

## CORRUPT PRACTICES DECREE 1975



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## Decree No. 38

[22nd November 1975]

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

### PART I

#### *Offences Involving Corruption*

1. Any person who by himself or by or in conjunction with any other person—

Punishment  
of  
corruption.

(a) corruptly solicits or receives or agrees to receive for himself or for any other person ; or

(b) corruptly gives, promises or offers to any person whether for the benefit of that person or of another person,

any gratification as an inducement or reward for, or otherwise on account of—

(i) any person doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed ; or

(ii) any member, officer or servant of the government or any public body doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such government or public body is concerned ;

shall be guilty of an offence under this section and shall be liable on conviction to imprisonment for seven years or to a fine of five thousand naira or to both such imprisonment and fine.

2. If—

Punishment  
of corrupt  
transaction  
with agents.

(a) any agent corruptly accepts or obtains or agrees to accept or attempts to obtain, from any person for himself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having after the coming into operation of this Decree done or forborne to do, any act in relation to the affairs or business of his principal, or for showing favour or disfavour to any person in relation to the affairs or business of his principal ; or

(b) any person corruptly gives or agrees to give or offers any gratification to any agent as an inducement or reward for doing or forbearing to do, or for having after the coming into operation of this Decree done or forborne to do any act in relation to the affairs or business of the principal or for showing or forbearing to show favour or disfavour to any person in relation to the affairs or business of the principal ;

he shall be guilty of an offence under this section and shall be liable on conviction to imprisonment for seven years or to a fine of five thousand naira or to both such imprisonment and fine.

Increase of maximum penalty in certain cases.

Presumption of corruption in certain cases.

Acceptor of gratification to be guilty notwithstanding that purpose not carried out, etc.

Corruptly procuring withdrawal of tenders.

3. A person convicted of any offence under section 1 or 2 of this Decree shall, where the matter or transaction in relation to which the offence was committed was a contract or a proposal for a contract with the Government or any department thereof or with any public body or a sub-contract to execute any work comprised in such a contract, be liable to imprisonment for a term of fourteen years or to a fine of ten thousand naira or to both such imprisonment and fine.

4. Where in any proceedings against a person for an offence under section 1 or 2 of this Decree, it is proved that any gratification has been paid or given to or received by a person in the employment of the Government or any department thereof or of a public body by or from a person or agent of a person who has or seeks to have any dealing with the Government or any department thereof or any public body, such gratification shall be deemed to have been paid or given and received corruptly as an inducement or reward as hereinbefore mentioned unless the contrary is proved.

5.—(1) Where in any proceedings against any agent for any offence under paragraph (a) of section 2 of this Decree, it is proved that he corruptly accepted, obtained or agreed to accept or attempted to obtain any gratification, having reason to believe or suspect that such gratification was offered as an inducement or reward for his doing or forbearing to do any act or for showing or forbearing to show any favour or disfavour to any person in relation to the affairs or business of his principal, he shall be guilty of an offence under that section notwithstanding that he did not have the power, right or opportunity so to do, show or forbear or that he accepted the gratification without intending so to do, show or forbear or that he did not in fact so do, show or forbear or that such act, favour or disfavour was not in relation to the affairs or business of the principal.

(2) Where in any proceedings against any person for any offence under paragraph (b) of section 2 of this Decree, it is proved that he corruptly gave, agreed to give or offered any gratification to any agent as an inducement or reward for doing or forbearing to do any act or for showing or forbearing to show any favour or disfavour to any person having reason to believe or suspect that such agent had the power, right or opportunity so to do, show or forbear and that such act, favour or disfavour was in relation to the affairs or business of the principal, he shall be guilty of an offence under that section notwithstanding that such agent had no power, right or opportunity or that such act, favour or disfavour was not in relation to the affairs or business of the principal.

## 6. A person—

(a) who, with intent to obtain from the Government or any public body a contract for performing any work, providing any service, doing anything, or supplying any article, material or substance, offers any gratification to any person who has made a tender for such contract, as an inducement or a reward for his withdrawing such tender; or

(b) who solicits or accepts any gratification as an inducement or a reward for his withdrawing a tender made by him for such a contract, shall be guilty of an offence under this Decree and shall be liable on conviction to imprisonment for seven years or to a fine of five thousand naira or to both such imprisonment and fine.

### 7. Any person—

(a) who offers any gratification to a member of the Supreme Military Council, the National Council of States or the Federal Executive Council or a member of the Executive Council of a State as an inducement or reward for such member to do or forbear to do any act in his capacity as such member; or

(b) who, being a member of any of the Councils mentioned in paragraph (a) of this section, solicits or accepts any gratification as an inducement or reward for his doing or forbearing to do any act in his capacity as such member,

shall be guilty of an offence under this section and shall be liable on conviction to imprisonment for ten years or to a fine of ten thousand naira or to both such imprisonment and fine.

Bribery of member of the Supreme Military Council, the National Council of States or the Executive Council, etc.

### 8. Any person—

(a) who offers any gratification to a member of a public body as an inducement or reward for—

(i) such member to vote or abstain from voting at any meeting of such public body in favour or against any measure, resolution or question submitted to such public body; or

(ii) such member to perform or abstain from performing, or aid in procuring, expediting, delaying, hindering or preventing the performance of any official act; or

(iii) such member to aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person; or

(b) who, being a member of a public body, solicits or accepts any gratification as an inducement or a reward for any such act, or any such abstaining, as is referred to in sub-paragraphs (i), (ii) and (iii) of paragraph (a) of this section,

shall be guilty of an offence under this section and shall be liable on conviction to imprisonment for seven years or to a fine of ten thousand naira or to both such imprisonment and fine.

Bribery of member of public body.

9. Where a tribunal convicts any person of an offence committed by the acceptance of any gratification in contravention of any provision of this Decree, then, if that gratification is a sum of money or if the value of that gratification can be assessed, the tribunal shall, in addition to imposing on that person any other punishment, order him to pay as a penalty, within such time as may be specified in the order, a sum which is equal to the amount of that gratification or is, in the opinion of the tribunal, the value of that gratification and any such penalty shall be recoverable as a fine.

Penalty to be imposed in addition to other punishment.

10.—(1) Where any gratification has, in contravention of this Decree, been given by any person to an agent, the principal may recover as a civil debt the amount or the money value thereof either from the agent or from the person who gave the gratification to the agent, and no conviction or acquittal of the defendant in respect of an offence under this Decree shall operate as a bar to proceedings for the recovery of such amount or money value.

Principal may recover amount of secret gift.

(2) Nothing in this section shall be deemed to prejudice or affect any right which any principal may have under any written law or rule of law to recover from his agent any money or property.

## PART II

*Establishment, Powers, etc. of Corrupt Practices Investigation Bureau*

Establishment of Bureau.

11.—(1) There is hereby established as a department of the Government of the Federation a Bureau to be known as the Corrupt Practices Investigation Bureau.

(2) The Bureau shall consist of a Director and such number of Assistant Directors and other officers subordinate to the Director and Assistant Directors as the Supreme Military Council may from time to time determine.

(3) The Director and the Assistant Directors shall be appointed by the Supreme Military Council and the other officers of the Bureau shall be appointed by the Public Service Commission of the Federation on the recommendation of the Director.

(4) The officers of the Bureau other than the Director and the Assistant Directors shall be known by such title as the Director may determine and the Director shall issue to every such officer a certificate under his hand which shall be evidence of that officer's appointment under this Decree.

General powers of investigation.

12. Notwithstanding anything to the contrary in any law, the Director and any officer of the Bureau authorised in that behalf by the Director either generally or with respect to any category of matters, if satisfied that there are reasonable grounds for suspecting that an offence under this Decree has been committed by any person, may make an investigation in the matter in such manner or mode as the Director may deem fit.

Director, etc., to have powers of a police officer. Cap 43. Laws of Northern Nigeria 1963.

13. The Director, Assistant Directors and the officers of the Bureau designated by the Director shall by virtue of this section have all the powers of a police officer and, without prejudice to the generality of the foregoing, may exercise in relation to offences under this Decree the same powers as are exercisable by a police officer under the Criminal Procedure Code in respect of offences under the Criminal Code, or as the case may be, the Penal Code.

Director's powers to obtain information. Cap. 42. Cap. 89.

14.—(1) In the course of any investigation or proceedings into or relating to an offence under this Decree by any person in the service of the Government or of any department thereof or of any public body under this Decree the Director may, notwithstanding anything to the contrary in any other law, by written notice—

(a) require any such person to furnish a sworn statement in writing enumerating all moveable or immoveable property belonging to or possessed by such person and by the spouse and children of such person, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;

(b) require any such person to furnish a sworn statement in writing of any money or other property sent out of Nigeria by him or paid or delivered to him or to his account outside Nigeria during such period as may be specified in the notice;

(c) require any other person to furnish a sworn statement in writing enumerating all moveable or immoveable property belonging to or possessed by such person where the Director has reasonable grounds to believe that such information can assist the investigation;



(d) require the person in charge of any department, office or establishment of the Government, or the chairman, chief executive, manager or similar officer of any public body to produce or furnish, as specified in the notice, any document or a certified copy of any document which is in his possession or under his control;

(e) require the manager of any bank to give copies of the accounts of such person or of the spouse or child of such person at the bank.

(2) Every person to whom a notice is sent by the Director under subsection (1) of this section shall, notwithstanding the provisions of any written law or any oath of secrecy to the contrary, comply with the terms of that notice within such time as may be specified therein and any person who wilfully neglects or fails so to comply shall be guilty of an offence under this Decree and shall be liable on conviction to imprisonment for one year or to a fine of one thousand naira or to both.

15.—(1) Whenever it appears to the Director upon information and after such enquiry as he thinks necessary that there is reasonable cause to believe that in any place there is any document containing any evidence of the commission of an offence under this Decree or any article or property relating to the commission of an offence under this Decree the Director may, by warrant directed to any officer of the Bureau, empower the officer named therein to enter such place by force if necessary and search for, seize and detain any such document, article or property.

Powers of  
search and  
seizure.

(2) Whenever it appears to any officer of the Bureau other than the Director, that there is reasonable cause to believe that in any place there is concealed or deposited any document containing evidence of the commission of an offence under this Decree and the officer as aforesaid has reasonable grounds for believing that by reason of the delay in obtaining a warrant the object of the search is likely to be frustrated, that officer may exercise in and in respect of such place all the powers mentioned in subsection (1) of this section in as full and ample a manner as if he were empowered to do so by warrant issued under the said subsection.

16.—(1) The Director may, if he considers that any evidence of the commission of an offence under this Decree by any person in the service of the Government or of any department thereof or of a public body is likely to be found in any banker's book relating to such person, his wife or child or to a person reasonably believed by the Director to be a trustee or agent for such person, by order under his hand authorise any officer of the Bureau named in the order to inspect any such book and the person so authorised may, at all reasonable times, enter the bank specified in such order and inspect such books kept therein and may take copies of any relevant entry in any such book.

Director's  
power to  
order  
inspection  
of bankers'  
books.

(2) For the purpose of this section—

“bank” has the same meaning as in section 41 of the Banking Decree 1969 and, for the avoidance of doubt, includes any bank exempted from the provisions of that Decree;

1969 No. 1.

“banker's book” includes ledgers, day books, cash books, account books and all other books and documents used in the ordinary course of the business of a bank.

Obstruction  
of search,  
etc.

17. Any person who—

(a) refuses the Director or any person duly authorised for that purpose by the Director access to any place ; or

(b) assaults, obstructs, hinders or delays him in effecting any entrance which he is entitled to effect under this Decree, or in the execution of any duty imposed or power conferred by this Decree ; or

(c) fails to comply with any lawful demands of the Director or of any officer of the Bureau authorised by the Director to make such demands in the execution of his duty under this Decree ; or

(d) refuses or neglects to give any information which may reasonably be required of him and which he has it in his power to give,

shall be guilty of an offence under this Decree and shall be liable on conviction to a fine of one thousand naira or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Director  
to submit  
report  
on offences  
to the  
DPP.

18. On the completion of an investigation in respect of any offence under this Decree the Director shall cause to be delivered to the Director of Public Prosecutions a report of his findings in the matter and shall when required to do so by the Director of Public Prosecutions furnish to the Director of Public Prosecutions all evidence in his custody or under his control that may be required by the Director of Public Prosecutions for the institution of proceedings before a tribunal under this Decree.

### PART III

#### *Establishment, etc. of Tribunals and Trial of Offences*

Constitu-  
tion of  
special  
tribunals,  
etc.

19.—(1) The Head of the Federal Military Government shall, whenever occasion demands, constitute one or more tribunals for the trial of offences under this Decree.

(2) A tribunal constituted under subsection (1) of this section shall consist of a chairman who shall be a judge of the High Court of a State or of the Federal Revenue Court and two other persons at least one of whom shall be an officer in the Nigerian Army not below the rank of major or an officer of the Nigerian Navy or Air Force of equivalent rank.

Procedure  
for the  
trial of  
offences.

20.—(1) The trial of offences under this Decree shall commence by way of application, supported by evidence on affidavit, made to the tribunal in that behalf by the Director of Public Prosecutions or by such officers subordinate to him as the Director of Public Prosecutions may authorise to do so :

Provided that the question whether any authority has been given in pursuance of this subsection or what the authority was, shall not be enquired into by any person except at the instance of the Director of Public Prosecutions.

(2) Where after perusal of the application and the evidence on affidavit or any further evidence in such form as the tribunal may consider necessary the tribunal is satisfied that any person appears to have committed any offence under this Decree, it shall cause notice to be served on that person calling upon him to show cause why he should not be punished for that offence.

(3) Where no cause or no sufficient cause under subsection (2) above is shown by the person on whom a notice is served under that subsection to its satisfaction, the tribunal may, after such inquiry as the tribunal may consider necessary, convict that person of the offence and impose upon him an appropriate sentence in accordance with the provisions of this Decree.

(4) The procedure to be followed upon an application to the tribunal under subsection (1) above shall be in accordance with such rulings as the tribunal may make either generally or for the purpose of a particular trial; and in relation to and for the purpose of proceedings of the tribunal the tribunal shall have the same powers, whether of compelling the attendance of persons and the production of documents or otherwise, as the High Court of a State has in the exercise of its ordinary jurisdiction.

(5) An offender under this Decree shall be entitled to defend himself in person or by a person of his own choice who is a legal practitioner, and to examine in person or by his legal practitioner, if he so wishes, any person whose evidence on affidavit or otherwise forms part of the case against him.

21.—(1) In any trial for an offence under this Decree the fact that an accused person is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income, or that he had, at or about the time of the alleged offence, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken into consideration by the tribunal as corroborating the testimony of any witness in such trial or inquiry that such accused person accepted or obtained any gratification and as showing that such gratification was accepted or obtained corruptly as an inducement or reward.

Evidence of  
pecuniary  
resources or  
property.

(2) An offender shall, for the purposes of subsection (1) of this section be deemed to be in possession of resources of property or to have obtained an accretion thereto where such resources or property are held or such accretion is obtained by any other person whom, having regard to his relationship to the accused person or to any other circumstances, there is reason to believe to be holding such resources or property or to have obtained such accretion in trust for or on behalf of such accused person or as a gift from such accused person.

22. Notwithstanding anything to the contrary in any law (including any rule of law), no witness shall, in any such trial or inquiry as is referred to in section 20 of this Decree, be presumed to be unworthy of credit by reason only of any payment or delivery by him or on his behalf of any gratification to an agent or member of a public body.

Evidence of  
accomplice.

23.—(1) Whenever two or more persons are charged with an offence under this Decree the tribunal may require one or more of them to give evidence as a witness for the prosecution.

Witness  
to be  
compellable  
in certain  
cases.

(2) Any person who refuses to be sworn or to answer any lawful question after having been required to do so pursuant to subsection (1) above may be dealt with in the same manner as a witness so refusing may be dealt with by a High Court.

(3) Any person required to give evidence under this section and who in the opinion of the tribunal makes true and full disclosure of all things as to which he is lawfully examined shall be entitled to receive a certificate of indemnity under the hand of the chairman of the tribunal, stating that he



has made a true and full disclosure of all things as to which he was examined, and such certificate shall be a bar to all legal proceedings against him in respect of all such things aforesaid.

Protection  
of infor-  
mers.

24.—(1) Except as hereinafter provided, no complaints as to an offence under this Decree shall be admitted in evidence or liable to inspection in any civil or criminal proceeding whatsoever, and no witness shall be obliged or permitted to disclose the name or address of any informer or state any matter which might lead to his discovery.

(2) If any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding whatsoever contain any entry in which any informer is named, described or which might lead to his discovery the tribunal, before which the proceeding is held, shall cause all such passages to be concealed from view or to be obliterated so far as is necessary to protect the informer from discovery, but no further.

(3) If on a trial for any offence under this Decree the tribunal, after full inquiry into the case, is of opinion that the informer wilfully made in his complaints a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the tribunal is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, the tribunal may require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer :

Provided, however, that where the Director of Public Prosecutions certifies in writing that it is not in the public interest to make such a disclosure the tribunal shall not, notwithstanding any rule of law to the contrary, permit any such inquiry or disclosure of the informer.

#### PART IV

#### *Supplementary*

Parties to  
offences.

25. 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 under this Decree.

Liability of  
citizens of  
Nigeria for  
offences  
committed  
outside  
Nigeria.

26. The provisions of this Decree shall, in relation to citizens of Nigeria, have effect outside as well as within Nigeria, and where an offence under this Decree is committed by a citizen of Nigeria in any place outside Nigeria he may be dealt with in respect of such offence as if it had been committed within Nigeria :

Provided that any proceedings against any person under this section which would be a bar to subsequent proceedings against such person for the offence, if such offence had been committed in Nigeria, shall be a bar to further proceedings against him, under any written law for the time being in force relating to the extradition of persons, in respect of the same offence outside Nigeria.

27.—(1) Subject to subsection (2) of this section, no person charged with any offence under this Decree being an offence involving the receipt of gratification shall be convicted of that offence if he proves that the receipt of the gratification is customary in his profession, trade, vocation or calling and the tribunal is satisfied that the amount of the gratification was reasonable in the circumstances of the case.

No conviction where gratification is proved customary.

(2) Subsection (1) of this section shall not apply in respect of any offence by a person in the employment of the Government or any department thereof or of any public body.

28. 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.

Right of appeal to the Supreme court.

29.—(1) It is hereby declared that a tribunal shall, notwithstanding anything to the contrary in any law (including the Constitution of the Federation or of a State) have the power in appropriate cases to award the punishments and impose the penalties specified in this Decree.

Supplementary provisions

(2) No civil proceedings shall lie or be instituted in any court for or on account of or in respect of any matter or thing done or proposed or purported to be done under this Decree by the Head of the Federal Military Government or by any person acting in accordance with the authority of the Head of the Federal Military Government or by the Director or any other officer of the Bureau or by any member or other 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 proposed or purported to be done in pursuance of this Decree shall not be inquired into by any court of law.

1963 No. 20.

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

Interpretation

“agent” means any person employed by or acting for another and includes a trustee, administrator and executor, and a person serving the Government or under any corporation or public body, and for the purposes of section 4 of this Decree, includes a sub-contractor and any person employed by or acting for such sub-contractor ;

“Director” means the Director of the Corrupt Practices Investigation Bureau appointed under section 11 of this Decree ;

“the Government” means the Government of the Federation or of a State ;

“gratification” includes—

(a) money or any gift, loan, fee, reward, commission, valuable security or other property or interest in property of any description, whether moveable or immovable ;

(b) any office, employment or contract ;

(c) any payment, release, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part ;

(d) any other service, favour or advantage of any description whatsoever, including protection from any penalty or liability incurred or apprehended of from any action or proceedings of a disciplinary or penal nature, whether or not already instituted, and including the exercise or the forbearance from the exercise of any right or any official power or duty ; and

(e) any offer, undertaking or promise of any gratification within the meaning of the preceding paragraphs (a), (b), (c) and (d) ;

"principal" includes an employer, a beneficiary under a trust, and a trust estate as though it were a person and any person beneficially interested in the estate of a deceased person as though the estate were a person and in the case of a person serving the Government or a public body includes the Government or the public body as the case may be ;

"public body" means any corporation directly established by law and includes any corporate body established or deemed to be established under the Companies Decree 1968 in respect of which the Government holds any shares, stocks or debentures ;

"tribunal" means any tribunal constituted under this Decree.

Citation.

31. This Decree may be cited as the Corrupt Practices Decree 1975.

MADE at Lagos this 22nd day of November 1975.

BRIGADIER M. R. MUHAMMED,  
*Head of the Federal Military Government,  
Commander-in-Chief of the Armed Forces,  
Federal Republic of Nigeria*

#### EXPLANATORY NOTE

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

The Decree, designed for the suppression of corrupt practices in both the public and private sectors, provides stiff penalties for any person found guilty of bribery and corruption but makes exception for bona fide customary gifts.

It sets up an autonomous Government department to be known as the Corrupt Practices Investigation Bureau, which will be headed by a Director, as the body responsible for investigating all allegations of corruption after which reports would be submitted to the Director of Public Prosecutions who will be responsible for prosecuting cases.

Such cases would be tried by special *ad hoc* tribunals comprising a judge of the High Court of a State or of the Federal Revenue Court and two other members, one of whom shall be drawn from the armed forces. Persons convicted by any such tribunal have a right of appeal to the Supreme Court.