

THE ALLOCATION OF REVENUE (CONSTITUTIONAL AMENDMENT) ACT 1965



1965 No. 18

AN ACT TO AMEND WITH EFFECT FROM 1ST APRIL 1965 CERTAIN PROVISIONS OF THE CONSTITUTION OF THE FEDERATION RELATING TO THE ALLOCATION OF REVENUE.

[See section 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) In sections 136 (1) and 140 (2) of the Constitution (each of which provides that the Federation shall credit to the Distributable Pool Account a sum equal to thirty per cent of certain proceeds mentioned therein), for the word "thirty" there shall be substituted the words "thirty-five".

Amendment
of ss.136, 140
and 141 of
Constitution
of the
Federation.

(2) In section 141 of the Constitution (which relates to the distribution of funds in the said Account), for the word "fractions" there shall be substituted the word "percentages", and for paragraphs (a) to (d) there shall be substituted the following paragraphs—

"(a) to Northern Nigeria, forty-two per cent. ;

(b) to Eastern Nigeria, thirty per cent. ;

(c) to Western Nigeria, twenty per cent. ;

(d) to Mid-Western Nigeria, eight per cent."

2. In section 138 of the Constitution (which relates to the allocation of excise duty levied on tobacco or on any particular class, variety or description of tobacco), after the word "tobacco", in each of the six places where it occurs, there shall be inserted the words " , motor spirit or diesel oil".

Amendment
of s.138 of
Constitution
of the
Federation.

Amendments
to be
effective as
from 1st
April 1965.

3.—(1) On and after the date on which this Act comes into operation in accordance with section 4 of the Constitution, sections 1 and 2 of this Act shall be deemed to have come into force on 1st April 1965; and at or before the end of the quarter immediately following the quarter in which this Act comes into operation as aforesaid there shall, in the case of each Region, be paid by the Federation to that Region or by that Region to the Federation, as the case may require, such sum as will discharge any liability occasioned by this Act in respect of the period beginning with 1st April 1965 and ending with the date on which this Act comes into operation as aforesaid.

(2) Sections 143, 144 and 145 of the Constitution (which relate respectively to set-off, to the charging of sums on Consolidated Revenue Funds, and to the certifying of payments by the Director of Audit of the Federation) shall apply for the purposes of the foregoing subsection as if that subsection were contained in Part 2 of Chapter IX of the Constitution.

Short title,
extent and
interpreta-
tion.

4.—(1) This Act may be cited as the Allocation of Revenue (Constitutional Amendment) Act 1965 and shall apply throughout the Federation.

(2) In this Act "the Constitution" means the Constitution of the Federation, and "quarter" means a quarter of a financial year.

POLICE (AMENDMENT) ACT 1965



1965 No. 19

AN ACT TO AMEND THE PROVISIONS OF THE POLICE ACT RELATING TO SUPERNUMERARY POLICE OFFICERS.

[10th November 1965]

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 sections set out in the Schedule to this Act shall be substituted for section 14 of the Police Act (which relates to the employment of supernumerary police officers).

Substitution
of new
sections for
s. 14 of
Police Act,
Cap. 154.

(2) In section 2 of the Police Act, after the definition of “superior police officer” there shall be inserted the following definition—

“supernumerary police officer” means a police officer appointed under section 14, 14A or 14C of this Act or under an authorisation given under section 14B of this Act ;’.

2.—(1) This Act may be cited as the Police (Amendment) Act 1965 and shall apply throughout the Federation.

Short title,
extent and
transitional
provision.

(2) Any person who immediately before the date of the passing of this Act was serving as a supernumerary police officer under section 14 of the Police Act—

(a) shall be deemed to have been appointed and enlisted under and in accordance with the corresponding provisions of the sections substituted for the said section 14 by section 1 of this Act, and to have been so appointed in respect of the police area in which immediately before that date he was employed on special duties ; and

(b) shall be employed exclusively on such duties as may be designated, in the case of a person serving in the Federal territory, by the Inspector-General of the Nigeria Police or, in the case of a person serving in a Region, by the Commissioner of Police of that Region.

Section 1.

SCHEDULE

SECTIONS TO BE SUBSTITUTED FOR S.14 OF THE POLICE ACT (CAP. 154)

Appointment
of supernu-
merary police
officers to
protect
property.

14.—(1) Any person (including any government department) who desires to avail himself of the services of one or more police officers for the protection of property owned or controlled by him may make application therefor to the Inspector-General, stating the nature and situation of the property in question and giving such other particulars as the Inspector-General may require.

(2) On an application under the foregoing subsection the Inspector-General may, with the approval of the Prime Minister, direct the appropriate authority to appoint as supernumerary police officers in the Force such number of persons as the Inspector-General thinks requisite for the protection of the property to which the application relates.

(3) Every supernumerary police officer appointed under this section—

(a) shall be appointed in respect of the area of the police province or, where there is no police province, the police district or police division in which the property which he is to protect is situated ;

(b) shall be employed exclusively on duties connected with the protection of that property ;

(c) shall, in the police area in respect of which he is appointed and in any police area adjacent thereto, but not elsewhere, have the powers, privileges and immunities of a police officer ; and

(d) subject to the restrictions imposed by paragraphs (b) and (c) above and to the provisions of section 14D of this Act, shall be a member of the Force for all purposes and shall accordingly be subject to the provisions of this Act and in particular the provisions thereof relating to discipline.

(4) Where any supernumerary police officer is appointed under this section, the person availing himself of the services of that officer shall pay to the Accountant-General—

(a) on the enlistment of the officer, the full cost of the officer's uniform ; and

(b) quarterly in advance, a sum equal to the aggregate of the amount of the officer's pay for the quarter in question and such additional amounts as the Inspector-General may direct to be paid in respect of the maintenance of the officer during that quarter ;

and any sum payable to the Accountant-General under this subsection which is not duly paid may be recovered in a summary manner before a magistrate on the complaint of any superior police officer :

Provided that this subsection shall not apply in the case of an appointment made on the application of a department of the Government of the Federation.

(5) Where the person availing himself of the services of any supernumerary police officer appointed under this section desires the services of that officer to be discontinued, he must give not less than two months' notice in writing to that effect, in the case of an officer appointed

in respect of a police area within the Federal territory, to the Inspector-General or, in the case of an officer appointed in respect of a police area within a Region, to the Commissioner of Police of that Region; and on the expiration of such notice the services of the supernumerary police officer in question shall be withdrawn.

(6) Where the services of a supernumerary police officer are withdrawn in pursuance of subsection (5) above in the course of a quarter for which the sum mentioned in subsection (4) (b) above has been paid to the Accountant-General, the Accountant-General shall pay to the person by whom that sum was paid a sum which bears to that sum the same proportion as the unexpired portion of that quarter bears to the whole of that quarter.

(7) In this section "the Accountant-General" means the Accountant-General of the Federation, "government department" means any department of the Government of the Federation or of the Government of a Region, and "quarter" means any period of three months; and any reference in this section to the person availing himself of the services of a supernumerary police officer appointed under this section is a reference to the person on whose application the officer was appointed or, if that person has been succeeded by some other person as the person owning or controlling the property for the protection of which the officer in question was appointed, that other person.

14A.—(1) The appropriate authority may, at the request of any superior police officer, appoint any person as a supernumerary police officer in the Force with a view to that person's employment on duties connected with the administration or maintenance of premises occupied or used for the purposes of the Force, but shall not do so in any particular case unless satisfied that it is necessary in the interests of security or discipline that persons performing the duties in question should be subject to the provisions of this Act relating to discipline.

Appointment of supernumerary police officers for employment on administrative duties on police premises.

(2) Every supernumerary police officer appointed under this section—

(a) shall be appointed in respect of the area of the police province or, where there is no police province, the police district or police division in which the premises in connection with whose administration or maintenance he is to be employed are situated;

(b) shall be employed exclusively on duties connected with the administration or maintenance of those premises;

(c) shall, in the police area in respect of which he is appointed, but not elsewhere, have the powers, privileges and immunities of a police officer; and

(d) subject to the restrictions imposed by paragraphs (b) and (c) above and to the provisions of section 14D of this Act, shall be a member of the Force for all purposes and shall accordingly be subject to the provisions of this Act and in particular the provisions thereof relating to discipline.

14B.—(1) If at any time the Prime Minister is satisfied, as regards any police area, that it is necessary in the public interest for supernumerary police officers to be employed in that area, he may authorise the appropriate authority to appoint persons as supernumerary police officers in the Force under and in accordance with the authorisation.

Appointment of supernumerary police officers where necessary in the public interest.

(2) Every authorisation under this section shall be in writing and shall specify the police area to which it relates and the maximum number of supernumerary police officers who may be appointed under that authorisation.

(3) Every supernumerary police officer appointed under an authorisation given under this section—

(a) shall be appointed in respect of the police area to which the authorisation relates ;

(b) shall, in the police area in respect of which he is appointed and in any police area adjacent thereto, but not elsewhere, have the powers, privileges and immunities of a police officer ; and

(c) subject to the restriction imposed by paragraph (b) above and to the provisions of section 14D of this Act, shall be a member of the Force for all purposes and shall accordingly be subject to the provisions of this Act and in particular to the provisions thereof relating to discipline.

Appointment
of super-
numerary
police officers
for attach-
ment as
orderlies.

14c.—(1) The appropriate authority may at the request of the Inspector-General or of the Commissioner of Police of a Region appoint any person as a supernumerary police officer in the Force with a view to that person's attachment as an orderly to—

(a) a Minister of the Government of the Federation ; or

(b) a Minister of the Government of a Region ; or

(c) a police officer of or above the rank of assistant commissioner.

(2) Every supernumerary police officer appointed under this section—

(a) shall be employed exclusively on duties connected with the activities of the person to whom he is attached ;

(b) shall, while so employed, have throughout Nigeria the powers, privileges and immunities of a police officer ; and

(c) subject to the restriction imposed by paragraph (a) above and to the provisions of section 14D of this Act, shall be a member of the Force for all purposes and shall accordingly be subject to the provisions of this Act and in particular the provisions thereof relating to discipline.

Provisions
supple-
mentary to
ss. 14 to 14c.

14D.—(1) Every supernumerary police officer shall, on appointment, be enlisted to serve in the Force from month to month, and accordingly a supernumerary police officer may at any time resign his appointment by giving one month's notice in that behalf to the superior police officer in charge of the police area in respect of which he is appointed, and his appointment may be determined by the appropriate authority on one month's notice in that behalf or on payment of one month's pay instead of such notice.

(2) The ranks to which supernumerary police officers may be appointed shall be prescribed by regulations made by the Prime Minister under section 47 of this Act on the recommendation of the Nigeria Police Council ; but no such rank shall be above that of inspector.

(3) A supernumerary police officer shall have no claim on the Police Reward Fund ; and, without prejudice to any liability under the Workmen's Compensation Act to pay compensation to or in respect of any person by virtue of his employment as a supernumerary police officer, a person's service as such an officer shall not render him or any other person eligible for any pension, gratuity or annual allowance under this Act or the Pensions Act. .

Cap. 222.

Cap. 147.

(5) In sections 14 to 14C of this Act and this section—

“the appropriate authority”, in relation to any power to appoint or determine the appointment of supernumerary police officers, means the Police Service Commission or any superior police officer to whom that power has been delegated in accordance with section 110 (1) of the Constitution of the Federation ;

“police area” means any police province, police district or police division ;

1963 No. 20.

“police province”, “police district” and “police division” mean respectively a police province, police district or police division established under the provisions of Standing Orders made under section 48 of this Act.



1965 No. 20

AN ACT TO MAKE FURTHER PROVISION FOR THE DESTRUCTION OF COUNTERFEIT CURRENCY AND FOR CONNECTED PURPOSES AND TO REPEAL THE WEST AFRICAN CURRENCY NOTES ACT.

[See section 3(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 following subsection, sections 271 and 272 of the Criminal Procedure Act (which, among other things, provide for the detention and destruction of counterfeit coins and of matter and things intended to be used for making them) shall apply in relation to notes purporting to be legal tender in Nigeria as those sections apply in relation to coins.

Detention
and destruc-
tion of
counterfeit
notes, etc.
Cap 43.

(2) No note, coin, matter or thing shall be destroyed by virtue of the foregoing subsection unless either—

(a) a court orders its destruction, in connection with a conviction for an offence, in pursuance of the said section 271 as applied by that subsection ; or

(b) it appears to a magistrates' court having jurisdiction in the place where the note, coin, matter or thing is for the time being situated, on an application made in accordance with rules of court, that the existence of the note, coin, matter or thing involves a breach of the law and the court makes an order for its forfeiture and destruction accordingly ; or

(c) in the absence of any conviction for an offence in respect thereof and any pending prosecution for such an offence, and of any order or pending application for an order for its forfeiture, the note, coin, matter or thing—

(i) has been voluntarily surrendered by the person having possession thereof to the proper official of the Central Bank of Nigeria or a superior police officer, or

(ii) is discovered in a lodgment made with the said Bank by a commercial bank.

2. The West African Currency Notes Act is hereby repealed.

3.—(1) This Act may be cited as the Currency Act 1965, and shall apply throughout the Federation.

(2) This Act shall come into operation on a date to be appointed by the Minister of the government of the Federation responsible for finance by an order published in the Federal Gazette.

Repeal.
Cap. 216.
Short title,
application
and com-
mencement.

REMUNERATION OF THE PRESIDENT ACT 1965



1965 No. 21

[10th November 1965]

Commence-
ment.

AN ACT TO MAKE PROVISION FOR THE SALARY, ALLOWANCES AND PENSION OF THE PRESIDENT OF THE REPUBLIC.

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 paid to the President of the Republic (hereafter referred to as “the President”) as salary the sum of seven thousand one hundred and fifty pounds a year.

Salary and
allowances
of the
President.

(2) There shall also be paid to the President such allowances as are considered reasonable by the Government of the Federation acting in its discretion.

2. A pension of two thousand five hundred pounds a year shall be paid to the President on his resignation from office, or on his retirement on the expiration of the period of his tenure of office :

Pension of
the
President.

Provided that where any person is re-elected to the office of President no pension shall be payable to him during the period in which he again holds office as President.

3. This Act may be cited as the Remuneration of the President Act 1965.

Short title.

WORKMEN'S COMPENSATION (AMENDMENT) ACT 1965



1965 No. 22

AN ACT TO SUPPLEMENT AND AMEND SECTION 34 OF THE WORKMEN'S COMPENSATION ACT

[10th November 1965]

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) In the Workmen's Compensation Act, after section 34 (which confers power by order to extend the provisions of that Act to incapacity or death caused by any disease specified in the order) there shall be inserted the following sections—

Amend-
ment, of
Workmen's
Compensation
Act
Cap. 222.

'Power to
require
existence
of
occupational
disease
to be
certified
by
medical
board.

34A. An order under section 34 may provide that, in relation to any particular disease specified in any such order, that section shall have effect subject to the modification that for the words "where a medical practitioner grants a certificate that a workman is suffering from any disease so specified" there shall be substituted the words "where a medical board appointed under section 34c determines that a workman is suffering from any disease so specified and grants a certificate to that effect".

Special
provi-
sions as
regards
byssinosis.

34B. An order made under section 34 in relation to byssinosis may include provision for securing that no compensation shall be payable under that Act in respect of incapacity or death of a workman caused by byssinosis unless (whether immediately or not) before the date of his disablement he has been employed in any occupation specified in the order in relation to byssinosis for a length of time (whether continuous or not) so specified.

Medical
boards.

34c.—(1) Medical boards for the purposes of section 34, where it has effect subject to the modification specified in section 34A, and for the purposes of any provision in any order under section 34 whereby any matter is authorised or required to be certified by a medical board, shall be appointed by the Minister on the recommendation of the Minister of the Government of the Federation responsible for matters relating to health, and shall consist of two or more qualified medical practitioners of whom one shall be appointed as chairman.

(2) A medical board shall not determine the question whether or not a workman is suffering from a disease specified in an order under section 34, or any other medical question—

(a) if any member of the board is unable to be present at the consideration of that question ; or

(b) in the case of a board consisting of two members, if the board are unable to reach a unanimous decision on that question.

(3) In any case in which, by reason of subsection (2) of this section, a medical board are unable to determine any medical question, that question shall as soon as possible be referred to another medical board appointed under this section :

Provided that, in a case falling under subsection (2) (b) of this section, that other medical board shall be a board consisting of three members whose decision, if not unanimous, shall be that of the majority of the members.

(4) The Minister may pay to the members of medical boards appointed under this section such fees or other remuneration and such travelling and other allowances as may be approved by the Minister of the Government of the Federation responsible for finance.

(2) Section 34 of the Workmen's Compensation Act shall be amended as follows—

(a) in proviso (b), for the words "the employer from whom the" there shall be substituted the words "an employer from whom such" ;

(b) in proviso (c), for the words "the process or processes" there shall be substituted the words "any occupation".

Short title
and extent.

2. This Act may be cited as the Workmen's Compensation (Amendment) Act 1965 and shall apply throughout the Federation.

VISITING FORCES ACT 1965



ARRANGEMENT OF SECTIONS

Section

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. Orders applying provisions of Act. 2. Powers in Nigeria of sending country's service courts etc. 3. Assistance in arrest of offenders from visiting forces. 4. Restriction of right to try members of visiting forces. 5. Nigerian courts to have regard to sentences of visiting forces' service courts. 6. Arrest, custody etc., of offenders against Nigerian law. 7. Exclusion from Nigerian courts of proceedings relating to visiting forces' terms of service. | <ol style="list-style-type: none"> 8. Apprehension etc., of deserters and absentees without leave. 9. Detention by Nigerian service authorities of sentenced members of visiting forces. 10. Application to visiting forces of law relating to home forces. 11. Attachment of personnel. 12. Attendance of civilian witnesses before visiting forces' service courts. 13. Proof of facts by certificate. 14. Interpretation. 15. Short title and extent. |
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SCHEDULE : Offences referred to in s. 4.

1965 No. 23

AN ACT TO MAKE PROVISION WITH RESPECT TO MILITARY, NAVAL AND AIR FORCES OF OTHER COUNTRIES VISITING NIGERIA ; TO PROVIDE FOR THE APPREHENSION AND DISPOSAL OF DESERTERS AND ABSENTEES WITHOUT LEAVE IN NIGERIA FROM THE FORCES OF OTHER COUNTRIES ; TO MAKE PROVISION WITH RESPECT TO THE ATTACHMENT OF SERVICE PERSONNEL TO OR FROM THE FORCES OF OTHER COUNTRIES AND WITH RESPECT TO THE SERVICE TOGETHER OF SUCH FORCES AND NIGERIAN FORCES ; AND FOR CONNECTED PURPOSES.

[10th November 1965]

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 President may by order published in the Federal Gazette direct that the following provisions of this Act, or any of them, shall have effect in relation to any country (other than Nigeria) specified in the order ; and references in this Act to a country to which a provision of this Act applies are references to any country in relation to which that provision has effect by virtue of an order under this section.

Orders
applying
provisions
of Act.

(2) The President may by order published as aforesaid provide that in so far as this Act has effect in relation to any country by virtue of an order under this section, it shall have effect subject to such limitations, adaptations or modifications as may be specified in the order.

2.—(1) Subject to the provisions of this Act, the service courts and service authorities of a country to which this section applies may within Nigeria, or on board any Nigerian ship or aircraft, exercise over members of any visiting force of that country all such powers as are exercisable by them according to the law of that country.

Powers in
Nigeria of
sending
country's
service
courts, etc.

(2) Subject to subsection (3) below, where any sentence has, whether within or outside Nigeria, been passed by a service court of a country to which this section applies upon a person who immediately before the sentence was passed was a member of a visiting force of that country, then for the purposes of any proceedings in a Nigerian court—

(a) that service court shall be taken to have been properly constituted ; and

(b) the sentence shall be taken to be within the jurisdiction of that service court and in accordance with the law of that country ; and

(c) if the sentence is executed according to its terms, it shall be taken to have been lawfully executed.

(3) A sentence of death passed by a service court of a country to which this section applies shall not be carried out in Nigeria unless under Nigerian law a sentence of death could have been passed in a similar case.

(4) Any person who—

(a) is detained in custody in pursuance of a sentence in respect of which subsection (2) above has effect ; or

(b) being a member of a visiting force of a country to which this section applies, is detained in custody pending or during the trial by a service court of that country of a charge brought against him, shall for the purposes of any proceedings in any Nigerian court be deemed to be in lawful custody.

(5) The members of any service court exercising jurisdiction in Nigeria by virtue of this section, and witnesses appearing before such a court, shall enjoy the like immunities and privileges as are enjoyed by members of, and witnesses appearing before, a court-martial exercising jurisdiction under the service law of Nigeria.

(6) Subsection (5) above is without prejudice to the powers conferred by section 10 of this Act.

Assistance
in arrest
of offenders
from visiting
forces.

3.—(1) For the purpose of enabling the service courts and service authorities of a country to which this section applies to exercise more effectively the powers mentioned in section 2 (1) of this Act, the Nigerian Army Council, the Navy Board or the Nigerian Air Council, if so requested by the appropriate authority of that country, may from time to time by general or special orders direct members of the home forces for whom they respectively have responsibilities to arrest any person, being a member of a visiting force of that country, who is alleged to be guilty of an offence punishable under the law of that country, and to hand him over to such service authority of that country as may be designated by or under the orders.

(2) For the purpose of enabling the service courts and service authorities of a country to which this section applies to exercise more effectively the powers mentioned in section 2 (1) of this Act, the Inspector-General of the Nigeria Police, if so requested by the appropriate authority of that country, may from time to time by general or special orders direct members of the Nigeria Police Force to arrest any person, being a member of a visiting force of that country, who is alleged to be guilty of an offence punishable under the law of that country, and to hand him over to such service authority of that country as may be designated by or under the orders :

Provided that, without prejudice to section 10 of this Act, nothing in this subsection shall be construed as enabling any powers of arrest to be conferred on any person which he would not possess apart from this subsection.

(3) Where in pursuance of subsection (1) or (2) above a request has been made by the appropriate authority of a country to which this section applies, the Minister may give to the body or person to whom the request was made such directions as the Minister thinks fit for the purpose of securing compliance with that request ; and it shall be the duty of that body or person to comply with any such directions :

Provided that the Minister shall not give any directions under this section to the Inspector-General of the Nigeria Police except with the consent of the Prime Minister.

Restriction
of right to
try members
of visiting
forces.

4.—(1) Where a person charged with an offence against Nigerian law was at the time when the offence is alleged to have been committed a member of a visiting force of a country to which this section applies, then, subject to subsection (3) below—

(a) in a case where this paragraph applies, a Nigerian court shall not try him for that offence unless before the trial the Minister has issued a certificate stating that the appropriate authority of the sending country has notified him that it is not proposed to deal with the case under the law of that country; and

(b) in a case where paragraph (a) above does not apply, a service court or service authority of the sending country shall not try him or deal with him summarily for that offence unless before the commencement of the trial or summary proceedings the Minister has issued a certificate stating that it is not proposed to deal with the case under Nigerian law.

(2) Paragraph (a) of subsection (1) above applies—

(a) where the alleged offence, if committed by the accused, arose out of and in the course of his duty as a member of the visiting force of which he was a member at the material time;

(b) where the alleged offence is an offence against the person, and the person or, if more than one, each of the persons in relation to whom it is alleged to have been committed was at the material time either—

(i) a member of the same or any other visiting force of the sending country of the accused, or

(ii) a dependent of a member of any such visiting force;

(c) where the alleged offence is an offence against property, and the whole of the property in relation to which it is alleged to have been committed (or, if different parts of that property were differently owned, each part of it) was at the material time the property of one of the following, that is to say—

(i) the sending country of the accused or an authority of that country, or

(ii) a member of the same or any other visiting force of the sending country of the accused, or

(iii) a dependent of a member of any such visiting force;

(d) where the alleged offence is an offence against the security of the sending country of the accused.

(3) Nothing in the foregoing provisions of this section—

(a) shall affect anything done or omitted in the course of a trial unless in the course of the trial objection has already been made that, by reason of those provisions, the court is not competent to deal with the case, or

(b) shall, after the conclusion of a trial, be treated as having affected the validity of the trial if no such objection was made in the proceedings at any stage before the conclusion of the trial.

(4) Without prejudice to the foregoing provisions of this section, where in the exercise of the powers mentioned in section 2 (1) of this Act a person has been tried by a service court of a country to which this section applies, he shall not be tried for the same crime by a Nigerian court.

(5) In relation to cases where the charge (by whatever words expressed) is a charge of attempting or conspiring to commit an offence, or of aiding, abetting, procuring or being accessory to the commission of an offence, paragraphs (b) and (c) of subsection (2) above shall have effect as if references therein to the alleged offence were references to the offence which the accused is alleged to have attempted or conspired to commit or (as the case may be) the offence as regards which it is alleged that he aided, abetted, procured or was accessory to the commission thereof; and references in those paragraphs to persons in relation to whom, or property in relation to which, the offence is alleged to have been committed shall be construed accordingly.

(6) Nothing in this section shall be construed as derogating from the provisions of any other enactment restricting the prosecution of any proceedings or requiring the consent of any authority to the prosecution thereof.

(7) In this section the expressions "offence against the person" and "offence against property" shall be construed in accordance with the Schedule of this Act.

Nigerian
courts to
have regard
to
sentences
of visiting
forces'
service
courts.

5. Where a person who has been convicted by a service court of a country to which this section applies in the exercise of the powers mentioned in section 2(1) of this Act is convicted by a Nigerian court for a different crime, but it appears to that court that the conviction by the service court was wholly or partly in respect of acts or omissions in respect of which he is convicted by the Nigerian court, the Nigerian court shall have regard to the sentence of the service court.

Arrest,
custody etc.
of offenders
against
Nigerian
law.

6.—(1) Nothing in section 4 or 5 of this Act shall affect—

(a) any powers of arrest, search, entry, seizure or custody exercisable under Nigerian law with respect to offences committed or believed to have been committed against that law; or

(b) any obligation on any person in respect of a recognizance or bail bond entered into in consequence of his arrest, or the arrest of any other person, for such an offence; or

(c) any power of any court to remand (whether on bail or in custody) a person brought before the court in connection with such an offence.

(2) Where a person has been taken into custody without a warrant for such an offence as aforesaid committed or believed to have been committed against Nigerian law, and there is reasonable ground for believing that in accordance with section 2 of this Act he is subject to the jurisdiction of the service courts of a country to which this section applies, then, with a view to its being determined whether he is to be dealt with for that offence under Nigerian law or dealt with by the service courts of that country for an offence under the law of that country, he may, notwithstanding anything in any law relating to criminal procedure, be detained in custody for a period not exceeding three days without being brought before a court, magistrate or justice of the peace; but if within that period he is not delivered into the custody of a service authority of that country, he shall as soon as practicable after the expiration of that period be released on bail or brought before a court, magistrate or justice of the peace having jurisdiction to deal with the case.

7. No proceedings shall be entertained by any Nigerian court with respect to—

- (a) the terms of any person's service as a member of a visiting force to which this section applies ; or
- (b) any person's pay in respect of such service ; or
- (c) any person's discharge from such service.

Exclusion from Nigerian courts of proceedings relating to visiting forces' terms of service.

8.—(1) Subject to the provisions of this section, sections 165 to 167 and 169 of the Nigerian Army Act 1960 (which relate to the apprehension, custody and delivery into military custody of deserters and absentees without leave from the Nigerian Army) shall within Nigeria apply in relation to deserters and absentees without leave from the forces of any country to which this section applies as they apply in relation to deserters and absentees without leave from the Nigerian Army.

Apprehension etc., of deserters and absentees without leave.
1960 No. 26.

(2) The powers conferred by the said sections 165 to 167 and 169, as applied by the foregoing subsection, shall not be exercised in relation to a person except in compliance with a request (whether specific or general) of the appropriate authority of the country to which he belongs.

(3) In sections 166, 167 and 169 of the Nigerian Army Act 1960, as applied by subsection (1) above, references to the delivery of a person into military custody shall be construed as references to the handing over of that person to such authority of the country to which he belongs, and at such place in Nigeria, as may be designated by the appropriate authority of that country.

(4) For the purposes of any proceedings under or arising out of any provision of the Nigerian Army Act 1960 as applied by the foregoing provisions of this section—

(a) a certificate issued by or on behalf of the Minister, stating that a request has been made for the exercise of the powers mentioned in subsection (2) above and indicating the effect of the request, shall be sufficient evidence, unless the contrary is proved, of the facts stated therein ;

(b) a certificate issued by the officer commanding a unit or detachment of any of the forces of a country to which this section applies, stating that a person named and described therein was at the date of the certificate a deserter or absentee without leave from those forces shall be sufficient evidence, unless the contrary is proved, of the facts stated therein.

(5) References in this section to the country to which a person belongs are references to the country from whose forces he is suspected of being, or (where he has surrendered himself) appears from his confession to be, a deserter or absentee without leave.

9.—(1) Where any sentence of imprisonment or detention has been passed in Nigeria by a service court of a country to which this section applies upon a person who immediately before the sentence was passed was a member of a visiting force of that country, the Minister, if so requested by the appropriate authority of that country, may issue a warrant in writing authorising any Nigerian service authority to detain that person in custody for such period not exceeding the term of his sentence as may be specified in the warrant.

Detention by Nigerian service authorities of sentenced members of visiting forces.

(2) A person in respect of whom a warrant has been issued under this section may, in accordance therewith, be detained by any Nigerian service authority in like manner as if he were a member of the home forces liable to be detained in custody in pursuance of a corresponding sentence passed by a Nigerian service court.

(3) For the purposes of any proceedings arising out of the foregoing provisions of this section a certificate issued by or on behalf of the Minister, stating that a request has been made for the issue of a warrant under this section in respect of a person named in the certificate shall be sufficient evidence, unless the contrary is proved, of the facts stated therein.

Application
to visiting
forces of
law
relating to
home forces.

10.—(1) Where under any enactment a power is exercisable by any authority or person—

(a) with respect to any of the home forces or their members or other persons in any way connected with those forces, or

(b) with respect to any property used or to be used for the purposes of any of the home forces,

the Minister may by order provide for that power to be exercisable, subject to any conditions specified in the order, by that authority or person in the case of any visiting force of a country to which this section applies to the same extent, if any, to which it would be exercisable if the visiting force were a part of the home forces.

(2) The Minister may by order—

(a) provide for exempting any visiting force of a country to which this section applies, or members or service courts thereof, or other persons in any way connected with such a force, or property used or to be used for the purposes of such a force, from the operation of any enactment specified in the order to any extent to which it or they would be, or would be capable of being, exempted therefrom if the force were a part of the home forces, subject however to any conditions specified in the order; and

(b) provide for conferring on any such visiting force or on any such members, service courts, persons or property as aforesaid any other privilege or immunity specified in the order, being a privilege or immunity which would be enjoyed by, or would be capable of being conferred on, it or them if the force were part of the home forces, subject however to any conditions specified in the order.

(3) Where by any enactment the doing of anything is prohibited, restricted or required in relation to—

(a) any of the home forces or their members or service courts or other persons in any way connected with them; or

(b) any property used or to be used for the purposes of any of the home forces,

the Minister may by order provide for securing that the prohibition, restriction or requirement shall have effect in the case of any visiting force of a country to which this section applies to any extent to which it would so have effect if that visiting force were a part of the home forces.

(4) An order under this section may contain such incidental, consequential and supplementary provisions as appear to the Minister expedient for the purposes of the order, including provisions for applying, modifying, adapting or suspending any enactment.

(5) An order under this section shall not have effect until it is published in the Federal Gazette.

(6) In this section "enactment" means any provision of—

(a) any Act of Parliament other than this Act, whether passed before or after the commencement of this Act; or

(b) any law enacted either before or after the commencement of this Act by the legislature of a Region; or

(c) any instrument made before 1st October 1960 in so far as the instrument has effect as such an Act or law; or

(d) any order, rules, regulations, rules of court or bye-laws made before or after the commencement of this Act in exercise of powers conferred by any such Act, law or instrument.

11.—(1) The appropriate authority—

Attachment
of personnel.

(a) may attach temporarily to the army, the navy or the air force any member of the forces of a country to which this section applies; or

(b) subject to anything to the contrary in the conditions applicable to his service, may place any member of any of the Nigerian forces at the disposal of the service authorities of a country to which this section applies for the purpose of his being attached temporarily by those authorities to any of the forces of that country.

(2) Where a member of the forces of a country to which this section applies is by virtue of the foregoing subsection attached temporarily to the army, the navy or the air force (in this subsection referred to as "the relevant Nigerian force") he shall, during the period of attachment, be subject to the appropriate service Act in like manner as if he were a member of the relevant Nigerian force of corresponding rank, and accordingly he shall be so treated and shall have the like powers of command and punishment over members of the relevant Nigerian force:

Provided that if the Minister by order made under this subsection so directs in his case or in the case of any class of persons of which he is a member, the appropriate service Act shall, in its application to a person by virtue of this subsection, have effect subject to such modifications as may be specified in the order.

(3) Where the army, the navy or the air force (in this subsection referred to as "the relevant Nigerian force") and a force of a country to which this section applies (in this subsection referred to as "the other force") are serving together, whether alone or not—

(a) every member of the other force shall be treated, and shall have over members of the relevant Nigerian force, the like powers of command and punishment as if he were a member of the relevant Nigerian force of corresponding rank; and

(b) if the forces are acting in combination, any officer of the other force appointed by the appropriate authority, or in accordance with regulations made by the appropriate authority, to command the combined force or any part thereof shall have over members of the relevant Nigerian force 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 relevant Nigerian force of corresponding rank holding the same command.

(4) For the purposes of this section—

(a) the army, the navy or the air force shall be taken to be serving together with or acting in combination with a force of a country to which this section applies if and only if it is declared by order of the appropriate authority to be so serving or so acting ;

(b) the rank in the army, navy or air force corresponding to that of a member of the forces of a country to which this section applies shall be such as may be prescribed by regulations made by the appropriate authority, and references in this section to the corresponding rank shall be construed accordingly.

(5) In this section—

(a) "the army", "the navy" and "the air force" mean respectively the Nigerian Army, Navy and Air Force ;

(b) "the appropriate authority" means the Nigerian Army Council, the Navy Board or the Nigerian Air Council, and "the appropriate service Act" means the Nigerian Army Act 1960, the Navy Act 1964 or the Air Force Act 1964, according, in either case, to whichever of the Nigerian forces is in question.

(6) Sections 158, 159, 160 and 194 of the Nigerian Army Act 1960, section 9 of the Navy Act 1964 and section 9 of the Air Force Act 1964 (which are superseded by the foregoing provisions of this section) are hereby repealed.

12.—(1) Where any person not subject to the service law of Nigeria is required as a witness for the purposes of proceedings before a service court of any visiting force of a country to which this section applies, the following provisions of this section shall apply, and he shall not be liable to attend before that court unless summoned in accordance with those provisions.

(2) If an application for the issue of a summons under this section in respect of such a person is made to a magistrates' court by—

(a) the authority by whom the service court was convened ; or

(b) the member of the visiting force appointed to preside at the service court ; or

(c) some other member of that force designated for the purposes of this section by the member appointed to preside as aforesaid, the magistrates' court, if satisfied that the person in question is likely to give material evidence in any proceedings before the service court, may issue a summons requiring him to attend, at a time and place mentioned therein, before the service court (to be sufficiently described therein) to give evidence in those proceedings and to take with him any specified documents or things and any other documents or things in his possession or power or under his control which relate to any matter in issue in those proceedings.

(3) Any person who attends a service court in pursuance of a summons under this section shall be entitled to receive the like expenses as if he were attending a court martial in pursuance of a notice under section 105 of the Navy Act 1964.

(4) Section 98 (1) of the Nigerian Army Act 1960 (which relates to offences by civilians in relation to courts-martial) shall within Nigeria apply in relation to a service court of any visiting force of a country to which this section applies as it applies in relation to a court-martial, subject to the following modifications, that is to say—

1960 No. 26.
1964 No. 21.
1964 No. 11.

Attendance
of civilian
witnesses
before
visiting
forces'
service
courts.

1964 No. 21.
1960 No. 26.

(a) the reference to a person subject to military law under that Act shall be construed as a reference to a person subject to the service law of Nigeria ; and

(b) the reference in paragraph (c) to a document in a person's custody or under his control which a court-martial has lawfully required him to produce shall be construed as a reference to such a document which a magistrates' court has lawfully required him to produce in pursuance of this section.

(5) For the purposes of this section a certificate issued by or on behalf of the appropriate authority of a country stating, as regards a service court of any visiting force of that country, the authority by whom that court was convened or that a member of that force named in the certificate has been appointed to preside at that court, or has been designated for the purposes of this section by a person so appointed, shall in any proceedings on an application for the issue of a summons under this section be conclusive evidence of the facts stated therein.

(6) The provisions of this section are without prejudice to the powers conferred by section 10 of this Act.

13.—(1) For the purposes of this Act a certificate issued by or on behalf of the appropriate authority of a country stating that at a time specified in the certificate a person so specified either was or was not a member of a visiting force of that country shall, in any proceedings in any Nigerian court, be sufficient evidence of the fact so stated unless the contrary is proved.

Proof of
facts by
certificate.

(2) For the purposes of this Act a certificate issued by or on behalf of the appropriate authority of a country, stating with respect to a person specified in the certificate—

(a) that he has been tried, at a time and place specified in the certificate, by a service court of that country for a crime so specified ; or

(b) that on a date so specified he was sentenced by a service court of that country to such punishment as is specified in the certificate, shall in any proceedings in any Nigerian court be conclusive evidence of the facts so stated.

(3) Where a person is charged with an offence against Nigerian law and at the material time he was a member of a visiting force to which this section applies, a certificate issued by or on behalf of the appropriate authority of the sending country stating that the alleged offence, if committed by him, arose out of and in the course of his duty as a member of that force shall, in any proceedings in any Nigerian court, be sufficient evidence of that fact unless the contrary is proved.

(4) For the purposes of this Act—

(a) a certificate issued by or on behalf of the appropriate authority of a country, stating that a body, contingent or detachment of the forces of that country is, or was at a time specified in the certificate, present in Nigeria shall in any proceedings in any Nigerian court be conclusive evidence of the facts stated therein ; and

(b) where in any such proceedings it is admitted or proved (whether by a certificate under paragraph (a) above or otherwise) that a body, contingent or detachment of the forces of a country is or was at any

time present in Nigeria, it shall be assumed in those proceedings, unless the contrary is proved, that the body, contingent or detachment is or was at that time present in Nigeria on the invitation of the Government of the Federal Republic of Nigeria.

(5) Where in any certificate issued for the purposes of this Act reference is made to a person by name, and in any proceedings in a Nigerian court reference is made to a person by that name (whether as a party to the proceedings or otherwise) the references in the certificate and in the proceedings shall, unless the contrary is proved, be taken to be references to one and the same person.

(6) Any document purporting to be a certificate issued for the purposes of any provision of this Act, and to be signed by or on behalf of an authority specified in the certificate, shall be received in evidence and shall, unless the contrary is proved, be taken to be a certificate issued by or on behalf of that authority; and where under the provision in question a certificate is required to be issued by or on behalf of the appropriate authority of a country, and the document purports to be signed by or on behalf of an authority of that country, that authority shall, unless the contrary is proved, be taken to be the appropriate authority of that country for the purposes of that provision.

Interpretation.

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

“court” includes a service court;

“dependant”, in relation to a person, means any of the following, that is to say—

(a) the wife or husband of that person, and

(b) any other person wholly or mainly maintained by him or in his custody, charge or care;

“the home forces” means any part of the Nigerian Army, Navy or Air Force for the time being serving in Nigeria;

“forces”, in relation to a country, means any of the military, naval or air forces of that country;

“member”, in relation to a visiting force, means a person for the time being appointed to serve with or attached to that visiting force, being either—

(a) a member of the forces of the sending country, or

(b) a person subject to the service law of that country otherwise than as a member of that country's forces;

“the Minister” means the Minister of the Government of the Federation responsible for defence;

“Nigerian court” means a court exercising jurisdiction in Nigeria under Nigerian law otherwise than by virtue of section 2 of this Act;

“Nigerian law” means the law of Nigeria or of any part thereof;

“the sending country”, in relation to a visiting force, means the country to whose forces the visiting force belongs;

“service authorities” means military, naval or air force authorities;

“service court”, in relation to a country, means a court established under service law and includes any authority of that country who under the law thereof is empowered to review or confirm the

proceedings of such a court or to try or investigate charges brought against persons subject to the service law of that country; and references to trial by, or to sentences passed by, service courts of a country shall be construed respectively as including references to trial by, and to punishment imposed by, such an authority in the exercise of such powers;

"service law", in relation to a country, means the law governing all or any of the forces of that country;

"visiting force" means, for the purposes of any provision of this Act, any body, contingent or detachment of the forces of a country to which that provision applies, being a body, contingent or detachment for the time being present in Nigeria on the invitation of the Government of the Federal Republic of Nigeria.

(2) References in any provision of this Act to the appropriate authority of a country are references to such authority as may be appointed by the Government of that country for the purposes of that provision; but no such appointment shall take effect until notice thereof has been given to the Minister, who on receipt of notice of any such appointment shall publish notice thereof in the Federal Gazette.

(3) For the purpose of this Act a member of a force of any country which (by whatever name called) is in the nature of a reserve or auxiliary force shall be taken to be a member of that country's forces so long as, but only so long as, he is called into actual service (by whatever expression described) or is called out for training.

15. This Act may be cited as the Visiting Forces Act 1965 and shall apply throughout the Federation.

Short title
and extent.

SCHEDULE

OFFENCES REFERRED TO IN S. 4

Offences against the person

1. In section 4 of this Act "offence against the person" means any offence punishable under or by virtue of any of the provisions specified in column (2) below of any enactment mentioned in column (1) below.

(1)	(2)
The Criminal Code	Sections 214 to 225, 226 to 228, 315, 320 to 324, 327A to 329, 330 to 338, 340 to 342, 343 (1), 351 to 356, 358 to 362, 371, 402, 403 and 405.
The Criminal Code of Eastern Nigeria	Sections 214 to 225, 226 to 228, 315, 320 to 324, 327A to 329, 330 to 338, 340 to 342, 343 (1), 351 to 356, 358 to 362, 371, 402, 403 and 405.
The Criminal Code of Western Nigeria	Sections 152 to 165, 168, 170, 171, 253, 258 to 262, 266 to 268, 270 to 276, 281, 283 to 285, 286 (1), 292 to 297, 299 to 303, 312, 342, 343 and 345.

The Penal Code of
Northern Nigeria

Sections 220, 225, 226, 229, 230,
232 to 239, 244 to 253, 265 to
270, 283 to 285, 298 to 303 and
390.

Offences against property

2. In section 4 of this Act "offence against property" means any offence punishable under or by virtue of any of the provisions specified in column (2) below of any enactment mentioned in column (1) below.

(1)	(2)
The Criminal Code	Sections 76, 77, 390, 392 to 396, 400, 402, 403, 406, 407, 409, 411, 413, 414, 417 (a) to (d), 419, 427, 431, 433, 438, 443 to 456, 459, 459A, 460 and 461.
The Criminal Code of Eastern Nigeria	Sections 76, 77, 390, 392 to 395, 400, 402, 403, 406, 407, 409, 411, 413, 414, 417 (a) to (d), 419, 427, 431, 433, 438, 443 to 448, 450 to 452, 456 and 461.
The Criminal Code of Western Nigeria	Sections 71, 72, 331, 333 to 336, 340, 342, 343, 346, 347, 349, 351, 353, 354, 357 (a) to (d), 359, 366, 370, 372, 377, 382 to 392 and 395.
The Penal Code of Northern Nigeria	Sections 287 to 290, 292 to 295, 298 to 303, 309, 310, 312 to 315, 317, 322 to 325, 327, 329 to 341, 353 to 359, 371, 431, 469 to 472, 474 and 475.

Supplementary provisions

3.—(1) In this Schedule—

"the Criminal Code" means the Criminal Code contained in the Schedule to the Criminal Code Act, as it applies in any part of Nigeria;

"the Criminal Code of Eastern Nigeria" means the Criminal Code contained in the Schedule to the Criminal Code Law of the Eastern Region;

"the Criminal Code of Western Nigeria" means the Criminal Code contained in the Schedule to the Criminal Code Law of the Western Region, as it applies in any part of Nigeria;

"the Penal Code of Northern Nigeria" means the Penal Code contained in the Schedule to the Penal Code Law of the Northern Region, including the provisions forming part of that Code by virtue of the Penal Code (Northern Region) Federal Provisions Act 1960.

(2) References in this Schedule to any enactment are references to that enactment as amended from time to time, and include references to any enactment replacing that enactment in its application to any part of Nigeria.

Cap. 42.

E.R. Cap. 30.

W.R. Cap. 28.

N.R. Cap. 89.

1960 No. 25.

4. The Minister may by order published in the Federal Gazette amend the foregoing provisions of this Schedule, so however that where any such amendment takes effect at any time, no court shall by virtue of that amendment be prevented from trying, or continuing to try, any person for any offence in respect of which proceedings were commenced before that time.



1965 No. 24

AN ACT TO AMEND THE OIL PIPELINES ACT.

[10th November 1965]

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:—

Commence-
ment.

1. Section 2 of the Oil Pipelines Act (hereafter referred to as "the principal Act") is hereby amended by the addition thereto of the following definition—

Amend-
ment of
section 2 of
Cap. 145.

"'oil pipeline' has the meaning given to it in section 11 (2) of this Act."

2. Section 3 of the principal Act is hereby amended as follows—

- (a) by the deletion of the words "and to the extent that the grant is incidental and supplementary to oilfields and oil mining;" and
- (b) by the insertion at the end of the section of the following proviso—

Amend-
ment of
section 3 of
principal
Act.

"provided that each licence shall be issued in respect of and authorise the construction, maintenance and operation of one pipeline only."

3. Section 4 of the principal Act is hereby repealed and the following section is substituted therefor—

Repeal and
replacement
of section 4
of principal
Act.

"Permit to
survey.

4.—(1) Any person may make an application to the Minister in accordance with the provisions of this Act and of any regulations made thereunder for the grant of a permit to survey the route for an oil pipeline for the transport of mineral oil, natural gas, or any product of such oil or such gas to any point of destination to which such person requires such oil, gas or product to be transported for any purpose connected with petroleum trade or operations.

(2) Every application for a permit to survey shall specify the approximate route or alternative routes proposed.

(3) The Minister may—

(a) grant the permit to survey on payment of the fees required by section 30 of this Act to be paid by the applicant on the submission of the application and on grant of the permit to survey respectively ; or

(b) for reasons which to him appear sufficient, refuse to grant the permit to survey.

(4) If the Minister refuses to grant the permit to survey he shall notify the applicant in writing of such refusal and the reasons therefor."

Repeal and replacement of section 7 of principal Act.

4. Section 7 of the principal Act is hereby repealed and the following section is substituted therefor—

"Oil pipeline licence.

7.—(1) The holder of a permit to survey may make an application to the Minister in accordance with the provisions of this Act and of any regulations made thereunder for the grant of an oil pipeline licence in respect of any oil pipeline the survey of the route for which has been completed by the applicant.

(2) The Minister may—

(a) grant the licence on payment of the fees required by section 30 of this Act to be paid by the applicant on the submission of the application and on the grant of the licence respectively ; or

(b) for reasons which the Minister considers sufficient, refuse to grant the licence.

(3) If the Minister refuses to grant the licence, he shall notify the applicant in writing of such refusal and the reasons therefor.

(4) No person other than the holder of a licence shall construct, maintain or operate an oil pipeline.

(5) Every person who acts in contravention of subsection (4) shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding five hundred pounds or to both such imprisonment and such fine.

(6) The Minister may require any person who is convicted of an offence under this section to have the pipeline in respect of which the offence was committed and any ancillary installation removed to the extent that the Minister does not elect to purchase such pipeline or any such installation or any part thereof. In the event of failure to agree on the purchase price the same shall be determined by arbitration.

(7) An offender who is required by the Minister under subsection (6) to have a pipeline or any ancillary installation removed shall make good any damage done to any land by such removal."

5. Section 8 (1) of the principal Act is hereby amended by the deletion of the words "no more than six weeks" immediately after the word "date" and the substitution therefor of the words "not less than six weeks".

Amendment of section 8 (1).

6. Section 11 of the principal Act is hereby amended by—

Amendment of section 11.

(a) the deletion in subsection (1) of the words "or pipelines"; and
(b) the insertion at the end of the section of the following new subsection—

"6. For the removal of doubt it is hereby declared that the powers granted to the holder of a licence under this Act shall be exercisable only subject to the provisions of this Act and of any other enactment or rule of law."

7. The proviso at the end of section 14 is hereby repealed.

Amendment of section 14.

8. Section 17 of the principal Act is hereby amended by—

Amendment of section 17.

(a) the substitution for subsection (1) of the following new subsection—

"(1) A licence may be granted for such period not exceeding twenty years as the Minister may direct"; and

(b) the insertion at the end of subsection (1) of the following new subsection—

"(1A.) Nothing in subsection (1) shall affect the validity of any licence granted before the commencement of this Act for a period exceeding twenty years and every such licence shall, unless earlier revoked, be valid for the period for which it was granted."

9. The principal Act is hereby amended by the addition after section 17 of the following new section—

Addition of new section 17A.

"Use of oil pipeline by a person other than the owner.

17A—(1) An application may be made to the Minister with respect to an oil pipeline constructed, maintained and operated in pursuance of a licence granted under this Act by any person other than the owner of the pipeline who seeks a right to have conveyed by the pipeline on his behalf any of the things mentioned in subsection (2) of section 11 of this Act which the pipeline is designed to convey.

(2) Every such application shall be made in the prescribed manner and form containing the prescribed particulars.

(3) The Minister shall consider every such application in consultation with the applicant and the owner of the pipeline to which the application relates.

(4) If upon such consideration the Minister is satisfied that the pipeline could, without prejudice to the proper and efficient operation thereof for the purpose of the conveyance on behalf of the owner, in the quantity required by him, of the thing which it is designed to convey, be so operated as to permit of the conveyance thereby on behalf of the applicant of the thing the right to the conveyance of which is sought by the applicant, the Minister shall declare that he is so satisfied.

(5) Subject to the subsequent provisions of this section, the conditions of the use of the pipeline by the applicant may be determined by agreement between the owner and the applicant and, failing such agreement, shall, subject as aforesaid, be determined by the Minister.

(6) Where the Minister makes under subsection (4) a declaration with regard to a pipeline he may by notice served on the owner impose such requirements as he thinks it necessary or expedient to impose for all or any of the following purposes, namely—

(a) securing to the person whose application resulted in the making of the declaration the right to have conveyed by the pipeline the thing to which the application related;

(b) regulating the charges to be made for the conveyance of such thing by the pipeline on behalf of that person;

(c) securing that the exercise of a right secured by virtue of paragraph (a) of this subsection is not prevented or impeded;

but requirements imposed for the purpose specified in paragraph (a) of this subsection shall be so framed as, in the Minister's opinion, to secure that compliance therewith will not prejudice the proper and efficient operation of the pipeline for the purpose of the conveyance on behalf of the owner thereof, in the quantity required by him, of the thing which it is designed to convey.

(7) A notice served on the owner of a pipeline under subsection (6) may authorise such owner to recover, from the person to whom a right is secured by the notice by virtue of paragraph (a) of that subsection, payments of such amounts as may be determined in accordance with provisions in that behalf contained in the notice, being payments in consideration of the rights being secured to such person.

(8) If the owner of a pipeline fails to comply with a requirement imposed by a notice served on him under subsection (6) of this section with reference to the pipeline he shall be guilty of an offence and liable, on summary conviction to a fine not exceeding five hundred pounds; and, if the failure continues after his conviction he shall be guilty of a further offence and liable, in respect thereof, to a fine not exceeding twenty-five pounds for each day on which the failure continues.

(9) The Minister may by notice to the owner of a pipeline whose failure to comply with any such requirement as aforesaid continues after his conviction of a first offence under subsection (8) revoke the licence of such owner."

10. Section 30 of the principal Act is hereby repealed and the following section is substituted therefor—

Repeal and replacement of section 30.

"Fees.

30.—(1) The applicant for a permit to survey shall pay a fee of ten pounds upon submitting his application, and a fee of twenty-five pounds upon the grant of such permit.

(2) The applicant for a licence shall pay a fee of twenty-five pounds upon submitting his application, and a fee of one hundred pounds upon the grant of such licence.

(3) The holder of a permit shall pay a fee of twenty-five pounds in respect of each variation of such permit.

(4) The holder of a licence shall pay a fee of one hundred pounds in respect of each variation of such licence.

(5) An annual fee shall be paid on each licence of ten pounds per mile of the length of the pipeline subject to a minimum of one hundred pounds.

(6) The holder of a licence shall pay a fee of fifty pounds upon submitting his application for a restriction order under section 12 of this Act, and a fee of such amount as the Minister shall determine not exceeding two hundred pounds on such order being made."

11. The principal Act is hereby amended by the insertion immediately after section 30 of the following new section—

Addition of new section 30A.

"Offences by bodies corporate.

30A. Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly."

12. Section 31 of the principal Act is hereby amended by the insertion immediately after paragraph (c) of the following new paragraph—

Amendment of section 31.

"(cc) such matters relating to the construction, maintenance and operation of oil pipelines as the Minister considers it necessary or appropriate to prescribe;"

13. The principal Act is hereby amended by the insertion after section 31 of the following new section—

Addition of new section 31A.

"Delegation of powers of Minister.

31A. The powers conferred on the Minister by this Act, or any of them, may be exercised by any officer of the Ministry of Mines and Power designated in that behalf by the Minister."

14. This Act may be cited as the Oil Pipelines Act 1965 and shall apply throughout the Federation.

Citation and extent.



1965 No. 25

AN ACT TO MAKE FURTHER PROVISION WITH RESPECT TO DISQUALIFICATION FOR MEMBERSHIP OF PARLIAMENT.

[10th November 1965]

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. Where under section 45 (1) (c) of the Constitution of the Federation a person is disqualified for selection as a Senator or election to the House of Representatives by reason of his being under a sentence of imprisonment (by whatever name called) exceeding six months for any of the offences mentioned in the Schedule to this Act (all of which involve dishonesty), or by reason of his being under sentences of imprisonment that include such a sentence for any of those offences, he shall not be qualified for selection as a Senator or election to the House of Representatives at any time during the period of five years beginning with the date on which he is discharged from prison or otherwise ceases to be disqualified under the said section 45 (1) (c) :

Prolongation
of dis-
qualification
for member-
ship of
Parliament
in certain
cases.

1963 No. 20.

Provided that a person shall not be disqualified under this section by reason only of his having been under a sentence of imprisonment for an offence in respect of which he has been granted a free pardon.

2.—(1) Where, under any law in force in any part of Nigeria, any person—

(a) has been adjudged to be a lunatic or otherwise declared to be of unsound mind ; or

(b) has been sentenced to death or to imprisonment for a term exceeding six months ; or

(c) has been adjudged or otherwise declared bankrupt,
and under any such law an appeal lies against the decision in question,
the following provisions of this section shall apply.

Suspension
of dis-
qualification
for member-
ship of
Parliament
where an
appeal lies.

1963 No. 20. (2) The decision shall not have effect for the purposes of section 45 (1) or 49 (1) of the Constitution of the Federation (which relate to disqualifications for becoming or remaining a member of Parliament) unless either—

(a) the time for bringing an appeal against the decision has expired without such an appeal having been brought; or

(b) such an appeal has been brought and abandoned or has been finally determined by the upholding of the decision or, in the case of such a sentence as is mentioned in subsection (1) (b) above, by the substitution therefor of a sentence of imprisonment for a term exceeding six months.

(3) So long as, in accordance with subsection (2) above, the decision has not had effect for the purposes of the said section 45 (1) or 49 (1) but remains capable of so having effect, the person concerned, if a member of either House of Parliament, shall not be entitled to sit or vote in that House; and if the decision comes to have effect as aforesaid while the person concerned is a member of either House of Parliament, he shall vacate his seat accordingly.

Short title
and extent.

3. This Act may be cited as the Parliament (Disqualification) Act 1965 and shall apply throughout the Federation.

Section 1.

SCHEDULE

OFFENCES WHICH MAY LEAD TO DISQUALIFICATION FOR MEMBERSHIP OF PARLIAMENT

Offences under the Criminal Code

1. Any offence punishable under or by virtue of any of the following provisions of the Criminal Code—

(a) Chapter XII (corruption and abuse of office) except sections 106 to 111, but in the case of an offence under section 104 only where the arbitrary act is done or directed to be done for purposes of gain;

(b) Chapter XIII (selling and trafficking in offices);

(c) Chapter XIV (offences relating to the administration of justice) except sections 129, 130, 132 and 133;

(d) Chapter XVI (offences relating to currency) except sections 156, 160, 160A and 160B;

(e) Chapter XVII (offences relating to posts and telegraphs) except sections 170 to 173 and 176 to 188;

(f) in Chapter XVIII (offences against public authority), sections 190A, 191 and 192;

(g) Chapters XXXIV, XXXV, XXXVI, XXXVII, XXXVIII, XXXIX and XL (stealing and like offences) but in the case of any offence under Chapter XXXVII involving the commission of, or the intention to commit, a felony, only where the felony committed or intended to be committed is an offence mentioned in this Schedule;

(h) Chapters XLIII, XLIV, XLV and XLVI (forgery and like offences and personation);

(i) Chapter XLVII (fraudulent debtors);

(j) Chapter XLIX (secret commissions and corrupt practices).

Offences under the Criminal Code of Eastern Nigeria

2. Any offence punishable under or by virtue of any of the following provisions of the Criminal Code of Eastern Nigeria—

(a) Chapter XII (corruption and abuse of office) except sections 106 to 111, but in the case of an offence under section 104 only where the arbitrary act is done or directed to be done for purposes of gain ;

(b) Chapter XIII (selling and trafficking in offices) ;

(c) Chapter XIV (offences relating to the administration of justice) except sections 129, 130, 132 and 133 ;

(d) in Chapter XVIII (offences against public authority), sections 191 and 192 ;

(e) Chapters XXXIV, XXXV, XXXVI, XXXVII, XXXVIII, XXXIX and XL (stealing and like offences) but in the case of any offence under Chapter XXXVII involving the commission of, or the intention to commit, a felony, only where the felony committed or intended to be committed is an offence mentioned in this Schedule ;

(f) Chapters XLIII, XLIV, XLV and XLVI (forgery and like offences and personation) ;

(g) Chapter XLVII (fraudulent debtors) ; and

(h) Chapter XLIX (secret commissions and corrupt practices).

Offences under the Criminal Code of Western Nigeria

3. Any offence punishable under or by virtue of any of the following provisions of the Criminal Code of Western Nigeria—

(a) Chapter XII (corruption and abuse of office) except sections 90 to 95, but in the case of an offence under section 88 only where the arbitrary act is done or directed to be done for the purposes of gain ;

(b) Chapter XIII (selling and trafficking in offices) ;

(c) Chapter XIV (offences relating to the administration of justice) except sections 114, 115, 117 and 118 ;

(d) in Chapter XVI (offences against public authority), sections 132 and 133 ;

(e) Chapters XXXII, XXXIII, XXXIV, XXXV, XXXVI, XXXVII and XXXVIII (stealing and like offences) but in the case of any offence under Chapter XXXV involving the commission of, or the intention to commit, a felony, only where the felony committed or intended to be committed is an offence mentioned in this Schedule ;

(f) Chapters XLI, XLII, XLIII and XLIV (forgery and like offences and personation) ;

(g) Chapter XLV (fraudulent debtors) ; and

(h) Chapter XLVI (secret commissions and corrupt practices)

Offences under the Penal Code of Northern Nigeria

4. Any offence punishable under or by virtue of any of the following provisions of the Penal Code of Northern Nigeria—

(a) Chapter X (offences by or relating to public servants) except sections 125 to 130, 132 and 133 ;

(b) Chapter XII (false evidence and offences relating to the administration of justice) except sections 167, 170 to 173, 177 and 182 ;

(c) Chapter XIX (offences against property) except sections 293 and 326 to 352, but in the case of any offence under sections 353 to 357 involving the doing of anything in order to commit some other offence punishable with imprisonment, only where that other offence is an offence mentioned in this Schedule ;

(d) Chapter XX (forgery) except sections 369 and 372 to 380 ;

(e) Chapter XXXI (offences relating to coin and notes) ;

(f) Chapter XXXII (offences relating to revenue stamps) ;

(g) Chapter XXXIV (offences relating to posts and telegraphs) except sections 459 and 463 to 468 ;

(h) section 477 (false statements in applications for passports).

5.—(1) In this Schedule—

“the Criminal Code” means the Criminal Code contained in the Schedule to the Criminal Code Act, as it applies in any part of Nigeria ;

“the Criminal Code of Eastern Nigeria” means the Criminal Code contained in the Schedule to the Criminal Code Law of Eastern Nigeria ;

“the Criminal Code of Western Nigeria” means the Criminal Code contained in the Schedule to the Criminal Code Law of Western Nigeria, as it applies in any part of Nigeria ;

“the Penal Code of Northern Nigeria” means the Penal Code contained in the Schedule to the Penal Code Law of Northern Nigeria including the provisions forming part of that Code by virtue of the Penal Code (Northern Region) Federal Provisions Act 1960.

(2) Without prejudice to section 4 (1) of the Interpretation Act 1964, references in this Schedule to any enactment are references to that enactment as amended from time to time and include references to any enactment replacing that enactment in its application to any part of Nigeria.

Cap. 42.

E.R.
Cap. 30.

W.R.
Cap. 28.

N.R. Cap. 89.

1960 No. 25.

1964 No. 1.

CASINO TAXATION ACT 1965



1965 No. 26

ARRANGEMENT OF SECTIONS

Section

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Tax on net gaming revenue of companies licensed to operate casinos. 2. Power to enter and inspect etc. returns. 3. Returns and payment of tax. Indemnity. 4. Chargeability to tax. 5. Books of account. 6. Assessments, appeals etc. 7. Time within which payment is to be made. 8. Errors and defects in assessment and notice. 9. Relief in respect of error or mistake. 10. Service of documents, and failure to comply with terms of any notice. 11. False statements and returns. | <ol style="list-style-type: none"> 12. Incorrect returns by licensee etc. 13. Action for tax by board. 14. Offences relating to collection etc. of tax. 15. Priority of claim for tax. 16. Power to distrain. 17. Place of an offence. 18. Delegation of certain powers by board. 19. Signification and execution of powers, duties etc. 20. Returns etc. to be furnished. 21. Official secrecy. 22. Refund of tax. 23. Prosecutions and liability to tax. 24. Penalties. 25. Regulations. 26. Short title, interpretation and commencement. |
|---|---|

1965 No. 26

AN ACT TO IMPOSE A TAX ON THE NET GAMING REVENUE OF CASINOS IN THE FEDERAL TERRITORY, AND FOR RELATED PURPOSES

[See section 26 (3)]

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 imposed in respect of every casino licensed under the Casino Licensing Act 1964 (hereafter referred to as a "casino") a tax on the net gaming revenue thereof to be known as casino revenue tax and payable by the licensee as hereafter provided. Subject to the provisions of this section, the tax shall be 12½ per centum of such revenue, and a licence to operate a casino shall be granted only to a company having such purpose as its main object, and duly incorporated in Nigeria under the Companies Act. Tax under this Act shall rank in priority to tax under the Companies Income Tax Act 1961 (hereafter referred to as "the Act of 1961") and be a debt recoverable by the Federal Board of Inland Revenue (hereafter referred to as "the board"); but for the purposes of this Act, the Act of 1961 shall have effect and the provisions thereof, subject to this Act, shall apply so however that, as the case may require—

(a) references to any person in the Casino Licensing Act 1964 shall be construed as references to a company so incorporated ;

(b) references in this Act to a licensee shall be construed as references to any such company ; and

(c) references in the Act of 1961 to any company shall be construed as references to a licensee under this Act.

(2) Tax under this Act shall be a first charge on the assets of the licensee ; and anything in any other Act to the contrary notwithstanding the tax shall accordingly rank in priority to all costs, taxes and charges whatsoever.

(3) In the application of this section, "net gaming revenue" means the daily takings in every period, continuous or intermittent, of up to 15 hours in any one day of 24 hours computed from the time when play at tables or elsewhere in the casino is first open for gaming during any such period and thereafter is closed, allowance being made by way of set-off only for winnings paid to patrons or their nominees by the licensee in the course of play or within 15 hours after play is closed ; and daily takings shall be construed accordingly.

(4) The House of Representatives may from time to time by resolution reduce or increase the rate of tax imposed by subsection (1) of this section, and the resolution may specify the date on which it is to take effect. A copy of the resolution certified by the clerk to the House shall be published in the Federal Gazette, and the resolution shall have effect on the date specified in the resolution, or the date of such publication, as the case may be.

Commence-
ment.

Tax on net
gaming
revenue of
companies
licensed to
operate
casinos
1964
No. VII.

Cap. 37
1961 No. 22.

Power to
enter and
inspect etc.
returns.

2.—(1) Any person may, on production of a warrant signed by the chairman of the board authorising him in that behalf, enter on any part of the premises where the casino is, at any time during the hours of play or at reasonable times outside those hours and inspect statements or returns required for the purposes of this Act and where necessary certify as correct any such statement or return, whether or not it is intended to be delivered or sent to the board.

(2) The warrant of authority under this section shall in addition to authorising the holder to do such things as the board may require for the purposes of this Act, give information as to the name and status of the person authorised sufficient to identify him, and the warrant shall also be signed by such person.

Returns and
payment of
tax.
Indemnity.

3.—(1) The licensee shall in the afternoon of the day when play closes in the casino, or so soon thereafter as may be practicable deliver a return to the board showing the net gaming revenue received during the course of play in that period; and the return shall, before such delivery, be certified as correct by a person authorised for the purpose by the board under this Act.

(2) The licensee shall, in addition, as directed by the board prepare and forward returns at intervals of not more than one week and one month respectively, calculated from such date as the board may in writing prescribe; and the returns shall be a consolidation of the net gaming revenue for the interval in respect of which the return is required.

(3) Where the prescribed interval does not exceed one week, the licensee shall, not later than the third day after delivery of the return to the board is required to be made, calculate and pay to the board an amount as tax under this Act, based on the net gaming revenue for that period.

(4) Where the prescribed interval does not exceed one month, and whether or not returns at lesser intervals are being delivered to the board, the return under this subsection shall be certified by a chartered accountant; and any amount as tax under this Act due and unpaid at the date of delivery of the return shall forthwith be paid by the licensee to the board without any assessment being raised.

(5) Every person answerable for payment of tax under this section may retain out of moneys coming into his hands on behalf of a licensee so much thereof as shall be sufficient to pay the tax, and shall be indemnified accordingly by virtue of this Act for all payments of tax made by him for the purposes of this Act.

Charge-
ability to tax.

4. A licensee shall, for the purposes of this Act, be chargeable to tax—

(a) in its own name; or

(b) in the name of the managing director, or a director as the case may be of the licensee in Nigeria in like manner and to like amount as such company would be chargeable; or

(c) in the name of a receiver or liquidator, or of any attorney, agent or representative thereof in Nigeria, in like manner and to like amount as the licensee would have been chargeable if no receiver or liquidator had been appointed.

5.—(1) If the licensee chargeable with tax under this Act fails or refuses to keep books or accounts which, in the opinion of the board, are adequate for the purposes of such tax, the board may by notice in writing direct it to keep them in the English language and in such form as may be specified; and subject to the provisions of the next succeeding subsection, the licensee shall comply with any such direction.

Books of
account.

(2) An appeal shall lie to the Appeal Commissioners from any direction by the board under this section in the same manner as if the direction were a requirement under the Act of 1961. The Appeal Commissioners may confirm or modify any such direction and their decision shall be final.

(3) The failure to comply with any direction of the board, or requirement of the Appeal Commissioners as the case may be, under this section shall be an offence against this Act.

6.—(1) Anything to the contrary in this Act notwithstanding, the board of its own motion, or a licensee, may require an assessment to be raised for any year of assessment to which payment of tax under this Act relates, and the board shall raise an assessment accordingly.

Assessment
appeals, etc.

(2) Any such assessment may include any earlier period or periods if the board is satisfied for any reason that a previous assessment is incorrect or has not been raised; but nothing in this subsection shall be construed so as to authorise an assessment for a period more than six years before the date of any assessment under subsection (1) of this section, or as the case may be, six years before the date when the assessment not raised ought, in the ordinary course, to have been raised.

(3) No objection or appeal by a licensee shall lie against the board in respect of any assessment under subsection (1) or (2) of this section raised on figures returned by the licensee; but in any other case the provisions of the Act of 1961 as to objections, revisions and appeals shall have effect so however—

(a) that references to tax shall be construed as references to tax under this Act; and

(b) references to income in relation to assessable, total or chargeable income, shall be construed as references to income in relation to net gaming revenue.

(4) For the purposes of this section—

(a) "year of assessment" means the period of twelve months commencing on 1st April; and

(b) notwithstanding the fact that under the Act of 1961 an assessment is final and conclusive, the board may take into account the amount which ought to have been charged, and shall consider all other facts which in its opinion are relevant.

7.—(1) Subject to the provisions of this section, where an assessment to tax is raised under this Act and objections and appeals as the case may be have been disposed of, any tax then outstanding and unpaid shall be payable by the licensee at the place stated in the notice of assessment within two months after service of such notice upon the licensee or the disposal of any appeal or objection whichever is the earlier, but the board in its discretion may extend the time within which payment is to be made.

Time within
which
payment is to
be made.

(2) Collection of tax in any case where notice of an objection or an appeal has been given by a licensee under this Act shall remain in abeyance until such objection or appeal is determined, but the board may enforce payment of that portion, if any, of the tax which is not in dispute; and upon the determination of an objection or appeal the Board shall serve upon the licensee a notice of the tax payable as so determined, and that tax shall be payable in accordance with the foregoing provisions of this section.

(3) If any tax is not paid as prescribed in this section the licensee shall be guilty of an offence against this Act, and in addition the provisions of this Act as to distraint shall have effect.

Errors and defects in assessment and notice.

8.—(1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if it is in substance and effect in conformity with or according to the intent and meaning of this Act and if the licensee assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) An assessment shall not be impeached or affected—

(a) by reason of a mistake therein as to—

(i) the name of the licensee or of a person in whose name the licence is chargeable; or

(ii) the description of any profits; or

(iii) the amount of tax charged;

(b) by reason of any variance between the assessment and the notice thereof:

Provided that in cases of assessment the notice thereof shall be duly served on the licensee or the person in whose name the licensee is chargeable, and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

Relief in respect of error or mistake.

9.—(1) If the licensee having paid tax for any year of assessment thereafter alleges that any assessment made upon it for that year was excessive by reason of some error or mistake in the return, statement or account made by or on behalf of the licensee for the purposes of the assessment, the licensee may, at any time not later than one year after the end of the year of assessment within which the assessment was made, make an application in writing to the board for relief. The board shall, on receipt of the application, make such enquiries as are necessary and, subject to the provisions of this section, give by way of refund of tax, such relief in respect of the error or mistake as appears to be reasonable and just; but no such relief shall be given in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where the return, statement or account was in fact made on the basis or in accordance with the practice of the board generally prevailing at the time when the return, statement or account was made.

(2) The board shall in respect of applications under this section have regard to all the relevant circumstances of the case, and shall take into account the liability of the licensee and assessments made upon the

licensee in respect of other years, and consider whether the granting of relief would result in the exclusion from charge to tax of any part of the net gaming revenue of the licensee.

(3) Any determination by the board under this section shall be final and conclusive.

10.—(1) Except in the case of personal service under the Act of 1961 as affected by this Act, it shall be sufficient compliance therewith if a duly stamped envelope containing the document to be served by post is addressed to the registered office of the licensee, or to the last known address of the licensee, as the case may be.

Service of documents, and failure to comply with terms of any notice.

(2) Where the document served is a notice touching or concerning tax under this Act the failure to comply with its requirements shall be an offence against this Act.

11.—(1) Any person other than a licensee under this Act or any person in the employ of the licensee who—

False statements and returns.

(a) for the purpose of obtaining any deduction, set-off, relief or repayment in respect of tax under this Act or in any return, account or particulars made or furnished with reference to such tax, knowingly makes any false statement or false representation; or

(b) aids, abets, assists, counsels, incites or induces any other person—

(i) to make or deliver any false return of statement under this Act; or

(ii) to keep or prepare any false accounts or particulars concerning any net gaming revenue on which tax is payable under this Act; or

(iii) unlawfully to refuse or neglect to pay tax, shall be guilty of an offence against this Act.

(2) The board may compound any offence under this section and with the leave of the court may, before judgment, stay or compound any proceedings thereunder.

12.—(1) If the licensee or any person in the employ of the licensee without reasonable excuse—

Incorrect returns by licensee etc.

(a) makes or certifies a return which by reason of any omission or under-statement of the net gaming revenue liable to tax under this Act is incorrect; or

(b) gives any incorrect information in relation to, any matter or thing affecting the liability of the licensee to tax;

the licensee and any such person shall be guilty of an offence against this Act, and in addition shall be liable to double the amount of tax which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct.

(2) Nothing in the foregoing subsection shall apply unless the complaint concerning the offence was made in the year of assessment in respect of or during which the offence was committed, or within six years after the expiration thereof.

(3) The board may compound any offence under this section, and with the leave of the court may, before judgment, stay or compound any proceedings thereunder.

(2) Collection of tax in any case where notice of an objection or an appeal has been given by a licensee under this Act shall remain in abeyance until such objection or appeal is determined, but the board may enforce payment of that portion, if any, of the tax which is not in dispute; and upon the determination of an objection or appeal the Board shall serve upon the licensee a notice of the tax payable as so determined, and that tax shall be payable in accordance with the foregoing provisions of this section.

(3) If any tax is not paid as prescribed in this section the licensee shall be guilty of an offence against this Act, and in addition the provisions of this Act as to distraint shall have effect.

Errors and defects in assessment and notice.

8.—(1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if it is in substance and effect in conformity with or according to the intent and meaning of this Act and if the licensee assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) An assessment shall not be impeached or affected—

(a) by reason of a mistake therein as to—

(i) the name of the licensee or of a person in whose name the licence is chargeable; or

(ii) the description of any profits; or

(iii) the amount of tax charged;

(b) by reason of any variance between the assessment and the notice thereof:

Provided that in cases of assessment the notice thereof shall be duly served on the licensee or the person in whose name the licensee is chargeable, and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

Relief in respect of error or mistake.

9.—(1) If the licensee having paid tax for any year of assessment thereafter alleges that any assessment made upon it for that year was excessive by reason of some error or mistake in the return, statement or account made by or on behalf of the licensee for the purposes of the assessment, the licensee may, at any time not later than one year after the end of the year of assessment within which the assessment was made, make an application in writing to the board for relief. The board shall, on receipt of the application, make such enquiries as are necessary and, subject to the provisions of this section, give by way of refund of tax, such relief in respect of the error or mistake as appears to be reasonable and just; but no such relief shall be given in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where the return, statement or account was in fact made on the basis or in accordance with the practice of the board generally prevailing at the time when the return, statement or account was made.

(2) The board shall in respect of applications under this section have regard to all the relevant circumstances of the case, and shall take into account the liability of the licensee and assessments made upon the

licensee in respect of other years, and consider whether the granting of relief would result in the exclusion from charge to tax of any part of the net gaming revenue of the licensee.

(3) Any determination by the board under this section shall be final and conclusive.

10.—(1) Except in the case of personal service under the Act of 1961 as affected by this Act, it shall be sufficient compliance therewith if a duly stamped envelope containing the document to be served by post is addressed to the registered office of the licensee, or to the last known address of the licensee, as the case may be.

Service of documents, and failure to comply with terms of any notice.

(2) Where the document served is a notice touching or concerning tax under this Act the failure to comply with its requirements shall be an offence against this Act.

11.—(1) Any person other than a licensee under this Act or any person in the employ of the licensee who—

False statements and returns.

(a) for the purpose of obtaining any deduction, set-off, relief or repayment in respect of tax under this Act or in any return, account or particulars made or furnished with reference to such tax, knowingly makes any false statement or false representation; or

(b) aids, abets, assists, counsels, incites or induces any other person—

(i) to make or deliver any false return of statement under this Act; or

(ii) to keep or prepare any false accounts or particulars concerning any net gaming revenue on which tax is payable under this Act; or

(iii) unlawfully to refuse or neglect to pay tax, shall be guilty of an offence against this Act.

(2) The board may compound any offence under this section and with the leave of the court may, before judgment, stay or compound any proceedings thereunder.

12.—(1) If the licensee or any person in the employ of the licensee without reasonable excuse—

Incorrect returns by licensee etc.

(a) makes or certifies a return which by reason of any omission or under-statement of the net gaming revenue liable to tax under this Act is incorrect; or

(b) gives any incorrect information in relation to any matter or thing affecting the liability of the licensee to tax;

the licensee and any such person shall be guilty of an offence against this Act, and in addition shall be liable to double the amount of tax which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct.

(2) Nothing in the foregoing subsection shall apply unless the complaint concerning the offence was made in the year of assessment in respect of or during which the offence was committed, or within six years after the expiration thereof.

(3) The board may compound any offence under this section, and with the leave of the court may, before judgment, stay or compound any proceedings thereunder.

(4) For the purposes of this section, a return shall be deemed to be made both by the licensee and any other person signing the return on behalf of the licensee.

Action for
tax by board.

13. Tax under this Act may be recovered in any court of competent jurisdiction in the same manner as if it were tax for the purposes of the Act of 1961, and the provisions of that Act as to suits by the board shall with all necessary modifications, have effect accordingly.

Offences
relating to
collection
etc. of tax.

14. Any person who—

(a) being a person appointed for the due administration of this Act or employed in connection with the assessment and collection of the tax who—

(i) without proper regard thereto wilfully or negligently certifies figures in the daily return of net gaming revenue of a casino; or

(ii) demands from the licensee an amount in excess of the authorised assessment of the tax; or

(iii) withholds for his own use or otherwise any portion of the amount of tax collected; or

(iv) renders a false return, whether orally or in writing, of the amount of tax collected or received by him; or

(v) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully with the board; or

(b) not being authorised under this Act to do so, collects or attempts to collect the tax under this Act,

shall be guilty of an offence against this Act.

Priority of
claim for tax.

15.—(1) No goods or chattels belonging to the licensee at the time any tax under this Act becomes in arrear shall be liable to be taken by virtue of any execution or other process, warrant or authority whatever, or by virtue of any assignment on any account or pretence whatever, unless the person at whose suit the execution or seizure is made or to whom the assignment was made, pays or causes to be paid to the board, before the sale or removal of the goods or chattels all arrears of tax which are due at the time of seizure, or which are payable for the year in which the seizure is made.

(2) In case of neglect or refusal to pay the tax so claimed, the board may distrain the goods and chattels notwithstanding the seizure or assignment, and may proceed to the sale thereof, as prescribed by section 16 of this Act for the purpose of obtaining payment of the whole of the tax charged and claimed, and reasonable costs and charges attending such distress and sale, and the board and every person acting under the authority of the board so doing shall be indemnified by virtue of this Act.

Power to
distrain.

16.—(1) If the licensee neglects or refuses to pay the sum charged upon demand made, a principal inspector of taxes shall for non-payment thereof distrain upon the premises in respect of which the tax is charged, without any further authority for the purpose than a warrant under this section issued for the purpose by the board.

(2) The sum included in the demand shall be deemed to be a debt by the licensee as judgment debtor owing to the board as judgment creditor and payable under a judgment of a High Court in the Federation, and for the purpose of levying distraint under the foregoing subsection,

the chairman of the board or in his absence his deputy, shall have the powers of registrar and sheriff of such a court ; but any seizure and sale by way of distress may be enforced under the following provision of this section by a principal inspector of taxes acting under a warrant signed by the chairman of the board, or his deputy.

(3) For the purpose of levying any such distraint, any inspector duly authorised by a warrant for that purpose, may break open in the day-time any premises, calling to his assistance any constable, and any such constable shall, when so required, aid and assist the inspector in the execution of the warrant and in levying the distress.

(4) The warrant to break open shall be executed by or under the direction of and in the presence of the inspector, and any distress so levied shall be kept for five days at the costs and charges of the licensee.

(5) If the licensee does not pay the sum due, together with the costs and charges within the said five days, the distress shall be appraised by a competent valuer and shall be sold by public auction for payment of the sum due and all costs and charges. Any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the licensee.

(6) If the premises are unoccupied and no distress can be found thereon at the time the tax is payable, the inspector may at any future time when there is any distress to be found on the premises enter, seize and sell under the same powers as if a distraint had been made on the premises at the time the tax became due and as if the licensee had been in occupation at that time.

17. Any offence under this Act shall be deemed to occur at the place where the offence was committed, or in Lagos.

Place of an offence.

18.—(1) Subject to the provisions of this section, the board may by notice in the Federal Gazette or in writing delegate to any person any special power or duty of the board under this Act or the Act of 1961, and may authorise any person to receive notices or other documents on its behalf. The delegation or authority as the case may require may be given upon such terms and conditions as the board thinks fit ; but nothing in this section shall be construed—

Delegation of certain powers by board.

(a) so as to authorise delegation of any power,—

(i) to administer this Act or the Act of 1961 ; or

(ii) to commence prosecution for offences under this Act ; or

(iii) to decide to appeal against any decision of a judge, magistrate or the appeal commissioners under the Act of 1961 ; or

(b) so as to prohibit the board from itself exercising any power so delegated, if the chairman thinks fit.

(2) The power conferred by this section to delegate authority shall not be exercised in favour of any officer below the rank of principal inspector of taxes without the approval in writing of the Minister, given on such terms as he thinks fit.

19.—(1) Subject to the provisions of this section, anything required to be done by the board for the purposes of this Act, shall be signified under the hand of the chairman or any person duly authorised by him ; and notice thereof shall be published in the Federal or any Regional Gazette as the case may be, unless the chairman otherwise directs.

Signification and execution of powers, duties etc.

(2) Anything so done shall, until the contrary is shown, be valid if—

(a) the notice or document, as the case may be, is printed and the name of the board appears in any manner thereon; and

(b) it purports to be signed by the chairman or by any person authorised by the chairman.

Returns etc.
to be
furnished.

20.—(1) The board may from time to time prescribe forms for use under this Act, and include therein a declaration as to the truth of the contents. If any such form purports to be completed and signed by or on behalf of a licensee, it shall for all purposes be deemed to have been furnished accordingly, unless the contrary is proved. Any person signing a prescribed form shall be deemed to be cognisant of all matters therein.

(2) Any return, claim, objection or appeal under this Act shall, if a form is prescribed, be prepared on that form with such modifications as are necessary, unless the board for any reason dispenses with its use.

Official
secrecy.

21.—(1) All returns and other documents whatsoever relating to the operation of a casino and tax payable under this Act shall be classified as confidential and be so dealt with by all persons engaged in administering this Act.

(2) Any matter so classified may in any particular case, if the Minister thinks fit, be treated as classified matter under the Official Secrets Act 1962 the disclosure of which would be prejudicial to the security of Nigeria, and that Act shall have effect accordingly.

1962 No. 29.

(3) In any other case the disclosure without the authority of the board of matter classified as confidential under this section shall be an offence against this Act; but, without the authority in writing of the Minister, matter so classified shall not be divulged or communicated to any court in any prosecution under this section.

Refund of
tax.

22.—(1) Unless otherwise provided by this Act, a claim for refund of tax shall not be allowed unless it is made in writing within one year after the end of the year of assessment to which it relates.

(2) If the board certifies the amount of tax to be refunded under this Act, or pursuant to any order of a court of competent jurisdiction, the Accountant-General of the Federation shall upon delivery to him of the certificate pay that amount to the person entitled.

Prosecutions
and liability
to tax.

23.—(1) Without prejudice to the institution of proceedings by the Attorney-General of the Federation, a prosecution in respect of any offence touching or concerning assessment to tax shall not be commenced except with the approval of the board.

(2) The institution of proceedings for, or the imposition of a penalty, fine or term of imprisonment shall not relieve a licensee from liability to payment of any tax for which the licensee is or may become liable under this Act.

Penalties.

24. Any person guilty of an offence against this Act, or against the Act of 1961 as applied by this Act and notwithstanding penalties for offences as therein prescribed, shall on conviction—

(a) for a first offence involving the licensee or a director of the casino, or its manager or secretary (not being the failure to furnish returns, statements or information where required or to keep pres-

cribed records) be liable to a fine of five hundred pounds or to imprisonment for a term of two years or to both, and on any subsequent conviction whether for the same type of offence or not, be liable to a fine of one thousand pounds or to imprisonment for a term of three years, or to both, and in addition on such subsequent conviction to forfeiture of the casino licence;

(b) if the offence involves failure to furnish returns, statements or information where required or to keep prescribed records, the offender shall be liable to a further sum of fifty pounds for each and every day during which such failure continues, and in default of payment, in the case of a natural person to an additional term of imprisonment for a term of six months, and the liability therefor shall commence as directed by the court so convicting, or in default of such direction, on the day following the conviction;

(c) for a first offence not involving the licensee or a director of the casino, or its manager or secretary, in any case be liable to a fine of two hundred pounds or to imprisonment for a term of one year or to both, and on any subsequent conviction whether for the same type of offence or not, to a fine of five hundred pounds or to imprisonment for a term of two years, or to both.

25. The Minister may make regulations generally for the purpose of this Act. Regulations.

26.—(1) This Act may be cited as the Casino Taxation Act 1965, and shall apply to the Federal territory, so however that in respect of any company liable to tax under this Act, it shall apply to the Federation. Short title.
inter-
pretation and
commence-
ment.

(2) In this Act—

“Act of 1961” means the Companies Income Tax Act 1961, to the extent of its application by this Act; 1961 No. 22

“board” means the Federal Board of Inland Revenue established under the Act of 1961;

“casino” has the meaning assigned by the Casino Licensing Act 1964; 1964 No.
VII.

“licensee” means any company within the meaning of section 1 of this Act operating a casino in the Federal territory, and liable to tax under this Act;

“Minister” means the Minister of the government of the Federation charged with responsibility for finance;

“net gaming revenue” has the meaning assigned by section 1(3) of this Act.

(3) This Act shall come into force on the date of its passing, so however that it shall be deemed to have come into force on 1st April 1965, in respect of any casino operating in the Federal territory immediately before the date of the passing of this Act.

EXCISE (CONTROL OF DISTILLATION) (AMENDMENT) ACT 1965



1965 No. 27

AN ACT TO AMEND THE EXCISE (CONTROL OF DISTILLATION) ACT 1964 BY PROVIDING FOR ADDITIONAL GROUNDS ON WHICH A DISTILLER'S LICENCE MAY BE REFUSED OR REVOKED, DEFINING THE PERIOD OF TIME DURING WHICH SUCH A LICENCE UNLESS PREVIOUSLY REVOKED, SHALL REMAIN IN FORCE, AND AUTHORISING THE MAKING OF REGULATIONS RELATING TO THE CALCULATION, SECURING AND COLLECTION OF EXCISE DUTY ON DISTILLED SPIRITS.

[10th November 1965]

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. Section 1 of the principal Act is hereby amended as follows :—

Amendments of section 1 of the principal Act.

(a) by the insertion in subsection (2) immediately after the word "therein" in the fifth line of the words "and that any other conditions relating to the premises required by the Board have been complied with by the applicant,"

(b) by the insertion immediately after subsection (2) of the following new subsection—“(2A) A distiller's licence issued under this section shall, unless previously revoked, remain in force until 31st December next following the date of issue, and shall then expire.”

(c) by the insertion in subsection (4) immediately after the word "issued" in the fifth line of the words "has failed to comply with any conditions required by the Board relating to the premises or the making or distillation of spirits therein, or”.

2. Section 3 (1) of the principal Act is hereby amended by the insertion therein immediately after paragraph (f) of the following new paragraph—

Amendment of section 3 (1) of the principal Act.

“(g) regulating the calculation, securing and collection of excise duty on distilled spirits.”

3.—(1) This Act may be cited as the Excise (Control of Distillation) (Amendment) Act 1965, and shall be read and construed as one with the Excise (Control of Distillation) Act 1964 (in this Act referred to as “the principal Act”).

Short title, construction and extent. 1964, No. 22.

(2) This Act shall apply throughout the Federation.

PENSIONS (TRANSFERRED SERVICE) ACT 1965



1965 No. 28

AN ACT TO MAKE PROVISION FOR CONTINUITY OF SERVICE FOR PENSION PURPOSES IN THE CASE OF TRANSFERS TO OR FROM THE ARMED FORCES AND THE PUBLIC SERVICE OF THE FEDERATION, AND TO AMEND SUNDRY PENSIONS ACTS TO GIVE EFFECT THERETO.

[Section 2 (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) Where a person serving in any capacity with the armed forces of Nigeria or in a civil capacity in the public service of the Government of the Federation is transferred from or to the armed forces or such public service, as the case may be, the service of that person shall be continuous service for the purposes of the Acts hereafter mentioned and any pension thereunder, anything to the contrary in the operation of those Acts notwithstanding; and a pension shall, in proper case, be payable to such person.

Service of
transferred
persons to be
continuous
for pension
purposes.

(2) Accordingly,—

(a) the definition of “military service” in section 2 of the Military Pensions Act shall include service in the public service of the Government of the Federation, and

Cap. 119.

(b) the definition of “public service” in section 2 of the Pensions Act shall include service in any capacity with any of the armed forces of Nigeria,

Cap. 147.

and those Acts shall be so construed and have effect.

2.—(1) This Act may be cited as the Pensions (Transferred Service) Act 1965 and shall have effect throughout the Federation.

Short title,
operation
and com-
mencement.

(2) This Act shall come into force on a day to be appointed by the Minister of the Government of the Federation charged with responsibility for pensions by notice in the Federal Gazette; and it is declared that the Minister may, if he thinks fit, appoint for its coming into force, any day before the passing of this Act.

TRADE MARKS ACT 1965



ARRANGEMENT OF SECTIONS

Section

The Registrar and the register

1. The Registrar of Trade Marks.
2. The register.

Effects of registration and non-registration

3. Effect of non-registration.
4. Registration to be in respect of particular goods.
5. Right given by registration in Part A.
6. Right given by registration in Part B.
7. Saving for vested rights.
8. Saving for use of name, address or description of goods.

Registrability and validity of registration

9. Distinctiveness needed for registration in Part A.
10. Capability of distinguishing needed for registration in Part B.
11. Deceptive or scandalous matter not registrable.
12. Names of chemical substances not to be registered.
13. Identical and resembling trade marks not to be registered.
14. Part A registration conclusively valid after seven years.
15. Disclaimer for purposes of registration.
16. Registration with or without limitation as to colour.

Procedure for and duration of registration

17. Preliminary advice on distinctiveness.
18. Application for registration.
19. Publication of notice of application.
20. Opposition to registration.
21. Appeal from Registrar's decision on opposed application.
22. Registration.
23. Duration and renewal of registration.

24. Separate registration of part of trade mark.

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27. Power of Registrar to require, or dissolve, association of trade marks.
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30. Registration of assignments etc.

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ARRANGEMENT OF SECTIONS—*continued**Section**Legal proceedings and appeals*

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60. Falsification of register.
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63. The Trade Marks Journal.
64. Joint proprietorship of trade mark.
65. Trusts and equities.
66. Recognition of agents.
67. Interpretation.
68. Transitional provisions, repeal and savings.
69. Short title, extent and commencement.

SCHEDULES :

- Schedule 1—Certification trade marks.
- Schedule 2—Transitional provisions.
- Schedule 3—Repeals.

1965 No. 29

AN ACT TO REPEAL THE TRADE MARKS ACT AND MAKE NEW PROVISION WITH RESPECT TO TRADE MARKS IN PLACE THEREOF: AND FOR CONNECTED PURPOSES.

[See section 69 (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:

The Registrar and the register

1.—(1) There shall continue to be an officer known as the Registrar of Trade Marks (in this Act referred to as “the Registrar”) who shall be appointed by the Public Service Commission of the Federation and whose office shall be situated in the Federal territory.

The Regis-
trar of Trade
Marks.

(2) The Registrar shall in the exercise of his functions other than the taking of any decision which under this Act is subject to appeal to the court, act under the general direction of the Minister.

(3) Any act or thing directed to be done by or to the Registrar may be done by or to any other officer in the Public Service of the Federation authorised by the Minister.

(4) The Registrar shall have an official seal which shall be officially and judicially noticed.

2.—(1) There shall continue to be kept the record called the register of trade marks, in which shall be entered all registered trade marks with the names and addresses of their proprietors, the dates on which applications were made for their registration, notifications of assignments and transmissions, the names and addresses of all registered users and such other matters relating to registered trade marks as may be prescribed.

The register.

(2) The register shall continue to be kept under the control and management of the Registrar at the Registrar's office.

(3) The register shall continue to be divided into two parts called respectively Part A and Part B.

(4) The register shall at all convenient times be open to the inspection of the public, subject to such rules as may be prescribed.

Effects of registration and non-registration

3. No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered trade mark; but nothing in this Act shall be taken to affect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof.

Effect of
non-regis-
tration,

Registration
to be in
respect of
particular
goods.

4. A trade mark must be registered in respect of particular goods or classes of goods, and any question arising as to the class within which any goods fall shall be determined by the Registrar, whose decision shall be final.

Right given
by registra-
tion in
Part A.

5.—(1) Subject to the provisions of this section and of sections 7 and 8 of this Act, the registration (whether before or after the commencement of this Act) of a person in Part A of the register as proprietor of a trade mark (other than a certification trade mark) in respect of any goods shall, if valid, give or be deemed to have given to that person the exclusive right to the use of that trade mark in relation to those goods.

(2) Without prejudice to the generality of the right to the use of a trade mark given by such registration as aforesaid, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a registered user thereof using it by way of the permitted use, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

(a) as being use as a trade mark ; or

(b) in a case in which the use is use upon the goods or in physical relation thereto or in an advertising circular or other advertisement issued to the public, as importing a reference to some person having the right either as proprietor or as registered user to use the trade mark or to goods with which such a person as aforesaid is connected in the course of trade.

(3) The right to the use of a trade mark given by such registration as aforesaid shall be subject to any conditions or limitations entered on the Register, and the use of any such mark as aforesaid in any circumstances to which, having regard to any such limitations, the registration does not extend shall not constitute an infringement of that right.

(4) The use of a registered trade mark, being one of two or more registered trade marks that are identical or nearly resemble each other, in the exercise of the right to the use of that trade mark given by such registration as aforesaid, shall not constitute an infringement of the right to the use of any other of those trade marks given by such registration.

Right given
by registra-
tion in
Part B.

6.—(1) Except as provided by subsection (2) below, the registration (whether before or after the commencement of this Act) of a person in Part B of the register as proprietor of a trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the like right in relation to those goods as if the registration had been in Part A of the register, and section 5 (2) to (4) of this Act shall apply in relation to a trade mark registered in Part B accordingly.

(2) In any action for infringement of the right to the use of a trade mark given by such registration as aforesaid in Part B of the register, no injunction or other relief shall be granted to the plaintiff if the defendant establishes to the satisfaction of the court that the use of which the plaintiff complains is not likely to deceive or cause confusion or to lead to the belief in a connection in the course of trade between the goods and some person entitled either as proprietor or as a registered user to use the trade mark.

7. Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date previous to—

Saving for vested rights.

(a) the use of the first-mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his ; or

(b) the registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his, whichever first occurred, or (where such use is proved) to object to that person being put on the register for that identical or nearly resembling trade mark in respect of those goods under section 13 (2) of this Act.

8. The registration of a trade mark shall not interfere with—

(a) any bona fide use by a person of his own name or the name of his place of business, or of the name, or the name of the place of business, of any of his predecessors in business ; or

Saving for use of name, address or description of goods.

(b) the use by any person of any bona fide description of the character or quality of his goods, not being a description that would be likely to be taken as importing any such reference as is mentioned in section 5 (2) (b) or 43 (4) (b) of this Act.

Registrability and validity of registration

9.—(1) In order for a trade mark (other than a certification trade mark) to be registrable in Part A of the register it must contain or consist of at least one of the following essential particulars—

Distinctiveness needed for registration in Part A.

(a) the name of a company, individual, or firm, represented in a special or particular manner ;

(b) the signature of the applicant for registration or some predecessor in his business ;

(c) an invented word or invented words ;

(d) a word or words having no direct reference to the character or quality of the goods, and not being according to its ordinary signification a geographical name or a surname ;

(e) any other distinctive mark :

Provided that a name, signature or word or words other than such as fall within paragraphs (a) to (d) above shall not be registrable under paragraph (e) above except upon evidence of its distinctiveness.

(2) For the purposes of this section “distinctive” means adapted, in relation to the goods in respect of which a trade mark is registered or proposed to be registered, to distinguish goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(3) In determining whether a trade mark is adapted to distinguish as aforesaid the tribunal may have regard to the extent to which—

(a) the trade mark is inherently adapted to distinguish as aforesaid ; and

(b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact adapted to distinguish as aforesaid.

Capability of distinguishing needed for registration in Part B.

10.—(1) In order for a trade mark to be registrable in Part B of the register it must be capable, in relation to the goods in respect of which it is registered or proposed to be registered, of distinguishing goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(2) In determining whether a trade mark is capable of distinguishing as aforesaid the tribunal may have regard to the extent to which—

(a) the trade mark is inherently capable of distinguishing as aforesaid ; and

(b) by reason of the use of the trade mark or of any other circumstances, the trade mark is in fact capable of distinguishing as aforesaid.

(3) A trade mark may be registered in Part B notwithstanding any registration in Part A in the name of the same proprietor of the same trade mark or any part or parts thereof.

Deceptive or scandalous matter not registrable.

11. It shall not be lawful to register as a trade mark or part of a trade mark—

(a) any matter the use of which would, by reason of its being likely to deceive or cause confusion or otherwise, be disentitled to protection in a court of justice or be contrary to law or morality ; or

(b) any scandalous design.

Names of chemical substances not to be registered.

12.—(1) Subject to this section, no word which is the commonly used and accepted name of any single chemical element or single chemical compound, as distinguished from a mixture, shall be registered as a trade mark in respect of a chemical substance or preparation ; and any such registration in force at the commencement of this Act or thereafter shall, notwithstanding anything in section 14 of this Act, be treated for the purposes of section 38 of this Act as being an entry made in the register without sufficient cause, or an entry wrongly remaining on the register, as the case may require.

(2) The foregoing subsection shall not apply in relation to a word which is used to denote only a brand or make of such an element or compound as made by the proprietor or a registered user of the trade mark as distinguished from that element or compound as made by others, and in association with a suitable name or description open to the public use.

Identical and resembling trade mark not to be registered.

13.—(1) Subject to the provisions of subsection (2) below, no trade mark shall be registered in respect of any goods or description of goods that is identical with a trade mark belonging to a different proprietor and already on the register in respect of the same goods or description of goods, or that so nearly resembles such a trade mark as to be likely to deceive or cause confusion.

(2) In case of honest concurrent use, or other special circumstances which in the opinion of the court or the Registrar make it proper so to do, the court or the Registrar may permit the registration of trade marks that are identical or nearly resemble each other in respect of the same goods or description of goods by more than one proprietor subject to such conditions and limitations, if any, as the court or the Registrar, as the case may be, may think it right to impose.

(3) Where separate applications are made by different persons to be registered in respect of the same goods or description of goods as proprietors respectively of trade marks that are identical or nearly resemble each other, the Registrar may refuse to register any of them until their rights have been determined by the court or have been settled by agreement in a manner approved—

(a) by the Registrar; or

(b) by the court on an appeal from the Registrar.

14.—(1) In all legal proceedings relating to a trade mark registered in Part A of the register (including applications under section 38 of this Act) the original registration of the trade mark in Part A of the register shall, after the expiration of seven years from the date of that registration, be taken to be valid in all respects, unless—

(a) that registration was obtained by fraud, or

(b) the trade mark offends against the provisions of section 11 of this Act.

(2) Nothing in section 6(1) of this Act shall be construed as making applicable to a trade mark, as being a trade mark registered in Part B of the register, the foregoing provisions of this section relating to a trade mark registered in Part A of the register.

15. If a trade mark—

(a) contains any part not separately registered by the proprietor as a trade mark; or

(b) contains matter common to the trade or otherwise of a non-distinctive character,

the Registrar or the court, in deciding whether the trade mark shall be entered or shall remain on the register, may require, as a condition of its being on the register—

(i) that the proprietor shall disclaim any right to the exclusive use of any part of the trade mark, or to the exclusive use of all or any portion of any such matter as aforesaid, to the exclusive use of which the tribunal holds him not to be entitled; or

(ii) that the proprietor shall make such other disclaimer as the tribunal may consider necessary for the purpose of defining his rights under the registration:

Provided that no disclaimer on the register shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.

16.—(1) A trade mark may be limited in whole or in part to one or more specified colours, and in any such case the fact that it is so limited shall be taken into consideration by any tribunal having to decide on the distinctive character of the trade mark.

(2) If and so far as a trade mark is registered without limitation of colour, it shall be taken to be registered for all colours.

Part A
registration
conclusively
valid after
seven years.

Disclaimer
for purposes
of
registration.

Registration
with or
without
limitation as
to colour.

Procedure for and duration of registration

Preliminary
advice on
distinctive-
ness.

17.—(1) Any person proposing to apply for the registration of a trade mark in Part A or Part B of the register may, if he so desires, apply to the Registrar in the prescribed manner for advice as to whether the trade mark appears to the Registrar *prima facie* to be inherently adapted to distinguish, or capable of distinguishing, as the case may be; and the Registrar shall have power to give the advice asked for in the application.

(2) If an application for the registration of a trade mark as to which the Registrar has given advice under this section in the affirmative is made within three months after the giving of the advice, and the Registrar, after further investigation or consideration, gives to the applicant under section 18 of this Act notice of his objection to the acceptance of the application on the ground that the trade mark is not adapted to distinguish or not capable of distinguishing, as the case may be, the applicant shall be entitled, on giving notice of withdrawal of the application within the prescribed period, to have repaid to him any fee paid on the filing of the application.

Application
for
registration.

18.—(1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him who is desirous of registering it must apply in writing to the Registrar in the prescribed manner for registration either in Part A or in Part B of the register.

(2) Subject to the provisions of this Act, the Registrar may refuse the application, or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think right.

(3) In the case of an application for registration of a trade mark (other than a certification trade mark) in Part A of the register, the Registrar may, if the applicant is willing, instead of refusing the application, treat it as an application for registration in Part B and deal with the application accordingly.

(4) In the case of a refusal or conditional acceptance the Registrar shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving thereat, and the decision shall be subject to appeal to the court.

(5) An appeal under this section shall be made in the prescribed manner, and on the appeal the court shall, if required, hear the applicant and the Registrar, and shall make an order determining whether, and subject to what amendments, modifications, conditions or limitations, if any, the application is to be accepted.

(6) Appeals under this section shall be heard on the materials stated by the Registrar in pursuance of subsection (4) above, and no further grounds of objection to the acceptance of the application shall be allowed to be taken by the Registrar, other than those so stated by him, except by leave of the court; and if any further grounds of objection are taken, the applicant shall be entitled to withdraw his application without payment of costs on giving such notice as may be prescribed.

(7) The Registrar or the court may at any time, whether before or after acceptance, correct any error in or in connection with the application, or may permit the applicant to amend his application upon such terms as the Registrar or the court, as the case may be, thinks fit.

19.—(1) Subject to the provisions of this section, when an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as may be after acceptance, cause notice of the application as accepted to be published in the Journal; and the notice shall set out all conditions and limitations subject to which the application has been accepted.

Publication
of notice of
application.

(2) In the case of an application made under section 9 (1) (e) of this Act, or in any other case where it appears to him that it is expedient by reason of any exceptional circumstances to do so, the Registrar may cause notice of an application for registration of a trade mark to be published in the Journal before acceptance.

(3) Where under subsection (2) above notice of such an application has been published in the Journal before acceptance, the Registrar may, if he thinks fit, cause notice of the application to be published in the Journal again when it has been accepted, but shall not be bound to do so.

20.—(1) Any person may within two months from the date of the publication under section 19 of this Act of notice of an application give notice to the Registrar of opposition to the registration.

Opposition
to
registration

(2) The notice shall be given in writing in the prescribed manner, and shall include a statement of the grounds of opposition.

(3) The Registrar shall send a copy of every such notice to the applicant; and within one month after the date on which the copy is received by the applicant the applicant shall send to the Registrar in the prescribed manner a counter-statement of the grounds on which he relies for his application and, if he does not do so, shall be treated as having abandoned his application.

(4) If the applicant sends such a counter-statement as aforesaid, the Registrar shall furnish a copy thereof to the persons giving notice of opposition, and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(5) The Registrar may request a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such a notice to give security for costs of the proceedings before him relating to the opposition, and in default of such security being duly given may treat the opposition or application, as the case may be, as abandoned.

21.—(1) A decision of the Registrar under section 20 (4) of this Act shall be subject to appeal to the court.

Appeal
from
Registrar's
decision on
opposed
application.

(2) An appeal under this section shall be made in the prescribed manner, and on the appeal the court, shall, if required, hear the parties and the Registrar, and shall make an order determining whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(3) On the hearing of an appeal under this section any party may, either in such manner as may be prescribed or by special leave of the court, bring forward further material for the consideration of the court.

(4) On an appeal under this section no further ground of opposition to the registration of a trade mark shall be allowed to be taken by an opponent or the Registrar, other than those stated in pursuance of section 20 of this Act by that or any other opponent, except by leave of the court; and if any further grounds of opposition are taken, the applicant shall be entitled, on giving such notice as may be prescribed, to withdraw his application without payment of the costs of the opponent or any of the opponents.

(5) On an appeal under this section the court may, after hearing the Registrar, permit the trade mark proposed to be registered to be modified in any manner not substantially affecting its identity, but in any such case the trade mark as so modified shall be advertised in the Journal in the prescribed manner before being registered.

(6) The court may require an appellant under this section to give security for costs of the appeal, and in default of such security being duly given may direct the appeal to be treated as abandoned.

Registration.

22.—(1) When an application for registration of a trade mark in Part A or in Part B of the register has been accepted, and either—

(a) the application has not been opposed and the time for notice of opposition has expired, or

(b) the application has been opposed and the opposition has been decided in favour of the applicant,

the Registrar shall, unless the application has been accepted in error, register the trade mark in Part A or Part B, as the case may be,

(2) Subject to the provisions of this Act relating to international arrangements, a trade mark, when registered, shall be registered as of the date of the application for registration, and that date shall be taken for the purposes of this Act to be the date of registration.

(3) On the registration of a trade mark the Registrar shall issue to the applicant a certificate of registration in the prescribed form sealed with the seal of the Registrar.

(4) Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice of the non-completion to the applicant in writing in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

Duration and renewal of registration.

23.—(1) The registration of a trade mark shall be for a period of seven years, but may be renewed from time to time in accordance with the provisions of this section:

Provided that, in relation to a registration as of a date before the commencement of this Act, this subsection shall have effect with the substitution of a period of fourteen years for the said period of seven years.

(2) The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period, renew the registration of the trade mark for a period of fourteen years from the date of expiration of the original registration or of the last renewal of registration, as the case may be (which date is in the section referred to as "the expiration of the last registration").

(3) At the prescribed time before the expiration of the last registration of a trade mark, the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with, the Registrar may remove the trade mark from the register, subject to such conditions, if any, as to its restoration to the register as may be prescribed.

(4) Where a trade mark has been removed from the register for non-payment of the fee for renewal, it shall, nevertheless, for the purpose of any application for the registration of a trade mark during one year next after the date of the removal, be deemed to be a trade mark that is already on the register :

Provided that the foregoing provisions of this subsection shall not have effect where the court is satisfied either—

(a) that there has been no bona fide trade use of the trade mark that has been removed during the two years immediately preceding its removal ; or

(b) that no deception or confusion would be likely to arise from the use of the trade mark that is the subject of the application for registration by reason of any previous use of the trade mark that has been removed.

24.—(1) Where the proprietor of a trade mark claims to be entitled to the exclusive use of any part thereof separately, he may apply to register the whole and any such part as separate trade marks.

Separate
registration
of part of
trade mark.

(2) Each such separate trade mark must satisfy all the conditions of an independent trade mark and shall, subject to section 36 (2) of this Act, have all the incidents of an independent trade mark.

(3) Where a trade mark and any part or parts thereof are, by virtue of subsection (1) above, registered as separate trade marks in the name of the same proprietor, they shall be deemed to be, and shall be registered as, associated trade marks ; and section 28 of this Act shall apply to them accordingly.

25.—(1) Where a person claiming to be the proprietor of several trade marks, in respect of the same goods or description of goods, which, while resembling each other in the material particulars thereof, yet differ in respect of—

Registration
of
resembling
trade marks
as a series.

(a) statements of the goods in relation to which they are respectively used or proposed to be used ; or

(b) statements of number, price, quality or names of places ; or

(c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark ; or

(d) colour,

seeks to register those trade marks, they may be registered as a series in one registration.

(2) All trade marks that are by virtue of the foregoing subsection registered as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks ; and section 28 of this Act shall apply to them accordingly.

Assignment and Transmissibility

Assignability
of trade
marks.

24. (1) Notwithstanding any rule of law or equity to the contrary a registered trade mark shall after the commencement of this Act be assignable and transmissible either in connection with the goodwill of a business or not.

(2) A registered trade mark shall after the commencement of this Act be assignable and transmissible in respect either of all the goods in respect of which it is registered, or was registered, as the case may be, or of some (but not all) of those goods.

(3) Subsections (1) and (2) above shall apply in regard to an unregistered trade mark used in relation to any goods as they apply in regard to a registered trade mark registered in respect of any goods, if—

(a) at the time of the transmission of the unregistered trade mark it is used in the same business as a registered trade mark; and

(b) it is assigned or transmitted at the same time and to the same person as that registered trade mark; and

(c) it is so assigned or transmitted in respect of goods all of which are goods—

(i) in relation to which the unregistered trade mark is used in that business; and

(ii) in respect of which the registered trade mark is assigned or transmitted.

25. Where after the commencement of this Act a trade mark is assigned in respect of any goods and at the time of the assignment the trade mark is used in a business in those goods, then, if the assignment is made otherwise than in connection with the goodwill of that business, the assignee shall not acquire any rights under the assignment until the following requirements have been satisfied, that is to say the assignee—

(1) must within six months from the date of the assignment or within such extended period, if any, as the Registrar may allow apply to the Registrar for directions with respect to the advertisement of the assignment; and

(2) must advertise the assignment in such form and manner and within such period as the Registrar may direct.

26. Where the Registrar gives directions under subsection (4) above for the advertisement of an assignment, he shall also cause notice of the assignment to be published in the Journal.

Provision of
Registrar for
advertising the
assignment,
and for the
publication of
notice.

27. (1) Where a trade mark that is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark that is registered, or is the subject of an application for registration, in the name of the same proprietor in respect of the same goods or description of goods, or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Registrar may at any time require that the trade marks shall be entered on the register as associated trade marks.

(2) On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Registrar may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of deception or

confusion being caused if that trade mark were used by another person in relation to any of the goods in respect of which it is registered, and may amend the register accordingly.

(3) Any decision of the Registrar under this section shall be subject to appeal to the court.

28. Trade marks that are registered as, or are deemed by virtue of this Act to be, associated trade marks shall be assignable and transmissible only as a whole, and not separately, but shall for all other purposes be deemed to have been registered as separate trade marks.

Effect of association of trade marks.

29. Subject to the provisions of this Act, the person for the time being entered in the register as proprietor of a trade mark shall, subject to any rights appearing from the register to be vested in any other person, have power to assign the trade mark, and to give effectual receipts for any consideration for an assignment thereof.

Registered proprietor's power to assign.

30.—(1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall make application to the Registrar to register his title, and the Registrar shall, on receipt of the application and on proof of title to his satisfaction, register him as the proprietor of the trade mark in respect of the goods in respect of which the assignment or transmission has effect, and shall cause particulars of the assignment or transmission to be entered on the register.

Registration of assignments etc.

(2) Any decision of the Registrar under this section shall be subject to appeal to the court.

(3) Except for the purposes of an appeal under this section or of an application under section 38 of this Act, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of subsection (1) above shall not be admitted in evidence in any court in proof of the title to a registered trade mark unless the court otherwise directs.

Use and non-use

31.—(1) Subject to this and the next following section, a registered trade mark may be taken off the register in respect of any of the goods in respect of which it is registered on an application made by any person concerned to the court or, at the option of the applicant and subject to section 56 of this Act, to the Registrar, on either of the grounds set out in subsection (2) below.

Removal from register on ground of non-use.

(2) The said grounds are—

(a) that the trade mark was registered without any bona fide intention on the part of the applicant for registration that it should be used in relation to those goods by him, and that there has in fact been no bona fide use of the trade mark in relation to those goods by any proprietor thereof for the time being up to the date one month before the date of the application; or

(b) that up to the date one month before the date of the application a continuous period of five years or longer elapsed during which the trade mark was a registered trade mark and during which there was no bona fide use thereof in relation to those goods by any proprietor thereof for the time being.

(3) The tribunal may refuse an application made under this section on either of the said grounds if it is shown that before the relevant date or during the relevant period, as the case may be, there has been bona fide use of the trade mark, by any proprietor for the time being thereof, in relation to goods of the same description as the goods to which the application relates, being goods in respect of which the trade mark is registered :

Provided that where on any such application it is shown as aforesaid, the tribunal shall not refuse the application—

(a) if the applicant has been permitted under section 13 (2) of this Act to register an identical or nearly resembling trade mark in respect of the goods in question ; or

(b) if the tribunal is of opinion that the applicant might properly be permitted to register such a trade mark.

(4) An applicant shall not be entitled to rely for the purposes of subsection (2) (b) above on any non-use of a trade mark that is shown to have been due to special circumstances in the trade and not to any intention not to use or to abandon the trade mark in relation to the goods to which the application relates.

Defensive
registration
of well-
known
invented
words.

32.—(1) Where a trade mark consisting of an invented word or invented words has, as respects any goods in respect of which it is registered and in relation to which it has been used (in this subsection referred to as "the familiar goods"), become so well known that its use in relation to other goods would be likely to be taken as indicating a connection in the course of trade between those goods and a person entitled to use the trade mark in relation to the familiar goods, the trade mark may, on the application in the prescribed manner of the proprietor registered in respect of the familiar goods, be registered in his name in respect of those other goods as a defensive trade mark, notwithstanding that the proprietor registered in respect of the familiar goods does not use or propose to use the trade mark in relation to those other goods, and notwithstanding anything in section 31 of this Act ; and while so registered, the trade mark shall not be liable to be taken off the register in respect of those goods under section 31 of this Act.

(2) The registered proprietor of a trade mark—

(a) may apply for its registration in respect of any goods as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods otherwise than as a defensive trade mark ; or

(b) may apply for its registration in respect of any goods otherwise than as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods as a defensive trade mark,

in place, in either case, of the existing registration.

(3) A trade mark registered as a defensive trade mark and that trade mark as otherwise registered in the name of the same proprietor shall, notwithstanding that the respective registrations are in respect of different goods, be deemed to be, and shall be registered as, associated trade marks, and section 28 of this Act shall apply to them accordingly.

(4) On application by any person concerned to the court or, at the option of the applicant and subject to section 56 of this Act, to the Registrar, the registration of a trade mark as a defensive trade mark—

(a) may be cancelled on the ground that the requirements of subsection (1) above are no longer satisfied in respect of any goods in respect of which the trade mark is registered in the name of the same proprietor otherwise than as a defensive trade mark ; or

(b) may be cancelled as respects any goods in respect of which it is registered as a defensive trade mark on the ground that there is no longer any likelihood that the use of the trade mark in relation to those goods would be taken as giving the indication mentioned in the said subsection (1).

(5) The Registrar may at any time cancel the registration as a defensive trade mark of a trade mark of which there is no longer any registration in the name of the same proprietor otherwise than as a defensive trade mark.

(6) Except as otherwise expressly provided in this section, the provisions of this Act shall apply in respect of the registration of trade marks as defensive trade marks and of trade marks so registered as they apply in other cases.

33.—(1) Subject to the provisions of this and the next following section, a person other than the proprietor of a trade mark may be registered as a registered user thereof in respect of all or any of the goods in respect of which it is registered (otherwise than as a defensive trade mark) and either with or without conditions or restrictions.

Registered
users.

(2) The use of a trade mark by a registered user thereof in relation to goods—

(a) with which he is connected in the course of trade ; and

(b) in respect of which for the time being the trade mark remains registered and he is registered as a registered user,
is in this Act referred to as “ the permitted use ” of that trade mark :

Provided that where the registration of a person as a registered user is subject to any conditions or restrictions, “ the permitted use ” in his case does not include any use which does not comply with those conditions or restrictions.

(3) For the purposes of section 31 of this Act and for any other purpose for which the use of a trade mark is material under this Act or at common law, the permitted use of a trade mark shall be deemed—

(a) to be use by the proprietor thereof ; and

(b) not to be use by a person other than the proprietor.

(4) Subject to any agreement subsisting between the parties, a registered user of a trade mark shall be entitled to call upon the proprietor thereof to take proceedings to prevent infringement thereof, and, if the proprietor refuses or neglects to do so within two months after being so called upon, the registered user may institute proceedings for infringement in his own name as if he were the proprietor, making the proprietor a defendant :

Provided that a proprietor so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

Provisions
supplemen-
tary to s.33.

(5) Nothing in this section shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

34.—(1) Where it is proposed that a person should be registered as a registered user of a trade mark, the proprietor and the proposed registered user must apply in writing to the Registrar in the prescribed manner and must furnish him with a statutory declaration made by the proprietor, or by some person authorised to act on his behalf and approved by the Registrar,—

(a) giving particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which their relationship will confer and whether it is a term of their relationship that the proposed registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made ;

(b) stating the goods in respect of which registration is proposed ;

(c) stating any conditions or restrictions proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter ; and

(d) stating whether the permitted use is to be for a period or without limit of period, and, if for a period, the duration thereof,

and must also furnish the Registrar with such further documents, information or evidence as may be required under the regulations or by the Registrar.

(2) When the requirements of the foregoing subsection have been complied with, if the Registrar, after considering the information furnished to him under that subsection, is satisfied that in all the circumstances the use of the trade mark in relation to the proposed goods or any of them by the proposed registered user, subject to any conditions or restrictions which the Registrar thinks proper, would not be contrary to the public interest, the Registrar may register the proposed registered user as a registered user in respect of the goods as to which he is so satisfied, subject as aforesaid.

(3) The Registrar shall refuse an application under the foregoing provisions of this section if it appears to him that the grant thereof would tend to facilitate trafficking in a trade mark.

(4) The Registrar shall, if so required by an applicant, take steps for securing that information given for the purposes of an application under the foregoing provisions of this section (other than matter entered in the register) is not disclosed to rivals in trade.

(5) Without prejudice to the provisions of section 38 of this Act, the registration of a person as a registered user—

(a) may be varied by the Registrar as regards the goods in respect of which, or any conditions or restrictions subject to which, it has effect, on the application in writing in the prescribed manner of the registered proprietor of the trade mark to which the registration relates ;

(b) may be cancelled by the Registrar on the application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the trade mark ; or

(c) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds, that is to say—

(i) that the registered user has used the trade mark otherwise than by way of the permitted use, or in such a way as to cause, or to be likely to cause, deception or confusion ;

(ii) that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for the registration, or that the circumstances have materially changed since the date of the registration ;

(iii) that the registration ought not to have been effected having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested.

(6) Provision shall be made by the regulations for the notification of the registration of a person as a registered user to any other registered user of the trade mark, and for the notification of an application under the last foregoing subsection to the registered proprietor and each registered user (not being the applicant) of the trade mark, and for giving to the applicant on such an application, and to all persons to whom such an application is notified and who intervene in the proceedings in accordance with the regulations, an opportunity of being heard.

(7) The Registrar may at any time cancel the registration of a person as a registered user of a trade mark in respect of any goods in respect of which the trade mark is no longer registered.

(8) Any decision of the Registrar under the foregoing provisions of this section shall be subject to appeal to the court.

35.—(1) No application for the registration of a trade mark in respect of any goods shall be refused, nor shall permission for such registration be withheld, on the ground only that it appears that the applicant does not use or propose to use the trade mark—

(a) if the tribunal is satisfied that a body corporate is about to be constituted, and that the applicant intends to assign the trade mark to the body corporate with a view to the use thereof in relation to those goods by the body corporate ; or

(b) if the application is accompanied by an application for the registration of a person as a registered user of the trade mark, and the tribunal is satisfied that the proprietor intends it to be used by that person in relation to those goods and the tribunal is also satisfied that that person will be registered as a registered user thereof immediately after the registration of the trade mark.

(2) The provisions of section 31 of this Act shall have effect, in relation to a trade mark registered under the power conferred by the foregoing subsection, as if for the reference in subsection (1) (a) of that section to intention on the part of an applicant for registration that a trade mark should be used by him there were substituted a reference to intention on his part that it should be used by the body corporate or registered user concerned.

(3) The tribunal may, as a condition of the exercise of the power conferred by subsection (1) above in favour of an applicant who relies on intention to assign to a body corporate as aforesaid, require him to

Registration with a view to assignment to company about to be formed, etc.

give security for the costs of any proceedings before the court relative to any opposition or appeal, and in default of such security being duly given may treat the application as abandoned.

(4) Where a trade mark is registered in respect of any goods under the power conferred by subsection (1) above in the name of an applicant who relies on intention to assign to a body corporate as aforesaid, then, unless within six months, or within such further period not exceeding two months as the Registrar may on application being made to him in the prescribed manner allow, the body corporate has been registered as the proprietor of the trade mark in respect of those goods, the registration shall cease to have effect in respect thereof at the expiration of that period, and the Registrar shall amend the register accordingly.

Use of one trade mark equivalent to use of another in certain cases.

36.—(1) Where under the provisions of this Act use of a registered trade mark is required to be proved for any purpose, the tribunal may, if and so far as the tribunal thinks right, accept use of an associated registered trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for the use required to be proved.

(2) The use of the whole of a registered trade mark shall for the purposes of this Act be deemed to be also a use of any registered trade mark, being a part thereof, registered in the name of the same proprietor by virtue of section 24 of this Act.

Use of trade mark in relation to goods for export.

37. The application in Nigeria of a trade mark to goods to be exported from Nigeria, and any other act done in Nigeria in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in within Nigeria, would constitute use of a trade mark therein, shall be taken to constitute use of the trade mark in relation to those goods for any purpose for which such use is material under this Act or at common law.

Rectification and correction of register

General power to rectify register.

38.—(1) Any person concerned who alleges—

(a) that any entry has not been inserted in, or has been omitted from, the register; or

(b) that any entry has been made in the register without sufficient cause; or

(c) that any entry wrongly remains on the register; or

(d) that any error or defect exists in any entry on the register, may apply in the prescribed manner to the court or, at the option of the applicant and subject to section 56 of this Act, to the Registrar, and the tribunal may make such order for making, expunging or varying the entry as the tribunal thinks fit.

(2) The tribunal may in any proceedings under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of the register.

(3) In case of fraud in the registration, assignment or transmission of a registered trade mark, the Registrar may himself apply to the court under the provisions of this section.

(4) Any order of the court rectifying the register shall direct that notice of the rectification shall be served in the prescribed manner

on the Registrar, and the Registrar shall on receipt of the notice rectify the register accordingly.

(5) The power to rectify the register conferred by this section shall include power to remove a registration in Part A of the register to Part B.

39.—(1) Any person concerned may apply to the court or, at the option of the applicant and subject to section 56 of this Act, to the Registrar for an order under this section on the ground of any contravention of, or failure to observe, a condition entered on the register in relation to a trade mark.

Power to strike out or vary registration for breach of condition.

(2) The Registrar may apply to the court for an order under this section on the ground aforesaid.

(3) On an application under the foregoing provisions of this section the tribunal may make on the ground aforesaid such order as the tribunal thinks fit for striking out or varying the registration of the trade mark in question.

40.—(1) The Registrar may, on request made in the the prescribed manner by the registered proprietor—

Correction of register.

(a) correct any error in the name or address of the registered proprietor of a trade mark ;

(b) enter any change in the name or address of the person who is registered as proprietor of a trade mark ;

(c) cancel the entry of a trade mark on the register ;

(d) strike out any goods or classes of goods from those in respect of which a trade mark is registered ; or

(e) enter a disclaimer or memorandum relating to a trade mark which does not in any way extend the rights given by the existing registration of the trade mark.

(2) The Registrar may, on request made in the prescribed manner by a registered user of a trade mark, correct any error, or enter any change, in the name or address of the registered user.

(3) Any decision of the Registrar under this section shall be subject to appeal to the court.

41.—(1) The registered proprietor of a trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter the trade mark in any manner not substantially affecting the identity thereof, and the Registrar may refuse leave or may grant it on such terms and subject to such limitations as he may think fit.

Alteration of registered trade mark.

(2) The Registrar may cause an application under this section to be advertised in the Journal in any case where it appears to him that it is expedient so to do, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar in the prescribed manner of opposition to the application, the Registrar shall, after hearing the parties if so required, decide the matter.

(3) Any decision of the Registrar under this section shall be subject to appeal to the court.

(4) Where leave as aforesaid is granted, the trade mark as altered shall be advertised in the Journal, unless it has already been advertised, in the form to which it has been altered, in an advertisement under subsection (2) above.

Adaptation
of register
to revised
classifica-
tion of
goods.

42.—(1) The Minister may make such regulations and prescribe such forms as he thinks expedient, for empowering the Registrar to amend the register, whether by making or striking out or varying entries therein, so far as may be requisite for the purpose of adapting the designation therein of the goods or classes of goods in respect of which trade marks are registered to any amended or substituted classification that may be prescribed.

(2) The Registrar shall not, in exercise of any power conferred on him for the purpose aforesaid, make any amendment of the register that would have the effect of adding any goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made, or of antedating the registration of a trade mark in respect of any goods :

Provided that this subsection shall not have effect in relation to goods as to which the Registrar is satisfied that compliance with this subsection in relation thereto would involve undue complexity and that the addition or antedating, as the case may be, would not affect any substantial quantity of goods and would not substantially prejudice the rights of any person.

(3) A proposal for the amendment of the register for the purpose aforesaid—

(a) shall be notified to the registered proprietor of the trade mark affected ;

(b) shall be subject to appeal by the registered proprietor to the court ;

(c) shall be advertised in the Journal with any modifications ; and

(d) may be opposed before the Registrar by any person concerned on the ground that the proposed amendment contravenes the provisions of subsection (2) above.

(4) The decision of the Registrar on any opposition under subsection (3)(d) above shall be subject to appeal to the court.

(5) Regulations under this section shall not have effect until published in the Federal Gazette.

Certification Trade Marks

Certifica-
tion trade
marks.

43.—(1) A mark adapted in relation to any goods to distinguish in the course of trade goods certified by any person in respect of origin, material, method of manufacture, quality, accuracy or other characteristic, from goods not so certified shall be registrable as a certification trade mark in Part A of the register in respect of those goods in the name, as proprietor thereof, of that person :

Provided that a mark shall not be so registrable in the name of a person who carries on a trade in goods of the kind certified.

(2) In determining whether a mark is adapted to distinguish as aforesaid, the tribunal may have regard to the extent to which—

(a) the mark is inherently adapted to distinguish as aforesaid in relation to the goods in question ; and

(b) by reason of the use of the mark or of any other circumstances, the mark is in fact adapted to distinguish as aforesaid in relation to the goods in question.

(3) Subject to the provisions of subsections (5) and (6) of this section, and of sections 7 and 8 of this Act, the registration of a person as proprietor of a certification trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the trade mark in relation to those goods.

(4) Without prejudice to the generality of the right to the use of a certification trade mark given by such registration as aforesaid, that right shall be taken to be infringed by any person who, not being the proprietor of the trade mark or a person authorised by him under the rules in that behalf using it in accordance therewith, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

(a) as being use as a trade mark ; or

(b) in a case in which the use is use upon the goods or in physical relation thereto or in an advertising circular or other advertisement issued to the public, as importing a reference to some person having the right either as proprietor or by his authorisation under the relevant rules to use the trade mark or to goods certified by the proprietor.

(5) The right to the use of a certification trade mark given by such registration as aforesaid shall be subject to any conditions or limitations entered on the register, and the use of any such mark as aforesaid in any circumstances to which, having regard to any such limitations, the registration does not extend shall not constitute an infringement of that right.

(6) Where a certification trade mark is one of two or more registered trade marks that are identical or nearly resemble each other, the use of any of those trade marks in exercise of the right to the use of that trade mark given by registration shall not constitute an infringement of the right to the use of any other of those trade marks so given.

(7) There shall be deposited at the office of the Registrar in respect of every trade mark registered under this section rules approved by the Minister for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorise the use of the trade mark, and may contain any other provisions that the Minister may require or permit to be inserted therein (including provisions conferring a right of appeal to the Registrar against any refusal of the proprietor to certify goods or to authorise the use of the trade mark in accordance with the rules).

(8) Rules deposited under subsection (7) above shall be open to inspection in like manner as the register.

(9) A certification trade mark shall not be assignable or transmissible otherwise than with the consent of the Minister.

(10) The provisions of Schedule 1 of this Act shall have effect with respect to the registration of a mark under this section and to marks so registered.

International arrangements

44.—(1) Any person who has applied for protection for any trade mark in a Convention country or his legal representative or assignee shall be entitled to registration of his trade mark under this Act in priority to other applicants ; and the registration shall have the same date as the date of the application in the Convention country :

International
arrange-
ments.

Provided that—

(a) this subsection shall not apply unless application for registration is made within six months from the application for protection in the Convention country ; and

(b) nothing in this section shall entitle the proprietor of the trade mark to recover damages for infringements happening prior to the actual date on which his trade mark is registered in Nigeria.

(2) The registration of a trade mark shall not be invalidated by reason only of the use of the trade mark in Nigeria during the period specified in this section as that within which the application may be made.

(3) The application for the registration of a trade mark by virtue of this section must be made in the same manner as an ordinary application for the registration of a trade mark under this Act.

(4) Where a person has applied for protection for any trade mark by an application which—

(a) in accordance with the terms of a treaty subsisting between any two or more Convention countries, is equivalent to an application duly made in any one of those Convention countries ; or

(b) in accordance with the law of any Convention country, is equivalent to an application duly made in that Convention country, he shall be deemed for the purposes of this section to have applied in that Convention country.

(5) In this Act "Convention country" means a country in the case of which there is for the time being in force a declaration made by the President, with a view to the fulfilment of a treaty, convention, arrangement or engagement, declaring that that country is a Convention country :

Provided that a declaration may be made as aforesaid for the purposes either of all or of some (but not all) of the provisions of this Act, and a country in the case of which a declaration made for the purposes of some (but not all) of the provisions of this Act is in force shall be deemed to be a Convention country for the purposes of those provisions only.

(6) A declaration made under this section shall not have effect until published in the Federal Gazette.

Regulations

Power to
make
regulations.

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

(a) for regulating the practice under this Act, including the service of documents ;

(b) for classifying goods for the purposes of registration of trade marks ;

(c) for making or requiring duplicates of trade marks and other documents ;

(d) for securing and regulating the publishing and selling or distributing, in such manner as the Minister thinks fit, of copies of trade marks and other documents ;

(e) for prescribing the fees to be paid in respect of applications, registrations and other matters under this Act ;

(f) for prescribing anything required or authorised by this Act to be prescribed by regulations ;

(g) for extending the time limited by this Act for the performance of any act, whether generally or in particular cases and whether at the discretion of the Registrar or otherwise ;

(h) for imposing restrictions as regards the registration under this Act of the arms, flags, emblems, titles or other distinctive marks of any country or international organisation ;

(i) generally for regulating the business of the office of the Registrar and all things by this Act placed under the direction or control of the Registrar or the Minister.

(2) Regulations under this section shall not have effect until published in the Federal Gazette.

Powers and duties of Registrar

46. Where any discretionary or other power is given to the Registrar by this Act or the regulations, he shall not exercise that power adversely to an applicant for registration or the registered proprietor of a trade mark without (if duly required so to do within the prescribed time) giving to the applicant or registered proprietor an opportunity of being heard.

Duty of Registrar, if required, to hear certain persons.

47. In all proceedings before the Registrar under this Act, the Registrar shall have power to award to any party such costs as he may consider reasonable, and to direct how and by what parties they are to be paid, and any such order may, by leave of the court or a judge thereof, be enforced in the same manner as a judgment or order of the court to the same effect.

Power of Registrar to award costs.

48. The Registrar shall before 1st July in every year send to the Minister a report on the execution by or under the Registrar of this Act, and on receipt of any such report the Minister shall lay a copy thereof before each House of Parliament.

Annual reports of Registrar.

Legal proceedings and appeals

49. In all legal proceedings relating to a registered trade mark (including applications under section 38 of this Act) the fact that a person is registered as proprietor of the trade mark shall be prima facie evidence of the validity of the original registration of the trade mark and of all subsequent assignments and transmissions thereof.

Registration to be prima facie evidence of validity.

50. In any legal proceedings in which the validity of the registration of a registered trade mark comes into question and is decided in favour of the proprietor of the trade mark, the court may certify to that effect ; and if it so certifies then, in any subsequent legal proceedings in which the validity of the registration comes into question, the proprietor of the trade mark on obtaining a final order or judgment in his favour shall be entitled to his costs unless in the subsequent proceedings the court certifies that he ought not to have them.

Certificate of validity.

Costs of
Registrar
etc.

51. In all proceedings before the court under this Act the costs of the Registrar shall be in the discretion of the court, but the Registrar shall not be ordered to pay the costs of any other of the parties.

Trade
usage etc.
to be
considered.

52. In any action or proceeding relating to a trade mark or trade name, the tribunal shall admit evidence of the usages of the trade concerned and of any relevant trade mark or trade name or get-up legitimately used by other persons.

Registrar's
appearance
in proceed-
ings
involving
rectification.

53.—(1) In any legal proceedings in which the relief sought includes alteration or rectification of the register, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the Court.

(2) Unless otherwise directed by the court, the Registrar instead of appearing and being heard may submit to the court a statement in writing signed by him, giving particulars of the proceedings before him in relation to the matter in issue or of the grounds of any decision given by him affecting it or of the practice of the office of the Registrar in like cases or of such other matters relevant to the issues, and within his knowledge as Registrar, as he thinks fit, and the statement shall be deemed to form part of the evidence in the proceedings.

Court's
power to
review
Registrar's
decisions.

54. The court, in dealing with any question of the rectification of the register (including all applications under the provisions of section 38 of this Act), shall have power to review any decision of the Registrar relating to the entry in question or the correction sought to be made.

Powers of
court on
appeal.

55. In any appeal from a decision of the Registrar to the court under this Act, the court shall have and exercise the same discretionary powers as under this Act are conferred upon the Registrar.

Procedure
in cases of
option to
apply to
court or
Registrar

56. Where under any of the foregoing provisions of this Act an applicant has an option to make an application either to the court or to the Registrar—

(a) if an action concerning the trade mark in question is pending, the application must be made to the court ;

(b) if in any other case the application is made to the Registrar, he may, at any stage of the proceedings, refer the application to the court, or he may, after hearing the parties, determine the question between them, subject to appeal to the court.

Evidence

Method of
giving
evidence
etc.

57.—(1) In any proceedings under this Act before the Registrar, the evidence shall be given by statutory declaration except in so far as the Registrar otherwise directs ; but in any case where the Registrar thinks it right to do so, he may take evidence viva voce instead of or in addition to evidence by statutory declaration.

(2) Where in any such proceedings any evidence has been given by means of a statutory declaration, that evidence may, in the case of an appeal, be given before the court by means of that statutory declaration instead of by affidavit ; but any evidence given by statutory declaration before the court by virtue of this subsection shall have all the incidents and consequences of evidence given by affidavit.

(3) The Chief Justice of Lagos may, with respect to the taking in any proceedings before the Registrar under this Act of any part of the evidence viva voce, make rules—

(a) as to the examination of the parties, and of witnesses, on oath or affirmation, and

(b) as to the procedure of securing the attendance of witnesses and the production of documents.

(4) Rules made under subsection (3) above shall not have effect until published in the Federal Gazette.

58.—(1) A printed or written copy of any entry in the register, purporting to be certified by the Registrar and sealed with the seal of the Registrar, shall be admitted in evidence in all courts and in all proceedings without further proof or production of the original.

Evidence
of entries
in register.

(2) Any person requiring such a certified copy as aforesaid shall be entitled to obtain it on payment of the prescribed fee.

59. A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing that he is authorised by this Act of the rules to make or do shall be prima facie evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or not done.

Evidence of
things done
by Registrar.

Offences, and restraint of use of Arms of Nigeria etc.

60. If any person makes or causes to be made a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of an offence and be liable on conviction on indictment to imprisonment for a term not exceeding seven years.

Falsification
of
register.

61.—(1) Any person who makes a representation—

(a) with respect to a mark not being a registered trade mark, to the effect that it is a registered trade mark; or

(b) with respect to a part of a registered trade mark not being a part separately registered as a trade mark, to the effect that it is so registered; or

Falsely
represent-
ing trade
mark as
registered.

(c) to the effect that a registered trade mark is registered in respect of any goods in respect of which it is not registered; or

(d) to the effect that the registration of a trade mark gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations entered on the register, the registration does not give that right,
shall be liable on summary conviction to a fine not exceeding one hundred pounds.

(2) For the purposes of this section, the use in Nigeria in relation to a trade mark of the word "registered", or of any other word referring whether expressly or by implication to registration, shall be taken to import a reference to registration in the register, except—

(a) where that word is used in physical association with other words delineated in characters at least as large as those in which that word is delineated and indicating that the reference is to registration as a trade mark under the law of a country other than Nigeria, being a country under the law of which the registration referred to is in fact in force; or

(b) where that word (being a word other than the word "registered") is of itself such as to indicate that the reference is to such registration as last aforesaid ; or

(c) where that word is used in relation to a mark registered as a trade mark under the law of a country other than Nigeria and in relation to goods to be exported to that country.

Restraint
of use of
Arms of
Nigeria or
of a Region,
etc.

62.—(1) If in connection with any trade, business, calling or profession any person without the authorisation of the appropriate authority—

(a) uses the Arms of Nigeria or the Arms of a Region (or arms so closely resembling the same as to be calculated to deceive) in any manner calculated to lead to the belief that he is duly authorised to use the Arms of Nigeria or the Arms of that Region, as the case may be ; or

(b) uses any device, emblem or title in any manner calculated to lead to the belief that he is employed by or supplies goods to the President or the Governor of a Region in his official capacity as such, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding twenty pounds.

(2) Nothing in the foregoing subsection shall be construed as affecting the right, if any, of the proprietor of a trade mark containing any such arms, device, emblem or title as aforesaid to continue to use that trade mark.

(3) In this section "the appropriate authority"—

(a) in relation to the Arms of Nigeria and to employment by or the supply of goods to the President, means the President ; and

(b) in relation to the Arms of a Region and to employment by or the supply of goods to the Governor of a Region, means the Governor of that Region.

Miscellaneous and supplemental

The Trade
Marks
Journal.

63.—(1) The Registrar shall from time to time publish a journal (in this Act referred to as "the Journal") to be known as the Trade Marks Journal.

(2) There shall be published in the Journal all matters required by or under this Act to be so published and all such other matters relating to trade marks as the Registrar thinks fit.

Joint
proprietor-
ship of
trade mark.

64.—(1) Where the relations between two or more persons interested in a trade mark are such that no one of them is entitled as between himself and the other or others of them to use it except—

(a) on behalf of both or all of them ; or

(b) in relation to an article with which both or all of them are connected in the course of trade, those persons may be registered as joint proprietors of the trade mark, and this Act shall have effect in relation to any rights to the use of the trade mark vested in those persons as if those rights had been vested in a single person.

(2) Subject to the foregoing subsection, nothing in this Act shall authorise the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.

65.—(1) There shall not be entered in the register any notice of any trust, whether express, implied or constructive; and no such notice shall be receivable by the Registrar.

Trusts and
equities.

(2) Subject to the provisions of this Act, equities in respect of a trade mark may be enforced in like manner as in respect of any other personal property.

66. Where by this Act any act has to be done by or to any person in connection with a trade mark or proposed trade mark or any procedure relating thereto, the act may under and in accordance with the regulations or in particular cases by special leave of the Minister, be done by or to an agent of that person duly authorised in the prescribed manner.

Recognition
of agents.

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

Interpreta-
tion.

“assignment” means assignment by act of the parties concerned;

“the court” means the High Court of Lagos;

“the Journal” means the Trade Marks Journal published under section 63 of this Act;

“limitations” means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to manner of use, as to use in relation to goods to be sold or otherwise traded in in any place in Nigeria, or as to use in relation to goods to be exported to any market outside Nigeria;

“mark” includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof;

“the Minister” means the Minister of the Government of the Federation responsible for trade marks;

“permitted use” has the meaning assigned by section 33 (2) of this Act;

“person concerned”, in relation to any matter, does not include the Registrar;

“prescribed” means, in relation to proceedings before the court, prescribed by rules of court, and, in other cases, prescribed by this Act or the regulations;

“the register” means the register of trade marks kept under this Act;

“registered trade mark” means a trade mark that is actually on the register;

“registered user” means a person who is for the time being registered as such under section 34 of this Act;

“the Registrar” means the Registrar of Trade Marks appointed under section 1 of this Act;

“the regulations” means regulations made by the Minister under section 42 or 45 of this Act;

“trade mark” means, except in relation to a certification trade mark, a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark, whether with or

without any indication of the identity of that person; and means, in relation to a certification trade mark, a mark registered or deemed to have been registered under section 43 of this Act ;

"transmission" means transmission by operation of law, devolution on the personal representative of a deceased person, and any other mode of transfer not being assignment ;

"the tribunal" means the Registrar or the court, as the context or circumstances may require.

(2) References in this Act to the use of a mark shall be construed as references to the use of printed or other visual representation of the mark, and references therein to the use of a mark in relation to goods shall be construed as references to the use thereof upon, or in physical or other relation to, goods.

Transi-
tional
provisions,
repeal and
savings.

68.—(1) The transitional provisions set out in Schedule 2 of this Act shall have effect with respect to the various matters therein mentioned.

(2) The enactments mentioned in Schedule 3 of this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) Nothing in this Act shall affect any order, requirement or application made, certificate issued or notice, decision, determination, direction or approval given, or any other thing done, under any enactment repealed by this Act ; and every such order, requirement, application, certificate, notice, decision, determination, direction, approval or thing shall, if in force at the commencement of this Act, continue in force and shall, so far as it could have been made, issued, given or done under this Act or the regulations, have effect as if made, issued, given or done under the corresponding provision of this Act or the regulations.

(4) Without prejudice to the generality of subsection (3) above, the appointment as Registrar of Trade Marks of the officer who immediately before the commencement of this Act held that office shall be deemed to have been made by the Public Service Commission of the Federation under this Act.

Cap. 199.

(5) Any proceedings begun under the Trade Marks Act may be continued under this Act.

(6) The provisions of this section shall be without prejudice to the provisions of section 6 of the Interpretation Act 1964 (which relates to the effect of repeals).

Short
title,
extent and
commence-
ment.

69.—(1) This Act may be cited as the Trade Marks Act 1965, and shall apply throughout the Federation.

(2) This Act shall come into force on such date as the Minister may by order published in the Federal Gazette appoint.

SCHEDULES

SCHEDULE 1

CERTIFICATION TRADE MARKS

1.—(1) An application for the registration of a mark under section 43 of this Act must be made to the Registrar in writing in the prescribed manner by the person proposed to be registered as the proprietor thereof.

Section 43.

(2) The provisions of subsections (2) and (4) to (7) of section 18 of this Act shall have effect in relation to an application under the said section 43 as they have effect in relation to an application under subsection (1) of the said section 18 except that for references therein to acceptance of an application there shall be substituted references to authorisation to proceed with the application.

(3) In dealing under the said provisions with an application under the said section 43 the tribunal shall have regard to the like considerations, so far as relevant, as if the application were an application under section 18 of this Act and to any other considerations (not being matters within the competence of the Minister under subparagraph (5) below) relevant to applications under the said section 43, including the desirability of securing that a certification trade mark shall comprise some indication that it is such a trade mark.

(4) An applicant for the registration of a mark under the said section 43 shall transmit to the Registrar draft rules for governing the use thereof at such time before the decision of the Registrar on the application as he may require in order to enable him to consider the draft, and the Registrar shall report thereon to the Minister.

(5) When authorisation to proceed with an application has been given, the Minister shall consider the application with regard to the following matters, that is to say—

(a) whether the applicant is competent to certify the goods in respect of which the mark is to be registered ;

(b) whether the draft rules are satisfactory ; and

(c) whether in all the circumstances the registration applied for would be to the public advantage,
and may either—

(i) direct that the application shall not be accepted ; or

(ii) direct the Registrar to accept the application, and approve the rules, either without modification and unconditionally or subject to any condition or limitations, or to any amendments or modifications of the application or of the rules, which the Minister thinks requisite having regard to any of the matters aforesaid ;

but, except in the case of a direction for acceptance and approval without modification and unconditionally, the Minister shall not decide the matter without giving to the applicant an opportunity of being heard :

Provided that the Minister may, at the request of the applicant made with the concurrence of the Registrar, consider the application with regard to any of the matters aforesaid before authorisation to proceed with the application has been given, so however that the Minister shall be at liberty to reconsider any matter on which he has given a decision under this proviso if any amendment or modification is thereafter made in the application or in the draft regulations.

2.—(1) When an application has been accepted, the Registrar shall, as soon as may be after such acceptance, cause the application as accepted to be advertised in the Journal, and the provisions of sections 20 and 21 of this Act shall have effect in relation to the registration of the mark as if the application had been an application under section 18 of this Act :

Provided that, in deciding under the said provisions, the tribunal shall have regard only to the considerations referred to in paragraph 1 (3) above, and a decision under the said provisions in favour of the applicant shall be conditional on the determination in his favour by the Minister under subparagraph (2) below of any opposition relating to any of the matters referred to in paragraph 1 (5) above.

(2) When notice of opposition is given relating to any of the matters referred to in paragraph 1 (5) above, the Minister shall, after hearing the parties, if so required, and considering any evidence, decide whether, and subject to what conditions or limitations, or amendments or modifications of the application or of the rules, if any, registration is, having regard to those matters, to be permitted.

3.—(1) The rules deposited in respect of a certification trade mark may, on the application of the registered proprietor, be altered by the Registrar, with the consent of the Minister.

(2) The Minister may cause an application for his consent to be advertised in any case where it appears to him that it is expedient so to do, and, where the Minister causes an application to be advertised, if within the prescribed time from the date of the advertisement any person gives notice to the Minister of opposition to the application, the Minister shall not decide the matter without giving the parties an opportunity of being heard.

4.—(1) The Minister may, on the application in the prescribed manner of any person concerned or on the application of the Registrar, make such order as he thinks fit for striking out or varying any entry in the register relating to a certification trade mark, or for varying the deposited rules, on the ground—

(a) that the proprietor is no longer competent, in the case of any of the goods in respect of which the trade mark is registered, to certify those goods ;

(b) that the proprietor has failed to observe a provision of the deposited rules to be observed on his part ;

(c) that it is no longer to the public advantage that the trade mark should be registered ; or

(d) that it is requisite for the public advantage that, if the trade mark remains registered, the rules should be varied ;
and neither the court nor the Registrar shall have any jurisdiction to make an order under section 38 of this Act on any of those grounds.

(2) The Registrar shall rectify the register and the deposited rules in such matter as may be requisite for giving effect to an order made under the foregoing subparagraph.

5. Notwithstanding anything in section 47 of this Act, the Registrar shall not have any jurisdiction to award costs to or against any party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or to authorise the use of the trade mark.

6. The following provisions of this Act shall not have effect in relation to a certification trade mark, that is to say sections 5 and 9, sections 18 to 21 (except as expressly applied by this Schedule), section 26 (4), sections 31 to 35, and any provisions the operation of which is limited by the terms thereof to registration in Part B of the register.

Section 68

SCHEDULE 2

TRANSITIONAL PROVISIONS

Validity of Registrations under previous Enactments

1.—(1) Subject to the provisions of this paragraph and of section 14 of this Act, the validity of the original entry of any trade mark on the register of trade marks existing at the commencement of the Trade Marks Act shall be determined in accordance with the enactments in force at the date of that entry, and any such trade mark shall retain its original date, but for all other purposes shall be deemed to have been registered under the Trade Marks Act.

Cap. 199.

(2) No trade mark which is on the register at the commencement of this Act and which under this Act is a registrable trade mark shall be removed from the register on the ground that it was not registrable under the enactments in force at the date of its registration.

(3) Nothing in this Act shall be taken to have invalidated the original registration of a trade mark that immediately before the commencement of this Act was validly on the register.

(4) Nothing in section 43 of the Trade Marks Act or in this Act shall be construed as having subjected any person to any liability in respect of any act or thing done before the commencement of that Act or this Act respectively to which he would not have been subject under the enactments then in force.

Previous Use of Trade Mark by Person Becoming Registered User on Application Made within One Year of Commencement of Act

2. Where a person is registered as a registered user of a trade mark on an application made within one year from the commencement of this Act, section 33 (3) of this Act shall have effect in relation to any previous use (whether before or after the commencement of this Act) of the trade mark by that person, being use in relation to the goods in respect of which he is registered and, where he is registered subject to conditions or restrictions, being use such as to comply substantially therewith, as if that previous use had been permitted use.

Previous Use of Trade Mark in Relation to Goods for Export

3. Section 37 of this Act shall be deemed to have had effect in relation to an act done before the commencement of this Act as it has effect in relation to an act done after the commencement of this Act, without prejudice, however, to any determination of a competent tribunal which was made before the commencement of this Act, or to the determination of any appeal from a determination so made.

Trade Marks Registered under Section 62 of the Trade Marks Act (Cap. 199) Deemed to be Registered under Section 43 of this Act

4. Section 43 of this Act shall have effect, in relation to a trade mark that immediately before the commencement of this Act was on the register by virtue of section 62 of the Trade Marks Act as if the

said section 43 had been in force at the date of the registration of the trade mark and it had been registered under that section, subject however to the following modifications, that is to say—

(a) the proviso to subsection (1) of the said section 43 shall not apply ;

(b) in a case in which rules for governing the use of the trade mark are deposited at the office of the Registrar at the commencement of this Act those rules shall be deemed to have been deposited under the said section 43 ;

(c) in a case in which no such rules are deposited at the commencement of this Act, the proprietor shall be at liberty, or may be required by the Minister as a condition of the continuance of the registration, to deposit at any time thereafter such rules as the Minister may permit or require ; and

(d) in a case in which no such rules are for the time being deposited, the said section 43 shall have effect as if references therein, and in Schedule 1 of this Act, to the rules had been omitted.

Section 68

SCHEDULE 3

REPEALS

<i>Chapter or number</i>	<i>Short Title</i>	<i>Extent of repeal</i>
Cap. 199.	The Trade Marks Act.	The whole Act.
1958 Vol. X, page 2516.	The Trade Marks Regulations.	The whole of the regulations.
L.N. 122 of 1961.	The Trade Marks (Fees) Regulations 1961.	The whole of the regulations.
L.N. 112 of 1964.	The Adaptation of Laws (Miscellaneous Provisions) Order 1964.	In Schedule 1, the entry relating to the Trade Marks Act (Cap. 199).

EXCISE TARIFF ACT 1965



ARRANGEMENT OF SECTIONS

Section

- | | |
|--|---|
| <ol style="list-style-type: none">1. Charge of excise duty.2. Exemptions from excise duty.3. Power to vary excise duties.4. Order to be confirmed, amended or revoked by resolution.5. Effect of order reducing or revoking duty.6. Excise duty to be paid and treatment of bonds and other securities.7. Effect on contracts of changes in duties of excise.8. Duty payable on classification at highest rate. | <ol style="list-style-type: none">9. Value of goods for purposes of duty of excise.10. Goods comprised of two or more separate parts.11. Repeal.12. Short title, application and commencement. |
|--|---|

SCHEDULES :

Schedule 1—Goods liable to excise duty.

Schedule 2—Goods exempted from excise duty.

Schedule 3—Value of goods for excise purposes.

1965 No. 30

AN ACT TO MAKE BETTER PROVISION FOR THE IMPOSITION OF DUTIES OF EXCISE AND FOR PURPOSES CONNECTED THEREWITH.

[See clause 12 (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. Goods manufactured in Nigeria for the time being specified in Schedule 1 shall, subject to the exemptions specified in Schedule 2, be charged with duties of excise at the rates for the time being specified in Schedule 1.

Charge of
excise duty.

2. Goods manufactured in Nigeria for the time being specified in Schedule 2 shall, subject to the conditions set out therein, be exempted from duties of excise.

Exemptions
from excise
duty.

3.—(1) The House of Representatives may, by resolution, and the President may, by order,—

Power to
vary excise
duties.

(a) impose, vary or remove any duty ;

(b) add to or vary any of the Schedules ;

(c) delete the whole or any part of any of the Schedules ;

(d) substitute a new Schedule or Schedules for any of the Schedules.

(2) An order made by the President under subsection (1) of this section shall have effect from the date of its publication in the Federal Gazette until its expiration under the provisions of section 4.

4.—(1) Every order made by the President under section 3 shall be submitted to the House of Representatives at the meeting of that House next following the date of the publication of the order in the Federal Gazette.

Order to be
confirmed,
amended or
revoked by
resolution.

(2) The House of Representatives may, by resolution, confirm, amend or revoke any order so made ;

(3) Upon publication of such resolution in the Federal Gazette the resolution shall come into effect and the order shall then expire.

(4) If any order made under section 3 is not submitted to the House of Representatives as provided by subsection (1) of this section the order shall expire on the day following the last day of the meeting referred to in that subsection.

5.—(1) Where any order made under section 3 has the effect of reducing or revoking the duty of excise on any goods, any person by whom such goods are manufactured shall, where the Minister so directs—

Effect of
order
reducing
or revoking
duty.

(a) in the case of a reduced duty, pay the reduced duty thereon, and in addition thereto shall—

(i) pay to the Board an amount equal to the difference between the duty payable immediately before the coming into effect of the order and the reduced duty payable under the order; or

(ii) give security to the Board by bond or otherwise for such amount;

(b) in the case of a revoked duty—

(i) pay to the Board an amount equal to the duty immediately before the coming into effect of the order; or

(ii) give security to the Board by bond or otherwise for such amount.

(2) All payments made under subsection (1) of this section which, without prejudice to the provisions of the said subsection, together with any duty paid, shall be equal to the duty payable after the expiry of the order, shall be realized and brought to account as duties of excise.

(3) So much of the amount for which a bond or other security was given under subsection (1) as, together with any duty paid, shall be equal to the duty payable after the expiration of the order shall be realized and brought to account as duties of excise.

Excise duty to be paid and treatment of bonds and other securities.

6.—(1) If the amount paid as duty on any goods under any order made under section 3 together with any additional amount paid under subsection (1) of section 5 exceeds the duty on such goods immediately after the expiration of the order the balance shall on application be repaid by the Board to the person who paid such amount.

(2) Subject to the provisions of subsection (3) of section 5, any bond or other security given by any person under subsection (1) of section 5 shall, on the expiration of the order, be cancelled.

Effect on contracts of changes in duties of excise.

7.—(1) Where by or under this or any other Act—

(a) a new duty of excise is imposed, or any duty of excise is increased, and

(b) any goods in respect of which the duty is payable are, in pursuance of a contract made before the day on which the new or increased duty takes effect, delivered on or after that day,

then and in every such case, the seller of the goods may, in the absence of agreement to the contrary, recover, as an addition to the contract price, a sum equal to any amount paid by him in respect of the goods on account of the new duty or the increase of duty, as the case may be.

(2) Where by or under this or any other Act—

(a) any duty of excise is reduced or revoked, and

(b) any goods affected by the duty are, in pursuance of a contract made before the day on which the reduction in the duty takes effect or the duty ceases, delivered on or after that day,

then and in every such case, the purchaser of the goods, in the absence of agreement to the contrary, may, if the seller of the goods has had in respect of those goods the benefit of the reduction or revocation of the duty, deduct from the contract price a sum equal to the amount of the reduction of the duty or the amount of the duty, as the case may be.

(3) Where the contract price has been or is to be adjusted in accordance with this section and any repayment is made to the seller under section 6, the seller shall allow the benefit of such repayment to the buyer.

8.—(1) If any goods can reasonably be classified under two or more names, classes or descriptions with the result that liability to duty or the rate of duty chargeable depends on which name, class or description the goods are classified under, such goods shall be classified under the name, class or description which results in such goods being liable to duty or being chargeable at the higher or highest rate of duty.

Duty payable on classification at highest rate.

(2) Where by virtue of this section or any other provision of the excise laws, goods are chargeable at whichever of two or more rates is the higher or highest, there shall be taken into account for the purpose of determining which is the higher or highest rate of duty any additional duty or surtax for the time being chargeable.

9.—(1) Where a duty of excise is chargeable on any goods by reference to their value, their value shall be taken to be that laid down in Schedule 3, and duty shall be paid on that value.

Value of goods for purposes of duty of excise.

(2) The Board may require any manufacturer or other person concerned with the production of excisable goods to furnish to the Board, in such form as it may require, such information as is in the opinion of the Board necessary for a proper valuation thereof, and to produce any books of account or other documents of whatever nature relating to the manufacture or sale of the goods by that person.

10. Notwithstanding the provisions of section 8, wherever any goods chargeable with duty or exempt from duty, as the case may be, are comprised of two or more separate parts, the Board may, in its absolute discretion and subject to any provision in the excise laws to the contrary, direct that any part or parts, though manufactured by itself or themselves, shall be chargeable with the same rate of duty, or be free from duty, as the case may be, as the complete article.

Goods comprised of two or more separate parts.

11. The Excise Tariff Act 1958 is hereby repealed.

Repeal. No. 58 of 1958.

12.—(1) This Act may be cited as the Excise Tariff Act 1965 and shall be read and construed together with the Customs and Excise Management Act 1958, and shall apply throughout the Federation.

Short title, application and commencement. No. 55 of 1958.

(2) This Act shall come into operation on a date to be appointed by the President by notification in the Federal Gazette.

SCHEDULE 1

Section 1

GOODS LIABLE TO EXCISE DUTY

Description	Rates of Duty	£ s d
1. BEER—other than native liquor ..	the gallon of worts of a specific gravity of not more than 1040° .. for each additional degree of specific gravity ..	0 7 0 0 0 0½
2. BISCUIT	<i>ad valorem</i> 5 per centum.	
3. BLANKET	<i>ad valorem</i> 5 per centum.	
4. CEMENT	the ton ..	0 15 0
5. CIGARETTES :—		
(1) Where the weight of one thousand cigarettes does not exceed two pounds	<i>ad valorem</i> 30 per centum.	
(2) where the weight of one thousand cigarettes exceeds two pounds but does not exceed two and one-half pounds	<i>ad valorem</i> 48 per centum where the value exceeds seventy shillings per thousand, and <i>ad valorem</i> 40 per centum in other cases.	
(3) where the weight of one thousand cigarettes exceeds two and one half pounds	<i>ad valorem</i> 50 per centum.	
6. CONFECTIONERY, SUGAR, namely toffees, boiled sweets (commonly so called), pastilles, humbugs, and the like including chocolate confectionery but excluding bakers' confectionery	the pound ..	0 0 3
7. CONTAINERS, METAL	<i>ad valorem</i> 10 per centum.	
8. CORNED BEEF	<i>ad valorem</i> 5 per centum.	
9. ENAMELWARE	<i>ad valorem</i> 5 per centum.	
10. HOUSEHOLD UTENSILS, ALUMINIUM	<i>ad valorem</i> 5 per centum.	
11. LEATHER, Tanned	<i>ad valorem</i> 10 per centum.	
12. LEMONADE AND OTHER AERATED WATERS, whether flavoured or not ..	the gallon ..	0 0 6
13. MATCHES :—		
In boxes containing 80 matches each or less. For the purpose of this item four "booklets" of matches shall be regarded as a box	the gross boxes	0 12 0
Matches in boxes containing a greater quantity than 80 matches each to be charged in proportion		

14. NAILS, BARBED IRON OR STEEL WIRE, SINGLE FLAT WIRE, BARBED OR NOT, AND LOOSELY TWISTED BARBED WIRE of the kind used for fencing, of iron or steel; netting, fencing, reinforcing fabric and similar materials of iron or steel wire the pound .. 0 0 0½
15. OILS :—
- (1) Gas or diesel oils suitable for use in internal combustion engines :—
- (a) for use by the Nigerian Coal Corporation, the Nigerian Railway Corporation, the Electricity Corporation of Nigeria, the Nigerian Electricity Supply Corporation Limited, or the Nigerian Ports Authority, other than in road vehicles the gallon .. 0 0 4
- (b) Other the gallon .. 0 1 9
- (2) Illuminating, including kerosene and other refined burning oils .. the gallon .. 0 1 0
- (3) Lubricating the gallon .. 0 1 0
- (4) Motor spirit and products ordinarily used as such; benzine, bensoline, naphtha (non-potable), gasoline, petrol and petroleum, all kinds of shale and coal tar spirits but not including kerosene and other refined burning oils .. the gallon .. 0 1 9
- (5) Essential *ad valorem* 33½ per centum.
- (6) Other the gallon .. 0 1 6
or *ad valorem* 33½ per centum,
whichever is the higher.
16. PAINT, including enamel paint; lacquers, varnishes, distempers, putty, painter's fillings, and stopping, sealing and similar mastics including resin mastics and cements the pound .. 0 0 2
17. PIECE GOODS :—
- (1) Interlock and other knitted fabric the pound .. 0 2 6
- (2) Cotton fabric, bleached and unbleached the square yard 0 0 2
- (3) Other the square yard 0 0 6
18. Reinforcing rounds and similar articles *ad valorem* 20 per centum.

- | | |
|---|---|
| 19. SOAP PRODUCTS including detergents, whether manufactured from soap or not | <i>ad valorem 5 per centum.</i> |
| 20. SPIRITS, POTABLE | the gallon .. 0 2 6
for each 1 <i>per centum</i> or
fraction of 1 <i>per centum</i> by
volume of pure alcohol. |
| 21. THREAD | <i>ad valorem 10 per centum.</i> |
| 22. TOWEL AND TOWELLING | <i>ad valorem 10 per centum.</i> |
| 23. TRAVELLING TRUNKS, travel bags, handbags, portmanteaux, purses, suitcases and wallets of all materials .. | <i>ad valorem 10 per centum.</i> |
| 24. TYRES, PNEUMATIC of a sectional width exceeding 4" (101 mm.) but less than 12" (305 mm.) and tubes and flaps therefor | <i>ad valorem 10 per centum.</i> |
| 25. WINE, STILL ; APERITIFS | the gallon .. 1 12 0 |

SCHEDULE 2

Section 2

GOODS EXEMPTED FROM EXCISE DUTY

1. Fuel, lubricants and other products which the Board is satisfied are necessary for, and will be used solely in the operation of :—

- (1) aircraft of the Armed Forces of a foreign power ; or
- (2) civil aircraft registered in a State approved by the President.

2. Goods exported.

3. Goods for an individual or firm under contract to Government where an exemption from the payment of excise duty on the goods is a term of the contract.

4. Goods for the official or personal use of :—

- (1) the President of the Federal Republic of Nigeria.
- (2) the Governor of a Region of Nigeria.
- (3) any person for the time being acting as President of the Federal Republic of Nigeria, or as Governor of a Region of Nigeria during such time as he is so acting.

5. Goods—

(1) for the official use of persons and organisations entitled to diplomatic immunities and privileges under the Diplomatic Immunities and Privileges Act 1962 (No. 42) ;

(2) for the personal use of persons entitled to diplomatic immunities and privileges under the Diplomatic Immunities and Privileges Act 1962, subject to such conditions as the Minister may impose.

6. Goods for the official use of the Armed Forces of Nigeria, namely Military, Naval or Air Force.

7. Goods used :—

(1) for the purpose of directly implementing any project arising within any scheme of technical assistance approved by the Government of the Federation by notice in the Federal Official Gazette ;

(2) in the manufacture of other excisable products where excise duty will be paid on the final products.

Provided that this sub-item shall not apply to goods which are released to an "Approved Manufacturer" in accordance with an item in Schedule 1 ;

(3) in the manufacture of identical excisable products, subject to such conditions as the Board may impose ;

(4) as stores on foreign-going ships or aircraft, subject to such conditions as the Board may impose.

8. Goods which have become spoilt or otherwise unfit for use prior to delivery from the entered premises and so certified by the appropriate Health Officer or otherwise so established to the satisfaction of the Board.

9. Goods which the Board is satisfied are not manufactured for sale and which in its opinion are of no commercial value.

10. Oil, crude or residual, ordinarily used as bunker or furnace fuel and not suitable for use in internal combustion engines.

SCHEDULE 3

Section 9

VALUE OF GOODS FOR EXCISE PURPOSES

The value of goods liable to excise duty shall be taken to mean :—

(a) in all cases other than that of cigarettes—

(1) the price declared by the manufacturer to be the price, exclusive of excise duty and before deduction of trade discounts, at which the goods liable to duty are ordinarily sold by him ex-factory ; or

(2) if it appears to the Board that the price so declared is less than the cost of manufacture of the goods and all profits taken or to be taken by the manufacturer in respect thereof, a sum which, in the opinion of the Board, is equal to such cost together with such profits ;

(b) in the case of cigarettes—

(1) the price declared by the manufacturer to be the price, inclusive of excise duty, at which cigarettes of the same brand, weight, quality and description are ordinarily sold by him ex-factory ; or

(2) if it appears to the Board that the price so declared is less than the cost of manufacture of the cigarettes together with the excise duty thereon, and all profits taken or to be taken by the manufacturer in respect thereof, then a sum which, in the opinion of the Board, is equal to such cost together with such excise duty and profits.

LEGAL PRACTITIONERS (AMENDMENT) ACT 1965



1965 No. 31

AN ACT TO AMEND THE LEGAL PRACTITIONERS ACT 1962 FOR THE PURPOSE OF TRANSFERRING TO THE SOLICITOR-GENERAL OF THE FEDERATION THE FUNCTIONS OF THE CHIEF REGISTRAR OF THE SUPREME COURT RELATING TO THE LEGAL PRACTITIONERS DISCIPLINARY TRIBUNAL.

[10th November 1965]

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 functions conferred on the Chief Registrar of the Supreme Court by Schedule 2 of the Legal Practitioners Act 1962 (which relates to the disciplinary tribunal and the investigating panel) shall be performed by the Solicitor-General of the Federation instead of by the Chief Registrar; and accordingly in paragraphs 4 and 11 of that Schedule, for the word “registrar” there shall be substituted the words “Solicitor-General of the Federation”.

Transfer to
Solicitor-
General of
certain
functions as
respects
Legal
Practitioners
Disciplinary
Tribunal.
1962 No. 33.

(2) In paragraph 7 of Schedule 2 of the said Act of 1962, at the end of sub-paragraph (3) (which provides that no person who acted as a member of the panel with respect to any case shall act as a member of the tribunal with respect to that case) there shall be added the words “and the Solicitor-General of the Federation shall not act as a member of the tribunal with respect to any case in which he has personally scrutinised any document served on him by virtue of paragraph 11 below”.

2. This Act may be cited as the Legal Practitioners (Amendment) Act 1965 and shall apply throughout the Federation.

Short title
and extent.

COUNCIL OF MINISTERS (EVIDENCE) ACT 1965



1965 No. 32

AN ACT TO PROVIDE FOR THE PROOF BY CERTIFICATE IN CERTAIN CASES OF ACTIONS AND DECISIONS TAKEN BY THE COUNCIL OF MINISTERS.

[10th November 1965]

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 this section, where any enactment, in whatever words expressed—

(a) confers any power or imposes any duty on the Council of Ministers ; or

(b) authorises or requires anything to be done subject to the approval or consent of the Council of Ministers, or in any other way makes the validity of anything dependent on the taking of some action or decision by the Council of Ministers,

a certificate of the Secretary or Deputy Secretary to the Council of Ministers giving particulars of anything done or decided by the Council of Ministers under or for the purposes of that enactment shall be conclusive evidence of the matters stated in the certificate.

(2) Any document purporting to be a certificate issued under this section and to be signed by the Secretary or Deputy Secretary to the Council of Ministers shall be deemed to be such a certificate unless the contrary is shown.

(3) A certificate shall not be issued under this section with respect to any matter except with the consent of the Council of Ministers ; but in the case of any document purporting to be a certificate issued under this section, the question whether it was issued with the consent required by this subsection shall not be enquired into in any court of law.

Evidence of
actions and
decisions
taken by
Council of
Ministers.

961 No. 20. (4) The foregoing provisions of this section shall be without prejudice to section 93 (3) of the Constitution of the Federation (which provides that where by that Constitution the President is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law), and no certificate shall be issued under this section with respect to anything done or decided by the Council of Ministers for the purposes of giving advice to the President.

1964 No. 1. (5) In this section "enactment" has the same meaning as in the Interpretation Act 1964.

Short title,
extent, etc. 2.—(1) This Act may be cited as the Council of Ministers (Evidence) Act 1965 and shall apply throughout the Federation.

(2) This Act binds the state.

SUPPLEMENTARY APPROPRIATION (1965-66) ACT 1965



1965 No. 33

AN ACT TO AUTHORISE THE ISSUE OUT OF THE CONSOLIDATED REVENUE FUND OF THE SUM OF SIX HUNDRED AND EIGHT THOUSAND SEVEN HUNDRED AND SEVENTY POUNDS FOR THE PURPOSE OF MAKING FURTHER PROVISION FOR THE SERVICE OF THE YEAR ENDING ON THE THIRTY-FIRST DAY OF MARCH, ONE THOUSAND NINE HUNDRED AND SIXTY-SIX; AND TO APPROPRIATE THAT AMOUNT FOR THE PURPOSE SPECIFIED IN THAT ACT.

[10th November 1965]

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 1965 (which provides for the issue out of the Consolidated Revenue Fund in respect of the year ending on the 31st day of March 1966 of sums not exceeding in aggregate £78,396,370) shall be increased by six hundred and eight thousand seven hundred and seventy pounds; and the additional amount shall be appropriated to heads of expenditure as indicated in the Schedule to this Act; and subsection (3) of section one of the Appropriation Act 1965 (which provides for the lapse of balances outstanding at the end of the financial year) shall have effect accordingly.

Issue and
appropria-
tion of
£608,770
from
Consolidated
Revenue
Fund
for service
of 1965-66.
1965 No. 13.

2. This Act may be cited as the Supplementary Appropriation (1965-66) Act 1965 and shall apply throughout the Federation.

Short title
and extent.

Section 1						SCHEDULE
<i>Head</i>						<i>Amount</i>
						£
21.	State House	..	..	..	..	10,000
23.	Police	..	..	..	..	40,000
25.	Ministry of Trade	..	..	..	..	7,380
26.	Ministry of Communications	..	..	..	..	233,330
29.	Nigerian Navy	..	..	..	..	20,000
37.	Ministry of Education	..	..	..	..	6,740
42.	Ministry of Finance	..	..	..	..	17,000
43.	Board of Customs and Excise	..	..	..	..	21,200
47.	Ministry of Information	..	..	..	..	27,350
49.	Prisons	..	..	..	..	61,500
52.	National Provident Fund	..	..	..	..	16,670
53.	Ministry of Lagos Affairs	..	..	..	..	1,150
58.	Ministry of Works	..	..	..	..	117,000
61.	Judicial	..	..	..	..	1,500
62.	Parliament	..	..	..	..	10,000
67.	Ministry of Housing and Surveys	..	..	..	..	17,950
TOTAL						<u>£608,770</u>

LEGAL EDUCATION (PENSIONS) ACT 1965

A 427



1965 No. 34

AN ACT TO PROVIDE FOR MAKING CERTAIN OFFICES CONSTITUTED BY THE COUNCIL OF LEGAL EDUCATION PENSIONABLE.

[See section 2 (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) In the case of any office constituted (whether before or after the passing of this Act) by the Council of Legal Education (in this Act referred to as “the Council”) in the exercise of its power under section 4 (3) (b) of the Legal Education Act 1962 to establish and maintain a school for conducting courses of study prepared by the Council, the Minister may by order published in the Federal Gazette declare that office to be a pensionable office for the purposes of the Pensions Act.

Power to
apply
Pensions
Act to
offices in
Council of
Legal
Education's
law school.
1962 No. 12.
Cap. 147.

(2) Subject to subsections (3) and (4) below, the provisions of the Pensions Act shall apply to any office declared to be pensionable under subsection (1) above as if that office were an office in the public service of the Federation within the meaning of the Constitution of the Federation.

(3) For the purposes of the application of the provisions of the Pensions Act in accordance with subsection (2) above—

(a) paragraph (1) of section 7 of that Act (which confers on the Minister power to waive the requirement to give notice of desire to retire under the age of forty-five) shall have effect as if for the references to the Minister there were substituted references to the Council; and

(b) the power under section 9 (1) of that Act to require an officer to retire at any time after attaining the age of forty-five, subject to his being given six months' notice in writing, shall be exercisable by the Council and not by any other authority.

(4) Nothing in subsection (2) above shall prevent a person from being appointed to any office declared to be pensionable under subsection (1) above on terms which preclude, or will if he is not confirmed in that office preclude, the grant of a pension or gratuity under the Pensions Act to him in respect of his service in that office.

(5) In this section “the Minister” means the Minister of the Government of the Federation responsible for pensions.

Short title,
extent and
commence-
ment.

2.—(1) This Act may be cited as the Legal Education (Pensions) Act 1965 and shall apply throughout the Federation.

(2) This Act shall be deemed to have come into force on 1st June 1962 (the date on which the Legal Education Act 1962 came into force), and any order made under section 1 (1) of this Act may be made so as to have effect from any date not earlier than that date.

BORROWING BY PUBLIC BODIES ACT 1965



ARRANGEMENT OF SECTIONS

Section

- | | |
|--|---|
| 1. Bodies to which Act applies. | 4. Power to give guarantees in respect of other loans to bodies to which Act applies. |
| 2. Restriction on acceptance by bodies to which Act applies of external loans. | 5. Previous guarantees deemed to have been given under this Act. |
| 3. Power to give guarantees in respect of external loans to bodies to which Act applies. | 6. Interpretation. |
| | 7. Short title, extent, commencement and repeals. |

1965 No. 35

AN ACT TO REGULATE THE ACCEPTANCE BY CERTAIN BODIES OF EXTERNAL LOANS AND CREDIT FACILITIES AND TO AUTHORISE THE MINISTER OF FINANCE TO GIVE GUARANTEES IN RESPECT OF LOANS AND CREDIT FACILITIES TO BE MADE OR AFFORDED TO SUCH BODIES ; AND FOR CONNECTED PURPOSES.

[See section 7 (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. The bodies to which this Act applies are the following, that is to say—

Bodies to
which
Act applies.

(a) any body corporate established directly by a law enacted (whether before or after the passing of this Act) by Parliament or having effect as if enacted by Parliament ;

(b) any company over which the Government of the Federation has control ;

(c) any body corporate established directly by a law enacted (whether before or after the passing of this Act) by the legislature of a Region or having effect as if enacted by such a legislature ;

(d) any company over which the Government of a Region has control.

2.—(1) A body to which this Act applies shall not accept any external loan except with the prior consent of the Minister.

Restriction
on acceptance
by bodies
to which Act
applies of
external
loans.

(2) An application for the Minister's consent under this section to a proposed external loan shall be in such form as the Minister may direct.

(3) The Minister shall not give his consent under this section—

(a) in the case of a loan proposed to be accepted by a body falling within section 1 (a) or (b) of this Act, unless he is satisfied of the feasibility of the project, scheme or other purpose for which the loan is required ;

(b) in the case of a loan proposed to be accepted by a body falling within section 1 (c) or (d) of this Act, unless he is satisfied that the feasibility of the project, scheme or other purpose for which the loan is required has been duly investigated by the Government of the Region concerned and that the application for the Minister's consent to the loan has been approved by the Executive Council of that Region.

(4) Without prejudice to subsection (3) above, the Minister shall not give his consent under this section to any proposed loan except with the prior approval of the Council of Ministers.

(5) Nothing in this section shall be construed as derogating from the provisions of any other enactment which restricts the borrowing of money by any body to which this Act applies or requires the consent of any authority to the borrowing of money by any such body.

Power to give guarantees in respect of external loans to bodies to which Act applies.

3.—(1) Where the Minister has given his consent under section 2 of this Act to any external loan proposed to be accepted by a body to which this Act applies, he may, subject to this section, guarantee in such manner and on such conditions as he thinks fit the repayment of, and the payment of any interest on or other charges in respect of, that loan.

(2) A guarantee shall not be given under this section until the body to which the loan is to be made has provided to the satisfaction of the Minister—

(a) for appropriating and duly applying the loan for the purpose for which the loan is to be made ;

(b) for ensuring that any part of the loan which cannot be applied for the purpose for which the loan is to be made will be applied only for such other purposes as may be approved by the Minister ;

(c) for the establishment and regulation of such sinking fund or funds for the purpose of the repayment of the principal of the loan or any instalment thereof as the Minister may require.

(3) Without prejudice to subsection (2) above, a guarantee shall not be given under this section in respect of a loan proposed to be made to a body falling within section 1 (c) or (d) of this Act unless at the time when the guarantee is given there is in force a law enacted by the legislature of the Region concerned providing that where any sum is paid by the Minister in fulfilment of any guarantee given or deemed to have been given under any Act of Parliament authorising him to give guarantees in respect of loans or credit facilities proposed to be accepted by such bodies as are mentioned in section 1 (c) and (d) of this Act, a sum equal to that sum shall for the purposes of section 143 of the Constitution of the Federation be deemed to have become due from that Region to the Federation in respect of a loan made by the Federation to that Region, and may be set off by the Federation under that section accordingly.

(4) Without prejudice to subsections (2) and (3) above, the Minister shall not give a guarantee under this section in respect of any proposed loan except with the prior approval of the Council of Ministers.

(5) Any sums required for fulfilling any guarantee given under this section shall be charged on and issued out of the Consolidated Revenue Fund of the Federation, and any sums received (whether from the body to which the loan in question was made or from the Region concerned, if any, or from any other source) by way of repayment of any sums so issued shall be paid into the said Fund.

(6) As soon as possible after any guarantee is given under this section, the Minister shall lay a statement of the guarantee before the House of Representatives.

(7) Where any sum is issued for fulfilling a guarantee given under this section, the Minister shall, as soon as possible after the end of each financial year beginning with the one in which the sum is issued and ending with the one in which all liability in respect of that sum and in respect of interest thereon is finally discharged, lay before the House of Representatives a statement relating to that sum.

4.—(1) Where a body to which this Act applies proposes to accept any loan other than an external loan, the Minister may, subject to this section, guarantee in such manner and on such conditions as he thinks fit the repayment of, and the payment of any interest or other charges in respect of, that loan.

Power to give guarantees in respect of other loans to bodies to which Act applies.

(2) An application for a guarantee under this section in respect of a proposed loan shall be in such form as the Minister may direct; and—

(a) subsection (3) of section 2 of this Act shall apply in relation to the giving of a guarantee under this section as it applies in relation to the giving of the Minister's consent under the said section 2; and

(b) subsections (2) to (7) of section 3 of this Act shall apply in relation to a guarantee under this section as they apply in relation to a guarantee under the said section 3.

5.—(1) Any guarantee given before the commencement of this Act by the Minister as to the repayment of, or the payment of interest on or other charges in respect of, any loan made to a body to which this Act applies (including, in particular, any guarantee given or deemed to have been given under the Statutory Corporations (Guarantee of Loans) Act 1959) and not repaid in full (including all interest and other charges) before the commencement of this Act shall be deemed for all purposes to have been given under and in accordance with section 3 or 4 of this Act, according to whether the loan is an external loan or not.

Previous
guarantees
deemed to
have been
given under
this Act.
1959 No. 19.

(2) The power of the Minister under the said Act of 1959 to guarantee loans shall include and be deemed to have always included power to guarantee any loan within the meaning of this Act.

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

Interpreta-
tion.

"company" means a company formed and registered under the Companies Act;

Cap. 37.

"control", in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person;

"external loan" means a loan whereby money is borrowed outside Nigeria or any arrangement under which a body to which this Act applies is to be afforded credit facilities outside Nigeria;

"loan" includes any arrangement under which a body to which this Act applies is to be afforded credit facilities, and references to the making, acceptance, guaranteeing, repayment or application of a loan or to any other form of transaction relating to a loan shall be construed accordingly;

"the Minister" means the Minister of the Government of the Federation responsible for finance;

"the Region concerned", in relation to a body falling within section 1 (c) or (d) of this Act, means the Region by whose law the body is established or whose Government has control over the body, as the case may be.

(2) For the avoidance of doubt it is hereby declared that any reference in this Act to a company or body over which the Government of the Federation or the Government of a Region has control includes a reference to any company or body over which the Federal Ministry of Finance or a Regional Ministry of Finance, as the case may be, has control.

Short title,
extent,
commence-
ment and
repeals.

7.—(1) This Act may be cited as the Borrowing by Public Bodies Act 1965, and shall apply throughout the Federation.

(2) Section 5 (2) of this Act shall come into force on the date on which this Act is passed; and the provisions of this Act other than section 5 (2) shall come into force on such date as the Minister may by order published in the Federal Gazette appoint.

1959 No. 19.
Cap. 58.
Cap. 134.

(3) The Statutory Corporations (Guarantee of Loans) Act 1959, the proviso to section 34 of the Electricity Corporation of Nigeria Act, and section 24 of the Nigerian Coal Corporation Act are hereby repealed.

CUSTOMS AND EXCISE MANAGEMENT (AMENDMENT) (No. 2) ACT 1965



1965 No. 36

AN ACT TO AMEND THE CUSTOMS AND EXCISE MANAGEMENT ACT 1958 TO MAKE PROVISION FOR THE BLENDING OF SPIRITS, OILS AND OTHER GOODS AND SIMILAR OPERATIONS IN A LICENCED WAREHOUSE, FOR THE FURNISHING BY EXCISE TRADERS OF INFORMATION REQUIRED IN CONNECTION WITH THE ADMINISTRATION OF THE EXCISE LAWS, FOR THE REMISSION OR REPAYMENT OF DUTIES OF EXCISE ON EXCISABLE GOODS WHICH ARE DESTROYED OR DEFECTIVE, AND FOR THE LICENSING OF EXCISE AGENTS.

[10th November 1965]

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. Section 81 (1) of the principal Act is hereby amended by the insertion after the word "therein" of the words "and may permit, subject as aforesaid, the blending of spirits, oils and other goods in the warehouse and such other similar operations as may be specified by the Board."

Amendment
of section
81 (1) of
principal
Act.

2. The principal Act is hereby amended by the insertion therein immediately after section 117 of the following new section :—

Addition
of new
section to
principal
Act.

"Power to
require
information
from excise
traders.

117A. (1) Every excise trader shall—

(a) produce to the Board for inspection as and when required by a notice in writing served on him by the Board all invoices and other books or documents in his possession relating to any goods liable to excise duty purchased or sold by him during the period of twelve months immediately preceding the date of the service of the notice, or any part of that period specified in the notice ;

(b) furnish answers to such questions as may be put to him by the Board regarding the description, quantity, weight, volume, purchase price, selling price, consignor, consignee, destination and any other matter relating to such goods which the Board may consider reasonably necessary for the purpose of administering the excise laws ;

(c) produce to the Board such evidence as it may reasonably require in support of any answer so supplied.

(2) If any excise trader fails without lawful excuse to comply with any of the requirements of a notice served on him by the Board under subsection (1) of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine of three hundred pounds."

Amendment
of section
121 of
principal
Act.

3. Section 121 of the principal Act is hereby amended by the substitution for subsection (3) of the following new subsection :—

"(3) Where it is proved to the satisfaction of the Board in the case of a manufacturer of any excisable goods that any materials on which a charge of duty has been made, or any goods manufactured by him have while on his entered premises—

(a) been destroyed or become spoilt or otherwise unfit for use, and

(b) in the case of any such materials or goods which have become spoilt or otherwise unfit for use been destroyed with the permission and in the presence of the proper officer,

any duty chargeable in respect thereof shall be remitted or repaid in such manner and at such time as the Board may determine".

Amendment
of section
138 of
principal
Act.

4. Section 138 of the principal Act is hereby amended by the insertion immediately after the words "customs agents" of the words "and excise agents".

Short title,
construction
and extent.
No. 55 of
1958.

5.—(1) This Act may be cited as the Customs and Excise Management (Amendment) (No. 2) Act 1965 and shall be read and construed as one with the Customs and Excise Management Act 1958 (in this Act referred to as "the principal Act").

(2) This Act shall apply throughout the Federation.

LAGOS SENATORS ACT 1965



1965 No. 37

AN ACT TO MAKE FOR THE PURPOSES OF SECTION 42 (2) OF THE CONSTITUTION OF THE FEDERATION PROVISION AS TO THE MANNER OF SELECTING SENATORS TO REPRESENT THE FEDERAL TERRITORY.

[10th November 1965]

Commence-
ment.

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

1.—(1) The selection of a chief from among the White-Cap Chiefs and War Chiefs of Lagos to be a Senator representing the Federal territory shall be by means of an election carried out as provided in this section ; and for the purposes of an election under this section the Minister shall appoint a person to be the returning officer.

Selection
of a chief
to represent
Lagos in
Senate.

(2) Whenever it is necessary to select a chief as aforesaid, the returning officer shall fix the date, time and place of the election to be held for the purpose and shall not less than seven days before the date so fixed give to every chief of Lagos a notice stating—

(a) the date, time and place fixed for the election, and

(b) the time and place at which nominations are to be delivered to the returning officer, which time shall be on a day not less than three days before the date fixed for the election.

(3) No person other than a chief of Lagos shall be entitled to vote at the election or to be nominated as a candidate.

(4) A candidate for election must be nominated by two chiefs of Lagos ; and a chief of Lagos shall not be entitled to nominate more than one candidate or to nominate himself as a candidate.

(5) The nomination of a candidate must be in writing, must contain—

(a) the name, title and address of the candidate ;

(b) the name, title and address of each of the nominators ; and

(c) a statement signed by the candidate that he is willing and qualified to be selected to be a Senator,

and must be delivered to the returning officer at the time and place stated in the notices given under subsection (2) above.

(6) If a nominated candidate dies before the commencement of voting in the election, the returning officer shall fix a new date for the election in accordance with subsection (2) above.

(7) Voting at the election shall be by secret ballot and shall be carried out in such manner as the returning officer may direct, so however that a voter shall not vote for more than one candidate or record more than one vote in favour of any candidate but, if a candidate, may vote for himself.

(8) When the voting has been completed, the returning officer shall forthwith count the votes in the presence of those who have voted.

(9) If an equality of votes is found to exist between any candidates so that the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and shall proceed as if the candidate on whom the lot falls had received an additional vote.

(10) When the result of the election has been ascertained, the returning officer shall announce the result of the election and shall prepare a certificate stating the result.

(11) The returning officer shall as soon as may be—

(a) deliver the certificate prepared by him under subsection (10) above to the President of the Republic; and

(b) deliver a copy thereof to the Clerk of the Senate; and the Clerk of the Senate shall cause to be published in the Federal Gazette a notice stating the result of the election and declaring the person elected to have been selected as a Senator representing the Federal territory.

(12) In this section "chief of Lagos" has the meaning assigned by section 2 of the Oba and Chiefs of Lagos Act 1959.

2.—(1) For the purpose of selecting persons to be Senators representing the Federal territory in pursuance of section 42 (2) (c) of the Constitution of the Federation there shall be a selection committee which, subject to subsection (10) below, shall consist of—

(a) the Minister;

(b) the chairman of the Lagos City Council; and

(c) one other person appointed by the Minister;

and in deciding whom to appoint from time to time under paragraph (c) above the Minister shall have regard to the desirability of securing that the committee shall be reasonably representative of shades of political opinion in Lagos.

(2) Whenever it is necessary to select a person as aforesaid, the Minister shall fix the date, time and place at which a meeting of the selection committee is to be held for the purpose, and shall not less than seven days before the date so fixed give notice thereof to the other members of the selection committee.

1959
No. 22.

Selection
of two
other
persons to
represent
Lagos in
Senate.
1963 No. 20.

(3) At the meeting the selection committee shall, according to whether the number of persons to be selected is two or one, nominate two persons or one person for selection as aforesaid; and for this purpose—

(a) all the members of the committee must be present at the meeting;

(b) the Minister shall act as chairman;

(c) a person shall be declared nominated if, but only if, the committee are satisfied that he is willing and qualified to be selected as a Senator and a proposal that he be nominated is supported by the votes of a majority of the members of the committee;

(d) subject to the foregoing paragraphs, the committee may regulate their own procedure.

(4) As soon as may be after the selection committee have nominated any person under subsection (3) above, the Minister shall submit the nomination to the Council of Ministers for approval.

(5) If a nomination submitted to it under subsection (4) above is approved by the Council of Ministers, the Secretary to the Council of Ministers shall prepare a certificate to that effect and shall—

(a) deliver the certificate to the President of the Republic; and

(b) deliver a copy thereof to the Clerk of the Senate;

and the Clerk of the Senate shall cause to be published in the Federal Gazette a notice stating that the nomination has been made and approved and declaring the person nominated to have been selected as a Senator representing the Federal territory.

(6) If a nomination under this section is not approved by the Council of Ministers the Minister shall as soon as may be convene another meeting of the selection committee in pursuance of subsection (2) above for the purpose of making another nomination.

(7) If, on any occasion when it is necessary to select a person as aforesaid, none of the persons proposed for nomination in respect of a particular vacancy receives the necessary number of votes, and accordingly no nomination is made by the selection committee, the Minister shall as soon as may be after the conclusion of the meeting of the committee submit to the Council of Ministers a full report of the proceedings of the committee; and after considering that report the Council of Ministers shall as soon as may be, and without further reference to the selection committee, select such person as it thinks fit to fill that vacancy.

(8) The person selected under subsection (7) above may be either one of the persons proposed for nomination at the meeting of the selection committee or a person who was not so proposed, but the Council of Ministers shall not select any person under that subsection unless it is satisfied that he is willing and qualified to be selected as a Senator.

(9) Where a person is selected under subsection (7) above, subsection (5) shall, with the necessary modifications, apply as it applies where a nomination submitted to them under subsection (4) above is approved by the Council of Ministers.

(10) If it appears to the Council of Ministers that, for good reasons, the Minister will be unable to attend the meeting fixed by him under subsection (2) above, it shall appoint some other Minister of the Government of the Federation to perform in his place the functions of the Minister under subsections (3), (4) and (7) of this section, and references in those subsections to the Minister shall be construed accordingly; but an appointment under this subsection shall cease to have effect as soon as the person appointed has performed the functions of the Minister under those subsections at and in connection with the meeting in question.

Short title,
extent,
definition
and
revocation.

3.—(1) This Act may be cited as the Lagos Senators Act 1965 and shall apply throughout the Federation.

(2) In this Act "the Minister" means the Minister of the Government of the Federation responsible for Lagos municipal affairs.

(3) The instruments mentioned in the Schedule of this Act (which make provision for the matters to which sections 1 and 2 of this Act relate) are hereby revoked.

SCHEDULE

Section 3

INSTRUMENTS REVOKED

<i>Number</i>	<i>Title</i>
L.N. 264 of 1959 ..	The Senate (Appointment of Lagos Chief) Regulations 1959.
L.N. 265 of 1959 ..	The Senate (Lagos Representatives) Regulations 1959.
L.N. 29 of 1965 ..	The Adaptation of Laws (Miscellaneous Provisions) Order 1965.