

INCOME TAX (MISCELLANEOUS PROVISIONS) DECREE 1969



ARRANGEMENT OF SECTIONS

ection

Acquisition of property in special cases for non-payment of tax

1. Acquisition of property in satisfaction of outstanding tax.
2. Registration of title to property acquired by the Board, etc.
3. Offences.

Distress for non-payment of tax

4. Amendment of section 62A of 1961 No. 21.
5. Amendment of section 45A of 1961 No. 23.
6. Application of some provisions of certain taxation enactments to super tax and capital gains tax.

Supplemental

7. Citation, commencement, extent, etc.

SCHEDULES :

Schedule 1—Certificate of acquisition of property of taxpayer in default.

Schedule 2—Provisions to be inserted in accordance with section 4 (2) of this Decree.

Schedule 3—Provisions to be inserted in accordance with section 5 (2) of this Decree.

Decree No. 7

[1st April 1968]

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Acquisition of property in special cases for non-payment of tax

1.—(1) In this and the next succeeding section, unless the context otherwise requires,—

“authorised person” means any person authorised in writing by the Federal Board of Inland Revenue for the purposes of sections 1 to 3 of this Decree ;

“taxpayer in default” includes any person, whether or not *sui juris*, liable for payment of tax under any taxation enactment (as in this Decree hereafter defined) and any company or corporation whatsoever liable for payment of tax under any such enactment.

(2) Where in respect of tax payable under any taxation enactment, and whether or not before or after the commencement of this Decree, the Federal Board of Inland Revenue (hereafter in this and the next succeeding section referred to as “the Board”) is satisfied that default has been made in payment thereof, and the Board has reasonable cause to believe that assets of the taxpayer in default have been or are likely to be disposed of in circumstances such that recovery of the tax by recourse against the assets under ordinary process of law is unlikely to succeed, the following provisions of this Decree shall have effect.

Acquisition of property in satisfaction of outstanding tax.

(3) The Federal Commissioner charged with responsibility for finance (in this section hereafter referred to as "the Commissioner") may, in any case to which subsection (2) above applies, on production to him of evidence that any such tax is outstanding and unpaid, execute a certificate, in the form set out in Schedule 1 to this Decree, setting out the nature and amount of the tax outstanding, and having annexed thereto a list of properties, real and personal, now held by the taxpayer in default or believed by the Board to have been held or disposed of by him within the period hereinafter mentioned; and, the power to execute a certificate under this subsection shall not be deputed to any other person. If a certificate under this subsection is executed, notice thereof shall be published in the Federal Gazette and, subject as hereinafter provided, when so published it shall have the effect of vesting in the Board, ownership of the property, real and personal, mentioned in the annexed list.

(4) Nothing in the foregoing provisions of this section shall entitle the Board to retain, as against any person claiming to be the true owner or, as the case may be, the hirer, property of any description vested in the Board by a certificate under subsection (3) above which is proved to its satisfaction as—

(a) having been disposed of by the taxpayer in default more than six years before the date of publication of the certificate—

(i) to a purchaser for valuable consideration,

(ii) to a purchaser otherwise than for valuable consideration but in circumstances that the purchaser has no notice of any defect in the title to, or ownership of, the property and has no knowledge of any default in the payment of tax by the taxpayer; or

(b) being the subject of a valid hire-purchase agreement,

but save as provided in paragraph (a) or (b) of this subsection no claim shall be entertained by the Board or be pursued against it in any court in respect of the property by the taxpayer in default, within the period last aforesaid, and whether or not the disposal was for valuable or any other consideration.

(5) If during the currency of a certificate executed pursuant to the foregoing provisions of this section the Board becomes aware of any property not included in the list and thereupon publishes notice of the fact in the Federal Gazette, the vesting provisions of subsection (3) above shall apply and have effect, and the property may be dealt with accordingly under this Decree.

(6) The validity of any certificate under the foregoing provisions of this section shall not be inquired into, nor shall the reason for its issue be open to question, by any court, and where any person authorised by the Board in writing produces a copy of the certificate certified as correct by the Chairman of the Board (whose signature thereon shall be accepted without the need for proof) to any person in possession of, or having in his apparent possession or under his control or disposition, any property mentioned in the certificate, it shall be accepted and acted upon as genuine; and the property may be seized or taken possession of accordingly.

(7) It is hereby declared that no appeal shall lie against any seizure made or possession taken of any property pursuant to subsection (6) above, or against any subsequent sale or disposition of any such property thereafter; and any constable may arrest without warrant anyone obstructing or hindering persons authorised to seize or take possession of property pursuant to a certificate issued under this section.

(8) Where property is recovered or possession obtained under the foregoing provisions of this section, the property may be sold forthwith by or on behalf of the Board without waiting for any period of time; and from the amount received from any such sale, there shall be deducted the expenses of and incidental to the recovery and sale, and the amount of tax to the extent of the default, and out of any money then held undistributed, payment shall be made by the Board in the following order, that is to say—

(a) to any person claiming to be entitled—

(i) to any property as aforesaid or to an interest therein by way of lien or charge,

(ii) as owner (not being the taxpayer) under any hire, the amount thereof in satisfaction of the claim if, but for this Decree, the claim to ownership or the lien or charge would have been entitled to priority, and

(b) to the person (if any) claiming to have received the property from the taxpayer, the balance, or if there is no such claimant, then to the taxpayer.

(9) The Federal Military Government may after seizure by or on behalf of the Board and notwithstanding the foregoing provisions as to sale, acquire the property affected as property of the Federal Military Government; and in any such case the property so acquired shall be valued by a competent valuer, and the amount when ascertained shall be apportioned to persons entitled as provided in subsection (8) above, and the amount as apportioned shall be paid out of the Consolidated Revenue Fund of the Federation to the respective persons entitled thereto.

(10) If sufficient assets to satisfy the amount of tax outstanding and due from the taxpayer in default are recovered, the Chairman of the Board shall prepare and issue a certificate of discharge to that effect to the taxpayer concerned; and the certificate under the hand of the Commissioner shall, without prejudice to anything already done or liability incurred, thereupon cease to have effect, and after publication of a notice of the certificate of discharge in the Federal Gazette, the ownership of any property seized, but not sold or otherwise disposed of, under this Decree shall, unless section 2 below applies, be delivered up to, or shall revert in, the person entitled, without further assurance than this subsection, and on production where necessary of a copy of the Gazette containing the notice, and where section 2 applies then subject to any necessary registration or recording so as to confer title to the property in the person entitled.

2.—(1) Where by the application of section 1 of this Decree, any property is vested in the Board and it is necessary under any enactment or law to register or record title thereto, the following procedure shall have effect.

Registration of title to property acquired by the Board, etc.

(2) In any case where title to property does not pass by delivery of possession, the chairman of the Board shall apply in writing to the appropriate person to register the Board as owner, and upon production to the appropriate person of a copy of the Gazette containing a notice published pursuant to section 1 (3) of this Decree together with the application as aforesaid, the application shall be registered or recorded by the appropriate person, without payment of any fee, to the extent necessary or prescribed by any relevant enactment or law. When so registered or recorded, as the case may be, persons thereafter dealing with the Board on the faith of the registration or recording shall, under any instrument thereafter executed by the Board in any particular case (but subject to registration or recording where

necessary), have and obtain as good a title to the property as the Board acquired under and pursuant to section 1 of this Decree.

(3) In this section "appropriate person" means,—

(a) in the case of realty, the registrar of titles or of land, or both ;

(b) in the case of personalty where registration or recording is a condition precedent to the transfer of ownership or possession, the registrar or other person howsoever designated, required to enter a record of the fact of the transfer.

Offences.

3.—(1) Where any person (not being the taxpayer in default),—

(a) fails to deliver up possession of property claimed pursuant to a certificate under section 1 of this Decree when required to do so by any authorised person, or

(b) obstructs or hinders any person in the execution of a duty under that section,

he shall be guilty of an offence and liable on conviction to a fine of not less than £100 or more than £500, or to imprisonment for a term of not less than three years or more than five years, or to both such fine and imprisonment.

1968 No. 51.

(2) Where any person being a company affected by or incorporated under the Companies Decree 1968 (other than the taxpayer in default) fails to deliver up possession of property claimed pursuant to a certificate under section 1 of this Decree when required to do so by any authorised person, or by its servants or agents, obstructs or hinders any person in the execution of a duty under this Decree, the company shall be guilty of an offence and liable on conviction to a fine of not less than the then outstanding and unpaid balance of tax owing by the taxpayer in default.

(3) It shall be an offence punishable on conviction by imprisonment for a term of not less than twelve months or more than two years for the taxpayer in default being an individual to interfere, or aid or abet any other person in interfering, with an authorised person in the seizure or taking possession of property under section 1 of this Decree ; and where the taxpayer in default is—

(a) a body corporate the penalty for the like offence shall be a fine of not less than £100 payable by any officer thereof, and

(b) an unincorporated association or body, the like fine shall be payable by officers or persons in apparent control thereof.

(4) If an offence under this section is a continuing one, then upon conviction, the offender shall if the penalty imposed is a pecuniary one, be liable in addition to a further penalty of £10 for every day or part of a day during which the offence continues.

Distress for non-payment of tax

**Amend-
ment of
section 62A
of 1961
No. 21.
1966 No. 65.**

4.—(1) For section 62A of the Companies Income Tax Act 1961 (as inserted by the Income Tax (Amendment) Decree 1966, and which section relates to distress for non-payment of tax) there shall be substituted the following—

"Power to
distrain for
non-
payment
of tax.

62A.—(1) Without prejudice to any other power conferred on the Board for the enforcement of payment of tax due from a company, where an assessment has become final and conclusive and a demand note has, in accordance with the provisions of this Part, been served upon the company or upon the person in whose name the company is chargeable, then, if payment of the tax is

not made within the time limited by the demand note, the Board may in the prescribed form, for the purpose of enforcing payment of the tax due,—

(a) distrain the taxpayer by his goods or other chattels, bonds or other securities;

(b) distrain upon any land, premises, or place in respect of which the taxpayer is the owner,

and, subject to the following provisions of this section, recover the amount of tax due by sale of any thing so distrained.

(2) The authority to distrain under this section shall be in the form contained in the Sixth Schedule to this Act, and such authority shall be sufficient warrant and authority to levy by distress the amount of tax due.

(3) For the purpose of levying any distress under this section, any officer authorised in writing by the Board may execute any warrant of distress, and if necessary break open any building or place in the day time for the purpose of levying such distress, and he may call to his assistance any police officer and it shall be the duty of that police officer when so required to aid and assist in the execution of any warrant of distress and in levying the distress.

(4) Things distrained under this section may, at the cost of the taxpayer, be kept for fourteen days and at the end of that time if the amount due in respect of the tax and the cost and charges of and incidental to the distress are not paid, they may, subject to subsection (6) of this section, be sold at any time thereafter.

(5) Out of the proceeds of any such sale there shall in the first place be paid the cost or charges of and incidental to the (sale and keeping of the) distress, and disposal thereunder and in the next place the amount due in respect of the tax; and the balance (if any) shall be payable to the taxpayer upon demand being made by him or on his behalf within one year of the date of the sale.

(6) Nothing in this section shall be construed so as to authorise the sale of any immovable property without an order of a High Court, made on application in such form as may be prescribed by rules of court."

(2) Accordingly, the Companies Income Tax Act 1961 shall have effect and this section shall be construed, as if the provisions of Schedule 2 to this Decree were contained in that Act and inserted therein immediately after the Fifth Schedule to that Act, as the Sixth Schedule thereto.

1961 No. 22.
Schedule 2.

5.—(1) For section 45A of the Personal Income Tax (Lagos) Act 1961 (as inserted by the Income Tax (Amendment) Decree 1966, and which section relates to distress for non-payment of tax) there shall be substituted the following—

Amend-
ment of
section 45A
of 1961
No. 23.
1966 No. 65.

"Power to
distrain
for non-
payment
of tax.

45A.—(1) Without prejudice to any other power conferred on the Board for the enforcement of payment of tax due from any taxable person, where an assessment has become final and conclusive and a demand note has, in accordance with the provisions of this Part, been served upon the taxable person or upon the person in whose name the taxable person is chargeable,

then, if payment of the tax is not made within the time limited by the demand note, the Board may, in the prescribed form, for the purpose of enforcing payment of the tax due—

(a) distrain the taxpayer by his goods or other chattels, bonds or other securities;

(b) distrain upon any land, premises, or place in respect of which the taxpayer is the owner,

and, subject to the following provisions of this section, recover the amount of tax due by sale of any thing so distrained.

(2) The authority to distrain under this section shall be in the form contained in the Third Schedule to this Act, and such authority shall be sufficient warrant and authority to levy by distress the amount of tax due.

(3) For the purpose of levying any distress under this section any officer authorised in writing by the Board may execute any warrant of distress, and if necessary break open any building or place in the day time for the purpose of levying such distress and he may call to his assistance any police officer and it shall be the duty of that police officer when so required to aid and assist in the execution of any warrant of distress and in levying the distress.

(4) Things distrained under this section may, at the cost of the taxable person, be kept for fourteen days and at the end of that time if the amount due in respect of the tax and the cost and charges of and incidental to the distress are not paid, they may, subject to subsection (6) of this section, be sold at any time thereafter.

(5) Out of the proceeds of any such sale there shall in the first place be paid the cost or charges of and incidental to the (sale and keeping of the) distress, and disposal thereunder and in the next place the amount due in respect of the tax; and the balance (if any) shall be payable to the taxable person upon demand being made by him or on his behalf within one year of the date of the sale.

(6) Nothing in this section shall be construed so as to authorise the sale of any immovable property without an order of a High Court, made on application in such form as may be prescribed by rules of court.

1961 No. 23.
Schedule 3.

(2) Accordingly, the Personal Income Tax (Lagos) Act 1961 shall have effect, and this section shall be construed, as if the provisions of Schedule 3 to this Decree were contained in that Act and inserted therein, immediately after the Second Schedule to that Act, as the Third Schedule thereto.

Application
of some
provisions
of certain
taxation
enactments
to super
tax and
capital
gains tax.

1967 No. 44.
1967 No. 46.

6.—(1) For the avoidance of doubt, it is hereby declared that the provisions of section 62A of the Companies Income Tax Act 1961 and section 45A of the Personal Income Tax (Lagos) Act 1961 (as affected by sections 4 and 5 of this Decree) shall apply in relation to the collection, recovery and repayment of tax under the Super Tax Decree 1967 and the Capital Gains Tax Decree 1967 as they apply in relation to the collection, recovery and repayment of tax under the two Acts of 1961 aforesaid; and the provisions of section 8 of the Super Tax Decree 1967 and of section 43 of the Capital Gains Tax Decree 1967 shall be construed accordingly.

Supplemental

7.—(1) This Decree may be cited as the Income Tax (Miscellaneous Provisions) Decree 1969.

(2) This Decree shall be deemed to have come into force on 1st April 1968, and shall—

(a) to the extent to which it relates to the taxation of income, profits or gains of persons other than companies have effect, only in respect of years of assessment ending on or before 31st March 1968;

(b) to the extent to which it relates to the taxation of income, profits or gains of companies have effect in respect of all years of assessment, and in this subsection "year of assessment" has the same meaning as in any relevant taxation enactment.

(5) In this Decree "taxation enactment" means any of the following enactments, that is to say,—

the Companies Income Tax Act 1961,
the Personal Income Tax (Lagos) Act 1961,
the Capital Gains Tax Decree 1967, and
the Super Tax Decree 1967,

and "relevant taxation enactment" shall be construed accordingly.

(3) This Decree shall to the extent that it relates to the taxation of income, profits or gains of persons other than companies apply to the City of Lagos only, and subject as aforesaid, shall apply throughout the Federation.

(4) Nothing in this Decree shall be construed as enabling the conviction of any person for a criminal offence on account of any act or omission which did not constitute such an offence when it took place or as authorising the imposition of a heavier penalty than that in force when the offence was committed.

SCHEDULES**SCHEDULE 1**

(section 1 (3))

PART I**CERTIFICATE OF ACQUISITION OF PROPERTY OF
TAXPAYER IN DEFAULT**

(Under the Income Tax (Miscellaneous Provisions) Decree 1969)

To The Chairman,
Federal Board of Inland Revenue,
Lagos.

CERTIFICATE NO. (a).....

Name of taxpayer in default : Mr/Mrs (b).....

Amount of tax due and payable : (c).....

WHEREAS it has been made to appear to me that your Board is satisfied that default has been made by Mr/Mrs (b).....
(hereafter in this Certificate referred to as "the taxpayer in default") in payment of the sum of (c)..... tax for the years of assessment, hereinafter mentioned, under the taxing enactments mentioned below and that there is reasonable cause to believe that assets of the taxpayer in default have been or are likely to be disposed of in the circumstances that recovery of the said tax by recourse against the taxpayer in default under the ordinary process of law is unlikely to succeed :

Citation,
commence-
ment,
extent, etc.

1961 No. 22.

1961 No. 23.

1967 No. 44.

1967 No. 46.

NOW THEREFORE, I, the Federal Commissioner charged with responsibility for Finance, acting under the power conferred upon me by section 1 (3) of the Income Tax (Miscellaneous Provisions) Decree 1969, so certify accordingly, and the provisions of that enactment, so far as they relate to the acquisition of property of such taxpayer, shall, in respect of the properties (real and personal) mentioned in the annexed list now held by the taxpayer in default or believed by your Board to have been held or disposed of by him within the six years period mentioned in section 1 (4) of the said Decree, apply and when published in the Federal Gazette, this certificate shall have effect as prescribed in the enactment aforesaid.

2. The particulars of the tax due and payable by the taxpayer in default are as follows (d):—

A. Under the Companies Income Tax Act 1961:

Year of Assessment	No. of Notice of Assessment	Amount of Tax due £ s d
(i)
(ii)
(iii)

B. Under the Personal Income Tax (Lagos) Act 1961:

Year of Assessment	No. of Notice of Assessment	Amount of Tax due £ s d
(i)
(ii)
(iii)

C. Under the Capital Gains Tax Decree 1967:

Year of Assessment	No. of Notice of Assessment	Amount of Tax due £ s d
(i)
(ii)
(iii)

D. Under the Super Tax Decree 1967:

Year of Assessment	No. of Notice of Assessment	Amount of Tax due £ s d
(i)
(ii)
(iii)

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

Signature (e)
Federal Commissioner for Finance

NOTES

- Insert the number of the certificate.
- Insert the name of the taxpayer in default.
- Insert the amount of tax due and payable by the taxpayer.
- Insert particulars of the tax due and payable by the taxpayer.
- To be signed by the Federal Commissioner for Finance himself.

PART II

(Under the Income Tax (Miscellaneous Provisions) Decree 1969)

LIST OF PROPERTIES AFFECTED BY CERTIFICATE No. (a).....

ISSUED ON (b).....BY THE FEDERAL COMMISSIONER

FOR FINANCE UNDER THE ABOVE-MENTIONED DECREE

*This list is to be annexed to the above-mentioned certificate.

Name of taxpayer in default: Mr/Mrs (c).....

Amount of tax due and payable: (d).....

The properties, real and personal, to which Certificate No. (a).....
aforesaid relates are as follows, that is to say :—

A. Realty :

- (i)
(ii)
(iii)
} (e)

B. Personalty :

- (i)
(ii)
(iii)
} (f)

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

Signature (g).....
Federal Commissioner for Finance

NOTES

- (a) Insert the number of the certificate.
(b) Insert the date on which the certificate was issued.
(c) Insert the name of the taxpayer in default.
(d) Insert the amount of tax outstanding against the taxpayer as shown on the certificate.
(e) Insert particulars of the realty, giving the Title Nos. (if any) and other descriptions thereof.
(f) Insert particulars of the personalty, giving sufficient descriptions thereof.
(g) To be signed by the Federal Commissioner for Finance himself.

SCHEDULE 2

(section 4 (2))

PROVISIONS TO BE INSERTED IN ACCORDANCE WITH SECTION 4 (2)
OF THIS DECREE

WARRANT AND AUTHORITY TO LEVY BY DISTRESS

(Under the Companies Income Tax Act 1961)

To (a).....

Name of Company (b).....

Amount of tax to be levied by distress (c).....

The Federal Board of Inland Revenue, in exercise of powers vested in it by section 62A of the Companies Income Tax Act 1961, hereby authorises you to collect and recover the sum of (c)....., being arrears of tax due for the years of assessment hereinafter mentioned from the above named company whose place of business is at (d).....; and for the recovery thereof the said Board further authorises that you, with the aid (if necessary) of your assistants and calling to your assistance any police officer (if necessary) which assistance he is by law required to give, do forthwith levy by distress the said sum together with the costs and charges of and incidental to the taking and keeping of such distress, on the goods, chattels, land, premises or other distrainable things of the said company wherever the same may be found and on all goods which you may find in any premises or on any lands in the use or possession of the said company or of any other person on its behalf or in trust for the company.

And for the purpose of levying such distress you are hereby authorised if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

2. The particulars of the said arrears of tax are as follows :

Year of Assessment	No. of Notice of Assessment	Amount of tax due £ s d	
(i)	} (e)
(ii)	
(iii)	

Signed for and on behalf of the Federal Board of Inland Revenue
at.....this.....day of.....19.....

Signature (f).....
Chairman,
Federal Board of Inland Revenue

NOTES

- (a) Insert the name of the officer who is authorised by the Board to execute the warrant of distress.
- (b) Insert the name of the company on whose goods, chattels, land, premises or other distrainable things the warrant of distress is to be executed.
- (c) Insert the amount of tax outstanding against the company and which amount is to be levied by distress.
- (d) Insert the address of the place of business of the company.
- (e) Insert the particulars of the arrears of tax to be levied by distress, stating the years of assessment, the numbers of notices of assessment and the amount of tax due in respect of each such year of assessment.
- (f) To be signed by the Chairman, Federal Board of Inland Revenue.

SCHEDULE 3

(section 5 (2))

PROVISIONS TO BE INSERTED IN ACCORDANCE WITH SECTION 5 (2)
OF THIS DECREEWARRANT AND AUTHORITY TO LEVY BY DISTRESS
(Under the Personal Income Tax (Lagos) Act 1961)

To (a).....

Name of taxable person (b).....

Amount of tax to be levied by distress (c).....

The Federal Board of Inland Revenue in exercise of powers vested in it by section 45A of the Personal Income Tax (Lagos) Act 1961, hereby authorises you to collect and recover the sum of (c)....., being arrears of tax due for the years of assessment hereinafter mentioned,

from the above named taxable person who is resident at (d).....

and who carries on a trade, business, profession or vocation at (e).....

.....; and for the recovery thereof the said Board further authorises that you, with the aid (if necessary) of your assistants and calling to your assistance any police officer (if necessary) which assistance he is by law required to give, do forthwith levy by distress the said sum together with the costs and charges of and incidental to the taking and keeping of such distress, on the goods, chattels, land, premises or other distrainable things of the said taxable person wherever the same may be found and on all goods which you may find in any premises or on any lands in the use or possession of the said taxable person or of any other person on his behalf or in trust for him.

And for the purpose of levying such distress you are hereby authorised if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

2. The particulars of the said arrears of tax are as follows:

<i>Year of Assessment</i>	<i>No. of Notice of Assessment</i>	<i>Amount of Tax</i> £ s d	
(i)	} (f)
(ii)	
(iii)	

Signed for and on behalf of the Federal Board of Inland Revenue

at this day of 19

Signature (g)
Chairman,
Federal Board of Inland Revenue

NOTES

- Insert the name of the officer who is authorised by the Board to execute the warrant of distress.
- Insert the name of the taxable person on whose goods, chattels, land, premises or other distrainable things the warrant of distress is to be executed.
- Insert the amount of tax outstanding against the taxable person and which amount is to be levied by distress.
- Insert the address of the residence of the taxable person, place or trade, business profession or vocation.
- Insert the address (if any) where the taxable person carries on his trade, business, profession or vocation.
- Insert the particulars of the arrears of tax to be levied by distress, stating the years of assessment, the numbers of notices of assessment and the amount of tax due in respect of each such year of assessment.
- To be signed by the Chairman, Federal Board of Inland Revenue.

MADE at Lagos this 2nd day of May 1969.

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

INCOME TAX (RENTS) (REPEAL ETC.) DECREE 1969



Decree No. 8

[1st December, 1968]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. Subject to section 2 (2) of this Decree, the enactments mentioned in the Schedule to this Decree are hereby repealed to the extent there set out ; and it is hereby declared that, without prejudice to the operation of the repeal provisions of the Interpretation Act 1964 the following shall, to the extent to which immediately before the date of commencement of this Decree they were subsisting or in force, on its commencement continue to have effect as if the enactments aforesaid had not been repealed, that is to say,—

Repeal of
enactments
in Schedule
and savings.
1964 No. 1.

(a) any application made for purpose of an election under an enactment hereby repealed and pending at the date of the repeal ;

(b) elections made or relief granted or securities taken by way of charge ; or

(c) rights and liabilities acquired or incurred in relation to the making of an election or a charge, as the case may be.

2.—(1) This Decree may be cited as the Income Tax (Rents) (Repeal etc.) Decree 1969, and shall apply to the City of Lagos only, so however that in relation to the profits of companies, it shall apply throughout the Federation.

Citation,
extent and
commence-
ment.

(2) This Decree shall—

(a) to the extent to which it relates to the taxation of profits of persons other than companies have effect only in respect of years of assessment ending on or before 31st March 1968 ;

(b) to the extent to which it relates to the taxation of profits of companies have effect in respect of all years of assessment ;

and in this subsection "year of assessment" means a year beginning on the 1st day of April and ending on the 31st day of March in the following calendar year.

(3) This Decree shall be deemed to have come into operation on 1st December 1968.

SCHEDULE

Section 1

*Enactment affected**Extent of repeal*

1965 No. 8—

The Income Tax (Rents) Act 1965 ..

The whole Act.

1966 No. 65—

The Income Tax (Amendment) Decree 1966

Sections 16, 17 and 18.

MADE at Lagos this 7th day of May 1969.

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



ARRANGEMENT OF SECTIONS

Section

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Levy of terminal dues, etc. 2. Provision of navigational services and facilities. 3. Application of certain other provisions of the Ports Act. 4. Appointment or designation of officers, etc. of the authority. 5. Power to apply or extend regulations made under the Ports Act. 6. Discharge of oil at an oil terminal. | <ol style="list-style-type: none"> 7. Restriction : installation of oil terminals. 8. Application of laws. 9. Application of this Decree. 10. Regulations. 11. Interpretation. 12. Citation, extent, commencement, etc. |
|--|---|

THE SCHEDULES

First Schedule : Provisions of the Ports Act Applied.

Second Schedule : Convention on the Continental Shelf.

Decree No. 9

[1st January 1965]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) As from the date of commencement of this Decree terminal dues may be levied, subject to the provisions of this Decree and the Ports Act, on any ship evacuating oil at any oil terminal and in respect of any services or facilities provided under this Decree.

Levy of
terminal
dues, etc.
Cap. 155.

(2) The following persons shall be liable to pay any terminal dues levied pursuant to subsection (1) above, that is—

(a) the master or owner of the ship ;

(b) every consignor or agent who shall have paid or made himself liable to pay any dues on account of such ship,

but, when any terminal dues are paid by any person, who is not the master or owner of the ship, that person may retain, out of monies in his hands received on account of such ship or her owner, the amount of the dues paid by him together with reasonable expenses incurred by reason of such payment or liability.

(3) The master of any ship arriving in, or applying for the clearance of a ship outwards from an oil terminal shall produce to the authority—

(a) the ship's register and the ship's papers ;

(b) a list containing the name of the consignee of the oil intended to be evacuated ; and

(c) such other particulars as the authority may require, including the kind and quantity of oil to be evacuated,
and the particulars required in the foregoing provisions of this subsection shall be delivered to such officer of the authority and on such forms as may be prescribed.

(4) The authority may either alone or with any other person enter into any ship evacuating oil in order to ascertain the dues payable in respect of the ship and may for that purpose determine the quantity of the oil in respect of which terminal dues are to be paid and may, if necessary, detain such ship until the dues have been ascertained or the quantity of the oil otherwise determined.

(5) Where the quantity of oil determined in accordance with subsection (4) above is more than that shown by the particulars delivered in accordance with subsection (3) above, the expenses incurred in determining the amount of oil shall be paid to the authority by the master of the ship, and shall be recoverable in the same manner as dues leviable under this section.

Cap. 155.

(6) Where the master of any ship in respect of which any terminal dues are payable refuses or neglects to pay such dues on demand, the provisions of sections 79 to 81 of the Ports Act (which provide the remedies for the recovery of dues) or such provisions as may be prescribed shall apply in relation to the recovery of terminal dues payable under this section as they apply in relation to the recovery of dues and rates payable under Part XI of that Act.

Provision of
navigational
services and
facilities.

2.—(1) It shall be the duty of the authority to provide such navigational services or extend such facilities for the purposes of this Decree as may be necessary or expedient to serve the public interest in accordance with the requirements of the provisions of the Convention.

(2) Such navigational services may include the installation of position-fixing system, navigational aids, and the setting up of sea lanes for the purposes of removing any navigational hazards.

In this subsection—

(a) "position-fixing system" means such system of hyperbolic navigation which operates automatically and continuously, and which depends on time signals sent out from a series, that is to say, chains of master and slave stations, for the purpose of enabling any mariner to obtain the position of his ship, and of aiding navigation, with a very high degree of accuracy ; and

(b) "navigational aids" include objects on shore or afloat or instruments, such as light-houses, lightships, buoys, beacons, radio/radar and radar equipment, which assist in the safe passage of ships or enable ships to ascertain their positions at sea in relation to these aids.

(3) The facilities which the authority may provide may include berthing, towing, mooring, or moving of ships in or around any oil terminal for the purposes of evacuating oil from the terminal including the establishment of safety zones, and the authority may in respect of such services levy ships' dues on such ships.

(4) Sections 10 and 11 of the Ports Act (which relate to the duties of the authority) shall apply, and shall be construed with such modifications as may be necessary, and notwithstanding the generality of the foregoing, the references in those provisions to "navigational services" and "port facilities" are references to the services and facilities prescribed under the foregoing provisions of this section.

Cap. 155.

3. Subject to the provisions of this Decree, the provisions of the Ports Act specified in column 1 of the First Schedule to this Decree shall apply in relation to any oil terminal and to the extent mentioned in column 3 of that Schedule as they apply in relation to a port or any approaches thereto, and as if references in that Act to "a port or any approaches thereto" were references to an "oil terminal or any area within which the terminal is situated".

Application of certain other provisions of the Ports Act.
Cap. 155.
First Schedule.

4. The authority may for the purposes of this Decree appoint or designate any officer, servant or agent of the authority for the purposes of discharging any of its functions under this Decree.

Appointment or designation of officers, etc. of the authority.

5. The Commissioner may by regulations extend any regulations made by the Commissioner or by the authority under the Ports Act for the maintenance, control and management of anything to which this Decree relates, and in particular, apply section 82 of the Ports Act (which relates to the power of the authority to make regulations for the levy of dues and rates) or extend any regulations made pursuant to that section for the purposes of this Decree, and any regulations as so extended or applied shall be of the same effect as if made under this Decree.

Power to apply or extend regulations made under the Ports Act.

6.—(1) So much of section 3 of the Oil in Navigable Waters Decree 1968 as relate to the discharge of oil or mixture containing oil into the territorial waters of Nigeria from any vessel or apparatus used for transferring oil to any vessel shall, subject to the following provisions of this section, apply in relation to the area within which any oil terminal is situated, if situated outside the limits of the territorial waters, as they apply in relation to the whole of the sea within the seaward limits of the territorial waters.

Discharge of oil at an oil terminal.
1968 No. 34.

(2) If any oil or mixture containing oil is discharged into any part of the sea referred to in subsection (1) above—

(a) from a pipe-line or any apparatus used for the purposes of transferring oil from or to a vessel ; —

(b) from a vessel ; or

(c) as a result of any operation for evacuating oil,

the owner of the pipe-line or the owner of the vessel or the person in charge of the operation, as the case may be, shall be guilty of an offence under section 3 of the Decree (as applied by this section).

(3) Any person found guilty of an offence as aforesaid shall on conviction be liable to the same penalty as provided by section 6 of the Decree, and the special defences prescribed under section 4 thereof shall apply in relation to such offences as they apply for the purposes of that Decree.

(4) The operation of the foregoing provisions of this section is without prejudice to the operation of any other provision of the Oil in Navigable Waters Decree 1968 in so far as it applies in relation to any area within which

1968 No. 34.

there is situated any oil terminal, and effect shall be given to the provisions of that Decree, accordingly.

(5) In this section "oil" has the meaning given in section 20 of the Oil in Navigable Waters Decree 1968.

Restriction :
installation
of oil
terminals.
Cap. 120.

7.—(1) As from the date of publication of this Decree, an oil terminal—

(a) shall not be installed by any person, except—

(i) by or under the authority of a licence or lease granted under the Mineral Oils Act, and

(ii) subject to the express approval in writing of the Federal Commissioner for Mines and Power,

and any subsequent operation of such terminal by any person shall be in compliance with the requirements of this Decree and such conditions as may be prescribed ;

(b) shall—

(i) if in operation on the date of publication of this Decree, and

(ii) unless such person complies with such conditions as may be prescribed for the payment of dues and fees within such period (or any extension of that period) as the Commissioner may in his discretion determine,

cease to be operated by that person until the said conditions have been duly complied with.

(2) For the purposes of this Decree—

(a) every oil terminal; and

(b) the area within which the terminal is situated,

shall be established geographically with precise co-ordinates by an order published in the Federal Gazette by the Federal Commissioner for Mines and Power.

(3) In this section—

(a) "oil terminal" means an oil-loading terminal, pumping or booster station, or other installation (or structure associated with a terminal, including its storage facilities), other than a terminal situated within "a port or any approaches thereto" within the meaning of the Ports Act ;

(b) the reference to the area within which the terminal is situated includes a reference to—

(i) the area of the territorial waters ;

(ii) the area of the superjacent waters of the continental shelf,

and the space above or below an area within which the oil terminal is situated (including the sea-bed and sub-soil of submarine area) shall be deemed to be part of the area, and sub-paragraphs (i) and (ii) of this paragraph shall be so construed.

(4) Any person who contravenes subsection (1) of this section shall be guilty of an offence and shall, on conviction, be liable to a fine of £2,000 for each day on which the offence occurs.

Cap. 155.

Application
of laws.

8.—(1) Subject to this Decree, the provisions of the laws in force in Nigeria (apart from those specifically applied or extended by or under this Decree) and as in force from time to time, and the provisions of any instrument made under any of those laws, shall apply in the area of the sea within which the oil terminal is situated.

(2) The provisions referred to in subsection (1) of this section apply to and in relation to all acts, matters, circumstances and things touching, concerning, or connected with the oil terminal or arising from its operations or connected with the storage or pumping of oil from such terminal, and not otherwise, and so apply as if that area were part of the Federal Republic of Nigeria.

(3) This section does not—

(a) extend to the provisions of any law or instrument—

(i) in so far as they are incapable of application in the area of the sea within which such terminal is situated ;

(ii) in so far as they are expressed, or by necessary implication, not to extend to or apply in that area ;

(b) affect the operation that any law has apart from this section ;

(c) apply to the provisions of any law or instrument that is applicable only in a State (within the meaning of the States (Creation and Transitional Provisions) Decree 1967) and within the authority of the government of the State.

1967
No. 14.

(4) For the avoidance of doubt, sections 2 and 3 of the Territorial Waters Decree 1967 (which relate to jurisdiction and restriction on trial of offences committed within the territorial waters of Nigeria) apply, in relation to offences committed under this Decree (or any other enactment or instrument applied or extended by or under this Decree, whether or not such offences are committed within the territorial waters) as they apply in respect of trial of offences committed within the territorial waters.

1967 No. 5.

9. This Decree applies to all natural persons, whether Nigerian citizens or not, and whether resident in Nigeria or not, and to all corporations, whether incorporated or carrying on business in Nigeria or not.

Application
of this
Decree.

10. Without prejudice to any other power to make regulations conferred by this Decree and subject to the provisions of this Decree, provisions may be made by regulations by the Commissioner—

Regulations.

(a) for prescribing anything to be prescribed under this Decree ;

(b) for the purposes of doing anything that is required to be done under this Decree ; and

(c) for providing that any provisions referred to in subsection (1), or excluded by subsection (3), of section 8 of this Decree that are specified in the regulations do not apply by reasons of this section or apply with prescribed modifications only.

11. In this Decree, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is—

Inter-
pretation.

“the authority” means the Nigerian Ports Authority as constituted under section 7 of the Ports Act ;

Cap. 155.

“the Commissioner” means the Federal Commissioner for Transport ;

“the Convention” means the Convention entitled “Convention on the Continental Shelf”, signed at Geneva on 29th April 1958, being the Convention, of which Nigeria is a party, and a copy of which in the English language is set out in the Second Schedule to this Decree ;

Second
Schedule.

"master" has the meaning given in section 2 of the Ports Act ;

"oil" means crude oil or oil of any description, liquefied petroleum gas or liquefied natural gas ;

"oil terminal" has the meaning given in section 7 of this Decree, and any other reference in this Decree to the area within which an oil terminal is situated shall be construed as prescribed in that section ;

"continental shelf" means the continental shelf, within the meaning of the Convention, adjacent to the coast of the Federal Republic of Nigeria ;

"ship" has the meaning given in section 2 of the Ports Act ; and

"terminal dues" means such dues as may be levied under this Decree on any ship evacuating oil at any oil terminal ;

"the territorial waters" means the territorial waters of Nigeria within the meaning of the Territorial Waters Decree 1967.

1967 No. 5.

Citation,
extent,
commence-
ment, etc.

12.—(1) This Decree may be cited as the Oil Terminal Dues Decree 1969 and shall apply throughout the Federation.

(2) This Decree shall be deemed to have come into operation on 1st January 1965.

(3) Nothing in this Decree shall permit the conviction of any person in respect of any criminal offence committed before the commencement of this Decree, the act or omission pertaining to which does not constitute such offence when it took place.

(4) Any provision applied or extended by or under this Decree shall have effect with any necessary modifications and omissions.

THE SCHEDULES

FIRST SCHEDULE

Section 3

PROVISIONS OF THE PORTS ACT APPLIED

<i>Section</i>	<i>Subject Matter</i>	<i>Extent of Application</i>
Section 3	Exercise of Authority's powers by servants or agents	The whole section.
Section 83 (2)	Record of dues and rates in force	The whole subsection.
Section 84	Exemption of certain ships from the provisions of Part XI	The whole section.
Part XII	Liability of the Authority	So much as may be applicable.
Part XIII	Legal Proceedings	The whole Part.
Part XIV	Offences	The whole Part.
Section 119	Saving of powers under the Customs and Excise Management Act 1958	The whole section.
Section 120	Publication of regulations, etc.	The whole section.

SECOND SCHEDULE

Section 11

CONVENTION ON THE CONTINENTAL SHELF

The States Parties to this Convention Have agreed as follows :

ARTICLE 1

For the purpose of these articles, the term "continental shelf" is used as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas ; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

ARTICLE 2

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

ARTICLE 3

The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

ARTICLE 4

Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

ARTICLE 5

1. The exploration of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.

2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploration and the exploitation of its natural resources and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.

3. The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their outer edge. Ships of all nationalities must respect these safety zones.

4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

5. Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Any installations which are abandoned or disused must be entirely removed.

6. Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

7. The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.

8. The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

ARTICLE 6

1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.

ARTICLE 7

The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

ARTICLE 8

This Convention shall, until 31st October 1958, be open for signature by all States Members of the United Nations or of any of the specialized agencies, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention.

ARTICLE 9

This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE 10

This Convention shall be open for accession by any States belonging to any of the categories mentioned in Article 8. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 11

1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE 12

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.

2. Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

ARTICLE 13

1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

ARTICLE 14

The Secretary-General of the United Nations shall inform all States Members of the United Nations and the other States referred to in article 8 :

(a) Of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 8, 9 and 10 ;

(b) Of the date on which this Convention will come into force, in accordance with article 11 ;

(c) Of requests for revision in accordance with article 13 ;

(d) Of reservations to this Convention, in accordance with article 12.

ARTICLE 15

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April, one thousand nine hundred and fifty-eight.

(Here follow the signatures on behalf of the parties to the Agreement, including Nigeria.)

MADE at Lagos this 12th day of May 1969.

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

THE ARCHITECTS (REGISTRATION ETC.) DECREE 1969



ARRANGEMENT OF SECTIONS

Sections

Architects Registration Council of Nigeria

1. Use of appellation of "architect".
2. Architects Registration Council of Nigeria established.
3. Financial provisions.
4. Control of council by Commissioner.

The registers

5. Preparation and maintenance of registers.
6. Publication of registers and lists of corrections.

Registration

7. Registration of architects.
8. Persons entitled to registration in special circumstances.
9. Approval of courses, qualifications and institutions.
10. Supervision of instruction and examinations leading to approved qualifications.

11. Certificates of experience.

Professional discipline

12. Establishment of disciplinary tribunal and investigating panel.
13. Penalties for unprofessional conduct, etc.

Miscellaneous and general

14. Offences.
15. Miscellaneous supplementary provisions.
16. Regulations, rules and orders.
17. Interpretation, etc.
18. Citation, application and commencement.

SCHEDULES

Schedule 1—Supplementary provisions relating to the council.

Schedule 2—Supplementary provisions relating to the disciplinary tribunal and investigating panel.

Decree No. 10

[See section 18 (2)]

Com-
mencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

Architects Registration Council of Nigeria

1. Subject to the provisions of this Decree, a person shall not practise or carry on business (other than that having relevance to ship construction, or to landscape or golf-links) under any name, style or title containing the word "architect" unless he is a Nigerian citizen and registered under this Decree.

Use of
appellation
of
"architect".

2.—(1) There shall be established a body to be known as the Architects Registration Council of Nigeria (hereafter in this Decree referred to as "the council") which shall be a body corporate by the name aforesaid and be charged with the general duty of—

Architects
Registration
Council of
Nigeria
established.

(a) determining what standards of knowledge and skill are to be attained by persons seeking to become members of the architectural profession (in this Decree hereafter referred to as "the profession") and raising those standards from time to time as circumstances may permit;

(b) securing in accordance with the provisions of this Decree the establishment and maintenance of a register of persons entitled to practise the profession and the publication from time to time of lists of those persons;

(c) performing the other functions conferred on the council by this Decree.

(2) Subject to the provisions of this Decree, the Council shall consist of a total of twenty-seven members and shall be comprised by—

(a) one person who shall be appointed as president of the council;

(b) five persons appointed by the Federal Commissioner charged with responsibility for the architectural profession generally (hereafter in this Decree referred to as "the Commissioner") of whom at least one shall be employed by the Ministry under his control and the other persons not so employed shall be appointed by him from amongst other interests in the field of architecture covered by this Decree, which in the opinion of the Commissioner are not adequately represented;

(c) twelve persons being one person from each state of the Federation on the nomination of the respective Military Governors and appointed by the Commissioner;

(d) six persons elected by the Nigerian Institute of Architects in the manner for the time being provided by the constitution of that institute;

(e) three persons as nominated (being one from each of the three universities with faculties of architecture with particular reference to environmental designs), and appointed by the Commissioner.

Schedule 1.

(3) The provisions of Schedule 1 to this Decree shall have effect with respect to the qualification and tenure of office of members of the council, powers and procedure of the council and the other matters there mentioned.

(4) Regulations may provide for increasing or reducing the membership of the council, and may make such consequential amendments of paragraph 1 of Schedule 1 to this Decree as the Commissioner considers expedient in consequence of the increase or reduction.

Financial provisions.

3.—(1) The council shall prepare and submit to the Commissioner not later than the 31st day of December of the year in which this subsection comes into force (so however for that year the Commissioner may if he considers it necessary extend the period) and of each subsequent year an estimate of its expenditure and income during the next succeeding financial year.

(2) The council shall keep proper records in respect of each financial year, and proper records in relation to those accounts, and shall cause its accounts to be audited as soon as may be after the end of the financial year to which the accounts relate by a firm of auditors approved, as respects that year by the Federal Commissioner for Finance.

Control of council by Commissioner.

4.—(1) The Commissioner may give to the council directions of a general character or relating generally to particular matters (but not to any individual person or case) with regard to the exercise by the council of its functions and it shall be the duty of the council to comply with the directions.

(2) Before giving a direction under the foregoing subsection, the Commissioner shall serve a copy of the proposed direction on the council and shall afford the council an opportunity of making representations to him with respect to the direction; and after considering any representations made to him in pursuance of this subsection, the Commissioner may give the direction either without modification, or with such modifications as appear to him to be appropriate having regard to the representations.

The registers

Preparation and maintenance of the registers.

5.—(1) It shall be the duty of the council to appoint a fit person to be the registrar for the purposes of this Decree.

(2) It shall be the duty of the registrar to prepare and maintain, in accordance with rules made by the council under this section, registers of the names, addresses and approved qualifications, and of such other particulars as may be specified, of all persons who are entitled in accordance with the provisions of this Decree to be registered as architects and who apply in the specified manner to be so registered.

(3) The register of architects (hereafter in this Decree referred to as "the register") shall consist of two parts of which one shall be in respect of fully registered persons entitled to practice as principals and the other in respect of provisionally registered persons.

(4) Subject to the following provisions of this section, the council shall make rules with respect to the form and keeping of the registers and the making of entries therein, and in particular—

(a) regulating the making of applications for registration and providing for the evidence to be produced in support of applications;

(b) providing for the notification to the registrar, by the person to whom any registered particulars relate, of any change in those particulars ;

(c) authorising a registered person to have any qualification which is registered in relation to his name in addition to or, as he may elect, in substitution for any other qualifications so registered ;

(d) specifying the fees to be paid to the council in respect of the entry of names on the registers and authorising the registrar to refuse to enter a name on a register until any fee specified for the entry has been paid ;

(e) specifying anything failing to be specified under the foregoing provisions of this section ;

but rules made for the purposes of paragraph (d) of this subsection shall not come into force until they are confirmed by order of the Commissioner.

(5) It shall be the duty of the registrar—

(a) to correct, in accordance with the council's directions, any entry in a register which the council directs him to correct as being in the council's opinion an entry which was incorrectly made ;

(b) to make from time to time any necessary alterations to the registered particulars of registered persons ;

(c) to remove from the part of the register of architects which relates to provisionally registered persons all particulars relating to a person registered in the other part of that register ; and

(d) to remove from the relevant part of the register the name of any registered person who has died, or as the case may be, has ceased to be entitled to be provisionally registered.

(6) If the registrar—

(a) sends by post to any registered person a registered letter addressed to him at his address on the register enquiring whether the registered particulars relating to him are correct and receives no reply to the letter within the period of six months from the date of posting it ; and

(b) upon the expiration of that period sends in like manner to the person in question a second similar letter and receives no reply to that letter within three months from the date of posting it,

the registrar may remove the particulars relating to the person in question from the relevant part of the register ; and the council may direct the registrar to restore to the appropriate part of the register any particulars removed therefrom under this subsection.

6.—(1) It shall be the duty of the registrar—

(a) to cause a list of persons whose names and qualifications are indicated in the register to be printed, published, and put on sale to members of the public not later than two years from the beginning of the year in which this subsection comes into force ; and

(b) in each year after that in which a register is first published under paragraph (a) above, to cause to be printed, published and put on sale as aforesaid either a corrected edition of the register or a list of alterations made to the register since it was last printed ; and

(c) to cause a print of each edition of the register and of each list of corrections to be deposited at the principal offices of the council ;

and it shall be the duty of the council to keep the register and lists so deposited open at all reasonable times for inspection by members of the public.

Publica-
tion of
registers
and lists of
corrections.

(2) In addition, the registrar shall cause to be published a list of persons qualified as architects but not entitled to practise as principals.

(3) A document purporting to be a print of an edition of a register published under this section by authority of the registrar in the current year, or documents purporting to be print of an edition of a register so published in a previous year and of a list of corrections to that edition so published in the current year, shall (without prejudice to any other mode of proof) be admissible in any proceedings as evidence that any person specified in the document, or the documents read together, is exempted or as the case may be, as being fully or provisionally registered is so registered, and that any person not so specified is not so exempted or registered.

Registration

Registra-
tion of
architects.

7.—(1) Subject to the provisions of this Decree and to rules made under section 5 above, a person shall not be entitled to be fully or provisionally registered under this Decree as an architect and, when so registered, to practise as such unless—

(a) he has attended a course of training approved by the council under section 9 of this Decree ; and

(b) the course was conducted at an institution so approved, or partly at one such institution and partly at another or others ; and

(c) he holds a qualification so approved.

(2) Registration in the first instance shall be provisional unless the council in its discretion authorises full registration of an applicant.

(3) Subject as aforesaid, if in the case of an applicant under section 8 (2) or (3) of this Decree he satisfies the council on all matters on which the council requires to be satisfied that he is a fit and proper person, the applicant may likewise be provisionally or fully registered in pursuance of subsection (2) above.

(4) Subject as aforesaid, a person shall be entitled to be fully registered if being a citizen of Nigeria or a person within section 8 (2) or (3) of this Decree he satisfies the council—

(a) as to his experience for the purposes of section 11 (1) of this Decree ;

(b) that he is of good character ;

(c) that his qualifications as an architect are for the time being accepted by the council for the purposes of this subsection as respects the profession of an architect ;

and save where section 8 (3) of this Decree applies—

(d) that where a qualification was acquired outside Nigeria the applicant for registration under this Decree was under no legal disability in the practice of architecture, and if the council so requires, that he has had sufficient practical experience in the profession of an architect ;

and the council shall from time to time publish in the Federal Gazette particulars of the qualifications for the time being accepted as aforesaid.

8.—(1) Where at the date of commencement of this Decree a Nigerian citizen holds in Government service (Federal or State) any office carrying with it the designation of "architect" by virtue of which he has control and management of the architectural work of Government as aforesaid, and under his control for the purposes of that work there is at least one person qualified for registration under this Decree as an architect, he may, on application in writing to the council at any time within six months after its commencement, and on satisfying the council—

Persons entitled to registration in special circumstances.

(a) that at the date of his application he was a member of any appropriate institution recognised by the council,

(b) that at that date he had under his control for the purposes of his work at least one person entitled to registration or duly registered under this Decree as an architect, and

(c) that he thereafter pays the prescribed fees,

be entitled to provisional registration and to the use of the word "architect" as descriptive of his occupation so long only as he continues to be employed in Government service (Federal or State).

(2) Subject to the next succeeding subsection, where the council is satisfied that reciprocal arrangements are in existence between Nigeria and any other country whereby citizens or nationals of that country and those of Nigeria are entitled to practise in that other country as architects on the same or nearly similar terms and conditions, a national or citizen of that other country shall, if resident in Nigeria for not less than five years preceding the date of his application for registration, and on due compliance with any other requirements of the council, be entitled to be registered as an architect under this Decree.

(3) Where any person not a citizen of Nigeria would, but for this subsection, be required to satisfy the council as to reciprocal arrangements made and as to his residential qualification and that person is, on or after the commencement of this Decree, employed in Nigeria as an architect—

(a) under any foreign technical assistance or foreign technical aid programme, or

(b) under a contract of service with the Military Government of the Federation or any State thereof,

the council shall, after receipt by it of an application for registration duly made by any person so employed, and upon payment of the prescribed fee but without requiring to be satisfied as to any such reciprocal arrangements and residential qualification, direct registration while so employed but no otherwise, under this Decree accordingly.

9.—(1) Subject to subsection (2) of this section, the council may approve for the purposes of section 7 of this Decree—

(a) any course of training which is intended for persons who are seeking to become, or are already qualified as, architects;

(b) any institution, either in Nigeria or elsewhere, which the council considers is properly organised and equipped for conducting the whole or any part of a course of training approved by the council under this section;

(c) any qualification which, as a result of examination taken in conjunction with a course of training approved by the council under this section, is granted to candidates reaching a standard at the examination indicating, in the opinion of the council, that they have sufficient knowledge and skill to practise architecture as a profession, otherwise than as a principal.

Approval of courses, qualifications and institutions.

(2) The council shall from time to time publish in the Federal Gazette a list of qualifications in the profession of architecture approved by it, and subject thereto the council shall not approve for the purposes of subsection (1) above a qualification granted by an institution in Nigeria unless the qualification has been so published by the council.

(3) The council may, if it thinks fit, withdraw any approval given under this section in respect of any course, qualification or institution; but before withdrawing such an approval the council shall—

(a) give notice that it proposes to do so to each person in Nigeria appearing to the council to be a person by whom the course is conducted or the qualification is granted or the institution is controlled, as the case may be; and

(b) afford each such person an opportunity of making to the council representations with regard to the proposal; and

(c) take into consideration any representations made as respects the proposal in pursuance of the last foregoing paragraph.

(4) As respects any period during which the approval of the council under this section for a course, qualification or institution is withdrawn, the course, qualification or institution shall not be treated as approved under this section; but the withdrawal of such an approval shall not prejudice the registration or eligibility for registration of any person who by virtue of the approval was registered or eligible for registration (either unconditionally or subject to his obtaining a certificate of experience) immediately before the approval was withdrawn.

(5) The giving or withdrawal of an approval under this section shall have effect from such date, either before or after the execution of the instrument signifying the giving or withdrawal of the approval, as the council may specify in that instrument; and the council shall—

(a) as soon as may be publish a copy of every such instrument in the Federal Gazette; and

(b) not later than seven days before its publication as aforesaid, send a copy of the instrument to the Commissioner.

10.—(1) It shall be the duty of the council to keep itself informed of the nature of—

(a) the instruction given at approved institutions to persons attending approved courses of training; and

(b) the examinations as a result of which approved qualifications are granted;

and for the purposes of performing that duty the council may appoint, either from among its own members or otherwise, persons to visit approved institutions or to attend such examinations.

(2) It shall be the duty of a visitor appointed under this subsection to report to the council on—

(a) the sufficiency of the instruction given to persons attending approved courses of training at institutions visited by him;

(b) the sufficiency of the examinations attended by him; and

(c) any other matters relating to the institutions or examinations on which the council may, either generally or in a particular case, request him to report;

but no visitor shall interfere with the giving of any instruction or the holding of any examination.

(3) On receiving a report made in pursuance of this section, the council shall as soon as may be send a copy of the report to the person appearing to the council to be in charge of the institution or responsible for the examinations to which the report relates requesting that person to make observations on the report to the council within such period as may be specified in the request, not being less than one month beginning with the date of the request.

11.—(1) Any person who, having qualified as an architect by examination after the commencement of this Decree or within two years before its commencement, as the case may be, satisfies the conditions mentioned in subsection (2) of this section, may apply for and be entitled to receive free of charge a certificate of experience from the council given, after consideration of the case, entitling him to be fully registered as an architect under this Decree; and such certificates shall when received by the person provisionally registered, be filed with his application for full registration.

Certificates
of
experience.

(2) The conditions aforesaid are—

(a) he shall, during his employment after qualification as aforesaid have acquired practical experience under the personal supervision and guidance of one or more fully registered architect for the period of 2 years; and

(b) the manner in which he carried out the duties of his employment and his conduct during the period of his employment shall have been satisfactory.

(3) It shall be the duty of the employer being a fully registered architect supervising the work of persons employed with a view to obtaining a certificate of experience to secure that the last-mentioned person is afforded proper opportunities of acquiring the practical experience required for the purposes of paragraph (a) of subsection (2) above.

(4) Where after having completed the period mentioned in paragraph (a) of subsection (2) above any person affected applies for and is refused a certificate of experience, he shall be entitled—

(a) to receive from the council particulars in writing of the grounds of the refusal; and

(b) to appeal from the refusal to the Commissioner in accordance with rules made by the council in that behalf (including rules as to the time within which appeals are to be brought);

and on any such appeal the Commissioner may either allow the appeal or dismiss it, or direct that the case be referred back to the council for reconsideration, and subject thereto no further or other right of appeal shall lie.

(5) Where an appeal is allowed under subsection (4) above the council shall forthwith issue the certificate of experience.

Professional discipline

12.—(1) There shall be a tribunal, to be known as the Architects Disciplinary Tribunal (hereafter in this Decree referred to as "the tribunal"), which shall be charged with the duty of considering and determining any case referred to it by the panel established by the following provisions of this section and any other case of which the tribunal has cognisance under the following provisions of this Decree.

Establish-
ment of
disciplinary
tribunal
and investi-
gating
panel.

(2) The tribunal shall consist of the president of the council and eleven other members of the council appointed by the council and shall include not less than four members of the council holding office by virtue of paragraph (d) of subsection (2) of section 2 of this Decree, or, where the number of those members is for the time being less than four all those members.

(3) There shall be a body, to be known as the Architects Investigating Panel (and hereafter in this Decree referred to as "the panel"), which shall be charged with the duty of—

(a) conducting a preliminary investigation into any case where it is alleged that a person fully or provisionally registered has misbehaved in his capacity as an architect, or should for any other reason be the subject of proceedings before the tribunal; and

(b) deciding whether the case should be referred to the tribunal.

(4) The panel shall be appointed by the council and shall consist of seven members of the council and two fully registered architects who are not members of the council.

Schedule 2.

(5) The provisions of Schedule 2 to this Decree shall, so far as applicable to the tribunal and the panel respectively, have effect with respect to those bodies.

Penalties for unprofessional conduct, etc.

13.—(1) Where—

(a) a person fully registered under this Decree is convicted, by any court in Nigeria or elsewhere having power to award imprisonment, of an offence (whether or not an offence punishable with imprisonment) which in the opinion of the tribunal is incompatible with the status of an architect; or

(b) a person provisionally registered under this Decree is likewise so convicted in circumstances such that the council is satisfied that his name ought to be removed from the register; or

(c) the tribunal is satisfied that the name of any person has been fraudulently fully or provisionally registered, the tribunal may, if it thinks fit, give a direction reprimanding that person if fully registered or, whether or not fully registered, ordering the registrar to strike his name off the relevant part of the register.

(2) The tribunal may, if it thinks fit, defer or further defer its decision as to the giving of a direction under subsection (1) above until a subsequent meeting of the tribunal; but—

(a) no decision shall be deferred under this subsection for periods exceeding two years in the aggregate; and

(b) no person shall be a member of the tribunal for the purposes of reaching a decision which has been deferred or further deferred unless he was present as a member of the tribunal when the decision was deferred.

(3) For the purposes of subsection (1) of this section a person shall not be treated as convicted as mentioned in paragraph (a) of that subsection unless the conviction stands at a time when no appeal or further appeal is pending or may (without extension of time) be brought in connection with the conviction.

(4) When the tribunal gives a direction under subsection (1) of this section, the tribunal shall cause notice of the direction to be served on the person to whom it relates.

(5) The person to whom such a direction relates may, at any time within twenty-eight days from the date of service on him of the notice of the direction, appeal against the direction to the Supreme Court; and the tribunal may appear as respondent to the appeal and, for the purpose of enabling directions to be given as to the costs of the appeal and of proceedings before the tribunal, shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.

(6) A direction of the tribunal under subsection (1) of this section shall take effect—

(a) where no appeal under this section is brought against the direction within the time limited for the appeal, on the expiration of that time ;

(b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal ;

(c) where such an appeal is brought and is not withdrawn or struck out as aforesaid, if and when the appeal is dismissed ;

and shall not take effect except in accordance with the foregoing provisions of this subsection.

(7) A person whose name is removed from the register in pursuance of a direction of the tribunal under this section shall not be entitled to be registered again except in pursuance of a direction in that behalf given by the tribunal on the application of that person ; and a direction under this section for the removal of a person's name from the register may prohibit an application under this subsection by that person until the expiration of such period from the date of the direction (and where he has duly made such an application, from the date of his last application) as may be specified in the direction.

Miscellaneous and General

14.—(1) Any person not an architect or ceasing to be entitled to full registration under this Decree, who— Offences.

(a) for or in expectation of reward practises or holds himself out to practise as such ; or

(b) without reasonable excuse takes or uses any name, title, addition or description implying that he is authorised by law to practise as an architect, shall be guilty of an offence.

(2) Subject as aforesaid, any person on the temporary register who—

(a) for or in expectation of reward, practises or holds himself out to practise in a private capacity as an architect ; or

(b) without reasonable excuse takes or uses any name, title, addition or description implying that he is authorised by law to practise as an architect, shall be guilty of an offence.

(3) If any person, for the purpose of procuring the registration of any name, qualification or other matter—

(a) makes a statement which he believes to be false in a material particular ; or

(b) recklessly makes a statement which is false in a material particular, he shall be guilty of an offence.

(4) If the registrar or any other person employed by the council wilfully makes any falsification in any matter relating to the register he shall be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable—

(a) on conviction in any court of inferior jurisdiction to a fine not exceeding fifty pounds ;

(b) on conviction in a High Court, to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years, or to both.

(6) Where an offence under this section 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.

15.—(1) Unless otherwise authorised or exempted under this Decree, a person shall not hold an appointment in the public service of the Federation or of a State or in the armed forces of the Federation requiring status as an architect.

(2) An architect under this Decree shall, but to the extent only of his particular qualifications, be entitled to practise as an architect throughout the Federation.

(3) It shall be the duty of the person in charge of each university having attached thereto a faculty of architecture in the Federation, at which there is held a course of training intended for persons who are seeking to become architects under this Decree, to furnish to the registrar, not later than the thirty-first day of March in every year, a list of the names, and of such other particulars as the council may by order specify, of all persons who attended any such course at the institution in question at any time during the preceding year.

16.—(1) Any power to make regulations, rules or orders conferred by this Decree shall include power,—

(a) to make provision for such incidental and supplementary matters as the authority making the instrument considers expedient for the purposes of the instrument; and

(b) to make different provision for different circumstances.

17.—(1) In this Decree, unless the context otherwise requires,—

“approved” means for the time being approved by the council under section 9 of this Decree;

“approved architectural qualification” means a qualification which is approved by the council under this Decree;

“architect” means any person professionally entitled to registration under this Decree;

“certificate of experience” means a certificate granted in pursuance of section 11 of this Decree;

“the council” means the Architects Registration Council of Nigeria established by section 2 (1) of this Decree;

“the Commissioner” means the Federal Commissioner charged with responsibility for matters relating to the architectural profession generally;

“the panel” has the meaning assigned to it by section 12 (3) of this Decree;

“prescribed” means prescribed by regulations made under this Decree;

“register” means the register maintained under this Decree, and “registered” shall be construed accordingly;

“the registrar” means the registrar appointed in pursuance of section 5 of this Decree;

Miscellaneous
supplementary
provisions.

Regulations, rules
and orders.

Interpre-
tation etc.

"regulations" means regulations made by the Commissioner ;

"the tribunal" has the meaning assigned to it by section 12 (1) of this Decree.

(2) References in this Decree to employment by a Military Government include references to employment by any Statutory Corporation or State owned company.

(3) For the purposes of this Decree,—

(a) a person is fully registered if his name is for the time being entered in the part of the register maintained in respect of architects entitled to practise as principals ; and

(b) a person is provisionally registered if his name is for the time being entered in the other part of that register ;

and "fully registered" and "provisionally registered" shall be construed in accordance with paragraphs (a) and (b) of this subsection.

(4) Any approval, consent, direction, notice, observation, report, representation or request authorised or required to be given or made by or under this Decree shall be in writing and may, without prejudice to any other method of service (but subject to the provisions of rules made under Schedule 2 to this Decree), be served by post.

18.—(1) This Decree may be cited as the Architects (Registration etc.) Decree 1969 and shall apply throughout the Federation.

(2) The provisions of this Decree shall come into force on such date as the Commissioner may appoint by order published in the Federal Gazette.

SCHEDULES

SCHEDULE 1

Section 2 (3)

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

Qualifications and tenure of office of members

1.—(1) A person shall not be a member of the council unless he is a Nigerian citizen fully registered as an architect under this Decree and at the date of his appointment has been engaged in architectural practice for a period of twelve years, or in special circumstances of which he shall be sole judge, for such lesser period as the Commissioner may approve.

(2) Subject to the following provisions of this paragraph, a person who is a member of the council otherwise than by virtue of paragraph (c) of section 2 (2) of this Decree or as having been appointed by the Commissioner from his Ministry under paragraph (b) of section 2 (2) aforesaid, shall hold office for a period not exceeding three years beginning with the date of his appointment or election, as the case may be, so however that whether appointed or elected the term of his office shall be not less than two years, and any period in excess shall be fixed by the council after consultation where necessary with the Commissioner.

(3) Any member of the council holding office otherwise than as mentioned in sub-paragraph (2) above may, by notice to the council, resign his office.

(4) A person who has ceased to be a member of the council shall be eligible again to become a member of the council.

(5) Where a member of the council ceases to hold office before the date when his term of office would have expired by the effluxion of time, the body or person by whom he was appointed or elected shall as soon as may be appoint or, as the case may be, appoint or elect a person to fill the vacancy for the residue of the term aforesaid, so however that (without prejudice to the powers conferred by paragraph (d) of subsection (2) of section 2 of this Decree) the foregoing provisions of this sub-paragraph shall not apply where a person holding office as a member of the council in pursuance of that paragraph ceases to hold office at a time when the residue of his term does not exceed one year.

(6) The power of appointing a person as president of the council shall—

(a) during the period of three years beginning with the date when this sub-paragraph comes into force, be exercisable by the Commissioner; and

(b) after the expiration of that period, be exercisable by the council;

and where an existing member of the council is appointed president, his office as an existing member shall become vacant and his term of office as president shall begin on the date of his appointment as president.

Powers of the council

2.—(1) Subject to the following sub-paragraph and to any direction of the Commissioner under this Decree, the council shall have power to do anything which in its opinion is calculated to facilitate the carrying on of its activities.

(2) The council shall not have power to borrow money or to dispose of any property except with the prior consent of the Commissioner and shall not have power to pay remuneration (including pensions) allowances or expenses to any member, officer or servant of the council or to any other person except in accordance with scales approved by the Commissioner.

Proceedings of the council

1964 No. 1.

3. Subject to the provisions of this Decree and of section 26 of the Interpretation Act 1964 (which provides for decisions of a body to be taken by a majority of the members of the body and for the chairman to have a second or casting vote), the council may make standing orders regulating the proceedings of the council or any committee thereof.

4. The quorum of the council shall be eleven so however that at least six of the States are represented at the particular meeting; and the quorum of any committee of the council shall be determined by the council.

5.—(1) The council shall appoint one of its members to be the vice-president of the council for such period as the council may determine, so however that a vice-president who ceases to be a member shall cease to be vice-president.

(2) At any time while the office of president is vacant or the president is in the opinion of the council permanently or temporarily unable to perform the functions of his office, the vice-president shall perform those functions, and references in this Schedule to the president shall be construed accordingly.

6.—(1) Subject to the provisions of any standing orders of the council, the council shall meet whenever it is summoned by the president and not less than four times in any financial year; and if the president is required so to

do by notice given to him by not less than six other members, he shall summon a meeting of the council to be held within seven days from the date on which the notice is given.

(2) At any meeting of the council the president shall preside, and in his absence or in the absence of the vice-president, the president shall designate a member to preside at that meeting.

(3) Where the council desires to obtain the advice of any person on a particular matter, the council may co-opt him as a member for such period as it thinks fit; but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the council and shall not count towards a quorum.

(4) Notwithstanding anything in the foregoing provisions of this paragraph, the first meeting of the council shall be summoned by the Commissioner, who may give such directions as he thinks fit as to the member who shall preside and the procedure which shall be followed at that meeting.

Committees

7.—(1) The council may appoint one or more committees to carry out, on behalf of the council, such of its functions as the council may determine.

(2) A committee appointed under this paragraph shall consist of the number of persons determined by the council, and not more than one-third of those persons may be persons who are not members of the council; and a person other than a member of the council shall hold office on the committee in accordance with the terms of the instrument by which he is appointed.

(3) A decision of a committee of the council shall be of no effect until it is confirmed by the council.

Miscellaneous

8.—(1) The fixing of the seal of the council shall be authenticated by the signature of the president or of some other member authorised generally or specially by the council to act for that purpose.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the council by any person generally or specially authorised to act for that purpose by the council.

(3) Any document purporting to be a document duly executed under the seal of the council shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

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

10. Any member of the council, and any person holding office on a committee of the council, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the council or a committee thereof shall forthwith disclose his interest to the council and shall not vote on any question relating to the contract or arrangement.

11. A person shall not, by reason only of his membership of the council, be treated as holding an office of emolument under the Federal Republic of Nigeria or any State thereof.

SCHEDULE 2

Section 12 (5)

SUPPLEMENTARY PROVISIONS RELATING TO THE DISCIPLINARY TRIBUNAL
AND INVESTIGATING PANEL*The Tribunal*

1. The quorum of the tribunal shall be four.

2.—(1) The Chief Justice of the Federation shall make rules as to the selection of members of the tribunal for the purposes of any proceedings and as to the procedure to be followed and the rules of evidence to be observed in proceedings before the tribunal.

(2) The rules shall in particular provide—

(a) for securing that notice of the proceedings shall be given, at such time in such manner as may be specified by the rules, to the person who is the subject of the proceedings;

(b) for determining who, in addition to the person aforesaid, shall be a party to the proceedings;

(c) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the tribunal;

(d) for enabling any party to the proceedings to be represented by a legal practitioner;

(e) subject to the provisions of section 13 (5) of this Decree, as to the costs of proceedings before the tribunal;

(f) for requiring, in a case where it is alleged that the person who is the subject of the proceedings is guilty of infamous conduct in any professional respect, that where the tribunal adjudges that the allegation has not been proved it shall record a finding that the person is not guilty of such conduct in respect of the matters to which the allegation relates;

(g) for publishing in the Federal Gazette of notice of any direction of the tribunal which has taken effect providing that a person's name shall be struck off a register.

3. For the purposes of any proceedings before the tribunal, any member of the tribunal may administer oaths and any party to the proceedings may sue out of the registry of the Supreme Court as the case may require, writs of subpoena *ad testificandum* and *duces tecum*; but no person appearing before the tribunal shall be compelled—

(a) to make any statement before the tribunal tending to incriminate himself; or

(b) to produce any document under such a writ which he could not be compelled to produce at the trial of an action.

4.—(1) For the purpose of advising the tribunal on questions of law arising in proceedings before it, there shall in all such proceedings be an assessor to the tribunal who shall be appointed by the council on the nomination of the Chief Justice of the Federation and shall be a legal practitioner of not less than seven years standing.

(2) The Chief Justice of the Federation shall make rules as to the functions of assessors appointed under this paragraph, and in particular such rules shall contain provisions for securing—

(a) that where an assessor advises the tribunal on any question of law as to evidence, procedure or any other matter specified by the rules, he

shall do so in the presence of every party or person representing a party to the proceedings who appears thereat or, if the advice is tendered while the tribunal is deliberating in private, that every such party or person as aforesaid shall be informed as to what advice the assessor has tendered ;

(b) that every such party or person as aforesaid shall be informed if in any case the tribunal does not accept the advice of the assessor on such a question as aforesaid.

(3) An assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument by which he is appointed.

The Panel

5. The quorum of the panel shall be three.

6.—(1) The panel may, at any meeting of the panel attended by not less than six members of the panel, make standing orders with respect to the panel.

(2) Subject to the provisions of any such standing order, the panel may regulate its own procedure.

Miscellaneous

7.—(1) A person ceasing to be a member of the tribunal or the panel shall be eligible for reappointment as a member of that body.

(2) A person may, if otherwise eligible, be a member of both the tribunal and the panel ; but 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.

8. The tribunal or the panel may act notwithstanding any vacancy in its membership ; and the proceedings of either body shall not be invalidated by any irregularity in the appointment of a member of that body, or (subject to sub-paragraph (2) of paragraph 7 above) by reason of the fact that any person who was not entitled to do so took part in the proceedings of that body.

9. The tribunal and the panel may each sit in two or more divisions.

10. Any document authorised or required by virtue of this Decree to be served on the tribunal or the panel shall be served on the registrar.

11. Any expenses of the tribunal or the panel shall be defrayed by the council.

12. A person shall not, by reason only of his appointment as a legal assessor to the tribunal or as a member of the panel, be treated as holding an office of emolument under the Federal Republic of Nigeria or any State thereof.

MADE at Lagos this 12th day of May 1969.

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

**THE STATUTORY CORPORATIONS (SALARIES AND
ALLOWANCES, ETC.) (EXTENDED APPLICATION)
DECREE 1969**



Decree No. 11

[1st April 1969]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The scales of salary set out in the Schedule to the Statutory Corporations (Salaries and Allowances Etc.) Decree 1968 shall apply to the staffs of corporations affected by this Decree and mentioned in subsection (2) of this section as they apply to the staffs of statutory corporations affected by the Statutory Corporations Service Commission Decree 1968 ; and allowances and benefits (other than salaries and retiring benefits) as stipulated from time to time by the Federal Executive Council for members of the public service of the Federation shall apply to the staffs of the corporations affected by this Decree to the like extent.

Extended
application
of Decrees
of 1968
No. 59
to other
corporations
etc.
1968 No. 53.

(2) The corporations affected by this Decree and to which subsection (1) above applies are the following, that is to say—

- (a) the Central Bank of Nigeria ;
- (b) the Niger Dams Authority ;
- (c) the Nigerian National Press Limited ; and
- (d) the Nigerian Produce Marketing Company Limited ;

Cap. 30.

Acts of 1962
No. 23.

so however that this enactment in relation to the Central Bank of Nigeria shall in its operation exclude the Governor and Deputy Governor of that Bank.

2.—(1) This Decree may be cited as the Statutory Corporations (Salaries and Allowances, Etc.) (Extended Application) Decree 1969.

Citation,
application
and
commence-
ment.

(2) This Decree shall apply throughout the Federation and shall be deemed to have come into operation on 1st April 1969.

MADE at Lagos this 12th day of May 1969.

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