

Supplement to Official Gazette Extraordinary No. 85, Vol. 53, 1st September,
1966—Part A

THE CONSTITUTION (SUSPENSION AND MODIFICATION)
(No. 9) DECREE 1966



Decree No. 59

[Appointed day 1st September 1966—but see ss. 5 (2) and 6 (2)]

Commence-
ment.

THE NATIONAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Subject to the provisions of this Decree, Nigeria shall as from 1st September 1966 (in this Decree referred to as “the appointed day”) again be a Federation in accordance with sections 2 and 3 of the Constitution of the Federation ; and accordingly the following Decrees are hereby repealed as from the appointed day, that is to say—

Nigeria to be
a Federation
again.
1963 No. 20.

(a) the Constitution (Suspension and Modification) (No. 2) Decree 1966 ; 1966 No. 14.

(b) the Constitution (Suspension and Modification) (No. 5) Decree 1966 (in this Decree referred to as “Decree No. 34”) ; and 1966 No. 34.

(c) the Constitution (Suspension and Modification) (No. 6) Decree 1966. 1966 No. 36.

(2) Subject to the provisions of the Constitution (Suspension and Modification) Decree 1966 (in this Decree referred to as “the principal Decree”) and of this Decree, the following provisions shall come into force again on the appointed day, that is to say—

1966 No. 1.

(a) section 104 (8) of the Constitution of the Federation (which is suspended by virtue of the Decree mentioned in subsection (1) (a) above) ;

(b) the suspended provisions of the said Constitution which are mentioned in Schedule 2 of Decree No. 34, except subsection (4) of section 147 ; and

(c) the suspended provisions of the constitution of each Region which are mentioned in Schedule 3 of Decree No. 34.

Section
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Section
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1. From the appointed day—
2. The name of Nigeria shall again be known as the Federal Republic of Nigeria;
3. The Executive Council established by section 8 of the principal Decree shall be known as the Federal Executive Council;
4. The territory shall be known as the Federal territory;
5. The provisions mentioned in sections 2 and 4 of the Constitution Suspension and Modification, (No. 6) Decree shall re-vest in the bodies in which they were vested immediately before the commencement of this Decree;
6. Instruments made between the commencement of Decree No. 34 and the appointed day—
7. References to a group of provinces or to the Northern, Eastern, Western or Mid-Western Group of Provinces there shall be substituted references to a Region or to Northern, Eastern, Western or Mid-Western Nigeria as the case may be;
8. References to "Republic" and "National", where used in reference to Nigeria shall be substituted respectively the words "Federation" and "Federal";
9. From the appointed day the Military Governor of a Region shall exercise powers as provided by subsections (2), (3), (5), (6) and (7) of section 3 of the principal Decree, and accordingly—
10. Sections 3 and section 4 (6) of the principal Decree, are hereby repealed from the appointed day; and
11. Decrees made by the Military Governor of a Region before 24th May 1966, by virtue of section 2 (6) of Decree No. 34, has effect immediately before the appointed day as a Decree shall, as from the appointed day, have effect, and be deemed always to have had effect, as an Act;
12. From the appointed day there shall no longer be one single public service as provided in section 3 of Decree No. 34, and instead the public service of the Federation and the public service of each Region—
13. There shall be separate services, each with its own Public Service Commission as before the commencement of Decree No. 34; and
14. They shall be known respectively as the public service of the Federation and the public service of that Region.
15. Accordingly every person who immediately before the appointed day was a member of the unified National Public Service created by the principal Decree No. 34; but
16. If Decree No. 34 had not been made, be a member of the public service of the Federation or of the public service of a Region, shall on the appointed day become a member of the public service of the Federation or of the public service of that Region, as the case may be, and shall thereafter be treated for all purposes as having been a member of that public service throughout the period during which he was a member of the National Public Service aforesaid.

4.—(1) As from the appointed day the provisions of section 101 of the Constitution of the Federation (which relates to the prerogative of mercy) shall apply to the following offences only, that is to say—

Prerogative
of mercy.
1963 No. 20

- (a) any offence created by or under an Act of Parliament or Decree ;
- (b) any offence created by or under any law in force in the Federal territory, not being an offence falling within paragraph (a) above ; and
- (c) any offence created by or under any law in force in a Region relating to any matter included in the Exclusive Legislative List or the Concurrent Legislative List, not being an offence falling within paragraph (a) above or an offence created by or under a law made by the Legislature or Military Governor of that Region ;

and accordingly subsection (4) of that section shall come into force again on the appointed day, and as from that day subsections (1) and (4) of that section (as originally enacted) shall have effect subject to the modifications relating thereto specified in Schedule 2 of the principal Decree, as amended by this Decree.

(2) As from the appointed day subsections (1) and (3) of section 46 of the Constitution of Northern Nigeria (which relates to the prerogative of mercy) and the corresponding provisions of the constitutions of the other Regions shall come into force again and shall have effect subject to the modifications relating thereto specified in Schedule 4 of the principal Decree, as amended by this Decree.

5.—(1) The members of the Police Service Commission shall be appointed by the Head of the Federal Military Government ; and accordingly in the entry in Schedule 2 of the principal Decree relating to section 109 of the Constitution of the Federation, for the words "Federal Executive Council", in both places where they occur, there shall be substituted the words "Head of the Federal Military Government".

Appoint-
ment etc. of
members of
Police
Service
Com-
mission.

(2) Subsection (1) above (which re-enacts section 6 of Decree No. 34) shall be deemed to have come into force on 24th May 1966.

6.—(1) Power to appoint persons to hold or act in the office of justice of the peace in Lagos and to dismiss and exercise disciplinary control over any person holding or acting in that office shall vest in the Attorney-General of the Federation.

Appoint-
ment etc. of
justices of
the peace in
Lagos.

(2) Subsection (1) above (which re-enacts section 3 of the Decree mentioned in section 1 (1) (c) of this Decree) shall be deemed to have come into force on 20th May 1966.

7. As from the appointed day the principal Decree shall have effect subject to the amendments specified in the Schedule of this Decree.

Conse-
quential
amendments
of principal
Decree.

8.—(1) As from the appointed day the principal Decree, as amended by this and any other Decree in force on that day, shall have effect with such modifications (whether by way of addition, alteration or omission) as may be necessary to bring it, and through it—

Transitional
and saving
provisions.

(a) the unsuspended provisions of the Constitution of the Federation and of the constitution of each Region ; and

(b) all existing law within the meaning of subsection (1) of section 12 of the principal Decree, so far as in force immediately before the appointed day; and

(c) all other law which would be existing law within the meaning of the said subsection (1) if the references in that subsection to 16th January 1966 were references to the appointed day,

into conformity with this Decree.

(2) Without prejudice to the generality of subsection (1) above, section 13 of the principal Decree (which makes provision for the saving of existing offices, appointments, etc.) shall, with such modifications as may be necessary in consequence of this Decree, have effect in relation to the appointed day in like manner as it has effect in relation to 16th January 1966.

(3) Nothing in this Decree shall affect the validity of anything done before the appointed day.

(4) Anything done on or after 17th August 1966 but before the appointed day which would have been validly done if the appointed day had been 17th August 1966 instead of the day mentioned in section 1 (1) of this Decree shall be deemed to have been validly done.

Citation,
extent etc.

9.—(1) This Decree may be cited as the Constitution (Suspension and Modification) (No. 9) Decree 1966 and shall apply throughout Nigeria.

(2) The following Decrees may be cited together as the Constitution (Suspension and Modification) Decrees (Nos. 1 to 9), namely—

1966 No. 1.

The Constitution (Suspension and Modification) Decree 1966.

1966 No. 17.

The Constitution (Suspension and Modification) (No. 3) Decree 1966

1966 No. 20.

The Constitution (Suspension and Modification) (No. 4) Decree 1966

1966 No. 50

The Constitution (Suspension and Modification) (No. 7) Decree 1966

1966 No. 55.

The Constitution (Suspension and Modification) (No. 8) Decree 1966

This Decree.

The Constitution (Suspension and Modification) (No. 9) Decree 1966

(5) In this Decree

“the appointed day” means 1st September 1966;

“the principal Decree” means the Constitution (Suspension and Modification) Decree 1966;

“Decree No. 34” means the Constitution (Suspension and Modification) (No. 5) Decree 1966.

Section 7.

SCHEDULE

AMENDMENTS OF PRINCIPAL DECREE

1. In section 16

(a) after the definition of “Edict” there shall be inserted the following definition—

“‘enactment’, unless the contrary intention appears, includes any provision of a Decree or Edict;” ; and

(b) after the definition of “Head of the Federal Military Government” there shall be inserted the following definition—

“‘Military Governor’, in relation to a Region, means the Military Governor of that Region.”

2. In Schedule 1, the entry beginning with the words "Section 101(2)" shall be amended to read "Sections 101(2) and (3)", and the entry beginning with the words "Sections 102" shall have effect as if section 1 of the Constitution (Suspension and Modification) (No. 2) Decree 1966 had never come into force.

1966 No. 14.

3. In Schedule 2, for the entry relating to section 101(1) of the Constitution of the Federation there shall be substituted the following entry—

'Section 101

In subsection (1), for the word "President" there shall be substituted the words "Supreme Military Council", and after the word "Parliament" there shall be inserted the words "or Decree".

In subsection (4), after the word "Parliament", wherever it occurs, there shall be inserted the words "or a Decree"; and in paragraph (b), after the words "that Region" there shall be inserted the words "or by the Military Governor of that Region".

4. In Schedule 2, the entry relating to section 104 of the Constitution of the Federation shall have effect as if section 1 of the Constitution (Suspension and Modification) (No. 2) Decree 1966 had never come into force.

5. In Schedule 2, after the entry relating to section 146 of the Constitution of the Federation there shall be inserted the following entry—

'Section 147

In subsection (2), after paragraph (d) there shall be inserted the following paragraph—

"(e) the office of justice of the peace.",

and the word "or" in paragraph (c) shall be omitted.

6. In Schedule 2, in the entry relating to section 165 of the Constitution of the Federation, in the second paragraph, for the words "a member" there shall be substituted the words "the Attorney-General of the Federation or a member".

7.—(1) In Schedule 4, after the entry in Part II relating to section 44 of the Constitution of Northern Nigeria and after the corresponding entries in Parts III, IV and V, there shall be inserted the entry set out in sub-paragraph (2) below; but in Parts IV and V the entry shall be headed "Section 44" instead of "Section 46".

(2) The said entry is as follows—

'Section 46

In subsection (3), after the word "Parliament" there shall be inserted the words "or a Decree".

8. In Schedule 4, the entries in Part II relating to sections 59, 60, 62(2) and 66 of the Constitution of Northern Nigeria and the corresponding entries in Parts III, IV and V shall have effect as if section 7(2)(b) and Schedule 4 of Decree No. 34 had never come into force.

9. In Schedule 4, in the entry in Part II relating to section 78 of the Constitution of Northern Nigeria, and in the corresponding entries in Parts III, IV and V, in the paragraph relating to subsection (3), for the words "a member" there shall be substituted the words "the Attorney-General of the Region or a member".

10. In this Schedule "the corresponding entries in Parts III, IV and V", in relation to an entry in Part II of Schedule 4 relating to a provision of the Constitution of Northern Nigeria, means the entries in Parts III, IV and V of Schedule 4 relating to the corresponding provisions of the constitutions of the other Regions.

DATED at Lagos this 31st day of August 1966.

LIEUTENANT-COLONEL Y. GOWON,
*Head of the National Military Government,
Supreme Commander of the Armed Forces,
Republic of Nigeria*