

THE CONSTITUTION (SUSPENSION AND MODIFICATION) DECREE 1971



Decree No. 36

[19th August 1971]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The provisions set out in the Schedule hereto relating to the establishment and control of the Nigeria Police Force, the establishment of the Nigeria Police Council and of the Nigeria Police Service Commission and their respective functions, shall apply instead of the existing provisions set out in Chapter VII of the Constitution of the Federation ; and accordingly, sections 105 to 110 of that Constitution are hereby repealed.

Modification
of provisions
of the
Constitution
of the
Federation
relating to
the establish-
ment, etc.
of the
Nigeria
Police Force.
1963 No. 20.

2. This Decree may be cited as the Constitution (Suspension and Modification) Decree 1971 and shall apply throughout the Federation.

Citation and
extent.

SCHEDULE CHAPTER VII POLICE

Section 1

Establish-
ment of
Nigeria
Police
Force.

105.—(1) There shall be a Police Force for Nigeria, which shall be styled the Nigeria Police Force.

(2) Subject to the provisions of this Constitution, the Nigeria Police Force shall be organised and administered in accordance with such provision as may be made in that behalf by law.

(3) Subject to the provisions of this Constitution, the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by any law in force in Nigeria.

(4) No police force other than the Nigeria Police Force shall be established for Nigeria or any part thereof.

Control of
Nigeria
Police
Force.

106.—(1) There shall be an Inspector-General of the Nigeria Police and a Commissioner of Police for each State, and their offices shall be offices in the public service of the Federation.

(2) The Nigeria Police Force shall be under the command of the Inspector-General of the Nigeria Police and any contingents of the Nigeria Police Force stationed in a State shall, subject to the authority of the Inspector-General of the Nigeria Police, be under the command of the Commissioner of Police of that State.

(3) The Head of the Federal Military Government may give to the Inspector-General of the Nigeria Police such directions with respect to the maintaining and securing of public safety and public order as he may consider necessary and the Inspector-General shall comply with those directions or cause them to be complied with.

(4) Subject to the provisions of subsection (3) of this section, the Commissioner of Police of a State shall comply with the directions of the Military Governor or the Administrator of the State with respect to the maintaining and securing of public safety and public order within the State or cause them to be complied with :

Provided that before carrying out any such directions the Commissioner may request that the matter should be referred to the Head of the Federal Military Government.

(5) The question whether any, and if so what, directions have been given under subsection (3) of this section shall not be enquired into in any court.

Establishment
of Nigeria
Police
Council.

107.—(1) There shall be a Nigeria Police Council, which shall consist of—

(a) the Head of the Federal Military Government, who shall be the Chairman ;

(b) the Military Governors of the States and the Administrator of the East-Central State ;

(c) the Inspector-General of the Nigeria Police ;

(d) the Deputy Inspector-General of the Nigeria Police ; and

(e) the Attorney-General or the Solicitor-General of the Federation.

(2) The Permanent Secretary in the Cabinet Office charged with the responsibility for police matters shall be the Secretary to the Nigeria Police Council.

Functions
of Nigeria
Police
Council.

108.—(1) The policy, organisation and administration of the Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the force or the appointment, disciplinary control and dismissal of members of the force) shall be under the general supervision of the Nigeria Police Council.

(2) The Head of the Federal Military Government shall cause the Nigeria Police Council to be kept fully informed concerning the matters under its supervision and shall cause the

Council to be furnished with such information as the Council may require with respect to any particular matter under its supervision.

(3) The Nigeria Police Council may make recommendations to the Federal Military Government with respect to any matter under its supervision.

(4) There shall be an Establishment and Finance Committee, the composition and constitution of which shall be determined by the Head of the Federal Military Government.

(5) The Establishment and Finance Committee shall be responsible for matters relating to establishments and financial matters (other than pensions).

(6) The Establishment and Finance Committee shall submit its recommendations to the Nigeria Police Council.

(7) Nothing in the foregoing provisions of this section shall be construed as affecting persons other than members of the force in the service of the Nigeria Police Force.

Establishment
of Police
Service
Commission.

109.—(1) There shall be a Police Service Commission for the Federation which shall consist of—

- (a) a chairman ; and
- (b) four other members.

(2) The members of the Police Service Commission of the Federation shall be appointed by the Head of the Federal Military Government.

(3) Subject to the provisions of this section, a member of the Police Service Commission of the Federation shall vacate his office at the expiration of five years from the date of his appointment.

(4) A member of the Police Service Commission of the Federation may be removed from office by the Head of the Federal Military Government.

(5) A member of the Police Service Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

Appoint-
ments to
Nigeria
Police
Force, etc.

110.—(1) Power to appoint persons to hold or act in offices in the Nigeria Police Force (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Police Service Commission of the Federation :

Provided that the Commission may, with the approval of the Head of the Federal Military Government and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to the Inspector-General of the Nigeria Police or to any other member of the Nigeria Police Force.

(2) Before making any appointment to the office of Inspector-General of the Nigeria Police or removing the Inspector-General from office, the Police Service Commission of the Federation shall consult the Head of the Federal Military Government, and before making any appointment to the office of Commissioner of Police of a State or removing the Commissioner from office the Commission shall consult the Military Governor or the Administrator of that State.

MADE at Lagos this 19th day of August 1971.

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

EXPLANATORY NOTE

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

This Decree replaces Chapter VII of the Constitution of the Federation (which deals with police matters). The amendments affect, principally, sections 107, 108 and 109 of the Constitution and the provisions suspended by the Constitution (Suspension and Modification) Decree 1966 which have now been omitted.

By virtue of section 107, the Nigeria Police Council and the Police Service Commission have been reconstituted and the functions of the Council have been extended to include power as to policy matters. Section 108 empowers the Council to make recommendations to the Federal Military Government with respect to all the matters under its supervision, and establishes an Establishment and Finance Committee, which shall be responsible for matters relating to establishments and the finances of the Police, other than pensions.

THE POLICE (AMENDMENT) DECREE 1971



Decree No. 37

[19th August 1971]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Without prejudice to the exercise of such functions as may be conferred on the Nigeria Police Council (as established under section 107 of the Constitution) by any enactment, the Council shall have power—

Extension of
the functions
of the
Nigeria
Police
Council—
as to its
policy, etc.
including
establish-
ment and
financial
matters, etc.

(a) to determine the general policy of the Nigeria Police Force subject to such directions as may be given by the Head of the Federal Military Government, and the provisions of the Constitution relating to the functions of the Council, and as the case may require, to determine any particular policy in respect of any specific function and (subject as aforesaid) to give effect to any such policy ;

(b) to perform, subject to such regulations or standing orders as may from time to time be made by the Head of the Federal Military Government, functions in respect of matters recommended by the Establishments and Finance Committee of the Force—

(i) on establishments, that is, posts, gradings and terms and conditions of service of members of the force ; and

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(ii) on matters relating to the finances of the force, including the preparation of estimates, capital and recurrent expenditure of the force, and salaries and other emoluments of members of the force, except pensions within the meaning of the Pensions Act.

(2) Accordingly—

(a) in paragraph (a) of section 47 and in paragraph (a) of section 48 of the Police Act (as reprinted under the Police Act (Authority to Reprint) Decree 1967), for all the words after the reference to the "Nigeria Police Council" there shall be substituted the following—

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"with respect to the policy, organisation and administration of the Force, including establishments and financial matters, other than pensions within the meaning of the Pensions Act" ; and

(b) the references in any other enactment or instrument in relation to the functions of the Nigeria Police Council shall be construed accordingly.

Citation, etc.

2.—(1) This Decree may be cited as the Police (Amendment) Decree 1971 and shall apply throughout the Federation.

1963 No. 20.

(2) In this Decree "the Constitution" means the Constitution of the Federation.

MADE at Lagos this 19th day of August 1971.

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

EXPLANATORY NOTE

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

This Decree amends the Police Act in order to ensure that functions of the Nigeria Police Council will include policy matters which are to be determined by that Council. It also deals with the performance of functions relating to establishment and financial matters, other than pensions. It consequentially amends sections 47 (a) and 48 (a) of the principal Act so as to allow regulations and standing orders to be made from time to time by the Head of the Federal Military Government in respect of those functions.