

## BANKING OBLIGATIONS (EASTERN STATES) DECREE 1970



### ARRANGEMENT OF SECTIONS

#### Section

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| <ol style="list-style-type: none"> <li>1. Banking obligations to which this Decree applies.</li> <li>2. Deposit balances to be honoured by banks.</li> <li>3. Application of section 2 to other banking obligations.</li> <li>4. Residue of banking funds.</li> </ol> | <ol style="list-style-type: none"> <li>5. Delivery of returns.</li> <li>6. Governor of Central Bank of Nigeria may give directives.</li> <li>7. Offences.</li> <li>8. Supplemental.</li> <li>9. Interpretation.</li> <li>10. Citation, extent, repeal, etc.</li> </ol> |
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### Decree No. 56

[See section 10 (2) and (6)]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. Subject to section 2 (4) and (5) of this Decree, this Decree shall apply only to the following banking obligations, that is to say—

Banking  
obligations  
to which  
this Decree  
applies.

(a) all banking obligations in all areas in the Eastern States (excluding Calabar) which commenced on any date during the period starting on 31st May 1967 and ending on 12th January 1970 ; and

(b) all banking obligations in the Eastern States (excluding Calabar) arising from a deposit or loan account which existed at a bank as at 30th May 1967, if after that date the account has subsequently been operated in any manner whatsoever by the customer of the bank.

2.—(1) In respect of any deposit balance existing at a bank as at 30th May 1967 and relating to an account which after that date has been subsequently operated by the customer of a bank by way of withdrawals only, the bank shall be obliged to honour at par the customer's claim in respect of the approved residual balance of the account.

Deposit  
balances to  
be honoured  
by banks.

(2) In respect of any deposit balance existing at a bank as at 30th May 1967 and relating to an account which after that date has been subsequently operated by the customer of the bank (both by way of further deposits and withdrawals) then, if the aggregate amount of all the subsequent withdrawals made by the customer up to and including 12th January 1970 is less than the deposit balance as at 30th May 1967, the bank shall only be obliged to honour at par the customer's claim in respect of the approved residual balance of the account.

(3) In respect of any deposit balance existing at a bank as at 30th May 1967 and relating to an account which after that date has been subsequently operated by the customer of the bank (both by way of further deposits and withdrawals) then, if the aggregate amount of all the subsequent withdrawals made by the customer up to and including 12th January 1970 exceeds the deposit balance as at 30th May 1967, the bank shall not be obliged to honour any claim by the customer in respect of the account.

(4) In respect of any balance on any deposit account which was opened in the Eastern States (excluding Calabar) by a customer of a bank on any date during the period starting on 31st May 1967 and ending on 12th January 1970 a bank shall not be obliged to honour the customer's claim relating to that balance.

(5) For the avoidance of doubt, it is hereby declared that—

(a) deposits made, on any date during the period starting on 31st May 1967 and ending on 12th January 1970, into any account to which sub-section (2) or (3) of this section applies, shall not be honoured by a bank ;

(b) a bank shall be obliged to honour at par a customer's claim in respect of a deposit account maintained at the bank in the Eastern States (excluding Calabar) as at 30th May 1967, if the account in question has not been operated in any manner by the customer during the period starting on 31st May 1967 and ending on 12th January 1970.

(6) In this section references to—

(a) "an account" are references to a customer's account at a bank ;

(b) "approved residual balance", in relation to a customer's account at a bank, are references to the residual balance of the customer's account at the bank as at 30th May 1967 less the aggregate amount of all subsequent withdrawals made therefrom by the customer up till 12th January 1970.

Application  
of section 2  
to other  
banking  
obligations.

3. The provisions of section 2 of this Decree shall apply in relation to all other types of banking obligations (including bank loans and advances to customers) as they apply in relation to deposit balances and deposit accounts, and those provisions shall be construed accordingly.

Residue of  
banking  
funds.

4. After providing for the respective amounts required by a bank to meet the claims of customers to the extent permitted under the provisions of this Decree from its banking funds which emanated from the Eastern States (excluding Calabar), the bank shall pay over any residue of such banking funds to the Central Bank of Nigeria ; and each such payment shall be credited by the Central Bank of Nigeria to the account of the Federal Government to be used for post-war reconstruction.

Delivery of  
returns.

5. For the purposes of ensuring compliance by commercial banks with the provisions of this Decree, every commercial bank shall submit to the Central Bank of Nigeria periodical statements in respect of all banking obligations affected by this Decree ; and the statements shall be in such form and be made within such period of time as the Central Bank of Nigeria may determine.

Governor of  
Central Bank  
of Nigeria  
may give  
directives.

6.—(1) Where a bank is in doubt as to the application of this Decree to any deposit accounts, deposit balances or any other types of banking obligations with that bank, it shall refer the matter to the Governor of the Central Bank of Nigeria who may give such directives thereon as he deems fit.

(2) Where the Governor of the Central Bank of Nigeria has given any directives under the foregoing provisions of this section it shall be the duty of the bank concerned to comply with the directives.

7.—(1) Any bank which contravenes or fails to comply with any of the requirements of this Decree shall be guilty of an offence under this Decree and shall be liable to a fine of £50 for each day during which the offence continues.

Offences.

(2) Where a bank is guilty of an offence under subsection (1) of this section, the Governor of the Central Bank of Nigeria may compound the offence by accepting from the bank such sum of money as the Governor thinks fit, not exceeding the amount of the maximum fine to which the bank would have been liable.

(3) Any moneys paid to the Governor under subsection (2) above shall be paid into the Consolidated Revenue Fund of the Federation.

8.—(1) Except to the extent to which a bank is obliged under the provisions of this Decree to honour any claim of a customer relating to banking obligations, the rights of the customer in respect of any banking obligations to which section 2 or 3 of this Decree applies are hereby extinguished.

Supplemental.

(2) No civil proceedings shall lie or be instituted in any court for or on account of or in respect of any act, matter or thing done or purported to be done by any person under this Decree or in respect of any rights which are extinguished thereunder and if any such proceedings have been or are instituted before or after the commencement of this Decree, the proceedings shall abate, be discharged and made void.

9. In this Decree, unless the context otherwise requires—

Interpretation.

“banking obligations” means any banking transactions with either a commercial bank or the Central Bank of Nigeria whereby the commercial bank or the Central Bank of Nigeria incurs a liability to a customer or *vice versa*;

“bank” means the Central Bank of Nigeria and any bank licensed under the Banking Decree 1969;

1969 No. 1.

“the Eastern States” means the East-Central, Rivers and South-Eastern States.

10.—(1) This Decree may be cited as the Banking Obligations (Eastern States) Decree 1970 and shall apply throughout the Federation.

Citation, extent, repeal, etc

(2) The provisions of this Decree, except subsection (3) of this section, shall be deemed to have come into force on the appointed day and the said subsection (3) shall come into force on the making of this Decree.

(3) The Bank Moratorium (Eastern States) Decree 1970 and the Bank Moratorium (Eastern States) Order 1970 are hereby repealed.

1970 No. 21.  
L.N. 34 of  
1970.

(4) Without limiting the provisions of section 6 of the Interpretation Act 1964 (which relates to effect of repeals etc.) it is hereby declared that the repeal of any provision by this Decree shall not affect any document made or thing done under the provision so repealed.

1964 No. 1.

(5) Nothing in this Decree shall be construed as affecting any banking obligations arising on or after the appointed day.

(6) In this section "appointed day" means 15th January 1970.

MADE at Lagos this 30th day of December 1970.

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



## RECOVERY OF PUBLIC PROPERTY DECREE 1970



## Decree No. 57

[24th December 1970]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) It shall be lawful for a bank examiner to serve upon Barclays Bank of Nigeria Limited a requisition in writing by the Secretary to the Federal Military Government requiring payment into the Consolidated Revenue Fund of the Federation of the sum of £129,437-10s-0d (or thereabouts) held by the said Bank for the credit of one Josef Hasson, whose deportation from Nigeria was effected by the J. Hasson Deportation Order 1967 ; and it shall be the duty of the said Bank to comply with the requisition.

Power to  
requisition  
certain  
moneys.L.N. 87 of  
1967.

(2) The said requisition—

(a) shall be served personally by the bank examiner on a person appearing to him to be a manager or assistant manager of the said Bank or to be in charge of any office, branch or agency of the said Bank, and

(b) if it purports to be signed by the Secretary to the Federal Military Government, shall be acted upon as genuine without proof of signature.

2. Failure by or on behalf of the said Bank to comply with a requisition under this Decree shall be an offence punishable on conviction by a fine of £129,437.

Offence.

3. All persons making payments under this Decree shall stand indemnified in respect thereof, and no suit, prosecution or other legal proceedings shall lie at the instance of any person aggrieved for anything done in good faith in intended pursuance of this Decree.

Indemnity.

4. In this Decree "bank examiner" means an Examiner, a Deputy Examiner or an Assistant Examiner appointed under the Banking Decree 1969.

Interpreta-  
tion.  
1969 No. 1.

5. This Decree may be cited as the Recovery of Public Property Decree 1970 and shall apply throughout the Federation.

Citation  
and extent.

MADE at Lagos this 24th day of December 1970.

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

## RECOVERY OF PUBLIC PROPERTY (No. 2) DECREE 1970



## Decree No. 58

[24th December 1970]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. Relevant assets for the purposes of this Decree are assets which are or purport to be the property of—

Relevant  
assets.

- (a) a person known or formerly known as Captain Din, or
- (b) a company known as NITICO, or
- (c) any other person or body corporate or incorporate accused with the said Captain Din in criminal proceedings which terminated at Jos in the Benue-Plateau State of Nigeria in the year 1970.

2. Where any relevant assets are held by the Nigeria Police, it shall be the duty of the Inspector-General of the Nigeria Police to cause those assets to be sold and to cause the proceeds of the sale to be paid into the Consolidated Revenue Fund of the Federation.

Disposal of  
relevant  
assets held  
by Nigeria  
Police.

3.—(1) If the Inspector-General of the Nigeria Police is of the opinion that all or any of the relevant assets are not in the custody of the Nigeria Police, he shall make a report to that effect to the Federal Commissioner for Finance who shall direct the Governor of the Central Bank of Nigeria to instruct a bank examiner to issue directives to the manager or other person in charge of the head office or of any branch or agency of any bank in which in the opinion of the said Commissioner any of the relevant assets are or may be held requiring the bank to prepare a record of any account maintained by or for any person or body mentioned in section 1 (a), (b) or (c) of this Decree ; and it shall be the duty of the bank to cause the record to be delivered to the bank examiner before a date to be prescribed in the order.

Disposal of  
relevant  
assets held  
by Banks.

(2) Where a record is delivered by a bank to a bank examiner under subsection (1) above and the said Commissioner is satisfied that the record discloses any of the relevant assets, the bank examiner shall by written requisition call upon the bank to pay any credit balance shown in the record into the Consolidated Revenue Fund of the Federation.

(3) Failure by or on behalf of a bank to comply with a directive under subsection (1) above or a requisition under subsection (2) above shall be an offence by the bank punishable on conviction by a fine of not less than £5,000 for each day during which the failure continues.

(4) In this section—

1969 No. 1.

“bank” has the same meaning as in the Banking Decree 1969 ;

“bank examiner” means an Examiner, a Deputy Examiner or an Assistant Examiner appointed under the Banking Decree 1969.

Indemnity.

4. All persons making payments (or otherwise dealing with the relevant assets) pursuant to this Decree shall stand indemnified in respect thereof ; and no suit, prosecution or other legal proceedings shall lie at the instance of any person aggrieved for anything done in good faith in intended pursuance of this Decree.

Limit of recover-ability.

5. The Head of the Federal Military Government may, if he thinks fit, specify a maximum sum recoverable under this Decree ; and, if he does so, the total amount paid into the Consolidated Revenue Fund of the Federation under this Decree shall not exceed that maximum.

Citation and extent.

6. This Decree may be cited as the Recovery of Public Property (No. 2) Decree 1970 and shall apply throughout the Federation.

MADE at Lagos this 24th day of December 1970.

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

**CENTRAL BANK OF NIGERIA (AMENDMENT) (No. 2)  
DECREE 1970**



**Decree No. 59**

[8th July 1970]

Commence-  
ment.

**THE FEDERAL MILITARY GOVERNMENT** hereby decrees as follows :—

1. The Central Bank of Nigeria Act (hereinafter in this Decree referred to as "the principal Act") is amended as prescribed in the following provisions of this Decree.

Sundry  
amendments  
of the  
principal  
Act.  
Cap. 30.

2. In section 8 of the principal Act (which deals with the establishment and power of the Board) and—

Amendment  
of section 8.

(a) in subsection (2) thereof, there shall be substituted for the words "a Deputy Governor" the words "two Deputy Governors";

(b) in subsection (3) thereof, there shall be substituted for the words "the Deputy Governor" the words "one of the Deputy Governors nominated by the Governor in that behalf".

3. In section 9 of the principal Act (which relates to the appointment of Governor and Deputy Governor)—

Amendment  
of section 9.

(a) the proviso to subsection (2) shall be deleted ;

(b) for the words "Deputy Governor" where they occur in subsections (1), (2) and (3) the words "the Deputy Governors" shall be substituted ;  
and

(c) in the marginal note for the words "Deputy Governor" there shall be substituted the words "Deputy Governors".

4. In section 11 (3) of the principal Act (which relates to cessation of appointment) there shall be substituted for the words "Deputy Governor" the words "any Deputy Governor".

Amendment  
of section 11.

5. In section 12 of the principal Act (which relates to appointment to fill a vacancy) there shall be substituted for the words "Deputy Governor" the words "any Deputy Governor".

Amendment  
of section 12.

6. In section 13 (2) of the principal Act (which relates to meetings of the Board) there shall be substituted—

Amendment  
of section 13.

(a) for the words "the Deputy Governor" the words "the Deputy Governor nominated by him in that behalf, or in the absence of the Governor and the Deputy Governor so nominated, the other Deputy Governor,"; and

(b) for the words "both" the words "the Governor and the Deputy Governors".

Amendment  
of section 14.

7. In section 14 (3) of the principal Act (which relates to the appointments of officials) there shall be substituted for the words "his deputy" the words "any Deputy Governor".

Amendment  
of section 15.

8. In section 15 (1) of the principal Act (which relates to Advisory Committee) there shall be substituted for the words "Deputy Governor" the words "one of the Deputy Governors nominated by the Governor in that behalf."

Amendment  
of section 44.

9. For section 44 (1) of the principal Act (which relates to audit) there shall be substituted the following subsection—

"(1) The accounts of the Bank shall be audited by an auditor or auditors appointed by the Bank with the approval of the Commissioner."

Citation,  
extent and  
commence-  
ment.

10.—(1) This Decree may be cited as the Central Bank of Nigeria (Amendment) (No. 2) Decree 1970 and shall apply throughout the Federation.

(2) This Decree shall be deemed to have come into operation on 8th July 1970.

MADE at Lagos this 24th day of December 1970.

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

# PATENTS AND DESIGNS DECREE 1970



## ARRANGEMENT OF SECTIONS

### Section

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## Decree No. 60

[Section 33 (2)]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

*Patents*Patentable  
inventions.

1.—(1) Subject to this section, an invention is patentable—

(a) if it is new, results from inventive activity and is capable of industrial application, or

(b) if it constitutes an improvement upon a patented invention and also is new, results from inventive activity and is capable of industrial application.

(2) For the purposes of subsection (1) above—

(a) an invention is new if it does not form part of the state of the art,

(b) an invention results from inventive activity if it does not obviously follow from the state of the art, either as to the method, the application, the combination of methods, or the product which it concerns, or as to the industrial result it produces, and

(c) an invention is capable of industrial application if it can be manufactured or used in any kind of industry, including agriculture.

(3) In subsection (2) above “the art” means the art or field of knowledge to which an invention relates and “the state of the art” means everything concerning that art or field of knowledge which has been made available to the public anywhere and at any time whatever (by means of a written or oral description, by use or in any other way) before the date of the filing of the patent application relating to the invention or the foreign priority date validly claimed in respect thereof, so however that an invention shall not be deemed to have been made available to the public merely by reason of the fact that, within the period of six months preceding the filing of a patent application in respect of the invention, the inventor or his successor in title has exhibited it in an official or officially recognised international exhibition.

(4) Patents cannot be validly obtained in respect of—

(a) plant or animal varieties, or essentially biological processes for the production of plants or animals (other than microbiological processes and their products), or

(b) inventions the publication or exploitation of which would be contrary to public order or morality (it being understood for the purposes of this paragraph that the exploitation of an invention is not contrary to public order or morality merely because its exploitation is prohibited by law).

(5) Principles and discoveries of a scientific nature are not inventions for the purposes of this Decree.

2.—(1) Subject to this section, the right to a patent in respect of an invention is vested in the statutory inventor, that is to say, the person who, whether or not he is the true inventor, is the first to file, or validly to claim a foreign priority for, a patent application in respect of the invention.

Right to  
patent.

(2) The true inventor is entitled to be named as such in the patent, whether or not he is also the statutory inventor, and the entitlement in question shall not be modifiable by contract.

(3) If the essential elements of a patent application have been obtained by the purported applicant from the invention of another person (or from that other person's successor in title) without the consent of that other person (or his said successor) both to the obtaining of those essential elements and to the filing of the application, all rights in the application and in any patent granted in pursuance of it shall be deemed to be transferred to that other person or his said successor, as the case may be.

(4) Where an invention is made in the course of employment or in the execution of a contract for the performance of specified work, the right to a patent in the invention is vested in the employer or, as the case may be, in the person who commissioned the work :

Provided that, where the inventor is an employee, then—

(a) if—

(i) his contract of employment does not require him to exercise any inventive activity but he has in making the invention used data or means that his employment has put at his disposal, or

(ii) the invention is of exceptional importance, he is entitled to fair remuneration taking into account his salary and the importance of the invention, and

(b) the entitlement in question is not modifiable by contract and may be enforced by civil proceedings.

(5) A person is not an inventor for the purposes of this section if he has merely assisted in doing work connected with the development of an invention without contributing any inventive activity.

Patent  
applications.

3.—(1) Every patent application—

(a) shall be made to the Registrar and shall contain—

(i) the applicant's full name and address and, if that address is outside Nigeria, an address for service in Nigeria,

(ii) a description of the relevant invention with any appropriate plans and drawings,

(iii) a claim or claims, and

(iv) such other matter as may be prescribed, and

(b) shall be accompanied by—

(i) the prescribed fee,

(ii) where appropriate, a declaration signed by the true inventor requesting that he be mentioned as such in the patent and giving his name and address, and

(iii) if the application is made by an agent, a signed power of attorney (so however that, notwithstanding any rule of law, legalisation or certification of the signature of the power of attorney shall be unnecessary).

(2) The description referred to in subsection (1) (a) (ii) above shall disclose the relevant invention in a manner sufficiently clear and complete for the invention to be put into effect by a person skilled in the art or field of

knowledge to which the invention relates; and the claim or claims referred to in subsection (1) (a) (iii) above shall define the protection sought and shall not go beyond the limits of the said description.

(3) A patent application shall relate to only one invention, but may include in connection with that invention—

(a) claims—

(i) for any number of products,

(ii) for any number of manufacturing processes for those products, and

(iii) for any number of applications of those products, and

(b) claims—

(i) for any number of processes, and

(ii) for the means of working those processes, for the resulting product or products and for the application of those products.

(4) Where the applicant for a patent seeks to avail himself of a foreign priority in respect of an earlier application made in a country outside Nigeria—

(a) he shall append to his application under subsection (1) above a written declaration showing—

(i) the date and number of the earlier application,

(ii) the country in which the earlier application was made, and

(iii) the name of the person who made the earlier application, and

(b) not more than three months after the making of the application under subsection (1) above, he shall furnish the Registrar with a copy of the earlier application certified correct by the Industrial Property Office (or its equivalent) in the country where the earlier application was made.

4.—(1) The Registrar shall examine every patent application as to its conformity with section 3 (1), (3) and (4), and—

(a) if section 3 (1) has not been complied with, the Registrar shall reject the application,

(b) if section 3 (3) has not been complied with, the Registrar shall—

(i) invite the applicant to restrict the application so that it relates to only one invention, and

(ii) notify the applicant that he may within three months file in respect of the other inventions dealt with in the original application subsidiary applications which shall benefit from the date of filing of the original application and, if relevant, from the date of any foreign priority claimed under section 3 (4),

and, if the applicant does not comply with the invitation mentioned in sub-paragraph (i) above, shall reject the application, and

(c) if section 3 (4) has not been complied with, the Registrar shall disregard any claim for foreign priority.

(2) Where the examination mentioned in subsection (1) above shows that a patent application satisfies the requirements of section 3 (1) and (3), the patent shall be granted as applied for without further examination and, in particular, without examination of the questions—

(a) whether the subject of the application is patentable under section 1,

Examination of application, and grant of patent.

(b) whether the description and claims satisfy the requirements of section 3 (2), and

(c) whether a prior application, or an application benefiting from a foreign priority, has been made in Nigeria in respect of the same invention, and whether a patent has been granted as a result of such an application.

(3) Where the said examination shows that section 3 (4) has been complied with as respects a claim for a foreign priority, the foreign priority claimed shall be mentioned in the patent.

(4) Patents are granted at the risk of the patentee and without guarantee of their validity.

Form of  
grant,  
registration  
and publi-  
cation.

5.—(1) A patent shall be granted by the issue to the patentee of a document containing—

(a) the number of the patent in the order of grant,

(b) the name and address of the patentee and, if that address is outside Nigeria, an address for service in Nigeria,

(c) the dates of the patent application and the grant,

(d) if foreign priority is claimed—

(i) an indication of the fact, and

(ii) the number and date of the application on which the claim is based and the name of the country where it was made,

(e) the description of the invention (with any relevant plans and drawings) and the claims, and

(f) where appropriate, the name and address of the true inventor.

(2) The Registrar shall maintain a Register of Patents which shall consist of duplicates of the documents issued under subsection (1) above, together with such further matter as is required by this Decree to be registered.

(3) As soon as may be after a patent has been granted under subsection (1) above, the Registrar shall cause to be published—

(a) a notification of the grant containing the details mentioned in paragraphs (a) to (f) of that subsection (except the description and the plans and drawings, if any), or

(b) if a summary form of notification is prescribed, a notification in that form.

Rights  
conferred  
by patent.

6.—(1) A patent confers upon the patentee the right to preclude any other person from doing any of the following acts—

(a) where the patent has been granted in respect of a product, the act of making, importing, selling or using the product, or stocking it for the purpose of sale or use, and

(b) where the patent has been granted in respect of a process, the act of applying the process or doing, in respect of a product obtained directly by means of the process, any of the acts mentioned in paragraph (a) above.

(2) The scope of the protection conferred by a patent shall be determined by the terms of the claims; and the description (and the plans and drawings, if any) included in the patent shall be used to interpret the claims.

(3) The rights under a patent—

(a) shall extend only to acts done for industrial or commercial purposes, and

(b) shall not extend to acts done in respect of a product covered by the patent after the product has been lawfully sold in Nigeria, except in so far as the patent makes provision for a special application of the product, in which case the special application shall continue to be reserved to the patentee notwithstanding this paragraph.

(4) Where, at the date of the filing of a patent application in respect of a product or process or at the date of a foreign priority validly claimed in respect of the application, a person other than the applicant—

(a) was conducting an undertaking in Nigeria, and

(b) in good faith and for the purposes of the undertaking, was manufacturing the product or applying the process or had made serious preparations with a view to doing so,

then, notwithstanding the grant of a patent, there shall exist a right (exercisable by the person for the time being conducting the undertaking, and not otherwise) to continue the manufacture or application, or to continue and complete the preparations and thereafter undertake the manufacture or application, as the case may be, and in respect of any resulting products to do any other act mentioned in subsection (1) above.

7.—(1) Subject to this Decree, a patent shall expire at the end of the twentieth year from the date of the filing of the relevant patent application.

Duration  
and lapse  
of patent.

(2) A patent shall lapse if the prescribed annual fees are not duly paid in respect of it:

Provided that—

(a) a period of grace of six months shall be allowed for the payment of the fees, and

(b) if the fees and any prescribed surcharge are paid within that period, the patent shall continue as if the fees had been duly paid.

(3) The expiration or lapse of a patent shall be registered and notified.

8.—(1) Subject to subsection (2) below, a patent may be surrendered by the patentee by written declaration addressed to the Registrar.

Surrender  
of patent.

(2) The surrender of a patent—

(a) may relate to all or any of the claims made by the patent,

(b) subject to paragraph (d) below, shall be registered and notified,

(c) shall not be effective until it has been registered, and

(d) if it relates to a patent as to which a contractual licence or licence of right is registered, shall be registered only if it is accompanied by the written consent of the licensee.



Nullity of  
patent.

9.—(1) Subject to this section, on the application of any person (including a public officer acting in the exercise of his functions) the court shall declare a patent null and void—

- (a) if the subject of the patent is not patentable under section 1, or
- (b) if the description of the invention or the claim does not conform with section 3 (2), or
- (c) if for the same invention a patent has been granted in Nigeria as the result of a prior application or an application benefiting from an earlier foreign priority.

(2) Subsection (1) above may apply to the whole of a patent or to any particular claim or claims made by it.

(3) For the purpose of disposing of an application under subsection (1) above, the court on the motion of the applicant or of its own motion may require the patentee of the relevant patent to produce in evidence any of the following—

- (a) a list of any publications or earlier patents referred to in connection with a patent application made in respect of the same invention by the patentee to the appropriate authority in any country outside Nigeria,
- (b) any proceedings relating to the patent application in question or any patent granted in pursuance of it, and
- (c) any publications or patents mentioned in any report sent to the patentee by a governmental or inter-governmental research or investigation institute.

(4) Where a declaration is made under subsection (1) above—

- (a) the patent in question shall be deemed to have been null and void since the date of its grant, so however that it shall not be necessary to repay royalties paid by any licensee unless the court so orders, and
- (b) the proper officer of the court shall inform the Registrar, who shall register and notify the declaration.

(5) The court—

- (a) shall not make a declaration under subsection (1) above without first giving the patentee an opportunity to be heard,
- (b) in applying subsection (1) above, shall have regard only to the state of affairs existing when the proceedings were instituted, and
- (c) shall dismiss an application under subsection (1) above if the applicant (not being a public officer) fails to satisfy the court that he has a material interest in making the application.

Licences of  
right.

10.—(1) Subject to this section, if a patentee (not being precluded by the terms of any previously registered licence from granting a further licence) applies in writing to the Registrar for the words "licences of right" to be registered in respect of his patent, the Registrar shall enter the words accordingly in the Register and notify the entry.

(2) Where an entry is made under subsection (1) above in respect of a patent—

- (a) any person has the right to obtain a licence to exploit the patent on such terms as, failing agreement between that person and the patentee, shall be fixed by the court on the application of that person, and



(b) the amount of the annual fees payable in respect of the patent shall be reduced by half, the reduction first taking effect in relation to the annual fees first payable after the date of the entry.

(3) A patentee may at any time apply to the Registrar for an entry under subsection (1) above to be cancelled; and, if no licences have been granted under this section or all the grantees agree, the Registrar shall thereupon cancel the entry and notify the cancellation, but only after payment of all annual or other fees which would have been payable if the entry had never been made.

(4) The grantee of a licence under this section is not entitled to assign the licence or grant further licences under it.

(5) Subsections (1) (b), (2) (a), (3) and (6) of section 23 apply in relation to licences granted under this section as they apply to licences and contracts under section 23.

11. The provisions of Schedule 1 shall have effect in relation to compulsory licences and the use of patents for the service of government agencies.

Compulsory  
licences and  
official use.

### Designs

12. Any combination of lines or colours or both, and any three-dimensional form, whether or not associated with colours, is an industrial design if it is intended by the creator to be used as a model or pattern to be multiplied by industrial process and is not intended solely to obtain a technical result.

Nature of  
industrial  
design.

13.—(1) Subject to this section, an industrial design is registrable if—

Registrable  
designs.

(a) it is new, and

(b) it is not contrary to public order or morality.

(2) Where application is made for the registration of an industrial design, the design shall be presumed to be new at the time of the application except in so far as the following provisions of this section provide otherwise.

(3) An industrial design is not new if, before the date of application for registration, it has been made available to the public anywhere and at any time by means of description, use or in any other way, unless it is shown to the satisfaction of the Registrar that the creator of the design could not have known that it had been made so available.

(4) An industrial design shall not be deemed to have been made available to the public solely by reason of the fact that within the period of six months preceding the filing of the application for registration the creator has exhibited it in an official or officially recognised exhibition.

(5) An industrial design is not new merely because it differs in minor or inessential ways from an earlier design or concerns a type of product other than the type with which an earlier design is concerned.

14.—(1) Subject to this section, the right to registration of an industrial design is vested in the statutory creator, that is to say, the person who, whether or not he is the true creator, is the first to file, or validly to claim a foreign priority for, an application for registration of the design.

Right to  
registration.

(2) The true creator is entitled to be named as such in the Register, and the entitlement in question shall not be modifiable by contract.

(3) If the essential elements of an application for the registration of an industrial design have been obtained by the purported applicant from the creation of another person without the consent of that other person both to the obtaining of those essential elements and to the filing of the application, all rights in the application and in any consequent registration shall be deemed to be transferred to that other person.

(4) Where an industrial design is created in the course of employment or in the execution of a contract for the performance of specified work, the ownership of the design is vested in the employer or, as the case may be, in the person who commissioned the work :

Provided that, where the creator is an employee, then, if his contract of employment does not require him to exercise any creative activity but he has in creating the design used data or means that his employment has put at his disposal—

(a) he is entitled to fair remuneration taking into account his salary and the importance of the design which he has created, and

(b) the entitlement in question is not modifiable by contract and may be enforced by civil proceedings.

Applications  
for registra-  
tion.

15.—(1) An application for the registration of an industrial design shall be made to the Registrar and—

(a) shall contain—

(i) a request for registration of the design,

(ii) the applicant's full name and address and, if that address is outside Nigeria, an address for service in Nigeria,

(iii) a specimen of the design or a photographic or graphic representation of the design with any printing block or other means of reproduction from which the representation was derived,

(iv) an indication of the kind of product (or, where a classification has been prescribed, the class of product) for which the design will be used, and

(v) such other matter as may be prescribed, and

(b) shall be accompanied by—

(i) the prescribed fee,

(ii) where appropriate, a declaration signed by the true creator requesting that he be named as such in the Register and giving his name and address, and

(iii) If the application is made by an agent, a signed power of attorney (so however that, notwithstanding any rule of law, legalisation or certification of the signature of the power of attorney shall be unnecessary).

(2) A single application may relate to any number of industrial designs not exceeding fifty, if the products to which the designs relate are of the same kind or, where a classification has been prescribed, of the same class.

(3) Where an applicant for the registration of an industrial design seeks to avail himself of a foreign priority in respect of an earlier application made in a country outside Nigeria—

(a) he shall append to his application under subsection (1) above, a written declaration showing—

(i) the date and number of the earlier application,

(ii) the country in which the earlier application was made, and

(iii) the name of the person who made the earlier application, and

(b) not more than three months after the making of the application under subsection (1) above, he shall furnish the Registrar with a copy of the earlier application certified correct by the Industrial Property Office (or its equivalent) in the country where the earlier application was made.

16.—(1) The Registrar shall examine every application for registration of an industrial design as to its conformity with sections 13 (1) (b) and 15, and—

Examination of applications for registration.

(a) if the application fails in any respect to conform with section 13 (1) (b) or 15 (1) or (2), the Registrar shall reject the application, and

(b) if the application fails in any respect to conform with section 15 (3), the Registrar shall disregard any claim for foreign priority.

(2) Where the examination mentioned in subsection (1) above shows that an application for the registration of an industrial design satisfies the requirements of sections 13 (1) (b) and 15, the design shall be registered in accordance with the application without further examination and, in particular, without examination of the question whether the registration might be contrary to section 13 (1) (a); and, where the said examination shows that section 15 (3) has been complied with as respects a claim for foreign priority, the foreign priority claimed shall be recorded in the Register.

17.—(1) An industrial design shall be registered by the issue to the applicant of a registration certificate containing—

Registration and publication.

(a) the number of the design in order of registration,

(b) the name and address of the registered owner and, if that address is outside Nigeria, an address for service in Nigeria,

(c) the date of the application and of the issue of the registration certificate,

(d) if foreign priority is claimed—

(i) an indication of the fact, and

(ii) the number and date of the application on which the claim is based and the name of the country where the application was made,

(e) a reproduction or representation of the design and an indication of the kind (or, where a classification has been prescribed, the class) of products for which it will be used, and

(f) where appropriate, the name and address of the true creator.

(2) The Registrar shall maintain a Register of Industrial Designs which shall consist of duplicates of the registration certificates issued under subsection (1) above, together with such further matter as is required by this Decree to be registered.

(3) As soon as may be after a design has been registered under subsection (1) above, the Registrar shall cause to be published—

(a) a notification of the registration containing the details mentioned in paragraphs (a) to (f) of that subsection, or

(b) if a summary form of notification is prescribed, a notification in that form.

Applications  
under sealed  
cover.

18.—(1) An applicant for the registration of an industrial design may ask for the design to be kept secret for a specified period not exceeding twelve months from the date of the application; and, where he does so, then, notwithstanding any other provision of this Decree—

(a) the specimen and other matters mentioned in section 15 (1) (a) (iii) and (iv) shall be enclosed in a sealed package, which shall be opened by the Registrar—

(i) when the specified period has elapsed, or

(ii) if, before the specified period has elapsed, the applicant asks for the application to be converted into an open application, or

(iii) if the package is still sealed, at the expiration of twelve months after the date of the application,

(b) a provisional registration certificate shall be issued and a provisional notification published under section 17, each of which shall exclude the reproduction and other matters mentioned in section 17 (1) (e),

(c) the said provisional registration certificate and provisional notification shall not confer any right to protection under section 25, and

(d) when the sealed package has been opened pursuant to paragraph (a) above, the Registrar shall proceed in accordance with sections 16 and 17 in so far as he has not already done so and, if authorised by those sections, shall issue a revised registration certificate and publish a revised notification which shall have the same effect as any other certificate issued or notification published under section 17.

(2) Notwithstanding subsection (1) above, a sealed package may be opened by the Registrar at any time on the direction of a court and shall be resealed when the court no longer requires it:

Provided that, if the time at which the package may be opened under subsection (1) (a) above arrives before the court has ceased to require it, the package shall be deemed to have been duly opened at that time and shall not be resealed.

Rights  
conferred by  
registration.

19.—(1) Registration of an industrial design confers upon the registered owner the right to preclude any other person from doing any of the following acts—

(a) reproducing the design in the manufacture of a product,

(b) importing, selling or utilising for commercial purposes a product reproducing the design, and

(c) holding such a product for the purpose of selling it or of utilising it for commercial purposes.

(2) The reproduction of a registered industrial design is not lawful for the purposes of subsection (1) above merely because it differs in minor or inessential ways from the design or because it concerns a type of product other than the type with which the design is concerned.

(3) The rights conferred by this section—

(a) shall extend only to acts done for commercial or industrial purposes, and

(b) shall not extend to acts done in respect of a product incorporating a registered industrial design after the product has been lawfully sold in Nigeria.

20.—(1) Subject to this Decree, registration of an industrial design—

(a) shall be effective in the first instance for five years from the date of the application for registration, and

(b) on payment of the prescribed fee may be renewed for two further consecutive periods of five years.

(2) The fee mentioned in subsection (1) (b) above shall be paid within the twelve months immediately preceding the renewal period to which it relates :

Provided that—

(a) a period of grace of six months after the beginning of the renewal period shall be allowed for the payment of the fee, and

(b) if the fee and any prescribed surcharge are paid within that period, this subsection shall be deemed to have been complied with.

(3) The fact that the registration of an industrial design has ceased to be effective or has been renewed shall be registered and notified.

Duration and renewal of registration.

21.—(1) Subject to subsection (2) below, the registered owner of an industrial design may renounce the registration by a written declaration addressed to the Registrar.

Renunciation of registration.

(2) A renunciation under subsection (1) above—

(a) may be limited—

(i) to any particular kind or kinds of product, or

(ii) if a classification of products has been prescribed, to any particular class or classes of product, or

(iii) if the application for registration comprised several designs, to any one or more of those designs,

(b) subject to paragraph (d) below, shall be registered and notified,

(c) shall not be effective until it has been registered, and

(d) if it relates to a design as to which a contractual licence is registered, shall be registered only if—

(i) it is accompanied by the licensee's written consent to registration, or

(ii) the licensee has in the licence contract agreed that this paragraph shall not apply.

22.—(1) Subject to this section, on the application of any person (including a public officer acting in the exercise of his functions) the court shall declare the registration of an industrial design to be null and void—

Nullity of registration.

(a) if the design, because of its failure to conform with section 13 (1) (b), ought not to have been registered, or

(b) if the design fails to comply with section 13 (1) (a) or 14.

(2) Where—

(a) a declaration under subsection (1) above relates to an application comprising several designs, and

(b) the grounds for making the declaration affect only some of those designs,

the declaration shall apply only to the designs so affected.



(3) Where a declaration is made under subsection (1) above—

(a) the registration in question shall be deemed, to the extent specified in the declaration, to have been null and void ab initio, so however that it shall not be necessary to repay royalties paid by any licensee unless the court so orders, and

(b) the proper officer of the court shall inform the Registrar, who shall register and notify the declaration.

(4) The court—

(a) shall not make a declaration under subsection (1) above without first giving the design owner an opportunity to be heard,

(b) in applying subsection (1) (a) above, shall have regard only to the state of affairs existing when the proceedings were instituted, and

(c) shall dismiss an application under subsection (1) above if the applicant (not being a public officer) fails to satisfy the court that he has a material interest in making the application.

### *General*

#### **Contractual licences.**

23.—(1) Subject to this section—

(a) a patentee or design owner may by a written contract signed by the parties grant a licence to any person to exploit the relevant invention or design, and

(b) in the absence of any provision to the contrary in the contract, the licensee shall be entitled to do anywhere in Nigeria in relation to the patent or design any of the acts mentioned in section 6 or 9, as the case may be.

(2) Where a licence is granted under subsection (1) above—

(a) the licence shall be registered, and shall be of no effect against third parties until registration is effected and the prescribed fee paid, and

(b) the registration shall be cancelled at the request of the licensor if the Registrar is satisfied that the licence has been terminated.

(3) Any clause in a contract for a licence under subsection (1) above is null and void in so far as it imposes on the licensee in the industrial or commercial field restrictions which do not derive from the rights conferred by the relevant patent or design or are unnecessary for the safeguarding of those rights :

Provided that—

(a) limitations concerning the scope, extent, territory or duration of the exploitation of the patent or design or the quality or quantity of the products in connection with which the patent or design may be exploited,

(b) obligations imposed on the licensee to abstain from all acts capable of prejudicing the validity of the patent or the validity of the registration of the design, and

(c) in the case of a patent, limitations justified by the interest of the licensor in the technically efficient exploitation of the subject of the patent, are not restrictions of the kind mentioned in this subsection.



(4) In the absence of any provision to the contrary in a contract for a licence under subsection (1) above—

(a) the grant of the licence shall not prevent the licensor from—

- (i) granting further licences to other persons, or
- (ii) himself exploiting the relevant patent or design,

(b) the licence shall not be assignable by the licensee, and

(c) the licensee shall not be entitled to grant further licences.

(5) Where a contract under subsection (1) above provides for a licensee to grant further licences, this section shall apply in relation to any such further licence as it applies in relation to licences granted under the said subsection (1).

(6) The Commissioner, if he is satisfied that it is in the interest of Nigeria and its economic development to do so, may by order in the Federal Gazette provide that contracts under subsection (1) above (or any specified class thereof) shall, in so far as they involve the payment of royalties outside Nigeria, be invalid without the approval of such authority as may be specified in the order.

24.—(1) Subject to this section, a person's rights in a patent application, in an application for the registration of a design, in a patent or in a registered design may be assigned, transferred by succession or held in joint ownership.

Assignments,  
transfers and  
joint owner-  
ship.

(2) An assignment under subsection (1) above shall be in writing and signed by the parties.

(3) An assignment or transfer by succession under subsection (1) above shall have no effect against third parties unless it has been registered and the prescribed fee paid.

(4) In the absence of any provision to the contrary among themselves, joint owners of a patent or registered design may separately transfer their shares, exploit the patented invention, utilise the registered design or exercise the rights conferred by section 6 or 9, as the case may be; but a licence under this Decree may not be granted by joint owners otherwise than jointly.

(5) Any reference (however expressed) in this Decree to an applicant for a patent, an applicant for the registration of a design, a patentee or a design owner includes, unless the context otherwise requires, a reference to any predecessors or successors in title and, where appropriate, to joint applicants, joint patentees or joint owners, as the case may be.

25.—(1) The rights of a patentee or design owner are infringed if another person, without the licence of the patentee or design owner, does or causes the doing of any act which that other person is precluded from doing under section 6 or 9, as the case may be.

Infringement  
of rights.

(2) An infringement of the rights of a patentee or design owner is actionable at the suit of the patentee or design owner in question; and in any action for such an infringement all such relief by way of damages, injunction, accounts or otherwise shall be available to the plaintiff as is available in any corresponding proceedings in respect of the infringement of other proprietary rights.

(3) If—

(a) a patent has been granted in respect of a process for the manufacture of a new product, and

(b) the same product is manufactured by a person other than the patentee,

the product shall in the absence of proof to the contrary be presumed to have been manufactured by that process.

(4) The grantee of a licence under this Decree from a patentee or design owner may by registered letter require the licensor to institute proceedings under subsection (1) above in respect of any infringement indicated by the grantee in the letter; and, if the licensor unreasonably refuses or neglects to institute the proceedings, the licensee may institute them in his own name, without prejudice to the right of the licensor to intervene in the proceedings.

Legal  
proceedings.  
1965 No. 29.

26.—(1) Jurisdiction to hear and dispose of legal proceedings under this Decree is hereby vested in the High Court of Lagos State and, subject to this Decree, the provisions of the Trade Marks Act 1965 applicable to legal proceedings under that Act shall apply with the necessary modifications to legal proceedings under this Decree.

(2) The court hearing proceedings under this Decree may sit with and be advised by two assessors having expert knowledge of matters of a technological or economic nature.

(3) The Chief Justice of Lagos State may make rules of court for the regulation of legal proceedings under this Decree if he thinks it necessary to do so.

Foreign  
priority.

27.—(1) The Commissioner may, with a view to the fulfilment of a treaty, convention or other international arrangement or agreement to which Nigeria is a party, declare by order in the Federal Gazette that any country specified in the order is a convention country for the purposes of this section.

(2) So long as there is in force an order under subsection (1) above declaring a country to be a convention country, a patent application or a design application in Nigeria, if an earlier corresponding application for the protection of an invention or the registration of a design has been made in that convention country, shall be treated as having been made on the date when that earlier application was made:

Provided that this subsection shall not apply where the earlier application was made—

(a) in the case of an invention, more than twelve months, or

(b) in the case of a design, more than six months,  
before the application in Nigeria.

(3) Where a person has applied for the protection of an invention or the registration of a design by an application which—

(a) in accordance with a treaty, convention or other international arrangement or agreement subsisting between any two or more convention countries is equivalent to an application duly made in any one of those convention countries, or

(b) in accordance with the law of any convention country is equivalent to an application duly made in that convention country,

he shall be deemed for the purposes of this Decree to have applied in each of those convention countries or in that convention country, as the case may be.

(4) Where a patent application or a design application is to be treated by virtue of subsection (2) above as having been made on the date of an earlier application in a convention country, that earlier date is referred to in this Decree as a foreign priority, and in this Decree the expression "foreign priority" shall be construed accordingly.

28.—(1) There shall be a Registrar of Patents and Designs, who shall be appointed by the Public Service Commission of the Federation.

Registration :  
miscellaneous  
provisions.

(2) The Registrar may correct any clerical error in an entry in the Register, but before doing so shall give the person to whom the entry relates an opportunity to make representations.

(3) Any person—

(a) may consult the Register free of charge during the prescribed hours, and

(b) on payment of the prescribed fee, may obtain a copy of any entry in the Register.

(4) A copy of an entry in the Register sealed with the Registrar's seal shall be admissible as evidence of what is stated therein; and any document purporting to be such a copy shall be presumed, until the contrary is proved, to be what it purports to be.

(5) Any person aggrieved by a decision of the Registrar in the exercise of his functions under this Decree may appeal to the court.

(6) If the Commissioner so directs, the Registrar shall from time to time publish a journal to be known as the Patents and Designs Journal in which shall be published all such matters as are required by this Decree to be published or notified and such other matters relating to patents and designs as the Registrar thinks fit:

Provided that, if there is no such direction in force, any matter required by this Decree to be published or notified shall be published by the Registrar in the Federal Gazette.

(7) Subject to this Decree and any rules made under section 30(b), the Registrar shall maintain and make entries in the Register in whatever manner appears to him to be most suitable and convenient.

29. Subject to Part II of Schedule 1, a patent or registered design has the same effect against the state as against an individual.

Effect  
against the  
state.

30.—(1) The Commissioner may make rules—

Rules.

(a) prescribing anything requiring to be prescribed for the purposes of this Decree, (including summary forms of notification of the grant of a patent and the registration of a design, and classifications of products to which designs relate),

(b) regulating the manner in which the Registrar shall maintain and make entries in the Register, and

(c) containing such administrative or procedural provisions as appear to him to be necessary or expedient in order to facilitate the operation of this Decree.

(2) The Federal Commissioner for Industries with the approval of the Federal Executive Council may make rules establishing schemes to encourage inventive activity; and, without prejudice to the generality of the foregoing, any such scheme may include provision for the payment of grants to persons who have discovered or perfected, or appear to have reasonable prospects of discovering or perfecting, important inventions which cannot be further developed for financial reasons.

Repeals, and  
transitional  
and saving  
provisions.

Cap. 182.  
Cap. 204.  
1968 No. 8.  
12, 13 and  
14  
Geo.6.c.87.

31.—(1) The Registration of United Kingdom Patents Act, the United Kingdom Designs (Protection) Act, the Patent Rights (Limitation) Decree 1968 and (in so far as they are in force in Nigeria) the Patents Act 1949 of the United Kingdom and amendments thereof are hereby repealed.

(2) The transitional and saving provisions in Schedule 2 shall have effect notwithstanding subsection (1) above or any other provision of this Decree.

Inter-  
pretation.

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

“Commissioner”, except in Part II of Schedule 1, means the Federal Commissioner for Trade;

“court” means the High Court of Lagos State;

“design” means an industrial design;

“design application” means an application for the registration of an industrial design;

“design owner” means the registered owner of an industrial design;

“foreign priority” has the meaning assigned by section 27;

“import” means import into Nigeria;

“patent application” means an application for the grant of a patent;

“patentee” means a person to whom a patent has been granted;

“Register” means the Register of Patents, the Register of Industrial Designs, or both, as the case may require;

“Registrar” means the Registrar of Patents and Designs.

(2) In this Decree, unless the context otherwise requires, a reference to a numbered section or schedule is a reference to the section or schedule so numbered in this Decree.

Citation,  
extent and  
commence-  
ment.

33.—(1) This Decree may be cited as the Patents and Designs Decree 1970 and shall apply throughout the Federation.

(2) This Decree shall come into force on a date to be appointed by the Commissioner by order in the Federal Gazette.

## SCHEDULES

### SCHEDULE 1

### Section 11

#### COMPULSORY LICENCES AND USE OF PATENTS FOR SERVICE OF GOVERNMENT AGENCIES

##### PART I

##### COMPULSORY LICENCES

1. Subject to this Part, at any time after the expiration of a period of four years after the filing of a patent application or three years after the grant of a patent, whichever period last expires, a person may apply to the court for the grant of a compulsory licence on one or more of the following grounds—

(a) that the patented invention, being capable of being worked in Nigeria, has not been so worked,

(b) that the existing degree of working of the patented invention in Nigeria does not meet on reasonable terms the demand for the product,

(c) that the working of the patented invention in Nigeria is being hindered or prevented by the importation of the patented article, and

(d) that, by reason of the refusal of the patentee to grant licences on reasonable terms, the establishment or development of industrial or commercial activities in Nigeria is unfairly and substantially prejudiced.

2. If an invention protected by a patent in Nigeria cannot be worked without infringing rights derived from a patent granted on an earlier application or benefiting from an earlier foreign priority, a compulsory licence may be granted to the patentee of the later patent to the extent necessary for the working of his invention if the invention—

(a) serves industrial purposes different from those served by the invention which is the subject of the earlier patent, or

(b) constitutes substantial technical progress in relation to that last-mentioned invention.

3. If the two inventions mentioned in paragraph 2 above serve the same industrial purposes, a compulsory licence may be granted under that paragraph only on condition that a compulsory licence shall also be granted in respect of the later patent to the patentee of the earlier patent, if he so requests.

4. A compulsory licence shall not be granted in respect of a patent if the patentee satisfies the court that his actions in relation to the patented invention are justifiable in the circumstances, but he shall not be held to have so satisfied the court if he merely shows that the patented article is freely available for importation.

5. A compulsory licence shall not be granted unless the applicant—

(a) satisfies the court that he has asked the patentee for a contractual licence but has been unable to obtain such a licence on reasonable terms and within a reasonable time, and

(b) offers guarantees satisfactory to the court to work the relevant invention sufficiently to remedy the deficiencies (or to satisfy the requirements) which gave rise to his application.



6. A compulsory licence—

(a) entitles the licensee to do any act mentioned in section 6 except importation,

(b) does not entitle the licensee to grant further licences,

(c) shall be non-exclusive, and

(d) may contain additional obligations and restrictions as regards both the licensee and the patentee.

7. A compulsory licence may be transferred only with the industrial undertaking in which the relevant invention is used, and no such transfer shall be valid until the consent of the court has been obtained.

8. On hearing an application for a compulsory licence, the court shall first decide whether a compulsory licence may be granted and shall then, if it decides in favour of the grant and the parties cannot agree on the terms, proceed to fix the terms (including adequate royalties having regard to the extent to which the relevant invention is to be worked) which shall be deemed to constitute a valid contract between the parties.

9. On the application of the patentee, the court may cancel a compulsory licence if—

(a) the licensee fails to comply with the terms of the licence, or

(b) the conditions which justified the grant of the licence have ceased to exist,

so however that in the latter case a reasonable time shall be given to the licensee to cease working the relevant invention if an immediate cessation would cause him to suffer substantial damage.

10. On the application of the patentee or licensee, the court may vary the terms of a compulsory licence if new facts justify the variation, and in particular (without prejudice to the generality of the foregoing) if the patentee has granted contractual licences on more favourable terms.

11. Where the court grants, cancels or varies the terms of a compulsory licence—

(a) the proper officer of the court shall inform the Registrar, who shall register the grant, cancellation or variation without fee, and

(b) the grant, cancellation or variation shall have no effect as against third parties until it has been registered.

12. A representative of the Commissioner shall have the right to appear and be heard at the hearing of an application for a compulsory licence.

13. The Commissioner by order in the Federal Gazette may provide that, for certain patented products and processes (or for certain categories thereof) declared by the order to be of vital importance for the defence or the economy of Nigeria or for public health, compulsory licences may be granted before the expiration of the period mentioned in paragraph 1 above and may permit importation.

14. For the purposes of this Part, references to the working of a patented invention are to be construed as references to—

(a) the manufacture of a patented article, or

(b) the application of a patented process, or

(c) the use in manufacture of a patented machine,

by an effective and serious establishment existing in Nigeria on a scale which is adequate and reasonable in the circumstances.



PART II

USE OF PATENTS FOR SERVICE OF GOVERNMENT AGENCIES

15. Notwithstanding anything in this Decree, where a Commissioner is satisfied that it is in the public interest to do so, he may authorise any person to purchase, make, exercise or vend any patented article or invention for the service of a government agency in the Federal Republic.

16. The authority of a Commissioner under paragraph 15 above may be given—

- (a) before or after the relevant patent has been granted,
- (b) before or after the doing of the acts in respect of which the authority is given, and
- (c) to any person whether or not he is authorised directly or indirectly by the patentee to make, use, exercise or vend the relevant article or invention.

17. Paragraphs 15 and 16 above shall have effect so as to exempt—

- (a) the Government,
- (b) any person authorised under those paragraphs,
- (c) any supplier of the Government or of any such person, and
- (d) any agent of any such supplier,

from liability for the infringement of any patent relating to the relevant article or invention and from liability to make any payment to the patentee by way of royalty or otherwise.

18. Where any act is done in respect of an article on the authority of a Commissioner under paragraph 15 above, then, unless it appears to the Commissioner that it would be contrary to the public interest to do so, the Ministry concerned with the act shall furnish the patentee with such information as to the extent of the act as the patentee may from time to time require.

19. The provisions of any licence, assignment or agreement made before or after the commencement of this Decree between a patentee and any person other than the Government or a Ministry shall be of no effect in so far as those provisions restrict or regulate the use of a patented article or invention or provide for the making of payments in respect of any such use, or are calculated by reference thereto.

20. During any period of emergency the powers exercisable in relation to a patented article or invention on the authority of a Commissioner under paragraph 15 above shall include power to purchase, make, use, exercise and vend the article or invention for any purpose which appears to the Commissioner necessary or expedient—

- (a) for the efficient prosecution of any war in which the Federal Republic may be engaged, or
- (b) for the maintenance of supplies and services essential to the life of the community, or
- (c) for securing a sufficiency of supplies and services essential to the well-being of the community, or

(d) for promoting the productivity of industry, commerce and agriculture, or

(e) for fostering and directing exports and reducing imports (or any class or classes of imports) from all or any countries and for redressing the balance of trade, or

(f) generally for ensuring that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community.

21. Where a patented article is purchased, made, used, exercised or vended by or on behalf of a government agency, the benefit of this Part shall extend to the agency and to persons acting in any capacity on its behalf.

22. This Part shall apply to a patented article forfeited under any law relating to customs and excise; and, on any such forfeiture, the Government may use or sell the article as if it had been imported for the use of a government agency in Nigeria.

23. In this Part, unless the context otherwise requires—  
“articles” includes—

(a) any drugs or pharmaceutical preparations, substances or materials, and

(b) any plant, machinery or apparatus, whether fixed to the land or not after importation,

patented under the law of a country other than Nigeria.

“Commissioner” means a Federal or State Commissioner;

“export” means export from Nigeria;

“Federal Republic” means the Federal Republic of Nigeria, and includes any State of the Federation;

“Government” means the Federal Military Government, and includes the Military Governor or Administrator of any State of the Federation;

“government agency” means any Federal or State Ministry or Department of Government, and includes—

(a) a voluntary agency hospital, that is to say, any hospital in Nigeria (not being a hospital operated by the Government) which is wholly or partly maintained by the Federation or a State by way of grant in aid or otherwise,

(b) a local authority, that is to say, any administration, council or other authority exercising limited governmental powers in a defined area within a State,

(c) a statutory corporation, that is to say, a body corporate directly established by law to which in the performance of its functions the Government or a Commissioner is empowered by law to give directions, and

(d) any company which is owned or controlled by the Government;

“Ministry” means a Federal or State Ministry or Department of Government;

“period of emergency” means any period of emergency however declared or notified by or on behalf of the Government or any successor Government;

“person” includes the Government or a Ministry;

“war” includes civil war.

SCHEDULE 2

Section 31

TRANSITIONAL AND SAVING PROVISIONS

1. The person who, immediately before the commencement of this Decree, was Registrar of Patents under the former patents law shall on the commencement of this Decree become Registrar of Patents and Designs for the purposes of this Decree.

2. Where a patent has been registered in Nigeria under the former patent law and the privileges and rights conferred by the registration were effective immediately before the commencement of this Decree, then—

(a) subject to the following sub-paragraphs, the patent shall be treated in Nigeria as if it had been granted under this Decree,

(b) the patent shall expire as regards Nigeria when those privileges and rights would have expired if this Decree had not been made,

(c) the certificate of registration shall be admissible as prima facie evidence of the date and fact of registration, and

(d) an action for infringement shall lie under this Decree only if the alleged infringement occurred on or after the commencement of this Decree, and in any other case may be instituted and disposed of as if this Decree had not been made.

3. So far as is necessary for the purposes of paragraph 2 above, the register of patents under the former patent law shall be maintained as nearly as may be, and shall be regarded and dealt with, as if it were part of the Register under this Decree.

4. Where immediately before the commencement of this Decree any person enjoyed any privileges or rights in respect of a design by virtue of the United Kingdom Designs (Protection) Act—

Cap. 204.

(a) that person shall continue to enjoy those privileges and rights for twelve months after the commencement of this Decree or, if he applies within those twelve months for registration of the design under this Decree, until the application is disposed of,

(b) at the end of the said twelve months or on the disposal of the said application, as the case may be, those privileges and rights shall cease to exist, and

(c) so long as that person continues to enjoy those privileges and rights, no other person shall have any right to registration of the design under this Decree.

5. Any authorisation given under the Patent Rights (Limitation) Decree 1968 shall, if it was still effective immediately before the commencement of this Decree, be deemed to have been given under Part II of Schedule 1 and shall continue in force accordingly.

1968 No. 8.

6. The Patents (Fees) Regulations 1961 shall as far as may be—

L.N. 136 of 1961.

(a) apply in relation to patents under this Decree as they applied in relation to patents under the former patent law, and

(b) apply in relation to designs under this Decree as they apply in relation to patents under this Decree,

and may be amended or revoked by rules made under section 30.

7. Within twelve months after the commencement of this Decree the Commissioner may by order in the Federal Gazette make any further transitional or saving provisions (not inconsistent with this Schedule) which appear to him to be necessary or desirable.

Cap. 182.

8. In this Schedule "the former patents law" means the Registration of United Kingdom Patents Act.

MADE at Lagos this 24th day of December 1970.

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

## COPYRIGHT DECREE 1970



### ARRANGEMENT OF SECTIONS

#### *Section*

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Works eligible for copyright.</li> <li>2. Copyright by virtue of nationality or domicile.</li> <li>3. Copyright by reference to country of origin.</li> <li>4. Copyright in works of Government, State Authorities and international bodies.</li> <li>5. Nature of copyright in literary, musical and artistic works and cinematograph films.</li> <li>6. Broadcasting of works incorporated in a cinematograph film.</li> <li>7. Nature of copyright in sound recording.</li> <li>8. Nature of copyright in broadcasts.</li> <li>9. First ownership of copyright.</li> <li>10. Assignments and licences.</li> <li>11. Infringements.</li> <li>12. Actions for infringement.</li> </ol> | <ol style="list-style-type: none"> <li>13. Appointment and powers of competent authority.</li> <li>14. Reciprocal extension of protection.</li> <li>15. Restriction on importation of printed copies.</li> <li>16. Abrogation of common law rights.</li> <li>17. Regulations.</li> <li>18. Repeals, and transitional and saving provisions.</li> <li>19. Interpretation.</li> <li>20. Citation and extent.</li> </ol> |
|---|---|

#### SCHEDULES

- Schedule 1—Term of Copyright.
- Schedule 2—Exceptions from Copyright Control.
- Schedule 3—Transitional and Saving Provisions.

## Decree No. 61

[24th December 1970]

Commence-  
ment.

**THE FEDERAL MILITARY GOVERNMENT** hereby decrees as follows :—

**1.—(1)** Subject to this section, the following works shall be eligible for copyright—

Works eligi-  
ble for copy-  
right.

- (a) literary works,
- (b) musical works,
- (c) artistic works,
- (d) cinematograph films,
- (e) sound recordings, and
- (f) broadcasts.

**(2)** A literary, musical or artistic work shall not be eligible for copyright unless—

(a) sufficient effort has been expended on making the work to give it an original character, and

(b) the work has been written down, recorded or otherwise reduced to material form whether with or without consent.

**(3)** An artistic work shall not be eligible for copyright if, at the time when the work is made, it is intended by the author to be used as a model or pattern to be multiplied by any industrial process.

**(4)** A work shall not be ineligible for copyright by reason only that the making of the work or the doing of any act in relation to the work involved an infringement of copyright in some other work.

**2.—(1)** Copyright shall be conferred by this section on every work eligible for copyright of which the author or, in the case of a work of joint authorship, any of the authors is at the time when the work is made a qualified person, that is to say—

Copyright by  
virtue of  
nationality or  
domicile.

(a) an individual who is a citizen of, or is domiciled in, Nigeria, or

(b) a body corporate incorporated by or under the laws of Nigeria.

**(2)** The terms of copyright conferred by this section shall be calculated according to the table set out in Schedule 1 to this Decree.

**(3)** In the case of anonymous or pseudonymous literary, musical or artistic works the copyright therein shall subsist until the end of the expiration of twenty-five years from the end of the year in which the work was first published :

Provided that, in the event of the identity of the author becoming known, the terms of copyright shall be calculated in accordance with paragraph 1 of the said Schedule 1.

**(4)** In the case of a work of joint authorship, a reference in the said Schedule 1 to the death of the author shall be taken to refer to the author who dies last, whether or not he is a qualified person within subsection (1) above.



Copyright by reference to country of origin.

3.—(1) Copyright shall be conferred by this section on every work, other than a broadcast, which is eligible for copyright and which—

(a) being a literary, musical or artistic work or a cinematograph film, is first published in Nigeria, or

(b) being a sound recording, is made in Nigeria, and which has not been the subject of copyright conferred by section 2 of this Decree.

(2) Copyright conferred on a work by this section shall have the same duration as is provided by section 2 of this Decree in relation to the same type of work.

Copyright in works of Government, State Authorities and international bodies.

4.—(1) Copyright shall be conferred by this section on every work which is eligible for copyright and is made by or under the direction or control of the Government, a State Authority or a prescribed international body.

(2) Copyright conferred by this section on a literary, musical or artistic work, other than a photograph, shall subsist until the expiration of fifty years from the end of the year in which the work is first published and shall then expire.

(3) Copyright conferred by this section on a film, photograph, sound recording or broadcast shall subsist until the expiration of fifty years from the end of the year in which the film or photograph was first published, the recording was made or the broadcast took place, as the case may be, and shall then expire.

(4) Sections 2 and 3 of this Decree shall not be taken to confer copyright on works to which this section applies.

Nature of copyright in literary, musical or artistic works and cinematograph films.

5.—(1) Subject to the exceptions specified in Schedule 2 to this Decree, copyright in a literary, musical or artistic work or in a cinematograph film shall be the exclusive right to control the doing in Nigeria of any of the following acts, namely—

- (a) the reproduction in any material form,
- (b) the communication to the public, and
- (c) the broadcasting,

of the whole or a substantial part of the work either in its original form or in any form recognisably derived from the original.

(2) Copyright in a work of architecture shall also include the exclusive right to control the erection of any building which reproduces the whole or a substantial part of the work either in its original form or in any form recognisably derived from the original, but not the right to control the reconstruction, in the same style as the original, of a building to which the copyright relates.

Broadcasting of works incorporated in a cinematograph film.

6.—(1) Where the owner of the copyright in any literary, musical or artistic work authorises a person to incorporate the work in a cinematograph film and a broadcasting authority broadcasts the film, the owner of the copyright shall, in the absence of any express agreement to the contrary between the owner and that person, be deemed to have authorised the broadcast.

(2) Notwithstanding subsection (1) above, where a broadcasting authority broadcasts a cinematograph film in which a musical work is incorporated, the owner of the right to broadcast the musical work shall, subject to this Decree, be entitled to receive fair compensation from the broadcasting authority.

(3) In the absence of an agreement on the compensation payable under subsection (2) above, the amount of compensation shall be determined by the competent authority appointed under section 13 of this Decree.

7. Copyright in a sound recording shall be the exclusive right to control in Nigeria the direct or indirect reproduction of the whole or a substantial part of the recording either in its original form or in any form recognizably derived from the original:

Nature of  
copyright in  
sound  
recording.

Provided that the exceptions specified in paragraphs (a), (b), (c), (d) and (e) of Schedule 2 to this Decree shall apply to the copyright in a sound recording in like manner as they apply to copyright in a literary, musical or artistic work or in a cinematograph film.

8.—(1) Subject to this section, copyright in a broadcast shall be the exclusive right to control the doing in Nigeria of any of the following acts, namely—

Nature of  
copyright in  
broadcasts.

(a) the recording and the rebroadcasting of the whole or a substantial part of the broadcast, and

(b) the communication to the public, in places where an admission fee is charged, of the whole or a substantial part of a television broadcast, either in its original form or in any form recognizably derived from the original.

(2) The exceptions specified in paragraphs (a), (b), (c) and (d) of Schedule 2 to this Decree shall apply to the copyright in a broadcast in like manner as they apply to copyright in a literary, musical or artistic work or a cinematograph film.

(3) The copyright in a television broadcast shall include the right to control the taking of still photographs from the broadcast.

9.—(1) Copyright conferred by sections 2 and 3 of this Decree shall vest initially in the author:

First owner-  
ship of copy-  
right.

Provided that, notwithstanding section 10 (6) of this Decree, where a work—

(a) is commissioned by a person who is not the author's employer under a contract of service or apprenticeship, or

(b) not having been so commissioned, is made in the course of the author's employment,

the copyright shall be deemed to be transferred to the person who commissioned the work or the author's employer, as the case may be, subject to any agreement between the parties excluding or limiting such a transfer.

(2) Copyright conferred by section 4 of this Decree shall vest initially in the Government on behalf of the Federal Republic, in the State Authority on behalf of the State in question or in the international body in question, as the case may be, and not in the author.

(3) Subject to subsection (2) above—

(a) the name on a work purporting to be the name of its author shall be presumed to be such, unless the contrary is proved, and

(b) in the case of an anonymous or pseudonymous work, the publisher whose name is indicated in the work as such shall be presumed to be, unless the contrary is proved, the legal representative of the anonymous or pseudonymous author and shall be entitled to exercise and protect the rights belonging to the author under this Decree.

**Assignments  
and  
licences.**

10.—(1) Subject to this section, copyright shall be transmissible by assignment, by testamentary disposition or by operation of law, as movable property.

(2) An assignment or testamentary disposition of copyright may be limited so as to apply to some only of the acts which the owner of the copyright has the exclusive right to control, or to a part only of the period of the copyright, or to a specified country or other geographical area.

(3) No assignment of copyright and no exclusive licence to do an act the doing of which is controlled by copyright shall have effect unless it is in writing.

(4) A non-exclusive licence to do an act the doing of which is controlled by copyright may be written or oral, or may be inferred from conduct.

(5) An assignment or licence granted by one copyright owner shall have effect as if granted by his co-owners also, and, subject to any contract between them, fees received by the grantors shall be divided equitably between all the co-owners.

For the purposes of this subsection, persons shall be deemed to be co-owners—

(a) if they share a joint interest in the whole or any part of a copyright, or

(b) if they have interests in the various copyrights in a composite production, that is to say, a production consisting of two or more works.

(6) An assignment, licence or testamentary disposition may be effectively granted or made in respect of a future work or an existing work in which copyright does not yet subsist; and the prospective copyright in any such work shall be transmissible by operation of law as movable property.

(7) A testamentary disposition of material on which a work is first written or otherwise recorded shall, in the absence of any contrary indication, be presumed to include any copyright or prospective copyright in the work which is vested in the deceased.

**Infringe-  
ments,**

11.—(1) Copyright is infringed by any person who, without the licence of the owner of the copyright—

(a) does, or causes any other person to do, an act the doing of which is controlled by copyright, or

(b) imports into Nigeria, otherwise than for his private and domestic use, or distributes therein by way of trade, hire or otherwise, or by way of trade exhibits in public, any article in respect of which copyright is infringed under paragraph (a) above.

(2) Notwithstanding subsection (1) above or any other provision of this Decree, where any work in which copyright subsists, or a reproduction of any such work, is comprised in—

(a) the archives stored in the National Archives established under the Public Archives Act, or

(b) the public records of a State, being records for the storage or custody of which provision is made by law,

the copyright in the work is not infringed by the making, or the supplying to any person, of any reproduction of the work in pursuance of that Act or law.

12.—(1) Subject to this Decree, infringements of copyright shall be actionable at the suit of the owner of the copyright in the High Court exercising jurisdiction in the place where the infringement occurred; and in any action for such an infringement, all such relief by way of damages, injunction, accounts or otherwise shall be available to the plaintiff as is available in any corresponding proceedings in respect of infringement of other proprietary rights.

*Actions for infringement.*

(2) Where in an action for infringement of copyright it is proved or admitted—

(a) that an infringement was committed, but

(b) that at the time of the infringement the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work to which the action relates,

the plaintiff shall not be entitled under this section to any damages against the defendant in respect of the infringement, but shall be entitled to an account of profits in respect of the infringement, whether or not any other relief is granted under this section.

(3) Where in an action under this section an infringement of copyright is proved or admitted, and the court in which the action is brought, having regard (apart from all other material considerations) to—

(a) the flagrancy of the infringement, and

(b) any benefit shown to have accrued to the defendant by reason of the infringement,

is satisfied that effective relief would not otherwise be available to the plaintiff, the court, in assessing damages for the infringement, shall have power to award such additional damages by virtue of this subsection as the court may consider appropriate in the circumstances.

(4) No injunction shall be issued in proceedings for infringement of copyright which requires a completed or partly built building to be demolished or prevents the completion of a partly built building.

(5) In this section "action" includes a counter-claim, and references to the plaintiff and to the defendant in an action shall be construed accordingly.

13.—(1) Three persons shall be appointed by the Commissioner to constitute the competent authority for the purposes of this section.

*Appointment and powers of competent authority.*

(2) In any case where it appears to the competent authority that a licensing body—

(a) is unreasonably refusing to grant licences in respect of copyright, or

(b) is imposing unreasonable terms or conditions on the granting of such licences,

the competent authority may direct that, as respects the doing of any act in relation to a work with which the licensing body is concerned, a licensee shall be deemed to have been granted by the licensing body at the time the act is done if the appropriate fees fixed by the competent authority or prescribed under subsection (5) below are paid or tendered before the expiration of such period or periods as the competent authority may determine.

In this subsection "licensing body" means a society, firm or other organisation which has as its main object, or one of its main objects, the negotiation or granting of licences in respect of copyright works, and includes an individual carrying on the same activity.



(3) No person shall be appointed under this section, nor shall any person so appointed act, as a member of the competent authority if he, his partner, his employer or any body (whether statutory or not) of which he is a member has any pecuniary interest in any matter which requires to be determined by the competent authority.

(4) Any person aggrieved by a decision of the competent authority may appeal to the Commissioner, who may refer the case for advice to any person or persons appearing to him to be suitable, and whose decision shall be final.

(5) The Commissioner may make regulations—

(a) prescribing the manner in which any matter may be referred to the competent authority,

(b) prescribing the procedure to be adopted by the competent authority, the records to be kept by the competent authority and the member of the competent authority who shall preside at its sittings,

(c) prescribing the manner in which the competent authority shall be convened and the place where it shall hold its sittings,

(d) prescribing a scale of costs and fees, and

(e) providing generally for the better carrying out of the functions assigned to the competent authority by this Decree.

Reciprocal  
extension of  
protection.

14. Where any country is a party to a treaty or other international agreement to which Nigeria is also a party and the Commissioner is satisfied that the country in question provides for protection of copyright in works which are protected under this Decree, the Commissioner may by order in the Federal Gazette extend the application of this Decree in respect of any or all of the works referred to in section 1 (1) of this Decree—

(a) to individuals who are citizens of or domiciled in that country,

(b) to bodies corporate established by or under the laws of that country,

(c) to works, other than sound recordings and broadcasts, first published in that country, and

(d) to sound recordings made in that country.

Restriction  
on importa-  
tion of  
printed  
copies.

15.—(1) The owner of the copyright in any published literary, dramatic or musical work may give notice in writing to the Board of Customs and Excise (in this section referred to as "the Board")—

(a) that he is the owner of the copyright in the work, and

(b) that he requests the Board, during a period specified in the notice, to treat as prohibited goods copies of the work to which this section applies;

Provided that the period specified in a notice under this subsection shall not exceed five years and shall not extend beyond the end of the period for which the copyright is to subsist.

(2) This section applies, in the case of a work, to any printed copy made outside Nigeria which if it had been made in Nigeria, would be an infringing copy of the work.

(3) Where a notice has been given under this section in respect of a work, and has not been withdrawn, the importation into Nigeria, at a time before the end of the period specified in the notice, of any copy of the work to which this section applies shall, subject to the following provisions of this section, be prohibited:

Provided that this subsection shall not apply to the importation of any article by a person for his private and domestic use.

(4) Where a notice is given under subsection (1) above in respect of a work, neither the Board nor any member, officer, servant or agent of the Board shall be liable to the owner of the work or to any other person for any act or omission by the Board or its servants or agents in relation to the notice:

Provided that, where the owner has suffered loss as a result of any such act or omission and a fee has been paid or is payable to the Board in respect of the notice, an amount equal to the loss or to the amount of the fee for one year, whichever is less, shall be repaid by the Board to the owner or, if the fee has not been paid, shall be waived.

(5) The Federal Commissioner for Finance may make regulations prescribing the form in which notices are to be given under this section, and requiring a person giving such a notice, either at the time of giving the notice or at the time when the goods in question are imported, or at both those times, to furnish the Board with such evidence, and to comply with such other conditions (if any), as may be specified in the regulations; and any such regulations may include such incidental and supplementary provisions as the Federal Commissioner for Finance considers expedient for the purposes of this section.

(6) Without prejudice to the generality of subsection (5) above, regulations made under that subsection may include provision for requiring a person who has given a notice purporting to be a notice under this section to pay such fees in respect of the notice as may be prescribed by the regulations.

(7) For the purposes of the Customs and Excise Management Act 1958, any fees paid in pursuance of regulations made under this section shall be treated as money collected on account of customs.

(8) Notwithstanding anything in the Customs and Excise Management Act 1958, a person shall not be liable to any penalty under that Act (other than forfeiture of the goods) by reason that any goods are treated as prohibited goods by virtue of this section.

(9) This section shall have effect as if it formed part of the Customs and Excise Management Act 1958.

16. No copyright, or right in the nature of copyright, shall subsist otherwise than by virtue of this Decree or of some other enactment in that behalf.

1958 No. 35.

Abrogation  
of common  
law rights.

17.—(1) Where no other provision is made in that behalf, the Commissioner may make regulations prescribing anything required to be prescribed for the purposes of this Decree.

Regulations.

(2) Regulations may be made—

(a) in the case of works the copyright in which is vested in the Government, by the Commissioner with the prior consent of the Federal Executive Council, and

(b) in the case of works the copyright in which is vested in a State Authority, by the State Authority or a person designated by the State Authority,

prescribing the public officer or other authority by whom licences may be granted for the reproduction of the works in question and a scale of fees to be charged in respect of any such licence.



(3) Regulations made under subsection (2) above shall be additional to and not in derogation of any enactment or other law regulating the custody of the National Archives of Nigeria or the public records of a State, and shall be without prejudice to the operation of section 11 (2) of this Decree.

Repeals, and  
transitional  
and saving  
provisions,  
1 & 2 Geo. 5  
c.46,  
Cap. 40.

18.—(1) The Copyright Act 1911 of the United Kingdom (in so far as it has effect in Nigeria) and the Copyright Act are hereby repealed.

(2) The transitional and saving provisions in Schedule 3 to this Decree shall have effect notwithstanding subsection (1) above or any other provisions of this Decree.

Interpreta-  
tion.

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

"artistic work" includes, irrespective of artistic quality, any of the following works or works similar thereto—

(a) paintings, drawings, etchings, lithographs, woodcuts, engravings and prints,

(b) maps, plans and diagrams,

(c) works of sculpture,

(d) photographs not comprised in a cinematograph film,

(e) works of architecture in the form of buildings or models, and

(f) works of artistic craftsmanship and also (subject to section 1 (2) of this Decree) pictorial woven tissues and articles of applied handicraft and industrial art;

"author," in the case of a cinematograph film or sound recording, means the person by whom the arrangements for the making of the film or recording were undertaken, or in the case of a broadcast transmitted from within any country, means the person by whom the arrangements for the making of the transmission from within that country were undertaken;

"broadcast" means sound or television broadcast by wireless telegraphy or wire or both, and includes rebroadcast;

"broadcasting authority" means any authority established under any law in Nigeria or elsewhere providing broadcasting services for public reception, and includes a broadcasting contractor operating in Nigeria;

"building" includes any structure;

"cinematograph film" includes the first fixation of a succession of visual images capable of being shown as a moving picture and of being the subject of reproduction, and includes the recording of a sound track associated with the cinematograph film;

"Commissioner" means the Federal Commissioner for Trade;

"communication to the public" includes, in addition to any live performance or delivery, any means of making or securing communication, but does not include a performance or representation;

"copy" means a reproduction in written form, in the form of a recording or cinematograph film, or in any other material form, or however made or made, and shall be taken to be a copy of an architectural work unless the object is a building or model;

"copyright" means copyright under this Decree;

"Government" means the Federal Military Government;

"license" means a lawfully granted licence permitting the doing of an act controlled by copyright;

"literary work" includes, irrespective of literary quality, any of the following works or works similar thereto—

- (a) novels, stories and poetical works,
- (b) plays, stage directions, film scenarios and broadcasting scripts,
- (c) text-books, treatises, histories, biographies, essays and articles,
- (d) encyclopaedias, dictionaries, directories and anthologies,
- (e) letters, reports and memoranda,
- (f) lectures, addresses and sermons,
- (g) law reports and enactments or other written laws, and
- (h) written tables or compilations;

"musical work" means any musical work, irrespective of musical quality, and includes works composed for musical accompaniment;

"rebroadcast" means a simultaneous or subsequent broadcast by one broadcasting authority of the broadcast of another broadcasting authority;

"reproduction" means the making of one or more copies of a literary, musical or artistic work, cinematograph film or sound recording;

"sound recording" means the first fixation of a sequence of sound capable of being perceived aurally and of being reproduced, but does not include a soundtrack associated with a cinematograph film;

"State" means a State of the Federation;

"State Authority", in relation to a State, means the Military Governor, Administrator or other governmental authority;

"work" includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which, by reason of the selection and arrangement of their content, present an original character;

"work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of each author is inseparable from the contribution of the other author or authors;

"year" means—

(a) in section 14 of this Decree and paragraph 4 of Schedule 3 to this Decree, a period of twelve months, and

(b) elsewhere in this Decree, a calendar year, that is to say, a period of twelve months beginning on the January and ending on the December.

(2) The following provisions shall apply with respect to publication, that is to say—

(a) a work shall be deemed to have been published if copies of it have been made available in a manner sufficient to render the work accessible to the public;

(b) where in the first instance a part only of a work is published, that part shall be treated for the purposes of this Decree as a separate work;

(c) a publication in any country shall not be treated as being prior to the first publication by reason only of an earlier publication elsewhere if the two publications took place within a period of not more than thirty days;

10. This Decree may be cited as the Copyright Decree 1970 and shall apply throughout the Federation;

Enacted and  
Signed.

## ARTICLE 11

## ARTICLE 11

Article 11

## ARTICLE 11

- | Form of Work   | Term of Protection  |
|--|---|
| 1. Literary, scientific or artistic works other than films | Twenty years after the end of the year in which the author dies.              |
| 2. Cinematograph films and phonograms                      | Twenty years after the end of the year in which the work was first published. |
| 3. Sound recordings  | Twenty years after the end of the year in which the recording was made.       |
| 4. Broadcasts  | Twenty years after the end of the year in which the broadcast took place.     |

## ARTICLE 12

Article 12

## EXEMPTIONS FROM COPYRIGHT CONTROL

The right conferred in respect of a work by section 5 (1) of this Decree does not include the right to control—

(a) the doing of any of the acts mentioned in the said section 5 (1) by way of fair dealing for purposes of research, private use, criticism or review or the reporting of current events, subject to the condition that, if the use is public, it shall be accompanied by an acknowledgment of the title of the work and its authorship except where the work is incidentally included in a broadcast;

(b) the doing of any of the aforesaid acts by way of parody, pastiche or caricature;

(c) the inclusion in a film or a broadcast of an artistic work situated in a place where it can be viewed by the public;

(d) the reproduction and distribution of copies of any artistic work permanently situated in a place where it can be viewed by the public;

(e) the incidental inclusion of an artistic work in a film or broadcast;

(f) the inclusion in a collection of literary or musical works which includes not more than two excerpts from the work, if the collection bears a statement that it is prepared for educational use and includes an acknowledgment of the title and authorship of the work;

(g) the broadcasting of a work if the broadcast is approved by the broadcasting authority as an educational broadcast;

(h) any use made of a work in a prescribed educational institution for the educational purposes of that institution, subject to the condition that, if a reproduction is made for any such purpose, it shall be destroyed within the end of the prescribed period or, if there is no prescribed period, within the end of the period of twelve months after it was made;

(i) the making of a sound recording of a literary or musical work, and the reproduction of such a sound recording by the maker, so long as the work is not made available to the public in any form other than in the form in which it was made.

any person who, without the consent of the owner of the copyright, reproduces or causes to be reproduced, for the purpose of selling or giving to the public, any work in which copyright subsists, shall be liable to a civil action for damages, which may be recovered by the owner of the copyright.

It shall be lawful for any person to make a copy of any work in which copyright subsists, for the purpose of preserving it as a permanent record, or for the purpose of making a copy of it for the use of a library, or for the purpose of making a copy of it for the use of a person who is unable to read the original.

It shall be lawful for any person to make a copy of any work in which copyright subsists, for the purpose of preserving it as a permanent record, or for the purpose of making a copy of it for the use of a library, or for the purpose of making a copy of it for the use of a person who is unable to read the original.

(1) The reproduction of a work by or under the direction of control of a broadcasting authority, whether the reproduction of any single part of the work or of the whole, for a limited period, shall not be deemed to be an infringement of the copyright in the work, if the reproduction is made for the purpose of broadcasting the work, and if the reproduction is made for the purpose of broadcasting the work, and if the reproduction is made for the purpose of broadcasting the work.

(2) If it is of an exceptional documentary character, be preserved in the archives of the broadcasting authority (which shall for the purposes of this paragraph be deemed to be part of the National Archives established under the Public Archives Act), but

Cap. 103.

(3) Subject to this Order, shall not be used for broadcasting or for any other purpose, without the consent of the owner of the relevant part of the copyright in the work.

(4) The broadcasting of a work already lawfully made available to the public, with which no licensing body of the kind mentioned in section 13 of this Order is concerned, subject (without prejudice to the other provisions of this Schedule) to the condition that the owner of the broadcasting right in the work shall receive a fair compensation determined, in the absence of agreement, by the competent authority appointed under the said section 13.

(5) The communication to the public of a work, in a place where no admission fee is charged in respect of the communication, by any other means than in the case of a performance.

(6) Any use of a work for the purpose of a judicial proceeding or of any report of any such proceeding.

### SECTION 18

### SECTION 19

### TRANSITIONAL AND SAVING PROVISIONS

1. Subject to this Schedule, this Order applies in relation to works made before the commencement of this Order as if applied in relation to works made after the commencement of this Order.

2. If immediately before the commencement of this Order copyright in a work subsisted, the work shall be deemed to be a work in which copyright subsists, and the work shall be deemed to be a work in which copyright subsists, and the work shall be deemed to be a work in which copyright subsists.



3.—(1) Subject to this paragraph, proceedings under section 12 of this Decree for infringement of copyright may be taken notwithstanding that the alleged infringement occurred before the commencement of this Decree.

(2) Proceedings for infringement of copyright instituted and not disposed of before the commencement of this Decree shall be disposed of as if this Decree had not been made.

(3) Where an act done before the commencement of this Decree was then an infringement of copyright but is not an infringement of copyright under this Decree, proceedings in respect of the act may be taken as if this Decree had not been made.

(4) Nothing in this Decree shall render an act done before the commencement of this Decree an infringement of copyright if the act was not an infringement of copyright when it was done.

4.—(1) Subject to sub-paragraph (2) below, contracts for the licensing of any act in respect of copyright which were effective immediately before the commencement of this Decree shall continue in force as if they related to the corresponding copyright under this Decree.

(2) If one of the parties to a contract of the kind mentioned in sub-paragraph (1) above is a licensing body within the meaning of section 13 (2) of this Decree, any other party to the contract may refer the contract to the competent authority appointed under section 13 (1) of this Decree; and, if the competent authority is of the opinion that the contract is unreasonable in any material respect, it may direct as provided in the said section 13 (2), and the contract shall be varied or determined accordingly.

1 & 2 Geo. 5  
c. 46.

5. A notice given under section 14 of the Copyright Act, 1911 of the United Kingdom (as in force in Nigeria) and not withdrawn before the commencement of this Decree shall continue in force as if it had been given under section 15 of this Decree:

Provided that no such notice shall continue in force for more than five years from the date when it was first given or beyond the end of the period of copyright to which it relates.

6. The regulations appearing on pages 145 to 149, inclusive, of Volume VII of the Laws of the Federation of Nigeria and Lagos 1958—

(a) shall continue in force (with the necessary modifications) as if they had been made under section 15 (5) of this Decree, and

(b) may be added to, varied or revoked accordingly.

7. In this Schedule "copyright" means copyright under this Decree or under the law in force in Nigeria immediately before the commencement of this Decree.

MADE at Lagos this 24th day of December 1970.

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

## LEGAL EDUCATION (AMENDMENT) DECREE 1970



## Decree No. 62

[24th December 1970]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The Legal Education Act 1962 is amended in the following manner—

(a) for section 1 (2) of the Legal Education Act 1962 (hereafter referred to as "the principal Act") there shall be substituted the following—

"(2) The council shall consist of—

(a) the Chairman of the council who shall from time to time be appointed by the council on the occurrence of a vacancy in that office ;

(b) the Attorney-General of the Federation or, in his absence, the Solicitor-General of the Federation who shall have no voting right ;

(c) Attorneys-General of the States or, where there are no Attorneys-General, Solicitors-General of the States ;

(d) the chairman of the Nigeria Bar Association ;

(e) the head of the faculty of law of any recognised university in Nigeria whose course of legal studies is approved by the council as sufficient qualification for admission to the Nigerian Law School ;

(f) two persons being holders or previous holders of high judicial office appointed by the Chief Justice of Nigeria ;

(g) ten persons entitled to practise as legal practitioners in Nigeria of not less than ten years standing and appointed by the Nigeria Bar Association ; and

(h) the Director of the Nigerian Law School" ;

(b) in subsection (3) of section 1 for the reference to "paragraph (c), (e)" there shall be substituted a reference to "paragraph (f)".

(2) For section 3 of the principal Act (which provides for qualifying certificates) there shall be substituted the following—

3. A person shall be entitled to have a certificate issued to him by the council stating that he is qualified to be called to the Bar (in this Act referred to as a "qualifying certificate") if—

Miscellaneous  
amendments  
of the Legal  
Education  
Act 1962,  
1962 No. 12.

"Qualifying  
certificates."



(a) he is a citizen of Nigeria ; and

(b) he has, except where the Council otherwise directs, successfully completed a course of practical training in the Nigerian Law School which (including the time spent in taking the examination at the end, but excluding any interval between the conclusion of the examination and the announcement of the results thereof) lasted for a period fixed by the Council as an academic year."

1966 No. 23.

1967 No. 29.

and the Legal Education (Amendment) Decree 1966 and the Legal Education (Amendment) Decree 1967 are hereby repealed, accordingly.

(3) Section 4 of the principal Act (which deals with approved courses and examinations for the purposes of qualifying certificates to which section 3 relates) is hereby repealed.

Citation and application.

2. This Decree may be cited as the Legal Education (Amendment) Decree 1970 and shall apply throughout the Federation.

MADE at Lagos this 24th day of December 1970.

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