than offences under the following provisions of this Act, that is to say—

(a) sections thirty-three, thirty-four, thirty-five, thirty-six, thirty-nine, forty-two, forty-three, fifty-six, fifty-seven, fifty-eight, sixty-three, seventy-three, seventy-seven, and eighty-two;

(b) sections eighty and eighty-one, so far as they are applicable to an offence under any of the provisions mentioned in paragraph (a) of this subsection.

(3) Notwithstanding anything in subsection (1) of this section, where the commander has determined that the person charged is guilty and if the charge is dealt with summarily will award a fine or stoppages, the commander shall not record a finding until after affording such person an opportunity of electing to be tried by court martial; and if such person so elects, the commander shall not record a finding but shall take the prescribed steps with a view to the charge being tried by court martial.

(4) The commander may by order direct that the powers conferred upon him by this Act to investigate charges against officers and try and punish officers summarily may be exercised by officers not below the rank of captain.

Summary
trial of
ratings.
First
Schedule.

89.—(1) Subject to the provisions of this section, a rating who is charged with an offence to which this section applies may be summarily tried and punished to the extent permitted and in accordance with the First Schedule to this Act by the officer in command of the ship or establishment to which the rating belongs either at the time of the commission of the offence or at the time of the trial thereof.

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

(3) The power conferred by subsection (1) of this section on the officer in command of a ship or naval establishment may, subject to any rules made under this Act, be exercised—

(a) in respect of persons on board a single tender or boat which is absent from the ship or establishment on detached service, by the officer in command of that tender or boat ;

(b) in respect of persons on board one of two or more tenders or boats which are absent as aforesaid on detached service in company or acting together, by the officer in immediate command of those tenders or boats ; and

(c) in respect of other persons absent from the ship or establishment on detached service either on shore or elsewhere, by the officer in immediate command of those persons.

(4) The power conferred on any officer by subsection (1) or subsection (3) of this section may, subject to such conditions as may be prescribed be delegated to any officer not below the rank of lieutenant or corresponding rank.

(5) The President may by order amend the First Schedule.

(6) This section applies to any offence triable by court martial under this Act, other than an offence punishable by sentence of death.

90.—(1) Any charge not dealt with summarily shall after investigation be remanded for trial by court martial.

(2) Notwithstanding anything in the foregoing provisions of this section, where an officer has investigated a charge he may dismiss the charge if he is of the opinion that it ought not to be proceeded with.

(3) References in this Act to dealing summarily with a charge are references to the taking by the officer authorised, as the case may require, of the following action, that is to say, determining whether the accused is guilty, dismissing the charge or recording a finding of guilty accordingly, and awarding punishment:

Charges to be dealt with summarily of by court martial.

Courts Martial : General Provisions

91. A court martial may try any person subject to naval law under this Act for any offence under Part IV of this Act and award any punishment authorised by this Act for that offence and, subject to the provisions of subsections (4) and (5) of section eighty-two, a court martial shall have jurisdiction to try any such offence whether committed within Nigeria or elsewhere.

Jurisdiction of courts martial.

92.—(1) The commander shall have the power to convene a court martial.

Officers having power to convene courts martial.

(2) Where the commander is absent from his post on duty or approved leave for more than ninety-six hours continuously or has otherwise ceased to carry out his duties through sickness or any other cause, any officer, temporarily authorised to carry out the duties of the commander, shall have the power to convene a court martial.

Composition
of courts
martial.

(3) The senior officer of a detached unit or squadron may be authorised by the board to order a court martial in special circumstances.

93.—(1) A court martial shall consist of not less than three nor more than nine officers, being officers of or seconded to the navy and subject to service law who are of or above the rank of lieutenant in the navy.

(2) An officer shall not be appointed to be a member of a court martial unless he has held a commission in any of the armed forces of Nigeria for a period of not less than two years or for periods amounting in the aggregate to not less than two years.

(3) The members of a court martial and such spare members as the convening officer considers appropriate for the purpose of filling vacancies, shall be nominated by the convening officer.

(4) The president of a court martial shall not be below the rank of commander.

(5) A court martial for the trial of a commander shall include at least two members in addition to the president, who are not below the rank of commander.

(6) If a court martial is to be convened at any place where in the opinion of the convening officer the necessary number of naval officers having suitable qualifications is not available to form the court, and cannot be made available with due regard to the circumstances, the convening officer may, with the consent of the proper military or air force authority, appoint any military or air force officer as president in lieu of a naval officer or as any other member of the court in lieu of or in addition to a naval officer or officers :

Provided that no military or air force officer shall be qualified to act in relation to a court martial unless he is of corresponding rank to that which would have been required in the case of a naval officer and has held a commission in any of the armed forces of Nigeria for the like period or periods as would have been so required.

(7) Where the officer convening any court martial appoints an officer not being a naval officer as president or any other member of the court, being of opinion that the necessary number of naval officers having suitable qualifications is not available to form the court and cannot be made available with due regard to the circumstances, the order convening the court martial shall contain a statement of the said opinion, and that statement shall be conclusive.

(8) The officer who convenes a court martial shall not be a member of that court martial ; and no court martial shall consist of officers all of whom belong to the same ship or naval establishment.

(9) An officer who, at any time between the date on which the accused was charged with the offence and the date of the trial, has investigated the charge against the accused, or who under service law has held, or acted as one of the persons holding, an inquiry into matters relating to the subject matter of the charge against the accused, shall not sit as a member of a court martial or act as judge advocate at such a court martial.

(10) A court martial for the trial of an officer shall consist of at least five officers.

(11) A court martial consisting of less than five officers shall not award any punishment higher in the scale of punishments than imprisonment for two years.

(12) Unless it consists of at least five officers, a court martial shall not try any offence for which the maximum or only punishment is death.

94. Without prejudice to the powers conferred by the President on the Judge Advocate General, the appointment of a judge advocate to act in any court martial may, failing the making thereof by or on behalf of the Judge Advocate General, be made by the convening officer.

Appointment
of judge
advocate.

95.—(1) A court martial shall be held on board such of the Nigerian ships or vessels, or such premises on shore, whether within or without Nigeria as may be specified in the order convening the court.

Place and
time for sit-
ting of courts
martial.

(2) If it appears to a court martial to be expedient in the interests of justice the court may be adjourned, either generally or for the purpose of any part of the proceedings, to any other ship, vessel or place and shall, if so required by the convening officer, be adjourned to any other ship, vessel or place appointed by that officer.

(3) Without prejudice to the provisions of subsection (2) of this section, a court martial may, if it appears to the court that an adjournment is desirable for any reason, be adjourned for such period as the court thinks fit:

Provided that except with the consent of the accused and the prosecutor the period for which the court may be adjourned under this subsection shall not on any occasion exceed six days.

(4) Subject to the provisions of this section, a court martial shall, unless prevented by weather or other unavoidable cause, sit from day to day until the court has arrived at a finding and, in the case of a conviction, until sentence is pronounced; but the court shall not sit on a Sunday, or any day that is a public holiday, unless, in the opinion of the court or of the convening officer, exigencies of the service make it necessary to do so.

96.—(1) Where, whether before or after the commencement of the trial, it appears to the convening officer necessary or expedient in the interests of the administration of justice that a court martial should be dissolved, the convening officer may by order dissolve the court martial.

Dissolution
of court
martial.

(2) Without prejudice to the generality of subsection (1) of this section, if after the commencement of the trial a court martial is, by reason of the death of one of the members or for any other reason, reduced below the legal minimum, it shall be dissolved.

(3) The proceedings of a court martial shall be valid notwithstanding the absence of one or more of the members other than the president, so long as the number of members present throughout the proceedings is not reduced below the legal minimum:

Provided that a member of the court who has been absent for any time during a sitting shall take no further part in the proceedings.

(4) If after the commencement of the trial the president dies or is otherwise unable to attend and the court is not reduced below the legal minimum, then

(a) if the senior member of the court is of the rank of lieutenant-commander or corresponding rank or is of higher rank, the convening officer may appoint him president and the trial shall proceed accordingly; but

(b) if he is not, the court shall be dissolved.

(5) Without prejudice to the generality of subsection (1) of this section, if after the commencement of the trial it is represented to the convening officer that owing to the sickness or other incapacity of the accused it is impracticable having regard to all the circumstances to continue the trial within a reasonable time, the convening officer may dissolve the court.

(6) Where a court martial is dissolved under the foregoing provisions of this section the accused may be tried by another court martial.

Challenges
by accused.

97.—(1) An accused about to be tried by a court martial shall be entitled to object, on any reasonable grounds, to any member of the court, whether appointed originally or in lieu of another officer.

(2) For the purpose of enabling the accused to avail himself of the right conferred by subsection (1) of this section the names of the members of the court shall be read over in the presence of the accused before they are sworn, and he shall be asked whether he objects to any of those officers.

(3) Every objection made by an accused to any officer shall be considered by the other officers appointed members of the court.

(4) If objection is made to the president and not less than one-third of the other members of the court allow it, the court shall adjourn and the convening officer shall appoint another president.

(5) If objection is made to a member of the court other than the president and not less than one-half of the members entitled to vote allow it, the member objected to shall retire and the vacancy may, and if otherwise the number of members would be reduced below the legal minimum shall, be filled in the prescribed manner by another officer.

Admini-
stration of
oaths.

98.—(1) An oath shall be administered separately to every member of a court martial and to any person in attendance on a court martial as judge advocate, the clerk of the court, officer under instruction, shorthand writer or interpreter.

(2) Every witness before a court martial shall be examined on oath :

Provided that where any child called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given on oath, if in the opinion of the court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth, so however that, where the evidence is given on behalf of the prosecution, the accused shall not be liable to be convicted upon such evidence alone unless it is corroborated by some other material evidence in support thereof implicating the accused.

(3) A person shall be permitted to make a solemn affirmation instead of taking an oath under this section—

(a) if he objects to being sworn, and states as the grounds of his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief ; or

(b) if it is not reasonably practicable to administer an oath to him in the manner appropriate to his religious belief.

(4) An oath or affirmation required to be administered under this section shall be in the form prescribed by the Oaths Act, 1963, or if no form is so prescribed, as near thereto as may be in any particular case, and shall be administered accordingly.

99.—(1) Subject to the provisions of this section, a court martial shall sit in open court and in the presence of the accused.

Courts martial to sit in open court.

(2) Nothing in subsection (1) of this section shall affect the power of a court martial to sit in camera on the ground that it is necessary or expedient in the interests of the administration of justice to do so; and without prejudice to that power a court martial may order that, subject to any exceptions the court may specify, the public shall be excluded from all or any part of the proceedings of the court if it appears to the court that any evidence to be given or statement to be made in the course of the proceedings or that part, as the case may be, might otherwise lead to the disclosure of any information which would or might be directly or indirectly useful to an enemy.

(3) A court martial shall sit in closed court while deliberating on its findings or sentence on any charge.

(4) A court martial may sit in closed court on any other deliberation amongst the members.

(5) Where a court martial sits in closed court no person shall be present except the members of the court and such other persons as may be prescribed.

100.—(1) Subject to the provisions of this section, every question to be determined on trial by court martial shall be determined by a majority of the votes of the members of the court.

Decisions of courts martial.

(2) In the case of an equality of votes on the finding, the court shall acquit the accused.

(3) A finding of guilty where the only punishment which the court is empowered to award is death shall not have effect unless it is reached with the concurrence of all members of the court; and where there is such a finding but no such concurrence, the court shall be dissolved and the accused may be tried by another court.

(4) Where the accused is found guilty and the court has power to sentence him either to death or to some less punishment, sentence of death shall not be passed without the concurrence of all the members of the court.

(5) In the case of an equality of votes on the sentence or on any question arising after the commencement of a trial, except the findings, the president shall have a second or casting vote.

101.—(1) Without prejudice to the provisions of section ninety-nine of this Act the finding of a court martial on each charge shall be announced in open court; and where the finding of that court is one of guilty the finding shall be, and be announced as being, subject to confirmation.

Finding and sentence.

(2) The sentence of a court martial together with any recommendation to mercy shall be announced in open court, and shall be, and be announced as being, subject to confirmation.

102.—(1) Any person charged before a court martial with an offence under this Act may, on failure of proof of the offence having been committed under circumstances involving a higher degree of punishment, be found guilty of the offence as having been committed under circumstances involving a less degree of punishment.

Power to convict of offence other than that charged.

(2) Any person charged before a court martial with any offence may be found guilty of attempting to commit that offence.

(3) Any person charged before a court martial with attempting to commit an offence may be convicted on that charge notwithstanding that it is proved that he actually committed the offence.

(4) Where a person is charged before a court martial under section eighty-two of this Act in respect of attempting to commit a civil offence, he may be convicted on that charge notwithstanding that it is proved that he actually committed the civil offence.

(5) Where a person is charged before a court martial with an offence against section eighty-two of this Act and the corresponding civil offence is one in proceedings for which, if he had been tried by a civil court for committing the offence in Nigeria, he might have been found guilty of another civil offence, then, if the court finds that he has committed that other civil offence he may be convicted of an offence against the said section eighty-two in respect of the commission of that other civil offence.

Second
Schedule.

(6) Any person charged before a court martial with an offence specified in the first column of the Second Schedule to this Act may be found guilty of an offence specified in relation thereto in the second column of that schedule.

Rules of
evidence.

103.—(1) Unless otherwise prescribed, the rules of evidence to be observed in proceedings before a court martial shall, for the avoidance of doubt, be the same as those observed in the High Court of Lagos; and accordingly no person shall in proceedings before a court martial be required to answer questions or produce documents which he could not be required to answer or produce in similar proceedings before that Court.

(2) Notwithstanding anything in the last foregoing subsection, a statutory declaration shall, in a trial by court martial, be admissible as evidence of the fact stated therein in a case where and to the extent to which oral evidence to the like effect would be admissible in that trial; but no statutory declaration shall be admitted in evidence—

(a) if such declaration is tendered on behalf of the prosecution, unless a copy of such declaration has not less than seven days before the commencement of the trial been served on the accused; or

(b) if such declaration is tendered on behalf of the defence, unless a copy of such declaration has not less than seven days or such lesser period as the commanding officer may allow before the commencement of the trial been served on the commanding officer of the accused; or

(c) in any case, if, not later than three days before the commencement of the trial or within such extended time as the court martial may in the circumstances of the case allow, notice in the prescribed form is served on the accused or, as the case may be, the commanding officer of the accused, requiring oral evidence to be given in substitution for that contained in the statutory declaration; or

(d) in any case, if the court martial is of opinion that it is desirable in the interests of justice for oral evidence to be given.

(3) Every court martial shall take judicial notice of all matters of notoriety, including matters within the general service knowledge of the court and of all other matters of which judicial notice would be taken in the High Court of Lagos.

104. A witness before a court martial and any other person required to attend such court shall have and be entitled to the same immunities and privileges as are accorded to witnesses in the High Court of Lagos.

Privileges of witnesses and others at courts martial.

105.—(1) Any person, whether subject to this Act or not, who is required to give evidence before a court martial may be summoned by notice in writing given by order of the convening officer.

Summoning of witnesses.

(2) Any person not subject to this Act who attends a court martial in pursuance of a notice under this section shall be entitled to receive such expenses of his attendance as may be prescribed.

106.—(1) Where in Nigeria any person other than a person subject to this Act—

Offences by civilians in relation to courts martial.

(a) having been duly summoned to attend as a witness before a court martial, fails to comply with the summons; or

(b) refuses to swear on oath when duly required by a court martial to do so; or

(c) refuses to produce any document in his custody or under his control which a court martial has lawfully required him to produce; or

(d) when a witness, refuses to answer any question which a court martial has lawfully required him to answer; or

(e) wilfully insults any person, being a member of a court martial or a witness or any other person whose duty it is to attend on or before a court martial, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of a court martial; or

(f) wilfully interrupts the proceedings of a court martial or otherwise misbehaves before the court; or

(g) does any other thing which would, if the court martial had been a court of law having power to commit for contempt, have been contempt of that court,

the president of the court martial may certify the offence of that person under his hand to the High Court having jurisdiction in that part of Nigeria where the offence is alleged to have been committed or in the place where the offender is to be found, and the High Court may thereupon inquire into the alleged offence and after hearing witnesses (if any) and taking any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court to which the offence is certified.

(2) A person shall not be dealt with under this section in respect of failure to comply with a summons requiring him to attend as a witness before a court martial unless any expenses to which he is entitled under this Act in respect of his attendance have been paid or tendered:

Provided that for the purposes of this subsection—

(a) the tender of a warrant or voucher entitling any person to travel shall be deemed to constitute tender of his expenses in respect of any travelling authorised by the warrant or voucher; or

(b) the tender of a written undertaking on behalf of the board to defray at the trial any other expenses to which such a person may be entitled under this Act in respect of his attendance shall be deemed to constitute tender of those expenses.

(3) In this section "court martial" means a court martial held under service law.

*Confirmation, Revision and Review of Proceedings of
Courts Martial*

Confirmation
of proceed-
ings of court
martial.

107.—(1) Where a court-martial finds the accused guilty of any charge, the record of the proceedings of the court martial shall be transmitted to a confirming authority for confirmation of the finding and sentence of the court on that charge.

(2) Until it is so confirmed, the finding of guilty or, as the case may be, the sentence of a court martial, shall not be treated as the finding or sentence of such court; but nothing in this subsection shall be construed to prohibit the keeping of the accused in custody pending confirmation or revision of the finding or sentence or the consideration of any petition under this Act.

Petitions
against find-
ing or
sentence.

108. At any time after a court martial has sentenced the accused, but not later than the prescribed time after promulgation of confirmation, the accused may, in the prescribed manner, present a petition against the finding or the sentence or both.

Revision of
findings of
court
martial.

109.—(1) A confirming authority may direct that a court martial shall revise any finding of guilty come to by the court in any case where it appears to him—

(a) that the finding was against the evidence; or

(b) that some question of law determined at the trial and relevant to the finding was wrongly determined.

(2) Any such direction shall be accompanied by the necessary directions for the reassembly of the court, and shall contain a statement of the reasons for the direction.

(3) On any revision of a finding the court shall reconsider the finding, and (unless the court adheres thereto) may substitute therefor either a finding of not guilty or any other finding to which the court could originally have come at the trial in lieu of the finding under revision.

(4) On any such revision the court shall not have power to receive further evidence.

(5) Where on any such revision the court either adheres to the original finding or substitutes therefor a finding of guilty of another offence, or of the same offence in different circumstances, the court may substitute a different sentence for the original sentence:

Provided that the court shall not have power to substitute a sentence of a punishment greater than the punishment or the greatest of the punishments awarded by the original sentence, or to substitute a sentence which in the opinion of the court is more severe than the original sentence.

(6) The confirming authority shall not have power to direct the revision of any substituted finding of the court on a previous direction of a confirming authority, or the revision of the original finding if adhered to by the court on such a previous direction; but save as aforesaid this Act shall apply to the proceedings of the court on any such revision (other than the requirement of announcement in open court) as it applies to their deliberation on the original finding or sentence, and any substituted finding or sentence shall be treated for all purposes as an original finding or sentence of the court.

110.—(1) Subject to the provisions of section one hundred and nine and to the following provisions of this section, a confirming authority shall deal with the finding or sentence of a court martial—

Powers of
confirming
authority.

(a) by withholding confirmation, if of the opinion that the finding of the court martial is unreasonable or cannot be supported, having regard to the evidence or to the fact that it involves a wrong decision on a question of law or that on any other grounds there was a miscarriage of justice; or

(b) by confirming the finding or sentence; or

(c) by referring the finding or sentence, or both, for confirmation to a higher confirming authority.

(2) Where a confirming authority is of the opinion that the facts of the case as considered by the court martial would have justified a finding of guilty by that court on other grounds, the confirming authority may, instead of withholding confirmation of the finding, substitute a finding of guilty on those other grounds and direct whether the punishment should be remitted in whole or in part or be commuted under the provisions of subsection (4) of this section.

(3) Where it appears to a confirming authority that a sentence of a court martial is invalid, the confirming authority may, instead of withholding confirmation of the sentence substitute therefor a proper sentence of any punishment which might have been awarded by the court, not exceeding or, in the opinion of the confirming authority, more severe than that awarded by the court martial.

(4) If the confirming authority confirms the sentence of a court martial the confirming authority may—

(a) remit in whole or in part any punishment awarded by the court martial, or

(b) commute any punishment so awarded for such other and lesser punishment or punishments as may be prescribed by this Act.

(5) A finding or sentence substituted by the confirming authority, or any sentence having effect after the confirming authority has remitted or commuted punishment, shall be treated for all purposes as a finding or sentence of the court duly confirmed.

(6) The confirmation of a finding or sentence shall not be deemed to be completed until the finding or sentence has been promulgated; and in the event of any such substitution, remission or commutation as aforesaid, the finding or sentence shall be promulgated as it has effect after the substitution, remission or commutation.

(7) Where the confirming authority withholds confirmation under this section, notice thereof shall be promulgated, and it shall have effect as from the date of such promulgation.

Confirming
authorities.

111.—(1) Subject to the provisions of this section, the following persons shall have power to confirm the finding and sentence of any court martial, that is to say—

(a) the officer who convened the court martial or any officer superior in command to that officer ; or

(b) the successor of any such officer or superior officer, or any person for the time being exercising the functions of any such officer or superior officer ; or

(c) any officer appointed by the board to act as confirming authority in default of any officer under paragraphs (a) and (b) of this subsection whether for the particular case or for a specified number of cases.

(2) The following persons shall not have power to confirm the finding or sentence of a court martial, that is to say—

(a) any officer who was a member of the court martial ; or

(b) any officer who, as commanding officer of the accused, investigated the allegations against him or who is for the time being the commanding officer of the accused ; or

(c) any officer who, as appropriate superior authority, investigated the allegations against the accused.

Death
sentence to
be approved.

112. A sentence of death passed by a court martial shall not be carried into effect unless approved by the President.

Review of
findings and
sentences of
court
martial.

113.—(1) The finding or sentence of a court martial as duly confirmed by a confirming authority may be reviewed,—

(a) by a reviewing authority consisting of—

(i) the board or (so far as the delegation extends) any officer to whom the powers of the board as reviewing authority or any of those powers may be delegated, or

(ii) any officer superior in rank to the confirming authority ; or

(b) in proper case on appeal to or after leave to appeal has been granted by a court of competent jurisdiction ;

and where a case is taken on appeal, the powers of a reviewing authority under paragraph (a) of this subsection shall cease.

(2) If after confirmation of a finding or sentence a petition under section one hundred and eight of this Act is duly presented against the finding or the sentence, or both as the case may be, the finding or sentence shall, subject to the provisions of this section, be reviewed as soon as may be after the presentation of the petition and consideration of its contents.

(3) Where a finding or sentence is reviewed under this section the reviewing authority or the court, as the case may require, may—

(a) to the extent that the review is of a finding, quash the finding and, if the sentence relates only to the finding quashed, the sentence ; or

(b) in any case, exercise the like powers of substituting findings, or valid sentences for invalid sentences, or of remitting or commuting punishment as are conferred on a confirming authority under this Act, and any substituted finding or sentence, or sentence having effect after the remission or commutation of punishment, shall be treated for all purposes as a sentence of the court martial duly confirmed.

(4) Any finding or sentence reviewed under this section shall be promulgated by a reviewing authority and shall have effect as from the date of such promulgation.

114.—(1) Sentences of imprisonment passed by courts martial may be reconsidered by the board and if on any such reconsideration it appears that the conduct of the offender since his conviction has been such as to justify remission of the sentence, whether in part or in whole, it may be remitted accordingly.

Reconsideration of sentences of imprisonment.

(2) The power to reconsider a sentence may be exercised at any time after confirmation, and where, after review, a sentence remains effective it shall be reconsidered at intervals of six months; but no delay in complying with this section at any such intervals shall invalidate the sentence.

Review of Summary Findings and Awards

115.—(1) Where a charge has been dealt with summarily and the charge is not dismissed, the board or any officer superior in command to the officer who dealt summarily with the charge, shall be the authority to review the finding or award at any time.

Review of summary findings and awards.

(2) Where by reason of any mistake of law in the proceedings on the summary dealing with the charge or of anything occurring in those proceedings the reviewing authority is satisfied there had been a substantial injustice to the accused, that authority may quash the finding and any award on the finding.

(3) Where on a review under this section it appears to the said authority that a punishment awarded was invalid, or too severe, or (where the award included two or more punishments) that those punishments or some of them could not validly have been awarded in combination or are, taken together, too severe, the authority may vary the award by substituting such punishment or punishments as the authority may think proper, being a punishment or punishments which could have been included in the original award and not being in the opinion of the authority more severe than the punishment or punishments included in the original award.

Findings of Insanity etc.

116.—(1) Where, on the trial of a person by court martial, it appears to the court that the accused is by reason of insanity unfit to stand his trial, the court shall so find; and if the finding is confirmed in accordance with the following provisions of this section the accused shall be kept in custody in such manner as may be provided by or under rules made under this Part of this Act until the directions of the President are known or until any earlier time at which the accused is fit to stand trial.

Provisions where accused found insane.

(2) Where, on the trial of a person by court martial, it appears to the court that the evidence is such as, apart from any question of insanity, to support a finding that the accused was guilty of any offence, but that at the time of the act or omission constituting that offence the accused was by reason of mental disease or natural mental infirmity not criminally

responsible for the act or omission alleged as constituting the offence, the court shall find that the accused committed the act or omission but was insane at the said time, and thereupon the accused shall be kept in custody in such manner as may be provided by or under rules made under this Part of this Act until the directions of the President are known.

(3) In the case of any such finding as aforesaid the President may give orders for the safe custody of the accused during his pleasure in such place and in such manner as the President thinks fit.

(4) A finding under subsection (1) of this section shall not have effect unless and until the finding has been confirmed by the authority having power to confirm a finding of guilty by the court martial in question and the finding has been promulgated.

(5) Where the court or the confirming authority comes to or substitutes a finding under subsection (2) of this section, the confirming authority or, as the case may be, the reviewing authority shall not have power to substitute for that finding a finding of guilty; but save as aforesaid the provisions of this Act as to revision, confirmation and review (and in particular the provisions of this Act which confer power to substitute for any finding any other finding which would have been come to by the court martial in question) shall apply in relation to such findings as are provided for by subsection (2) of this section as those provisions apply in relation to findings of guilty.

(6) Unless otherwise provided in this Act or the context requires a different construction, references in this Act to a conviction or a finding of guilty in respect of any offence include references to findings under subsection (2) of this section in respect of the offence.

Commencement, Suspension and Duration of Sentences

Commence-
ment of
sentences.

117. Save as otherwise provided in this Act, a sentence of imprisonment shall begin to run from the beginning of the day on which the sentence was originally pronounced by the court martial trying the offender or, as the case may be, was originally awarded by the officer who tried the case summarily.

Duration of
sentences of
imprison-
ment.

118.—(1) Where any person serving a sentence of imprisonment under this Act becomes unlawfully at large during the currency of the sentence, then, in calculating the period for which he is liable to be imprisoned in pursuance of the sentence, no account shall be taken of the time elapsing during the period beginning with the day on which he became at large and ending with the day on which, as a person having become unlawfully at large, he is taken into military, naval or air force custody or the custody of a civil authority or (not having been taken into such custody) returns to the place in which he was imprisoned before he became unlawfully at large:

Provided that if he satisfies such authority as may be specified in that behalf by or under Imprisonment Rules that during any time during the last-mentioned period he was—

(a) in the custody of a civil authority; or

(b) if and in so far as Imprisonment Rules so provide, in the custody of any military, naval or air force authority of any country or territory outside Nigeria as respects which arrangements have been made under section one hundred and twenty of this Act otherwise than on

account of an offence committed by him while unlawfully at large, the last mentioned time shall not be disregarded in calculating the period for which he is liable to be imprisoned or detained in pursuance of the sentence imposed under this Act.

(2) In subsection (1) of this section the expression "civil authority" means a civil authority (whether of the Federation or of any country or territory outside Nigeria) authorised by law to detain persons, and includes a police officer.

(3) Without prejudice to the provisions of subsection (1) of this section, where any person serving a sentence of imprisonment has in accordance with Imprisonment Rules been temporarily released on compassionate grounds, then, in calculating the period for which he is liable to be imprisoned in pursuance of the sentence, no account shall be taken of the time elapsing during the period beginning with the day after that on which he is released and ending with the day on which he is required to return to custody.

(4) A person who for any period is released as mentioned in subsection (3) of this section or is otherwise allowed, in pursuance of Imprisonment Rules, out of naval custody for any period or subject to any conditions shall, on failure to return at the expiration of the period or to comply with the conditions be treated for the purposes of subsection (1) of this section as being unlawfully at large.

(5) A person serving a sentence of imprisonment in civil custody who, after being temporarily released under the civil law of the country or territory in which he is serving his sentence, is at large at any time during the period for which he is liable to be detained in civil custody in pursuance of his sentence, shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made in pursuance of the civil law of such country or territory.

119. A person sentenced to death or imprisonment and committed or transferred to a civil prison in pursuance of rules made under this Part of this Act or of Imprisonment Rules, shall while in that prison be confined and otherwise dealt with in the same manner as a person confined therein under a sentence of a civil court.

Special provisions as to civil prisons.

120. The President may from time to time make arrangements with the authorities of any country or territory outside Nigeria whereby sentences of death passed by courts martial may in accordance with rules made under this Part of this Act be carried out in establishments under the control of those authorities and sentences of imprisonment or detention under this Act may, in accordance with Imprisonment Rules, be served wholly or partly in such establishments.

Serving of sentences outside Nigeria.

121. (1) A person who is serving a sentence of imprisonment in Nigeria may, in so far as may be specified by or under Imprisonment Rules, be removed out of Nigeria to any place where the unit or any part thereof to which for the time being he belongs is serving or is under orders to serve, but not to any other place.

Country in which sentence of imprisonment is to be served.

(2) Subject to the following provisions of this section, a person sentenced under this Act by a court martial held out of Nigeria to imprisonment for more than twelve months shall as soon as practicable after the confirmation of the sentence is completed be removed to Nigeria.

(3) Where a person has been sentenced under this Act by a court martial held out of Nigeria to imprisonment for more than twelve months, the confirming authority or reviewing authority may, notwithstanding anything in subsection (2) of this section, direct that he shall not be required to be removed to Nigeria until he has served such part of his sentence, not exceeding two years, as may be specified in the direction; and in determining whether or not to exercise the powers conferred by this subsection, a confirming authority or reviewing authority shall have regard to any recommendation in that behalf made by the court martial.

(4) Any direction of a confirming authority under this section may at any time be revoked by the confirming authority or by a reviewing authority, or may be superseded by any direction of the confirming authority or a reviewing authority which either authority might have given under subsection (3) of this section; and any direction of a reviewing authority under this section may at any time be revoked by a reviewing authority or be superseded as aforesaid.

(5) Any direction given under this section, and the revocation of any such direction, shall be promulgated.

(6) In ascertaining at any time for the purposes of this section the nature or length of a sentence regard shall be had to any commutation or remission of the sentence previously directed.

Duties of persons in charge of prisons and others to receive prisoners.

122.—(1) It shall be the duty, in so far as rules made under this Part of this Act or Imprisonment Rules so provide, of the superintendent or other person in charge of a civil prison (not being a naval prison) to receive any person duly sent to that prison in pursuance of any such rules and to confine him until execution of the sentence is completed or the prisoner is discharged or delivered over in due course of law.

(2) Where a person is in naval custody in pursuance of a sentence of imprisonment, then on receipt of a written order in that behalf purporting to be signed by that person's commanding officer or the officer in command of any Nigerian naval ship or naval establishment it shall be the duty of any such superintendent or other person as aforesaid or the police officer in charge of a police station or of any person in charge of any other place in which prisoners may be lawfully confined to keep that person in custody for a period not exceeding seven days unless the said person is earlier discharged or delivered over in due course of law.

Trial and Time Limit of Persons ceasing to be subject to Naval Law

Trial, etc., of offences although offender no longer subject to naval law.

123.—(1) Subject to the provisions of section one hundred and twenty-four of this Act, where an offence under this Act triable by court martial has been committed, or is reasonably suspected of having been committed, by any person while subject to this Act, then in relation to that offence he shall be treated, for the purposes of the provisions of this Act relating to arrest, keeping in custody, investigation of charge, trial and punishment by court martial (including confirmation, review and reconsideration) and execution of sentences as continuing subject to this Act notwithstanding his ceasing at any time to be subject thereto.

(2) Where a person in custody by virtue of this section whether before, during or after trial commits, or is reasonably suspected of having committed, an offence which if he were subject to naval law under this Act would be an offence under this Act triable by court martial, then in relation to that offence or suspected offence he shall be treated, for the purposes of the provisions of this Act mentioned in subsection (1) of this section and the provisions thereof as to the summary dealing with charges, as having been subject to this Act when the offence was committed or is suspected of having been committed and as continuing subject thereto thereafter.

(3) Where by virtue of either subsection (1) or subsection (2) of this section a person is treated as being at any time subject to this Act for the purpose of any provision of this Act, that provision shall apply to him—

(a) if he holds any naval rank, as to a person having that rank;

(b) otherwise as to a person having rank which he had when last actually subject to this Act:

Provided that as respects any time after he has been sentenced for the offence in question and the sentence has been confirmed the said provision shall apply to him (in any case) as to a rating.

(4) Where apart from this subsection any provision of this Act would under subsection (3) of this section apply to a person in relation to different offences, as to a person having two or more different ranks in the navy, it shall apply to him as to a person having the lower or lowest of those ranks, as the case may be.

124.—(1) No person shall be tried by court martial for any offence (other than mutiny, failure to suppress mutiny, or the offence of desertion) unless the trial is begun within three years after the commission of the offence, regard not being had to any period of time during which that person was a prisoner of war or was illegally absent:

Limitation
time for
trial of
offences
under this
Act.

Provided that—

(a) in the case of an offence against section eighty-two of this Act where proceedings for the corresponding civil offences are, by virtue of any written law, to be brought within the limited time, that limit of time shall apply to the trial of the offence under the said section eighty-two in substitution for the foregoing provisions of this subsection;

(b) a person may, subject to any time limit prescribed by any written law mentioned in paragraph (a) and to the consent of the Attorney-General of the Federation, be tried by court martial for a civil offence committed outside Nigeria notwithstanding that it was committed more than three years before the beginning of the trial.

(2) A person shall not be triable by virtue of subsection (1) of section one hundred and twenty-three of this Act unless his trial is begun within three months after he ceases to be subject to this Act or the trial is for a civil offence committed outside Nigeria and the Attorney-General of the Federation consents to the trial; but this subsection shall not apply to the offences of mutiny, failure to suppress mutiny and desertion under this Act.

*Relations between Naval and Civil Courts and Finality of Trials*Powers of
civil courts.

125.—(1) Subject to the provisions of section one hundred and forty-seven, nothing in this Act shall restrict the offences for which a person may be tried by any civil court, or the jurisdiction of any civil court to try a person subject to this Act, for any offence.

(2) Where a person is tried by a civil court for any offence, and he has in pursuance of this Act been punished for any act or omission constituting (whether wholly or in part) that offence on summary trial under section eighty-eight or eighty-nine of this Act the civil court shall, in awarding punishment, have regard to his punishment in pursuance of this Act.

Offences
already dis-
posed of, not
to be retried.

126.—(1) Where a person subject to this Act—

(a) has been tried for an offence by a competent civil court or a court martial under service law; or

(b) has been charged with an offence under service law, and has had the charge dismissed, or has been found guilty on the charge on summary trial under section eighty-eight or eighty-nine of this Act; or

(c) has had an offence condoned by his commanding officer, he shall not be liable in respect of that offence to be tried by court martial or to have the case dealt with summarily under section eighty-eight or eighty-nine of this Act.

(2) For the purposes of this section—

(a) a person shall not be deemed to have been tried by a court martial if confirmation is withheld of a finding by the court martial that he is guilty of the offence;

(b) a case shall be deemed to have been dealt with summarily notwithstanding that the finding of the officer who summarily tried the charge has been quashed or varied on review thereof;

(c) an offence shall be deemed to have been condoned by the commanding officer of a person alleged to have committed the offence if, and only if, that officer or any officer authorized by him to act in relation to the alleged offence has with knowledge of all relevant circumstances informed him that he will not be charged therewith;

(d) a person ordered under subsection (2) of section seventy of this Act, or the corresponding provision of any service law, to be imprisoned for an offence against that section or provision shall be deemed to have been tried by court martial for the offence.

(3) Where confirmation of a finding of guilty of an offence is withheld the accused shall not be tried again by court martial for that offence unless the order convening the later court martial is issued not later than twenty-eight days after the promulgation of the decision to withhold confirmation.

(4) Save as provided in the foregoing provisions of this section proceedings for an offence against this Act (whether summarily or before a court martial) shall not be barred on the grounds of condonation.

*Inquiries*Boards of
inquiry

127.—(1) Subject to and in accordance with the provisions of rules made under this Part of this Act (in this Act referred to as "Boards of Inquiry Rules"), the board or any naval, military or air force officer

commanding a body of naval personnel may convene a board of inquiry to investigate and report on the facts relating to any matter which may be referred to such board of inquiry by the board or any such officer as aforesaid; and a board of inquiry shall, if directed so to do, express their opinion on any question arising out of any matter referred to them.

(2) A board of inquiry shall consist of such number of persons as may be provided for by the Boards of Inquiry Rules, who shall be persons subject to service law, and the president of a board of inquiry shall be an officer not below the rank of sub-lieutenant or corresponding rank.

(3) Evidence given before a board of inquiry shall not be admissible against any person in proceedings before a court martial or at a summary trial other than proceedings for an offence against section seventy-one or for an offence against section eighty-two when the corresponding offence is perjury.

128.—(1) Where a board of inquiry inquiring into the absence of an officer or rating reports that he has been absent without leave or other sufficient cause for a period specified in the report, not being less than twenty-one clear days, a record of the report shall in accordance with the Board of Inquiry Rules be entered in the service books.

Inquiries
into absence.

(2) A record entered in pursuance of subsection (1) of this section shall, unless the absentee subsequently surrenders or is arrested, or the report of the board of inquiry is annulled by the board or a subsequent board of inquiry, have the like effect as a conviction by a court martial for desertion.

Miscellaneous Provisions

129.—(1) The following provisions of this section shall have effect where a person has been convicted by court martial of unlawfully obtaining any property, whether by stealing it, receiving it or retaining it knowing or having reason to believe it to have been stolen, fraudulently misapplying it or otherwise.

Restitution
or compensa-
tion for theft,
etc.

(2) If any of the property unlawfully obtained has been found in the possession of the offender, it may be ordered to be delivered or paid to the person appearing to be the owner thereof.

(3) If there has been found in the possession of the offender any property (other than money) appearing to have been obtained by him by the conversion or exchange of any of the property unlawfully obtained, the property may be ordered to be delivered to the person appearing to be the owner of the property unlawfully obtained.

(4) Where money is found in the possession of the offender, then whether or not it appears to have been obtained as aforesaid an order may be made that there shall be paid out of that money to the person appearing to be the owner of the property unlawfully obtained such sum as may be specified in the order as or towards compensation for the loss caused to the said person by the offence, in so far as not otherwise made good under this Act or by the recovery of the property unlawfully obtained.

(5) Where any of the property unlawfully obtained has been sold or given in pawn to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner thereof of the property sold or given as aforesaid,

there shall be paid to the said other person, out of any money found in the possession of the offender (whether or not the money appears to be proceeds of the sale or giving in pawn), such sum as may be specified in the order as or towards compensation for the loss caused to him in consequence of the sale or giving in pawn.

(6) Where any of the property unlawfully obtained has been given in exchange to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner thereof of the property given as aforesaid, there shall be restored to the said other person the property taken in exchange for the property unlawfully obtained.

(7) An order under this section may be made by the court martial by whom the offender is convicted, or by the confirming authority, or any reviewing authority; but an order under this section made by a court martial shall not have effect until confirmed by the confirming authority and the provisions of this Part of this Act as to the confirmation and review of the proceedings of courts martial shall apply to an order under this section as they apply to a sentence.

(8) The operation of any order under this section shall be suspended—

(a) in any case, until the expiration of the period prescribed under Part V as the period within which an application for leave to appeal to the Supreme Court against the conviction must be lodged; and

(b) if such an application is duly lodged, until either the application is finally refused or is withdrawn or the appeal is determined or abandoned;

and where the operation of such an order as aforesaid is suspended under this section—

(i) it shall not take effect if the conviction is quashed on appeal;

(ii) the Supreme Court may by order annul or vary the order although the conviction is not quashed;

(iii) such steps shall be taken for the safe custody, during the period during which the operation of the order is suspended, of the property ordered to be restored or handed over or the money to which the order relates as may be provided by rules of court made under Part V of this Act.

(9) Notwithstanding anything in subsection (8) of this section, an order under this section shall not, so far as it relates to the delivery of property to the person appearing to be the owner thereof, be suspended if the court or authority making the order directs to the contrary in any case in which, in the opinion of the court or authority, the title to the property is not in dispute.

(10) An order under this section shall not bar the right of any person, other than the offender or a person claiming through him to recover any property delivered or paid in pursuance of such an order from the person to whom it is delivered or paid.

(11) In this section, "appearing" in relation to an order, means appearing to the court martial, or to the confirming authority, or reviewing authority making the order, as the case may require.

130. Any finding, sentence, determination or other thing required by this Act to be promulgated shall be promulgated either by being communicated to the accused or as the confirming or reviewing authority, as the case may be, may direct.

Promulga-
tion
of findings
etc.

131.—(1) The record of the proceedings of a court martial shall be kept in the custody of the commander for not less than the prescribed period, being a period sufficient to ensure that the rights conferred by subsections (2) and (3) of this section shall be capable of being exercised.

Custody of
proceeding
of court
martial and
right
to copies

(2) Subject to the provisions of this section, any person tried by a court martial shall be entitled to obtain from the commander on demand at any time within the relevant period and on payment therefore at such rate as may be prescribed a copy of the record of the proceeding of the court.

(3) Where a person tried by court martial dies within the relevant period, his personal representatives or any person who in the opinion of the commander ought to be treated for the purposes of this subsection as his personal representative shall, subject to the provisions of this section, be entitled to obtain from the commander on demand at any time within the period of twelve months from the death and payment therefor at the prescribed rate a copy of the record of the proceedings of the court.

(4) If, on an application in pursuance of either subsection (2) or subsection (3) of this section for a copy of the record of any proceedings, the Minister certifies that it is requisite for reasons of security that the proceedings or any part thereof should not be disclosed, the applicant shall not be entitled to a copy of the proceedings or part to which the certificate relates.

(5) In this section the expression "the relevant period" in relation to any person tried by court martial, means the period of five years beginning with the date of his acquittal, or, where he was convicted, of the promulgation of the findings and sentence or, where a finding of guilty was not confirmed, of the promulgation of the withholding of confirmation :

Provided that where the proceedings relate to two or more charges and the person tried was acquitted on one or more of the charges and convicted on another or others, the relevant period shall be the period of five years beginning with the date of the promulgation of the findings of guilty and the sentence thereon or of the withholding of confirmation of that finding, or those findings.

(6) Any reference in this section to the record of the proceedings of a court martial includes a reference to the record of the proceedings with respect to the confirmation or revision of the findings and sentence of the court martial.

132. No action shall lie in respect of anything done by any person in pursuance of a sentence of imprisonment under this Act if the doing thereof would have been lawful but for a defect in any warrant or other instrument made for the purposes of that sentence.

Indemnity
for prison
officers, etc.

Redress of Complaints

133.—(1) If any officer or rating of the navy or the reserve thinks he has suffered any personal oppression, injustice or other ill-treatment from a superior officer or authority, he may make a complaint in accordance with such procedure as may be prescribed ; and if the complainant is

Complaints
by officers
and ratings

not satisfied with the decision of any authority to whom his complaint is made or that authority neglects or refuses, when requested to do so, to forward the complaint to the next superior officer or authority, the complainant shall be entitled to make his complaint direct to the next superior officer or authority, and so on up to the navy board whose decision shall be final.

(2) It shall be the duty of any superior officer or authority to whom a complaint is made under this section to have the complaint investigated as soon as practicable and to take any steps for redressing the matter complained about which appear to that officer or authority to be necessary.

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

Power to refer complaints by officer to the President.

134.—(1) In the case of a complaint by an officer the board may report the complaint through the Minister for the directions (if any) of the President.

(2) If a rating thinks himself wronged in any matter by his commanding officer, either by reason of redress not being given to his satisfaction on a complaint under subsection (1) of this section or for any other reason, he may make a complaint with respect thereto to any military, naval or air force officer under whom the complainant is for the time being serving, being an officer not below the rank of commodore or corresponding rank.

(3) It shall be the duty of a commanding officer or other officer to have any complaint received by him under this section investigated and to take any steps for redressing the matter complained of which appear to him to be necessary.

Rules of Procedure, etc.

Rules of procedure and other rules.

135.—(1) The President may make rules of procedure generally for the purposes of this Part of this Act, and without prejudice to the generality of the foregoing, rules may be made—

(a) for the convening, constitution and conduct of courts martial;

(b) with respect to the execution of sentences of death under this Act, including the manner and place where such executions are to be carried out and the custody, treatment and removal of persons under sentence of death;

(c) for the execution of sentences of imprisonment including the prisons, civil or otherwise, in which they are to be served, the classification, treatment, employment, discipline, control, removal and temporary release on compassionate grounds of persons serving such sentences and the appointment, powers and duties of inspectors, visitors, governors and other members of the staff and officers in charge of persons serving sentences of imprisonment;

(d) with respect to field punishment;

(e) for the convening, constitution and procedure of boards of inquiry, the rules of evidence to be observed and the taking of evidence by such boards, including the administration of oaths and affirmations to witnesses and the making of reports by such boards;

(f) in respect of matters for which rules may be made under the foregoing provisions of this Part of this Act;

(g) for such incidental and supplementary matters as appear requisite for the purpose of the foregoing.

(2) Notwithstanding the repeal of any Act by section two hundred and thirteen of this Act, all regulations, rules or instructions relating to discipline and trial of offences in operation immediately before the repeal of the Royal Nigerian Navy Act, 1960 shall continue in force and may be used with such adaptations, modifications and exceptions as are necessary to give effect thereto under this Act.

1960 No. 9

Interpretation of this Part

136.—(1) In this Part—

“air-force prison” means separate premises designated by the commander of the Nigeria Air Force for persons serving air force sentences of imprisonment;

“civil prison” means a prison in Nigeria in which a person sentenced by a civil court to imprisonment can for the time being be confined;

“convening officer”, in relation to a court martial, means the officer convening that court martial and includes his successor or any person for the time being exercising his or his successor’s functions;

“military prison” means separate premises designated by the commander of the Nigerian Army for persons serving military sentences of imprisonment;

“naval prison” means premises or vessels or parts of premises or vessels designated by the commander for persons serving naval sentences of imprisonment;

“prescribed” means prescribed by Rules of Procedure;

“prison” includes a civil prison and any military, naval or air force prison.

(2) Reference in this Part of this Act to a sentence of imprisonment are references to a sentence of imprisonment passed by a court martial or awarded summarily under section eighty-eight or section eighty-nine of this Act.

(3) References in this Part of this Act to detention or to sentences of detention shall include references to detention passed by a court martial or to any such sentence by the offender’s commanding officer.

(4) Where persons subject to this Act are appointed or drafted to a naval ship or establishment for duty those persons shall be treated for the purposes of this Act as belonging to the ship or establishment to which they are appointed or drafted.

(5) References in this Part of this Act to chief petty officers do not include references to acting chief petty officers.

(6) References in this Part of this Act to petty officers include references to acting petty officers and to acting chief petty officers.

PART V—APPEALS FROM COURTS MARTIAL

137. Subject to the following provisions of this Part of this Act, an appeal shall lie from decisions of a court martial to the Supreme Court with the leave of the Supreme Court; and shall lie as of right without such leave, from any decision of a court martial involving a sentence of death.

Interpreta-
tion of
Part IV.Right of
appeal.

Procedure
for applying
for leave to
appeal or
lodging
appeal.

138.—(1) Leave to appeal against the finding of a court martial may be granted by the Supreme Court on application made to it by the appellant in the prescribe form setting out the grounds on which leave to appeal is sought and such other particulars (if any) as may be prescribed, and lodged with the registrar of that court or if rules of court otherwise allow, lodged with any other person.

(2) The application shall, in the case of any finding involving a sentence of death, be lodged within ten days of the date of promulgation of the finding, and in any other case within forty days thereof.

(3) The Supreme Court may extend the period within which application for leave to appeal is made in respect of any finding other than one involving a sentence of death, and whether or not the said period of forty days has expired.

(4) Rules of court may provide that, in such circumstances as may be specified therein, any application for leave to appeal or the appeal itself may, when lodged with such person other than the registrar as may be specified in such rules, be treated for the purposes of this section as having been duly lodged with the registrar.

(5) In considering whether or not to grant leave to appeal, the Supreme Court shall have regard to any opinion expressed by the judge advocate, if any, who acted at the court martial on the merits of the case as one for appeal.

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

Determina-
tion of
appeals in
ordinary
cases.

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

(2) Notwithstanding the provisions of the foregoing subsection, the Supreme Court may dismiss an appeal if of the opinion that the point raised in the appeal might be decided in favour of the appellant, but no substantial miscarriage of justice has occurred.

(3) If the Supreme Court allows an appeal against a conviction under this Part of this Act it shall quash the conviction.

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

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

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

Powers of
the Supreme
Court in
special
cases.

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

(3) Where—

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

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

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

(4) If, on appeal, it appears to the Supreme Court that, although the appellant committed the act or omission charged against him, he was insane at the time the act was done, or the omission made, so as not to be

responsible according to law for his actions, the Supreme Court may quash the sentence passed at the trial and order the appellant to be kept in custody, under the provisions of section one hundred and sixteen of this Act, in like manner as on a special finding of insanity by the court martial by which the appellant was convicted.

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

Appeals to
be final

141. The determination by the Supreme Court of any appeal or other matter which it has power to determine under the provisions of this Part of this Act shall be final.

Supplemen-
tary powers
of the
Supreme
Court.

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

Proceedings
to be heard
in absence of
appellants.

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

Defence of
appeals.

144. It shall be the duty of the board on an appeal against a decision of a court martial to undertake the defence of the appeal.

Right of
appellant to
present his
case in
writing.

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

Suspension
of death
sentences.

146. Where a conviction by court martial involves sentence of death, the sentence shall not in any case be executed until the expiration of the period within which an appeal to the Supreme Court against the conviction may be lodged; and if such an appeal is lodged, the sentence shall not be executed pending the determination or dismissal of the appeal, or as the case may be, the appeal is abandoned.

Persons not
to be tried
again where
conviction
quashed.

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

Removal of
prisoners
for purposes
of proceed-
ings.

148. Imprisonment Rules may provide in what manner an appellant, when in custody, is to be taken to, kept in custody at, and brought back from any place at which he is entitled to be present for the purposes of this Part of this Act or any place to which the Supreme Court or a Justice thereof may order him to be taken for the purpose of any proceedings of the Supreme Court.

149. In the case of every appeal, or application for leave to appeal, under this Part of this Act to the Supreme Court against a decision of a court martial, it shall be the duty of the commander to furnish to the registrar of the Supreme Court, in accordance with rules of court, the proceedings of the court martial (including any proceedings with respect to the revision of the findings or sentence of the court martial in pursuance of subsection (1) of section one hundred and thirteen of this Act with respect to the confirmation of the finding and sentence of the court martial).

Furnishing, of appeal, of documents relating to trial.

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

Duties of registrar of the Supreme Court in respect of appeals, etc.

(2) The registrar of the Supreme Court shall forthwith upon receipt of an appeal or application for leave to appeal under this Part of this Act, obtain and lay before the Supreme Court in proper form all documents, exhibits and other things relating to the proceedings in the court martial by which the appellant or applicant was tried, which appear necessary for the proper determination of the appeal or of the application, as the case may be.

151.—(1) The Chief Justice of Nigeria may make rules of court for regulating the procedure and practice to be followed in the Supreme Court for the purposes of this Part of this Act.

Rules of court.

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

(3) Reference in this Part of this Act to "prescribed" shall be to any matter or thing prescribed by rules of court.

152. Nothing in this Part of this Act shall affect the exercise by reviewing authorities of the power conferred upon them by section one hundred and thirteen of this Act in respect of a decision of a court martial so far as regards the exercise by them of those powers at any time before the lodging with the registrar of the Supreme Court of an appeal or an application for leave to appeal, as the case may be, against the decision; and nothing in the Part of this Act shall affect the exercise by the President of the prerogative of mercy under the Constitution of the Federation.

Saving of reviewing authorities' powers.

153. Upon the hearing of any appeal from a court martial the Supreme Court shall consist of at least three Justices.

Composition of court.

Exercise of
certain
powers of
the Supreme
Court by a
Justice.

154. Notwithstanding the provisions of section one hundred and fifty-three of this Act, any Justice of the Supreme Court may—

(a) give leave to appeal, or

(b) extend the time limit within which an application for leave to appeal otherwise than in the case of sentence of death may properly be lodged under section one hundred and thirty-eight of this Act; or

(c) allow an appellant to be present at any proceedings under this part of this Act,

but nothing in this section shall be construed to preclude the hearing and determination of any such application if a Justice refuses the application, and accordingly the appellant or applicant, as the case may be, shall be entitled, notwithstanding such refusal, to have the application dealt with before the Supreme Court sitting with not less than three Justices under the provisions of said section one hundred and fifty-three.

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

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

PART VI.—PAY, FORFEITURES AND DEDUCTIONS

Regulations
as to pay.

156. The President shall make regulations governing the pay, allowances and other emoluments of the officers and ratings of the navy (in this Act referred to as "pay regulations") and other matters pertaining thereto and in particular governing the following provisions of this Part of this Act.

Forfeitures
and deduc-
tions:
general
provisions.

157.—(1) No forfeiture of the pay of an officer or rating shall be imposed unless authorised by service law or some other written law and no deduction from such pay shall be made unless so authorised or authorised by pay regulations.

(2) Pay regulations shall not authorise the making of any penal deduction, that is to say, a deduction to be made by reason of the commission of any offence or other wrongful act or in consequence of any negligence.

(3) The foregoing provisions of this section shall not prevent the making of pay regulations providing for the imposition of any forfeiture authorised by this Act or the making of any deduction so authorised, or for the time at which and manner in which sums may be deducted from pay to give effect to authorised deduction or the manner in which amounts may be so deducted in order to recover any fine imposed in pursuance of this Act, or as to the appropriation of any such sum or amount when deducted, or of providing for the determination of questions relating to forfeitures or deductions.

(4) Notwithstanding any deduction from the pay of an officer or rating, he shall (subject to any forfeiture) remain in receipt of pay at not less than such minimum rate as may be prescribed in pay regulations.

(5) Notwithstanding that forfeiture of pay of an officer or rating for any period has been ordered in pursuance of this Act, he shall remain in receipt of pay at such a minimum rate as aforesaid, but the amount received for that period may be recovered from him by deduction from pay.

(6) Any amount authorised to be deducted from the pay of an officer or rating may be deducted from any balance (whether or not representing pay) which may be due to him as an officer or rating and references in this Act to the making of deduction from pay shall be construed accordingly; and the whole or any part of any sum forfeited from an offender's pay may be recovered by deduction from any such balance.

158.—(1) The pay of an officer or rating may be forfeited—

Forfeiture
pay for
absence from
duty.

(a) for any day of absence in such circumstances as to constitute an offence under section forty-nine or fifty of this Act, or, if the commander so directs, of other absence without leave;

(b) for any day of imprisonment, detention or cells awarded under service law by a court martial or upon summary trial, or of imprisonment or detention of any description to which he is liable in consequence of an order or sentence of a civil court;

(c) where he is found guilty (whether by court martial or upon summary trial) of an offence under service law, for any day (whether before or after he is found guilty) on which he is in hospital on account of sickness or injury certified by the proper medical officer to have been occasioned by the offence.

(2) The pay of an officer or rating may be forfeited for any day of absence by reason of his being made a prisoner of war if the commander is satisfied—

(a) that he was made a prisoner of war through disobedience of orders or wilful neglect of his duty; or

(b) that having been made a prisoner of war he failed to take any reasonable steps available to him to rejoin the service of Nigeria; or

(c) that having been made a prisoner of war he served with or aided the enemy in the prosecution of hostilities or measures calculated to influence morale or in any other manner whatsoever not authorised by international usage,

but, save as aforesaid, nothing in paragraph (a) of subsection (1) of this section shall apply to absence by reason of having been made a prisoner of war.

(3) Pay regulations may make provision as to the computation of time for the purposes of this section and in particular as to the counting or disregarding of parts of days.

159. Where an officer or rating charged with an offence before a civil court (whether within or without Nigeria) is sentenced or ordered by the court to pay any fine, penalty, damages, compensation or costs, and the whole or part thereof is met by a payment made by or on behalf of any naval authority, the amount of the payment may be deducted from his pay.

Deductions
for payment
of civil
penalties.

160.—(1) Without prejudice to the provisions of this Act as to the imposition of stoppages as a punishment, the following provisions shall have effect where, after such investigation as may be prescribed by pay regulations it appears to the board, the commander or an officer authorised in pay regulations that any loss of, or damage to, public or service property has been occasioned by any wrongful act or negligence of an officer or rating (in this Act referred to as "the person responsible").

Compensa-
tion for loss
occasioned
by wrongful
act or
negligence.

(2) The board, the commander or authorised officer, as the case may be, may order the person responsible to pay as or towards compensation for the loss or damage, such sum as may be specified in the order, and such sum, in so far as not otherwise paid by the person responsible, may be deducted from his pay.

(3) No order shall be made under the provisions of subsection (2) of this section if, in proceedings before a court martial under service law, or upon summary trial, the person responsible—

(a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question; or

(b) has been awarded stoppages in respect of the same loss or damage, but save as aforesaid, the fact that such proceedings have been brought in respect of the wrongful act or negligence in question shall not prevent the making of an order or deductions under subsection (2) of this section.

Deductions
for barrack
damage.

161.—(1) Where damage occurs to any premises in which one or more units or parts of such units are quartered or billeted, or any fixtures, furniture or effects in or belonging to such premises are damaged or lost, and it appears on investigation in accordance with the provisions of pay regulations that the damage or loss was occasioned by the wrongful act or negligence of persons belonging to any of the units or parts of units in occupation of such premises, but that the said persons cannot be identified, any person belonging to any of such units or parts of units may be required to contribute towards compensation for the damage or loss such amount as may in accordance with pay regulations be determined to be just, and the amount may be deducted from his pay.

(2) The provisions of subsection (1) of this section shall extend to ships, trains, motor vehicles and aircraft in which units or parts of units are being transported and references to premises, quartering and occupation shall be construed accordingly.

Remission of
forfeitures
and deduc-
tions.

162. Any forfeiture or deduction imposed under the provisions of sections one hundred and fifty-eight, one hundred and fifty-nine, one hundred and sixty or one hundred and sixty-one of this Act or under pay regulations may be remitted by the board or in such manner and by such authority as may be provided by such regulations.

PART VII—GENERAL PROVISIONS

Exemptions for Members of Navy

Exemption
from tolls,
etc.

163.—(1) Duties or tolls for embarking from or disembarking on any pier, wharf, quay or landing place in Nigeria, or for passing over any road, ferry or bridge in Nigeria, shall not be payable in respect of—

(a) a member of the navy on duty;

(b) vehicles in naval service, being vehicles belonging to the Federation or any Region thereof or other vehicles driven by persons (whether a member of the navy or not) in the public service of the Federation of any Region thereof;

(c) goods carried in such vehicles.

(2) Harbour dues or other charges for entering, leaving, and anchoring or mooring in, any harbour or port in Nigeria, shall not be payable in respect of any naval ship or vessel belonging to the Federation.

(3) In subsection (1) of this section the expression "in naval service" means employed under proper naval authority for the purposes of any ship, vessel or establishment of the navy.

164. No judgment, decree or order given or made against a member of the navy by any court in Nigeria shall be enforced by the levying of execution on any property of the person against whom it is given or made, being public property, used by him for naval purposes.

Exemption from taking in execution of property used for naval purposes.

165. The officers and ratings of the navy and the reserve shall, for purposes of the navy, be exempt from the provisions of any enactment relating to the storage, possession or transmission of firearms, explosives, gunpowder or munitions of war to the same extent and in the same manner as members of any other of the armed forces of Nigeria are so exempt.

Exemptions as to arms and explosives.

Deserters and Absentees without Leave

166.—(1) Any police officer may arrest without a warrant any person whom he has reasonable cause to suspect of being an officer or rating who has deserted or is absent without leave; and where no police officer is available, any other person may in like circumstances arrest without a warrant any such person.

Arrest of deserters and absentees without leave.

(2) If any person authorised to issue a warrant for the arrest of a person charged for a criminal offence is satisfied by evidence on oath that there is, or there is reasonably suspected of being, within the jurisdiction an officer or rating who has deserted or is absent without leave, or is reasonably suspected of having deserted or of being absent without leave, he may issue a warrant for the arrest of the officer or rating.

(3) Any person in custody in pursuance of this section shall as soon as practicable be brought before a magistrate's court.

(4) Notwithstanding the provisions of any other Act or rule of law, a person appearing before a magistrate's court under this section, shall not be admitted to bail.

167.—(1) Where a person who is brought before a magistrate's court is alleged to be an officer or rating of the navy who has deserted or is absent without leave, the following provisions shall have effect.

Proceedings before a civil court where persons suspected of illegal absence.

(2) If the person so before such court admits that he is illegally absent from the navy and the court is satisfied of the truth of the admission, then, unless he is in custody for some other cause, the court shall, or notwithstanding that he is in custody for some other cause, the court may, forthwith either cause him to be delivered into naval custody in such manner as the court may think fit or commit him to some prison, police station or other place provided for the confinement of persons in custody, to be kept there for such reasonable time as the court may specify (not exceeding such time as appears to the court reasonably

necessary for the purpose of enabling him to be delivered into naval custody) or until sooner delivered into such custody. Any time specified by the court may be extended by the court from time to time if it appears to the court reasonably necessary so to do for the purpose aforesaid.

(3) If such person does not admit that he is illegally absent as aforesaid, or the court is not satisfied of the truth of the admission, the court shall consider the evidence and any statement of the accused. If the court is satisfied that he is subject to naval law under this Act and the court is also of opinion that there is sufficient evidence to justify trial of such person for an offence of desertion or absence without leave then, unless he is in custody for some other cause, the court shall cause him to be delivered into naval custody or commit him as aforesaid, but otherwise shall discharge him :

Provided that if any such person is in custody for some other reason the court may if it thinks fit, and in its discretion, act in accordance with this subsection.

(4) If proceedings are taken in a magistrate's court under this section, the law applicable in that court in relation to the constitution and procedure of magistrates' court holding preliminary inquiries and conferring powers of adjournment and remand on such court so acting, and as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses, shall apply to such proceedings.

(5) Notwithstanding the provisions of any other Act or rule of law, a person appearing before a magistrate's court under this section, shall not be admitted to bail.

Deserters
and
absentees
without
leave sur-
rendering to
police.

168.--(1) Where a person elsewhere than at a police station surrenders himself to a police officer as being illegally absent from the navy, the police officer shall forthwith bring him to a police station. The police officer in charge of any such police station shall thereupon enquire into the case, and if it appears that such person is illegally absent from the navy, he may in his discretion, cause such a person to be delivered into naval custody without bringing him before a magistrate's court, or may bring him before such court.

(2) Notwithstanding the provisions of any other Act or rule of law, the person appearing before a magistrate's court under this section, shall not be admitted to bail.

Certificates
of arrest or
surrender.

169.--(1) Where a magistrate's court under this Part of this Act deals with a person as illegally absent, and that person is delivered into naval custody there shall at the time of such delivery be handed over a certificate in the prescribed form signed by a magistrate, containing particulars as to the arrest or surrender as the case may be, and of the proceedings before the court.

(2) Where after surrender a person is delivered into naval custody without being brought before a court, under the provisions of this or any other Act, there shall be handed over a certificate in the prescribed form signed by the police officer causing the delivery into naval custody, and such certificate shall contain particulars relating to the surrender.

(3) In any proceedings for an offence under section forty-nine or fifty of this Act—

(a) a document purporting to be a certificate under the relative subsection of this section, or under the corresponding provisions of any other Act relating to service law and to be signed as therein presented, shall be evidence of the matter stated in the document ;

(b) where the proceedings are against a person who has been taken into naval custody on arrest or surrender, a certificate in the prescribed form purporting to be signed by a provost officer or any corresponding officer of a force raised under the law of any other country, or by any other officer in charge of the guardroom or other place where that person was confined on being taken into custody, stating the fact, date, time and place of arrest or surrender shall be evidence of the matter stated in the certificate.

170.—(1) It shall be the duty of the superintendent or other person in charge of a civil prison to receive any person duly committed to that prison by a magistrate's court as illegally absent from the navy and to detain him until in accordance with the directions of the court he is delivered into naval custody.

(2) Subsection (1) of this section shall apply to the person having charge of any police station or other place (not being a prison) provided for the confinement of persons in custody as it applies to the superintendent of a prison.

Duties of superintendents of prisons and others to receive deserters and absentees.

Offences relating to Naval Matters punishable by Civil Courts

171. Any person who falsely represents himself to any naval, military, airforce or civil authority to be a deserter from the navy shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both.

Punishment for pretending to be a deserter.

172. Any person who—

(a) procures or persuades any officer or rating of the navy to desert or to absent himself without leave ; or

(b) knowing that any such officer or rating is about to desert or absent himself without leave, assists him in so doing ; or

(c) knowing any person to be a deserter or absented without leave from the navy, conceals him or assists in his rescue from custody, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding one year, or to both.

Punishment for procuring and assisting desertion.

173. Any person who wilfully obstructs or otherwise interferes with any officer or rating of the navy acting in the execution of his duty shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both.

Punishment for obstructing members of the navy.

174. Any person who—

(a) produces in any officer or rating of the navy any sickness or disability ; or

Punishment for aiding malingering.

(b) supplies to or for him any drug or preparation calculated or likely to render him, or lead to the belief that he is, permanently or temporarily unfit for service,

with a view to enabling him to avoid naval service, whether permanently or temporarily, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding one year, or to both.

Unlawful
purchase,
etc., of naval
stores.

175.—(1) Any person who acquires any naval stores or solicits or procures any person to dispose of any naval stores, or acts for any person in the disposing of any naval stores shall be guilty of an offence, unless he proves either—

(a) that he did not know, and could not reasonably be expected to know, that the chattels in question were naval stores; or

(b) that those chattels had (by the transaction with which he is charged or some earlier transaction) been disposed of by order or with the consent of the board or of some person or authority who had, or whom he had reasonable cause to believe to have, power to give order or consent; or

(c) that those chattels had become the property of an officer who had retired or ceased to be an officer, or of a rating who had been discharged, or of the personal representative of a person who had died,

and shall be liable on conviction to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years, or to both.

(2) A police officer may arrest without warrant any person whom he has reasonable grounds for suspecting of having committed an offence against this section, and may seize any property which he has reasonable grounds for suspecting of having been the subject of the offence.

(3) Any person authorised to issue a warrant for the arrest of a person charged with a crime may, if satisfied by evidence on oath that a person within his jurisdiction has, or is reasonably suspected of having in his possession any property which has been the subject of an offence against this section, grant a warrant to search for such property as in the case of stolen goods; and any property suspected of having been the subject of such an offence which is found on such a search shall be seized by the officer charged with the execution of the warrant, and that officer shall bring the person in whose possession or keeping the property is found before a magistrate's court. For the purpose of this subsection property shall be deemed to be in the possession of a person if he has it under his control, and whether he has it for his own use or benefit or for the use or benefit of another.

(4) In this section—

“acquire” means buy, take in exchange, take in pawn or otherwise receive (whether apart from this section the receiving is lawful or not);

“dispose” means sell, give in exchange, pledge or otherwise hand over (whether apart from this section the handing over is lawful or not);

"naval stores" means any chattel of any description belonging to the government of the Federation, which has been issued for use for naval purposes or is held in store for the purpose of being issued when required, and includes any chattel which had belonged, and had been issued or held, as aforesaid at some past time.

176.—(1) Any person who—

- (a) as a pledge or a security for a debt ; or
- (b) with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person, receives, detains or has in his possession any official document issued in connection with the payment to any person of any pay, pension, allowance, gratuity or other payment payable in respect of his or any other person's naval service shall be guilty of an offence against this section.

(2) Any person who has in his possession without lawful authority or excuse (the proof whereof shall lie on him) any such document as aforesaid or any official document issued in connection with the mobilization or demobilization of any of the armed forces of Nigeria or any member thereof, shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months, or to both.

(4) For the purposes of this section a document shall be deemed to be in the possession of a person if he has it under his control and whether he has it for his own use or benefit or for the use or benefit of another.

177.—(1) Any person who—

- (a) without authority uses or wears any naval decoration, or any badge, wound stripe or emblem supplied or authorised by the President or the board ; or
 - (b) uses or wears any decoration, badge, wound stripe or emblem so nearly resembling any naval decoration, or any such badge, stripe or emblem as aforesaid, as to be calculated to deceive ; or
 - (c) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, badge, stripe or emblem as is mentioned in paragraph (a) of this section,
- shall be guilty of an offence against this section :

Provided that nothing in this subsection shall prohibit the use or wearing of badges, emblems, broches or ornaments representing them.

(2) Any person who purchases or takes in pawn any naval decoration awarded to any member of the armed forces of Nigeria, or solicits or procures any person to sell or pledge any such decoration, or acts for any person in the sale or pledging thereof, shall be guilty of an offence against this section unless he proves that at the time of the alleged offence the person to whom the decoration was awarded was dead or had ceased to be a member of those forces.

(3) Any person guilty of an offence against this section shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months, or to both.

Illegal dealings in documents relating to pay, pensions, mobilisations, etc.

Unauthorised use of, and dealing in, decorations, etc.

Intoxicating liquor not to be conveyed on board any naval ship.

178.—(1) Any person who shall, without the previous consent of the commanding officer, bring on board any naval ship any spirituous or fermented liquor of any description, or without such consent approach or hover about any such ship for the purpose of bringing on board, giving or selling spirituous or fermented liquor, shall be guilty of an offence against this section and shall be liable on conviction to a fine not exceeding ten pounds or imprisonment for a term not exceeding three months, or to both.

(2) Any officer or petty officer of the navy may, with or without ratings or persons under his command, search any vessels hovering about or approaching any ship of the navy, in circumstances giving rise to a reasonable suspicion that an offence under subsection (1) of this section is intended; and if on search any such liquor is found in or upon such vessel, the officer or petty officer may seize it, and such liquor shall be forfeited.

Evidence

Special provisions as to evidence.

179.—(1) The following provisions shall have effect with respect to evidence in proceedings under this Act, whether before a court martial, a civil court or otherwise.

(2) A document purporting to be a copy of the attestation paper signed by any person and to be certified to be a true copy by a person stated in the certificate to have the custody of the attestation paper shall be evidence of the enlistment of the person attested.

(3) The attestation paper purporting to be signed by a person on his enlistment shall be evidence of his having given the answers to questions which he is therein recorded as having given.

(4) A letter, return or other document stating that any person—

(a) was or was not serving at any specified time or during any specified period in the navy or the reserve or was discharged from the navy or the reserve at or before any specified time; or

(b) held or did not hold at any specified time any specified rank or appointment in the navy or the reserve, or had at or before any specified time been attached, posted or transferred to any naval ship or establishment, or at any specified time or during any specified period was or was not serving or held or did not hold any rank or appointment in any particular country or place; or

(c) was or was not at any specified time authorised to use or wear any decoration, badge, wound stripe or emblem, shall, if purporting to be issued by or on behalf of the commander be evidence of the matter stated in the document.

(5) A record made in any service book or other document prescribed by regulations under this Act for the purposes of this subsection, being a record made in pursuance of service law or regulations, or otherwise in pursuance of naval duty, and purporting to be signed by the commanding officer or by any person whose duty it was to make the record, shall be evidence of the facts stated therein; and a copy of a record (including the signature thereto) in any such book or other document as aforesaid, purporting to be certified to be a true copy by a person stated in the certificate to have the custody of the book or original document, as the case may be, shall be evidence of the record.

(6) A document purporting to be issued by order of the board or the commander and to contain instructions or orders given or made by the board or the commander shall be evidence of the giving of the instructions or making of the orders and of their contents.

(7) A certificate purporting to be issued by or on behalf of the board or the commander and stating—

(a) that a decoration of a description specified in or annexed to the certificate is a naval decoration ; or

(b) that a badge, wound stripe or emblem of a description specified in or annexed to the certificate is one supplied or authorised by the President or the board,

shall be evidence of the matter stated in the certificate.

(8) A certificate purporting to be signed by a person's commanding officer or any officer authorised by him to give the certificate, and stating the contents of, or any part of, standing orders or other routine orders of a continuing nature made for any naval ship or naval establishment, shall in the proceedings against the said person be evidence of the matters stated in the certificate.

180.—(1) Where a person subject to this Act has been tried before a civil court (whether at the time of the trial he was so subject or not), a certificate signed by a judge or a magistrate and stating all or any of the following matters—

Proof of
outcome of
civil trial.

(a) that the said person has been tried before the court for an offence specified in the certificate ;

(b) the result of the trial ;

(c) what judgment or order was given or made by the court ;

(d) that other offences specified in the certificate were taken into consideration at the trial,

shall for the purposes of this Act be evidence of the matters stated in the certificate.

(2) A document purporting to be a certificate under this section and to be signed by a judge or a magistrate shall, unless the contrary is shown, be deemed to be such a certificate.

181.—(1) The original proceedings of a court martial under service law purporting to be signed by the president of the court and being in the lawful custody of the commander or of any person having the lawful custody thereof shall be admissible in evidence on production from that custody.

Evidence of
proceedings
of court
martial.

(2) A document purporting to be a copy of the original proceedings of a court martial under service law or any part thereof and to be certified by the commander or any person authorised by him, or any other person having the lawful custody of the proceedings, to be a true copy shall be evidence of the contents of the proceedings or the part to which the document relates, as the case may be.

(3) This section applies to evidence given in any court, whether civil or criminal.

Reductions in Rank

Restrictions
on disrating.

182.—(1) A chief petty officer shall not be disrated except, by sentence of a court martial under service law or by order of the Commander.

(2) A petty officer shall not be disrated except—

(a) by sentence of a court martial under service law ; or

(b) in the case of a petty officer or a leading rating, by award or order of the commander or of an officer by whom the commander's powers of disrating are exercisable by virtue of this Act ; or

(c) in the case of an able rate, by award or order of his commanding officer.

(3) Where it appears to the commander that a chief petty officer or a petty officer or a leading rating is unable to perform satisfactorily the functions of his rating, the commander may by order reduce the chief petty officer or petty officer to such rating as may be specified by the order or to ordinary rating ; and where it appears to a commanding officer that a leading rating serving under his command is unable to perform satisfactorily the functions of his rating, the commanding officer may by order reduce the leading rating to ordinary rating.

(4) The commander may by order direct that the powers conferred upon him by this Act to disrate any petty officer or a leading rating, may be exercised by officers not below the rank of captain under whose command the petty officers are serving ; and references in those subsections to the commander shall be construed accordingly.

(5) For the purposes of this section disrating does not include reversion from acting rate.

Miscellaneous Provisions

Temporary
reception
into civil
custody of
persons
under escort.

183.—(1) Where a person in naval custody when charged with, or with a view to his being charged with, an offence against Part IV or the corresponding provisions of any other service law, it shall be the duty of the superintendent or other person in charge of a civil prison, or of the person having charge of any police station or other place in which prisoners may be lawfully detained, upon delivery to him of a written order purporting to be signed by the commanding officer of the person in custody to receive him into his custody for a period not exceeding seven days.

(2) In this section "civil prison" has the meaning ascribed to it in section one hundred and thirty-six of this Act.

Avoidance of
assignment
of, or charge
on, naval pay,
etc.

184.—(1) Every assignment of or charge on, and every agreement to assign or charge, any pay, naval award, grant, pension or allowance payable to any person in respect of his or any other pension's service in the armed forces of Nigeria shall be void.

(2) Save as expressly provided by this Act, no order shall be made by any court the effect of which would be to restrain any person from receiving anything which by virtue of this section he is precluded from assigning and to direct payment thereof to another person.

(3) Nothing in this section shall prejudice any enactment providing for the payment of any sum to a bankrupt's trustee in bankruptcy for distribution among creditors.

185.—(1) An officer of a rank not below that of lieutenant-commander (in this Act referred to as an "authorised officer") may, outside Nigeria, take statutory declarations from persons subject to this Act.

Power of certain officers to take statutory declarations.

(2) A document purporting to have subscribed thereto the signature of an authorised officer in testimony of a statutory declaration being taken before him in pursuance of this section and containing in the jurat or attestation, a statement of the date on which and the place at which the declaration was taken and of the full name and rank of that officer shall be admitted in evidence without proof of the signature being the signature of that officer or of the facts so stated.

PART VIII—RESERVISTS AND PENSIONERS

186. Notwithstanding the provisions of section one hundred and ninety-four, this Part of this Act shall apply—

Reservists and pensioners.

(a) to every officer or rating who by virtue of this Act, is a member of the reserve; and

(b) to every person who having served as an officer or rating in the navy is in receipt of a pension or annual allowance in respect of such service, and in this Act is referred to as a pensioner.

187.—(1) Every reservist shall be liable to be called out for training at such a place and for such periods not exceeding twenty-eight days in any one year as may be specified in regulations made under section one hundred and ninety-three of this Act.

Annual training.

(2) Every reservist may, during any training for which he may be called out, be attached to and trained in any ship, vessel or establishment.

188.—(1) The President may, at any time when occasion appears to require, call out reservists and pensioners or as many of them as he thinks necessary, to aid the civil power in the preservation of the public peace.

Calling out of reservists and pensioners to aid the civil power.

(2) Reservists and pensioners called out for service under this section shall not be liable to serve at any one time for a period exceeding twenty-eight days.

189.—(1) In the event of a state of war being declared or of insurrection, hostilities or public emergency it shall be lawful for the President, by proclamation, to call out any reservists and pensioners on permanent service. The President may, in any such proclamation give, or authorise the Minister to give, such directions as may seem necessary or proper for calling out such reservists and pensioners.

Calling out of reservists and pensioners on permanent service.

(2) A proclamation under this section and directions given in pursuance thereof shall be obeyed, and every reservist and pensioner called out by such directions shall attend at the place and time fixed by those directions, and at and after that time shall be deemed to be called out on permanent service.

(3) Every reservist or pensioner when called out on permanent service shall be liable to serve as an officer or rating of the navy until he is released or discharged.

Punishment
for non-
attendance.

190.—(1) Any reservist or pensioner who, without leave lawfully granted or other reasonable excuse, fails to appear at the time and place appointed for annual training, or when called out to aid the civil power or on permanent service, shall—

(a) if called out on permanent service, be guilty, according to the circumstances, of desertion within the meaning of section forty-nine of this Act or of absenting himself without leave within the meaning of section fifty of this Act; or

(b) if called out to aid the civil power or for annual training, be guilty of absenting himself without leave within the meaning of section fifty of this Act.

(2) Any reservist or pensioner who commits any offence under this section shall be liable—

(a) to be tried by court martial, and, on conviction, to suffer imprisonment for a term not exceeding two years or such less punishment as is provided by this Act; or

(b) to be tried by a magistrate's court and, on conviction, be liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding two years.

(3) Section eighty-five and sections one hundred and sixty-six to one hundred and seventy inclusive shall apply to reservists and pensioners who commit, or are alleged to have committed, or are reasonably suspected of having committed, an offence against this section as they apply to persons otherwise subject to naval law under this Act.

Record of
illegal
absence.

191. Where a reservist fails to appear at the time and place appointed for annual training or where a reservist or pensioner fails to appear when called out to aid the civil power or on permanent service, and his absence continues for not less than twenty-one clear days, an entry of such absence shall be made by an officer in the service books prescribed by regulations made under this Part of this Act and such entries shall be *prima facie* evidence of the fact of such absence.

Discharge
during
service.

192. A reservist or pensioner may be discharged by the commander at any time during the currency of any term of service as a reservist or pensioner, as the case may be, in accordance with regulations made under this Part of this Act.

Regulations
as to reser-
vists and
pensioners.

193. The President may make regulations with respect to the government and discipline of the reservists and pensioners, and, without prejudice to the generality of the foregoing regulations may provide for—

(a) the calling out for training of reservists;

(b) the calling out of reservists and pensioners to aid the civil power and on permanent service;

(c) the pay of reservists when on the reserve and for the pay of reservists and pensioners when called out under this Part of this Act;

(d) requiring reservists and pensioners to report themselves from time to time, and to obtain the permission of the commander, or such other officer so authorized by regulations, before leaving Nigeria; and

(e) any matter which is required by this Part of this Act to be prescribed.

PART IX.—APPLICATION OF THE ACT AND SUPPLEMENTARY PROVISIONS

Application

194.—(1) The following persons shall be subject to this Act—

Application
of the Act.

- (a) officers and ratings of the navy ;
- (b) officers of the reserve and pensioners when called out on service ; and
- (c) reservists called out for training, to aid the civil power or on permanent service ;
- (d) pensioners called out to aid the civil power or on permanent service.

(2) This Act shall apply to the persons subject thereto under the provisions of this section and in relation to the units raised under this Act as well outside as within Nigeria.

195.—(1) The provisions of this or any other Act in so far as they contain or refer to the word "rating" or other word importing reference to persons of the male sex only as, or as having been, members of the navy and accordingly subject to service law under this Act, shall have effect as if for any such word there had been substituted therein words having a like meaning in other respects but importing a reference to persons of either sex.

Application
of the Act to
women.

(2) In relation to women members of the navy, this Act shall have effect subject to the following modifications—

- (a) so much of Parts I, II, III and VIII as relate to service in, and transfer to, the reserve shall not apply ;
- (b) the punishment of extra work or drill specified in the First Schedule shall not apply ;
- (c) references in sections two hundred and two hundred and two of this Act to a widow shall be construed as references to a widower.

First
Schedule.

196.—(1) Subject to the modifications specified in subsection (2) of this section, where any unit is on active service, and a person is employed in the service of that unit or any part thereof or accompanies such unit or part thereof and is not otherwise subject to service law, Part IV of this Act shall apply to the person so employed or accompanying the unit as the said Part applies to members of the navy.

Application
of the Act
to civilians.

(2) The modifications referred to in subsection (1) of this section are as follows :—

- (a) the punishments which may be awarded by a court martial shall include a fine, but shall not include any other punishment less than imprisonment ;
- (b) the punishment which may be awarded where a charge is dealt with summarily shall, in the case of any offence, be a fine not exceeding ten pounds, but no other punishment ;
- (c) the following provision shall have effect in substitution for subsections (2) to (4) inclusive of section eighty-five of this Act, that is to say that a person may be arrested by a provost officer, by any chief petty officer or petty officer legally exercising authority under a provost officer or on his behalf, or by order of any officer ;

(d) the provisions of this Act relating to the investigation of, and summary dealing with, offences shall, save as otherwise expressly provided, apply as they apply to ratings;

(e) for the purposes of the provisions of this Act relating to the investigation of offences, the commanding officer shall be such officer as may be appointed by an officer authorised to convene a court martial;

(f) for references in sections one hundred and twenty-three and one hundred and twenty-four to being, continuing, or ceasing to be subject to naval law under this Act there shall be substituted references to being, continuing to be or ceasing to be in such circumstances that Part IV applies, and subsection (3) of section one hundred and twenty-three shall not apply.

(3) Any fine awarded by virtue of this section, whether by a court martial or the commanding officer, shall be recoverable as a debt due to the Government of the Federation.

Application of the Act to passengers.

197. The provisions of Part IV of this Act shall, to such extent and subject to such modifications as may be prescribed by regulations made by the President, apply to persons embarked as passengers on board ships or aircraft of the navy (not being persons who are subject to this Act by virtue of any of the provisions of this Act or are subject to military or air force law), as they apply to persons subject to this Act.

Wills and Distribution of Property

Ratings on enlistment to register the name of person to whom estate is to be paid in event of his dying intestate.

198.—(1) Every rating on enlistment shall declare the name of the person or persons to whom, in event of his dying without having made a valid will, any money or personal property due or belonging to him should be paid or delivered; or a rating may direct that his estate is to be administered by the customary court (by whatever name called) of some named place according to the customs of his tribe. The name of such person or customary court shall be recorded on his attestation paper, and the record shall be verified periodically. It shall be the duty of the rating to report any alteration in the record which he wished made.

(2) Any officer of the navy or of the Accountant-General or any public department, having in his or its charge or control any pay, accumulations of pay, gratuity or other allowance, or any personal property or money belonging to any rating dying intestate who has complied with the above conditions, may pay or deliver the same to the person whose name has been recorded, or to a customary court of the place named by the rating, in the manner prescribed.

Ratings' wills: special provisions.

199.—(1) Any will made by a rating shall be valid for disposing of any money or personal property which is due or belonging to him at his decease if it is in writing and signed or acknowledged by him in the presence of, and in his presence attested by one witness, being an officer of the navy or any government medical officer. The will shall be deemed well made for the purpose of being admitted to probate, and the person taking out representation to the testator under such will shall exclusively be deemed the testator's representative with respect to the money or personal property thereby bequeathed.

(2) Any officer of the navy or of the Accountant-General or any public department, having in his or its charge or control any pay accumulation of pay, gratuity or other allowance, or any personal property or money belonging to such testator, not exceeding in the

aggregate the value of one hundred pounds, may pay or deliver the same to any person entitled thereto under the will, or to the person entitled to procure probate of or administration under such will, although probate or administration may not have been taken out.

(3) If the value of the money and personal property exceeds one hundred pounds, the paymaster or other officer or public department, having charge or control thereof shall require probate or administration to be taken out and thereupon pay or deliver the said money and effects to the legal representative of the deceased.

200. If any rating dies without having complied with the requirements of this Part of this Act as to the disclosure of next of kin or has not made a will valid under this or any other enactment relating to wills and for the time being in force, any officer of the navy or the Accountant-General or any public department having in his or its charge or control money or personal property of the deceased may, with the concurrence of the commander or an officer acting on behalf of the commander, pay or deliver such money or personal property to any claimant who proves to the satisfaction of the commander or such officer, relationship as the widow of the deceased or the child or other near relative of the deceased, as the case may be, according to the rules of succession of the tribe to which the deceased belonged. If there are more of such claimants than one, payment or delivery may be made in such shares and proportions as the claimant would be entitled to receive under the rules of succession prevailing among such tribe, or as nearly as may be.

Distribution
in case of
deceased
rating's
intestacy.

(2) Where the rating was a moslem, the distribution of the estate may be carried out by the alkali's court of the district from which the deceased person came, and the alkali shall be responsible to the regional Administrator-General or the Federal Administrator-General as the case may require, for the carrying out of the distribution in accordance with Islamic law. If there is no such court in the district, the distribution may be made as nearly as may be in accordance with such law.

201.—(1) Where probate of the will or administration with or without the will annexed of the estate of a deceased rating is not taken out, and an officer of the navy, the Accountant-General or officer of any public department, before disposing of the money and personal property of the deceased has notice of any debt due by the deceased, he shall, anything to the contrary in this Part of this Act notwithstanding, apply such money and property as may remain in his authority or control, or so much thereof as may be requisite in or towards the payment of such debt, if he is satisfied—

Payment of
debts of
deceased
rating.

(a) that the claimant has proved the debt to the satisfaction of the commander or of the officer acting on behalf of the commander; and

(b) that a demand for the payment of the debt was made within one year after such death; and

(c) that the debt was incurred within three years before the death of the rating.

(2) A person claiming to be a creditor of a deceased rating shall not be entitled to obtain payment of his debt out of any money in the hands of any officer, of the navy or of the Accountant-General or any public department, except by means of a claim on any officer responsible for a rating's pay, and proceedings thereon under and in accordance with this

Act. If the estate is being administered by a customary court, any government debt shall be paid by the officer concerned before the balance of the estate is passed to the customary court, and that court shall thereafter be responsible to see that all other debts are settled before final distribution of the estate of the deceased rating under this section.

Property of deceased rating distributed subject to rights of creditors.

202. Where money or personal property of a deceased rating or any part thereof is paid or delivered to any person recorded as next of kin under this Part of this Act or as beneficiary under the will of the deceased or as his widow or child, or otherwise in accordance with this Act as a near relative, any creditor of the deceased shall have the same rights and remedies against the person to whom the money or personal property is paid or delivered as if such person had received the money or personal property as legal personal representative of the deceased.

Deceased rating's money undisposed of applied to prescribed fund.

203.—(1) Subject to the provisions of this section, if money or personal property belonging to a deceased rating, or any part thereof, remains for one year undisposed of or unappropriated, and without any valid claim thereto having been made, it shall after conversion into cash where necessary, be paid over to the Accountant-General and be applied towards forming a fund for the benefit of ratings and ex-ratings of the navy who are in distress, or for the benefit of the navy generally, or for charitable purposes.

(2) The application under the foregoing subsection of any such money or property or part thereof towards such fund shall not be a bar to any subsequent claim by any person, established within twelve months after such application.

(3) The Minister after consultation with the board, may make regulations for the formation of the fund and any disbursements may be made out of such fund in accordance with the regulations. The regulations may provide for the fund to be identical with the Nigerian Navy Benefit Fund under this Act or for the fund to be a separate fund administered for the purposes of this section.

Application of money, etc., in case of desertion.

204. Money or other property of a deserter under this Act in charge or control of an officer of the navy, the Accountant-General or any public department shall be disposed of as nearly as may be in accordance with the provisions of section two hundred and one of this Act or as may otherwise be prescribed under this Act, and if that section is invoked it shall have effect accordingly.

Uniforms, and decorations of deceased rating.

205. Notwithstanding any other provisions of this Act, uniforms, medals and decorations shall not comprise part of the personal estate of any deceased rating for the purpose of satisfying claims of creditors or for any of the purposes of administration under this Act or otherwise, and they shall be delivered to and held by the commander or officer authorised by him and be disposed of in such manner as may be prescribed.

Miscellaneous

Power to make regulations generally.

206. The President may in any case not otherwise provided for under this Act make regulations generally for prescribing or providing for an act, matter or thing.

207.—(1) Any power conferred by this Act to make regulations, rules, orders or other instruments shall include power to make provision for specified cases or classes of cases, and to make different provisions for different classes of cases, and for the purposes of any such instrument classes of cases may be defined by reference to any circumstances specified in the instrument.

Powers exercisable in subsidiary legislation.

(2) Any such regulations, rules, orders or other instruments as aforesaid may impose conditions, require acts or things to be performed or done to the satisfaction of any person named therein whether or not such persons are members of the navy, empower such persons to issue orders either orally or in writing requiring acts or things to be performed or done or prohibiting acts or things from being performed or done, and prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled and provide for appeal against any such order, requirement or direction.

208.—(1) In this Act the expression "on active service" in relation to any unit means that it is engaged in operations against an enemy, and in relation to a person means that he is serving in or with such a unit which is on active service.

Provisions as to active service.

(2) Where it appears to the President that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the service of the public that a unit should be deemed to be or continue to be on active service he may declare that for such period, not exceeding three months, beginning with the coming into force of the declaration as may be specified therein that unit shall be deemed to be on active service.

(3) Where it appears to the President that it is necessary for the service of the public that the period specified in a declaration under subsection (2) of this section should be prolonged or, if previously prolonged under this subsection should be further prolonged, he may declare that the said period shall be prolonged by such time, not exceeding three months, as may be specified in the declaration under this subsection.

(4) If at any time while any unit is deemed to be on active service by virtue of the foregoing provisions of this section, it appears to the President that there is no necessity for the unit to continue to be treated as being on active service, he may declare that as from the coming into operation of the declaration the unit shall cease to be, or to be deemed to be, on active service.

209. An order or determination by a naval officer or naval authority may, unless otherwise prescribed by rules or regulations made under this Act, be signified under the hand of any officer authorised in that behalf; and any instrument signifying such an order or determination and purporting to be signed by an officer stated therein to be so authorised shall unless the contrary is proved, be accepted by all courts and persons as sufficient evidence accordingly.

Execution of orders, instruments.

210.—(1) All fines awarded under Part IV and section one hundred and ninety-six of this Act shall be paid over to the Accountant-General, and be applied towards forming a fund to be known as the Nigerian Navy Benefit Fund for the purpose of making money available to the benefit of ratings and ex-ratings of the navy who are in distress, or for the benefit of the navy generally, or for charitable purposes.

Nigerian Navy Benefit Fund.

(2) The minister, after consultation with the board, may make regulations for the formation of the benefit fund, and any disbursements may be made out of such fund in accordance with the regulations.

Rights of
officers.

211. Officers of the navy shall have and enjoy the like powers, rights, immunities and privileges as are by any means conferred upon and enjoyed by commissioned officers of any other of the armed forces of Nigeria.

Application
of other Acts.

212.—(1) The President may, by order, apply, with all necessary modifications and adaptations, in relation to the board, the chairman of the board and the navy (as well officers and rating as property and institutions) any of the enactments relating to the Army Council, the Minister of Defence and to the Army (as well officers and other ranks as military property and institutions).

(2) Where any enactment is to be applied under the foregoing subsection, the expression "enactment" shall include any enactment conferring powers, rights, exemptions or abatements from taxation or immunities, or imposing duties or disabilities on such officers or airmen, or other ranks, as the case may be.

Repeal and
transitional
provisions.
Fourth
Schedule.
Third
Schedule.

213.—(1) The enactment act out in the Fourth Schedule to this Act are repealed to the extent specified in the second column of that Schedule.

(2) The transitional provisions set out in the Third Schedule to this Act shall have effect in connection with the repeal of the Royal Nigerian Navy Act, 1960.

Savings.

214. Notwithstanding the provisions of subsection (1) of section two hundred and thirteen of this Act all ratings who were raised under the Royal Nigerian Navy Act, 1960, and serving in the navy on the day on which this Act comes into operation shall be deemed to have been enlisted under this Act but such ratings shall not be required to serve in the navy for a longer period than that for which they were required to serve at the time of their original enlistment or re-engagement.

Interpreta-
tion.

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

"Accountant-General" means the Accountant-General of the Federation ;

"acting rank" means rank of any description in the navy and however called and being such that a commanding officer may, with or without preferring a charge under this Act, order the holder to revert to a lower rank or to his substantive rank as the case may be, and "acting chief petty officer" and "acting petty officer" shall be construed accordingly ;

"aircraft" means any machine for flying, whether propelled by mechanical means or not, and includes any machine of the type known as a hovercraft as well as any description of balloon ;

"the air council" means the air council established under section three of the Air Force Act, 1964 ;

"aircraft material" includes—

(a) parts of, and components of or accessories for, aircraft, whether for the time being in aircraft or not,

(b) engines, armaments, ammunition and bombs and other missiles of any description in, or for use in, aircraft,

(c) any other gear, apparatus or instruments in, or for use in, aircraft,

(d) any apparatus used in connection with the taking-off or landing of aircraft or for detecting the movement of aircraft, and

(e) any fuel used for the propulsion of aircraft and any material used as a lubricant for aircraft or aircraft material ;

"aircraft papers" includes books, documents, forms and writings of whatsoever description and whether or not relating to the flight of the aircraft when captured or to any other flight, which are delivered up or found aboard such aircraft ;

"the air force" means the Nigerian air force raised under the Air Force Act, 1964 ;

"air signal" means any message, signal or indication given, by any means whatsoever, for the guidance of aircraft or a particular aircraft ;

"allied forces" means military, naval or air forces of any country allied to, or associated with, the Federation and includes any Commonwealth force ;

"armed forces of Nigeria" means any of the military, naval and air forces raised by the Government of the Federal Republic of Nigeria ;

"the Army" means the Nigerian army raised under the Nigerian Army Act, 1960 ;

"the army council" means the Nigerian army council established under section six of the Nigerian Army Act, 1960 ;

"arrest" includes open arrest ;

"before the enemy", in relation to a person, means that he is in action against the enemy or about to go into action against the enemy or is under attack or threat of imminent attack by the enemy ;

"the board" means the Navy Board established under section three of this Act ;

"Boards of Inquiry Rules" means rules regulating boards of inquiry made under this Act ;

"civil court" means a court of competent criminal jurisdiction, but does not include any customary court by whatever name called ;

"civil offence" has the meaning assigned to it in subsection (2) of section eighty-two of this Act ;

"commanding officer", in relation to any person, means the officer commanding the unit to which the person belongs or is attached ;

"corresponding rank", in relation to any rank of any other of the armed forces of Nigeria or an allied force means such rank in that force as may be declared under this Act to correspond with a rank under this Act ;

"court martial", save where expressed to be under service law, means a court martial under this Act ;

"damage" and cognate expressions include destruction ;

"date of attestation", in relation to any person, means the date on which he is attested as having enlisted in the navy ;

"decoration" includes any medal, medal ribbon, clasp and good conduct badge ;

"desertion" shall be construed in accordance with subsection (3) of section forty-nine of this Act ;

"enemy" means all persons engaged in armed operations against Nigeria or allied forces, and includes armed mutineers, armed rebels, armed rioters and pirates ;

"executive officer" means the officer carrying out the executive duties of the ship or establishment ;

"imprisonment rules" means rules regulating imprisonment made by the President under this Act ;

"independent command" means a ship whose officers and men are appointed or drafted direct to her and borne on her books ;

"junior rating" means a rating enlisted in accordance with the provisions of subsection (2) of section sixteen ;

"the Minister" means the Minister charged with responsibility for matters relating to Defence ;

"the navy" means the Nigerian Navy ;

"naval service" means service under the provisions of this Act otherwise than service in the reserve ;

"officer" means in relation to the navy, a person of or above the rank of cadet, and, in relation to any other forces, means an officer of rank corresponding to the said rank or any superior rank ;

"petty officer" includes chief petty officers and petty officers and ratings of equivalent status in all branches, except when used as the title of seaman ratings ;

"provost officer" means a provost marshal or officer appointed to exercise the functions conferred by or under service law on provost officers ;

"public", when used adjectivally, means belonging to the Government of the Federation or of any Region thereof, or to the government of the country to which any allied force serving or operating in Nigeria belongs ;

"rating" means a member of the navy of or below the rank of chief petty officer, and references in this Act to a rating, or to a rating of any particular rank, include references to a soldier or airman of rank corresponding with that rate, as the case may be ;

"the reserve" means the body of naval personnel comprised of those persons who are subject to reserve service or liability under this Act ;

"service" when used adjectivally, means belonging to or connected with the armed forces of Nigeria ;

"service law" means this Act, the Nigerian Army Act, 1960, and the Air Force Act, 1964, and includes the military, naval or air force law of any allied force ;

"ship" includes any description of vessel ;

"ships papers" includes books, documents, forms and writings of whatsoever description and whether or not relating to the voyage of the ship when captured or to any other voyage, which are delivered up or found aboard such ship ;

"steals" has the meaning assigned to it in the Criminal Code ;

"stoppages" means in relation to pay, the recovery by deductions from the pay of the offender, of a specified sum by way of compensation for any expense, loss or damage occasioned by the offence;

"tender" means a ship or vessel whose officers and men are appointed or drafted to and borne on the books of another ship or vessel being a parent ship or vessel;

"unit" means an establishment, base or any other formation of naval personnel which has been declared to be a unit by the board.

(2) Where by this Act it is provided that any person subject to naval law under this Act shall be liable on conviction by court martial to imprisonment and no term or maximum term is specified, the person so convicted shall be liable to imprisonment for any term.

216.—(1) This Act may be cited as the Navy Act, 1964, and shall come into operation on a day to be appointed by the President by order in the Gazette.

Short title,
commence-
ment and
application.

(2) This Act shall apply throughout the Federation.

SCHEDULES

FIRST SCHEDULE

Section 89

A. Officers who can try ratings summarily and their powers of summary punishment

(i) *Commanding officer of a ship or establishment if of the rank of lieutenant or above*

<i>Punishment</i>	<i>Qualification</i>
1. Imprisonment	Not exceeding three calendar months. Warrant required
2. Dismissal from the navy	Warrant required
3. Detention	Not exceeding three calendar months. Warrant required
4. Disrating	Warrant required
5. Reduction to 2nd class for conduct	Warrant required
6. Deprivation of loyal services medal	Warrant required
7. Deprivation of good conduct badges	Warrant required
8. Severe reprimand by the captain	Only to leading ratings and above
9. Extra work and drill	Not exceeding 14 days
10. Stoppage of leave	Not exceeding 30 days
11. Mulcts for improper absence	

FIRST SCHEDULE—continued

<i>Punishment</i>	<i>Qualification</i>
12. Mulcts of pay for drunkenness	
13. Extra work or drill	Not exceeding 7 days, and for not longer than two hours on any one day
14. Reprimand	
(ii) <i>Commanding officer of a ship or establishment if below the rank of lieutenant</i>	
<i>Punishment</i>	<i>Qualification</i>
9. Extra work and drill	Not exceeding 7 days
10. Stoppage of leave	Not exceeding 14 days
11. Mulcts for improper absence	
12. Mulcts of pay for drunkenness	
13. Extra work or drill	Not exceeding 7 days, and for not longer than two hours on any one day
14. Reprimand	
(iii) <i>Executive officer (if of the rank of commander) when delegated with powers of punishment by the commanding officer</i>	
<i>Punishment</i>	<i>Qualification</i>
9. Extra work and drill	Not exceeding 14 days
10. Stoppage of leave	Not exceeding 14 days
13. Extra work or drill	Not exceeding 7 days and for not longer than two hours in one day
14. Reprimand	
(iv) <i>Executive officer (if of the rank of lieutenant or above) when delegated with powers of punishment by the commanding officer</i>	
<i>Punishment</i>	<i>Qualification</i>
9. Extra work and drill	Not exceeding 7 days
10. Stoppage of leave	Not exceeding 7 days but not to chief petty officers or petty officers if executive officer is below the rank of commander
13. Extra work or drill	Not exceeding 7 days and for not longer than two hours in one day
14. Reprimand	
(v) <i>Officer of the watch or day (if of the rank of lieutenant or above) when delegated with power of punishment by commanding officer, or a departmental officer of the rank of lieutenant or above when delegated with power by commanding officer to punish any rating of his department for an offence in connection with the duties of that department but not connected with the general duties of the ship or naval establishment</i>	
13. Extra work or drill	For one day only and for not longer than two hours on that day

FIRST SCHEDULE—continued

B. Warrant Punishment

Punishments No. 1 to No. 7 above inclusive (which may be known as warrant punishments) shall not have effect unless a warrant is made out, approved as required by the Schedule and formally read to the accused in public

C. Approval of warrants is required as follows:—

<i>Punishment</i>	<i>Approving Authority</i>
1. Imprisonment	The Commander
2. Dismissal	The Commander
3. Detention	The Commander
4. Disrating	The commander if in Nigerian waters or if on detached service an officer of captain's rank or above in the case of a Petty Officer or a leading seaman
5. Reduction to 2nd class for conduct	The commander if in Nigerian waters or if on detached service an officer of the rank of commander or above
6. Deprivation of Loyal Service Medal	The commander
7. Deprivation of good conduct badges	The commander if in Nigerian waters; if on detached service, an officer of the rank of commander or above may approve the deprivation of one good conduct badge.

SECOND SCHEDULE

Section 102

Alternative Offences of which Accused may be convicted by Court Martial

<i>Offence Charged</i>	<i>Alternative Offence</i>
1. Communicating with or giving intelligence to the enemy, either with intent to assist the enemy or without authority	1. Disclosing information without authority
2. Any offence against subsection (1) of section forty-two	2. Any offence against subsection (2) of section forty-two
3. Striking his superior officer	3. (a) Using violence to his superior officer otherwise than by striking him, or (b) Offering violence to his superior officer.

SECOND SCHEDULE—*continued*

<i>Offence Charged</i>	<i>Alternative Offence</i>
4. Using violence to his superior officer otherwise than by striking him	4. Offering violence to his superior officer
5. Using threatening language to his superior officer	5. (a) Using insolent language to his superior officer, or (b) Behaving with contempt to his superior officer
6. Using insolent language to his superior officer	6. Behaving with contempt to his superior officer
7. Disobeying, in such a manner as to show wilful defiance of authority, a lawful command given or sent to the accused personally	7. Behaving with contempt to his superior officer
8. Desertion	8. Absence without leave
9. Attempting to desert	9. Absence without leave
10. Stealing any property	10. Fraudulently misapplying the property
11. Any offence under section sixty-three involving wilfulness	11. The corresponding offence involving negligence
12. Any offence against subsection (1) of section sixty-seven	12. Any offence against subsection (2) of section sixty-seven
13. Any offence against section sixty-eight involving striking	13. The corresponding offence involving the offering of violence
14. Any offence against section sixty-eight involving the use of violence other than striking	14. The corresponding offence involving the offering of violence

THIRD SCHEDULE

Section 213

Transitional Provisions

1. In this Schedule "the old Act" means the Royal Nigerian Navy Act, 1960, repealed by this Act.

2.—(1) In relation to an offence against any section in Part V of the old Act or against Part I of the Naval Discipline Act, 1957, sections eighty-three to one hundred and twenty-two inclusive, sections one hundred and twenty-nine to one hundred and thirty-two inclusive and sections one hundred and thirty-five and one hundred and thirty-six and section one hundred and eighty-two of this Act shall apply as if

THIRD SCHEDULE—*continued*

the said section of the old Act had been contained in this Act and this Act had been in force when the offence was committed, and as if any finding or punishment having effect before the date upon which this Act comes into operation, and anything done before that day by virtue of or in relation to such a finding or sentence, had been come to, awarded or done under this Act :

Provided that nothing in this sub-paragraph shall render an offence capable of being tried by court martial or dealt with summarily, if by reason of the time or place of the commission of the offence it could not have been so tried or dealt with under the old Act.

(2) Notwithstanding anything in sub-paragraph (1) of this paragraph where any proceedings for such an offence as aforesaid have been begun before the date upon which this Act comes into operation, any step in the proceedings taken after that day shall be deemed to be validly taken if taken in accordance with the old Act and the rules made thereunder.

(3) In section one hundred and forty-seven of this Act (which provides against trial for offences already disposed of), references to this Act or to any provision thereof shall be construed as including respectively references to the old Act and to the corresponding provision thereof.

3. Where after the date upon which this Act comes into operation a person is alleged—

(a) to have committed an offence continuing over a period beginning before that day and ending thereon or thereafter ; or

(b) to have committed an offence between two dates falling within such a period,

and the offence would be one against a provision in Part IV of this Act if it had been in operation at all material times, he may be proceeded against as if this Act had so been in operation.

4. Any officer who immediately before the date upon which this Act comes into operation was authorised to recruit or attest ratings shall, without prejudice to any subsequent withdrawal of the authorisation, be deemed without further authorisation a recruiting officer for the purposes of Part III of this Act.

5. Any document made before the date upon which this Act comes into operation which would have been admissible in evidence under the provision of the old Act, or those provisions as applied by any other enactment, shall be admissible to the like extent and in the like proceedings notwithstanding that the old Act has ceased to be in operation.

6. Any forfeiture of, or deduction from, pay having effect under the old Act immediately before the date upon which this Act comes into operation shall continue to have effect notwithstanding the repeal of the old Act.

FOURTH SCHEDULE

Section 213

Enactments Repealed

<i>Chapter or number</i>	<i>Short title</i>	<i>Extent of repeal</i>
1960 No. 9	The Royal Nigerian Navy Act, 1960	The whole Act.
No. 31 of 1959	Nigerian Navy (Change of Title) Act, 1959.	The whole Act.
Cap. 128	The Navy Discipline Act.	The whole Act.
Cap. 131	Nigeria Naval Defence Force Act.	The whole Act.

EXCISE (CONTROL OF DISTILLATION) ACT, 1964



1964, No. 22

ARRANGEMENT OF SECTIONS

Section

1. Distiller's licence.
2. Still licence.
3. Regulations.
4. Making of entries.
5. New or further entries of same premises.
6. Proof as to entries.
7. Offences in connection with entries.
8. Power to enter for inspection purposes.
9. Power to search for concealed pipes, etc.
10. Power to prohibit use of certain substances in excisable goods.
11. Payment of duty by excise traders.
12. Liability of ostensible owner.
13. Effect of variation in balances struck or excess etc. in stock of materials.
14. Power to enter on premises etc. in cases of unlawful distillation.
15. Power to seize goods in particular cases.
16. Forfeiture and condemnation of spirits seized.

17. Power to levy distress.
18. Power to require excise control facilities.
19. Licensees to keep record books.
20. Power to require information etc. from licensees.
21. Unlawful assumption of office.
22. Officers to have powers of police officers.
23. Offences as to concealing etc. of spirits on licensed premises.
24. Condemnation proceedings.
25. Compensation in special cases.
26. Interpretation.
27. Repeals, etc.
28. Short title, extent, and operation.

SCHEDULES:

First Schedule—Provisions Relating to Forfeiture.

Second Schedule—Form of Warrant of Distress.

Third Schedule—Enactments Repealed or Affected

1964, No. 22

AN ACT TO MAKE OTHER PROVISION FOR THE CONTROL AND LICENSING FOR
EXCISE PURPOSES OF THE DISTILLATION OF SPIRITS

[Section 28 (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 :—

1.—(1) Subject to the provisions of this Act, no person shall without a distiller's licence under this section make or distil spirits ; and application for such licence shall be made to the Board of Customs and Excise in the prescribed manner.

Distiller's
licence.

(2) If the Board after due enquiry is satisfied that the premises mentioned in the application and intended to be used by the applicant for the purposes of distillation are in such a state that proper control for excise purposes may be exercised over activities to be carried on therein it shall, on payment of the sum of one hundred pounds issue to the applicant a distiller's licence in the prescribed form in respect of such premises.

(3) If the Board is not so satisfied and refuses the application it shall notify the applicant of its refusal, and give to the applicant particulars of what the Board considers necessary to be done to the premises.

(4) If at any time during the currency of a distiller's licence the Board is satisfied that proper control for excise purposes can no longer be exercised over the premises specified in the distiller's licence by reason of the state of the premises, or that the person to whom such licence was issued has ceased to make spirits on such premises, it may revoke the distiller's licence and give notice of the revocation in the prescribed manner.

(5) Any person who makes or distils spirits contrary to the provisions of subsection (1) of this section shall be guilty of an offence, and liable—

(a) on summary conviction to a fine of not less than two hundred pounds or more than five hundred pounds or to imprisonment for a term of two years, or to both ;

(b) on conviction on indictment to a fine of an unlimited amount or to imprisonment for a term not exceeding five years or to both, and any spirits so distilled shall be liable to forfeiture.

(6) The provisions of this section shall, in any Region or the Federal territory be in addition to and not in substitution for any other provisions in force therein which affect the making of spirits, and nothing in the foregoing provisions of this section shall be construed as purporting to authorise the carrying on in any Region or the Federal territory of any activity which is prohibited by the law thereof.

Still
licence.

2.—(1) Subject to the provisions of this section, no person shall possess any still unless—

(a) the still is situated on premises specified in a distiller's licence; or

(b) there is in force a still licence issued to him by the Board under this section.

(2) Where an application is made to the Board in the prescribed manner for the issue of a still licence, and the Board is satisfied, it shall issue the licence to the applicant free of charge.

(3) A licence under subsection (2) of this section may be issued subject to such conditions not inconsistent with this Act as to methylation or the denaturing of spirits as the Board for the protection of excise duty may think fit.

(4) If a person gives notice to the Board in the prescribed form of his intention to part with or that he has parted with possession of, or has destroyed any still in respect of which a licence issued to him under this section is in force, the Board shall make such enquiries as it thinks fit; and if it is satisfied, the licence shall cease to have effect as regards the still.

(5) Any person contravening the provisions of subsection (1) of this section shall be guilty of an offence and liable—

(a) on summary conviction, to a fine of not less than two hundred pounds or to imprisonment for a term of six months, or to both;

(b) on conviction on indictment, to a fine not less than one thousand pounds or to imprisonment for a term of two years, or to both.

Regulations.

3.—(1) The Minister may make such regulations with respect to the conduct of premises specified in a distiller's licence under this Act as appear to the Minister to be appropriate for the purpose of ensuring the payment of excise duty on spirits made on the premises; and without prejudice to the generality of the powers conferred by this subsection, regulations may in particular provide for—

(a) prohibiting or restricting the carrying on on the premises or particular parts thereof of such activities as may be prescribed;

(b) regulating the manner in which and the period during which any activity may be carried on on the premises or particular parts thereof;

(c) providing for the inspection by officers of the Board of the premises and all activities carried on on the premises;

(d) requiring notice to be given of any change or use which may be made of the premises or any part thereof;

(e) regulating the removal of spirits from the premises;

(f) prescribing the form of application for and of the distiller's licence to be used for the purposes of this Act,

and the regulations may provide for the imposition of penalties in respect of any offence against the regulations (not less than one hundred pounds or more than five hundred pounds in respect of any particular offence or to imprisonment for a term of two years, or to both) and for the forfeiture or disposal of any thing in respect of which such an offence is committed.

(2) The Minister may make such regulations with respect to the custody and use of stills licensed under this Act and the application for and form of any such licence, as appear to the Minister to be appropriate for the purpose of ensuring that the stills are not used to make spirits; and without prejudice to the generality of the powers so conferred, regulations may, in particular, contain provisions requiring the furnishing of information with respect to—

- (a) any change or proposed change in the location or use of stills;
- (b) the disposal of stills or any part of a still by way of sale or otherwise;

and the regulations may provide for the imposition of fines for offences against the regulations not less than fifty pounds or more than two hundred pounds in the case of any particular offence.

4.—(1) Where by or under any excise laws a person is required to make entry of any premises or article—

Making of entries.

(a) the entry shall be made in such form and manner and contain such particulars; and

(b) the premises or article shall be, and be kept, marked in such manner,

as the Board may direct.

(2) No entry shall be valid unless the person by whom it was made

(a) had at the time of its making attained the age of twenty-one years; and

(b) was at that time and is for the time being a true and real owner of the trade in respect of which the entry was made.

(3) Where any person required to make entry is a body corporate

(a) the entry shall be signed by a director, general manager, secretary or other similar officer of the body and, except where authority for that person to sign has been given under the seal of the body, shall be made under that seal; and

(b) both the body corporate and the person by whom the entry is signed shall be liable for all duties charged in respect of the trade to which the entry relates.

(4) If any person making entry of any premises or article contravenes or fails to comply with any direction of the Board given under this section with respect thereto, he shall be guilty of an offence punishable on conviction by a fine of one hundred pounds.

5.—(1) The Board may at any time, by notice in writing to the person by whom any existing entry was signed addressed to him at any premises entered by him, require a new entry to be made of any premises or article to which the existing entry relates, and the existing entry shall, without prejudice to any liability incurred, become void at the expiration of fourteen days from the delivery of the notice.

New or further entries of same premises.

(2) Save as permitted by the Board and subject to such conditions as it may impose, no premises or article of which entry has been made by any person shall, while that entry remains in force, be entered by any other person for any purpose of the excise laws, and any entry made in contravention of this subsection shall be void.

(3) Where the person by whom entry has been made of any premises absconds or quits possession of the premises and discontinues the trade in respect of which the entry was made, and the Board permits a further entry to be made of the premises by some other person, the former entry shall be deemed to have been withdrawn and shall be void.

Proof as to
entries.

6. For the purpose of any proceedings before any court, if any question arises as to whether or not entry under the excise laws has been made by any person, or of any premises or article, or for any purpose, then—

(a) if a document purporting to be an original entry made by the person, or of the premises or article, or for the purpose, in question is produced to the court by an officer, that document shall, until the contrary is proved, be sufficient evidence that the entry was so made; and

(b) if the officer in whose custody any such entry, if made, would be, gives evidence that the original entries produced by him to the court constitute all those in his custody and that no such entry as is in question is among them, it shall be deemed; until the contrary is proved, that no such entry has been made.

Offences in
connection
with entries.

7.—(1) If any person being the holder of a licence under this Act uses, for any purpose of his trade, any premises or article required by or under the excise laws to be entered for that purpose without entry having been duly made thereof, he shall be guilty of an offence punishable on conviction by a fine of two hundred pounds, and any goods found on any such premises shall be liable to forfeiture.

(2) If any person who has made entry of any premises or article fraudulently uses those premises or that article for any purpose other than that for which entry was made thereof he shall be liable to a fine of two hundred pounds.

Power to
enter for
inspection
purposes.

8.—(1) An officer may at any time enter upon any premises referred to in any licence under this Act for the purpose of inspecting the premises and may search for, examine and take account of any equipment, vessels, utensils, goods or materials belonging to or in any way connected with distillation.

(2) Where an officer, after having demanded admission into any such premises and declared his name and business at the entrance thereof is not immediately admitted, that officer and any person acting in his aid may break open any door or window of the premises or break through any wall thereof for the purpose of obtaining admission.

Power to
search for
concealed
pipes, etc.

9.—(1) If an officer has reasonable ground to suspect that any secret pipe or other means of conveyance, cock, vessel or utensil is kept or used by a licensee under this Act, that officer may at any time, but by night only in the company of a police officer, break open any part of the premises of that trader and forcibly enter thereon, and so far as is reasonably necessary break up the ground in or adjoining those premises or any wall thereof to search for that pipe or other means of conveyance, cock, vessel or utensil.

(2) If the officer finds any such pipe or other form of conveyance leading to or from the licensee's premises, he may enter any other premises from or into which it leads, and so far as is reasonably necessary break up any part of those other premises to trace its course, and may

cut it away and turn any cock thereon, and examine whether it conveys or conceals any goods chargeable with a duty of excise, or any materials used in the manufacture of such goods, in such manner as to prevent a true account thereof from being taken.

(3) Every such pipe or other means of conveyance, cock, vessel or utensil as aforesaid, and all goods chargeable with a duty of excise or materials for the manufacture of such goods found therein, shall be liable for forfeiture, and the licensee shall be guilty of an offence punishable on conviction by a fine of one hundred pounds.

(4) If any damage is done in any such search as aforesaid and the search is unsuccessful, the Board shall make good the damage.

10.—(1) If it appears to the satisfaction of the Board that any substance or liquor is used, or is capable of being used, in the manufacture or preparation for sale of any goods chargeable with a duty of excise, and that that substance or liquor is of a noxious or detrimental nature or, being a chemical or artificial extract or product, may affect prejudicially the interests of the revenue, the Board may by notice in the *Gazette* prohibit the use of that substance or liquor in the manufacture or preparation for sale of any goods specified in the notice.

Power to prohibit use of certain substances in excisable goods.

(2) If while any such notice is in force any person knowingly uses a substance or liquor thereby prohibited in the manufacture or preparation for sale of any goods specified in the regulations he shall be guilty of an offence punishable on conviction by a fine of fifty pounds.

(3) Any substance or liquor the use of which is for the time being prohibited by any such notice found in the possession of any person licensed for the manufacture or sale of any goods specified in the notice, and any goods in the manufacture or preparation of which any substance or liquid has been used contrary to any such prohibition, shall be liable to forfeiture.

11.—(1) Every licensee shall pay any duty of excise payable in respect of his trade at or within such time, at such place and to such person as the Board may direct, whether or not payment of that duty has been secured by bond or otherwise.

Payment of duty by excise traders.

(2) If any duty payable is not paid as aforesaid, it shall be paid on demand made by the Board either to the licensee personally or by delivering the demand in writing at his place of abode or business, and if it is not so paid on demand the licensee shall in addition be liable to a penalty of double the amount due.

12. Any person who acts ostensibly as the owner or who is a principal manager of the business of a licensee under this Act in respect of which entry of any premises or article had been made or who occupies or uses any entered premises or article shall, notwithstanding that he is under the age of twenty-one years, be liable in like manner as the real and true owner of the business for all duties charged and all penalties incurred in respect of that business.

Liability of ostensible owner.

Effect of variation in balances struck or excess etc. in stock of materials.

13. If at any time when an account is taken by the proper officer and a balance is struck—

(a) of the quantity of spirits in the possession of the distiller, that quantity differs from the quantity thereof which ought to be in his possession according to any account required by this Act to be kept,

(i) if the former quantity exceeds the latter the excess shall be liable to forfeiture, and

(ii) if the former quantity is less than the latter, the holder of the distiller's licence shall be liable to a fine of double the excise duty which would be payable on the quantity of pure alcohol equal to that on the deficiency;

(b) of the stock of materials, any excess is found or goods not authorised for use as materials are discovered in the stock, such excess or goods shall be liable to forfeiture;

(c) of the stock of materials, any deficiency is found which cannot be accounted for to the satisfaction of the Board, the quantity or value of materials representing such deficiency shall be deemed to have been used in manufacture and, in any particular case, duty shall be charged on the quantity or value of excisable goods reckoned to have been produced with such quantity or value of materials.

Power to enter on premises etc. in cases of unlawful distillation.

14. If any officer has reasonable grounds to suspect that distillation contrary to the provisions of this Act is being carried out on any land or premises, he may enter thereon, if need be by force, and dismantle or seize the still or other apparatus used in conjunction therewith.

Power to seize goods in particular cases.

15. Where spirits subject to excise duty become liable to forfeiture under this Act, but spirits are not available in sufficient quantity for forfeiture, the Board may seize from the stock of the licensee, any quantity of spirits available or goods capable of conversion into spirits of such quantity, as would attract up to the same amount of duty as that on the spirits liable to forfeiture.

Forfeiture and condemnation of spirits seized.

16.—(1) In the application of this section the provisions of the First Schedule to this Act shall have effect for the purposes of forfeiture, and all proceedings for the condemnation of any thing as being forfeited, under the excise laws.

(2) Any officer, police officer, or person authorised in that behalf by the Board, may at any time seize or detain any spirits liable to forfeiture under this Act or which such officer, police officer or person so authorised has reasonable grounds to believe is liable to forfeiture under the excise laws.

(3) Spirits so seized or detained shall forthwith be delivered to the Board; and pending determination by the Board as to forfeiture or disposal, things delivered to the Board may be condemned as forfeited or otherwise dealt with as the Board may direct.

Power to levy distress.

17.—(1) Where any excise duty remains unpaid on spirits distilled under licence after the time within which the same is payable, the Board may authorise the levying of a distress,—

(a) upon the goods, chattels and effects of the licensee in respect of which the duty remains unpaid; and

(b) upon all equipment, plant, tools, ships, vehicles, animals, goods and effects used in the distillation, sale or distribution of spirits found in any premises or on any land in the use or possession of such manufacturer or of any person on his behalf, or in trust for him.

(2) The authority to distrain under this section shall be in the form in the Second Schedule to this Act, and shall be a warrant and authority to levy by distress the amount of any duties due.

(3) For the purpose of levying any distress under this section, any person authorised in writing by the Board may execute a warrant of distress and if necessary break open any building or place in the daytime for the purpose of levying such distress. The person so authorised may call to his assistance any police officer, who shall when required aid and assist in the execution of the warrant of distress and in levying the distress.

(4) Where distraint is made, the burden of proof that they are not liable to seizure shall lie upon the person claiming they are not so liable, and any goods or things seized may, at the cost of the owner thereof, be kept for fourteen days; and if the amount due in respect of duty and the cost and charges of and incidental to the distress are not then paid, the goods or things so seized may be sold.

(5) Out of the proceeds of the sale there shall be paid first the excise duty and thereafter the costs or charges of and incidental to the sale and keeping of the distress; and the residue, if any, shall be paid to the owner of the goods or things distrained, upon demand made by the owner within one year of the date of sale.

(6) In exercise of the power of distress conferred by this section, the person to whom authority to levy duties is given may distrain upon all goods or things belonging to the licensee wherever the same may be found.

18.—(1) The holder of a licence shall provide and maintain at his own expense on premises referred to in the licence,—

(a) such office, lavatory and sanitary accommodation, with the requisite furniture, lighting and cleaning, as the Board may reasonably require for the use of the proper officer under this Act; and

(b) such appliances and facilities as may be required to enable the proper officer at any time to examine, or search or to perform any other of his duties at such premises as the Board may direct;

and if the licensee fails to comply with any of the foregoing requirements of this subsection, the Board may revoke or suspend any such licence.

(2) The requirements which the Board is authorised to impose on the holder of a licence by subsection (1) of this section shall include the requirement to provide at his own expense and lease to the Board, on such reasonable terms as the Board may determine, living accommodation which the Board considers suitable for occupation by, and by the household of, any officer charged with duties which, in the opinion of the Board, make it desirable that he should reside on or near the premises for which the excise licence in question is granted; and the provisions of that subsection for failure to comply therewith shall have effect accordingly.

Power to
require
excise
control
facilities.

(3) The proper officer may affix a lock or seal to any fitting on the premises or on any apparatus or thing whatsoever therein and for such purpose he may require the holder of a distiller's licence to provide and maintain at his own expense any such fitting. If such licensee fails to comply with the requirements of this subsection, the Board may provide and install the fitting, and any expense incurred shall be paid on demand by the licensee. The failure to pay any such expense shall be an offence for which the offender shall, in addition to the requirement of payment of any such expense, be liable on summary conviction to a fine of one hundred pounds.

(4) If the holder of a distiller's licence or any member of his family or any servant of the holder—

(a) wilfully destroys or damages a fitting or any lock, key or seal intended for use therewith; or

(b) improperly obtains access to any place or article secured by any such lock or seal thereon; or

(c) has any fitting on premises or on any apparatus or thing whatsoever fastened or attached in such fashion that adequate supervision and control by any proper officer for the purposes of this Act is not practicable;

the holder, or member of his family, or the servant, as the case may be, shall on conviction be liable to a fine of five hundred pounds.

Licencees to
keep record
books.

19.—(1) Every holder of a distiller's licence shall keep on the premises mentioned in the licence such records and make all entries therein relating to the manufacture, storage and delivery of spirits and materials as the Board may require. Entries shall be made legibly in ink and no cancellation or amendment shall be made save in such manner as the Board may from time to time direct. If the Board requires records to be kept, the proper officer may inspect them at any time and take copies of any entry.

(2) The failure to comply with the requirements of this section shall be an offence for which the offender shall be liable on summary conviction to a fine of two hundred pounds.

Power to
require
information
etc. from
licensees.

20.—(1) The holder of any licence under this Act shall—

(a) produce to the Board for inspection as and when required invoices and other books or documents in his possession relating to spirits manufactured by him during the preceding twelve months or any part thereof;

(b) supply answer to questions relating to the distillation of spirits and related matters as the Board may reasonably require to implement the provisions of any of the excise laws;

(c) produce to the Board such evidence as it may reasonably require in support of any answer so given;

(d) make returns in such form and at such intervals as the Board may require;

and if any manufacturer fails without lawful excuse to comply with any requirement of this subsection, he shall be liable on summary conviction to a fine of one hundred pounds.

(2) The powers conferred on the Board by subsection (1) of this section, in so far as they relate to questions regarding the cost of production and manufacturer's profits in respect of any spirits, shall be exercisable by the Board alone and not by any other person.

(3) The Board may require the holder of a licence under this Act to supply to it in every year or at such other times as it may direct a certificate of audit by an accountant approved by the Board as to

(a) the correctness of all the books and records required by or under this Act to be kept by the holder of the licence; and

(b) any matter necessary to implement the provisions of any of the excise laws;

and the holder of a licence who without reasonable excuse fails to supply a certificate of audit when required shall be liable on summary conviction to a fine of one hundred pounds.

(4) For the purpose of this section "accountant approved by the Board" means an accountant who is a member of one of the professional bodies for the time being declared by the Board, by notice in the Gazette, to be approved for such purposes, but does not include any such member if he is the holder of a licence under this Act or is employed by any such holder.

21. If for any of the purposes incidental to the control of distillation under this Act any person without lawful authority assumes the name, designation or character of an officer he shall, in addition to any other punishment, be liable on conviction to a fine of not less than two hundred pounds or more than five hundred pounds, or to imprisonment for a term of two years, or to both.

Unlawful
assumption
of office.

22. For the avoidance of doubt, officers acting under this Act shall have the same powers, authorities and privileges as are given by law to police officers.

Officers to
have powers
of police
officers.

23. If any person—

(a) conceals any spirits on premises mentioned in a distiller's licence, or

(b) without the consent of the proper officer removes any spirits from such premises, or

(c) knowingly buys or receives any spirits so concealed or removed, or

(d) knowingly possesses, buys, or receives any spirits removed from such premises before duty (if any) has been charged and as the case may be, paid or secured,

Offences as
to concealing
etc. of spirits
on licensed
premises.

the spirits shall be liable to forfeiture; and such person shall on conviction be liable to a fine of six times the value of the goods to two hundred pounds whichever is the greater, or to imprisonment for two years, or to both.

24.—(1) Where, in any proceedings for the condemnation of any thing seized as liable to forfeiture under this Act judgment is given for the claimant, the court before which the case is heard may, if it sees fit, certify that there were reasonable grounds for the seizure.

Condemna-
tion proceed-
ings.

(2) Where any proceedings, whether civil or criminal, are brought against the Board or any person authorised by or under this Act to seize or detain anything liable to forfeiture on account of the seizure or detention or anything, and judgment is given for the plaintiff or prosecutor, then if—

(a) a certificate relative to the seizure has been granted under subsection (1) of this section; or

(b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the excise laws,

the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment:

Provided that nothing in this subsection or in the next succeeding section shall affect the right of any person to the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction thereof.

(3) Any certificate under subsection (1) may be proved by the production of either the original certificate or a certified copy thereof purporting to be signed by an officer of the court by which it was granted.

Compensation in special cases.

25.—(1) Where any spirits on the premises of the holder of a licence under this Act are destroyed, stolen or unlawfully removed by or with the assistance or connivance of an officer, and that officer is convicted of the offence the Board shall, if the licensee was not a party to the offence, pay compensation for any loss caused by any such destruction, theft or removal; and it is hereby declared that in any such case no duty shall be payable on any such spirits by the licensee, and duty (if any) paid thereon by the licensee shall be refunded.

(2) Subject to the provisions of the foregoing subsection, compensation shall not be payable by the Board, and no action shall lie against the Board or any officer for any loss or damage caused to any goods by any officer acting in the execution of his duty except where the loss or damage occurs as the direct result of the unlawful act or negligence of such officer or arises out of any unsuccessful search to which subsection (4) of section nine of this Act applies.

Interpretation.

26. In this Act unless the context otherwise requires—

“the Board” means the Board of Customs and Excise;

“distiller’s licence” means a licence to distill spirits granted under section one of this Act;

“excise laws” means the Customs and Excise Management Act, 1958 and includes any other Act relating to the control of excisable goods;

“officer” means any person employed in the Department of Customs and Excise, or for the time being performing customs or excise duties;

“proper officer” means any officer whose right or duty it is to require the performance of or do an act;

“pure alcohol” means spirits by volume at fifteen point five six degrees Centigrade or sixty degrees Fahrenheit;

No. 55 of 1958

"spirits" means ethyl alcohol and includes all liquors mixed with or compounded with or prepared from ethyl alcohol, but does not include undistilled fermented liquors containing twenty per centum or less of pure ethyl alcohol ;

"still" means any apparatus used or capable of being used to produce spirits by distillation ;

"still licence" means a licence granted for the purposes of section two of this Act.

27.—(1) The enactment mentioned in Part A of the Third Schedule to this Act is hereby repealed to the extent therein specified.

Repeals etc.

(2) Where by any enactment reference is made to excise legislation in relation to spirits or to distillation of spirits in Nigeria, the spirits and any equipment shall, for excise purposes, be deemed to be affected by this Act ; and references shall be so construed, and the enactments mentioned in Part B of the Third Schedule shall have effect accordingly.

No. 55 of
1958.

(3) Any law in force in any Region, other than an enactment repealed by subsection (1) of this section, or a provision of the Customs and Excise Management Act, 1958, or of an instrument having effect by virtue of that Act, is hereby repealed in so far as it makes provision with respect to the importation of stills.

28.—(1) This Act may be cited as the Excise (Control of Distillation) Act, 1964, and shall apply throughout the Federation.

Short title,
extent, and
operation.

(2) This Act shall come into operation on a day to be appointed by the Minister by order in the Gazette.

SCHEDULES

FIRST SCHEDULE

Section 16 (1)

PROVISIONS RELATING TO FORFEITURE

Notice of Seizure

1.—(1) Save where seizure was made in the presence of—

(a) the person whose offence or suspected offence occasioned the seizure, or

(b) the owner or any of the owners of the thing seized or any servant or agent of his,

the Board shall give notice of the seizure of any thing as liable to forfeiture and of the grounds therefor to any person who to its knowledge was at the time of the seizure the owner or one of the owners thereof.

(2) Notice under this paragraph shall be given in writing and shall be deemed to have been duly served on the person concerned—

(a) if delivered to him personally ;

(b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business or, in the case of a body corporate, at their registered or principal office ;

(c) in any other case, by publication of notice of seizure in the Gazette.

Notice of Claim

2.—(1) Any person claiming that any thing seized as liable to forfeiture is not so liable shall, within one month of the date of the notice of seizure, or, if no such notice has been served on him, within one month of the date of the seizure, give notice of his claim in writing to the Board :

Provided that the Board may, at its discretion, extend the period in which notice of a claim may be given.

(2) The notice shall specify the name and address of the claimant. If a claimant is outside Nigeria the notice shall specify the name and address of a legal practitioner in Nigeria authorised to accept the service of process and to act on behalf of the claimant and where service is affected on such legal practitioner it shall be deemed to be proper service upon the claimant.

Condemnation

3. If on the expiration of the relevant period aforesaid for the giving of notice of claim no such notice has been given to the Board, or if, in the case of any such notice given, any requirement of paragraph 2 is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.

4. Where notice of claim is duly given in accordance with the foregoing provisions of this Schedule, the Board shall take proceedings for the condemnation of that thing by the court, and if the court finds that the thing was at the time of seizure liable to forfeiture, the court shall condemn it as forfeited.

5. Where any thing is in accordance with either of the two last foregoing paragraphs condemned or deemed to have been condemned as forfeited then, without prejudice to any delivery by or sale of the thing by the Board under paragraph 12, the forfeiture shall have effect as from the date when the liability to forfeiture arose.

Proceedings for Condemnation by Court

6. Proceedings for condemnation shall be civil proceedings and may be instituted in the same courts as those in which proceedings may be instituted by the Board in respect of things liable to forfeiture and seized accordingly under the provisions of the excise laws.

7. In any proceedings for condemnation, if the claimant or his legal practitioner fails to make oath that the thing seized was, or to the best of his knowledge or belief was, the property of the claimant at the time of the seizure, the court shall give judgment for the Board.

8. If in condemnation proceedings an appeal is lodged against the decision of the court, things seized shall, pending the final determination of the matter, be left in the custody of the Board.

Provisions as to Proof

9. In any proceedings arising out of the seizure of any thing, the effect, form and manner of the seizure shall be taken to have been as set forth in the process without any further evidence thereof, unless the contrary is proved.

10. In any proceedings, the condemnation by a court of any thing as forfeited may be proved by the production either of the order or certificate of condemnation or a certified copy thereof purporting to be signed by an officer of the court by which the order or certificate was made or granted.

Special Provisions as to certain Claimants

11. For the purposes of a claim to, or proceedings for the condemnation of, any thing, where that thing is at the time of the seizure the property of a body corporate, of two or more partners or of any number of persons exceeding five, the oath required by this Schedule to be taken and anything required by this Schedule or by the rules of the court to be done by, or by any other person authorised by, the claimant or owner may be taken or done by, or by any other person authorised by, the following persons respectively, that is to say—

(a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;

(b) where the owners are in partnership, any one of those owners;

(c) where the owners are any number of persons exceeding five, not being in partnership, any two of those persons on behalf of themselves and their co-owners.

12. Where any thing has been seized as liable to forfeiture, the Board may at any time, at its discretion, and notwithstanding that the thing has not yet been condemned or is not yet deemed to have been condemned as forfeited—

(a) deliver it up to any claimant upon his paying to the Board such sum as the Board thinks proper, being a sum not exceeding that which, in its opinion, represents the value of the thing, including any duty chargeable thereon which has not been paid; or

(b) if the thing seized is in the opinion of the Board of a perishable nature, sell or destroy it.

13.—(1) Subject to the provisions of this paragraph, if in the case of any thing delivered up, sold or destroyed as aforesaid, it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Board shall on demand by the claimant tender to him—

(a) an amount equal to any sum paid by him under sub-paragraph (a) of paragraph 12; or

(b) where the Board has sold the thing, an amount equal to the proceeds of sale; or

(c) where it has destroyed the thing, an amount equal to the market value of the thing at the time of its seizure.

(2) If any such amount includes any sum on account of duty chargeable on the thing which had not been paid before its seizure, the Board may deduct so much of that amount as represents that duty.

(3) If the claimant accepts any amount tendered to him under this paragraph, he shall not be entitled to maintain any action on account of the seizure, detention, sale or destruction of the thing.

SECOND SCHEDULE

Section 17 (2)

FORM OF WARRANT OF DISTRESS

To _____
 The Board of Customs and Excise, by virtue of the powers vested in it by section 17 of the Excise (Control of Distillation) Act, 1964, hereby authorises you to collect and recover the sum of _____ due for excise duty from _____ (manufacturer); _____ having his premises at _____; and for the recovery thereof further authorises that you, with the aid (if necessary) of your assistants and calling to your assistance any police officer (if necessary), which assistance he is hereby required to give, do forthwith levy by distress the said sum together with the costs and charges of and incidental to the taking and keeping of such distress, on the goods, chattels or other distrainable things of the said manufacturer wherever the same may be found and on all equipment, plant, tools, ships, aircraft, vehicles, animals, goods and effects used within Nigeria in the manufacture, sale or distribution of excisable goods which you may find in any premises or on any land in the use or possession of the said manufacturer or of any person on his behalf or in trust for him.

And for the purpose of levying such distress you are hereby authorised, if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

Signed for and on behalf of the Board of Customs and Excise

at this day of

19.....

Collector (or as the case may be)

THIRD SCHEDULE

Section 27

PART A

Enactment repealed

<i>Number</i>	<i>Short title</i>	<i>Extent of repeal</i>
No. 55 of 1958	The Customs and Excise Management Act, 1958	Part V except sections 95 to 100

PART B

Enactments Affected

<i>Chapter or Number</i>	<i>Short title</i>	<i>Extent to which affected</i>
Cap. 105	The Liquor Act	So much of sections 8, 9, and 10 as relate to the distillation of spirits in the Regions, and of section 11 relating to the possession of metal tubing for use in connection with distillation of spirits in Nigeria
No. 49 of 1957	The Distillation of Spirits Act 1957	The whole Act

APPROPRIATION ACT, 1964



1964, No. 23

AN ACT TO AUTHORISE THE ISSUE OUT OF THE CONSOLIDATED REVENUE FUND OF SIXTY-TWO MILLION TWO HUNDRED AND SEVENTY-FIVE THOUSAND NINE HUNDRED AND EIGHTY POUNDS FOR THE SERVICE OF THE YEAR ENDING ON THE THIRTY-FIRST DAY OF MARCH, ONE THOUSAND NINE HUNDRED AND SIXTY-FIVE; AND TO APPROPRIATE THAT AMOUNT FOR THE PURPOSES SPECIFIED IN THIS ACT.

[16th April, 1964]

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) The Accountant-General may, when authorised so to do by warrants signed by the Minister of Finance, pay out of the Consolidated Revenue Fund during the year ending on the thirty-first day of March, one thousand nine hundred and sixty-five, the sums specified by the warrants, not exceeding in the aggregate Sixty-two million two hundred and seventy-five thousand nine hundred and eighty pounds.

Issue and
appropria-
tion of
£62,275,980
from Conso-
lidated
Revenue
Fund for
1964-65.

(2) The amount mentioned in the foregoing subsection shall be appropriated to heads of expenditure as indicated in the Schedule to this Act.

(3) No part of the amount aforesaid shall be issued out of the Consolidated Revenue Fund after the end of the year mentioned in subsection (1) of this Section.

2. This Act may be cited as the Appropriation Act, 1964, and shall apply throughout the Federation.

Short
title and
extent

Section 1 Head	SCHEDULE	Amount £
21 State House		63,160
22 Cabinet Office		4,838,510
23 Police		6,234,060
24 Ministry of Commerce and Industry		844,830
25 Ministry of Communications		6,539,470
26 Ministry of Defence		409,340
27 Nigerian Army		5,376,490
28 Nigerian Navy		787,580
29 Nigerian Air Force		603,780
30 Ministry of Economic Development		621,320
31 Agriculture (Research)		319,900
32 Fisheries Service		66,580
33 Forestry (Research)		147,280
34 Veterinary (Research)		259,220
35 Statistics		315,910
36 Ministry of Education		2,270,360
37 Antiquities		87,500
38 National Archives		84,540
39 Ministry of Establishments and Service Matters		509,900
40 Pensions and Gratuities		813,750
41 Ministry of Finance		1,674,690
42 Board of Customs and Excise		887,370
43 Inland Revenue		248,960
44 Ministry of External Affairs		3,271,680
45 Ministry of Health		5,182,890
46 Ministry of Information		2,825,330
47 Ministry of Internal Affairs		313,390
48 Prisons		1,358,990
49 Ministry of Justice		312,390
50 Ministry of Labour		784,730
51 National Provident Fund		148,980
52 Ministry of Lagos Affairs		1,366,150
53 Ministry of Mines and Power		259,500
54 Geological Survey		140,030
55 Ministry of Transport		1,193,770
56 Coastal Agency		139,150
57 Inland Waterways		828,200
58 Ministry of Works and Surveys		6,845,500
59 Audit		109,440
60 Electoral Commission		29,630
61 Judicial		225,730
62 Parliament		750,900
63 Public Service Commission		65,480
64 Contributions to the Development Fund		1,350,000
65 Non-Statutory Appropriations of Revenue		769,620
Total		<u>£62,275,980</u>