

THE INTERIM COMMON SERVICES AGENCY DECREE 1968



ARRANGEMENT OF SECTIONS

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Decree No. 12

[See section 9 (3)]

Commence-
ment.

WHEREAS the Federal Military Government is satisfied that the services and institutions hereinafter referred to cannot, within the time prescribed by the Interim Administrative Councils Decree 1967, be apportioned or otherwise allocated to the states of the former territory of Northern Nigeria (otherwise known as the Northern Region) and it is expedient and necessary to make other and temporary provision for the continuance of the services and institutions aforesaid by means of the interim common services agency :

THE FEDERAL MILITARY GOVERNMENT therefore hereby decrees as follows :—

1.—(1) On the coming into operation of this Decree the interim administrative council (in this Decree hereafter referred to as "the council") established by section 1 (1) (a) of the Interim Administrative Councils Decree 1967 for the territory formerly known as the Northern Region shall be replaced by an agency to be known as the Interim Common Services Agency (in this Decree hereafter referred to as "the agency") and references to the interim administrative council aforesaid in the Decree of 1967 aforesaid or any other enactment or Law shall be construed as references to the agency under this Decree to the extent necessary to give effect hereto.

Replace-
ment of
interim
administra-
tive council
by an
agency.
1967 No. 18.

(2) The agency shall be a body corporate with succession subject to this Decree and a common seal; and the agency shall have power to enter into contracts and be capable of holding property of any description, and of suing and being sued.

(3) The agency shall consist of one fit person from each state of the former territory aforesaid appointed by the Head of the Federal Military Government and the chairman shall be appointed by the members from amongst their number.

(4) The supplementary provisions set out in Schedule 1 to this Decree shall have effect with relation to the agency and its powers not elsewhere prescribed in this Decree, and the other matters (including procedure) there mentioned.

Schedule 1.

2.—(1) Subject to the provisions of any instrument executed by the chairman of the council before the commencement of this Decree under section 1 (5) of the Interim Administrative Councils Decree 1967,—

Vesting of
property etc.
in agency.
1967 No.18.

(a) the rights and obligations under any contract entered into by the council or vested therein under the provisions of section 4 (1) of the Interim Administrative Councils (Amendment) Decree 1967 shall vest in the agency and the agency may by an instrument executed by it apportion such rights and obligations among the states ;

1967 No. 26.

(b) any immovable or movable property held by the council in trust for the governments of the states shall vest in the agency upon the trust aforesaid.

(2) Notwithstanding the provisions of subsection (1) above, the agency may by an instrument executed by it vary the provisions of any instrument executed by the chairman of the council under the provisions of section 1 (5) of the Interim Administrative Councils Decree 1967.

Special
powers etc.
of agency.

Schedule 2.

Schedules 3,
4 and 5.

Services to
be adminis-
tered by
Federal
Military
Government.

Schedule 6.

1966 No. 1.

Revenue.

3.—(1) Subject to the provisions of this section the agency shall, in addition to any other power conferred by this Decree—

(a) in respect of the interim and transitional common services set out in Schedule 2 and to be adjusted or apportioned, as the case may be, between the states or any of them entitled, replace the council to any extent necessary so as to adjust or apportion the common services as aforesaid ;

(b) until other provision is made in respect thereof, have control of the operation and general management of the services and institutions mentioned in Schedules 3 and 4, and the powers and interests in divers statutory bodies mentioned in Schedule 5 subject to such modifications as are necessary to give effect to such control and general management ; and all existing law, in relation to the services and institutions mentioned in Schedules 3 and 4 and to the statutory bodies mentioned in Schedule 5, which is in force immediately before the date of the commencement of this Decree or has been passed or made before that date and comes into force on and after that date shall have effect as if made by the Federal Military Government, and the Head of that Government may, if requested by the agency, at any time within the period of twelve months beginning with the commencement of this Decree, by order make such changes in the text of any such provision as may be considered appropriate for the purpose of bringing that text into conformity with the provisions hereof, and the validity of an order when made in purported exercise of the powers conferred hereby shall not be impugned on the ground that any change made by the order is inconsistent with the provisions of this paragraph.

(2) Subject to such conditions as it may think fit to impose the agency may appoint its own staff for the purpose of discharging its functions under this Decree.

(3) Where for the purposes of this section legislation is necessary to implement a decision taken after the commencement of this Decree, it shall be enacted by the Federal Military Government.

4. Where any service to be taken over by the Federal Military Government and referred to in Schedule 6 is the subject of an existing enactment or Law, that enactment or Law shall with effect from the date when the service is so taken over by the Federal Military Government, and during such time only as it is so taken over, for the purposes of section 12 of the Constitution (Suspension and Modification) Decree 1966 be construed as existing law within the exclusive competence of the Federal Military Government and it shall be modified accordingly, so however that the date of such taking over shall be substituted for the date mentioned in subsection (2) of the section aforesaid ; and in the case of any service which is not the subject of legislation at the date when so taken over, the service shall be deemed to be an item in the Exclusive Legislative List.

5.—(1) The revenue of the agency shall include—

(a) investments and moneys held by the interim administrative council at 31st March 1968 or revenue outstanding in its favour at that date ;

(b) any other amounts, charges or dues recoverable by the agency ;

(c) revenue from time to time accruing due from services provided or by way of subvention, grant-in-aid, or otherwise howsoever ;

(d) interest on investments ;

(e) moneys borrowed ;

(f) revenue from any other authorised source.

(2) Revenue when received shall be paid for credit of the agency into a bank or in any other manner approved by the agency.

6.—(1) As soon as may be after the end of March in any year after the commencement of this Decree the agency shall cause to be prepared a statement of its income and expenditure during the previous financial year together with a statement of the assets as valued by a competent valuer and of the liabilities of the agency as at the last day of the financial year concerned.

Estimates.

(2) The statements referred to in subsection (1) above shall be audited within six months thereafter by an auditor appointed by the agency and the auditor shall have all the powers heretofore enjoyed by the Director of Audit of the former Northern Region. A statement when so audited shall be submitted by the auditor to the secretary of the agency, and copies of the statement as so audited together with the report of the auditor shall be provided for each member of the agency for transmission to the respective governments of which they are representatives.

(3) The secretary shall as soon as may be after the commencement of this Decree cause to be prepared estimates of revenue and expenditure for the financial year ending 31st March 1969 unless the agency directs the adoption with or without amendment of other estimates if prepared for the interim administrative council; and thereafter in respect of each ensuing financial year the secretary shall in the previous December cause to be prepared the like estimates for consideration by the agency.

7. If default is made at any time by any state in the payment to the agency of any amount accruing due to the agency for services provided by it to such state or otherwise howsoever, the agency shall notify the Head of the Federal Military Government of the default and thereafter the Federal Military Government may set off the amount in respect of which default is made, in or towards the payment of any sum due from the Federal Military Government to such state; and the Federal Military Government shall pay any sum so set off to the agency.

Set off.

8.—(1) To the extent to which it is necessary to make provision for the winding up of the affairs of the council, Schedule 7 to this Decree shall have effect; and subject thereto the Interim Administrative Councils Decree 1967 shall cease to apply in the states.

Effect of winding up of interim administrative council.

(2) In the application of this section, the agency shall not be liable for or chargeable with any fee prescribed by any enactment or Law for the doing of any act, or prescribed under any rule of court.

9.—(1) This Decree may be cited as the Interim Common Services Agency Decree 1968 and shall continue in force for a period of two years and unless sooner extended by the Head of the Federal Military Government (by order) if he thinks fit for a period not exceeding at any one time, one year, it shall then expire.

Citation, application, interpretation, etc.

(2) In this Decree—

“interim administrative council” means the interim administrative council established in respect of the territory formerly known as the Northern Region;

"Law" includes any Law made by the Legislature of Northern Nigeria, any edict made by the Military Governor of Northern Nigeria or by the Military Governor of any state, and any directions given or issued by the interim administrative council under the provisions of section 6 of the Interim Administrative Councils (Amendment) Decree 1967;

"states" means the six states created out of the former territory of Northern Nigeria.

(3) This Decree shall be deemed to have come into operation on 1st April 1968 so however that the amendment made by subsection (4) shall be deemed to have come into force immediately before that date.

1967 No. 26.

(4) The Interim Administrative Councils (Amendment) Decree 1967 is amended in section 1 (1) by deleting the symbol "(a)" where it occurs immediately after the word "and—"; and thereafter by repealing all words in that subsection following the first reference to "interim councils", up to the end of the subsection.

(5) Sections 2, 3 and 5 of the Interim Administrative Councils (Amendment) Decree 1967 (which refer to finance and the public service respectively) shall cease to apply in respect of the states under this Decree.

1967 No. 25.

(6) Section 1 of the States (Creation and Transitional Provisions) (Amendment) (No. 2) Decree 1967 shall, be construed as if in respect of the former territory of Northern Nigeria, the references to vesting of property to that former territory were references to vesting of property in the states under the Interim Common Services Agency Decree 1968 and references to a council in the Decree of 1967 aforesaid in respect of that former territory were references to the agency under the Decree of 1968 aforesaid.

1968 No. 12.

(7) The following amendments consequential on this Decree shall have effect, that is to say,—

1967 No. 38.

(a) references in the Interim Administrative Councils Decree 1967 shall however worded be construed in respect of the states under this Decree (but not otherwise) as references to the agency under this Decree;

(b) for all words in section 1 (1) (a) of the Decree aforesaid after the words "Northern Region," up to the end of the paragraph, there shall be substituted the words "an agency, the members of which shall be appointed under the Interim Common Services Agency Decree 1968";

(c) section 1 (2) to (6) of the Decree aforesaid shall cease to apply in respect of the states under this Decree.

(8) The Interim Administrative Councils (Amendment) (No. 2) Decree 1967 is hereby repealed.

MADE at Lagos this 4th day of April 1968.

MAJOR-GENERAL Y. GOWON,
Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria

SCHEDULES

SCHEDULE 1

Section 1 (6)

Supplementary Provisions regarding the Agency

Qualifications and tenure of office of members

1. A member shall hold office during the pleasure of the Military Governor of the state on whose recommendation he was appointed or the agency ceases to exist whichever event first happens.

Secretary of the Agency

2.—(1) There shall be a secretary of the agency who shall be appointed by the agency and shall attend all meetings of the agency.

(2) The secretary shall supply information to the agency as and when required; and with the approval of the chairman given in any particular case, may take part in deliberations of the agency but whether or not he takes part in its deliberations he shall not vote on any question before the agency.

(3) In the absence of the secretary from any meeting of the agency, the chairman shall appoint a fit person to act.

Powers of the agency

3.—(1) The agency where not inconsistent with this Decree, may—

(a) dispose of property no longer required by it on such terms as it thinks fit, and whether by way of sale, mortgage, lease or in any other manner whatsoever;

(b) erect, provide, equip, and maintain and keep in repair buildings necessary for carrying into effect the provisions of this Decree;

(c) invest its funds in Government securities in Nigeria or in any other manner approved by the agency.

(2) Any contract or instrument which, if entered into or executed by a person not being a body corporate would not require to be under seal, may be entered into or executed on behalf of the agency by any member generally or specially authorised for the purpose by the agency.

(3) The agency may in the exercise of its authority under this Decree—

(a) institute posts and make appointments thereto and prescribe conditions of service;

(b) provide amenities for and make such other provision for the welfare of staff as it may from time to time think fit.

Proceedings of the agency

4. Section 26 of the Interpretation Act 1964 (which provides for decisions of a body of three or more to be taken by a majority of the members of the body and for the chairman to have a second or casting vote) shall not apply to proceedings of the agency; and subject to the provisions of this Decree the agency, not inconsistent with the provisions of this Schedule, may make standing orders regulating its own proceedings (but likewise without conferring a casting vote in the event of a tie), or proceedings of any committee of the agency.

1964 No. 1.

5. A meeting of the agency may be held when at least five members are personally present, but the quorum of any committee of the agency shall be determined by the agency.

6.—(1) Subject to the provisions of any standing orders of the agency, the agency shall meet whenever it is summoned by the chairman, and if the chairman is required so to do by notice given to him by not less than two members, he shall summon a meeting of the agency to be held within fourteen days from the date on which the notice is given. If the chairman fails to convene the meeting the Head of the Federal Military Government may in his discretion convene it.

(2) Where the agency desires to obtain the advice of persons on a particular matter, it may co-opt any person as a member for a meeting whether or not expressly convened for the purpose of considering the particular matter, but any person who is a member by virtue of this sub-paragraph shall not be entitled to vote at the meeting and shall not count towards its quorum.

(3) Notwithstanding anything in the foregoing provisions of this paragraph, the first meeting of the agency shall be summoned by the Head of the Federal Military Government, and he may give such directions as he thinks fit as to the procedure to be followed at the meeting.

7. A decision by four members present at a meeting in favour of or against a resolution proposed at that meeting shall, unless by or under this Decree the decision is to be unanimous, bind all member states.

8. In the event of a dispute as between the agency and the government of a state, the dispute shall be referred to the Head of the Federal Military Government who may in his discretion appoint an arbitrator; and a decision of the arbitrator when approved by the Head of the Federal Military Government shall not be subject to review or appeal in any court, but shall be final and binding on the parties to the dispute.

Committees

9.—(1) The agency may appoint one or more committees, consisting of such persons as it may think fit, to carry out, on behalf of the agency such of its functions, as the agency may determine; and the agency may delegate to any committee powers not exclusively to be exercised by the agency or by its chairman.

(2) A committee appointed under this paragraph shall consist of the number of persons determined by the agency.

Miscellaneous

10. The agency may by instrument regulate any matter under its control by virtue of this Decree; and when made, such instrument shall be in writing signed by the chairman.

11. The validity of any proceedings of a committee of the agency shall not be affected by any vacancy in the membership of the committee or by any defect in the appointment of a member to serve on a committee, or by reason that a person not entitled to do so took part in proceedings whether of the agency or of a committee.

12. Any member of the agency or of a committee thereof who has a personal interest in any contract or arrangement entered into or proposal to be considered by the agency or a committee thereof shall forthwith disclose his interest to the agency, and shall not vote on any question relating to the contract or arrangement.

SCHEDULE 2

Section 3 (1) (a)

Interim and Transitional Common Services

- (a) Advanced Teachers Training Colleges, Kano and Zaria ;
- (b) Agricultural Field Surveys ;
- (c) Development of Agricultural Mechanical Technique Unit ;
- (d) Forestry School, Jos ;
- (e) Government Press, Kaduna ;
- (f) High Courts ;
- (g) Industrial Development Centre, Samaru ;
- (h) Land Use Surveys ;
- (i) Leprosy School, Zaria ;
- (j) Mechanical Workshops, Kaduna and Jos ;
- (k) Native Authority Wing of Northern Police College ;
- (l) Office of Adviser on Community Development ;
- (m) Office of Legal Draftsman ;
- (n) Overseas commitments outstanding in respect of in-service training ;
- (o) Road Surveys ;
- (p) Savannah Area Surveys ;
- (q) Scholarships outstanding ;
- (r) Sharia Court of Appeal ;
- (s) Small Industries Credit Organisation ;
- (t) Smallpox and Measles Campaign ;
- (u) Study Group set up in respect of Native Authorities Loans Authority and Native Authorities' Pension Fund ;
- (v) Survey Services and records ;
- (w) Valuation Unit ;
- (x) Water Supplies Depot, Kaduna.

SCHEDULE 3

Section 3 (1) (b)

Services and Institutions for Consideration as Part of
Ahmadu Bello University

- (a) Agricultural Extension Research Liaison Service, Samaru ;
- (b) Community Nurses Training School, Kaduna ;
- (c) Dispensaries, Kaduna, Samaru and Zaria ;
- (d) General Hospital, Kaduna ;
- (e) General Hospital, Malunfashi ;
- (f) General Hospital, Zaria ;
- (g) Hospital Training Schools for Midwives, Kaduna ;

- (h) Hospital Training School for Nurses, Kaduna and Zaria ;
- (i) Livestock Services Training Centre, Kaduna ;
- (j) Medical Auxiliaries Training School, Kaduna ;
- (k) Nurses Training Schools, Kaduna and Kano ;
- (l) Nursing Home, Kaduna ;
- (m) Orthopaedic Hospital, Kano ;
- (n) Pathological Laboratory, Kaduna ;
- (o) School of Hygiene, Kano ;
- (p) School of Pharmacy, Zaria ;
- (q) School of Agriculture, Kabba and Samaru.

SCHEDULE 4

Section 3 (1) (b)

Services and Institutions for consideration as Part of
Kaduna Polytechnic

- (a) Community Development Institute ;
- (b) Co-operatives Training Centre, Zaria ;
- (c) Irrigation School, Sokoto ;
- (d) Local Government Training Centre, Zaria ;
- (e) Polytechnic, Kaduna ;
- (f) Social Welfare Training Centre, Zaria ;
- (g) Staff Development Centre, Kaduna.

SCHEDULE 5

Section 3 (1) (b)

Powers and Interests of Interim Administrative Council in
Divers Statutory Bodies

- (a) Ahmadu Bello University ;
- (b) Livestock and Meat Authority ;
- (c) Native Authorities Loans Authority ;
- (d) Northern Nigeria Housing Corporation ;
- (e) Northern Nigeria Marketing Board ;
- (f) Northern Nigeria Radio Corporation.

SCHEDULE 6

Section 4

Services to be taken over by the Federal Military
Government

- (a) Ahmadu Bello Stadium ;
- (b) Hides, Skins, and Leather Project ;
- (c) Laboratory Investigation Service ;
- (d) Locust Control ;
- (e) Meat Inspection (other than the inspection of meat for consumption in Nigeria) ;
- (f) Motor Licensing (other than in respect of Benue/Plateau State) ;
- (g) Quelea Birds Control ;
- (h) Schools Broadcasting ;
- (i) Trypanosomiasis and Sleeping Sickness Control ;
- (j) Soil Conservation projects other than local soil conservation schemes ;
- (k) Vehicle Inspection (other than in respect of Benue/Plateau State).

SCHEDULE 7

Section 8

Provisions relating to Winding up of Interim Administrative Council

1. Where it appears to the agency that any property was held as to one part for some only of the states and as to another part for others of them, the agency may notwithstanding anything in this Decree, by an instrument executed by the agency allocate those parts in such manner as the agency thinks fit.

2.—(1) Subject to the provisions of any instrument executed by the chairman of the interim administrative council under the provisions of section 1 (5) of the Interim Administrative Council Decree 1967, every agreement to which the interim administrative council was a party immediately before the commencement of this Decree whether in writing or not and whether or not of such a nature that rights (including benefits) and liabilities and obligations thereunder could be assigned by that council, shall, unless its terms or subject matter make it impossible that it should have effect as modified in the manner provided by this paragraph, have effect as from the commencement of this Decree, so far as it relates to property transferred or otherwise affected by this Decree on that date, as if—

- (a) the agency had been a party to the agreement ;
- (b) for any reference (however worded and whether express or implied) to the interim administrative council there were substituted, as respects anything falling to be done on or after the commencement of this Decree, a reference to the agency ; and
- (c) for any reference (however worded and whether express or implied) to a member or officer of the interim administrative council there were substituted, as respects anything falling to be done on or after the

commencement of this Decree, a reference to such person as the agency may appoint or, in default of appointment, to the member of the agency or as the case may be its secretary, who corresponds as nearly as may be to the member or officer in question of the interim administrative council.

(2) Other documents, including enactments or Laws, which refer, whether specially or generally, to the interim administrative council shall be construed in accordance with subparagraph (1) of this paragraph so far as applicable.

(3) Without prejudice to the generality of the foregoing provisions of this Schedule, where, by the operation of any of them or of section 8 of this Decree, any right, liability or obligation vests in the agency, that agency and all other persons shall, as from the commencement of this Decree, have the same rights, powers and remedies (and, in particular, the same rights as to the taking or resisting legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all time been a right, liability or obligation of the agency.

(4) Any legal proceedings or application to any authority pending on the commencement of this Decree by or against the interim administrative council and relating to property transferred by this Decree on that date to the agency may be continued on or after that date by or against the agency.

3. No stamp duty or other fees shall be payable in respect of any transfer of property by this Decree.

4. Anything done or omitted, whether before or after the commencement of this Decree, by the interim administrative council or the agency in anticipation of the transfer of any property effected by this Decree shall be and be deemed always to have been as valid as if the transfer in question had taken place.

5.—(1) The Federal Military Government may, if requested by the agency, by regulations make such ancillary, supplemental or incidental provision as it considers expedient for carrying out the purposes of this Decree.

(2) Regulations under subparagraph (1) above may provide that the foregoing paragraphs of this Schedule shall, in their application to any case specified by the regulations, have effect with such alterations (including omissions) as may be so specified.

(3) Regulations may be made so as to take effect from a date not earlier than the date of commencement of this Decree.

MADE at Lagos this 4th day of April 1968.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

**THE LAGOS STATE (INTERIM PROVISIONS)
DECREE 1968**



ARRANGEMENT OF SECTIONS

Section

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| <ol style="list-style-type: none">1. Financial provisions, etc. in respect of Lagos State.2. Delegation of executive functions to Military Governor.3. Establishment of Ministries and constitution of offices for Lagos State, etc.4. Establishment of Public Service Commission for Lagos State.5. Appointment, etc. of officers in public service of Lagos State. | <ol style="list-style-type: none">6. Appointment, etc. of permanent secretaries in Lagos State.7. Attorney-General of Lagos State.8. Public prosecutions etc.9. Audit of public accounts of Lagos State.10. Appointment etc. of Justice of the Peace for Lagos State.11. Prerogative of mercy.12. Citation, application and commencement. |
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Decree No. 13

[see section 11 (2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) For the purposes of the interim government of Lagos State there shall be a state fund from which shall be defrayed all expenses incurred by the Military Governor of the state (hereafter referred to as "the Military Governor") in the performance of his functions.

Financial
provisions
etc. in
respect of
Lagos State.

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

(a) such sums out of moneys provided by the Supreme Military Council as that Council may from time to time determine ; and

(b) all other moneys held by the Military Governor for the purposes of the Government of the state.

(3) The fund shall be managed in accordance with regulations made for the purpose by the Military Governor and without prejudice to the generality of the power hereby conferred, regulations shall—

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

(b) require the keeping of proper accounts and records for the purposes of the fund in such form as may be specified in pursuance of the regulations ;

(c) provide for the periodic auditing of the accounts by the Director of Audit of the state ; and

(d) require copies of the accounts and of the auditor's report thereon to be furnished to the Military Governor as soon as may be after the end of the period to which the accounts relate.

(4) Regulations under this section may provide—

(a) for the form in which the record is to be kept ;

(b) for the inspection by the Director of Audit of the state or otherwise howsoever, of the record and any assets required to be mentioned in the record ;

(c) for the furnishing to the Military Governor of information with respect to the record and any assets to be mentioned in the record in terms of paragraph (b) above, and, in particular, of reports on inspections made in pursuance of that paragraph.

2. Subject to section 7 (5) of the Constitution (Suspension and Modification) Decree 1966, all executive functions which immediately before 16th January 1966 were vested in or exercisable by the Governor, or any officer or authority, of a Region by virtue of section 86 or 99 of the Constitution of the Federation shall, as regards Lagos State, be deemed to have been duly delegated under section 7 (3) of the Constitution (Suspension and Modification) Decree 1966 to the Military Governor as from 27th May 1967.

Delegation
of executive
functions to
Military
Governor.1963 No. 20.
1966 No. 1.

Establishment of Ministries and constitution of offices for Lagos State etc.

3.—(1) Subject to the provisions of this Decree, the Constitution of the Federation and of any other enactment applicable to Lagos State, the Military Governor may establish ministries, departments or offices for the state, make appointments to any such ministries, departments or offices and terminate any such appointment.

(2) Until there is established a ministry or department of the Government of Lagos State to deal with matters or group of matters within the competence of the Government thereof the Military Governor shall make all necessary arrangements in respect thereof or relative thereto with any competent ministry, department, body corporate or local authority during the interim period; and any such ministry, department, body corporate or local authority affected thereby shall comply with all requirements of the said Military Governor not inconsistent with the provisions of the Constitution of the Federation.

1963 No. 20.

Establishment of Public Service Commission for Lagos State.

4.—(1) There shall be a Public Service Commission for Lagos State, which shall consist of a chairman and not less than two nor more than four other members.

(2) The members of the Public Service Commission of the state shall be appointed by the Military Governor, who shall also have power to terminate such appointment.

(3) The terms and conditions of service of members of the Public Service Commission of the state shall be determined by the Military Governor.

Appointments, etc. of officers in public service of Lagos State.

5.—(1) Power to appoint persons to hold or act in offices in the public service of Lagos State (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall, subject to section 6 of this Decree in respect of permanent secretaries, vest in the Public Service Commission of the State:

Provided that that Commission may, with the approval of the Military Governor and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the state.

(2) The powers conferred by subsection (1) of this section upon the Public Service Commission of the State shall, pending the establishment of that Commission, be exercisable by the Military Governor on the advice of the Public Service Commission of the Federation.

(3) Subsections (1) and (2) of this section shall not apply in relation to either of the following offices, that is to say,—

- (a) the office of any judge of the High Court of Lagos State; or
- (b) the office of Justice of the Peace for that state.

(4) The persons who, immediately before the commencement of this subsection held offices in the public service of Lagos State and however appointed thereto shall, on its commencement be deemed to have been duly appointed to corresponding offices therein by the appropriate authority under this Decree.

(5) Offices in the public service of the state shall be pensionable offices under the Pensions Act, and sections 152 and 153 of the Constitution of the Federation (which provide for the protection of pension rights and, among other things, the granting of the pensions to holders of offices in the public service of the Federation) shall apply *mutatis mutandis* to the protection of pension rights and the granting of pensions to holder of such offices in the public service of the state.

Cap. 147.
1963 No. 20.

6. Power to appoint persons to hold or act in the office of permanent secretary to any department of Government of Lagos State and to remove persons so appointed from that office shall vest in the Military Governor thereof.

Appointment, etc. of permanent secretaries in Lagos State.

7.—(1) The Military Governor may, if he thinks fit, appoint a person to be Attorney-General of Lagos State.

Attorney-General of Lagos State.

(2) Whenever and so long as no person holds the office of Attorney-General of Lagos State, any function which is conferred by this Decree or any other enactment on that Attorney-General shall vest in the Legal Secretary of the state and may be performed by him notwithstanding anything in subsection (3) of this section.

(3) A person shall not be qualified to hold or perform the functions of the office of the Attorney-General of Lagos State unless he is qualified for admission as a legal practitioner in Nigeria and has been so qualified for not less than ten years.

8.—(1) There shall be a Director of Public Prosecutions for Lagos State, whose office shall be an office in the public service of Lagos State and, without prejudice to the provisions of this Decree relating to the Public Service Commission of the state, an office in the Ministry of Justice of that state.

Public prosecutions, etc.

(2) Subject to the provisions of any enactment conferring extended powers as to prosecutions on the Attorney-General of the Federation, the Attorney-General of Lagos State (or in the event of his absence, inability for any reason to act, or non-appointment, the Legal Secretary thereof) shall have power in any case in which he considers it desirable so to do—

(a) to institute and undertake criminal proceedings against any person before any court of law in the state in respect of any offence created by or under any law ;

(b) to take over and continue any such criminal proceedings that have been instituted by any other person or authority ; and

(c) to discontinue at any stage before judgment is delivered in any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(3) The powers of the Attorney-General of Lagos State or that of the Legal Secretary thereof, as the case may be, under subsection (2) of this section may be exercised by him in person and through the Director of Public Prosecutions of the state acting under and in accordance with the general or specific instructions of the Attorney-General or of the Legal Secretary, as the case may, be and through the officers of the Ministry of Justice of that state, acting under and in accordance with such instruction.

(4) The Attorney-General of Lagos State or the Legal Secretary thereof, as the case may require, and so far as it is not inconsistent with the provisions of any other enactment, may confer a general or specific authority upon the Attorney-General of the Federation to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred by subsection (2) of this section and may vary or revoke any such authority.

(5) In the exercise of the powers conferred upon the Attorney-General of Lagos State by this section neither he nor, in his absence, inability of any reason to act or non-appointment the Legal Secretary thereof, shall be subject to the direction or control of any other person or authority.

(6) Except at the instance of the Attorney-General of Lagos State or the Legal Secretary thereof, as the case may require, the question whether he has given any instructions in pursuance of this section, or what the instructions were, shall not be inquired into by any court of law.

Audit of
public
accounts of
Lagos State.

9.—(1) There shall be a Director of Audit for Lagos State, whose office shall be an office in the public service of the state.

(2) The public accounts of the state and of all offices, courts and authorities of the state shall be audited and reported on by the Director of Audit of the state and for that purpose the Director or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of Lagos State shall submit his report to the Military Governor thereof who shall present it to the Executive Council of that state.

(4) In the exercise of his functions under this Decree the Director of Audit of Lagos State shall not be subject to the direction or control of any other person or authority.

Appoint-
ment, etc., of
justices of
the peace for
Lagos State.

10.—(1) As from the commencement of this section the power to appoint persons to hold the office of justice of the peace for Lagos State or any part thereof and to remove or suspend persons so appointed from that office shall vest in the Attorney-General of that state (or in the event of his absence, inability for any reason to act, or non-appointment) in the Legal Secretary thereof.

1966 No. 59.

1967 No. 13.

(2) Accordingly, section 6 of the Constitution (Suspension and Modification) (No. 9) Decree 1966 as continued in force by the Constitution (Repeal and Restoration) Decree 1967 (which relates to appointment etc. to the office of Justice of the Peace in Lagos) shall be amended by substituting for the words "the Federation" the words "Lagos State".

Prerogative
of mercy.

11.—(1) The Military Governor of Lagos State may—

(a) grant to any person concerned in or convicted of any offence created by or under any law in force in Lagos State a pardon, either free or subject to lawful conditions ;

(b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence ;

(c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence ; or

(d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the state on account of such an offence.

(2) The provisions of this section shall apply—

(a) in relation to any offence created by or under any law in force in Lagos State or in the part thereof comprising the former Federal Territory, not being an offence created by or under an Act of Parliament or a Decree in either case of Federal application; and

(b) in relation to any offence created by or under any law in force in Lagos State relating to any matter not included in the Exclusive Legislative List or the Concurrent Legislative List, (other than an offence created by or under an Act of Parliament or a law made in and for Lagos State),

as they apply to an offence created by or under any law in force in Lagos State, other than in respect of a Federal offence.

(3) Section 101 of the Constitution of the Federation (as revised by section 4 of the Constitution (Suspension and Modification) (No. 9) Decree 1966 shall be read and construed as if references to the exercise of the prerogative in respect of offences created by or under any law in force in the former Federal territory had been omitted, and section 101 aforesaid shall stand amended by repealing paragraph (a) of subsection (4) and section 4 aforesaid shall stand amended by repealing paragraph (b) of subsection (1).

(4) This section shall be deemed to have come into operation on the making of this Decree.

12.—(1) This Decree may be cited as the Lagos State (Interim Provisions) Decree 1968 and shall apply throughout the Federation.

(2) This Decree shall be deemed to have come into operation on 27th May 1967, so however that in respect of sections 5 (4) and 10 it shall be deemed to have come into operation on 1st April 1968, and section 11 shall have effect from the date of making of this Decree.

MADE at Lagos this 4th day of April 1968.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

1963 No. 20.
1966 No. 59.

Citation,
application
and commen-
cement.

EXPORT OF NIGERIAN PRODUCE (SPECIAL PROVISIONS)

DECREE 1968



Decree No. 14

[4th April 1968]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Subject to subsection (2) of this section, where the Federal Commissioner for Trade and Industries (in this Decree hereafter referred to as "the Commissioner") is satisfied that it is in the public interest so to do he may from time to time give to the Nigerian Produce Marketing Company Limited (in this Decree hereafter referred to as "the company") directions, either general or special, for the more effective management and control of export of Nigerian produce and the conservation of foreign exchange; and notwithstanding the provisions of any other enactment or rule of law, the company shall comply with directions so given by the Commissioner.

Powers of
Federal
Commis-
sioner for
Trade in
emergency,
and other
powers.

(2) Directions under the foregoing section shall be subject to review by the Federal Executive Council; but the countermand of a direction given by the Commissioner shall not affect things done or omitted to be done in compliance or intended compliance therewith and the failure to comply with a direction so given shall be an offence under this Decree, whether or not thereafter the direction is countermanded.

(3) Anything in the articles of association of the company (in this Decree hereafter referred to as "the articles") to the contrary or by necessary intendment notwithstanding, the articles shall have effect as if they included as part of the directorate three additional directors, being members of the public service of the Federation appointed by the Commissioner, of whom one shall be nominated by the Federal Commissioner for Finance, another by the Federal Commissioner for Transport and the third by the Commissioner; and they shall hold office during the pleasure of the Commissioner under this Decree.

(4) The term of office of the chairman of the board of directors shall in any event be not more than twelve months from the date of his appointment to the office (or the date of his last appointment as the case may be) so however that the chairman shall thereafter during the life of the company be appointed by the Commissioner without election from among the members of the directorate, and the person holding office as chairman at the date of commencement of this Decree shall be deemed to have ceased to hold office on 31st March 1968 but shall, subject to this Decree, be eligible for re-appointment.

(5) The articles shall be amended to the extent necessary to give effect to the foregoing provisions of this Decree, and if the secretary of the company produces to the Registrar of Companies within one month after the date of publication of this Decree a copy of this Decree with a request in writing under the common seal of the company to give effect to the provisions thereof, the Registrar shall, without payment of any fee, file the Decree and the request with the records of the company; and when so filed it shall be a sufficient compliance by the company with the requirements of this section.

(6) The failure by the company or any of its officers to comply with or give effect to any direction of the Commissioner or to comply with any other requirement of this Decree shall be an offence punishable on conviction by a fine of not less than £500 or more than £1,000 in respect of every offence, and where the offence is a continuing one, there shall in the case of a conviction against the company be an additional penalty of £50 for every day during which the offence continues, and the penalty shall be recoverable accordingly.

2.—(1) This Decree may be cited as the Export of Nigerian Produce (Special Provisions) Decree 1968; and the Export of Nigerian Produce Act 1958 shall have effect subject to this Decree.

(2) This Decree shall apply throughout the Federation.

MADE at Lagos this 4th day of April 1968.

MAJOR-GENERAL YAKUBU GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

Citation,
application
and extent.

PETROLEUM CONTROL (AMENDMENT) DECREE 1968



Decree No. 15

[4th April 1968]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. It is declared for the avoidance of doubt that the expression "petroleum" where used in the Petroleum Control Decree 1967 includes petroleum products of any description, and section 11 (2) of that Decree shall have effect and be amended accordingly by inserting in the definition of petroleum immediately after the word "kerosene," the words "other petroleum products of any description,".

Extended
definition
of
"petro-
leum".
1967 No. 28.

2.—(1) This Decree may be cited as the Petroleum Control (Amendment) Decree 1968 and shall apply throughout the Federation.

Citation,
application
and
commence-
ment.

(2) The amendment effected by this Decree shall be deemed to have come into force on 13th July 1967.

MADE at Lagos this 4th day of April 1968.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

THE TIN PRODUCTION AND DEVELOPMENT REVOLVING
LOANS FUND DECREE 1968

A 53



Decree No. 16

[4th April 1968]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) There shall be established a fund to be known as the Tin Production and Development Revolving Loans Fund (in this Decree referred to as “the fund”).

Establish-
ment of the
Revolving
Loans Fund.

(2) There shall be paid into the fund—

(a) a sum of £80,000, representing part of capital previously made available for the purpose of promoting tin mining production and development in Nigeria in connection with the International Tin Agreements to which Nigeria is a contracting party, the payment of which had been charged upon the Consolidated Revenue Fund ; and

(b) such sums as may from time to time be credited to the fund by way of payment of the principal and interest on and other charges in respect of any loan made out of the fund, and also any interest from investments made from the fund.

2.—(1) The fund may be utilised for promoting efficiency and higher productivity in the tin mining industry, and in particular, for providing loans to assist any eligible small mining operator.

Purposes
of the fund.

(2) In this section, “eligible small mining operator” means a person who—

(a) conducts tin mining operations on a scale approved by the Permanent Secretary, Federal Ministry of Mines and Power ;

(b) in respect of whose mineral reserve and extraction process an approval has been given by an officer of or above the rank of a Senior Inspector of Mines in the Federal Ministry of Mines and Power ; and

(c) in relation to whose application for a loan a recommendation has been obtained by the Permanent Secretary, Federal Ministry of Finance from the officer mentioned in paragraph (b) above.

3. Disbursements from the fund shall be made in accordance with rules made under section 23 of the Finance (Control and Management) Act 1958.

Disburse-
ments from
the fund
1958 No. 33.

4. Schedule 1 of the Finance (Control and Management) Act 1958 is hereby amended by the insertion immediately after item 14 in Part II of the following new item—

Amendment
of 1958
No. 33.

"15. Tin Production and Development Revolving Loans Fund : the fund established by section 1 of the Tin Production and Development Revolving Loans Fund Decree 1968."

Citation and
extent.

5. This Decree may be cited as the Tin Production and Development Revolving Loans Fund Decree 1968 and shall apply throughout the Federation.

MADE at Lagos this 4th day of April 1968.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federation of Nigeria*