

LABOUR DECREE 1974



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SCHEDULE

TRANSITIONAL AND SAVING
PROVISIONS

Decree No. 21

[Section 91 (2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

PART I

GENERAL PROVISIONS AS TO PROTECTION OF WAGES, CONTRACTS
OF EMPLOYMENT AND TERMS AND CONDITIONS OF EMPLOYMENT

Protection of wages

1.—(1) Subject to this section—

Manner of
payment.

(a) the wages of a worker shall in all contracts be made payable in legal tender and not otherwise, and

(b) if in any contract the whole or any part of the wages of a worker is made payable in any other manner the contract shall be illegal, null and void.

(2) An employer may provide food, a dwelling place or any other allowance or privilege as a part of a worker's remuneration if the food, dwelling place, allowance or privilege is prescribed by law, by a collective agreement or by an arbitration award because it is customary or desirable in view of the nature of the industry or occupation in which the worker is engaged; but in no case shall an employer give to any worker any intoxicating liquor or noxious drug by way of remuneration.

(3) Except where otherwise expressly permitted by this Decree, wages payable in money shall be paid only in legal tender or, with the prior consent in writing of the worker concerned, by cheque or postal order; and payment or purported payment in any other form shall be illegal, null and void.

2. No employer shall impose in any contract for the employment of any worker any terms as to the place at which, or the manner in which, or the person with whom any wages paid to the worker are to be expended; and every contract between an employer and a worker containing any such terms shall be illegal, null and void.

Agreement
as to place
and manner
of spending
wages
illegal.

3. Wages shall not be paid to a worker in premises used for the sale of intoxicating liquor or for the retail sale of goods, except in the case of a worker employed on the premises.

Wages not
to be paid
on certain
premises.

4.—(1) No employer may make to a worker an advance of wages in excess of one month's wages.

Advances.

(2) Where an advance in respect of wages has been paid to a worker the minimum period for the recovery of the advance by the employer shall be three months.

(3) No advance in respect of wages shall be paid to a worker who is liable to repay any part of such an advance paid to him previously, except in cases of necessity as so approved by the employer.

(4) No employer shall make any deduction by way of discount, interest or any similar charge on account of any advance of wages paid to a worker in anticipation of the regular period of payment of the wages.

(5) The State Authority may by order declare that this section shall not apply to any particular kind of advance paid to any particular class of worker or to all workers.

Deductions
(including
deductions
for over-
payment
of wages).

5.—(1) Except where it is expressly permitted by this Decree or any other law, no employer shall make any deduction or make any agreement or contract with a worker for any deduction from the wages to be paid by the employer to the worker, or for any payment to the employer by the worker, for or in respect of any fines :

Provided that, with the prior consent in writing of an authorized labour officer, a reasonable deduction may be made in respect of injury or loss caused to the employer by the wilful misconduct or neglect of the worker.

(2) An employer may with the consent of a worker make deductions from the wages of the worker and pay to the appropriate person any contributions to provident or pension funds or other schemes agreed to by the worker and approved by the State Authority.

(3) Where the Commissioner is satisfied that, on any application made to him (supported by evidence of written consent of the employers and of members of the trade union that the employer would make deductions from the wages of the worker for the purpose of making contributions), a reasonable proportion of all contributions of a worker paid to a trade union will be devoted to schemes which in the opinion of the Commissioner are of benefit to the worker, the Commissioner may by order approve the trade union for the purposes of this subsection ; and where such approval is given—

(a) the employer shall make deductions from the wages of the worker for the purpose of paying contributions to the trade union which has been so approved, and

(b) any sum so deducted shall forthwith be paid by the employer to the union,

but, where an employer is unable to give the necessary consent the employer shall communicate the reasons therefor to the Commissioner, who shall make a ruling on the matter, and whose ruling thereon shall be final and binding on the parties.

(4) Deductions may be made from the wages of a worker in respect of overpayment of wages, but only in respect of any such overpayment made during the three months immediately preceding the month in which the overpayment was discovered.

(5) Notwithstanding any other provision of this Decree, the total amount of deductions that may be made from the wages of a worker in any one month shall not exceed one-third of the wages of the worker for that month.

Authority
of employer
to open
shop.

6.—(1) The Commissioner may, after consultation with the State Authority, give approval to an employer to establish a shop for the sale of provisions to his workers, but no worker shall be compelled by any contract or agreement, written or oral, to purchase provisions at any shop so established.

(2) No employer shall in any place of employment establish a shop for the sale of provisions to his workers (or permit such a shop to be established or kept) otherwise than in accordance with subsection (1) above.

Contracts of employment

7.—(1) Not later than three months after the beginning of a worker's period of employment with an employer, the employer shall give to the worker a written statement specifying—

Written particulars of terms of employment.

(a) the name of the employer or group of employers and, where appropriate, of the undertaking by which the worker is employed,

(b) the name and address of the worker and the place and date of his engagement,

(c) the nature of the employment,

(d) if the contract is for a fixed term, the date when the contract expires,

(e) the appropriate period of notice to be given by the party wishing to terminate the contract, due regard being had to section 11,

(f) the rates of wages and method of calculation thereof and the manner and periodicity of payment of wages,

(g) any terms and conditions relating to—

(i) hours of work, or

(ii) holidays and holiday pay, or

(iii) incapacity for work due to sickness or injury, including any provisions for sick pay, and

(h) any special conditions of the contract.

(2) If after the date to which the said statement relates there is a change in the terms to be included or referred to in the statement the employer—

(a) shall, not more than one month after the change, inform the worker of the nature of the change by a written statement, and

(b) if he does not leave a copy of the statement with the worker, shall preserve the statement and ensure that the worker has reasonable opportunities of reading it in the course of his employment, or that it is made reasonably accessible to the worker in some other way.

(3) A statement under subsection (1) or (2) above may, for all or any of the particulars to be given by the statement, refer the worker to some other document which the worker has reasonable opportunities of reading in the course of his employment or which is made reasonably accessible to the worker in some other way.

(4) If the employer, in referring in the said statement to any such document, indicates to the worker that future changes in the terms particularized in the document will be entered in the document (or recorded by some other means for the information of persons referred to in the document), the employer need not under subsection (2) above inform the worker of any such change which is duly entered or recorded not more than one month after the change is made.

(5) If, not more than six months after the termination of a worker's period of employment, a further period of employment is begun with the same employer and the terms of employment are the same, no statement need be given under subsection (1) above in respect of the second period of employment, so however that this subsection shall be without prejudice to the operation of subsection (2) above if there is a change in the terms of employment.

(6) The provisions of this section in respect of written statements shall not apply if—

(a) a worker has a written contract of employment which covers each of the particulars mentioned in subsection (1) above, and

(b) he has a copy of that written contract.

Medical
examina-
tion.

8.—(1) Every worker who enters into a contract shall be medically examined by a registered medical practitioner at the expense of the employer.

(2) The State Authority may by order exempt from the requirement of medical examination workers entering into contracts for—

(a) employment in agricultural undertakings not employing more than a limited number of workers (the limit being specified in the order), or

(b) employment in the vicinity of the workers' homes—

(i) in agricultural work, or

(ii) in non-agricultural work which the State Authority is satisfied is not of a dangerous character or likely to be injurious to the health of the workers.

Contracts:
general.

9.—(1) No contract shall be deemed to be binding on the family or dependants of a worker unless it contains an express provision to that effect.

(2) An employer shall be responsible for the performance of any contract made by any person acting on his behalf.

(3) Except in the case of a contract of apprenticeship, no person under the age of sixteen years shall be capable of entering into a contract of employment under this Decree.

(4) No contract shall provide for the payment of wages at intervals exceeding one month unless the written consent of the State Authority has been previously obtained.

(5) No worker shall be bound by virtue of any contract under this Decree to answer for the debt, default or miscarriage of any other person:

(6) No contract shall—

(a) make it a condition of employment that a worker shall or shall not join a trade union or shall or shall not relinquish membership of a trade union, or

(b) cause the dismissal of, or otherwise prejudice, a worker—

(i) by reason of trade union membership, or

(ii) because of trade union activities outside working hours or, with the consent of the employer, within working hours, or

(iii) by reason of the fact that he has lost or been deprived of membership of a trade union or has refused or been unable to become, or for any other reason is not, a member of a trade union.

(7) A contract shall be terminated—

(a) by the expiry of the period for which it was made, or

(b) by the death of the worker before the expiry of that period, or

(c) by notice in accordance with section 11 or in any other way in which a contract is legally terminable or held to be terminated.

(8) The termination of a contract by the death of the worker shall be without prejudice to the legal claims of his personal representatives or dependants.

10.—(1) The transfer of any contract from one employer to another shall be subject to the consent of the worker and the endorsement of the transfer upon the contract by an authorized labour officer.

Transfer to
other
employ-
ment.

(2) Before endorsing the transfer upon the contract, the officer in question—

(a) shall ascertain that the worker has freely consented to the transfer and that his consent has not been obtained by coercion or undue influence or as a result of misrepresentation or mistake, and

(b) if by the transfer the worker will—

(i) change his form of employment from one which is the subject of an exemption order made under section 8 (2), or

(ii) be subject to such a change of conditions as in the officer's opinion renders such a course advisable,

may require the worker to be medically examined or re-examined, as the case may be.

11.—(1) Either party to a contract of employment may terminate the contract on the expiration of notice given by him to the other party of his intention to do so.

Termina-
tion of
contracts
by notice.

(2) The notice to be given for the purposes of subsection (1) above shall be—

(a) one day, where the contract has continued for a period of three months or less,

(b) one week, where the contract has continued for more than three months but less than two years,

(c) two weeks, where the contract has continued for a period of two years but less than five years, and

(d) one month, where the contract has continued for five years or more.

(3) Any notice for a period of one week or more shall be in writing.

(4) The periods of notice specified in subsection (2) above exclude the day on which notice is given.

(5) Nothing in this section affects any right of either party to a contract to treat the contract as terminable without notice by reason of such conduct by the other party as would have enabled him so to treat it before the making of this Decree.

(6) Nothing in this section shall prevent either party to a contract from waiving his right to notice on any occasion, or from accepting a payment in lieu of notice.

(7) All wages payable in money shall be paid on or before the expiry of any period of notice.

(8) If an employer gives notice to terminate the contract of employment of a worker who has been continuously employed for three months or more, the employer shall not be liable under this section to make any payment in respect of a period during which the worker is absent from work with the leave of the employer granted at the request of the worker.

(9) In the calculation of a payment in lieu of notice, only that part of the wages which a worker receives in money, exclusive of overtime and other allowances, shall be taken into account.

Terms and conditions of employment

Hours of
work and
overtime.

12.—(1) Normal hours of work in any undertaking shall be those fixed—

(a) by mutual agreement, or

(b) by collective bargaining within the organization or industry concerned, or

(c) by an industrial wages board (established by or under an enactment providing for the establishment of such boards) where there is no machinery for collective bargaining.

(2) Hours which a worker is required to work in excess of the normal hours fixed under subsection (1) above shall constitute overtime.

(3) Where a worker is at work for six hours or more a day, his work shall be interrupted (to the extent which is necessary having regard to its character and duration and to working conditions in general) by allowing one or more suitably spaced rest-intervals of not less than one hour on the aggregate :

Provided that—

(a) exceptions may be made to the rule in this subsection where unforeseen circumstances render them necessary, and

(b) where it is found unavoidable in view of the nature of the work and the working conditions in general, time-off for a meal at the worksite or in the immediate vicinity may be substituted for the rest-interval.

(4) In subsection (3) above “rest-interval” means an interruption of work, of which the length is fixed beforehand and during which the worker is free to dispose of his time and is not required to remain at the place of work.

(5) Where, by reason of its connection with a mechanical process or as a result of other circumstances, the work involves continuous strain or is particularly trying in other ways, the worker shall be allowed the requisite number of suitably adjusted and spaced breaks in the work.

(6) In subsection (5) above “break in the work” means a short intermission in the work fixed beforehand which is ordered with a view to allowing the worker to detach himself from his work and which is not to be counted as a rest-interval or time-off under subsection (3) above.

(7) In every period of seven days a worker shall be entitled to one day of rest which shall not be less than twenty-four consecutive hours ; and if any reduction takes place in the weekly rest-period—

(a) corresponding time-off from work shall be allowed as soon as possible (and in any case not later than fourteen days thereafter), or

(b) wages at overtime rates shall be paid in lieu thereof.

Provision of
transport.

13.—(1) Where a worker is required to travel sixteen kilometres or more from his normal place of work to another worksite he shall be entitled to free transport or an allowance in lieu thereof.

(2) Where the employer provides a vehicle or vessel for the purposes of subsection (1) above he shall ensure that the vehicle or vessel is suitable, is in good sanitary condition and is not overcrowded.

Periodicity
of payment
of wages.

14. Wages shall become due and payable at the end of each period for which the contract is expressed to subsist, that is to say, daily, weekly or at such other period as may be agreed upon :

Provided that, where the period is more than one month, the wages shall become due and payable at intervals not exceeding one month.

15. Subject to the Workmen's Compensation Act, a worker shall be entitled to be paid wages up to twelve working days in any one calendar year during absence from work caused by temporary illness certified by a registered medical practitioner :

Sick leave.
Cap. 222.

Provided that this section shall not apply unless—

(a) the contract remains in existence during the period of absence and the worker is ready and willing to perform his part of the contract save for the incapacity produced by the illness, and

(b) the worker, if so requested by the employer, consents to be examined by a qualified medical practitioner nominated by the employer.

16.—(1) Except where a collective agreement provides otherwise, every employer shall, unless a worker has broken his contract, provide work suitable to the worker's capacity on every day (except rest days and public holidays) on which the worker presents himself and is fit for work ; and, if the employer fails to provide work as aforesaid, he shall pay to the worker in respect of each day on which he has so failed wages at the same rate as would be payable if the worker had performed a day's work :

Duty of
employer to
provide
work.

Provided that—

(a) where, owing to a temporary emergency or other circumstances beyond the employer's control (the period of which shall not exceed one week or such longer period as an authorized labour officer may allow in any particular case), the employer is unable to provide work, the worker shall be entitled to those wages only on the first day of the period in question, and

(b) this subsection shall not apply where the worker is suspended from work as a punishment for a breach of discipline or any other offence.

(2) Where a worker is employed in any agricultural undertaking on a plantation on a contract of service under which he earns wages calculated by reference to the number of days' work performed in each month of his service, the employer shall provide the worker with work suitable to his capacity on not less than twenty-four days in each month during the whole of which he is so employed ; and, if the employer fails to provide work as aforesaid on any of those twenty-four days on which the worker presents himself and is fit for work, he shall pay to the worker in respect of each such day wages at the same rate as would be payable if the worker had performed a day's work :

Provided that, in computing twenty-four days for the purposes of this subsection, account shall not be taken of more than six days in any one week.

(3) Any dispute between an employer and a worker as to the worker's fitness for work under subsection (1) or (2) above may be referred to an authorized labour officer, who may take such medical or other advice as he thinks appropriate and whose decision shall be final.

17.—(1) Every worker shall be entitled after twelve months continuous service to a holiday with full pay of—

Annual
holidays
with pay.

(a) at least six working days, or

(b) in the case of persons under the age of sixteen years (including apprentices), at least twelve working days.

(2) The holiday mentioned in subsection (1) above may be deferred by agreement between the employer and the worker :

Provided that the holiday-earning period shall not thereby be increased beyond twenty-four months continuous service.

(3) It shall be unlawful for an employer to pay wages in lieu of the holiday mentioned in subsection (1) above to a worker whose contract has not terminated.

(4) A person who ceases to be employed after having completed—

(a) less than twelve but not less than six months in the continuous employment of an employer, or

(b) not less than six months in the continuous employment of an employer since he last qualified for a holiday under subsection (1) above, shall be paid with respect to that period of employment an amount bearing the same proportion to full pay for one week at his normal rate as that period bears to twelve months.

Calculation
of leave
pay and
sickness
benefits.

18. In the calculation of leave pay and sickness benefits only that part of his wages which a worker receives in money (excluding overtime and other allowances) shall be taken into account.

Redundancy.

19.—(1) In the event of redundancy—

(a) the employer shall inform the trade union or workers' representative concerned of the reasons for and the extent of the anticipated redundancy,

(b) the principle of "last in, first out" shall be adopted in the discharge of the particular category of workers affected, subject to all factors of relative merit, including skill, ability and reliability, and

(c) the employer shall use his best endeavours to negotiate redundancy payments to any discharged workers who are not protected by regulations made under subsection (2) below.

(2) The Commissioner may make regulations providing, generally or in particular cases, for the compulsory payment of redundancy allowances on the termination of a worker's employment because of his redundancy.

(3) In this section "redundancy" means an involuntary and permanent loss of employment caused by an excess of manpower.

General

Offences.

20.—(1) Any employer who—

(a) enters into any agreement or contract or gives any remuneration for employment contrary to this Part or declared by this Part to be illegal or unlawful, or

(b) makes any deduction from the wages of any worker or receives any payment from any worker contrary to this Part, or

(c) contravenes section 6 (2), 7, 12 (3), (5) or (7), 13 or 17 (3),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ₦800 or, for a second or subsequent offence, to a fine not exceeding ₦1,500.

(2) Where an employer is charged with an offence under subsection (1) above—

(a) he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and

(b) if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he has used due diligence to enforce this Part and that the other person has committed the offence without the employer's knowledge, consent or connivance, the other person shall be convicted of the offence and the employer shall be exempted from any liability.

(3) Where it is made to appear to the satisfaction of the Commissioner at the time of the discovery of an apparent offence under subsection (1) above—

(a) that the employer in question has used due diligence to enforce this Part,

(b) by what person the offence has been committed, and

(c) that the offence has been committed without the knowledge, connivance or consent of the employer,

the Commissioner shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

21.—(1) Nothing in this Part shall apply to a worker who is the father mother, husband, wife, son or daughter of the employer.

Exemptions.

(2) Nothing in this Part shall apply to any body of persons working on any agreement of co-operation.

PART II

RECRUITING

Recruiters and recruiting generally

22.—(1) Subject to this section and section 47, no person or association shall recruit any citizen for employment as a worker in Nigeria or elsewhere except in pursuance of an employer's permit or recruiter's licence.

Prohibition of recruiting except under permit or licence.

(2) Where a worker—

(a) is employed by an undertaking for which it is proposed that he should recruit other workers,

(b) is formally commissioned in writing by his employer to recruit other workers for the undertaking,

(c) does not receive any remuneration or other advantage from the recruiting, and

(d) does not make advances of wages to the workers he recruits,

the Commissioner may waive the need for a permit or licence under subsection (1) above and issue to the worker a certificate to recruit citizens for service as workers in Nigeria, subject to such conditions (which shall be endorsed on the certificate) as the Commissioner thinks fit.

(3) If any worker to whom a certificate has been issued under subsection (2) above is convicted of an offence under section 45 or 46, the Commissioner may forthwith cancel the certificate.

23.—(1) If any person is desirous of recruiting—

(a) for himself or any other person, or

(b) for any association of employers, or

(c) for a public authority, or

(d) for the government of any country outside Nigeria,

Employer's permit.

the services of any citizen as a worker in Nigeria or elsewhere, he may apply in writing to the Commissioner giving the particulars specified in subsection (2) below.

(2) The particulars referred to in subsection (1) above are—

(a) the number of workers required,

(b) the place where the work is to be performed,

(c) the nature of the work,

(d) the wages to be paid,

(e) the duration of the proposed contract, and

(f) whether or not it is desired to obtain the workers through a recruiter.

(3) Where the work is to be performed outside Nigeria, the Commissioner may require the production of a letter of recommendation from the government of the place where the work is to be performed certifying that the applicant is a fit and proper person to be granted a permit.

(4) Upon receipt of an application under subsection (1) above and, if required, a letter of recommendation under subsection (3) above, the Commissioner may grant to the applicant a permit to engage personally or through a recruiter the number of workers required (or a smaller number) within such area as may be specified in the permit.

(5) The particulars of every permit granted under this section shall be published in the *Gazette*, and no such permit shall remain in force for a longer period than six months from the date of issue.

(6) It shall be an implied term of every permit granted under this section that the workers recruited shall be grouped at the place of employment under suitable ethnical conditions.

(7) Except in the case of workers recruited for the service of a public authority, the Commissioner shall—

(a) before granting a permit under this section, require security in such amount as he may think fit (either by way of deposit or otherwise) to be given by the employer or his agent or both—

(i) for the payment of the wages and travelling expenses of the workers about to be recruited,

(ii) for the payment of any expenses which may be incurred by the Federal Military Government in respect of the workers or their families, and

(iii) for the payment of any fine which may be imposed upon the employer under this Part, and

(b) endorse upon the permit full particulars of the security given.

24.—(1) The Commissioner may license fit and proper persons to recruit citizens in Nigeria for the purpose of—

(a) employment as workers outside Nigeria, or

(b) employment as workers in Nigeria:

Provided that any person who has been granted a licence to recruit citizens for employment outside Nigeria may also be granted a licence to recruit citizens for employment inside Nigeria.

(2) A licence granted under this section shall be valid for a period of twelve months from the date of issue, and notification of the grant shall be published in the *Gazette*.

(3) The grant of a licence under this section may be made subject to such conditions and restrictions as the Commissioner may think fit; and any such conditions or restrictions shall be endorsed upon the licence.

(4) Every applicant for a licence under this section shall, if so required by the Commissioner, furnish such financial or other security for his proper conduct as may be required.

(5) The Commissioner may at any time—

(a) suspend a licence granted under this section pending the result of any investigation into any alleged irregularity, and

(b) withdraw the licence if the licensee has been convicted of any offence under this or any other law or has otherwise so conducted himself as in the opinion of the Commissioner to be no longer a fit and proper person to undertake recruiting operations.

(6) Where a licence is suspended or withdrawn under subsection (5) above, notification of the suspension or withdrawal shall be published in the *Gazette*.

25.—(1) No recruiting operations shall be conducted in any area in which recruiting is prohibited by the Commissioner by order or in a labour health area.

Restrictions
on recruit-
ing.

(2) No recruiter shall recruit workers for service with any person—

(a) unless that person is in possession of a valid permit granted under section 23, or

(b) in excess of the number of workers authorized to be recruited by the permit, or

(c) from any area or place which is not specified in the permit.

(3) No public officer shall—

(a) act as a recruiting agent, or

(b) exercise pressure upon possible recruits, or

(c) receive from any source whatsoever any special remuneration or other special inducement for assistance in recruiting.

26.—(1) Every recruiter shall keep in the prescribed form records from which the regularity of every recruiting operation and of his own conduct can be verified and shall produce the records for inspection on demand by an authorized labour officer.

Recruiting :
miscella-
neous
provisions.

(2) No person shall assist a recruiter in a subordinate capacity in the actual recruiting operation unless he has been approved in writing by the Commissioner and has been furnished with written authority by the recruiter; and, where a recruiter's assistant commits an offence under this Part, both the assistant and the recruiter shall be deemed to have committed the offence and shall each be liable on conviction to the penalty therefor.

(3) A recruiter who is the agent or assistant of another recruiter—

(a) shall receive a fixed salary, or,

(b) with the written approval of the Commissioner, may receive remuneration calculated at a rate per capita of workers recruited, the rate being specified in the approval.

(4) No recruiter shall recruit any young person :

Provided that the Commissioner may in writing authorize the recruitment of young persons whose apparent age exceeds sixteen years with the consent of the parents or guardian for employment in an occupation appearing to the Commissioner not to be injurious to their moral or physical development, subject to such safeguards relating to their welfare as may be stated in the authorization.

(5) No advance in excess of a total sum of ₦10 shall be paid to any recruited worker in respect of wages prior to his employment, and any advance which is made shall be subject to such conditions as the Commissioner may direct either generally or in respect of any particular case.

(6) In any case where a recruited worker is not engaged at or near the place of recruiting, the Commissioner may in his discretion require, either generally or in any specific recruiting operation, the issue to the worker of a document in writing containing particulars of—

- (a) the identity of the worker,
 - (b) the prospective conditions of employment, and
 - (c) any advance of wages made to the worker,
- and containing such other particulars as the Commissioner may consider necessary.

(7) The recruiting of the head of a family shall not be deemed to involve the recruiting of any member of his family.

(8) Where a worker's family accompanies him to his place of employment under section 33 or 43, he and the members of his family shall not be separated except at the express request of the persons concerned.

Health.

27.—(1) Every recruited worker shall be medically examined under section 8.

(2) Where a worker has been recruited for employment at a distance from the place of recruiting or has been recruited for employment outside Nigeria, the medical examination shall take place as near as may be convenient to the place of recruiting or, in the case of workers recruited for employment outside Nigeria, at the last place of departure from Nigeria.

(3) The Commissioner may empower an authorized labour officer before whom recruited workers are brought under section 32 or 38 to permit the departure prior to medical examination of any such worker in whose case the officer is satisfied that—

- (a) it was and is impossible for the medical examination to take place near to the place of recruiting or at the place of departure,
- (b) the worker appears fit for the journey and the prospective employment, and
- (c) the worker will be medically examined on arrival at the place of employment or as soon as possible thereafter.

(4) The Commissioner may in his discretion (and particularly when the journey of any recruited workers is of such a duration and takes place under such conditions that the health of the workers is likely to be affected) require any recruited workers to be examined both before departure and after arrival at the place of employment.

(5) The Commissioner shall ensure that all necessary measures are taken for the acclimatization and adaptation of recruited workers and for their immunization against disease, and may issue such directions in that behalf as he may think fit, either generally or in respect of any particular recruiting operation.

28.—(1) The recruiter or employer shall provide transport to the place of employment, except in so far as an authorized labour officer may in any particular case certify that the provision of transport is impossible for the whole or any part of the journey. Transport.

(2) The Commissioner shall issue such directions as he may consider necessary to ensure that—

(a) the vehicles and vessels used for the transport of recruited workers are suitable for the purpose,

(b) when it is necessary to break the journey for the night, suitable accommodation is provided,

(c) in the case of long journeys all necessary arrangements are made for medical assistance for the recruited workers and for their welfare,

(d) where recruited workers have to make long journeys on foot to the place of employment—

(i) the length of the daily journey is compatible with the health and strength of the recruited workers, and

(ii) if the extent of the movement of labour renders it necessary, rest camps or rest houses are provided at suitable points on the main routes and are kept in proper sanitary condition and have the necessary facilities for medical attention, and

(e) adequate protection (which may include the provision of separate accommodation) is afforded during the journey to members of the family of a recruited worker accompanying him under section 33 or 43.

(3) Where recruited workers have to make long journeys in groups to the place of employment, they shall be convoyed by a responsible person approved by an authorized labour officer.

(4) The Commissioner may make regulations prescribing the conditions under which recruited workers may be transported by road, sea or air; and, without prejudice to the generality of the foregoing, any such regulations may make provision for compliance with Nigerian immigration laws and for the recovery of any expenses incurred by the Federal Military Government in repatriating any worker.

29.—(1) The expenses of the journey of recruited workers to the place of employment, including all expenses incurred for their welfare during the journey, shall be borne by the recruiter or the employer. Expenses
and
maintenance.

(2) The recruiter shall furnish recruited workers with everything necessary for their welfare during the journey to the place of employment, including particularly, as local circumstances may require, adequate and suitable supplies of food, drinking water, fuel, cooking utensils, clothing and blankets.

(3) The Commissioner may issue directions, either generally or in respect of any particular recruiting operation, for the proper implementation of subsection (2) above.

(4) The Commissioner may by order apply all or any of the provisions of this section or any directions issued thereunder, either generally or in any particular case, to the recruitment of workers under a certificate issued pursuant to section 22 and to the worker-recruiter and employer concerned.

Repatriation.

30.—(1) Any recruited worker who—

(a) becomes incapacitated by sickness or accident during the journey to the place of employment, or

(b) is found on medical examination to be unfit for employment, or

(c) for a reason for which he is not responsible, is not engaged after being recruited, or

(d) is found by an authorized labour officer to have been recruited by misrepresentation or mistake,

shall be repatriated at the expense of the recruiter or employer.

(2) Where the family of a recruited worker accompanies him under section 33 or 43, sections 26 (6) and 27 (and any requirements or directions thereunder) shall apply to the family as nearly as may be; and, if the worker—

(a) is repatriated under subsection (1) above, or

(b) dies during the journey to the place of employment, the family shall be repatriated at the expense of the recruiter or employer.

Capitation fee.

31. Upon the completion of any agreement for a contract of work by a recruited worker, there shall be paid to an authorized labour officer for the Federal Military Government by the employer or his agent in respect of the worker a capitation fee of such sum as may be fixed, either generally or in respect of any particular recruiting operation, by the Commissioner by order.

Recruiting for employment in Nigeria

Procedural requirements.

32.—(1) No citizen recruited for employment in Nigeria shall be employed until he has—

(a) been medically examined under section 8 and passed fit to perform the work for which he has been recruited, and

(b) been brought before an authorized labour officer and certified as properly and duly recruited in accordance with this Part.

(2) An authorized labour officer shall, before issuing a certificate under subsection (1) (b) above, satisfy himself that the contract conforms with Part I and that the recruited worker—

(a) understands and agrees to the terms upon which he is to be employed,

(b) has not been subjected to illegal pressure or recruited by misrepresentation or mistake,

(c) has been recruited in accordance with this Part,

(d) is accompanied by such members of his family as he wishes to take with him under section 33,

(e) subject to section 26 (4), is of or above the age of eighteen years, and

(f) has been medically examined and passed fit to perform the work for which he has been recruited.

Right to be accompanied by family.

33.—(1) Any citizen who is recruited for service in Nigeria may be accompanied to his place of employment and attended during his employment there by such members of his family (not exceeding two wives and such of his children as are under the age of sixteen years) as he wishes to take with him

(2) No person shall induce or attempt to induce any recruited worker not to require to be accompanied by members of his family under subsection (1) above, or prevent or attempt to prevent those members from so accompanying the worker.

(3) Notwithstanding subsection (1) above, the Commissioner may by order, either generally or in respect of any particular recruiting operation, limit the number of wives and children who may accompany a recruited worker.

34.—(1) The Commissioner may in his discretion allow the payment of wages due to a recruited worker who is engaged for employment within Nigeria to be deferred until the completion of his contract :

Deferment
of wages.

Provided that not more than one-half of each month's wages shall be so deferred.

(2) Where an employer is authorized to defer the wages of a worker under subsection (1) above—

(a) the Commissioner may require the employer either to deposit a sum of money by way of security, or to enter into a bond in such form as the Commissioner thinks fit for the due payment of the deferred wages, and

(b) on completion of the contract the amount of the deferred wages shall be paid to the worker at such place and in such manner as the Commissioner may direct.

Recruiting for employment outside Nigeria

35. The Federal Executive Council may by order prohibit the recruitment or engagement of citizens for employment outside Nigeria in any territory named in the order.

Power of
prohibition

36. Where there is in existence a treaty, convention or other international agreement between Nigeria and any other country relating to the recruitment of citizens for employment outside Nigeria, the Federal Executive Council may by order give the force of law to all or any of the provisions of the agreement in place of or in addition to sections 37 to 43 or any particular provisions of those sections.

Interna-
tional
agreements.

37.—(1) The period of a foreign contract shall be in accordance with the terms of any agreement entered into between Nigeria and any other country for the purpose of the recruitment in Nigeria of Nigerian workers for service in the country concerned, and subject thereto, a foreign contract shall not be for a longer period than—

Duration
of contract
and return
passages.

(a) one year, if the worker is not accompanied by his family, or

(b) two years, if the worker is accompanied by his family.

(2) Within thirty days after the expiration of a foreign contract, the employer to whom the employer's permit was granted under section 23 (or the agent of that employer) shall offer to provide the worker with a return passage for himself and his family, if any, to the place of recruitment, together with proper accommodation and maintenance on the journey.

(3) If, while a worker under a foreign contract is on a journey or voyage—

(a) the period expressed in his contract for the duration of the contract expires, or

(b) he gives notice to terminate the contract,

the employer may prolong the contract for a period not exceeding one month for the purpose of completing the journey or voyage.

38.—(1) No citizen shall leave Nigeria under a foreign contract to serve as a worker outside Nigeria unless he has been—

Procedure
prior to
leaving
Nigeria.

(a) medically examined under section 8 and passed fit to perform the work for which he was engaged, and

(b) brought before an authorized labour officer and certified by that officer as duly recruited in accordance with this Part.

(2) Before issuing a certificate under subsection (1) (b) above, an authorized labour officer shall satisfy himself that—

(a) a valid contract for employment of the citizen has been duly entered into in accordance with section 39,

(b) the citizen has obtained—

(i) the consent in writing of the local government authority within whose jurisdiction he ordinarily resides signified before an administrative officer, and a certificate in writing from the administrative officer to that effect, or

(ii) if the citizen does not ordinarily reside within the jurisdiction of a local government authority, the consent in writing of an administrative officer,

(c) the citizen has not been subjected to illegal pressure or recruited by misrepresentation or mistake,

(d) the citizen has been recruited in accordance with this Part,

(e) the citizen is of or above the proper age for recruitment in accordance with section 26 (4), and

(f) the citizen has been medically examined under section 8 and passed fit to perform the work for which he has been recruited.

(3) An administrative officer shall not give a certificate or his consent under subsection (2) (b) above unless he is reasonably satisfied with regard to the citizen concerned—

(a) that the citizen is not abandoning wives, children or other relatives dependent upon him for maintenance and that due provision has been made for the maintenance during the citizen's absence of any persons dependent upon him, and

(b) that the citizen's absence from Nigeria is not obviously inconsistent with engagements into which he has previously entered or with obligations imposed by law, custom or usage.

Special
terms and
conditions
of contract.

39.—(1) Every foreign contract shall, in addition to any terms or conditions required to be inserted by any other provision of this Decree, contain terms or conditions—

(a) providing for workers to have one day free of work in each week,

(b) providing for a daily ration of food to be provided free,

(c) providing for—

(i) rations and half pay to be given from the date of recruitment to the date of departure from Nigeria, and full pay and rations thereafter, and

(ii) full pay and rations to be given on the return journey up to disembarkation in Nigeria, and rations and half pay to be given from the point of disembarkation to the place of recruitment,

(d) providing for one half (or such other proportion as may be specified in the contract) of his wages to be paid monthly to the worker direct in lawful currency, and for the remaining portion to be remitted to an authorized labour officer in the area in which the worker was recruited for payment to the worker on his return to his home,

(e) giving particulars of the clothing, blankets, cooking utensils, fuel and housing accommodation to be furnished by the employer free of charge,

(f) giving particulars of the medical attention and housing accommodation to be provided by the employer free of charge,

(g) giving particulars of the transport to be provided free to the worker from and to the place of recruitment and the place of employment,

(h) giving particulars of the arrangements to be made with regard to the provision of rations and the matters mentioned in paragraphs (e), (f) and (g) above to members of families authorized to accompany workers,

(i) giving particulars of the terms and conditions of repatriation of workers and their families and of the procedure to be followed in case of a refusal of repatriation,

(j) giving particulars of the procedure to be followed in case of the death or desertion of or other casualty to the worker, with particular reference to—

(i) the payment of any wages due to him,

(ii) the distribution of any moneys in the hands of an authorized labour officer, and

(iii) the reporting of the death, desertion or other casualty to the proper authorities,

(k) giving particulars of the deductions which may be made from the wages of the worker and the worker's rights of appeal,

(l) giving particulars of the procedure to be followed for the dismissal of the worker for inefficiency arising from sickness or for any other reason, and of his rights under that procedure, and

(m) specifying the terms of re-engagement.

(2) Every foreign contract shall be made in triplicate and entered into in the presence of an authorized labour officer, who shall—

(a) upon the production to him of the employer's permit authorizing the engagement of the worker in question, cause the contract to be read over to the worker or, if the worker is unable to understand the language in which the contract is written, to be translated orally into a language which is understood by the worker, and

(b) if he is satisfied that the contract is fully understood and voluntarily entered into by the worker, certify by endorsement on the contract that he has carried out the provisions of this subsection and that the worker has been duly recruited under this Part, and

(c) enter on the employer's permit the number of workers engaged thereunder.

(3) The Commissioner shall ensure that a copy of every foreign contract is transmitted as soon as may be to the government of the territory in which the place of employment is situated.

(4) An authorized labour officer shall keep a register of—

(a) the name and place of abode of every worker entering into a foreign contract before him under subsection (2) above,

(b) the date and duration of the contract,

(c) the place of employment thereunder,

(d) the name of the employer and his agent, if any, and

(e) the nature of the employment,

and the register (or a copy of any entry therein certified as a true copy by that or another authorized labour officer) shall be received in any court as evidence of the facts stated therein without further proof.

Surrender
of
permits.

40. Where in relation to a foreign contract—

(a) the full number of workers authorized by the employer's permit has been engaged, or

(b) the period for which the permit was issued has expired,

the permit shall be surrendered to an authorized labour officer for transmission forthwith to the Commissioner.

Embarka-
tion
check.

41. Where a foreign contract is entered into before an authorized labour officer under section 39 (2)—

(a) the employer or his agent shall supply the authorized labour officer with a list of all the workers engaged under the contract,

(b) the authorized labour officer shall transmit the list as soon as possible to the officer in charge of police at the port of embarkation, and

(c) the said officer in charge of police (or a police officer acting under his direction) shall—

(i) superintend the embarkation of the workers,

(ii) cause each worker to report himself so that his name may be checked with the list, and

(iii) on completion of the check, report to the authorized labour officer the fact of completion and such other matters in connection with the embarkation as he thinks necessary.

Exemption
from
customs on
repatriation.

42. The personal effects and tools belonging to workers (or members of their families) who—

(a) have left Nigeria in pursuance of a foreign contract, and

(b) are repatriated either by the employer or his agent or by the Federal Military Government,

shall be exempt from customs duties.

Right to be
accompan-
ied by
family at
employer's
expense.

43. Where a worker is recruited for employment outside Nigeria, it shall be the duty of the employer to provide facilities at his own expense to enable the worker's family (not exceeding two wives and such of his children under the age of sixteen years as he wishes to accompany him) to accompany him to the place of employment and to remain there for the full duration of the contract:

Provided that, if the contract is for less than one year, provision may be made for the family to remain for less than the full duration of the contract.

Enforcement provisions

Inducing
recruiting
by fraud, etc.

44.—(1) No person shall by fraud, falsehood, intimidation, coercion or misrepresentation induce any worker to enter into a contract under this Part, and any contract entered into by reason of any such inducement shall be void, save that the employer or his agent shall be liable to pay wages due under the contract and to provide for the return to his place of abode of any worker engaged thereunder, together with any members of his family who have accompanied him.

(2) If the employer or his agent fails to pay the wages in question or to provide for the return of the worker and the members of his family in accordance with subsection (1) above, the wages shall be paid, and the expenses of the return shall be borne, by the Federal Military Government, and may be recovered by that Government from the employer or his agent by deduction from any deposit or security given under section 23 (7) or by civil proceedings.

45.—(1) Any employer who neglects or ill-treats any worker whom he has contracted to employ in accordance with this Part shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding ₦500 or to imprisonment for a period not exceeding one year, or to both.

Neglect or ill-treatment.

(2) Where an employer or his agent is convicted of an offence under subsection (1) above, the convicting court shall report the case to the Commissioner, who may by notice in the *Gazette* cancel any contract into which the employer or his agent may have entered in accordance with this Part.

(3) Any cancellation under subsection (2) above shall have effect from the date of the publication of the relevant notice.

(4) Every worker whose contract has been cancelled under subsection (2) above shall be maintained and conveyed to his place of abode (together with any members of his family who have accompanied him) at the expense of the Federal Military Government, and all sums reasonably expended upon the maintenance and conveyance, together with any wages due to the worker under the cancelled contract, may be recovered from the employer or his agent by deduction from any deposit or security given under section 23 (7) or by civil proceedings.

(5) The cancellation of a contract under this section shall not prevent the taking of legal proceedings in respect of the contract under this or any other enactment.

46.—(1) Any person who—

Other offences.

(a) recruits or attempts to recruit any citizen contrary to section 22, or

(b) contravenes or fails to give effect to any special condition or restriction endorsed on an employer's permit granted under section 23 or a recruiter's licence granted to him under section 24, or,

(c) being a holder of a recruiter's licence, recruits citizens for a person who is not a holder of an employer's permit, or

(d) induces or attempts to induce, or assists or offers to assist, any citizen to leave Nigeria in order to be employed as a worker outside Nigeria otherwise than under a contract which conforms with section 39, or

(e) engages or offers or agrees to employ or to find employment for any citizen as a worker outside Nigeria except under a contract which conforms with section 39,

(f) fails to surrender to the Commissioner an employer's permit in the circumstances mentioned in paragraph (a) and (b) of section 40, or

(g) contravenes section 25, 26, 28 or 29 (or any direction issued thereunder), shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦2,000 or to imprisonment for a period not exceeding five years, or to both.

(2) Any employer or employer's agent who fails to offer a return passage in compliance with section 37 (2) shall be guilty of an offence and on conviction

shall be liable to a fine not exceeding ₦200 ; and any repatriation expenses incurred by the Federal Military Government as a result of the failure may be recovered by that Government from the employer or employer's agent by deduction from any deposit or security given under section 23 (7) or by civil proceedings.

Application

Application.

47.—(1) This Part is additional to and not in derogation of Part I but shall not apply to the recruiting of citizens for service as workers in Nigeria if the recruiting—

(a) is undertaken by or on behalf of an employer who does not employ more than twenty-five workers, or

(b) is undertaken within a radius of forty kilometres from the place of employment,

and is not undertaken by a professional recruiter, that is to say, a person who holds a recruiter's licence.

(2) The Commissioner may make regulations applying this Part (with such modifications, if any, as he thinks appropriate) to labour contractors, that is to say, persons who undertake to provide another party with the services of workers while themselves remaining the employers of the workers in question.

PART III—SPECIAL CLASSES OF WORKER AND MISCELLANEOUS SPECIAL PROVISIONS

Apprentices

Contracts
of
apprentice-
ship.

48.—(1) The parent or, in the case of an orphan, the guardian of a young person above the age of twelve years and under the age of sixteen years may, with the consent of that person testified by his execution of a written contract of apprenticeship, apprentice that person to an employer to train him or have him trained systematically for a trade or employment in which art or skill is required, or as a domestic servant, for any term not exceeding five years.

(2) Where a young person above the age of twelve years and under the age of sixteen years is without known parents or a guardian, an authorized labour officer may authorize the apprenticeship of that person and appoint some fit and proper person to execute the written contract of apprenticeship and act generally as guardian of that young person.

(3) Any young person of the age of sixteen years or above not being under any contract of apprenticeship may apprentice himself for any term not exceeding five years to any trade or employment in which art or skill is required.

(4) The age of any person may, where no register of births is available, be enquired into and determined by the authorized labour officer before whom a contract of apprenticeship is attested in accordance with section 49 ; and the age so determined shall be conclusive for the purposes of sections 48 to 52.

(5) Every contract of apprenticeship may, with the consent of the parties, be assigned by the employer.

(6) A magistrate's court (or, in a State where a magistrate's court has no civil jurisdiction, a district court) shall have power and jurisdiction to hear and determine any question arising out of a contract of apprenticeship or any dispute between any of the parties to such a contract, whether arising from breach of the contract or otherwise, and for that purpose shall have all the powers conferred upon a magistrate's court or district court, as the case may be, by sections 79 to 84.

49.—(1) Every contract of apprenticeship and every assignment thereof shall be in writing; and no such writing shall be valid unless attested by and made with the approval of an authorized labour officer certified in writing under his hand on the contract or assignment.

Attestation.

(2) Before attesting any contract of apprenticeship an authorized labour officer shall—

(a) ascertain that the apprentice has consented to the contract and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake, and

(b) satisfy himself that—

(i) the apprentice has been medically examined and certified by a qualified medical practitioner to be physically and mentally fit to be employed and trained in the employment specified in the contract,

(ii) the parties to the contract have fully understood the terms of the contract before signing it or otherwise indicating consent,

(iii) provision has been made in the contract as to the manner in which any remuneration in cash or otherwise due to the apprentice shall be determined and as to the scale of increase in remuneration during the course of the apprenticeship,

(iv) provision has been made in the contract for payment of remuneration to the apprentice during illness and during holidays, if any,

(v) where the apprentice is unable by reason of his apprenticeship to return to his home at the end of each day, the contract contains adequate provision to ensure that the apprentice is supplied with food, clothing, accommodation and medical attention, and

(vi) the terms of the contract are in accordance with any regulations made under section 51.

50. If any person with whom an apprentice has been placed retains the apprentice in his service after the stipulated period of service has expired without any agreement between the parties for the payment of wages, the apprentice shall be entitled to recover from the person so retaining him wages at the ordinary current rate payable for service similar to that performed by the apprentice.

Retention of apprentice after expiry of contract.

51. The Commissioner may make regulations providing for—

(a) the form of contracts of apprenticeship, the terms and conditions upon which contracts of apprenticeship may be lawfully entered into and the duties and obligations of apprentices and their masters,

(b) the registration of contracts of apprenticeship with a specified officer,

(c) the number of apprentices who may be apprenticed during a specified period in any specified trade or employment,

(d) the technical and other qualifications of employers entitling them to take and train apprentices,

Regulations.

(e) the conditions governing the entry of persons over twelve and under sixteen years of age into apprenticeship,

(f) the mutual rights and obligations of employer and apprentice,

(g) the supervision to be established over apprenticeship, with a view to ensuring in particular that the regulations governing apprenticeship and the terms of any contract of apprenticeship are observed, that the training is satisfactory and that there is reasonable uniformity in the conditions of apprenticeship, and

(h) the holding of examinations of apprentices on the expiry of the period of apprenticeship and, where necessary, in the course of apprenticeship, determining the methods of organizing the examinations and the issue of certificates based on the results thereof.

Offences.

52.—(1) Any person who removes or attempts to remove any apprentice who is above the age of twelve years and under the age of sixteen years from Nigeria without the authority in writing of the Commissioner shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦500 or to imprisonment for a period not exceeding one year, or to both.

(2) Any person who employs an apprentice for more than six months on a contract which has not been attested under section 49 or induces or attempts to induce any apprentice to quit the service of his employer shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200 or to imprisonment for a period not exceeding six months, or to both.

Employment of women

Maternity protection.

53.—(1) In any public or private industrial or commercial undertaking or in any branch thereof, or in any agricultural undertaking or any branch thereof, a woman—

(a) shall have the right to leave her work if she produces a medical certificate given by a registered medical practitioner stating that her confinement will probably take place within six weeks,

(b) shall not be permitted to work during the six weeks following her confinement,

(c) if she is absent from her work in pursuance of paragraph (a) or (b) above and had been continuously employed by her then employer for a period of six months or more immediately prior to her absence, shall be paid not less than fifty per cent of the wages she would have earned if she had not been absent, and

(d) shall in any case, if she is nursing her child, be allowed half an hour twice a day during her working hours for that purpose.

(2) Subsection (1) (c) above shall have effect notwithstanding any law relating to the fixing and payment of a minimum wage.

(3) No employer shall be liable, in his capacity as an employer, to pay any medical expenses incurred by a woman during or on account of her pregnancy or confinement.

(4) Where a woman—

(a) is absent from her work in pursuance of subsection (1) (a) or (b) above, or

(b) remains absent from her work for a longer period as a result of illness certified by a registered medical practitioner to arise out of her pregnancy or confinement and to render her unfit for work,

then, until her absence has exceeded such a period (if any) as may be prescribed, no employer shall give her notice of dismissal during her absence or notice of dismissal expiring during her absence.

(5) In subsection (1) (d) above "child" includes both a legitimate and an illegitimate child.

54.—(1) Subject to this section, no woman shall be employed on night work in a public or private industrial undertaking or in any branch thereof, or in any agricultural undertaking or any branch thereof.

Night work.

(2) Subsection (1) above shall not apply to women employed as nurses, in any public or private industrial undertaking or in any agricultural undertaking, nor to women holding responsible positions of management who are not ordinarily engaged in manual labour; and in any proceedings brought under or in connection with the said subsection (1), it shall be a good defence if it is shown to the satisfaction of the court trying the proceedings that—

(a) the night work in question was due to an interruption of work which it was impossible to foresee and which is not of a recurring character, or

(b) the night work in question had to do with raw material or materials in course of treatment which are subject to rapid deterioration, and it was necessary to preserve such materials from certain loss.

(3) In this section "night" means—

(a) as respects industrial undertakings, a period of at least eleven (or, where an order under subsection (4) below applies, ten) consecutive hours including the interval between ten o'clock in the evening and five o'clock in the morning, and

(b) as respect agricultural undertakings, a period of at least nine consecutive hours including the interval between nine o'clock in the evening and four o'clock in the morning.

(4) The Commissioner may by order permit the eleven-hour period mentioned in subsection (3) (a) above to be reduced to ten hours on not more than sixty days in any one year in respect of any industrial undertaking if he is satisfied that the undertaking is influenced by the seasons of the year or that the reduction is necessary because of special circumstances.

(5) The Commissioner may by order exclude from the application of this section those women covered by a collective agreement in force which permits night work for women, but before making such an order the Commissioner shall satisfy himself that adequate provision exists for the transportation and protection of the women concerned.

55.—(1) Subject to subsection (2) below, no woman shall be employed on underground work in any mine.

Underground work.

(2) Subsection (1) above shall not apply to—

(a) women holding positions of management who do not perform manual labour, or

(b) women employed in health and welfare services, or

(c) women who in course of their studies spend a period of training in underground parts of a mine, or

(d) any other women who may occasionally have to enter the underground parts of a mine for the purposes of a non-manual occupation.

Regulations.

56. The Commissioner may make regulations prohibiting or restricting, subject to such conditions as may be specified in the regulations, the employment of women in any particular type or types of industrial or other undertakings or in any process or work carried on by such undertakings.

Offences.

57.—(1) Any person who, being the proprietor, owner or manager of any industrial, commercial or agricultural undertaking, contravenes any provision of section 53 shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200 or to imprisonment for a period not exceeding three months, or to both.

(2) Any person who employs a woman in contravention of section 54 (1) or 55 (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦100 or to imprisonment for a period not exceeding one month, or to both.

Young persons

General.

58.—(1) No child shall—

(a) be employed or work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character approved by the Commissioner, or

(b) be required in any case to lift, carry or move anything so heavy as to be likely to injure his physical development.

(2) No young person under the age of fifteen years shall be employed or work in any industrial undertaking :

Provided that this subsection shall not apply to work done by young persons in technical schools or similar institutions if the work is approved and supervised by the Ministry of Education (or corresponding department of government) of a State..

(3) A young person under the age of fourteen years may be employed only—

(a) on a daily wage,

(b) on a day-to-day basis, and

(c) so long as he returns each night to the place of residence of his parents or guardian or a person approved by his parents or guardian :

Provided that, save as may be otherwise provided by any regulations made under section 64, this subsection shall not apply to a young person employed in domestic service.

(4) No young person under the age of sixteen years shall be employed in circumstances in which it is not reasonably possible for him to return each day to the place of residence of his parent or guardian except—

(a) with the approval of an authorized labour officer, and

(b) on a written contract (which, notwithstanding any law to the contrary, shall not be voidable on the ground of incapacity to contract due to infancy) conforming with Part I :

Provided that, save as may be otherwise provided by any regulations made under section 64, this subsection shall not apply to a young person employed in domestic service.

(5) No young person under the age of sixteen years shall be employed—

- (a) to work underground, or
- (b) on machine work, or
- (c) on a public holiday.

(6) No young person shall be employed in any employment which is injurious to his health, dangerous or immoral; and, where an employer is notified in writing by the Commissioner (either generally or in any particular case) that the kind of work upon which a young person is employed is injurious to the young person's health, dangerous, immoral or otherwise unsuitable, the employer shall discontinue the employment, without prejudice to the right of the young person to be paid such wages as he may have earned up to the date of discontinuance.

(7) No person shall continue to employ any young person under the age of sixteen years after receiving notice either orally or in writing from the parent or guardian of the young person that the young person is employed against the wishes of the parent or guardian:

Provided that this subsection shall not apply to a young person employed under a written contract entered into with the approval of an authorized labour officer.

(8) No young person under the age of sixteen years shall be required to work for a longer period than four consecutive hours or permitted to work for more than eight working hours in any one day:

Provided that, save as may be otherwise provided by any regulations made under section 64, this subsection shall not apply to a young person employed in domestic service.

59.—(1) Subject to this section, no young person shall be employed during the night. Night work.

(2) Young persons over the age of sixteen years may be employed during the night in the following industrial undertakings or activities which by reason of the nature of the process are required to be carried on continuously day and night, that is to say—

(a) in the manufacture of iron and steel, in processes in which reverberatory or regenerative furnaces are used and in the galvanizing of sheet metal or wire (except the pickling process),

(b) glass works,

(c) manufacture of paper,

(d) manufacture of raw sugar, and

(e) gold mining reduction work.

(3) Young persons over the age of sixteen may be employed during the night in cases of emergency which—

(a) could not have been controlled or foreseen,

(b) are not of a periodical character, and

(c) interfere with the normal working of an industrial undertaking.

(4) In this section "night" means a period of at least twelve consecutive hours, including—

(a) in the case of young persons under the age of sixteen years, the interval between ten o'clock in the evening and six o'clock in the morning, and

(b) in the case of young persons over the age of sixteen years but under the age of eighteen years, a prescribed interval of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning.

(5) For the purposes of subsection (4) (b) above, the Commissioner may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' associations or organizations concerned before prescribing an interval beginning after eleven o'clock in the evening.

Shipping.

60.—(1) No young person under the age of fifteen years shall be employed in any vessel, except where—

(a) the vessel is a school or training vessel and the work on which the young person is employed is—

(i) work of a kind approved by the Commissioner, and

(ii) supervised by a public officer or by a public department, or

(b) only members of the young person's family are employed.

(2) No young person shall be employed in a vessel as a trimmer or stoker:

Provided that, where a trimmer or stoker is required in a place in which only young persons are available, young persons of and over the age of sixteen years may be employed in that capacity, so however that two such young persons shall be engaged and employed in the place of each trimmer or stoker required.

(3) No young person shall be employed in any vessel other than a vessel in which only persons of his family are employed unless he is in possession of a certificate signed by a registered medical practitioner to the effect that he is fit for the employment or work; and, where such a certificate is issued, then—

(a) subject to paragraph (b) below, the certificate shall be valid for one year from the date of issue or, if it would otherwise expire in the course of a voyage, until the end of the voyage in question, and

(b) the certificate may at any time be revoked by a qualified medical practitioner if he is satisfied that the young person is no longer fit for the employment or work.

(4) There shall be included in every agreement with the crew of a vessel a list of young persons who are members of the crew, together with particulars of the dates of their births; and, in the case of a vessel in which there is no such agreement, the master shall keep a register (which shall at all times be open to inspection by an authorized labour officer or customs officer) of such young persons as may be employed in the vessel with particulars of the dates of their births and the dates on which they became or ceased to be members of the crew.

(5) In this section—

“customs officer” means any person employed in the Department of Customs and Excise, or for the time being performing duties in relation to customs or excise;

“vessel” includes floating craft of every description except ships of war.

61. Every employer of young persons in an industrial undertaking shall keep a register of all young persons in his employment with particulars of their ages, the date of employment and the conditions and nature of their employment and such other particulars as may be prescribed, and shall produce the register for inspection when required by an authorized labour officer.

Register of young persons in industrial undertakings.

62. The Commissioner may make regulations—

Regulations.

(a) exempting any occupation which forms part of an industrial undertaking from all or any of the provisions of sections 58 to 61 or any regulations made under this section,

(b) providing for the registration and identification of young persons,

(c) prescribing the records to be kept and the returns to be made by employers of young persons,

(d) further restricting the employment of young persons in specified occupations,

(e) prescribing additional conditions upon which young persons may be engaged or employed, and

(f) making further provision for the care of young persons by employers.

63.—(1) Any person who employs a young person in contravention of sections 58 to 61 or any regulations made under section 62, the proprietor, owner and manager of any undertaking in which a young person is so employed and any parent or guardian of a young person who permits the young person to be so-employed shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦100.

Offences.

(2) If in the case of a charge for an offence under subsection (1) above it is alleged by the person conducting the prosecution that the person in respect of whom the offence was committed was under the age of twelve, fourteen, fifteen, sixteen or eighteen years at the date of commission of the alleged offence, the magistrate or other person presiding at the hearing shall, after such enquiry as he may think necessary and after hearing any evidence that may be tendered by any party to the proceedings, determine the age of the young person; and any such determination shall be final.

Domestic service

64. The Commissioner may make regulations providing for—

Regulations.

(a) the engagement, repatriation or supervision of domestic servants,

(b) the employment of women and young persons as domestic servants,

(c) the housing accommodation and sanitary arrangements of domestic servants, and

(d) the conditions of domestic service generally.

Labour health areas

Labour
health areas.

65. Where the Commissioner is satisfied that an industrial or agricultural undertaking is situated in an area which, having regard to the existing medical and health conditions and facilities, water supplies and communications, is remote and isolated, he may by order declare the area a labour health area; and, during the period of employment of any worker in a labour health area, the employer shall provide such facilities and make such arrangements as may be specified by regulations made under section 66, and shall otherwise comply with the requirements of any such regulations.

Regula-
tions.

66. The Commissioner, in respect of labour health areas or any particular labour health area, may make regulations for—

- (a) the planning and layout of towns and villages,
- (b) the construction of streets, lanes, buildings, markets, open places, drains, latrines, incinerators, wells and tanks,
- (c) the provision of housing accommodation for workers, the provision of sanitary arrangements for, and the inspection of, that accommodation, and the limitation of the number of persons or class of persons who may reside in any house,
- (d) the supply of water, food and fuel,
- (e) the examination of workers by medical officers, that is to say, registered medical practitioners in the service of a public authority or other registered medical practitioners authorized as medical officers by the Commissioner for the purposes of this paragraph,
- (f) the measures to be taken to prevent the introduction or spreading of infectious and contagious diseases,
- (g) the compulsory employment of qualified medical practitioners by employers,
- (h) the compulsory erection and proper staffing, control and equipping of hospitals by employers and, in default thereof, the recovery from employers of the cost of medical attendance provided by the Federal Military Government and of the erection and maintenance of any hospitals erected by that Government,
- (i) requiring employers to make arrangements with hospital authorities for the medical and surgical treatment of their workers (including, where necessary, accommodation and food in hospital) and to provide any necessary transport for sick or injured workers,
- (j) prescribing—
 - (i) the matters for which the arrangements mentioned in the preceding paragraph shall provide,
 - (ii) the officer by whom those arrangements are to be approved, and
 - (iii) the charges which may be made by the hospital authority and the period (not exceeding six weeks) for which the employer shall be liable for those charges,
- (k) the keeping of medical attendance registers,
- (l) the furnishing of returns of—
 - (i) the numbers of workers employed either above or below ground and the nature of their employment,
 - (ii) casualties by way of injury, disease or death, and
 - (iii) such other matters as the Commissioner may consider necessary to ensure that the health and welfare of workers are properly attended to,

(m) prescribing fees to be paid for any matter or thing to be done under the regulations,

(n) prescribing—

(i) penalties for offences under the regulations not exceeding a fine of ₦1,500 or imprisonment for a period of two years, or both, and

(ii) additional penalties for continuing offences not exceeding in the aggregate a fine of ₦1,500 or imprisonment for a period of two years, or both, and

(o) where any structure is built, renewed, reconstructed or altered in contravention of the regulations—

(i) providing for the service of notice of the contravention on the offending person,

(ii) enabling a specified officer or authority, in default of remedial action being taken in consequence of the notice, to enter the relevant premises and take such remedial action as he considers necessary, and

(iii) providing for the recovery of any expenses incurred by the officer or authority in doing so.

Registration, employment exchanges, etc.

67.—(1) The Commissioner may make regulations for the registration of employers.

Registration
of
employers.

(2) Regulations made under this section may—

(a) provide for the registration of employers (or specific classes of employers) generally or in specific areas to be prescribed in the regulations,

(b) prescribe the manner of, and conditions for, registration and the person by whom and the manner in which the register is to be maintained,

(c) prescribe the circumstances in which employers may be refused registration or struck off the register,

(d) without prejudice to the generality of paragraph (c) above, provide for employers to be refused registration or to be struck off the register, as the case may be, if they fail to comply with conditions specified in the regulations,

(e) prohibit the employment of citizens as workers by unregistered employers,

(f) impose penalties for contraventions of the regulations not exceeding a fine of ₦1,500 or imprisonment for a period of two years, or both, and

(g) contain such incidental or related provisions as the Commissioner thinks necessary or expedient.

68.—(1) Where the Commissioner has agreed with the representatives of the employers' and workers' organisations within an industry or area as to the desirability of establishing a scheme for labour within that industry or area he may make an order, if he thinks fit, in respect of the industry or area in question.

Labour
schemes.

(2) Where an order is made under subsection (1) above in respect of an industry or area—

(a) it shall be the duty of every employer who is engaged in the industry or ordinarily has a place of business in the area, as the case may be, to apply for registration in accordance with any regulations made under subsection (5) below,

(b) every industrial worker under the age of fifty-five years who is employed in the industry or, as the case may be, is ordinarily resident in the area shall be liable to compulsory registration under those regulations if an order is made in respect of him under paragraph (c) below,

(c) the Commissioner may by order require any class or classes of industrial workers to whom paragraph (b) above applies to present themselves for registration in such manner, at such place and within such times as may be specified in the order, and

(d) the Commissioner may by order forbid such employers as are mentioned in paragraph (a) above (or any specified class thereof)—

(i) to carry on business in the industry or area, as the case may be, unless they are registered accordingly, or

(ii) to employ industrial workers (or any specified class thereof) in the industry or area, as the case may be, unless the workers are registered accordingly.

(3) An authorized labour officer, where he is satisfied that an employer who has not applied for registration in pursuance of subsection (2) (a) above is a person who ought to have done so, may by notice in writing call upon the employer to apply accordingly.

(4) For the purposes of subsection (2) (b) above, an industrial worker—

(a) shall be presumed to be under the age of fifty-five years unless he satisfies an authorized labour officer to the contrary, and

(b) if he is present in an area to which an order made under subsection (1) above applies, shall be presumed to be ordinarily resident in that area unless he satisfies an authorized labour officer that he is residing there for some temporary purpose only.

(5) The Commissioner may make regulations for the purposes of this section—

(a) establishing offices for the registration of employers and industrial workers,

(b) prescribing forms of application for registration and certificates of registration, and such other forms as may be needed for the purposes of the regulations,

(c) providing for the issue of certificates of registration and their replacement if lost or destroyed,

(d) prescribing the particulars to be furnished on application for registration and on registration,

(e) prescribing the duties of registered persons and others in respect of certificates of registration, and

(f) prescribing fees and providing generally for registration under this section.

69. The Commissioner may make regulations—

(a) authorizing the establishment of registration offices, to be known as employment exchanges, at which industrial workers may attend for registration and make application for employment and to which employers may notify vacancies,

(b) providing for the issue of certificates of registration and identity to registered industrial workers and the replacement, on payment of such fee as may be prescribed, of any such certificates when lost or destroyed,

(c) prescribing the particulars to be furnished on registration,

(d) providing for the taking of photographs and fingerprints of registered industrial workers as a means of identification,

(e) regulating or restricting the numbers of registered industrial workers employed, either generally or in specified businesses or undertakings,

(f) prescribing the duties of registered persons and others in respect of certificates of registration and identity,

(g) requiring employers in such occupations as may be specified to furnish returns of such matters relating to the employment of workers as may be specified, and

(h) prescribing fees to be charged under the regulations.

70.—(1) No person shall establish or operate a fee-charging employment agency save with the written consent of the Commissioner.

Fee-
charging
employ-
ment
agencies.

(2) The Commissioner may make regulations providing for the supervision and control of fee-charging employment agencies and prescribing the scale of fees which they may charge.

(3) In this section "fee-charging employment agency" means—

(a) an agency conducted by any person who acts as an intermediary for the purpose of procuring employment for a worker or supplying a worker to an employer with a view to deriving either directly or indirectly any pecuniary or other material advantage from either employer or worker, or

(b) an agency for conducting the placing services of any company, institution, agency or other organisation which, although the agency is not conducted with a view to obtaining any pecuniary or other material advantage, levies from either employer or worker for those services an entrance fee, a periodical contribution or any other charge,

but excludes any organisation for the production of newspapers (or other publications) which are not produced wholly or mainly for the purpose of acting as intermediaries between employers and workers.

71.—(1) Any person who with intent to deceive—

Offences

(a) gives any false particulars for the purposes of section 68 (1) to (4) or any regulations made under section 68 (5) or 69, or

(b) forges a registration certificate of the kind provided for in any such regulations, or

(c) uses a forged certificate of that kind, or

(d) lends to or allows to be used by another person a certificate of that kind, or

(e) makes or has in his possession any document so closely resembling a certificate of that kind as to be calculated to deceive, or

(f) uses or displays a certificate of that kind which has not been issued to him,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₹1,000 or to imprisonment for a period not exceeding one year, or to both.

(2) Any employer or industrial worker who contravenes section 68 (2), any employer who fails to comply with a notice under section 68 (3) and any person who contravenes section 70 (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦500 or to imprisonment for a period not exceeding six months, or to both :

Provided that, in any proceedings under this section for such a contravention or for a failure to comply with such a notice, it shall be a defence for the accused to prove that the contravention or failure was due to circumstances beyond his control.

(3) In any proceedings under this section in relation to an industry or area, it shall be presumed until the contrary is proved that the accused—

(a) if he is an employer, is engaged in the industry or ordinarily has a place of business in the area, as the case may be, and

(b) if he is an industrial worker, is under the age of fifty-five years and is engaged in the industry or ordinarily resident in the area, as the case may be.

Forced labour

Prohibition
of forced
labour.
1963 No. 20.

72.—(1) Any person who requires any other person, or permits any other person to be required, to perform forced labour contrary to section 20 (2) of the Constitution of the Federation shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦1,000 or to imprisonment for a period not exceeding two years, or to both.

(2) Any person who, being a public officer, puts any constraint upon the population under his charge or upon any members thereof to work for any private individual, association or company shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200 or to imprisonment for a period not exceeding six months, or to both.

Labour
required in
emergencies
and for
communal
obligations.
1963 No. 20.

73.—(1) The Commissioner may make regulations regulating the requisition of labour of the kind defined in section 20 (3) (c) and (d) of the Constitution of the Federation (that is to say, labour required in the event of any emergency or calamity threatening the life or well-being of the community, and labour that forms part of normal communal or other civil obligations).

(2) Regulations made under subsection (1) above—

(a) may specify for an offence under the regulations (including a failure or refusal, without reasonable cause, to render labour lawfully required thereunder) a fine not exceeding ₦200 or imprisonment for a period not exceeding six months, or both, and as a daily penalty a fine not exceeding ₦10 or imprisonment for a period not exceeding seven days, or both, and

(b) may add to, amend or repeal subsections (3) to (6) below.

(3) Subject to this section, the prescribed authority may require the inhabitants of any town or village subject to its jurisdiction to provide labour for any of the following purposes—

(a) the construction and maintenance of buildings used for communal purposes, including markets but excluding juju houses and places of worship,

(b) sanitary measures,

(c) the construction and maintenance of local roads and paths,

- (d) the construction and maintenance of town or village fences,
- (e) the construction and maintenance of communal wells, and
- (f) other communal services of a similar kind in the direct interest of the inhabitants of the town or village.

(4) No labour shall be required under subsection (3) above unless—

(a) the inhabitants of the town or village or their direct representatives have been previously consulted by the prescribed authority with regard to the need for the proposed service, and

(b) a majority of the inhabitants or representatives, as the case may be, has agreed to the requiring of the labour.

(5) In subsections (3) and (4) above "town or village" excludes a township but includes any area (other than a township) declared by the Commissioner by order to be a town or village for the purposes of this section.

(6) Any person who does not wish to execute his share of any labour required under subsection (3) above may be excused from doing so on payment to the prescribed authority of such sum per day, while the labour is being done, as represents the current daily wage for unskilled labour.

(7) Nothing in this section shall be taken to authorize the exaction from any person of any work or service for which that person does not offer himself voluntarily where apart from this section the exaction of that work or service would be illegal.

PART IV

SUPPLEMENTAL

Records and returns

74.—(1) It shall be the duty of every employer to keep such records of wages and conditions of employment as are necessary to show that this Decree is being complied with. Records.

(2) Without prejudice to the generality of subsection (1) above, every employer shall keep in respect of each of his workers to whom a statement has been given under section 7 a record showing—

- (a) the name and address of the worker,
- (b) his town (or other place) of origin,
- (c) the date of his birth,
- (d) the name and address of his next of kin,
- (e) the date and place of his engagement,
- (f) his National Provident Fund number, and
- (g) the date of cessation of employment.

(3) Records kept pursuant to subsections (1) and (2) above shall be retained for three years after the time to which they refer.

(4) Any employer who—

(a) knowingly and with intent to avoid compliance with any provision of this Decree, omits to keep any or any sufficient record of any particular wages or conditions of employment, or

(b) fails to comply with subsection (2) or (3) above,
shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200.

Returns.

75.—(1) The Commissioner may require returns and statistics, whether periodical or otherwise, to be furnished by employers as to the number of persons employed by them in any particular class of employment and as to the rates of remuneration and other conditions in that or any other class of employment.

(2) Any employer who fails to furnish any returns or statistics which he is required to furnish under subsection (1) above shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₹200.

*Administration*Authorized
labour
officers.

76.—(1) The Commissioner may by writing under his hand authorize—

(a) any public officer serving in a ministry or department for which the Commissioner is responsible, and

(b) with the consent of the State Authority, any officer in the public service of a State,

to be an authorized labour officer for the purposes of this Decree.

(2) An authorization under subsection (1) above may—

(a) as regards the officer authorized, be made by name or by office,

(b) relate to the whole of the Federation or any specified part or parts thereof, and

(c) relate to the whole of this Decree or any specified provision or provisions thereof.

(3) No authorized labour officer, except in so far as is necessary for the purposes of a complaint or prosecution under this Decree, shall publish or disclose to any person the details of any manufacturing, commercial or working process which may come to his knowledge in the course of his duties.

(4) An authorized labour officer shall treat as absolutely confidential the source of any complaint alleging a contravention of this Decree, and where he visits an employer's premises in consequence of such a complaint, shall give no indication to the employer or the employer's representative that the visit was made in consequence of the complaint.

Powers of
authorized
labour
officers.

77.—(1) In addition to any other powers conferred by this Decree, an authorized labour officer may for the purpose of facilitating or ensuring the proper operation of this Decree—

(a) enter, inspect and examine by day or night any labour encampment, farm, factory or other land or workplace whatsoever (and every part thereof) if he has reasonable cause to believe that any worker is employed therein or thereon,

(b) enter, inspect and examine by day any premises provided by an employer in which he has reasonable cause to believe that workers are living,

(c) enter, inspect and examine any hospital building, sanitary convenience, messroom or water supply provided for or used by workers,

(d) take with him a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his functions,

(e) require the production of any registers, certificates, notices or other documents kept in pursuance of this Decree and inspect, examine and copy any of them,

(f) make such examination and enquiry as may be necessary to ascertain whether the provisions of this Decree are being complied with, so far as respects any labour encampment, farm, factory or other land or workplace whatsoever and any person employed therein or thereon,

(g) inspect and examine all food provided for the use of workers and take samples thereof, so however that—

(i) any sample taken in pursuance of this paragraph shall be taken in duplicate in the presence of the employer of the workers (or, if the employer is not readily available, in the presence of a foreman or other responsible person) and shall be labelled and sealed in the presence of the employer, foreman or other responsible person, and

(ii) one sample so labelled and sealed shall be left with the employer, foreman or other responsible person,

(h) take or remove for the purpose of analysis samples of materials and substances used or handled by workers from premises not covered by the Factories Act, subject to the employer or his representative being notified and given an opportunity to be present when the samples are taken,

Cap. 66.

(i) interrogate, either alone or in the presence of another person as he thinks fit, with respect to matters to which this Decree relates, any person whom he finds in or on any labour encampment, farm, factory or other workplace whatsoever or whom he has reasonable cause to believe to have been within the preceding three months employed in or on any labour encampment, farm, factory or other land or workplace whatsoever, so however that no person shall be forced to answer any question tending to incriminate himself,

(j) with the consent in writing of the Commissioner and subject to any powers conferred by the Constitution of the Federation or a State on the Attorney-General or Director of Public Prosecutions of the Federation or a State, prosecute, conduct or defend before a magistrate's court, a district court or a court given jurisdiction under section 79 (2) in his own name (or, where he is acting under section 82 (5), in the name of the complainant) any complaint or other proceeding arising under this Decree or otherwise in the exercise of his functions as an authorized labour officer,

(k) direct any person who has in his opinion contravened any provision of this Decree, to remedy the contravention within a specified and reasonable period, and

(l) direct the posting of a notice in any premises if he is satisfied that it is necessary or expedient for the proper implementation of this Decree.

(2) Any person directed to take remedial action under subsection (1) (k) above may, if he is dissatisfied with the direction, within fourteen days or within any period stated in the direction, whichever is the less, appeal in writing to the Commissioner, who may refer the case for advice to any person or persons considered by him to be suitable and whose decision shall be final.

(3) Any person who—

(a) obstructs an authorized labour officer in the exercise of his functions under this section or any other provision of this Decree, or

(b) fails to comply with a direction under subsection (1) (k) above (no appeal having been made under subsection (2) above or any such appeal having been disposed of), or

(c) fails to comply with a direction under subsection (1) (l) above, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N1,000 or to imprisonment for a period not exceeding two years, or to both.

Delegation
of
functions.

78.—(1) Subject to this section, the Commissioner may delegate any of his functions under this Decree—

(a) to a public officer serving in a ministry or department for which the Commissioner is responsible, or

(b) as regards a State, to the Commissioner in the Government of the State responsible for labour matters or, with the consent of the State Authority, to an officer in the public service of the State.

(2) Subsection (1) above does not apply to the power of delegation conferred by that subsection or to any power to make regulations or orders.

(3) A delegation under subsection (1) above may be made subject to such conditions and limitations, if any, as the Commissioner thinks fit.

(4) The delegation of a function under subsection (1) above shall not prevent the Commissioner from continuing to exercise the function himself if he sees fit.

Settlement of disputes

Jurisdiction.

79.—(1) A magistrate's court (or, in a State where a magistrate's court has no civil jurisdiction, a district court) shall have jurisdiction to hear complaints under section 80.

(2) Without prejudice to the jurisdiction to hear complaints conferred by subsection (1) above, the Chief Justice of the High Court of a State with the concurrence of the State Authority may by order confer jurisdiction to hear such complaints on area courts or customary courts in the State or part of the State.

Labour
complaints.

80.—(1) Where—

(a) an employer or worker neglects or refuses to fulfil a contract, or

(b) any question, difference or dispute arises as to the rights or liabilities of a party to a contract or touching any misconduct, neglect, ill-treatment or injury to the person or property of a party to a contract,

any party to the contract feeling himself aggrieved may make complaint to a court having jurisdiction, which may thereupon issue a summons to the party complained against (the aggrieved party, the court, the party complained against and the complaint being hereafter in this section and in sections 81 to 84 referred to as "the complainant", "the court", "the respondent" and "the complaint" respectively).

(2) If the complainant claims an amount beyond the civil jurisdiction of the court, the court shall forward the complaint to the nearest court having jurisdiction.

(3) The court may exercise jurisdiction in the complaint if the respondent is in its area of jurisdiction at the time the complaint is made, whether or not the grounds of the complaint arose within that area.

(4) If at any time after the laying of the complaint it appears to the court by information on oath that the respondent is about to abscond, the court may cause him to be arrested and detained in custody unless he finds security to appear and answer the complaint and to abide by the decision of the court thereon.

(5) Where the court is of the opinion that the complaint could more properly or conveniently be dealt with by civil proceedings, it may, at any time before giving its final decision on the complaint, order that the remedy, if any, for the matters complained of shall be by an action brought in accordance with the law relating to civil proceedings and not by proceedings under this section.

(6) This section shall not apply to a trade dispute, that is to say, any dispute or difference between employers and workers (or between workers and other workers) connected with—

- (a) the employment or non-employment, or
 - (b) the terms of the employment, or
 - (c) the conditions of labour,
- of any person.

81.—(1) In dealing with the complaint the court—

Powers of
the court.

(a) may adjust and set off one against the other all such claims on the part of the complainant and the respondent arising out of or incidental to the relationship between them as the court may find to be subsisting; whether the claims are liquidated or unliquidated or for wages, damages or otherwise, and may direct the payment of such sum as it finds due by one party to the other,

(b) may direct fulfilment of the relevant contract and, in a case where damages might be awarded for any breach of contract, may in place of the whole or part of the damages which would otherwise have been awarded direct the party committing the breach to give security to the satisfaction of the court for the due performance of so much of the contract as remains unperformed,

(c) if the party receiving a direction under paragraph (b) above fails to find security and the court is satisfied that the failure is not due to the inability of that party to find it, may commit him to prison (for a period not exceeding three months) until he finds it,

(d) may rescind the contract upon such terms as to apportionment of wages or other sums due thereunder, and as to the payment of wages or damages or other sums due, as it thinks just, and

(e) where the court has criminal jurisdiction and it appears to the court that an employer or worker has been guilty of an offence under this Decree, may in place of or in addition to exercising any of the powers conferred by paragraphs (a) to (d) above pass on the offender any sentence which is authorized by this Decree and is within its criminal jurisdiction.

(2) Without prejudice to any other method of giving security which the court may consider appropriate in any particular case, a person may give security for the purposes of subsection (1) (b) above by making in or under the direction of the court a written or oral acknowledgement (to be known as a recognizance) of the undertaking or condition by which and the sum in which he is bound; and any such recognizance shall be made as nearly as possible in the same way as recognizances of bail and shall be liable to be forfeited and enforced in the same way as recognizances of bail.

82.—(1) Subject to this section and the other provisions of sections 80, 81, 83 and 84, the law regulating the procedure in criminal cases (including the law respecting appeals, revisions and the levying of moneys ordered to be paid) shall apply to the complaint and any orders for the payment of money made in consequence of the complaint, so however that—

Procedure.

(a) the court may order that the law regulating civil proceedings shall apply to the complaint and any such orders if in any case it considers that the interests of justice so require, and

(b) the law regulating civil proceedings shall so apply if the court has no criminal jurisdiction.

(2) Where in consequence of the complaint the court makes an order for the payment of any sum by a public authority, no execution shall be issued, but the court shall forward a copy of the order—

(a) if the public authority is the Federal Military Government, to the Federal Commissioner for Finance,

(b) if the public authority is a State Government, to the Commissioner for Finance of that State, and

(c) in any other case, to the public authority concerned, and it shall thereupon be the duty of the Commissioner, person or public authority in question to ensure that the amount in the order is paid by the proper officer or department.

(3) The respondent, if immediately before the hearing of the complaint he is not in actual custody, shall not be compelled to enter the dock or other place usually assigned for persons under trial on a criminal charge or be otherwise treated as under arrest during the hearing of the complaint :

Provided that the court may cause the respondent to be arrested and detained in custody if it is satisfied that it is necessary to do so in order to secure the attendance of the respondent.

(4) At the hearing of the complaint the respondent shall be a competent but not a compellable witness.

(5) At the request of the complainant, an authorized labour officer who is entitled to act under section 77 (1) (j) may represent the complainant at the hearing of the complaint.

Compensation,
and
provision of
food.

83.—(1) Where the court—

(a) imposes any fine, or

(b) directs security by way of deposit to be given, or

(c) enforces payment of any sum secured by a recognizance,

it may direct that the fine, deposit or sum when recovered (or such part thereof as it thinks fit) shall be applied to compensate any employer or worker for wrong or damage sustained by him by reason of the act or thing in respect of which the fine was imposed or by reason of the non-performance of the relevant contract.

(2) Where it appears to the court that the complainant (being a worker) has not the means and is otherwise unable to obtain food for himself pending the determination of the complaint, it may, subject to subsection (3) below, cause the complainant to be supplied with necessary food at the expense of the Federal Military Government.

(3) Where food is supplied to the complainant under subsection (2) above, the cost of the food shall be a debt due to the Federal Military Government from the complainant and may be deducted by the court from any moneys received by the court for or on behalf of the complainant, or shall otherwise be paid by the complainant.

84.—(1) Subject to this section, the process of the court for compelling the attendance of the respondent and all necessary witnesses shall be instituted at the expense of the Federal Military Government and without any fees of court.

Costs.

(2) At the final determination of the complaint the court may make such order for the payment of costs by either party as it thinks proper in the circumstances.

(3) If at the hearing of the complaint the court is of the opinion that the complaint is vexatious or frivolous it may, there and then and without any fresh action or proceeding, order that the complainant shall—

(a) pay a fine not exceeding ₦50 and defray the cost of the process and the witnesses, and

(b) in default of payment of the fine and costs, be liable to imprisonment for a period not exceeding one month.

Miscellaneous

85. The provisions of this Decree, other than the penal provisions, shall apply to and be carried into effect by public authorities :

Application to public authorities.

Provided that, in times of national emergency and in any other case where he is satisfied that it is in the public interest to do so, the Commissioner may by order exempt any public authority from all or any of the provisions of this Decree for such a period as may be specified in the order.

86.—(1) Subject to this section, nothing in this Decree shall prevent any employer, worker or other person to whom this Decree applies from enforcing his rights or remedies in respect of any breach or non-performance of any lawful contract made outside Nigeria, and the rights of the parties under such a contract (both against each other and against third parties invading those rights) may be enforced in the same manner as other rights arising outside Nigeria may be enforced and as if this Decree had not been made.

Contracts made abroad.

(2) Whenever a contract made outside Nigeria has been executed in conformity with this Decree, it shall be enforced in the same manner as a contract entered into under this Decree.

(3) A written contract made outside Nigeria which has been executed otherwise than in conformity with this Decree shall not be enforced against a worker to whom this Decree applies if he is unable to read and understand the language in which the contract is written.

(4) For the purposes of this section a contract shall be deemed to be executed in conformity with this Decree if it is signed by the names or marks of the parties and bears an attestation to the effect that the contract was read over and explained to the parties in the presence of the person attesting and was entered into by the parties voluntarily and with full understanding of its meaning and effect.

(5) The attestation referred to in subsection (4) above may be made by any Nigerian official entitled to act under section 12 of the Oaths Act 1963 or by any judicial or other authority authorized by the law of the place where the contract was made to exercise the functions of a notary public or equivalent functions.

1963 No. 23.

Regulations.

87.—(1) The Commissioner may make regulations—

(a) providing for the payment of compensation by employers to workers or domestic servants for injury arising out of and in the course of their employment in cases not coming within the provisions of any other enactment, and for the recovery of the compensation in question,

(b) requiring employers to report any accident involving the death of or injury to a worker or domestic servant, in cases not coming within the provisions of any other enactment,

(c) prescribing the conditions under which carriers may be employed and the limitation of loads to be carried by them,

(d) imposing upon persons who have accepted the services of any worker or domestic servant without paying wages therefor the obligation to provide for the maintenance of the worker or domestic servant during sickness or in old age,

(e) prescribing anything which is to be prescribed under this Decree and is not otherwise provided for,

(f) prescribing fees to be paid for any matter or thing to be done under this Decree, and

(g) containing such procedural or ancillary provisions as he considers necessary or convenient to facilitate the operation of this Decree.

(2) Regulations made under subsection (1) above may specify for an offence under the regulations a fine not exceeding ₦500 or imprisonment for a period not exceeding one year, or both.

Savings and exemptions.

88.—(1) Nothing in this Decree shall—

(a) operate to relieve any employer or worker of any duty or liability imposed upon him by any other enactment or to limit any power given to any public officer by any such enactment, or

(b) prevent any employer, worker or other person to whom this Decree applies from being proceeded against according to law for any offence punishable under any law in force in Nigeria, so however that no person shall be punished twice for the same offence.

(2) Nothing in this Decree shall apply to serving members of the Armed Forces of the Federation or the Nigeria Police Force.

(3) The Commissioner with the prior approval of the Federal Executive Council may by order exempt (subject to such conditions, if any, as he sees fit to impose) any class or classes of workers from the application of this Decree or any specified provision thereof.

Repeal, and transitional and saving provisions. Cap. 91.

89.—(1) The Labour Code Act is hereby repealed.

(2) The transitional and saving provisions in the Schedule to this Decree (including any provisions made under paragraph 5 of that Schedule) shall have effect notwithstanding subsection (1) above or any other provision of this Decree.

Interpre-
tation.

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

“administrative officer” means a divisional officer, a district officer or any officer exercising corresponding functions;

“agricultural undertaking” means any undertaking in which a worker is employed under a contract of employment for the purpose of agriculture, fisheries, horticulture, silviculture, the tending of domestic animals and poultry or the collection of the produce of any plants or trees, but does not include any such undertaking in which only members of the same family are employed;

“authorized labour officer” means an authorized labour officer authorized under section 76;

“citizen” means citizen of Nigeria;

“chief or other indigenous authority” includes any chief or indigenous authority whose authority is customary or traditional;

“child” means a young person under the age of twelve years;

“collective agreement” means an agreement in writing regarding working conditions and terms of employment concluded between—

(a) an organization of workers or an organization representing workers (or an association of such organizations) of the one part, and

(b) an organization of employers or an organization representing employers (or an association of such organizations) of the other part;

“collective bargaining” means the process of arriving or attempting to arrive at a collective agreement;

“Commissioner” means the Federal Commissioner for Labour;

“contract” means contract of employment, and includes a contract of apprenticeship;

“contract of employment” means any agreement, whether oral or written, express or implied, whereby one person agrees to employ another as a worker and that other person agrees to serve the employer as a worker;

“domestic servant” means any house, stable or garden servant employed in or in connection with the domestic services of any private dwelling house, and includes a servant employed as the driver of a privately owned or privately used motor car;

“employer” means any person who has entered into a contract of employment to employ any other person as a worker either for himself or for the service of any other person, and includes the agent, manager or factor of that first-mentioned person and the personal representatives of a deceased employer;

“employer’s permit” means an employer’s permit granted under section 23;

“family” has the same meaning as in the First Schedule to the Workmen’s Compensation Act;

“foreign contract” means a contract for the employment of a citizen outside Nigeria;

Cap. 222.

“function” includes power and duty;

“guardian” includes any person to whose care a young person has been committed (even temporarily) by a person having authority over the young person, and any person lawfully having charge of a young person who has no parents or whose parents are unknown;

"industrial undertaking" includes—

(a) mines, quarries and other works for the extraction of minerals from the earth,

(b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed, including shipbuilding and the generation and transformation of electricity or motive power of any kind,

(c) the construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraph or telephonic installation, electrical undertaking, gasworks, waterworks, or other works of construction, as well as the preparation for or the laying of the foundation of any such work or structure, and

(d) transport of passengers or goods by road, rail, air, sea or inland waterways, including the handling of goods at docks, quays, wharves, warehouses and airports, and including the carrying of coal or other materials by hand to or from lighters or ships,

but does not include any commercial or agricultural undertaking, any undertaking in which only members of the same family are employed or any customary occupation of a kind normally carried on at home;

"industrial worker" includes any artificer, journeyman, handicraftsman, canoeman, carrier, messenger, clerk, shop assistant, storekeeper, labourer, agricultural labourer, hotel or catering worker or apprentice and any person or class of persons gainfully employed or normally seeking a livelihood by gainful employment declared to be such by the Commissioner by order;

"industry" includes trade;

"labour health area" means a labour health area declared under section 65;

"local government" means a local government authority, the local authority of a township or any council or other authority (however styled) exercising statutory or customary powers of local administration in a State;

"mine" includes any place, excavation or working whereon, wherein or whereby any operation in connection with mining is carried on;

"public authority" means—

(a) the Federal Military Government, or

(b) a State Government, or

(c) a local government authority, or

(d) a statutory corporation, that is to say, a body corporate directly established by law in Nigeria, being a body which is expressly bound by law to comply with directions given by a Commissioner or by a corresponding authority, or

(e) a government-controlled company, that is to say, a limited liability company incorporated in Nigeria in which the Federal Military Government or a State Government has a controlling interest;

"public department" means a ministry or department of a public authority;

"public officer" means any person employed by a public authority;

"recruiter" means the holder of a recruiter's licence ;

"recruiter's licence" means a recruiter's licence granted under section 24 ;

"recruiting" includes all operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services at the place of employment, at a public emigration or employment office or at an office conducted by an employers' association and supervised by the Commissioner ;

"State" means a State of the Federation ;

"State Authority" means the Military Governor or Administrator of a State ;

"wages" means remuneration or earnings (however designated or calculated) capable of being expressed in terms of money and fixed by mutual agreement or by law which are payable by virtue of a contract by an employer to a worker for work done or to be done or for services rendered or to be rendered ;

"woman" means any member of the female sex whatever her age or status ;

"worker" means any person who has entered into or works under a contract with an employer, whether the contract is for manual labour or clerical work or is expressed or implied or oral or written, and whether it is a contract of service or a contract personally to execute any work or labour, but does not include—

(a) any person employed otherwise than for the purposes of the employer's business, or

(b) persons exercising administrative, executive, technical or professional functions as public officers or otherwise, or

(c) members of the employer's family, or

(d) representatives, agents and commercial travellers in so far as their work is carried on outside the permanent workplace of the employer's establishment, or

(e) any person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or the material, or

(f) any person employed in a vessel or aircraft to which the laws regulating merchant shipping or civil aviation apply ;

"young person" means a person under the age of eighteen years.

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

91.—(1) This Decree may be cited as the Labour Decree 1974.

(2) This Decree shall come into force on such date as may be appointed by the Commissioner by order.

Citation and
commence-
ment.

SCHEDULE

Section 89

TRANSITIONAL AND SAVING PROVISIONS

1. Permits and licences granted under sections 65 and 70 respectively of the repealed Act shall, if they were in force immediately prior to the commencement of this Decree, continue in force on the same terms and conditions but shall be subject to this Decree ; and accordingly no such term or condition shall prevail against any provision of this Decree.

2. Contracts of employment which were in force immediately prior to the commencement of this Decree shall remain in force on the same terms and conditions, but shall be subject to this Decree ; and no such term or condition shall prevail against any provision of this Decree unless an authorized labour officer on the application of a party to the contract in question decides that the interests of the parties or the circumstances of the case require that the term or condition in question shall so prevail.

3. Where a fee-charging employment agency was in operation immediately before the commencement of this Decree, section 70 (1) shall not apply to the agency—

(a) for a period of ninety days (or such longer period as the Commissioner may allow) after the commencement of this Decree, or

(b) if the person operating the agency applies within that period for the Commissioner's consent under the said section 70 (1), until the application has been disposed of.

4. Any subsidiary legislation made or deemed to have been made under the repealed Act which was in force immediately before the commencement of this Decree shall remain in force, subject to any necessary modifications, as if it had been made under this Decree, and may be added to, amended, revoked or varied accordingly.

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

6. In this Schedule "the repealed Act" means the Labour Code Act repealed by section 89 (1).

Cap. 91.

MADE at Lagos this 29th day of May 1974.

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 purposes)

1. The Decree repeals and replaces the Labour Code Act.

2. The Decree is divided into four Parts. Part I contains general provisions as to wages, contracts and terms of employment. Part-II regulates recruiting. Part III provides for special classes of workers such as apprentices, women and young persons, and also contains special provisions relating to labour health areas, registration of employers, labour schemes, employment exchanges, and forced labour. Part IV contains administrative and other supplemental provisions. In all cases monetary penalties have been increased in order to take account of inflation.

3. The ordinary law of contract will continue to apply to contracts of employment, but will be subject to the Decree.

4. The Decree does not deal with trade unions (except incidentally) or with trade disputes.

5. The Decree does not apply to the Armed Forces or the Police, or to administrative, executive, technical or professional workers. Private domestic servants are for the most part excluded unless the Commissioner makes regulations in respect of them.

6. The most important new provisions are as follows :—

Section 4 : (advances of wages).

Section 5 (4) : (deductions for overpayment of wages).

Section 7 : (written particulars of terms of employment).

Section 9 (6) : (trade union activity).

Section 11 : (notice).

Sections 12 to 19 : (terms and conditions of employment).

Section 47 (2) : (application of the recruiting provisions to labour contractors).

Section 67 : (registration of employers).

Section 70 : (control of fee-charging employment agencies).

Section 74 : (duty to keep records).

COUNTERFEIT CURRENCY (SPECIAL PROVISIONS) DECREE 1974



ARRANGEMENT OF SECTIONS

Section

Penalties for Aggravated Currency Offences

1. Making or counterfeiting currency.
2. Making, etc. or being in possession of implements for making or counterfeiting currency.
3. Importing and exporting counterfeit currency and implements.
4. Dealings, etc. in counterfeit currency.
5. Uttering and being in possession of counterfeit currency.
6. Miscellaneous offences.

Provisions as to Arrest, Discovery and Seizure

7. Powers of arrest, etc. and disposal of materials for counterfeiting.

Currency Offences Tribunals

8. Constitution of tribunal, etc.
9. Confirmation and disallowance of conviction or sentence.
10. Supplementary provisions.

Miscellaneous and Supplementary

11. Forfeiture.
12. Evidence.
13. Execution of sentence.
14. Representation, and the tribunal's general powers.
15. Right of appeal to the Supreme Court.
16. Power to make rules.
17. Interpretation.
18. Commencement, etc.
19. Citation.

Decree No. 22

[1st January 1973]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Penalties for Aggravated Currency Offences.

1.—(1) Any person who falsely makes or counterfeits any bank note resembling any bank note issued by the Central Bank of Nigeria and which is legal tender in Nigeria shall be guilty of an offence under this Decree and shall on conviction thereof be sentenced to death.

Making or
counter-
feiting
currency.

(2) Any person who falsely makes or counterfeits any coin resembling any current coin which is legal tender in Nigeria shall be guilty of an offence under this Decree and on conviction thereof shall be sentenced to death.

(3) Any person who falsely makes or counterfeits any bank note or coin resembling any bank note or current coin which is legal tender in any country other than Nigeria shall be guilty of an offence under this Decree and on conviction thereof shall be sentenced to imprisonment for 14 years.

2. Any person who, without lawful authority or excuse (the proof whereof shall lie on the person accused), knowingly makes or mends or begins or proceeds to make or mend, or buys or sells, or has in his possession any puncheon, counter-puncheon, matrix, stamp, dye, pattern or mould in or upon which there is made or impressed, or which will make or impress, or which is adapted and intended to make or impress, the figure, stamp or pattern resembling both or either of the sides of any bank note or current coin, or any part of both or either of those sides, or any machinery, implement, utensil or material used or intended to be used for the forgery of a bank note or for falsely making a current coin, whether or not the bank note or current coin be legal tender in Nigeria, shall be guilty of an offence under this Decree and on conviction thereof shall where the bank note or coin is legal tender in Nigeria be sentenced to death and where the bank note or coin is legal tender in any other country be sentenced to imprisonment for 14 years.

Making, etc.
or being in
possession
of imple-
ments for
making or
counter-
feiting
currency.

3.—(1) Any person who, without lawful authority or excuse (the proof whereof shall lie on the person accused)—

(a) imports or receives into Nigeria any false or counterfeit bank note or current coin resembling any bank note or current coin, knowing it to be false or counterfeit ; or

(b) exports from Nigeria, or puts on board any ship, vessel, boat, aircraft or vehicle for the purpose of being so exported, any false or counterfeit bank note or current coin resembling any bank note or current coin, knowing it to be false or counterfeit,

Importing
and
exporting
counterfeit
currency and
implements.

shall be guilty of an offence under this Decree and on conviction thereof shall where the bank note or coin is legal tender in Nigeria be sentenced to death and where the bank note or coin is legal tender in any other country be sentenced to imprisonment for 14 years.

(2) Any person who, without lawful authority or excuse (the proof whereof shall lie on the person accused), imports into Nigeria any puncheon, counter-puncheon, matrix, stamp, dye, pattern or mould in or upon which there is made or impressed or which will make or impress, or which is adapted and intended to make or impress, the figure, stamp, or apparent resemblance of both or either of the sides of any bank note or current coin, or any part of both or either of those sides, or any machinery, implement, utensil or material used or intended to be used for the forgery of a bank note or for falsely making a current coin, whether or not the bank note or current coin be legal tender in Nigeria, shall be guilty of an offence under this Decree and on conviction thereof shall be sentenced to death.

(3) Any person who, without lawful authority or excuse (the proof whereof shall lie on the person accused) imports into Nigeria—

(a) any edges, edging or other tool, collar, instrument or engine adapted and intended for the marking of coins round the edges with letters, grainings or other marks or figures apparently resembling those on the edges of any current coin which is legal tender in Nigeria, knowing it to be so adapted or intended as aforesaid ; or

(b) any press for coinage, or any cutting engine or machine for cutting by force of a screw or of any other contrivance round blanks out of any metal or mixture of metals, knowing the press to be a press for coinage or knowing the engine or machine to have been used or to be intended to be used for the false making or counterfeiting of any current coin, whether or not the current coin be legal tender in Nigeria, shall be guilty of an offence under this Decree and shall on conviction thereof be sentenced to death.

(4) Any person who, without lawful authority or excuse (the proof whereof shall lie on the person accused) orally or in writing makes any enquiry of any other person, whether such last mentioned person be in Nigeria or outside Nigeria,—

(a) as to obtaining or supplying or as to the cost of obtaining or supplying any of the materials mentioned in the last two preceding subsections or anything whatsoever adapted or intended to be used or which is capable of being adapted or intended to be used for the making of any bank note or current coin resembling any bank note or current coin, whether or not such bank note or current coin be legal tender in Nigeria ; or

(b) as to the making or obtaining or supplying or the importation or exportation of any counterfeit bank note or current coin, whether or not such bank note or current coin be legal tender in Nigeria, shall be guilty of an offence under this Decree and on conviction thereof shall be sentenced to death.

Dealings,
etc. in
counterfeit
currency.

4.—(1) Any person who deals in, buys or sells or exposes or offers for sale, or induces any other person to buy or sell, any counterfeit bank note or current coin, knowing the same to be counterfeit bank note or current coin, shall be guilty of an offence under this Decree and on conviction thereof shall be sentenced to death.

(2) Any person who is found to be in possession of no fewer than 100 counterfeit bank notes or 100 counterfeit current coins shall be deemed, until he proves the contrary, to have known that such bank notes or current coins were counterfeit.

5.—(1) Any person who—

(a) utters any counterfeit bank note or current coin knowing it to be counterfeit; or

(b) has in his possession any counterfeit bank note or current coin, knowing it to be counterfeit; or

(c) accepts from any other person in payment of a debt or otherwise any counterfeit bank note or current coin, knowing it to be counterfeit, shall be guilty of an offence under this Decree and upon conviction thereof shall be liable to imprisonment for 21 years.

(2) Where a person has 10 or more counterfeit bank notes or current coins in his possession the tribunal, or the court before whom such person is tried, may presume knowledge that they are counterfeit bank notes or current coins and also an intention to utter any of them, unless he proves the contrary.

(3) For purposes of this section a person shall be deemed to have uttered a counterfeit bank note or current coin if he has tendered any such bank note or currency coin to another person as if it were genuine legal tender.

6.—(1) Any person who attempts to commit any of the offences set out under this Decree shall be guilty of the offence as a principal offender and shall be liable to be proceeded against and punished accordingly.

(2) Any person who—

(a) aids, counsels, abets or procures any person to commit an offence under this Decree; or

(b) conspires with any person to commit such an offence,

whether or not he is present when the offence is committed or attempted to be committed shall be deemed to be guilty of the offence as a principal offender and shall be liable to be proceeded against and punished accordingly.

Provisions as to Arrest, Discovery and Seizure

7.—(1) Any person found committing an offence under this Decree may be immediately apprehended without a warrant by any person and forthwith taken before a police officer to be dealt with according to law.

(2) If any person finds in any place whatsoever, or in the possession of any person without lawful authority or excuse—

(a) any false or counterfeit bank note or current coin resembling any lawful bank note or current coin; or

(b) any instrument, tool, engine, machinery, implement, utensil or material whatsoever adapted and intended for the counterfeiting of any such bank note or coin;

he shall seize the counterfeit bank note or coin or counterfeiting instrument or material and carry it forthwith before a police officer.

(3) Where it is made to appear by information on oath before any Magistrate that there is reasonable cause to suspect that any person has been concerned in counterfeiting any bank note or current coin, or has in his possession any counterfeit bank note or current coin or any counterfeiting instrument or any other machine used or intended to be used for making or counterfeiting any bank note or current coin or any counterfeiting material, it shall be lawful for any Magistrate by warrant under his hand—

(a) to cause any place whatsoever belonging to or in the occupation or under the control of that person to be searched, either in the day or in the night; and

Uttering and being in possession of counterfeit currency.

Miscellaneous offences.

Powers of arrest, etc. and disposal of materials for counterfeiting.

(b) to cause to be seized and carried forthwith before a superior police officer any counterfeiting bank note or coin or counterfeiting instrument, machine or material found in any place so searched.

(4) Where any counterfeit bank note or coin or counterfeiting instrument, machine or material is seized and carried before a superior police officer, he shall cause it to be secured for the purpose of being produced in evidence in a prosecution for an offence under this Decree.

(5) Any counterfeit bank note or coin or counterfeiting instrument, tool, engine or any machinery, implement, utensil or any material whatsoever seized under this section shall, if it is not required to be produced in evidence or, if it is so required after it has been so produced, be disposed of in such manner as the Head of the Federal Military Government or, on his authority the Federal Commissioner for Finance, may direct.

Currency Offences Tribunals

8.—(1) For purposes of trial of offenders under this Decree the Head of the Federal Military Government shall, whenever occasion demands, by order constitute for any State of the Federation or for a number of States specified in such order a tribunal to be known as the "Currency Offences Tribunal".

(2) The tribunal shall consist of a Chairman, who shall be a Judge of either the Federal Revenue Court or of any of the High Courts of the States of the Federation and two other persons at least one of whom shall be an officer of the Nigerian Army not below the rank of Lieutenant-Colonel or an officer in the Nigerian Navy or Nigerian Air Force of equivalent rank.

(3) Without prejudice to the provisions of subsection (1) above, an offence under section 5 of this Decree may be commenced and proceeded with in the Federal Revenue Court.

9.—(1) The Head of the Federal Military Government shall, in respect of any offence under this Decree, have powers to confirm or disallow any conviction or sentence imposed by a tribunal or the court.

(2) Any sentence imposed under this Decree shall not take effect until the conviction and sentence are confirmed by the Head of the Federal Military Government in exercise of his powers under subsection (1) above, and pending such confirmation the convicted offender shall be kept in such a place of safe custody as the tribunal or court may decide.

(3) Where the Head of the Federal Military Government disallows—

(a) a conviction, whether upon representation made by the convicted offender or from other circumstances, he may order the release of the person convicted from custody or make such other order as to him may seem just;

(b) a sentence, he may substitute a less severe form of punishment for any punishment imposed on the convicted offender.

(4) The Head of the Federal Military Government shall not exercise his powers under this section—

(a) until the time limited for an appeal under section 15 has elapsed and the accused has brought no appeal, or

(b) where an appeal has been brought and the appeal has been withdrawn or struck out for want of prosecution, until after such withdrawal or striking out, or

Constitution
of tribunal,
etc.

Confirmation
and dis-
allowance of
conviction or
sentence.

(c) where an appeal has been brought and the appeal has not been withdrawn or struck out, until after the appeal has been dismissed.

10.—(1) It is hereby declared for the avoidance of doubt that a tribunal constituted under this Decree shall, notwithstanding anything to the contrary in any enactment or law (including the Constitution of the Federation or the Constitution of a State), have the power, in appropriate cases, to award the punishments (including a sentence of death) specified in this Decree.

Supplementary provisions.
1963 No. 20.

(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 under this Decree by any person acting in accordance with the authority of the Head of the Federal Military Government or by any member or officer of a tribunal constituted under this Decree.

(3) The question whether any provision of Chapter III of the Constitution of the Federation has been, is being or would be contravened by anything done or purported to be done in pursuance of this Decree shall not be enquired into in any court of law, and accordingly sections 32, 115 and 117 of that Constitution shall not apply in relation to any such question.

Miscellaneous and Supplementary

11.—(1) Where any person is convicted of an offence under this Decree the tribunal or court before whom such person is convicted may, either at the time of making the conviction or subsequently, make an order that any counterfeit bank note or current coin, or instrument, tool, engine or any machinery, implement, utensil or material whatsoever used or intended to be used for the false making or counterfeiting of a bank note or current coin be forfeited to the State and be disposed of in such manner as the Head of the Federal Military Government or, upon his authority, the Federal Commissioner for Finance, may direct.

Forfeiture.

(2) Notwithstanding that no person has been convicted by it, if the tribunal or court is satisfied that anything brought before it or to its notice for the purposes of a trial, in the nature of a counterfeit bank note or current coin, instrument, tool, engine or any machinery, implement, utensil or material whatsoever is or has been used for, intended to be, or capable of being, used for the false making or counterfeiting of a bank note or current coin, then the tribunal or court may at the completion of such trial make an order that any such thing be forfeited to the State and be disposed of in such manner as the Head of the Federal Military Government, or upon his authority the Federal Commissioner for Finance, may direct.

(3) For the purposes of this section "State" means the Federal Republic of Nigeria.

12.—(1) Where a person is charged with an offence under this Decree the fact that a bank note or current coin produced in evidence against him is false or counterfeit may be proved by the evidence of any credible witness, and it shall not be necessary to prove that fact by the evidence of an officer of the Central Bank of Nigeria or the Nigerian Security Printing and Minting Company Limited.

Evidence.

(2) In any prosecution for an offence under this Decree and in any proceeding for the forfeiture of any counterfeit bank note or current coin, any bank note or current coin in respect of which such prosecution or proceeding has been instituted shall be deemed to be a bank note or current

coin of the kind or of the denomination specified under any application, notice or any other document or application for forfeiture, unless the contrary is proved.

Execution
of sentence.

13. Any sentence of death imposed for an offence committed under this Decree may at the discretion and upon the order of the Head of the Federal Military Government be executed in either of the following ways :—

- (a) by hanging the offender by the neck till he be dead, or
- (b) by causing the offender to suffer death by a firing squad.

Representa-
tion, and the
tribunal's
general
powers.

14.—(1) For the avoidance of doubt, it is hereby declared that any person prosecuted for an offence under this Decree shall be entitled to defend himself in person or by a person of his own choice who is a legal practitioner, if he so wishes, and to examine in person or by his legal practitioner any person whose evidence, in whatever form given, forms part of the case against him.

(2) For the purposes of proceedings before it a tribunal established in accordance with the provisions of this Decree shall have the same powers, whether of compelling the attendance of persons or the production of documents or otherwise, as the High Court of a State or the Federal Revenue Court has in the exercise of its ordinary jurisdiction.

Right of
appeal to the
Supreme
Court.

15. Any person convicted of an offence under this Decree may within 30 days of the date of his conviction appeal as of right to the Supreme Court and the provisions of any enactment (including rules of court) regulating the practice and procedure of the Supreme Court shall, with any necessary modifications, apply in respect of such an appeal as they apply in respect of appeals from the decisions of any court subordinate to the Supreme Court.

Power to
make rules.

16.—(1) The Attorney-General of the Federation shall, with the approval of the Federal Executive Council, make rules as to the procedure to be adopted in prosecutions for offences under this Decree before the tribunal and, without prejudice to the generality of the foregoing provision, shall prescribe by such rules the manner of commencement of proceedings before the tribunal, the forms to be used in such proceedings, and generally for the better carrying into effect the provisions and purposes of this Decree.

(2) All prosecutions for offences under this Decree shall be instituted and proceeded with in the name of the Federal Republic of Nigeria and by or at the instance of the Attorney-General of the Federation or with his consent :

Provided that the question whether or not such consent has been granted by the Attorney-General of the Federation shall not be inquired into by the tribunal or by any court of law.

Interpreta-
tion.

17. In this Decree, except where the context otherwise requires—

“bank note” in relation to a bank note which is legal tender in Nigeria means a promissory note payable to bearer on demand issued by the Central Bank of Nigeria and in relation to a bank note which is not legal tender in Nigeria means a promissory note payable to bearer on demand issued by lawful authority in the country in which such bank note is legal tender;

“counterfeit”, in relation to a bank note or current coin of a kind which is legal tender in Nigeria, means a bank note or current coin made or issued other than by or by the authority of the Central Bank of Nigeria, and in relation to a bank note or current coin of a kind which is not legal tender

in Nigeria means a bank note or current coin made or issued other than by or by the authority of the body which, under the laws of the country in which the bank note or current coin is legal tender, is authorised to make or issue such bank note or current coin ;

"tribunal" means a tribunal constituted under section 8 of this Decree.

18.—(1) Notwithstanding anything to the contrary contained in the Constitution of the Federation, this Decree shall be deemed to have come into operation on 1st January 1973.

Commence-
ment, etc.

(2) Any person who was charged with an offence under any other enactment amounting to an offence under this Decree before the date of the making of this Decree shall be liable to be tried and convicted in accordance with the provisions of this Decree and any charge or information pending against him in or before any court or other tribunal shall abate.

(3) Any person who has been tried and convicted or acquitted for an offence charged under any other enactment shall not be tried a second time for the same offence notwithstanding that he could be proceeded against in accordance with the provisions of this Decree.

19. This Decree may be cited as the Counterfeit Currency (Special Provisions) Decree 1974.

Citation.

MADE at Lagos this 29th day of May 1974.

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 effect)*

The Decree provides heavy penalties for currency offences. It prescribes the death penalty or, in some cases, imprisonment for 14 years, for any person—

- (a) who falsely makes or counterfeits currency ;
- (b) who unlawfully makes or mends, or is in possession of materials or implements for making or counterfeiting currency ;
- (c) who unlawfully imports or exports counterfeit currency or materials or implements for making the same ;
- (d) who unlawfully makes enquiries as to obtaining or supplying materials for making counterfeit currency ;
- (e) who buys or sells or deals with counterfeit currency.

2. It also prescribes imprisonment for up to 21 years for various offences connected with counterfeit currency.

3. It provides for powers of arrest, seizure and disposal of materials for counterfeiting currency.

4. It also makes provision for the setting up and membership of Currency Offences Tribunals in any State of the Federation to try offences under the Decree.