

## THE HIGH COURT OF LAGOS (AMENDMENT) DECREE 1966



### Decree No. 11

[7th March 1966]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees  
as follows :—

1.—(1) The following section shall be substituted for section 50 of the High Court of Lagos Act as replaced by section 3 of the High Court of Lagos (Amendment) Act 1960—

Amendment  
of High  
Court of  
Lagos Act.  
Cap. 80.  
1960 No. 11.

'Appeals by  
prosecutors.

50.—(1) The prosecutor may on any ground of appeal which involves a question of law alone, appeal to the Supreme Court as of right from a decision of the High Court in any criminal proceedings before the High Court sitting at first instance.

(2) The prosecutor may with the leave of the High Court or the Supreme Court appeal to the Supreme Court—

(a) on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact, from a decision of the High Court in any criminal proceedings before the High Court sitting at first instance; or

(b) on any ground of appeal which involves a question of law alone, from a decision of the High Court in any criminal appeal from the magistrates' court.

(3) In this section "decision" has the same meaning as in section 117 (7) of the Constitution of the Federation.

1963 No. 20.

(2) Section 49A of the High Court of Lagos Act (as inserted by section 4 of the High Court of Lagos (Amendment) Act 1960) shall be renumbered so as to become section 50A of that Act; and in the heading of Part IVA of that Act (as inserted by the said section 4) and in the marginal note to the said section 50A, after the word "Provisions" there shall be inserted the words "before and".

Cap. 80.

1960 No. 11.

(3) In the said section 50A, after subsection (2) there shall be inserted the following subsection—

(2A) Where—

(a) the High Court has in any criminal proceedings before it sitting at first instance acquitted the accused person, or has allowed an appeal from the magistrates' court against conviction; and

(b) immediately after that decision of the High Court has been given the prosecutor gives notice to the High Court that he intends or desires to appeal to the Supreme Court from that decision, the High Court may make an order providing for the detention of the accused person, or directing that the accused person shall not be released except on bail, until either—

(i) the time for bringing the appeal has expired without its having been brought; or

(ii) where applicable, the necessary leave to appeal has been refused both by the High Court and by the Supreme Court; or

(iii) the appeal has been brought and abandoned; or

(iv) a decision on the appeal has been given by the Supreme Court,

whichever first occurs; but an order made under this subsection shall not affect the power of the Supreme Court, if the appeal is brought, to admit the respondent to bail under section 35 of the Federal Supreme Court Act 1960 as applied by section 4(4) of the Judicial, etc., Offices and Appeals by Prosecutors Act 1963.

1960 No. 12.  
1963 No. 10.

Citation,  
extent and  
repeal.

2.—(1) This Decree may be cited as the High Court of Lagos (Amendment) Decree 1966 and shall apply to the Federal territory only.

(2) Section 3 of the High Court of Lagos (Amendment) Act 1960 is hereby repealed.

DATED at Lagos this 7th day of March 1966.

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

## EXPLANATORY NOTE

*(This note does not form part of the above Decree, but is intended to explain its purposes)*

This Decree will enable prosecutors to appeal to the Supreme Court in certain cases from decisions of the High Court of Lagos in criminal cases. It will not allow a prosecutor to appeal against a sentence imposed by the High Court, but will allow—

(a) appeals on questions of law alone from decisions of the High Court at first instance or on appeals from the magistrates' court; and

(b) appeals on questions of fact alone, or questions of mixed law and fact, from decisions of the High Court sitting at first instance.

Leave to appeal will have to be obtained except in the case of an appeal on a question of law from the High Court sitting at first instance. The Decree also provides for the detention or release on bail of the accused person where the prosecutor gives notice that he intends to appeal.

# THE CRIMINAL PROCEDURE (AMENDMENT) DECREE 1966



## Decree No. 12

[7th March 1966]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :

1.—(1) This section applies to any enactment passed or made before the commencement of this Decree which—

Amendment  
of certain  
enactments  
which refer  
to conviction  
on  
indictment.

(a) specifies different penalties as the penalties to which a person committing a specified offence is liable on conviction on indictment and on summary conviction respectively ; or

(b) specifies the penalty or penalties to which a person committing a specified offence is liable on conviction on indictment, without specifying any penalty as a penalty to which a person committing that offence is liable on summary conviction.

(2) In relation to any offence committed after the commencement of this Decree—

(a) the Acts described in Part I column 1 of the Schedule of this Decree shall have effect subject to the amendments specified in column 2 of that Part, being amendments of enactments falling within subsection (1) (a) above ; and

(b) the Acts described in Part II column 1 of the Schedule of this Decree shall have effect subject to the amendments specified in column 2 of that Part, being amendments of enactments falling within subsection (1) (b) above.

(3) Any enactment to which this section applies which is not amended by virtue of subsection (2) above shall, in relation to any offence committed after the commencement of this Decree, be construed—

(a) in the case of an enactment falling within subsection (1) (a) above, as providing that a person committing the offence in question shall be liable on conviction to the penalty or penalties to which, if this subsection had not become law, he would have been liable under that enactment on conviction by the High Court; and

(b) in the case of an enactment falling within subsection (1) (b) above, as if for the reference to conviction on indictment there were substituted a reference to conviction by the High Court.

(4) In this section "enactment" has the same meaning as in the Interpretation Act 1964.

1964 No. 1.

Meaning of  
"indictable  
offence" in  
Cap. 43.

2.—For the removal of doubt as to the meaning of the expression "indictable offence" in the Criminal Procedure Act, the definition of that expression contained in section 2 (1) of that Act, as it applies in any part of Nigeria, shall be amended so as to read as follows—

"indictable offence" means any offence—

(a) which on conviction may be punished by a term of imprisonment exceeding two years; or

(b) which on conviction may be punished by imposition of a fine exceeding two hundred pounds,

not being an offence declared by the law creating it to be punishable on summary conviction;

but it is hereby declared that the meaning of that expression in that Act has always been as stated in the amended definition set out above.

Amendment  
of  
Criminal  
Procedure  
(N.R.) Act  
1960.  
1960 No. 20.

3. For section 3 (2) of the Criminal Procedure (Northern Region) Act 1960 (which is now spent) there shall be substituted the following subsection—

"(2) In the application of any Federal Act or any Decree to the Northern Region—

(a) any reference to summary trial, trial in a summary manner or summary conviction (other than a reference to summary trial, trial in a summary manner or summary conviction by the High Court) shall be construed as a reference to trial solely by a magistrate's court or conviction by a magistrate's court, as the case may be; and

(b) any reference to summary trial, trial in a summary manner or summary conviction by the High Court shall be construed as a reference to trial or conviction, as the case may be, by the High Court where the accused has not been committed for trial after a preliminary inquiry by a magistrate."

Citation  
and extent.

4. This Decree may be cited as the Criminal Procedure (Amendment) Decree 1966 and shall apply throughout Nigeria.

## SCHEDULE

AMENDMENTS OF ENACTMENTS TO WHICH SECTION 1 APPLIES

Section 1.

## PART I

## ENACTMENTS PROVIDING FOR CONVICTION ON INDICTMENT OR SUMMARY CONVICTION

<i>Act</i>	<i>Amendment</i>
The Exchange Control Act 1962 (No. 16).	In Schedule 4, in paragraph 5 (3), delete from "(a) on" to "indictment" and insert "on conviction", and in paragraph 5 (4), delete "on indictment" in both places where it occurs and substitute "by the High Court".
The Tin Act 1962 (No. 25).	In section 1 (3), delete from "(a) on" to "indictment" and insert "on conviction".
The Survey Co-ordination Act 1962 (No. 28).	In section 2 (1), delete from "(a) on" to "indictment" and insert "on conviction".
The Official Secrets Act 1962 (No. 29).	In section 7 (1), delete "(a) on conviction on indictment" and insert "on conviction", and delete the whole of paragraph (b); and in section 7 (3) delete "on indictment" and insert "on commitment to the High Court after preliminary inquiry by a magistrate".
The Medical and Dental Practitioners Act 1963 (No. 9).	In section 14 (5), delete from "(a) on" to "indictment" and insert "on conviction".
The Excise (Control of Distillation) Act 1964 (No. 22).	In sections 1 (5) (b) and 2 (5) (b), delete "on indictment" and insert "by the High Court".
The Pharmacists Act 1964 (No. 26).	In section 12 (4), delete from "(a) on" to "indictment" and insert "on conviction".
The Civil Aviation Act 1964 (No. 30).	In section 5 (3), delete from "summary" to "indictment" and insert "conviction".
The Institute of Chartered Accountants Act 1965 (No. 15)	In section 18 (5), delete from "(a) on" to "indictment" and insert "on conviction".
The Hydrocarbon Oil Refineries Act 1965 (No. 17).	In section 7 (1) (b), delete "on indictment" and insert "by the High Court".
The Registered Land Act 1965 (No. IV).	In section 159 (1), delete "on indictment" and from "or liable" to the end of the subsection.
The Food and Drugs (Lagos) Act 1965 (No. IX).	In section 16 (1), delete from "(a) on" to "indictment" and insert "on conviction".

(3) Any enactment to which this section applies which is not amended by virtue of subsection (2) above shall, in relation to any offence committed after the commencement of this Decree, be construed—

(a) in the case of an enactment falling within subsection (1) (a) above, as providing that a person committing the offence in question shall be liable on conviction to the penalty or penalties to which, if this subsection had not become law, he would have been liable under that enactment on conviction by the High Court; and

(b) in the case of an enactment falling within subsection (1) (b) above, as if for the reference to conviction on indictment there were substituted a reference to conviction by the High Court.

(4) In this section "enactment" has the same meaning as in the Interpretation Act 1964.

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"indictable  
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2.—For the removal of doubt as to the meaning of the expression "indictable offence" in the Criminal Procedure Act, the definition of that expression contained in section 2 (1) of that Act, as it applies in any part of Nigeria, shall be amended so as to read as follows—

"indictable offence" means any offence—

(a) which on conviction may be punished by a term of imprisonment exceeding two years; or

(b) which on conviction may be punished by imposition of a fine exceeding two hundred pounds,

not being an offence declared by the law creating it to be punishable on summary conviction;

but it is hereby declared that the meaning of that expression in that Act has always been as stated in the amended definition set out above.

Amendment  
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3. For section 3 (2) of the Criminal Procedure (Northern Region) Act 1960 (which is now spent) there shall be substituted the following subsection—

"(2) In the application of any Federal Act or any Decree to the Northern Region—

(a) any reference to summary trial, trial in a summary manner or summary conviction (other than a reference to summary trial, trial in a summary manner or summary conviction by the High Court) shall be construed as a reference to trial solely by a magistrate's court or conviction by a magistrate's court, as the case may be; and

(b) any reference to summary trial, trial in a summary manner or summary conviction by the High Court shall be construed as a reference to trial or conviction, as the case may be, by the High Court where the accused has not been committed for trial after a preliminary inquiry by a magistrate."

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The Hydrocarbon Oil Refineries Act 1965 (No. 17).	In section 7 (1) (b), delete "on indictment" and insert "by the High Court".
The Registered Land Act 1965 (No. IV).	In section 159 (1), delete "on indictment" and from "or liable" to the end of the subsection.
The Food and Drugs (Lagos) Act 1965 (No. IX).	In section 16 (1), delete from "(a) on" to "indictment" and insert "on conviction".



## PART II

## ENACTMENTS PROVIDING FOR CONVICTION ON INDICTMENT ONLY

<i>Act</i>	<i>Amendment</i>
The Insurance (Miscellaneous Provisions) Act 1964 (No. 19).	In section 1 (4), delete "on indictment" and insert "by the High Court". In section 2 (5), delete "on indictment" and insert "by the High Court".
The Trade Marks Act 1965 (No. 29).	In section 60, delete "on indictment" and insert "by the High Court".

DATED at Lagos this 7th day of March 1966.

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

## EXPLANATORY NOTE

*(This note does not form part of the above Decree, but is intended to explain its purposes.)*

The above Decree does three things. Section 1 eliminates from existing Federal enactments references to conviction "on indictment", since this form of procedure no longer exists in the Criminal Procedure Law of Northern Nigeria. Section 2 clarifies the definition of "indictable offence" in the Criminal Procedure Act (Cap. 43) by making the wording accord with what has been held to be the true meaning of that definition. Section 3 inserts into the Criminal Procedure (Northern Region) Act 1960 a new subsection which, in relation to Northern Nigeria, will translate references to summary trial or summary conviction occurring in existing Federal Acts or in Decrees into terms appropriate to the criminal procedure of that Region.

# THE PROBATES (RE-SEALING) DECREE 1966



## ARRANGEMENT OF SECTIONS

### Section

1. Re-sealing of probates and letters of administration granted in Commonwealth countries.
2. Re-sealing of probates and letters of administration granted in a Region.
3. Conditions to be fulfilled before re-sealing.

4. Duplicate or copy of probate etc, admissible.
5. Security for payment of debts.
6. Effect of re-sealing.
7. Rules of Court.
8. Interpretation.
9. Repeal.
10. Short title and extent.

## Decree No. 13

[7th March 1966]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. Where a court having jurisdiction in matters of probate in a Commonwealth country has, either before or after the commencement of this Decree, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, subject to the provisions of this Decree, on being produced to, and a copy thereof deposited with, the High Court of a Region, be re-sealed with the seal of that Court.

Re-sealing  
of probates  
and letters  
of adminis-  
tration  
granted in  
Common-  
wealth  
countries.

2. Where the High Court of a Region has, either before or after the commencement of this Decree, granted probate or letters of administration in respect of the estate of a deceased person, the probate or letters so granted may, subject to the provisions of this Decree, on being produced to, and a copy thereof deposited with, the High Court of any other Region be re-sealed with the seal of that court.

Re-sealing  
of probates  
and letters  
of adminis-  
tration  
granted  
in a Region.

3. The High Court of a Region shall, before re-sealing a probate or letters of administration under this Decree, be satisfied—

Conditions  
to be fulfilled  
before  
re-sealing.

Duplicate  
or copy of  
probate etc.,  
admissible.

Security for  
payment of  
debts.

Effect of  
re-sealing.

Rules of  
court.

Interpreta-  
tion.

1963 No. 20.

Repeal.  
Cap. 161.  
Short title  
and extent.

(a) that probate duty has been paid in respect of so much, if any, of the estate as is liable to probate duty in that Region ; and

(b) in the case of letters of administration, that security has been given in a sum sufficient in amount to cover the property, if any, in that Region to which the letters of administration relate ;

and may require such evidence, if any, as it thinks fit as to the domicile of the deceased person.

4. For the purposes of this Decree, a duplicate of any probate or letters of administration sealed with the seal of the court by which the grant was made, or a copy thereof certified as correct by or under the authority of that court, shall be admissible in the proceedings before the High Court of any Region.

5. The High Court of a Region may, if it thinks fit, on the application of any creditor, require, before re-sealing, that adequate security be given for the payment of debts due from the estate to creditors residing in that Region.

6. A probate or letters of administration re-sealed by the High Court of any Region under this Decree, shall have the like force and effect and have the same operation in the Region in which it is re-sealed as if granted by the High Court of that Region.

7.—(1) The Chief Justice of the High Court of any Region may make rules of court for regulating the procedure and practice, including fees and costs, in that Court, of and incidental to an application for the re-sealing of a probate or letters of administration under this Decree.

(2) Subject to any modifications and exceptions made by such rules the enactments for the time being in force in relation to the payment of fees and probate duty shall apply as if the person who applies for re-sealing under this Decree were a person applying for probate or letters of administration in Nigeria.

8. In this Decree—

“Commonwealth country” means a country to which section 14 of the Constitution of the Federation applies ; and

“Region” includes Lagos.

9. The Probates (Re-sealing) Act is hereby repealed.

10. This Decree may be cited as the Probates (Re-sealing) Decree 1966, and shall apply throughout the Federation.

DATED at Lagos this 7th day of March 1966.

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