

**TREASON AND OTHER OFFENCES (SPECIAL
MILITARY TRIBUNAL) DECREE 1976**



Decree No. 8

[23rd February 1976]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. Notwithstanding anything to the contrary in any law (including the appropriate service law and the Constitution of the Federation), the Supreme Military Council shall have power to constitute a special military tribunal for the purpose of the trial of any person, whether or not a member of the armed forces, who, at any time before the commencement of this Decree, in connection with or in furtherance of any act of rebellion against the Federal Military Government has committed the offence of treason, murder or any offence under any law in force in Nigeria, including the appropriate service law.

Power to
constitute
special
military
tribunal.

2. The special military tribunal constituted under section 1 of this Decree shall consist of—

Composition
of special
military
tribunal.

(a) a president who must be an officer in the Nigerian Army of or above the rank of colonel or an officer in the Nigerian Navy or Air Force of or above the corresponding rank ; and

(b) not less than four other members, each of whom shall be an officer in the armed forces or the Nigeria Police Force who has held a commission for not less than five years,

who shall all be appointed by the Supreme Military Council.

3.—(1) The special military tribunal shall have jurisdiction to try any person, whether or not a member of the armed forces, charged with any offence as provided under this Decree and shall have power to award the punishment specified in the appropriate law, including any appropriate service law.

Jurisdiction
and power
to award
appropriate
penalty, etc.

(2) For the purposes of subsection (1) of this section, where in respect of any act which is an offence under any appropriate service law the special military tribunal is satisfied that any person not subject to that service law—

(a) acted in concert with any person subject to the service law, or

(b) knowingly took part to any extent whatsoever in the commission of the act constituting an offence under the service law,

the tribunal shall have power to treat the person in like manner as a person subject to the service law and shall proceed against him accordingly, notwithstanding anything to the contrary in the service law.

Practice
and
procedure.

4.—(1) The procedure to be followed for the purposes of trial under this Decree shall be in accordance with such rulings as the special military tribunal may make either generally or for the purpose of any particular trial.

(2) Without prejudice to subsection (1) above, the special military tribunal may direct that the practice and procedure applicable to proceedings before a court-martial shall be followed in proceedings before the tribunal subject to such modifications as the tribunal may consider necessary in the light of the general intendment of this Decree.

Confirmation
of proceed-
ings of
special
military
tribunal, etc.

5.—(1) Where the special military tribunal finds the accused guilty of any offence, the record of the proceedings of the tribunal shall be transmitted to the confirming authority for confirmation of the sentence of the tribunal for that offence.

(2) A sentence of the special military tribunal shall not be treated as a sentence of the tribunal until confirmed :

Provided that this subsection shall not affect the keeping of the accused in custody pending confirmation.

(3) The confirming authority shall deal with the sentence of the special military tribunal either by confirming or withholding confirmation.

(4) In confirming the sentence of the special military tribunal the confirming authority may—

(a) in the case of a sentence of death, substitute for that punishment imprisonment for a term not exceeding the maximum term which could have been imposed by the tribunal for the offence in question ;

(b) in the case of a sentence other than a sentence of death, either remit in whole or in part the punishment awarded by the tribunal or substitute for it some other punishment which could have been imposed by the tribunal being a punishment less severe than the one awarded by the tribunal.

(5) A sentence substituted by the confirming authority or any sentence having effect after the confirming authority has remitted punishment shall be treated for all purposes as a sentence of the military tribunal duly confirmed.

(6) No appeal shall lie from a decision of the special military tribunal under this Decree.

(7) For the purposes of this section the confirming authority shall be the Supreme Military Council.

Execution of
sentences
of special
military
tribunal.

6.—(1) Any sentence of death imposed by the special military tribunal shall, if confirmed, be executed by causing the offender to suffer death by a firing squad.

(2) Subject to subsection (1) above, sections 112 and 115 of the Nigerian Army Act 1960 (which relate to receipt into civil prisons of persons sentenced by courts-martial, and the treatment there of such persons when received) and any rules relating to those matters which are for the time being in force under subsection (2) (a) or (b) of section 128 of that Act shall apply, with such modifications as may be necessary, in relation to persons sentenced to death or imprisonment by the special military tribunal as they apply in relation to persons so sentenced by a court-martial.

(3) The references to the provisions of the Army Act in subsection (2) of this section shall where the circumstances so require be construed as including references to the corresponding provisions of the Navy Act 1964 and the Air Force Act 1964.

1964 No. 21.
1964 No. 11.

7.—(1) In this Decree—

“the appropriate service law” means—

(i) as respects a member of the Nigerian Army, the Nigerian Army Act 1960 ;

(ii) as respects a member of the Nigerian Navy, the Navy Act 1964 ; and

(iii) as respects a member of the Nigerian Air Force, the Air Force Act 1964 ;

“the special military tribunal” or “the tribunal” means a special military tribunal constituted under section 1 of this Decree.

(2) The reference to a member of the armed forces is a reference to a member of the Nigerian Army, the Nigerian Navy or the Nigerian Air Force.

Interpreta-
tion.

8. This Decree may be cited as Treason and Other Offences (Special Military Tribunal) Decree 1976.

Citation.

MADE at Lagos this 23rd day of February 1976.

LT.-GENERAL O. OBASANJO,
Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria

EXPLANATORY NOTE

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

The Decree empowers the Supreme Military Council to constitute a special military tribunal for the trial of any person, whether or not a member of the armed forces who in connection with the recent rebellion against the Federal Military Government committed the offence of treason, murder or any offence under any law in Nigeria. The Special Military tribunal is empowered to award the appropriate penalties prescribed by law and any conviction by the tribunal is subject to confirmation by the Supreme Military Council.