

INCOME TAX (MISCELLANEOUS PROVISIONS) DECREE 1973



Decree No. 17

[1st April 1972]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

1. The Income Tax Management Act 1961 is hereby amended as follows:—

Amendment
of Income
Tax Manage-
ment Act
1961.
1961 No. 21.

(a) in section 2 thereof—

(i) for the definition of “law of a territory” there shall be substituted the following new definition—

“law of a territory” means any law in force in the territory concerned; ,

(ii) the definition of “legislature of a territory” shall be deleted ,

(iii) for the definition of “territory” there shall be substituted the following new definition—

“territory” means a State created by the States (Creation and Transitional Provisions) Decree 1967; ;

(b) in section 3 (1) and (4) thereof, for the word “legislature” wherever it occurs in those subsections there shall be substituted the word “law”;

(c) in section 12 thereof, for the words “Federal Territory of Lagos” there shall be substituted the words “territory in which the recipient of the dividend or interest resides or, where the recipient is not resident in Nigeria and is not a person to whom the Income Tax (Armed Forces and Other Persons) (Special Provisions) Decree 1972 applies, from the territory in which the company paying the dividend or interest has its principal office.”;

(d) in section 27 (6) thereof, for the word “three” there shall be substituted the word “seven”;

(e) in the First Schedule thereof—

(i) in sub-paragraph (ii) of the proviso to paragraph 6 after the word “which” in the second line there shall be inserted the words “any part or”; and the words “or in the Federal Territory of Lagos” shall be deleted,

(ii) in sub-paragraph (ii) of the proviso to paragraph 7 for the words “Federal Territory of Lagos” there shall be substituted the words “in the territory from which any part of the unearned income arises”,

(iii) in paragraph 9, immediately after the word “which” in the fifth line there shall be inserted the words “any part or” and the words “or, in any other case, in the Federal Territory of Lagos” shall be deleted.

Amendment
of Com-
panies In-
come Tax
Act 1961.
1961 No. 22.

Amendment
of the
Schedule to
the Finance
(Miscella-
neous Taxa-
tion) Decree
1967.

1967 No. 47.

Citation and
commence-
ment.

2. The Companies Income Tax Act 1961 is hereby amended as follows—
(a) in section 32 thereof, immediately before the word "profits" where it occurs in the second line there shall be inserted the word "total"; and
(b) subsections (2A) and (2B) of section 34 and sections 34A and 34B thereof shall be deleted.

3. In the Schedule to the Finance (Miscellaneous Taxation) Decree 1967, in the item relating to section 15 of the Personal Income Tax (Lagos) Act 1961, for "Federal Executive Council" there shall be substituted "Executive Council of Lagos State".

4. This Decree may be cited as the Income Tax (Miscellaneous Provisions) Decree 1973 and shall be deemed to have come into force on 1st April 1972.

MADE at Lagos this 13th day of April 1973.

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 purport)

The above Decree makes sundry amendments to the Income Management Act 1961 in respect of the power to collect certain residual taxes which formerly accrued to the Federal Government in its capacity as the authority responsible for the former Federal Territory of Lagos and makes some minor consequential amendments in two other taxation enactments.

FEDERAL HIGHWAYS (AMENDMENT) DECREE 1973



Decree No. 18

[13th April 1973]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. For section 19 of the principal Decree there shall be substituted the following new section—

Replace-
ment of
section 19.

“Recovery
of expenses
incurred
consequent
upon
damage
to federal
highways.

19.—(1) Where any structural damage to any part of a federal highway, or to the formation of or to any decking or drainage work as part of a federal highway, has been caused by any person (whether or not that person has been charged with an offence of causing such damage or with any other offence under this Decree or under any other enactment or law) the Commissioner shall recover the cost of making good such damage from the person causing or responsible for the damage, the owner or driver of the motor vehicle or thing that caused such damage, or all of them jointly or, in the case of an exempt vehicle, from any of the persons aforesaid.

(2) Where damage is caused as aforesaid, the Director or any person acting under his authority shall, with the assistance of a police officer, seize the motor vehicle or thing involved in the damage, or cause it to be seized, and remove same to any premises under the control of the Government of the Federation or the Government of a State, and may for such purpose use such force as may be reasonably necessary for the seizure or removal, or for gaining access to it or any part thereof in order to facilitate its seizure or removal.

(3) The cost of making good the damage shall be assessed and certified in writing by the Director, who shall immediately thereafter serve the certificate of such assessment on the person to whom subsection (1) above relates; and the certificate shall contain a demand notice for the payment of the cost (as thus certified) into the Consolidated Revenue Fund of the Federation.

(4) The certificate of the Director shall be conclusive evidence of the cost of making good the damage, and the amount as thus certified shall be a debt due to the Government of the Federation and shall, subject to the provisions of this section be recoverable as such.

(5) Any vehicle or thing seized pursuant to subsection (2) above shall be detained in the said premises until the amount of the cost of making good the damage as certified under subsection (3) above has been paid in the manner specified in the said subsection (3) or until disposal thereof in pursuance of subsection (6) below.

(6) The Commissioner may by regulations provide for the maintenance of places to which such vehicle or thing may be removed and such suitable facilities as may be necessary for its safe custody, and may also by regulations prescribe the procedure for reclaiming it and for its disposal by sale or otherwise :

Provided that where a sale is made pursuant to this subsection and—

(a) the sum realised exceeds the sum stated in the certificate, the excess sum shall be refunded to the owner of the vehicle or thing ;

(b) the sum stated on the certificate exceeds the sum realised, the outstanding sum shall be recoverable from the person responsible for the damage ;

and where a sale is so made, the Commissioner or any person acting on his behalf shall ensure that the best price available is obtained for the vehicle or thing, as the case may be.

(7) The foregoing provisions of this section are in addition to and not in derogation of any penalty for offences that may be imposed on the conviction of any person for any offence under this Decree or under any other enactment or law, and the provisions of this Decree shall apply—

(a) where more than one motor vehicle or thing is involved in the damage so caused ;

(b) notwithstanding that any civil action or suit has been commenced or instituted or is contemplated by or against any person ; and

(c) whether or not the person on whom the certificate of assessment of damage is served in accordance with subsection (3) above is the person charged with causing the damage or proved to have caused the damage or to have been guilty of any offence under this Decree or under any other enactment or law :

Provided that where negligence leading to the damage is attributable wholly or substantially to a person, that person shall be proceeded against to the exclusion of other persons contributing to the damage.

(8) The foregoing provisions of this section are without prejudice to the right of any person claiming to be innocent of the damage to recover from any other person through the due process of the law, the amount which he had paid pursuant to the foregoing provisions of this section.

(9) In this section—

“the Director” means—

(a) the Director of Federal Public Works in the Federal Ministry of Works and Housing, or

(b) any State director of public works (however designated) to whom the powers of the Director of Federal Public Works are delegated by the Commissioner by an Order published in the *Gazette* ;

so however that any such delegation shall be without prejudice to the exercise by the Director of Federal Public Works of his powers under this section ;

“exempt vehicle” means any vehicle owned by or in the service of—

(a) the Government of the Federation or a State ;

(b) any local government authority (howsoever called) established under the provisions of any law in force in any State ;

(c) any person covered by the provisions of section 9 of the Diplomatic Immunities and Privileges Act 1962, and such other persons as may be exempted under the provisions of any other written law ;

1962 No. 42.

“vehicle or thing” includes, in appropriate cases, ships, boats, canoes and other water-craft, and aircraft of all descriptions.”

2. In section 26 (1) of the principal Decree, for paragraph (a) thereof there shall be substituted the following—

Amendment
of section 26.

“(a) with respect to—

(i) the speed at which motor vehicles of any class or description thereof may be driven either generally on any specified federal highway or within any defined area or place, and

(ii) the registration and licensing of motor vehicles and the licensing of motor drivers and conductors, and also the prescribing of fees and other matters relative thereto ;”.

3. In section 27 of the principal Decree, immediately after subsection (3) thereof, there shall be inserted the following new subsection (4)—

Amendment
of section 27.

“(4) For the purposes of this Decree, and for the avoidance of doubt, the references in this Decree to a “federal highway” and “road” include, unless the context otherwise requires, references to bridges, culverts, tunnels or other erections on, over, or through land or water.”

4. This Decree may be cited as the Federal Highways (Amendment) Decree 1973 and any reference in this Decree to “the principal Decree” is a reference to the Federal Highways Decree 1971.

Citation and
interpretation.

1971 No. 4.

MADE at Lagos this 13th day of April 1973.

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

EXPLANATORY NOTE

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

The amendments effected by the Decree now make it possible under the Federal Highways Decree 1971 to recover the cost of making good damage caused by any person to federal highways. The motor vehicle or thing involved in the damage is liable to be seized under the Decree and to be detained for disposal by sale or otherwise until the amount has been duly recovered.

The other amendments to the principal Decree relate to the registration and licensing of motor vehicles and motor drivers and conductors, and the clarification of the meanings of certain expressions.

COMPANIES (SPECIAL PROVISIONS) DECREE 1973



Decree No. 19

[Section 7 (2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) A foreign company may apply to the Federal Executive Council for exemption from the provisions of Part X of the Companies Decree 1968 if that foreign company belongs to one of the following categories, that is—

Power to
exempt
foreign
companies
from Part X
of the
Companies
Decree 1968,
etc.
1968 No. 51.

(a) foreign companies (other than those specified in paragraph (d) below) invited to Nigeria by or with the approval of the Federal Military Government to execute specified projects ;

(b) foreign companies which are in Nigeria for the execution of specific loan projects on behalf of donor countries or international organisations ;

(c) foreign government-owned companies engaged solely in export promotion activities ; and

(d) engineering consultants and technical experts engaged on specialist projects under contracts with any of the governments in the Federation or of any of their agencies or with any other body or person where such contracts have been approved by the Federal Military Government.

(2) An application for exemption under this section shall be in writing addressed to the Secretary to the Federal Military Government and shall set out—

(a) the name and place of business of the foreign company outside Nigeria ;

(b) the name and place of business or the proposed name and place of business of the foreign company in Nigeria ;

(c) the name and address of each director, partner or other principal officer of the foreign company ;

(d) a certified copy of the charter, statutes, or memorandum and articles of association of the company, or other instrument constituting or defining the constitution of the company, and if the instrument is not written in the English language, a certified translation thereof ;

(e) the names and addresses of some one or more persons resident in Nigeria authorised to accept on behalf of the foreign company service of process and any notices required to be served on the company ;

(f) the business or proposed business in Nigeria of the foreign company and the duration thereof ; and

(g) such other particulars as may be required by the Secretary to the Federal Military Government.

(3) Where the Federal Executive Council upon the receipt of an application for exemption is of the opinion that the circumstances are such as to render it expedient that such an exemption should be granted, the Federal Executive Council may, subject to such conditions as it may prescribe, exempt the foreign company from the obligations imposed by Part X of the said Decree.

(4) Every exemption granted in pursuance of this section shall specify the period or, as the case may be, the project or series of projects, for which it is granted and shall lapse at the end of such period or upon the completion of such project or series of projects.

(5) The Federal Executive Council may at any time revoke any exemption granted to any company if of the opinion that the company has contravened any provision of this Decree or has failed to fulfil any condition contained in the exemption order or for any other good or sufficient reason.

(6) The Federal Executive Council shall cause to be published in the *Gazette*—

(a) the name of any company to which an exemption has been granted and the period or, as the case may be, the project or series of projects for which the exemption is granted ;

(b) the name of any company whose exemption has been revoked and the effective date of such revocation.

Exempted
foreign
company
to have
status of
unregistered
company.
1968 No. 51.

Penalties for
false
information.

Offences by
bodies
corporate,
etc.

2. Subject to this Decree and save as may be stated in the instrument of exemption, a foreign company exempted pursuant to this Decree shall have the status of an unregistered company and accordingly the provisions of section 379 (1) of the Companies Decree 1968 shall apply in relation to such an exempted company as they apply in relation to an unregistered company under that Decree.

3.—(1) Any person who for the purpose of obtaining an exemption or of complying with any of the provisions of this Decree makes any statement or presents any instrument which is false in a material particular shall be guilty of an offence unless he proves that he has taken all reasonable steps to ascertain the truth of the statement made or contained in the instrument so presented.

(2) Any person who is guilty of an offence under this section shall be liable on conviction to a fine of ₦1,000 or imprisonment for three years.

4. Where an offence under this Decree is committed by a body corporate, or firm or other association of individuals—

(a) every director, manager, secretary or other similar officer of the body corporate,

(b) every partner or officer of the firm,

(c) every person concerned in the management of the affairs of the association, or

(d) every person who was purporting to act in any such capacity as aforesaid,

shall severally be guilty of that offence and liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

5. Section 368 of the Companies Decree 1968 is hereby amended by the substitution of a semi-colon for the full-stop at the end thereof and the addition of the following paragraph thereto, that is—

Amendment
of section 368
of 1968
No. 51.

“and for the avoidance of doubt includes a statutory corporation.”

6. In this Decree the expression “foreign company” has the same meaning as in the Companies Decree 1968 and shall include a firm, partnership, association or any other combination of individuals.

Interpreta-
tion.

7.—(1) This Decree may be cited as the Companies (Special Provisions) Decree 1973.

Citation,
etc.

(2) Subject to section 22 (7) of the Constitution of the Federation, section 5 of this Decree shall be deemed to have come into force on 1st October 1968 and the other provisions thereof shall be deemed to have come into force on 18th November 1968.

1963 No. 20.

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

(a) save as herein provided in this Decree, nothing in this Decree shall be construed as authorising the disregard by any exempted foreign company of any enactment or rule of law;

(b) the provisions of this Decree relating to exemptions are in addition to and not in derogation of the provisions of section 379 (2) (c) of the Companies Decree 1968.

MADE at Lagos this 13th day of April 1973.

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 purport)*

The Decree empowers the Federal Executive Council to grant exemptions to certain specified categories of foreign companies from complying with the provisions of Part X of the Companies Decree 1968 which make it obligatory for all foreign companies carrying on business in Nigeria to incorporate in Nigeria. Exemptions to be granted will be for limited durations only or in relation to certain specified projects.

**WIDOWS' AND ORPHANS' PENSIONS (AMENDMENT)
DECREE 1973**



Decree No. 20

[1st September 1971]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. In section 47 of the Widows' and Orphans' Pensions Act substituted by section 6 of the Widows' and Orphans' Pensions Act 1960, in subsection 2 thereof (which relates to increase in Pensions) after the words "by virtue of any enactment" there shall be inserted the words "or a directive of the Federal Executive Council,".

Minor
amendment
of section 47.
Cap. 220.
1960 No. 19.

2. This Decree may be cited as the Widows' and Orphans' Pensions (Amendment) Decree 1973 and shall be deemed to have come into operation on 1st September 1971.

Citation and
commence-
ment.

MADE at Lagos this 13th day of April 1973.

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)*

The above Decree provides for the pensions payable under the Widows' and Orphans' Pensions Act to be increased either by an enactment or a directive of the Federal Executive Council.