

Supplement to Official Gazette Extraordinary No. 14, Vol. 53, 17th February, 1966—Part A

BANKING AMENDMENT DECREE 1966



ARRANGEMENT OF SECTIONS

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Decree No. 5

[16th February 1966]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

1.—(1) Where the Head of the Federal Military Government has reasonable cause to suspect that transactions, whether before or after the commencement of this Decree, in the accounts of persons (hereinafter referred to as "the accounts") with any bank are such as may involve the offences of bribery, corruption, extortion or abuse of office, he may direct the issue of orders addressed to the manager of the bank where the accounts are, or are believed by him to be, or in the alternative addressed to the head office of a bank requiring the bank to prepare or cause to be prepared a record of transactions in the accounts of the persons named in the orders over the period, not exceeding six years, stated therein; and the manager shall prepare and certify the record for delivery as required on or before a prescribed date.

Power to
order
investigation
of accounts,
etc. in special
cases.

(2) Orders for report on accounts shall be in the Form 1 in the Schedule to this Decree or to the like effect and shall be sent by registered post, or may be delivered. If a receipt appears to relate to an order under this Decree and to be signed by or on behalf of the bank to which it is addressed or delivered, the receipt shall be sufficient evidence of delivery without further proof.

(3) In this section, "persons" includes any company or association or body of persons incorporated in Nigeria or any unincorporate body, in which the bank affected by an order is, or may be, aware that the persons designated by name in such order are interested as directors, partners, managers, or agents.

Powers of examiners.

2.—(1) A bank examiner, after production to the manager of his authority, shall consider the record furnished by the bank and may, if he thinks fit, thereafter by supplementary order in the Form 2 in the Schedule to this Decree direct the manager to give to him further information and produce books or documents relating to particular items in the record of any of the accounts; and the manager shall furnish such information within an agreed time or, if no time is agreed, then within three days after the date of the order.

(2) If a bank examiner is of opinion that items in the accounts or in any of them, confirm or tend to confirm the reasonable suspicion of the Head of the Federal Military Government, he may, by the same or any subsequent order direct the manager to stop all outwards payments, operations or transactions (including any bill of exchange) of amounts in any one banking day and at intervals of not less than one week, not exceeding fifty pounds or such lesser amount on any one banking day as a bank examiner may approve in respect of a particular account, in the accounts or in any particular account in the ordinary course of banking, and in any other case the prior approval in writing of the bank examiner shall be required. Where any such direction is given it shall have effect for a period mentioned in the order not exceeding three months unless sooner reduced by order of a bank examiner in writing.

(3) The bank examiner investigating the accounts shall forthwith report his findings to the Permanent Secretary, Federal Ministry of Finance; and if the report confirms or tend to confirm the reasonable suspicion of the Head of the Federal Military Government, the bank examiner shall at the same time deliver a copy of the report to the Director of Public Prosecutions in the locality where the accounts were investigated, and the Director of Public Prosecutions shall thereafter take such action as appears to him necessary.

(4) Where the approval of a bank examiner is required it shall be given within thirty-six hours unless there are circumstances requiring an extension of time in any particular case.

(5) In this section "bill of exchange" includes any promissory note, cheque or draft in respect of the person in whose name the account is or in which he appears as an owner or trustee for an owner.

Indemnity for compliance.

3. Where the manager complies with an order made under this Decree, or with any direction or requirement thereafter of a bank examiner, the bank and all persons complying with the order and, as the case may be, any direction or requirement of a bank examiner, shall be indemnified from liability to the extent of compliance therewith; and accordingly no action, claim, suit or demand by or on behalf of any person whose account is investigated pursuant to any such order, shall lie against the bank or any person so complying with the order.

Exclusion of remedies.

4.—(1) The question whether any provision of Chapter III of the Constitution of the Federation has been, is being, or would be contravened by anything done or proposed to be done in pursuance of this Decree shall not be enquired into in any court of law, and accordingly sections 32, 115 and 117 (2) (d) of that Constitution shall not apply in relation to any such question; and no court or person shall be concerned to enquire whether the circumstances justify any order, direction or requirement under this decree.

(2) An appeal shall not lie to any court against this decree or any order made or given thereunder, or any subsequent direction or requirement of a bank examiner.

5. It shall be an offence against this decree for any bank, or manager to refuse to comply with any order under this Decree or any direction or requirement of a bank examiner; and the penalties prescribed under section 13 (2) of the Banking Act in respect of failure to produce any book, account, document or information or in respect of any falsehood shall apply to the failure to comply with any order, direction or requirement under this decree or of any falsehood as they apply to cases within that subsection.

Offences.

Cap. 19.

6.—(1) This decree may be cited as the Banking Amendment Decree 1966 and shall apply throughout the Federation.

Citation,
application
and inter-
pretation.

(2) In this Decree,—

“bank examiner” means any person appointed as an examiner or an assistant examiner under the Banking Act;

Cap. 19.

“manager” includes any person in apparent control of a Bank.

THE SCHEDULE

Form 1

Section 1 (2)

ORDER FOR REPORT ON ACCOUNTS
(under the Banking Amendment Decree 1966)

To the Manager.....

(here insert name of bank and the location)

You and all persons in the employ of the aforesaid bank are hereby ordered by the Head of the Federal Military Government under the provisions of the Banking Amendment Decree 1966 to prepare a record of transactions in the account of the following persons namely.....

(here insert names)

2. The period to be covered is.....

(here insert the time)

and if an account is now closed the date when it was closed is to be stated.

3. The record of transactions is to be made available to any bank examiner on production of his authority on or before the..... day of 19.....

AND NOTICE IS HEREBY GIVEN—

(a) that a bank examiner (after production of his authority to investigate accounts under the above Decree) may require further information relative to particular cases and is empowered to impose a stop order for a period of up to three months; and

(b) that the failure to comply with the requirements of this order is an offence for which penalties are prescribed; and

(c) that to the extent of due compliance, an indemnity is provided under the Decree.

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

Bank Examiner

Form 2

Section 2

SUPPLEMENTARY ORDER

(this form may be amended according to circumstances)

To the Manager.....

(here insert name and branch of bank)

UNDER the authority conferred on me by section 2 of the Banking Amendment Decree 1966 you are hereby ordered—

(a) to supply the following information relating to the undermentioned accounts, that is to say

(here set out briefly the information required in respect of named accounts)

(b) to produce the books and documents relating to the undermentioned accounts, that is to say

(here set out the books and documents to be produced in respect of named accounts)

(c) to stop all outward payments, operations or transactions (including bills of exchange) as far as possible in the ordinary course of banking in respect of the following accounts

(here indicate the accounts)

2. Nothing in this order shall prevent in any amount transactions submitted to and approved by a bank examiner, or the withdrawal without such approval on any one banking day or thereafter at intervals of not less than one week of amounts not exceeding at any one time

(here state the amount of £50 or less)

3. This order shall cease to have effect after the day of 19..... unless sooner revoked by a bank examiner.

DATED at this day of 19.....

Bank Examiner

DATED at Lagos this 16th day of February 1966.

MAJOR-GENERAL J. T. U. AGUIYI-IRONSI,
Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria