

**COMPANIES INCOME TAX
DECREE 1979**



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Decree No. 28

[See section 79]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

PART I—ADMINISTRATION

1.—(1) There shall continue to be a Board of which the official name shall be the Federal Board of Inland Revenue.

Establish-
ment and
constitution
of the Board.

(2) The members of the Board shall be—

(a) a Chairman, who shall be the Director of the Federal Inland Revenue Department ;

(b) four Deputy Directors of the Federal Inland Revenue Department ;

(c) the most senior of those officers holding or acting in the posts of Legal Adviser and Assistant Legal Adviser in the Federal Inland Revenue Department who is available from time to time on duty in Lagos ;

(d) the officer from time to time holding or acting in the office of Principal Assistant Secretary with responsibility for revenue matters in the Federal Ministry of Finance ;

(e) a representative of the Nigerian National Petroleum Corporation ;

(f) a representative of the Department of Customs and Excise ; and

(g) the Registrar of Companies.

(3) Any five members of the Board, of whom one shall be the Director or a Deputy Director, shall constitute a quorum.

(4) Whenever necessary the Board shall nominate an officer of the Federal Inland Revenue Department to be the Secretary to the Board.

(5) Notwithstanding that the Legal Adviser to the Board is at any time a member of the Board, he may appear for and represent the Board in his professional capacity in any proceedings in which the Board is a party ; and the Legal Adviser shall not in such circumstances give evidence on behalf of the Board.

(6) The Secretary shall summon a meeting of the Board whenever the business requiring its attention so warrants, or upon any request of a member ; and a majority decision of the members on any matter obtained by him in written correspondence shall be treated in all respects as though it were a decision of the Board in actual meeting unless any member has requested the submission of that matter to such meeting.

2.—(1) The due administration of this Decree and the tax shall be under the care and management of the Board who may do all such things as may be deemed necessary and expedient for the assessment and collection of the tax and shall account for all amounts so collected in a manner to be prescribed by the Commissioner.

Powers and
duties of the
Board.

(2) Whenever the Board shall consider it necessary with respect to any tax or penalty due, the Board may acquire, hold and dispose of any property taken as security for or in satisfaction of any such tax or penalty or of any judgment debt due in respect of any such tax or penalty and shall account for any such property and the proceeds of sale thereof in a manner to be prescribed by the Commissioner.

(3) The Board may sue and be sued in its official name and, subject to any express provision under any subsidiary legislation or otherwise, the Board may authorise any person to accept service of any document to be sent, served upon or delivered to the Board.

(4) The Board may by notice in the *Gazette* or in writing—

(a) authorise any person within or outside Nigeria to perform or exercise, on behalf of the Board, any power or duty conferred on the Board other than the powers or duties specified in Schedule 1, or to receive any notice or other document to be given or delivered to, or served upon, the Board under or in consequence of this Decree and any subsidiary legislation made thereunder ; and

(b) with the consent of the Commissioner, authorise the Joint Tax Board to perform or exercise, on behalf of the Board, any power or duty conferred on the Board including the powers or duties specified in Schedule 1.

(5) In the exercise of the powers and duties conferred upon it the Board shall be subject to the authority, direction and control of the Commissioner and any written direction, order or instruction given by him after consultation with the Chairman shall be carried out by the Board :

Provided that the Commissioner shall not give any direction, order or instruction in respect of any particular person which would have the effect of requiring the Board to raise an additional assessment upon such person or to increase or decrease any assessment made or to be made or any penalty imposed or to be imposed upon or any relief given or to be given to or to defer the collection of any tax, penalty or judgment debt due by such person, or which would have the effect of altering the normal course of any proceedings, whether civil or criminal, relating either to the recovery of any tax or penalty or to any offence relating to tax.

(6) Every claim, objection, appeal, representation or the like made by any person under any provision of this Decree or of any subsidiary legislation made thereunder shall be made in accordance with this Decree and subsidiary legislation.

(7) In any claim or matter or upon any objection or appeal under this Decree or under any subsidiary legislation made thereunder, any act, matter or thing done by or with the authority of the Board, in pursuance of any provisions of this Decree or subsidiary legislation made thereunder, shall not be subject to challenge on the ground that such act, matter or thing was not or was not proved to be in accordance with any direction, order or instruction given by the Commissioner.

3.—(1) Anything required to be done by the Board, in relation to the powers or duties specified in Schedule 1, may be signified under the hand of the Chairman or of the Secretary.

(2) Any authorisation given by the Board under or by virtue of this Decree shall be signified under the hand of the Chairman unless such authority is notified in the *Gazette*.

Signification
and execu-
tion of
powers,
duties, etc.

(3) Subject to subsection (1) of this section, any notice or other document to be given under this Decree, or under any subsidiary legislation made thereunder, shall be valid if—

(a) it is signed by the Chairman or by any person authorised by him ; or

(b) such notice or document is printed and the official name of the Board is duly printed or stamped thereon.

(4) Every notice, authorisation or other document purporting to be a notice, authorisation or other document duly given and signified, notified or bearing the official name of the Board, in accordance with the provisions of this section, shall be presumed to be so given and signified, notified, or otherwise without further proof, until the contrary is shown.

4. The Commissioner may at any time by Order delete any of the powers or duties specified in Schedule 1 or include therein additional powers or duties or otherwise amend such Schedule or substitute a new Schedule therefor.

Power to
amend
Schedule 1.

5.—(1) Every person having any official duty or being employed in the administration of this Decree shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the profits or items of the profits of any company, as secret and confidential.

Official
secrecy.

(2) Every person having possession of or control over any documents, information, returns or assessment lists or copies of such lists relating to the income or profits or losses of any person, who at any time communicates or attempts to communicate such information or anything contained in such documents, returns, lists, or copies to any person—

(a) other than a person to whom he is authorised by the Commissioner to communicate it ; or

(b) otherwise than for the purposes of this Decree or of any enactment in Nigeria imposing tax on the income of persons other than companies ; shall be guilty of an offence against this Decree.

(3) Any proceedings for an offence against this section may be taken by or in the name of the Board but not by any other person except with the consent of the Attorney-General of the Federation.

(4) No person appointed under or employed in carrying out the provisions of this Decree shall be required to produce in any court any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Decree except as may be necessary for the purpose of carrying into effect the provisions of this Decree, or in order to institute a prosecution, or in the course of a prosecution for any offence committed in relation to any tax on income or profits in Nigeria.

(5) Where under any law in force in any Commonwealth country provision is made for the allowance of relief from income tax in respect of the payment of income tax in Nigeria, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the Government in that country of such facts as may be necessary to enable the proper relief to be given in cases where relief is claimed from the tax in Nigeria or from income tax in that country.

(6) Where any agreement or arrangement with any other country with respect to relief for double taxation of income or profits includes provisions for the exchange of information with that country for the purpose of imple-

menting that relief or preventing avoidance of tax, the obligation as to secrecy imposed by this section shall not prevent the disclosure of such information to the authorised officers of the Government of such country.

(7) Notwithstanding anything contained in this section, the Board may permit the Auditor-General of the Federation or any officer duly authorised in that behalf by him to have such access to any records or documents as may be necessary for the performance of his official duties, and the Auditor-General or any such officer shall be deemed to be a person employed in carrying out the provisions of this Decree for the purposes of this section.

Forms.

6. The Board may from time to time specify the form of returns, claims, statements and notices under this Decree.

Service and
signature of
notices.
1964 No. 1.

7.—(1) Except where it is provided by this Decree that service shall be effected either personally or by registered post, the provisions of section 25 of the Interpretation Act 1964 (which relates to service by post) shall apply to the service of a notice, if such notice is addressed in accordance with the provisions of subsection (3) of this section.

(2) Where a notice is sent by registered post it shall be deemed to have been served on the day succeeding the day on which the addressee of the registered letter containing the notice would have been informed in the ordinary course of events that such registered letter is awaiting him at a post office, if such notice is addressed in accordance with the provisions of subsection (3) of this section :

Provided that a notice shall not be deemed to have been served under this subsection if the addressee proves that no notification, informing him of the fact that the registered letter was awaiting him at a post office, was left at the address given on such registered letter.

(3) A notice to be served in accordance with subsection (1) or (2) shall be addressed—

(a) in the case of a company incorporated in Nigeria, to the registered office of the company ; and

(b) in the case of a company incorporated outside Nigeria either to the individual authorised to accept service of process under the Companies Decree 1968 at the address filed with the Registrar of Companies, if any, or to the registered office of the company wherever it may be situated ; and

(c) in the case of an individual or body of persons to the last known business or private address of such individual or body of persons.

(4) Without prejudice to sections 49 and 60 (1) (b) of this Decree, in any case where service of any notice under this Decree has proved impossible the notice may be served by being left at the appropriate office or address as determined under subsection (3) above or by pasting it at the office or address or by publishing it in one issue of the *Gazette*.

(5) Any person who obstructs any officer of the Board in the exercise of his functions under this Decree or who uses violence on such officer shall be guilty of an offence and shall on conviction—

(a) in the case of a first offence, be liable to imprisonment for six months or to a fine of not less than ₦2,000 or to both such imprisonment and fine ; and

(b) in the case of a second or subsequent offence and in any case where violence is used on any such officer, be sentenced to imprisonment for six months without the option of a fine.

1968 No. 51.

PART II—IMPOSITION OF TAX AND PROFITS CHARGEABLE

8.—(1) Subject to the provisions of this Decree, the tax shall, for each year of assessment, be payable at the rate specified in section 28 upon the profits of any company accruing in, derived from, brought into, or received in, Nigeria in respect of—

Charge of tax.

(a) any trade or business for whatever period of time such trade or business may have been carried on ;

(b) rent or any premium arising from a right granted to any other person for the use or occupation of any property ; and where any payment on account of such a rent as is mentioned in this paragraph is made before the expiration of the period to which it relates and is included for the purposes of this paragraph in the profits of a company, then, so much of the payment as relates to any period beginning with the date on which the payment is made shall be treated for these purposes as accruing to the company proportionately from day to day over the last-mentioned period or over the five years beginning with that date, whichever is the shorter ;

(c) dividends, interest, discounts, charges or annuities ;

(d) any source of annual profits or gains not falling within the preceding categories ;

(e) any amount deemed to be income or profit under a provision of this Decree or, with respect to any benefit arising from a pension or provident fund, of the Income Tax Management Act 1961 ;

1961 No. 21.

(f) fees, dues and allowances (wherever paid) for services rendered ;

(g) any income accruing or derived from the use in Nigeria of the asset of any foreign company and where accounts have not been submitted to the Board in respect of such income a deduction of forty-five *per centum* thereof in lieu of capital allowance and other expenses shall be made from such income and thereafter the balance shall be liable to tax in accordance with the rate of tax specified in section 28 and the beneficiary of the primary contract shall withhold the tax due on any such income and pay it to the Board.

For the purposes of this paragraph, the beneficiary of a primary contract is the person who awards the contract for which the asset or equipment has been used.

(2) For the purposes of this section, interest shall be deemed to be derived from Nigeria if—

(a) there is a liability to payment of the interest by a Nigerian company or a company in Nigeria regardless of where or in what form the payment is made ; or

(b) the interest accrues to a foreign company or person from a Nigerian company or a company in Nigeria regardless of whichever way the interest may have accrued.

(3) In this section, "dividend" means—

(a) in relation to a company not being in the process of being wound up or liquidated, any profits distributed, whether such profits are of a capital nature or not, including an amount equal to the nominal value of bonus shares, debentures or securities awarded to the shareholders ; and

(b) in relation to a company that is being wound up or liquidated, any profits distributed, whether in money or money's worth or otherwise, other than those of a capital nature earned before or during the winding up or liquidation.

Charge of tax on interest relating to foreign and agricultural loans, and certain reliefs.

9.—(1) Notwithstanding any other provisions of this Decree but subject to the provisions of the following subsections, where during any calendar year commencing on or after 1st January 1971 any foreign loan of an amount (or of an aggregate amount) which is not less than ₦150,000 is granted by a foreign company to any person carrying on any trade, business, profession or vocation in Nigeria for the purposes of that trade, business, profession or vocation, then any interest derived by the foreign company from that loan (being an interest which by virtue of section 8 is derived or deemed to be derived from Nigeria) shall—

(a) if the loan is not repayable by the borrower until after the expiration of a period of not less than ten years, commencing from the date on which the loan is granted, be exempt from tax ;

(b) if the loan is not repayable by the borrower until after the expiration of a period of less than ten years but not less than five years, commencing from the date on which the loan is granted, be chargeable to tax for each relevant year of assessment at half the rate of tax specified in section 28.

(2) If, in any case to which subsection (1) of this section applies, any such event as is mentioned in subsection (3) below occurs, no tax exemption or tax relief, as the case may be, shall be granted or made under the said subsection (1) or, if any such exemption or relief has been granted or made, it shall be withdrawn.

(3) The events referred to in subsection (2) above are—

(a) in a case to which paragraph (a) of subsection (1) of this section applies, the loan is repaid to the foreign company within a period of less than eight years ;

(b) in a case to which paragraph (b) of subsection (1) of this section applies, the loan is repaid to the foreign company within a period of less than four years.

(4) The Federal Executive Council may by order direct that no tax exemption or tax relief shall be made or granted under this section in respect of any foreign loan specified in the order or, if any such exemption or relief has been granted or made, that it shall be withdrawn.

(5) All such additional assessments and adjustments of assessments shall be made as may be necessary for or in consequence of the withdrawal of any exemption or relief under this section, and may be so made at any time.

(6) Interest payable on any foreign loan granted on or after 1st April 1978 shall be exempted from tax as prescribed in Table I in Schedule 3 to this Decree.

(7) Interest payable on any loan granted by a bank on or after 1st April 1978 for the purposes of an agricultural trade or business shall be exempted from tax as prescribed in Table II in Schedule 3 to this Decree.

(8) In this section—

"Agricultural trade or business" means any trade or business connected with—

(a) the establishment or management of plantations for the production of rubber, oil palm, cocoa, coffee, tea and similar crops ;

(b) the cultivation or production of cereal crops, tubers, fruits of all kinds, cotton, beans, groundnuts, sheanuts, beniseed, vegetables, pineapples, bananas and plantains ;

(c) animal husbandry, that is to say, poultry, piggery, cattle rearing and the like and fish farming ;

“foreign company” means any company or corporation (other than a corporation sole) established by or under any law in force in any territory or country outside Nigeria ;

“foreign loan”, in relation to any foreign company, means any loan granted by that company with moneys brought into Nigeria from any territory or country outside Nigeria, or any loan granted by that company in any territory or country outside Nigeria, in a currency other than Nigerian currency.

10. Any company entering into any agreement (whether oral or written) in respect of any service under paragraph (f) of section 8 (1) shall forthwith make a full disclosure to the Board in writing of the terms of such agreement.

Full disclosure of agreement to be made.

11.—(1) The profits of a Nigerian company shall be deemed to accrue in Nigeria wherever they have arisen and whether or not they have been brought into or received in Nigeria.

Nigerian companies.

(2) The profits of a company other than a Nigerian company from any trade or business shall be deemed to be derived from Nigeria to the extent to which such profits are not attributable to any part of the operations of the company carried on outside Nigeria.

12.—(1) Where a company other than a Nigerian company carries on the business of transport by sea or air, and any ship or aircraft owned or chartered by it calls at any port or airport in Nigeria, its profits or loss to be deemed to be derived from Nigeria shall be the full profits or loss arising from the carriage of passengers, mails, livestock or goods shipped, or loaded into an aircraft, in Nigeria :

Companies engaged in shipping or air transport.

Provided that this subsection shall not apply to passengers, mails, livestock or goods which are brought to Nigeria solely for transshipment or for transfer from one aircraft to another or in either direction between an aircraft and a ship.

(2) For the purposes of the preceding subsection, where the Board is satisfied that the taxation authority of any other country computes and assesses on a basis not materially different from that prescribed by this Decree the profits of a company which operates ships or aircraft, and that authority certifies—

(a) the ratio of profits or loss, before any allowance by way of depreciation, of an accounting period to the total sums receivable in respect of the carriage of passengers, mails, livestock or goods ; and,

(b) the ratio of allowances by way of depreciation for that period to that same total,

then the full profits or loss of that period shall be taken to be that proportion of the total sums receivable in respect of the carriage of passengers, mails, livestock or goods shipped or loaded in Nigeria which is produced by applying the first-mentioned ratio to that total, and in place of any allowances to be given under the provisions of Schedule 2 there shall be allowed the amount produced by applying the second-mentioned ratio to that same total.

(3) Where at the time of assessment the provisions of subsection (2) above cannot for any reason be satisfactorily applied, the profits to be deemed to be derived from Nigeria may be computed on a fair percentage on the full sum receivable in respect of the carriage of passengers, mails, livestock and goods shipped or loaded in Nigeria :

Provided that where any company has been assessed for any year by reference to such percentage, it shall be entitled to claim at any time within six years after the end of such year that its liability for that year be recomputed on the basis provided by subsection (2) ; and where such claim has been made and a certificate has been produced to the satisfaction of the Board as provided in that subsection, such repayment of tax shall be made as may be necessary to give effect to this proviso, save that, if the company fails to agree with the Board as to the amount of the tax to be so recomputed and repaid, the Board shall give notice to the company of refusal to admit the claim and the provisions of this Decree with respect to objections and appeals shall apply accordingly with any necessary modifications.

Cable under-
takings.

13. Where a company other than a Nigerian company carries on the business of transmission of messages by cable or by any form of wireless apparatus, it shall be assessable to tax as though it operates ships or aircraft, and the provisions of the preceding section shall apply *mutatis mutandis* to the computation of its profits deemed to be derived from Nigeria as though the transmission of messages to places outside Nigeria were equivalent to the shipping or loading of passengers, mails, livestock or goods in Nigeria.

Insurance
companies.

14.—(1) Notwithstanding anything to the contrary contained in this Decree, it is hereby provided that—

(a) in the case of an insurance company whether proprietary or mutual, other than a life insurance company or a Nigerian company, which carries on business through a permanent establishment in Nigeria, and whose profits accrue in part outside Nigeria, the profits on which tax may be imposed shall be ascertained by taking the gross premiums and interest and other income receivable in Nigeria (less any premium returned to the insured and premiums paid on reinsurances), and deducting from the balance so arrived at a reserve for unexpired risks at the percentage adopted by the company in relation to its operations as a whole for such risks at the end of the period for which the profits are being ascertained, and adding thereto a reserve similarly calculated for unexpired risks outstanding at the commencement of such period; and from the net amount so arrived at deducting the actual losses in Nigeria (less the amount recovered in respect thereof under reinsurance), the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company ;

(b) in the case of a life insurance company whether proprietary or mutual, other than a Nigerian company, which carries on business through a permanent establishment in Nigeria, the profits on which tax may be imposed shall be the investment income less the management expenses, including commission :

Provided that where the profits of such a company accrue in part outside Nigeria, the profits shall be that proportion of the total investment income of the company as the premiums receivable in Nigeria bear to the total premiums receivable, less the agency expenses in Nigeria and a fair proportion of the expenses of the head office of the company :

Provided further that, for the purposes of the foregoing proviso, in the case of such an insurance company having its head office outside Nigeria, the Board may substitute some basis other than that therein prescribed for ascertaining the required proportion of the total investment income :

Provided also that where a life insurance company declares a dividend to be paid to the shareholders from the increase arising from actuarial revaluation, the company shall pay tax on the dividend as if such dividend is the total profit of the company ;

(c) in the case of an insurance company which is a Nigerian company the profits on which tax may be imposed shall be ascertained in accordance with the foregoing provisions of this section as though the whole investment and premium income of the company were received in Nigeria, and all the expenses and other outgoings of the company were incurred in Nigeria.

(2) For the purposes of this section the term "permanent establishment" in relation to an insurance company means a branch, management or other fixed place of business in Nigeria, but does not include an agency in Nigeria unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such company.

(3) For the purposes of this section, references to insurance company include references to any insurer registered under or pursuant to the Insurance Decree 1976.

1976 No. 59.

15. The profits of a company from a dividend received from any other company shall be—

Profits of a company from certain dividends.

(a) if that other company is a Nigerian company, the gross amount of that dividend before the deduction of any tax which that other company has deducted under the provisions of section 31 ;

(b) if that other company is resident in a country to which section 32 applies, the amount of that dividend increased by the amount of any tax imposed in that country relative to that dividend ; and

(c) if that other company is resident in a country to which section 33 applies, the amount of that dividend as computed under the provisions of subsection (5) of section 34 ;

Provided that for the purposes of this section any dividend paid by a Nigerian company and satisfied by the issue of shares of the company paying the dividend shall be excluded from the profits of any other company which is a shareholder in such company.

16. In the case of a company which is neither a Nigerian company nor engaged in a trade or business in Nigeria at any time during a year of assessment—

Nigerian dividends received by companies other than Nigerian companies.

(a) no tax shall be charged on it for that year in respect of any dividend received by it from a Nigerian company in addition to the tax chargeable on the profits of such Nigerian company ; and

(b) nothing in this Decree shall confer on such company a right to repayment for that year of any tax deducted at source from any such dividend.

Certain undistributed profits may be treated as distributed.

17.—(1) Where it appears to the Board that a Nigerian company controlled by not more than five persons, with a view to reducing the aggregate of the tax chargeable in Nigeria on the profits or income of the company and those persons, has not distributed to its shareholders as dividend profits made in any period for which accounts have been made up by such company, which profits could have been distributed without detriment to the company's business as it existed at the end of that period, it may direct that any such undistributed profits of such period be treated as distributed.

(2) Any amount of profits treated as distributed under the provisions of the foregoing subsection shall, for the purposes of this Decree and any enactment in Nigeria imposing tax on the incomes of persons other than companies, be deemed to be profits or income from a dividend accruing to those persons who are shareholders in the company in proportion to their shares in the ordinary capital thereof on such day, and the amount of such profits or income to be taken for assessment in the hands of each such person shall be his due proportion thereof increased by such amount in respect of tax deemed to be deducted at source, as the Board may determine.

(3) Any direction by the Board under this section shall be made in writing and be served upon the company, and shall specify—

- (a) the day to be taken for the purposes of the preceding subsection ;
- (b) the net amount of those profits so deemed to be distributed ;
- (c) the rate of tax deemed to be deducted, being the rate prescribed in section 28 applying on that day ;
- (d) the gross amount which after deduction of tax at the said rate leaves such net amount of those profits ; and
- (e) the net Nigerian rate of tax applicable to those profits, being such rate as would have been computed or agreed by the Board under the provisions of subsection (3) of section 30 if those profits had been distributed by the company as a dividend.

(4) For the purposes of this section the Board may give notice to any company which it has reason to believe is controlled by not more than five persons requiring it to supply within such reasonable time limited in such notice full particulars of its shareholders on any day.

(5) Any direction by the Board under this section with respect to the profits of any accounting period of a company shall be made not later than two years after the receipt by the Board of the duly audited accounts of the company for that period.

(6) A company in respect of which any direction is made under this section shall have a right of appeal in like manner as though for the purposes of Part X such direction were an assessment.

Artificial transactions, etc.

18.—(1) Where the Board is of opinion that any disposition is not in fact given effect to or that any transaction which reduces or would reduce the amount of any tax payable is artificial or fictitious, it may disregard any such disposition or direct that such adjustments shall be made as respects liability to tax as it considers appropriate so as to counteract the reduction of liability to tax affected, or reduction which would otherwise be affected, by the transaction and any company concerned shall be assessable accordingly.

(2) For the purposes of this section—

- (a) "disposition" includes any trust, grant, covenant, agreement or arrangement ;

(b) transactions between persons one of whom either has control over the other or, in the case of individuals, who are related to each other or between persons both of whom are controlled by some other person, shall be deemed to be artificial or fictitious if in the opinion of the Board those transactions have not been made on terms which might fairly have been expected to have been made by persons engaged in the same or similar activities dealing with one another at arm's length.

(3) A company in respect of which any direction is made under this section shall have a right of appeal in like manner as though for the purposes of Part X such direction were an assessment.

19.—(1) There shall be exempt from the tax—

Profits
exempted.

(a) the profits of any company being a statutory or registered friendly society in so far as such profits are not derived from a trade or business carried on by such society ;

(b) the profits of any company being a co-operative society registered under any enactment or law relating to co-operative societies ;

(c) the profits of any company engaged in ecclesiastical, charitable or educational activities of a public character in so far as such profits are not derived from a trade or business carried on by such company ;

(d) the profits of any company formed for the purpose of promoting sporting activities where such profits are wholly expendable for such purpose, subject to such conditions as the Board may prescribe ;

(e) the profits of any company being a trade union registered under the Trade Unions Decree 1973 in so far as such profits are not derived from a trade or business carried on by such trade union ;

1973 No. 31.

(f) interest received by a company from the Federal Savings Bank ;

(g) the profits of any company engaged in petroleum operations, within the meaning of section 2 of the Petroleum Profits Tax Act 1959, shall, in so far as those profits are derived from such operations and liable to tax under that Act, be exempt from the tax imposed under this Decree ; and the foregoing provisions of this paragraph shall be deemed to have come into effect on 1st January 1958 ;

1959 No. 15.

(h) the profits of any company being a body corporate established by or under any Local Government Law or Edict in force in any State in Nigeria ;

(i) the profits of any body corporate being a purchasing authority established by an enactment and empowered to acquire any commodity for export from Nigeria from the purchase and sale (whether for the purposes of export or otherwise) of that commodity ;

(j) the profits of any company or any corporation established by the law of a State for the purpose of fostering the economic development of that State, not being profits derived from any trade or business carried on by that corporation or from any share or other interest possessed by that corporation in a trade or business in Nigeria carried on by some other person or authority ;

(k) any profits of a company other than a Nigerian company which, but for this paragraph, would be chargeable to tax by reason solely of their being brought into or received in Nigeria.

Power
to exempt.

(2) The Federal Executive Council may exempt by order—

(a) any company or class of companies from all or any of the provisions of this Decree ; or

(b) from tax all or any profits of any company or class of companies from any source,

on any ground which appears to it sufficient.

Cap. 85.

(3) The Federal Executive Council may by order amend, add to or repeal any exemption, in so far as it affects a company, made by notice or order under the provisions of subsection (2) or (4) of section 9 of the Income Tax Act and, subject to the foregoing the following notices and order, shall continue in force for all purposes of this Decree—

L.N. 220 of
1943.

(a) the Income Tax Exemption (Interest on Nigerian Public Loans) Notice 1943 ;

L.N. 85 of
1957.

(b) the Income Tax (Exemption) (Nigerian Broadcasting Corporation) Order 1957 ;

L.N. 111 of
1958.

(c) the Railway Loan (International Bank) (Exemption of Interest) Notice 1958.

PART III—ASCERTAINMENT OF PROFITS

Deductions
allowed.

20. Save where the provisions of subsections (2) or (3) of section 12 or of section 14 apply, for the purpose of ascertaining the profits or loss of any company of any period from any source chargeable with tax under this Decree there shall be deducted all expenses for that period by that company wholly, exclusively, necessarily and reasonably incurred in the production of those profits including, but without otherwise expanding or limiting the generality of the foregoing—

(a) any sum payable by way of interest on any money borrowed and employed as capital in acquiring the profits ;

(b) rent for that period, and premiums the liability for which was incurred during that period, in respect of land or building occupied for the purposes of acquiring the profits, subject, in the case of residential accommodation occupied by employees of the company, to a maximum of—

(i) ₦28,000 per annum for each building and ₦14,000 per annum for each flat in the Lagos area, and

(ii) ₦20,000 per annum for each building and ₦5,000 per annum for each flat in any other part of Nigeria ; and the provisions of this paragraph shall be deemed to have come into effect on 1st April 1976 ;

(c) any expense incurred for repair of premises, plant, machinery or fixtures employed in acquiring the profits; or for the renewals, repair or alteration of any implement, utensil or articles so employed ;

(d) bad debts incurred in the course of a trade or business proved to have become bad during the period for which the profits are being ascertained, and doubtful debts to the extent that they are respectively estimated to the satisfaction of the Board to have become bad during the said period notwithstanding that such bad or doubtful debts were due and payable before the commencement of the said period :

Provided that—

(i) where in any period a deduction under this paragraph is to be made as respects any particular debt, and a deduction has in any previous period been allowed either under the Companies Income Tax Act 1961 or this Decree in respect of the same debt, the appropriate reduction shall be made in the deduction to be made for the period in question ;

1961 No. 22.

(ii) all sums recovered during the said period on account of amounts previously written off or allowed either under the Companies Income Tax Act 1961 or this Decree in respect of bad or doubtful debts shall for the purposes of this Decree be deemed to be profits of the trade or business of that period ;

(iii) it is proved to the satisfaction of the Board that the debts in respect of which a deduction is claimed either were included as a receipt of the trade or business in the profits of the year within which they were incurred, or were advances not falling within the provisions of the trade or business in the profits of the year within which they were incurred, or were advances not falling within the provisions of paragraph (a) of section 22 made in the course of normal trading or business operations ;

(e) any contribution to a pension, provident or other retirement benefits fund, society or scheme approved by the Joint Tax Board under the powers conferred upon it by paragraph (f) of section 17 of the Income Tax Management Act 1961, subject to the provisions of the Fourth Schedule to the Act and to any conditions imposed by that Board ; and any contribution other than a penalty made under the provisions of any enactment establishing a national provident fund or other retirement benefits scheme for employees throughout Nigeria ;

1961 No 21.

(f) in the case of the Nigerian Railway Corporation such deductions as are allowed under the provisions of the Authorised Deductions (Nigerian Railway Corporation) Rules 1959, which Rules shall continue in force for all purposes of this Decree ;

L.N. 195 of
1959.

(g) in the case of profits from a trade or business, any expense or part thereof—

(i) the liability for which was incurred during that period wholly, exclusively, necessarily and reasonably for the purposes of such trade or business and which is not specifically referable to any other period or periods ; or

(ii) the liability for which was incurred during any previous period wholly, exclusively, necessarily and reasonably for the purposes of such trade or business and which is specifically referable to the period of which the profits are being ascertained ;

which is not deductible under any other provision of this section ;

(h) such other deduction as may be prescribed by the Commissioner by any rule.

Deductible donations.

21.—(1) Subject to the provisions of this section and notwithstanding anything contained in section 20 of this Decree, for the purpose of ascertaining the profits or loss of any company for any period from any source chargeable with tax under this Decree, there shall be deducted the amount of any donations made for that period by that company to any fund, body or institution in Nigeria to which this section applies.

(2) Without prejudice to section 22 it is hereby declared for the avoidance of doubt that the provisions of subsection (1) of this section shall have effect if, but only if, the donations are made out of the profits of the company, and are not expenditure of a capital nature.

(3) Except to such extent (if any) as the Federal Executive Council may by order in the *Gazette* otherwise direct, any deduction to be allowed to any company, under subsection (1) of this section, for any year of assessment shall not exceed an amount which is equal to ten *per centum* of the total profits of that company for that year as ascertained before any deduction is made under this section.

(4) There shall be excluded from the sum allowable as a deduction under this section any outgoings and expenses which are allowable as deductions under section 20.

(5) This section shall apply to—

(a) the public funds ;

(b) the statutory bodies and institutions ;

(c) the ecclesiastical, charitable, benevolent, educational and scientific institutions,

established in Nigeria, which are specified in Schedule 5.

(6) The Commissioner may by order in the *Gazette* amend the said Schedule in any manner whatsoever :

Provided that no fund, body or institution shall be added to that Schedule, in exercise of the powers conferred under the foregoing provisions of this subsection, unless the fund is a public fund established in Nigeria, or the body or institution is a statutory body or institution, or is a body or institution of a public character, established in Nigeria.

(7) In this section references to donations made by a company do not include references to any payments made by the company for valuable consideration.

Deductions not allowed.

22. Notwithstanding any other provision of this Decree, no deduction shall be allowed for the purpose of ascertaining the profits of any company in respect of—

(a) capital repaid or withdrawn and any expenditure of a capital nature ;

(b) any sum recoverable under an insurance or contract of indemnity ;

(c) taxes on income or profits levied in Nigeria or elsewhere, other than tax levied outside Nigeria on profits which are also chargeable to tax in Nigeria where relief for the double taxation of those profits may not be given under any other provision of this Decree ;

(d) any payment to a savings, widows and orphans, pension, provident or other retirement benefits fund, society or scheme except as permitted by paragraph (e) of section 20 ;

(e) the depreciation of any asset;

(f) any sum reserved out of profits, except as permitted by paragraph (d) of section 20 or 21 or as may be estimated to the satisfaction of the Board, pending the determination of the amount, to represent the amount of any expense deductible under the provisions of that section the liability for which was irrevocably incurred during the period for which the income is being ascertained;

(g) any expense of any description incurred outside Nigeria for and on behalf of any company except of the nature and to the extent as the Board may consider allowable.

23. When a deduction has been allowed to a company under the provisions of section 20 or 21 in respect of any liability of, or any expense incurred by, that company and such liability is waived or released or such expense is refunded to the company, in whole or in part, then the amount of that liability or expense which is waived, released or refunded as the case may be shall be deemed to be profits of the company on the day on which such waiver, release or refund was made or given.

Waiver or refund of liability or expenses.

PART IV—ASCERTAINMENT OF ASSESSABLE PROFITS

24.—(1) Save as provided in this section, the profits of any company for each year of assessment from such source of its profits (hereinafter referred to as the assessable profits) shall be the profits of the year immediately preceding the year of assessment from each such source.

Basis for computing assessable profits.

(2) When the Board is satisfied that a company makes or intends to make up accounts of its trade or business to some day other than the 31st day of March it may direct that the assessable profits of that company shall be computed on the amount of the profits of the year ending on that day in the year preceding the year of assessment :

Provided that where the assessable profits of a company have been computed by reference to accounts made up to a certain day, and such company fails to make up an account to the corresponding day in the year following the assessable profits of that company for the year of assessment in which such failure occurs and for two years of assessment next following shall be computed on such basis as the Board in its discretion may decide.

(3) The assessable profits of any company from any trade or business for the year of assessment in which it commenced to carry on such trade or business (or in the case of a company other than a Nigerian company, for the year of assessment in which it commenced to carry on such trade or business in Nigeria) and for the two following years of assessment (which years are in this subsection respectively referred to as "the first year", "the second year", and "the third year") shall be ascertained in accordance with the following provisions—

New trade or business.

(a) for the first year the assessable profits shall be the profits of that year ;

(b) for the second year the assessable profits shall, unless such notice as hereinafter mentioned is given, be the amount of the profits of one year from the date of the commencement of the trade or business as determined for the purposes of paragraph (a) of this subsection ;

(c) for the third year the assessable profits shall, unless such notice as hereinafter mentioned is given, be computed in accordance with subsection (1) of this section ;

(d) a company shall be entitled, on giving notice in writing to the Board within two years after the end of the second year, to require that the assessable profits both for the second year and the third year (but not for one or other only of those years) shall be the profits of the respective years of assessment :

Provided that the company may, by notice in writing given to the Board within twelve months after the end of the third year revoke the notice, and in such case the assessable profits both for the second year and the third year shall be computed as if the first notice had never been given ;

(e) where such notice as aforesaid has been given or revoked, such additional assessments or such reductions of assessments or repayments of tax shall be made as may be necessary to give effect to paragraph (d) of this subsection :

Provided that if the company fails to agree with the Board as to the amount of any reduction of an assessment or repayment of tax, the Board shall give notice to the company of refusal to admit such reduction or repayment and the provisions of Part X of this Decree shall apply accordingly with any necessary modifications as though such notice were an assessment.

Cessation
of trade
or business.

(4) Where a company permanently ceases to carry on a trade or business (or in the case of a company other than a Nigerian company, permanently ceases to carry on a trade or business in Nigeria) its assessable profits therefrom shall be—

(a) as regards the year of assessment in which the cessation occurs, the amount of the profits of that year ;

(b) as regards the year of assessment preceding that in which the cessation occurs, the amount of the profits as computed in accordance with the foregoing subsections, or the amount of the profits of such year, which ever is the greater ;

and the company shall not be deemed to derive assessable profits from such trade or business for the year of assessment following that in which the cessation occurs.

(5) Where the provisions of subsection (4) of this section apply, such additional assessments or, on a claim being made by the company for this purpose in writing, such reductions of assessments or repayments of tax shall be made as may be necessary to give effect to these provisions :

Provided that, if the company fails to agree with the Board as to the amount of any reduction of an assessment or repayment of tax, the Board shall give notice to the company of refusal to admit the claim to such reduction or repayment and the provisions of Part X of this Decree shall apply accordingly with any necessary modifications as though such notice were an assessment.

(6) Where in the case of any trade or business it is necessary in order to arrive at the profits of any year of assessment or other period to allocate or apportion to specific periods the profits or loss of any period for which accounts have been made up, or to aggregate any such profits or loss or apportioned parts thereof, it shall be lawful to make such allocation, apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days in the respective periods unless the Board, having regard to any special circumstances, otherwise directs.

Apportionment of profits.

(7) Where after the date on which a company has permanently ceased to carry on a trade or business (as determined for the purposes of subsection (4) of this section) the company, its receivers or liquidators, receive or pay any sum which would have been included in or deducted from the profits of that trade or business if it had been received or paid prior to that date, such sum shall be deemed for all purposes of this Decree to have been received or paid by the company on the last day before such cessation occurred.

Receipts and payments after cessation of a trade or business.

(8) Where a company is engaged in a trade or business in partnership with any other person in Nigeria, that trade or business shall be deemed to constitute a separate source of profits, and the assessable profits of the company from that source shall be determined under the provisions of the Income Tax Management Act 1961 in like manner as would be the assessable income of any individual partner in that partnership :

Certain partnerships.

1961 No. 21.

Provided that, with respect to any asset of such partnership, where any annual, initial or balancing allowance or charge would fall to be given to or made upon the company for any year under the provisions of the Fifth Schedule to that Act, if the company were an individual partner in that partnership, such allowance or charge shall be given or made as though due under the provisions of Schedule 2 and in place of any other allowance or charge arising thereunder with respect to the same asset.

(9) Where a trade or business carried on by a company is sold or transferred to a Nigerian company or business or the transfer of its management to Nigeria and any asset employed in such trade or business is sold or transferred, if the Board is satisfied that one company has control over the other or that both are controlled by some other person or are members of a recognised group of companies, the Board may in its discretion direct that—

Trades or businesses sold or transferred.

(a) the provisions of subsections (3) and (4) of this section shall not apply to such trade or business ; and

(b) for the purposes of Schedule 2 each such asset shall be deemed to have been sold for an amount equal to the residue of the qualifying expenditure thereon on the day following such sale or transfer ; and

(c) the company acquiring each such asset shall not be entitled to any initial allowance with respect to that asset under the said Schedule and any allowances deemed to have been received by the vendor company under the provisions of this paragraph :

Provided that the Board in its discretion—

(i) may require either company directly affected by any such direction which is under consideration by the Board to guarantee or give security, to the satisfaction of the Board, for payment in full of all tax due or to become due by the company selling or transferring such trade or business; and

(ii) may impose such conditions as it sees fit on either or both the companies directly affected ;

and in the event of failure by either company to carry out or fulfil such guarantee or conditions the Board may revoke the direction and make all such additional assessments or repayments of tax as may be necessary so as to give effect to such revocation.

For the purposes of this subsection, reference to a trade or business shall include references to any part thereof.

Trade or
business
transferred
under Part X
of the
Companies
Decree 1968,
etc. 1968
No. 51.

(10) Where, in pursuance of Part X of the Companies Decree 1968, a company (hereinafter in this subsection referred to as "the reconstituted company") is incorporated under that Decree to carry on any trade or business previously carried on in Nigeria by a foreign company and the assets employed in Nigeria by the foreign company in that trade or business vest in the reconstituted company, then, if the Board is satisfied that the trade or business carried on by the reconstituted company immediately after the incorporation of that company under the Decree is not substantially different in nature from the trade or business previously carried on in Nigeria by the foreign company, the following provisions of this subsection shall have effect, that is—

(a) the provisions of subsections (3) and (4) of this section shall not apply to the trade or business carried on by the reconstituted company ;

(b) for the purposes of Schedule 2 the assets so vested in the reconstituted company shall be deemed to have been sold to it, on the day of the incorporation of that company, for an amount equal to the residue of the qualifying expenditure thereon on the day following the day on which the trade or business previously carried on in Nigeria by the foreign company ceased ; and

(c) the reconstituted company shall not be entitled to any initial allowances as respects those assets and shall be deemed to have received all allowances given to the foreign company in respect of those assets under Schedule 2 and any allowances deemed to have been received by the foreign company under the provisions of this paragraph or subsection (9) of this section ; and

(d) subject to subsection (11) of this section, the amount of any loss incurred during any year of assessment by the foreign company in the said trade or business previously carried on by it in Nigeria, being a loss which has not been allowed against any assessable profits or income of that company for any such year, under the provisions of this Decree or the corresponding provisions of the Companies Income Tax Act 1961 or the Income Tax Act, shall be deemed to be a loss incurred by the reconstituted company in its trade or business during the year of assessment in which its trade or business commenced ; and the amount of that loss shall, in accordance with section 26, be deducted from the assessable profits of the reconstituted company ;

(e) no deduction shall be made under paragraph (d) of this subsection in respect of any loss to which that paragraph related—

(i) except to the extent (if any) to which it is proved by the reconstituted company to the satisfaction of the most senior officer in the Industrial Inspectorate Division of the Federal Ministry of Industries (hereinafter in this subsection referred to as "the Director") that the

1961 No. 22.
Cap 85.

loss was not the result of any damage or destruction caused by any military or other operations connected with the civil war in which Nigeria was engaged and which ended on 15th January 1970 :

Provided that the Federal Executive Council may by order direct that, to the extent specified in the order, a deduction under paragraph (d) of this subsection shall be made in respect of a loss which was the result of any damage or destruction caused by any military or other operations connected with the said civil war ;

(ii) unless within three years after the incorporation of the reconstituted company a claim for the deduction is lodged by that company with the Director and a copy of the claim is forwarded by that company to the Board ; and

(f) any deduction to which paragraph (d) of this subsection applies shall be made as far as possible from the amount, if any, of the assessable profits of the reconstituted company for the year of assessment in which its trade or business commenced and, so far as it cannot be so made, then from the amount of the assessable profits of the next year of assessment, and so on but such deductions shall not be made against the profits of the company after the fourth year from the commencement of such business.

In this subsection "foreign company" means a company incorporated outside Nigeria before 18th November 1968, and having on that date an established place of business in Nigeria.

(11) For the purposes of subsections (9) and (10) of this section, the Board may by notice require any person (including a company to which any assets have vested in pursuance of Part X of the Companies Decree 1968) to prepare and deliver to the Board any returns specified in the notice or any such information as the Board may require about the assets ; and it shall be the duty of that person to comply with the requirements of any such notice within the period specified in the notice, not being a period of less than twenty-one days from the service thereof.

Board may call for returns and information relating to certain assets, etc.
1968 No. 51.

25.—(1) Notwithstanding section 28, where in respect of any trade or business carried on in Nigeria by any company (whether or not part of the operations of the business are carried on outside Nigeria) it appears to the Board that for any year of assessment, the trade or business produces either no assessable profits or assessable profits which in the opinion of the Board are less than might be expected to arise from that trade or business or, as the case may be, the true amount of the assessable profits of the company cannot be readily ascertained, the Board may, in respect of that trade or business, and notwithstanding any other provision of this Decree—

Board's power to assess and charge on turn-over of trade or business.

(a) if the company is a Nigerian company, assess and charge that company for that year of assessment on such fair and reasonable percentage of the turn-over of the trade or business as the Board may determine ;

(b) if the company is a company other than a Nigerian company, assess and charge that company for that year of assessment on such fair and reasonable percentage of that part of the turn-over of the trade or business attributable to the operations carried on in Nigeria, as the Board may determine.

(2) The provisions of this Decree as to notice of assessment, additional assessment, appeal and other proceedings shall apply to an assessment or additional assessment made under this section as they apply to an assessment or additional assessment made under any other section of this Decree.

PART V—ASCERTAINMENT OF TOTAL PROFITS

Total
profits from
all sources.

26.—(1) The total profits of any company for any year of assessment shall be the amount of its total assessable profits from all sources for that year together with any additions thereto to be made in accordance with the provisions of Schedule 2, less any deductions to be made or allowed in accordance with the provisions of this section, section 27 and of the said Schedule.

(2) Subject to the provisions of subsection (4) of this section there shall be deducted—

(a) the amount of a loss which the Board is satisfied has been incurred by the company in any trade or business during any preceding year of assessment :

Provided that—

(i) in no circumstances shall the aggregate deduction from assessable profits or income in respect of any such loss exceed the amount of such loss ; and

(ii) a deduction under this section for any particular year of assessment shall not exceed the amount, if any, of the assessable profits, included in the total profits for that year of assessment, from the trade or business in which the loss was incurred and shall be made as far as possible from the amount of such assessable profits of the first year of assessment after that in which the loss was incurred and, so far as it cannot be so made, then from such amount of such assessable profits of the next year of assessment, and so on ; but such deductions shall not be made against the profits of the company after the fourth year from the year of commencement of such business ;

(b) the amount of any loss which, under paragraph (d) of subsection (10) of section 24 is deemed to be a loss incurred by the company during the year of assessment in which its trade or business commenced, so however that any deduction in respect of that loss shall be made as provided under paragraph (f) of that subsection.

(3) The amount of loss incurred by a company engaged in an agricultural trade or business for the year of assessment in which it commenced to carry on such trade or business shall be deducted as far as possible from the assessable profits of the first year of assessment after that in which the loss was incurred and so far as it cannot be so made, then from such amount of such assessable profits of the next year of assessment, and so on (without limit as to time) until the loss has been completely set off against the company's subsequent assessable profits.

(4) For the purposes of subsection (2) of this section the loss incurred during any year of assessment shall be computed, where the Board so decides, by reference to the year ending on a day in such year of assessment which would have been adopted under subsection (2) of section 24 for the computation of assessable profits for the following year of assessment if such profits had arisen.

(5) Where under the provisions of subsection (6) of section 24 for the purpose of computing the profits of a period from a source chargeable with tax under this Decree, being a period the profits of which are assessable profits from that source for any year, it has been necessary to allocate or apportion to specific periods which fall within that whole period both profits

and losses, then no deduction shall be made under the provisions of subsection (2) of this section in respect of the loss or apportioned part thereof referable to any such specific period except to the extent that such loss or part thereof exceeds the aggregate profits apportioned to the remaining specific period or periods within that whole period.

27.—(1) Subject to the provisions of this section, where—

Recon-
struction
investment
allowance.

(a) any asset in respect of which a company has incurred qualifying expenditure is damaged or destroyed in any part of Nigeria at any time during the period commencing on 16th July 1967 and ending with 15th January 1970, as a direct result of any military or other operations which in the opinion of the Board are connected with the civil war in Nigeria; and

(b) the company, on or after 1st April 1969, incurs expenditure in acquiring a new asset as a replacement of the asset which is so damaged or destroyed,

there shall be allowed to that company a reconstruction allowance in respect of the expenditure incurred on the new asset (hereinafter in this section referred to as "an investment allowance").

(2) An investment allowance shall be calculated at the rate of twenty-five *per centum* of the expenditure in respect of which it is made, and shall be in addition to an initial allowance under Schedule 2 to this Decree.

(3) Any provisions of Schedule 2 applicable to an initial allowance shall also apply to an investment allowance under this section, except that an investment allowance shall not be taken into account in ascertaining the residue of qualifying expenditure, in respect of an asset, for the purpose of the said Schedule.

(4) If in the case of any qualifying expenditure incurred on the new asset any such event as is mentioned in the next following subsection occurs within a period of five years beginning with the date on which the expenditure was incurred, no investment allowance shall be made in respect of the expenditure or if such allowance has been made before the occurrence of the event it shall be withdrawn.

(5) The events referred to in subsection (4) of this section are—

(a) any sale or transfer of the asset representing the expenditure made by the company incurring the expenditure otherwise than to a person acquiring the asset for a chargeable purpose or for scrap;

(b) any appropriation of the asset representing the expenditure made by the company incurring the expenditure to a purpose other than a chargeable purpose;

(c) any sale, or transfer or other dealing with the asset representing the expenditure by the company incurring the expenditure, being a case where it appears that the expenditure was incurred in contemplation of the asset being so dealt with, and being a case where it is shown either—

(i) that the purpose of obtaining tax allowances was the sole or main purpose of the company for incurring the expenditure or for so dealing with the asset; or

(ii) that the incurring of the expenditure and the asset being so dealt with were not *bona fide* business transactions, or were artificial or fictitious transactions, and were designed for the purpose of obtaining tax allowances.

(6) A company incurring any expenditure in respect of which an investment allowance has been made and has not been withdrawn shall give notice to the Board if, to the knowledge of the company, any of the events as is mentioned in subsection (5) of this section occurs at any time before the expiration of five years beginning with the date when the expenditure was incurred.

(7) Any notice of a sale or transfer given under subsection (6) of this section shall state the name and address of the person to whom the sale or transfer is made.

(8) Where an asset in respect of which an investment allowance has been made is sold or transferred it shall be the duty of the purchaser or transferee, and of the personal representatives of any such person on being required to do so by any officer duly authorised by the Board to give that officer all such information as he may require, and as they have or can reasonably obtain, about any sale or transfer of the asset representing the expenditure or about any other dealing with the asset.

(9) Any person who, without reasonable excuse, fails to comply with this section shall be guilty of an offence and liable on conviction to a penalty not exceeding ₦100 plus the amount of tax lost by the granting of the investment allowance made in respect of the expenditure in question.

(10) All such additional assessments and adjustments of assessments shall be made as may be necessary in consequence of the withdrawal of any investment allowance, and may be so made at any time.

(11) For the purposes of this section—

“artificial or fictitious transactions” has the same meaning as in section 18 ;

“chargeable purpose” means the purpose of putting the assets to a use such that profits accrue or are intended to accrue therefrom and will be chargeable tax ;

“initial allowance” has the same meaning as in Schedule 2 to this Decree ;

“qualifying expenditure” has the same meaning as in Schedule 2 to this Decree.

PART VI — RATE OF TAX, DEDUCTION OF TAX FROM DIVIDENDS AND RELIEF FOR DOUBLE TAXATION

Rates of tax.

28.—(1) There shall be levied and paid for each year of assessment in respect of the total profits of every company tax at the rate of forty-five kobo for each naira, so however that for the year of assessment 1978-79 it shall be at the rate of fifty kobo for every naira.

(2) In addition to any levy made pursuant to subsection (1) of this section, there shall, as from the assessment year commencing on 1st April 1978, be levied and paid a special levy of ten *per cent* on excess profits of every bank (as defined in section 41 of the Banking Decree 1969) and for the purposes of this subsection, excess profits means the difference between total profits as computed in accordance with section 26 and normal profits as calculated in accordance with subsection (3) of this section.

(3) For the purposes of subsection (2) of this section, normal profit shall be determined by the addition of the amounts arrived at after applying the percentages specified below to the amount of capital employed or other matter specified as hereunder tabulated, that is to say :—

Paid-up capital.....	40%
Capital or statutory reserve.....	20%
General reserve.....	20%
Long-term loans.....	20%

(4) Subject to the provisions of section 25, if a company is engaged in the building or construction industry, the company shall be assessed and charged for each year of assessment tax either—

(a) at the rate of $2\frac{1}{2}$ per centum of the turn-over of the trade or business of that company or, as the case may be, of that part of the turn-over of the trade or business attributable to the operations carried out in Nigeria ; or

(b) at the rate provided for in subsection (1) of this section, whichever is higher.

29.—(1) Every Nigerian company shall be entitled to relief from the tax in the manner and to the extent hereinafter provided.

Relief from
the tax.

(2) Relief from the tax shall be given at a rate equal to the full rate of tax upon the first ₦6,000 of the total profits of such a company:

Provided that where the Board is of opinion that any remuneration charged in the accounts of a company in respect of any director's services to the company is excessive in relation to those services or the nature or extent of the trade or business carried on, it may direct that the whole or any part of that remuneration be treated as forming part of the total profits of the company for the purpose of determining the amount by which the profits to be relieved of tax shall be reduced under the foregoing provisions of this subsection.

(3) No relief shall be granted under this section to any company formed to acquire the whole or any part of trade or business previously carried on by another company.

(4) Where a company has applied any profits in respect to which relief has been given under the provisions of this section either—

(a) in payment of any dividend, other than a dividend in the form of shares arising from the capitalisation of profits ; or

(b) in reduction of paid-up share capital ; or

(c) in making any loan to any director of the company ;

the Board in its discretion may make such assessments to tax upon the company as will counteract the benefit of such relief attributable to the profits so applied.

(5) Where a company to which relief has been given under the provisions of this section is wound up or liquidated for purposes which include, in the opinion of the Board, the transfer of the benefit of such relief to the shareholders, such assessments to tax shall be made upon the receiver or liquidator in the name of the company as will counteract the benefit of all such relief which is not counteracted by assessment under the provisions of the preceding subsection.

Dividends
and tax on
interim
dividends
paid by
Nigerian
companies.

30.—(1) In respect of every dividend paid by a Nigerian company, being a dividend to which the proviso to section 15 applies, the company shall issue to each of its shareholders a certificate setting out the amount thereof to which such shareholder is entitled and describing the profits out of which the dividend is paid, and the company shall not be entitled to deduct tax from any such dividend on payment thereof.

(2) In respect of every dividend paid by a Nigerian company not being a dividend specified in the preceding subsection the company shall issue to each of its shareholders a certificate setting out—

(a) the net amount of the dividend to be paid or credited to that shareholder ;

(b) the gross amount which after deduction of tax at the rate prescribed in section 28 for the year of assessment in which payment of the dividend becomes due leaves that net amount ;

(c) the amount of the tax so deducted ;

(d) the accounting period or periods, if any, of the company out of the profits of which the dividend is declared to be payable, and the date on which payment is due ; and

(e) the net Nigerian rate of tax applicable to the dividend.

(3) For the purposes of subsection (2) the net Nigerian rate of tax applicable to a dividend shall be the rate computed or agreed by the Board in the following manner—

(a) where the accounting period of a company out of the profits of which a dividend is declared to be wholly payable coincides with any single basis period of that company for a year of assessment (as determined under the provisions of Part IV) the net Nigerian rate of tax applicable to that dividend shall be computed by dividing the tax payable by the company for that year of assessment after deduction of any relief given under the provisions of section 32 or 34 by the distributable profits, as shown by the accounts of the company, arising during that period, before deduction of any tax but after deduction of any profits specified in subsection (1) of this section ;

(b) in any other case, the net Nigerian rate of tax applicable to the dividend shall be determined by the Board as may appear to it to be just and equitable :

Provided that in no case shall the net Nigerian rate of tax applicable to a dividend exceed the rate specified by section 28 for the year of assessment in which payment of the dividend becomes due.

(4) Within fourteen days thereof every Nigerian company shall supply full particulars to the Board of each dividend declared, and on request of the Board shall supply a list of the shareholders to whom the dividend is payable showing their respective shares therein.

(5) In the event that the net Nigerian rate of tax applicable to a dividend has not been agreed or computed by the Board before the date on which payment of that dividend becomes due, the certificate to be given for the purposes of subsection (2) of this section shall so specify, and no repayment out of tax deducted from that dividend shall be made to any shareholder until that rate has been finally determined.

(6) Nothing in this section shall be construed as requiring a company to deduct tax from a dividend that is not paid in money.

(7) Notwithstanding the foregoing provisions of this section, every company, declaring an interim dividend to its shareholders, shall pay tax in accordance with the provisions of this Decree to the Board within thirty days of the declaration.

31.—(1) Where any dividend paid by a Nigerian company, or any amount of profits treated under the provisions of section 17 as distributed by any such company is included in the assessment, the tax deducted from that dividend under the provisions of subsection (2) of section 30 or deemed to have been deducted under the provisions of subsection (2) of section 17 shall be set-off against the tax payable by that other company for that year.

Set-off and repayment of tax deducted from dividends.

(2) Subject to the provisions of subsection (5) of section 30 where any amount to be set-off under the provisions of subsection (1) of this section against the tax payable by a company exceeds the amount of such tax (after all other reliefs afforded by this Decree have been given) the amount of that excess shall be repayable by the Board to the company :

Provided that where the net Nigerian rate of tax applicable to any sum so included in the assessable profits of a company is less than the rate of tax deducted or deemed to be deducted from that sum, repayment shall only be made of any excess of the aggregate of tax at the net Nigerian rate on each sum so included over the tax payable by the company after all other reliefs as aforesaid have been given.

32.—(1) If any Nigerian company which has paid, by deduction or otherwise, or is liable to pay, tax under this Decree for any year of assessment on any part of its profits proves to the satisfaction of the Board that it has paid, by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year in respect of the same part of its profits, it shall be entitled to relief from tax paid or payable by it under this Decree on that part of its profits at a rate thereon to be determined as follows :—

Relief in respect of Commonwealth income tax.

(a) if the Commonwealth rate does not exceed one-half of the rate of tax under this Decree, the rate at which relief is to be given shall be the Commonwealth rate of tax ;

(b) in any other case the rate at which relief is to be given shall be half the rate of tax under this Decree.

(2) If any company, other than a Nigerian company which has paid, by deduction or otherwise, or is liable to pay, tax under this Decree for any year of assessment on any part of its profits proves to the satisfaction of the

Board that it has paid, by deduction or otherwise, or is liable to pay, Commonwealth income tax for that year of assessment in respect of the same part of its profits, it shall be entitled to relief from tax paid or payable by it under this Decree on that part of its profits at a rate thereon to be determined as follows :—

(a) if the Commonwealth rate of tax does not exceed the rate of tax under this Decree, the rate at which relief is to be given shall be one-half of the Commonwealth rate of tax ;

(b) if the Commonwealth rate of tax exceeds the rate of tax under this Decree, the rate at which relief is to be given shall be equal to the amount by which the rate of tax under this Decree exceeds one-half of the Commonwealth rate of tax.

(3) For the purposes of this section—

“Commonwealth income tax” means any tax on income or profits of companies charged under a law in force in any country within the Commonwealth or in the Republic of Ireland which provides for relief from tax charged both in that country and Nigeria in a manner corresponding to the relief granted by this section ;

“the rate of tax” under this Decree of a company for any year of assessment means the rate determined by dividing the amount of tax imposed for that year (before the deduction of any double taxation relief granted by this Part) by the amount of the total profits of the company for that year, and the Commonwealth rate of tax shall be determined in a similar manner.

(4) Any claim for relief from tax for any year of assessment under this section shall be made not later than six years after the end of that year, and if the claim is admitted, the amount of the tax to be relieved shall be repaid out of the tax paid for that year of assessment or set-off against the tax which the company is liable to pay for that year of assessment :

Provided that if the company fails to satisfy the Board as to the amount of the tax to be relieved, the Board shall give notice of refusal to admit the claim and the provisions of Part X shall apply accordingly with any necessary modifications as though such notice were an assessment.

Double taxation arrangements.

33.—(1) If the Commissioner by order declares that arrangements specified in the order have been made with the Government of any country outside Nigeria with a view to affording relief from double taxation in relation to tax imposed on profits charged by this Decree and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements should have effect, the arrangements shall have effect notwithstanding anything in this Decree.

(2) On the making of an order under this section with respect to arrangements made with the Government of any Commonwealth country or the Republic of Ireland, section 32 shall cease to have effect as respects that country and shall be deemed to have ceased to have had effect as from the beginning of the first year of assessment for which the arrangements are expressed to apply except in so far as the arrangements otherwise provide.

(3) Where any arrangements have effect by virtue of this section any obligation as to secrecy in this Decree shall not prevent the disclosure to any authorised officer of the Government with which the arrangements are made of such information as is required to be disclosed under the arrangements.

(4) The Commissioner may make rules for carrying out the provisions of any arrangements having effect under this section.

(5) An order made under the provisions of subsection (1) of this section may include provisions for relief from tax for periods commencing or terminating before the making of the order and provisions as to profits which are not themselves liable to double taxation.

34.—(1) The provisions of this section shall have effect where, under arrangements having effect under section 33, foreign tax payable in respect of any profits in the country with the Government of which the arrangements are made is to be allowed as a credit against tax payable in respect of those profits under this Decree ; and in this section "foreign tax" means any tax payable in that country which under the arrangements is to be so allowed.

Method of calculating relief to be allowed for double taxation.

(2) The amount of the tax chargeable in respect of the profits which are liable to both tax and foreign tax shall be reduced by the amount of the credit admissible under the terms of the arrangement :

Provided that no credit shall be allowed to a company for a year of assessment unless during some part of that year it was a Nigerian company.

(3) The credit shall not exceed the amount which would be produced by computing, in accordance with the provisions of this Decree, the amount of the profits which are liable to both tax and foreign tax, and then charging that amount to tax at a rate ascertained by dividing the tax chargeable (before the deduction of any double taxation relief granted by this Part) on the total profits of the company entitled to the profits by the amount of the total profits.

(4) Without prejudice to the provisions of subsection (3) of this section, the total credit to be allowed to a company for a year of assessment for foreign tax under all arrangements having effect under section 33 shall not exceed the total tax payable by it for that year of assessment.

(5) In computing the amount of the profits —

(a) no deduction shall be allowed in respect of foreign tax (whether in respect of the same or any other profits) ;

(b) where tax chargeable depends on the amount received in Nigeria the said amount shall be increased by the appropriate amount of the foreign tax in respect of the profits ; and

(c) where the profits include a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be given against tax in respect of the dividend, the amount of the profits shall be increased by the amount of the foreign tax not so chargeable which falls to be taken into account in computing the amount of the credit, but notwithstanding anything in the preceding provisions of this subsection a deduction shall be allowed of any amount by which the foreign tax in respect of the profits exceeds the credit thereof.

(6) Paragraphs (a) and (b) of subsection (5) of this section, but not the remainder thereof shall apply to the computation of total profits for the purpose of determining the rate mentioned in subsection (3) of this section, and shall apply thereto in relation to all profits in respect of which credit falls to be given for foreign tax under arrangements for the time being in force under section 33.

(7) Where—

(a) the arrangements provide, in relation to dividends of some classes but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be given against tax in respect of the dividends ; and

(b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if the dividend is paid to a company which controls, directly or indirectly, not less than one-half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

(8) Credit shall not be allowed under the arrangements against tax chargeable in respect of the profits of a company for any year of assessment if the company elects that credit shall not be allowed in the case of those profits for that year.

(9) Any claim for an allowance by way of credit shall be made not later than two years after the end of the year of assessment, and in the event of any dispute as to the amount allowable the claim shall be subject to objection and appeal in like manner as an assessment.

(10) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable in Nigeria or elsewhere, nothing in this Decree limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than two years from the time when all such assessments, adjustments and other determinations have been made, whether in Nigeria or elsewhere, as are material in determining whether any, and if so what, credit falls to be given.

PART VII—PERSONS CHARGEABLE, AGENTS, LIQUIDATORS, ETC.

Charge-
ability to tax.

35. A company shall be chargeable to tax—

(a) in its own name ; or

(b) in the name of any principal officer, attorney, factor, agent or representative of the company in Nigeria in like manner and to like amount as such company would be chargeable ; or

(c) in the name of a receiver or liquidator, or of any attorney, agent or representative thereof in Nigeria, in like manner and to like amount as such company would have been chargeable if no receiver or liquidator had been appointed.

Manager,
etc., to be
answerable.

36. The principal officer or manager in Nigeria of every company shall be answerable for doing all such acts, matters and things as are required to be done by virtue of this Decree for the assessment of the company and payment of the tax.

37.—(1) The Board may by notice in writing appoint any person to be the agent of any company and the person so declared the agent shall be agent of such company for the purposes of this Decree, and may be required to pay any tax which is or will be payable by the company from any moneys which may be held by him for, or due by or to become due by him to, the company whose agent he has been declared to be, and in default of such payment the tax shall be recoverable from him.

Power to
appoint
agent.

(2) For the purposes of this section, the Board may require any person to give information as to any moneys, funds or other assets which may be held by him for, or of any moneys due by him to, any company.

(3) The provisions of this Decree with respect to objections and appeals shall apply to any notice given under this section as though such notice were an assessment.

38. Every person answerable under this Decree for the payment of tax on behalf of a company may retain out of any money coming into his hands on behalf of such company so much thereof as shall be sufficient to pay such tax, and shall be and is hereby indemnified against any person whatsoever for all payments made by him in pursuance and by virtue of this Decree.

Indemnifica-
tion of
manager, etc.
or agent.

39. Where a company is being wound up, the liquidator of the company shall not distribute any of the assets of the company to the shareholders thereof unless he has made provision for the payment in full of any tax which may be found payable by the company, including any tax deductions made by the company under any law in force in any part of Nigeria relating to the tax of individuals.

Company
wound up.

PART VIII—RETURNS

40.—(1) Every company including a company granted exemption from Part X of the Companies Decree 1968 shall at least once every year make and deliver to the Board a return together with the following :—

Returns
and
provisional
accounts.
1968 No 51.

(a) the audited accounts and a true and correct statement in writing containing the amounts of its profits from each and every source computed in accordance with the provisions of this Decree and any rules made thereunder ;

(b) such particulars as by such form of return may be required for the purposes of this Decree, and of such rules, with respect to any such profits, allowances, reliefs, deductions or otherwise as may be material under or by virtue of this Decree and such rules.

(2) Such form of returns shall contain a declaration which shall be signed by a director or secretary of the company that the return contains a true and correct statement of the amount of its profits computed in respect of all sources in accordance with this Decree and any rules made thereunder and that the particulars given in such returns are true and complete.

(3) Every company shall file with the Board its audited accounts and returns as stipulated in this section not later than six months after the close of the company's accounting year or in the case of a newly incorporated company, within eighteen months from the date of incorporation or not later than six months after the end of its first accounting period as defined in section 24 (3), whichever is earlier.

(4) Any company which fails to comply with the provisions of this section shall be guilty of an offence under this section and shall on conviction be liable to a fine of ₹5,000.

(5) Where an offence under this section by a company is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer, servant or agent of the company (or any person purporting to act in any such capacity) he as well as the company shall be deemed to be guilty of the offence and shall on conviction be liable to a fine of ₹2,000 or imprisonment for six months, or both.

Board may call for further returns.

41. The Board may give notice in writing to any company when and as often as it thinks necessary requiring it to deliver within a reasonable time limited by such notice fuller or further returns respecting any matter as to which a return is required or prescribed by this Decree.

Power to call for returns, books, documents and information.

42.—(1) For the purpose of obtaining full information in respect of the profits of any company the Board may give notice to any person requiring him, within the time limited by such notice, to—

(a) complete and deliver to the Board any return specified in such notice ;

(b) attend personally before an officer of the Federal Inland Revenue Department for examination with respect to any matter relating to such profits ;

(c) produce or cause to be produced for examination at the place and time stated in such notice, which time may be from day to day for such period as the Board may consider necessary, for the purpose of such examination any books, documents, accounts and returns which the Board may deem necessary ; or

(d) give orally or in writing any other information including name and address specified in such notice :

1974 No. 38.

Provided that a person engaged in banking including any person appointed to carry the Federal Savings Bank Decree 1974 into effect shall not be required to disclose any information including name and address concerning depositors other than in respect of interest paid or credited to any company.

(2) For the purposes of paragraphs (a) to (d) of subsection (1) above the time limited by such notice shall not be less than seven days from the date of service of such notice, so however that an officer of the Board not below the rank of a Chief Inspector of Taxes may act in any of the cases stipulated in paragraph (a) or (c) or (d) without giving any of the required notices set out in this section.

Information to be delivered by bankers.

43. Without prejudice to the foregoing section, every person engaged in banking including any person charged with the administration of the Federal Savings Bank Decree 1974 shall prepare a return at the end of each month specifying the names and addresses of new customers of the bank and shall not later than the seventh day of the next following month deliver the return to a tax authority of the area where the bank operates, or where such customer is a company to the Federal Board of Inland Revenue.

44. A return, statement or form purporting to be furnished under this Decree by or on behalf of any person shall for all purposes be deemed to have been furnished by that person or by his authority, as the case may be, unless the contrary is proved, and any person signing any such return, statement or form shall be deemed to be cognisant of all matters therein.

Returns deemed to be furnished by due authority.

45.—(1) If a company chargeable with tax fails or refuses to keep books or accounts which, in the opinion of the Board, are adequate for the purposes of income tax, the Board may by notice in writing require it to keep such records, books and accounts as the Board considers to be adequate in such form and in such language as may be specified in the said notice and, subject to the provisions of the next succeeding subsection, the company shall keep records, books and accounts as directed.

Books of account.

(2) Any direction of the Board made under this section shall be subject to objection and appeal in like manner as an assessment save that any decision of the Appeal Commissioners thereon shall be final.

(3) On hearing such appeal the Appeal Commissioners may confirm or modify such direction.

PART IX—ASSESSMENTS

46.—(1) The Board shall proceed to assess every company chargeable with tax as soon as may be after the expiration of the time allowed to such company for the delivery of the audited accounts and return provided for in section 40 or otherwise as it appears to the Board practicable so to do.

Board to make assessments.

(2) Where a company has delivered audited accounts and return the Board may—

(a) accept the audited accounts and return and make an assessment accordingly; or

(b) refuse to accept the return and, to the best of its judgment, determine the amount of the total profits of the company and make an assessment accordingly.

(3) Where a company has not delivered a return and the Board is of the opinion that such company is liable to pay tax, the Board may, according to the best of its judgment, determine the amount of the total profits of such company and make an assessment accordingly, but such assessment shall not affect any liability otherwise incurred by such company by reason of its failure or neglect to deliver a return.

(4) Nothing in this section shall prevent the Board from making an assessment upon a company for any year before the expiration of the time within which such company is required to deliver a return or to give notice under the provisions of section 40 if the Board or any officer of the Federal Inland Revenue Department duly authorised by the Board considers such assessment to be necessary for any reason of urgency.

(5) In this section the reference to a return shall be construed as a reference to the accounts and return submitted pursuant to section 40.

47.—(1) If the Board discovers or is of the opinion at any time that any company liable to tax has not been assessed or has been assessed at a less amount than that which ought to have been charged, the Board may, within the year of assessment or within six years after the expiration thereof and as often as may be necessary assess such company at such amount or additional

Additional assessments.

amount, as ought to have been charged, and the provisions of this Decree as to notice of assessment, appeal and other proceedings shall apply to such assessment or additional assessment and to the tax charged thereunder :

1961 No. 22.

Provided that where any form of fraud, wilful default or neglect has been committed by or on behalf of any company in connection with any tax imposed under this Decree or under the Companies Income Tax Act 1961, the Board may at any time and as often as may be necessary assess such company at such amount or additional amount as may be necessary for the purpose of making good any loss of tax attributable to the fraud, wilful default or neglect.

(2) For the purpose of computing under subsection (1) of this section the amount or the additional amount which ought to have been charged, all relevant facts consistent with the proviso to section 57 shall be taken into account even though not known when any previous assessment or additional assessment on the same company for the same year was being made or could have been made.

Lists of
companies
assessed.

48.—(1) The Board shall as soon as possible prepare lists of companies assessed to tax.

(2) Such lists, herein called the assessment lists, shall contain the names and the addresses of the companies assessed to tax, the name and address of any person in whose name any such company is chargeable, the amount of the total profits of each company, the amount of tax payable by it, and such other particulars as may be determined by the Board.

(3) Where complete copies of all notices of assessment and of all notices amending assessments are filed in the offices of the Board they shall constitute the assessment lists for the purposes of this Decree.

Service of
notice of
assessment.

49. The Board shall cause to be served on or sent by registered post to each company, or person in whose name a company is chargeable, whose name appears on the assessment lists a notice stating the amount of the total profits, the tax payable, the place at which such payment should be made, and setting out the rights of the company under the next following section.

Revision of
assessment
in case of
objection.

50.—(1) If any company disputes the assessment it may apply to the Board, by notice of objection in writing, to review and to revise the assessment made upon it. Such application shall state precisely the grounds of objection to the assessment and shall be made within fifteen days from the date of the service of the notice of assessment.

(2) On receipt of the notice of objection referred to in subsection (1), the Board may require the company giving the notice of objection to furnish such particulars as the Board may deem necessary and to produce all books or other documents relating to the profits of the company, and may summon any person who may be able to give evidence respecting the assessment to attend for examination by an officer of the Federal Inland Revenue Department on oath or otherwise.

(3) In the event of any company assessed, which has objected to an assessment made upon it, agreeing with the Board as to the amount at which it is liable to be assessed, the assessment shall be amended accordingly, and notice of the tax payable shall be served upon such company :

Provided that if an applicant for revision under the provisions of subsection (1) fails to agree with the Board the amount at which the company is liable to be assessed, the Board shall give notice of refusal to amend the

assessment as desired by such company and may revise the assessment to such amount as the Board may, according to the best of its judgment, determine and give notice of the revised assessment and of the tax payable together with notice of refusal to amend the revised assessment and, wherever requisite, any reference in this Decree to an assessment or to an additional assessment shall be treated as a reference to an assessment or to an additional assessment as revised under the provisions of this proviso.

51.—(1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Decree shall be quashed or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Decree or any enactment amending the same, and if the company assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) An assessment shall not be impeached or affected—

(a) by reason of a mistake therein as to—

(i) the name of a company liable or of a person in whose name a company is chargeable ; or

(ii) the description of any profits ; or

(iii) the amount of tax charged ;

(b) by reason of any variance between the assessment and the notice thereof :

Provided that in cases of assessment the notice thereof shall be duly served on the company intended to be charged or the person in whose name such company is chargeable and such notice shall contain, in substance and effect, the particulars on which the assessment is made.

PART X—APPEALS

52.—(1) The Commissioner may establish by notice in the *Gazette*, a body of Appeal Commissioners.

(2) The body of Appeal Commissioners shall consist of not more than twelve persons, none of whom shall be a public officer and one of whom shall be designated as chairman by the Commissioner.

(3) Each Appeal Commissioner—

(a) shall be appointed by notice in the *Gazette* by the Commissioner from among persons appearing to him to have had experience and shown capacity in the management of a substantial trade or business or the exercise of the profession of law or accountancy in Nigeria ;

(b) shall, subject to the provisions of this subsection hold, office for a period of three years from the date of his appointment ;

(c) may at any time resign as an Appeal Commissioner by notice in writing addressed to the Commissioner, save that on the request of the Commissioner he may continue to act as an Appeal Commissioner after the date of his resignation, and sit at any further hearing in any case in which he has already sat before that date to hear an appeal, until a final decision has been given with respect to such appeal ;

(d) shall cease to be an Appeal Commissioner upon the Commissioner determining that his office be vacant and upon notice of such determination being published in the *Gazette* ;

Errors and defects in assessment and notice.

Establishment and constitution of body of Appeal Commissioners.

(e) shall be paid such remuneration and allowances as may be determined by the Commissioner with the approval of the Federal Executive Council.

(4) Without prejudice to the generality of paragraph (d) of subsection (3) of this section, if the Commissioner is satisfied that an Appeal Commissioner—

(a) has been absent from two consecutive meetings of the body of Appeal Commissioners (other than any meeting at which, by virtue of subsection (2) of section 54, he may not sit) without the written permission of the Chairman of the Board ; or

(b) is incapacitated by physical or mental illness ; or

(c) has failed to make any declaration and give any notice in accordance with subsection (2) of section 54 ; or

(d) has been convicted of a felony, or of an offence under any enactment in Nigeria imposing tax on income or profits ;
the Commissioner shall make a determination that his office as an Appeal Commissioner is vacant.

(5) Where for any reason there is an insufficient number of Appeal Commissioners to hear one or more particular appeals the Commissioner may make an *ad hoc* appointment in writing, from among persons of the kind mentioned in paragraph (a) of subsection (3) of this section, of a person to be an Appeal Commissioner for the purpose of his hearing such appeal or appeals.

(6) The Commissioner shall designate a public officer to be Secretary to the body of Appeal Commissioners and the official address of the Secretary shall be published in the *Gazette*.

(7) Those persons duly appointed as Appeal Commissioners and Secretary to the body of Appeal Commissioners for the purposes of the Companies Income Tax Act 1961, and holding office as such immediately before the date of commencement of this Decree shall be deemed to have been appointed or designated, as the case may be, to like offices under the provisions of this section, and the Appeal Commissioners so deemed to be appointed shall constitute the body of Appeal Commissioners on that date.

53.—(1) Any company which, being aggrieved by an assessment made upon it, has failed to agree with the Board in the manner provided in subsection (3) of section 50, may appeal against the assessment to the Appeal Commissioners upon giving notice in writing to the Board and to the Secretary to such Commissioners within fifteen days after the date of service upon such company of notice of the refusal of the Board to amend the assessment as desired.

(2) A notice of an appeal against an assessment, to be given under subsection (1) shall specify the following particulars—

(a) the official number of the assessment and the year of assessment for which it was made ;

(b) the amount of the tax charged by such assessment ;

(c) the amount of the total profits upon which such tax was charged as appearing in the notice of assessment ;

(d) the date upon which the appellant was served with notice of refusal by the Board to amend the assessment as desired ;

(e) the precise grounds of appeal against the assessment, but such grounds shall be limited to the grounds stated by the appellant in its notice of objection ; and

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Appeals to
Appeal
Commis-
sioners.

(f) an address for service of any notices, precepts or other documents to be given to the appellant by the Secretary to the Appeal Commissioners :

Provided that at any time the appellant may give notice to such Secretary and to the Board, by delivering the same or by registered post, of a change of such address but any such notice shall not be valid until delivered or received.

(3) All notices or documents to be given to the Appeal Commissioners shall be addressed to the Secretary to the Appeal Commissioners in writing at any time before the hearing of such appeal.

(4) A company may discontinue any appeal by it under this section on giving notice to the Secretary to the Appeal Commissioners in writing at any time before the hearing of such appeal.

(5) Notwithstanding that notice of appeal against an assessment has been given by a company under this section the Board may revise the assessment in agreement with the company, and upon notice of such agreement being given in writing by the Board to the Secretary to the Appeal Commissioners at any time before the hearing of the appeal such appeal shall be treated as being discontinued.

(6) Upon the discontinuance of any appeal under the provisions of this section the amount or revised amount of the assessment, as the case may be, shall be deemed to have been agreed between the Board and the company under the provisions of subsection (3) of section 50.

54.—(1) As often as may be necessary, Appeal Commissioners shall meet to hear appeals in any town in which is situated an office of the Federal Inland Revenue Department and, subject to the provisions of the next following subsection, at any such meeting—

Procedure
before
Appeal
Commis-
sioners, etc.

(a) any three or more Appeal Commissioners may hear and decide an appeal ; and

(b) the chairman of the body of Appeal Commissioners shall preside and where the chairman is absent the Appeal Commissioners present shall elect one of their number to be the chairman for the meeting.

(2) An Appeal Commissioner having a direct or indirect financial interest in any company (including the holding of or the beneficial interest in any shares, stock or debentures issued by such company) or being a relative of any person having such an interest, and having knowledge thereof, shall, when any appeal by such company is pending before the body of Appeal Commissioners, declare such interest to the other Commissioners and give notice to the Board in writing of such interest or relationship and interest, and he shall not sit at any meeting for the hearing of that appeal. The like provisions shall apply when the Appeal Commissioner is a legal practitioner or an accountant, and the company is or has been a client of that Commissioner.

(3) The Secretary to the Appeal Commissioners shall give seven clear days' notice to the Board and to the appellant of the date and place fixed for the hearing of each appeal except in respect of any adjourned hearing for which the Appeal Commissioners have fixed a date at their previous hearing.

(4) All notices, precepts and documents, other than decisions of the Appeal Commissioners, may be signified under the hand of the Secretary.

(5) All appeals before Appeal Commissioners shall be held in *camera*.

(6) Every company so appealing shall be entitled to be represented at the hearing of the appeal: Provided that, if the person intended by the company to be its representative in any appeal is unable for good cause shown to attend the hearing thereof, the Appeal Commissioners may adjourn the hearing for such reasonable time as they think fit, or admit the appeal to be made by some other person or by way of written statement.

(7) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(8) At the hearing of any appeal, if the representative of the Board proves to the satisfaction of the Appeal Commissioners or the court hearing the appeal in the first instance that—

(a) the appellant has (contrary to subsection (1) of section 40), for the year of assessment concerned, failed to prepare and deliver to the Board the statement mentioned in that subsection;

(b) the appeal is frivolous or vexatious or is an abuse of the appeal process; or

(c) it is expedient to require the appellant to pay an amount as security for prosecuting the appeal,

the Appeal Commissioners or, as the case may be, the court may adjourn the hearing of the appeal to any subsequent day and order the appellant to deposit with the Board, before the day of the adjourned hearing an amount, on account of the tax charged by the assessment under appeal, equal to the tax charged upon the appellant for the preceding year of assessment or one half of the tax charged by the assessment under appeal, whichever is the lesser, and if the appellant fails to comply with the order, the assessment against which it has appealed shall be confirmed and the appellant shall have no further right of appeal whatsoever with respect to that assessment.

(9) The Appeal Commissioners may confirm, reduce, increase or annul the assessment or make such order thereon as they see fit.

(10) Every decision of the Appeal Commissioners shall be recorded in writing by their chairman and a certified copy of such decision shall be supplied to the appellant or the Board, by the Secretary, upon a request made within three months of such decision.

(11) Where, upon the hearing of an appeal—

(a) no accounts, books or records relating to profits were produced by or on behalf of the appellant; or

(b) such accounts, books or records were so produced but the Appeal Commissioners rejected the same on the ground that it had been shown to their satisfaction that they were incomplete or unsatisfactory; or

(c) the appellant or his representative, at the hearing of the appeal, has neglected or refused to comply with a precept delivered or sent to him by the Secretary to the Appeal Commissioners without showing any reasonable excuse; or

(d) the appellant or any person employed, whether confidentially or otherwise, by the appellant or his agent (other than his legal practitioner or accountant acting for him in connection with his liability to tax) has refused to answer any question put to him by the Appeal Commissioners, without showing any reasonable cause,

the chairman of the Appeal Commissioners shall record particulars of the same in his written decision.

(12) The Commissioner may make rules prescribing the procedure to be followed in the conduct of appeals before Appeal Commissioners.

55.—(1) Notice of the amount of the tax chargeable under the assessment as determined by the Appeal Commissioners shall be served by the Board upon the company or upon the person in whose name such company is chargeable.

Procedure following decision of Appeal Commissioners.

(2) Where the tax chargeable upon a company for a year of assessment in accordance with a decision of the Appeal Commissioners does not exceed ₦400 no further appeal by the company shall lie from that decision except with the consent of the Board.

(3) An award or judgment of the Body of Appeal Commissioners shall be enforceable as if it were a judgment of the Federal Revenue Court upon registration of a copy of such award or judgment with the Chief Registrar of the Federal Revenue Court by the party seeking to enforce the award or judgment.

(4) Notwithstanding that an appeal is pending tax shall be paid in accordance with the decision of the Appeal Commissioners within one month of notification of the amount of the tax payable in pursuance of subsection (1) of this section.

56.—(1) Subject to section 55 (2), any company which having appealed against an assessment made upon it to the Appeal Commissioners under section 53 is aggrieved by the decision of such body may appeal against such decision on point of law to the Federal Revenue Court upon giving notice in writing to the Secretary to the Appeal Commissioners within 15 days after the date on which such decision was given. Such notice shall set out all the grounds of law on which the decision is being challenged.

Appeals to Court.

(2) If the Board is dissatisfied with the decision of the Appeal Commissioners it may appeal against such decision to the Federal Revenue Court on a point of law by giving notice in writing as in subsection (1) of this section to the Secretary to the Appeal Commissioners within 15 days after the date on which such decision was given.

(3) Upon receipt of a notice of appeal under subsection (1) or (2) of this section, the Secretary to the Appeal Commissioners shall compile the record of proceedings and judgment before the Appeal Commissioners and shall cause the same to be transmitted to the Chief Registrar of the Federal Revenue Court along with all the exhibits tendered at the hearing before the Appeal Commissioners.

(4) The provisions of subsections (6), (7) and (9) of section 54 and of subsection (1) of section 55 shall apply to an appeal under this section with any necessary modifications.

(5) If upon the hearing of any appeal from a decision of the Appeal Commissioners given under the provisions of section 54 a certified copy of that decision is produced before the Court and such decision contains a record by reference to—

(a) paragraph (a) of subsection (11) of that section, the Court shall dismiss such appeal; or

(b) paragraph (b) of subsection (11) of that section, the Court may dismiss such appeal upon such prima facie evidence, with respect to the accounts, books or records having been incomplete or unsatisfactory, as to the Court may seem sufficient; or

(c) paragraph (c) or (d) of subsection (11) of that section, the Court shall dismiss such appeal unless it considers that the cause of the neglect or refusal was reasonable.

(6) The costs of the appeal shall be in the discretion of the judge hearing the appeal and shall be a sum fixed by the judge.

(7) An appeal against the decision of a judge shall lie to the Federal Court of Appeal—

(a) at the instance of the company, where the decision of the judge is to the effect that the tax chargeable upon the company for the relevant year of assessment exceeds ₦1,000 ; and

(b) at the instance of or with the consent of the Board, in any case :

Provided that no costs shall be awarded against the company in any appeal instituted by the Board under this subsection unless such decision of the judge was to the effect mentioned in paragraph (a) hereof.

(8) The President of the Federal Revenue Court may make rules providing for the procedure in respect of appeals made under this section and until such rules are made the rules applicable in civil appeal cases from Magistrates Courts to the High Court of Lagos State shall apply with such modifications as the President of the Federal Revenue Court may direct.

Assessments
to be final
and con-
clusive.

57. Where no valid objection or appeal has been lodged within the time limited by sections 50, 53 or 56, as the case may be, against an assessment as regards the amount of the total profits assessed thereby, or where the amount of the total profits has been agreed to under subsection (3) of section 50, or where the amount of such total profits has been determined on objection, revision under the proviso to subsection (3) of section 50, or on appeal, the assessment as made, agreed to, revised or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Decree as regards the amount of such total profits ; and if the full amount of the tax in respect of any such final and conclusive assessment is not paid within the appropriate period or periods prescribed in this Decree the provisions thereof relating to the recovery of tax, and to any penalty under section 60, shall apply to the collection and recovery thereof subject only to the set-off of the amount of any tax repayable under any claim, made under any provision of this Decree, which has been agreed to by the Board or determined on any appeal against a refusal to admit any such claim :

Provided that—

(a) where an assessment has become final and conclusive any tax overpaid shall be repaid ;

(b) nothing in section 50 or in Part X shall prevent the Board from making any assessment or additional assessment for any year which does not involve reopening any issue, on the same facts, which has been determined for that year of assessment under subsection (3) of section 51 by agreement or otherwise on appeal.

PART XI—COLLECTION, RECOVERY AND REPAYMENT OF TAX

58.—(1) Notwithstanding any other provision of this section, every company shall, not later than three months after the end of each year of assessment, pay provisional tax of an amount equal to the tax paid by such company in the immediately preceding year of assessment in one lump sum or such number of monthly instalments (not being more than six) as may be approved by the Board.

Time within which tax (including provisional tax) is to be paid.

(2) Tax charged by any assessment which is not or has not been the subject of an objection or appeal by the company shall be payable (after the deduction of any amount to be set-off for the purposes of collection under any provision of this Decree) at the place stated in the notice of assessment within two months after service of such notice upon the company.

Provided that—

(a) if such period of two months expires before the 21st day of March within the year of assessment for which the tax has been charged, and the aggregate tax to be set-off, and of any tax paid for that year within such period, then payment of any balance of such tax may be made not later than that day ;

(b) the Board in its discretion may extend the time within which payment is to be made.

(3) Subject to the provisions of subsection (3) of section 55, collection of tax in any case where notice of an objection or appeal has been given by the company shall remain in abeyance until such objection or appeal is determined, save that the company shall have paid the provisional tax as provided in subsection (1) of this section or the tax not in dispute, whichever is higher.

(4) Upon the determination of an objection or appeal the Board shall serve upon the company a notice of the tax payable as so determined, and that tax shall be payable within one month of the date of service of such notice upon the company.

59. Where any amount becomes due from or payable by one company to another company as interest, management fee or royalty, the company paying such amount shall, at the date when the amount is paid or credited, whichever first occurs, deduct therefrom tax at the rate specified in section 28 and shall forthwith pay over to the Board the amount so deducted.

Deduction of tax from interest, etc.

60.—(1) Subject to the provisions of subsection (3) of this section, if any tax is not paid within the periods prescribed in section 58—

(a) a sum equal to ten *per centum* of the amount of the tax payable shall be added thereto, and the provisions of this Decree relating to the collection and recovery of tax shall apply to the collection and recovery of such sum ;

Addition for non-payment of tax and enforcement of payment.

(b) the Board shall serve a demand note upon the company or person in whose name the company is chargeable ; and if payment is not made within one month from the date of the service of such demand note, the Board may proceed to enforce payment as hereinafter provided ;

(c) an addition imposed under this subsection shall not be deemed to be part of the tax paid for the purpose of claiming relief under any of the provisions of this Decree.

(2) Any company which without lawful justification or excuse, the proof whereof shall lie on the company, fails to pay the tax within the period of one month prescribed in paragraph (b) of subsection (1) of this section, shall be guilty of an offence against this Decree.

(3) The Board may, for any good cause shown, remit the whole or any part of the addition due under subsection (1) of this section.

Power to
distrain for
non-payment
of tax.

61.—(1) Without prejudice to any other power conferred on the Board for the enforcement of payment of tax due from a company, where an assessment has become final and conclusive and a demand note has, in accordance with the provisions of this Part, been served upon the company or upon the person in whose name the company is chargeable, then, if payment of the tax is not made within the time limited by the demand note, the Board may in the prescribed form, for the purpose of enforcing payment of the tax due—

(a) distrain the taxpayer by his goods or other chattels, bonds or other securities ;

(b) distrain upon any land, premises, or place in respect of which the taxpayer is the owner and, subject to the following provisions of this section, recover the amount of tax due by sale of anything so distrained.

(2) The authority to distrain under this section shall be in the form contained in Schedule 4, and such authority shall be sufficient warrant and authority to levy by distress the amount of tax due.

(3) For the purpose of levying any distress under this section, any officer authorised in writing by the Board may execute any warrant of distress and if necessary break open any building or place in the day time for the purpose of levying such distress, and he may call to his assistance any police officer and it shall be the duty of that police officer when so required to aid and assist in the execution of any warrant of distress and in levying the distress.

(4) Things distrained under this section may, at the cost of the taxpayer, be kept for fourteen days and at the end of that time if the amount due in respect of the tax and the cost and charges of and incidental to the distress are not paid, they may, subject to subsection (6) of this section, be sold at any time thereafter.

(5) Out of the proceeds of any such sale there shall in the first place be paid the cost or charges of and incidental to the (sale and keeping of the) distress, and disposal thereunder and in the next place the amount due in respect of the tax ; and the balance (if any) shall be payable to the taxpayer upon demand being made by him or on his behalf within one year of the date of the sale.

(6) Nothing in this section shall be construed so as to authorise the sale of any immovable property without an order of a High Court, made on application in such form as may be prescribed by rules of court.

62.—(1) Tax may be sued for and recovered in a court of competent jurisdiction at the place stated in the notice of assessment as being the place at which payment should be made, by the Board in its official name with full cost of action from the company charged therewith as a debt due to the Government of the Federation.

Action for tax by Board and refusal of clearance where tax is in default.

(2) For the purposes of this section a court of competent jurisdiction shall include a magistrate's court, which court is hereby invested with the necessary jurisdiction, provided that the amount claimed in any action does not exceed the amount of the jurisdiction of the magistrate concerned with respect to actions for debt.

(3) In any action brought under subsection (1) of this section the production of a certificate signed by any person duly authorised by the Chairman of the Board giving the name and address of the defendant and the amount of tax due shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for the said amount.

(4) In addition to any other powers of collection and recovery provided in this Decree, the Board may, where the tax charged on the profits of any company which carries on the business of shipowner or charterer has been in default for more than three months, whether such company is assessed directly or in the name of some other person, issue to the Department of Customs and Excise or other authority by whom clearance may be granted a certificate containing the name or names of the said company and particulars of the tax in default, and on receipt of such certificate, the said Department of Customs and Excise or other authority shall be empowered and is hereby required to refuse clearance from any port in Nigeria to any ship owned wholly or partly or chartered by such company until the said tax has been paid.

(5) No civil or criminal proceedings shall be instituted or maintained against the said Department of Customs and Excise or other authority in respect of a refusal of clearance under this section, nor shall the fact that a ship is detained under this section affect the liability of the owner, charterer, or agent to pay harbour dues and charges for the period of detention.

63. The Head of the Federal Military Government may remit, wholly or in part, the tax payable by any company if he is satisfied that it will be just and equitable to do so.

Remission of tax.

64.—(1) If any company which has paid tax for any year of assessment alleges that any assessment made upon it for that year was excessive by reason of some error or mistake in the return, statement or account made by or on behalf of the company for the purposes of the assessment, it may, at any time not later than six years after the end of the year of assessment within which the assessment was made, make an application in writing to the Board for relief.

Relief in respect of error or mistake.

(2) On receiving any such application the Board shall inquire into the matter and shall, subject to the provisions of this section, give by way of repayment of tax such relief in respect of the error or mistake as appears to be reasonable and just :

Provided that no relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where the return, statement or account was in fact made on the basis or in accordance with the practice of the Board generally prevailing at the time when the return, statement or account was made.

(3) In determining any application under this section the Board shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the profits of the company, and for this purpose the Board may take into consideration the liability of the company and assessments made upon it in respect of other years.

(4) A determination by the Board under this section shall be final and conclusive.

Repayment
of tax.

65.—(1) Save as is otherwise in this Decree expressly provided, no claim for repayment of tax shall be allowed unless it is made in writing within six years after the end of the year of assessment to which it relates.

(2) The Board shall give a certificate of the amount of any tax to be repaid under any of the provisions of this Decree or under any order of a court of competent jurisdiction and upon the receipt of the certificate the Accountant-General of the Federation shall cause repayment to be made in conformity therewith.

PART XII—OFFENCES AND PENALTIES

Penalty for
offences.

66.—(1) Any person guilty of an offence against this Decree or any person who contravenes or fails to comply with any of the provisions of this Decree or of any rule made thereunder for which no other penalty is specifically provided, shall be liable on conviction to a fine of ₦200, and without prejudice to section 40 (4) or (5), where such offence is the failure to furnish a statement or information or to keep records required, a further sum of ₦40 for each and every day during which such failure continues, and in default of payment to imprisonment for six months, the liability for such further sum to commence from the day following the conviction, or from such day thereafter as the court may order.

(2) Any person who—

(a) fails to comply with the requirements of a notice served on him under this Decree ; or

(b) without sufficient cause fails to attend in answer to a notice or summons served on him under this Decree or having attended fails to answer any question lawfully put to him,

shall be guilty of an offence against this Decree.

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(3) Notwithstanding any of the provisions of the Criminal Procedure Act or any other applicable law, a magistrate may dispense with personal attendance of the defendant if he pleads guilty in writing or so pleads by a legal practitioner.

(4) In the case of failure by a company to comply with the requirements of any notice given by the Board under the provisions of section 40 or 41 of this Decree for the purpose of the tax to be charged upon the company for any year of assessment, the Board may, in lieu of the institution of proceedings under subsection (2) of this section, impose a penalty upon the company of an amount equal to the tax chargeable upon the company for the preceding year of assessment :

Provided that—

- (a) written notice of the penalty shall be served upon the company ; and
- (b) any amount of such penalty remaining unpaid thirty days after service of such notice may be sued for and recovered in a court of competent jurisdiction by the Board in its official name with full costs of action from the company liable thereto as a debt due to the Government of the Federation ; and
- (c) a certificate signed by an officer of the Federal Inland Revenue Department duly authorised by the Board setting out the name and address of such company, the date of service of the said notice, and the amount of the penalty remaining unpaid, shall be sufficient authority for the court to give judgment for that amount ; and
- (d) the Board may remit the whole or any part of such penalty, whether before or after judgment, for any reason which appears to it to be adequate.

67.—(1) Every company which, and every other person who, without reasonable excuse—

Penalty for making incorrect return.

- (a) makes an incorrect return by omitting or understating any profits liable to tax under this Decree ; or
- (b) gives any incorrect information in relation to any matter or thing affecting the liability of any company to tax ;

shall be guilty of an offence and shall be liable on conviction to a fine of ₦200 and double the amount of tax which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct.

(2) No company or other person shall be liable to any penalty under this section unless the complaint concerning such offence was made in the year of assessment in respect of or during which the offence was committed or within six years after the expiration thereof.

(3) The Board may compound any offence under this section, and may before judgment stay or compound any proceedings thereunder.

(4) For the purposes of this section a return shall be deemed to be made both by the company and any other person signing such return on behalf of the company.

68.—(1) Any person other than a company who—

False statements and returns.

- (a) for the purpose of obtaining any deduction, set-off, relief or repayment in respect of tax for any company, or who in any return, account or particulars made or furnished with reference to tax, knowingly makes any false statement or false representation ; or
- (b) aids, abets, assists, counsels, incites or induces any other person—
 - (i) to make or deliver any false return or statement under this Decree ; or
 - (ii) to keep or prepare any false accounts or particulars concerning any profits on which tax is payable under this Decree ; or
 - (iii) unlawfully to refuse or neglect to pay tax,

shall be guilty of an offence and shall be liable on conviction to a fine of ₦1,000 or to imprisonment for five years, or to both such fine and imprisonment.

(2) The Board may compound any offence under this section and with the leave of the court may before judgment stay or compound any proceedings thereunder.

Penalties for offences by authorised and unauthorised persons.

69. Any person who—

(a) being a person appointed for the due administration of this Decree or employed in connection with the assessment and collection of the tax who—

(i) demands from any company an amount in excess of the authorised assessment of the tax ; or

(ii) withholds for his own use or otherwise any portion of the amount of the tax collected ; or

(iii) renders a false return, whether orally or in writing, of the amount of tax collected or received by him ; or

(iv) defrauds any person, embezzles any money, or otherwise uses his position as to deal wrongfully with the Board ; or

(b) not being authorised under this Decree to do so, shall collect or attempt to collect the tax under this Decree, shall be guilty of an offence and be liable on conviction to a fine of ₦600 or to imprisonment for three years or to both such fine and imprisonment.

Tax to be payable notwithstanding proceedings for penalties.

70. The institution of proceedings for, or the imposition of a penalty, fine or term of imprisonment under this Decree shall not relieve any company from liability to payment of any tax for which it is or may become liable.

Prosecution to be with the sanction of the Board.

71. No prosecution in respect of an offence under section 67, 68 or 69 may be commenced except at the instance of or with the sanction of the Board.

Saving for criminal proceedings.

72. The provisions of this Decree shall not affect any criminal proceedings under any other enactment.

Place of an offence.

73. Any offence under this Decree shall be deemed to occur in Lagos, or at the registered office of a company, or at such other place as the Board may decide.

PART XIII—MISCELLANEOUS

Power to alter rate of tax, etc.

74. The Federal Executive Council may, by order, revoke or vary for any year of assessment—

(a) the rate of tax specified in section 28 ; and

(b) any rate of any annual or initial allowance specified in Schedule 2, save that with respect to an initial allowance any such variation may be expressed to apply to qualifying expenditure incurred after the date of such order or some later specified date.

Conduct of proceedings.

75. Any officer of the Federal Inland Revenue Department duly authorised in writing in that regard by the Chairman of the Board may prosecute or conduct on behalf of the Board any prosecution or other proceedings arising under this Decree in any court in the Federation.

76. The Board may with the approval of the Commissioner pay rewards to any person, not being a person employed in the Federal Inland Revenue Department in respect of any information which may be of assistance to the Board in the performance of its duties under this Decree.

Power to pay reward.

77.—(1) Subject to this section and without prejudice to the provisions of section 6 of the Interpretation Act 1964, the Companies Income Tax Act 1961 shall, except where other provisions are made in that behalf in this Decree, cease to have effect with respect to tax on the income or profits of companies for all years of assessment beginning after the 31st day of March 1977.

Repeals, transitional provisions, etc.
1964 No. 1.
1961 No. 22.

(2) Anything made or done, or having effect as if made or done, before the date of commencement of this Decree under or pursuant to any provision of the Companies Income Tax Act 1961 by the Board and having any continuing or resulting effect with respect to the taxation of the profits of a company or any matter connected therewith shall be treated and for all purposes shall have effect as if it were made or done by the Board under the corresponding provision of this Decree.

(3) All rules, orders, notices or other subsidiary legislation made under the Companies Income Tax Act 1961 shall continue to have effect as if made under the corresponding provisions of this Decree.

(4) All references in the Income Tax Management Act 1961 and in any other enactment to provisions of the Companies Income Tax Act 1961 shall be construed as references to the corresponding provisions of this Decree.

1961 No. 21.

78.—(1) In this Decree, unless the context otherwise requires—
“Board” means the Federal Board of Inland Revenue referred to in section 1 ;

Interpretation.

“Commissioner” means the Federal Commissioner charged with responsibility for finance ;

“company” means any company or corporation (other than a corporation sole) established by or under any law in force in Nigeria or elsewhere;

“foreign company” means any company or corporation (other than a corporation sole) established by or under any law in force in any territory or country outside Nigeria ;

“Joint Tax Board” means the Joint Tax Board established under the provisions of any enactment regulating the taxation of incomes of persons other than companies in Nigeria ;

“Nigerian company” means any company incorporated under the Companies Decree 1968 or any enactment replaced by that Decree ;

1968 No. 51.

“officers of the Board” includes any officer of the Federal Inland Revenue Department ;

“person” includes a company or body of persons ;

“tax” means the tax imposed by this Decree ;

“year of assessment” means a period of twelve months commencing on 1st April.

(2) Any reference in this Decree to any section, Part or Schedule not otherwise identified is a reference to that section, Part or Schedule of this Decree.

Citation and application.

79.—(1) This Decree may be cited as the Companies Income Tax Decree 1979.

(2) This Decree shall, except where other provision is made in that behalf in this Decree, apply in respect of tax charged for the year of assessment commencing on 1st April 1977 and each succeeding year of assessment.

SCHEDULES

SCHEDULE 1 (Sections 2 (4), 3 (1) and 4)

POWERS OR DUTIES WHICH THE BOARD MAY NOT DELEGATE EXCEPT TO THE JOINT TAX BOARD WITH THE CONSENT OF THE COMMISSIONER

1. In this Schedule any reference to powers and duties shall not include any part of any power or duty of the Board either to make enquiries or to carry out or give effect to any decision of the Board.

2. Subject to paragraph (b) of subsection (4) of section 2 of this Decree, no power or duty of the Board specified or imported in the following provisions, namely—

(a) sections 1 (3), 6, 12 (2), 14 (2), 17, 18, 19 (1) (d), 24 (6), 24 (9), 29 (3) 29 (5), 30 (3) (b), 62 (4), 64, 65 (4), 67 (3), 68 (2) of this Decree and in paragraphs 6 (2) and 18 of Schedule 2 ;

(b) section 13 of the Industrial Development (Income Tax Relief) Decree 1971 ;

(c) the powers of the Board to decide to take proceedings under subsection (3) of section 5 or to take or sanction proceedings under section 71 of this Decree ;

(d) the power of the Board to consider anything necessary under subsection (2) of section 2 of this Decree ;

(e) the power of the Board to authorise under subsections (3) and (4) of section 2 of this Decree ;

shall be delegated to any other person.

SCHEDULE 2

(Section 26)

CAPITAL ALLOWANCES

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Interpretation.
2. Provisions relating to mining expenditure.
3. Owner and meaning of "relevant interest".
4. Sale of buildings.
5. Qualifying industrial building expenditure.
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7. Annual allowances.
8. Asset to be in use at end of basis period.
9. Balancing allowances.
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11. Residue.
12. Meaning of "disposed of".
13. Value of an asset.
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15. Part of an asset.
16. Extension of meaning of "in use".
17. Exclusion of certain expenditure.
18. Application to lessors.
19. Asset used or expenditure incurred partly for the purposes of a trade or business.
20. Disposal without change of ownership.
21. Meaning of "allowances made".
22. Claims for allowances.
23. Election in double taxation cases.
24. Manner of making allowances and charges.

TABLE I—INITIAL ALLOWANCES

TABLE II—ANNUAL ALLOWANCES

- 1.—(1) For the purposes of this Schedule—

Interpreta-
tion.

"basis period" has the meaning assigned to it by the following provisions of this definition—

(a) in the case of company to or on which any allowance or charge falls to be made in accordance with the provisions of this Schedule, its basis period for any year of assessment is the period by reference to the profits of which any assessable profits for that year fall to be computed under the provisions of section 24 ;

(b) such profits mean profits in respect of the trade or business in which there was used an asset in connection with which such allowance or charge falls to be made :

Provided that, in the case of any such trade or business—

(i) where two basis periods overlap, the period common to both shall be deemed, except for the purpose of making an annual allowance, to fall in the basis period ending at the earlier date and in no other basis period ;

(ii) where two basis periods coincide, they shall be treated as overlapping, and the basis period for the earlier year of assessment shall be treated as ending before the end of the basis period for the later year of assessment ;

(iii) where there is an interval between the end of the basis period for one year of assessment and the basis period for the next year of assessment, then unless the second-mentioned year of assessment is the year in which, for the purposes of subsection (4) of section 24, such company permanently ceases to carry on the trade or business, the interval shall be deemed to be part of the second basis period ; and

(iv) where there is an interval between the end of the basis period for the year of assessment preceding that in which the trade or business permanently ceases, for the purposes of subsection (4) of section 24, to be carried on by such company and the basis period for the year in which it so ceases, the interval shall be deemed to form part of the first basis period ;

“concession” includes a mining right and a mining lease ;

“lease” includes an agreement for a lease where the term to be covered by the lease has begun, any tenancy and any agreement for the letting or hiring out of an asset, but does not include a mortgage, and the expression “leasehold interest” shall be construed accordingly and—

(a) where, with the consent of the lessor, a lease of any asset remains in possession thereof after the termination of the lease without a new lease being granted to him, that lease shall be deemed for the purposes of this Schedule to continue so long as he remains in possession as aforesaid ; and

(b) where, on the termination of a lease of any asset, a new lease of that asset is granted to the lessee the provisions of this Schedule shall have effect as if the second lease were a continuation of the first lease ;

“qualifying expenditure” means, subject to the express provisions of this Schedule, expenditure incurred in a basis period which is—

(a) capital expenditure (hereinafter called “qualifying plant expenditure”) incurred on plant, machinery or fixtures ;

(b) capital expenditure (hereinafter called “qualifying building expenditure”) incurred on the construction of buildings, structures or works of a permanent nature, other than expenditure which is included in sub-paragraph (a) or (c) of this definition ;

(c) capital expenditure (hereinafter called “qualifying mining expenditure”) incurred in connection with, or in preparation for, the working of a mine, oil well or other source of mineral deposits of a wasting nature (other than expenditure which is included in sub-paragraph (a) of this definition) ;

(d) capital expenditure (hereinafter called "qualifying plantation expenditure") incurred in connection with a plantation—

(i) on the clearing of land for planting ;

(ii) on planting (other than replanting) ;

(iii) on the construction of any works or buildings which are likely to be of little or no value when the source is no longer worked or, where the source is worked under a concession, which are likely to become valueless when the concession comes to an end to the company working the source immediately before the concession comes to an end ;

(iv) on the acquisition of, or of rights in or over, the deposits or on the purchase of information relating to the existence and extent of the deposits ;

(v) on searching for or on discovering and testing deposits, or winning access thereto.

For the purposes of this definition, where—

(i) expenditure is incurred for the purposes of a trade or business by a company about to carry on such trade or business, and

(ii) that expenditure is incurred in respect of an asset owned by that company if that expenditure would have fallen to be treated as qualifying expenditure if it had been incurred by that company on the first day on which it carries on that trade or business, that expenditure shall be deemed to be qualifying expenditure incurred by it on that day ;

"trade or business" means a trade or business or that part of a trade or business the profits of which are assessable under this Decree.

(2) This Schedule shall apply in relation to any asset acquired by any hirer under a hire-purchase agreement, the terms of which provide for the use and ultimate acquisition of the asset by the hirer, as it applies to an asset acquired by any owner of an asset for the purposes of his trade or business, but shall so apply subject to the following modifications, that is to say—

(a) the qualifying expenditure within the meaning of sub-paragraph (i) of paragraph 1 above shall, in relation to any asset so acquired under that agreement, be limited to the amount of the instalment paid by the hirer during his basis period (within the meaning of those provisions) excluding in the computation of such qualifying expenditure any interest paid under the agreement ;

(b) any reference in the provisions as aforesaid to any owner of any asset shall be construed as including a reference to a hirer under the hire-purchase agreement and as excluding a reference to the person letting the goods to the hirer under the agreement.

2.—(1) For the purposes of this Schedule, where—

(a) qualifying mining expenditure has been incurred on the purchase of information relating to the existence and extent of the deposits or on searching for or on discovering and testing deposits or winning access thereto and such expenditure has been incurred for the purposes of a trade or business carried on by the company incurring the expenditure, or expenditure has been incurred for the purposes of trade or business about to be carried on by the company incurring the expenditure and such expenditure would have fallen to be treated as such qualifying mining expenditure if it had been incurred in a basis period ; and

Application of capital allowances to assets acquired under hire-purchase agreement, etc.

Provisions relating to mining expenditure.

(b) such expenditure has not brought into existence any asset ; and

(c) such trade or business consists of the working of a mine, oil well or other source of mineral deposits of a wasting nature,

then such expenditure shall be deemed to have brought into existence an asset owned by the company incurring the expenditure and in use for the purposes of such trade or business.

(2) For the purposes of this Schedule, an asset in respect of which qualifying mining expenditure has been incurred by any company for the purposes of a trade or business carried on by it and which has not been disposed of shall be deemed not to cease to be used for the purposes of that trade or business so long as such company continues to carry on that trade or business.

(3) So much of any qualifying mining expenditure incurred on the acquisition of rights in or over mineral deposits and on the purchase of information relating to the existence and extent of the deposits as exceeds the total of the original cost of acquisition of such rights and of the cost of searching for, discovering and testing such deposits prior to the purchase of such information shall be left out of account for the purposes of this Schedule :

Provided that where such costs were originally incurred by a company which carried on a trade or business consisting, as to the whole or part thereof, in the acquisition of such rights or information with a view to the assignment or sale thereof, the price paid on such assignment or sale shall be substituted for the aforementioned costs.

Owner and meaning of "relevant interest".

3.—(1) For the purposes of this Schedule, where an asset consists of a building, structure or works the owner thereof shall be taken to be the owner of the relevant interest in such building, structure or works.

(2) Subject to the provisions of this paragraph, in this Schedule, the expression "the relevant interest" means, in relation to any expenditure incurred on the construction of a building, structure or works, the interest in such building, structure or works to which the person who incurred such expenditure was entitled when he incurred it.

(3) Where, when he incurs qualifying building expenditure or qualifying mining expenditure on the construction of a building, structure or works, a person is entitled to two or more interests therein, and one of those interests is an interest which is reversionary on all the others, that interest shall be the relevant interest for the purposes of this Schedule.

Sale of buildings.

4. Where capital expenditure has been incurred on the construction of a building, structure or works and thereafter the relevant interest therein is sold, any company which buys that interest shall be deemed, for all the purposes of this Schedule except the granting of initial allowances, to have incurred, on the date when the purchase price became payable, capital expenditure on the construction thereof equal to the price paid by it for such interest or to the original cost of construction whichever is the less :

Provided that where such relevant interest is sold before the building, structure or works has been used, the foregoing provisions of this paragraph shall have effect with respect to such sale with the omission of the words "except the granting of initial allowances" and the original cost of construction shall be taken to be the amount of the purchase price on such sale :

Provided also that where any such relevant interest is sold more than once before the building, structure or works is used, the provisions of the foregoing proviso shall have effect only in relation to the last of those sales.

5. For the purposes of this Schedule—

(a) where but for this paragraph a company is entitled to an annual allowance in respect of qualifying building expenditure in respect of an asset in use, for the purposes of a trade or business carried on by it at the end of its basis period for any year of assessment, if that asset is an industrial building or structure in use as such at the end of its basis period for any such year then, *in lieu* of such allowance and qualifying building expenditure, the qualifying expenditure in respect of that asset shall be taken to mean "qualifying industrial building expenditure" for any allowances to be made to such company, in respect of that qualifying expenditure, for that year; and

Qualifying industrial building expenditure.

(b) "industrial building or structure" means any building or structure in regular use—

(i) as a mill, factory, mechanical workshop, or other similar building, or as a structure used in connection with any such buildings;

(ii) as a dock, port, wharf, pier, jetty or other similar building structure;

(iii) for the operation of a railway for public use or of a water or electricity undertaking for the supply of water or electricity for public consumption; and

(iv) for the running of a plantation or for the working of a mine or other source of mineral deposits of a wasting nature.

6.—(1) Subject to the provisions of this Schedule, where in its basis period for a year of assessment a company owning any asset has incurred in respect thereof qualifying expenditure wholly, exclusively, necessarily and reasonably for the purposes of a trade or business carried on by it, there shall be made to that company for the year of assessment in its basis period for which that asset was first used for the purposes of that trade or business an allowance (in this Schedule called "an initial allowance") at the appropriate rate *per centum*, set forth in Table I to this Schedule, of such expenditure.

Initial allowances.

(2) Where capital expenditure is incurred on the purchase of an asset and either purchaser is a person over whom the seller has control, or the seller is a person over whom the purchaser has control, or some other person has control over both the purchaser and the seller, then, the amount of any initial allowance to be made in respect of such expenditure shall be such an amount as the Board may determine to be just and reasonable having regard to all the circumstances relating to such asset and control:

Provided that any such amount shall not exceed the amount of the initial allowance which would have been allowable apart from the provisions of this sub-paragraph.

7.—(1) Subject to the provisions of this Schedule, where in its basis period for a year of assessment a company owning any asset has incurred in respect thereof qualifying expenditure wholly, exclusively, necessarily and reasonably for the purposes of a trade or business carried on by it, whether or not an initial allowance may be made in respect of that qualifying expenditure, there shall be made to that company for each year of assessment, in

Annual allowances.

its basis period for which that asset was used for the purposes of that trade or business, an allowance (hereinafter called "an annual allowance") at the rate specified in respect thereof in the Table II of this Schedule, of the residue of such expenditure at the end of the basis period for that year of assessment :

Provided that where the basis period for any year of assessment is a period of less than one year any such allowance for that year of assessment shall be proportionately reduced.

Asset to be in use at the end of basis period.

8. An initial or an annual allowance in respect of qualifying expenditure incurred in respect of any asset shall only be made to a company for a year of assessment if at the end of its basis period for that year it was the owner of that asset and that asset was in use for the purposes of a trade or business carried on by that company.

Balancing allowances.

9. Subject to the provisions of this Schedule, where in its basis period for a year of assessment a company owning an asset, which has incurred in respect thereof qualifying expenditure wholly, exclusively, necessarily and reasonably for the purposes of a trade or business carried on by it, disposes of that asset an allowance (hereinafter called "a balancing allowance") shall be made to that company for that year of the excess of the residue of that expenditure, at the date such asset is disposed of, over the value of that asset at that date :

Provided that a balancing allowance shall only be made in respect of such asset if immediately prior to its disposal it was in use by such owner in the trade or business for the purposes of which such qualifying expenditure was incurred.

Balancing charges.

10. Subject to the provisions of this Schedule, where in its basis period for a year of assessment a company owning an asset, which has incurred in respect thereof qualifying expenditure wholly, exclusively, necessarily and reasonably for the purposes of a trade or business carried on by it, disposes of that asset, a charge (hereinafter called "a balancing charge") shall be made on that company for that year of the excess of the value of that asset, at the date of its disposal, over the residue of that expenditure at that date :

Provided that a balancing charge shall only be made in respect of such asset if immediately prior to its disposal it was in use by such owner in the trade or business for the purposes of which such qualifying expenditure was incurred and shall not exceed the total of any allowances made to such owner under the provisions of this Schedule in respect of such asset and, in cases falling under paragraph 19 of the Fourth Schedule to the Income Tax Act, of any deductions made under section 10 of that Act in respect of the capital cost of such asset.

Cap. 85.

Residue.

11.—(1) The residue of qualifying expenditure, in respect of any asset, at any date, shall be taken to be the total qualifying expenditure incurred on or before that date, by the owner thereof at that date, in respect of that asset, less the total of any initial or annual allowances made to such owner, in respect of that asset, before that date.

(2) For the purposes of this paragraph, an initial allowance or annual allowance shall be deemed to be made at the end of the basis period for the year of assessment for which any such allowance is made.

12. Subject to any express provision to the contrary, for the purposes of this Schedule—

Meaning of
"disposed
of".

(a) a building, structure or works of a permanent nature is disposed of if any of the following events occur—

(i) the relevant interest therein is sold ; or

(ii) that interest, being an interest depending on the duration of a concession, comes to an end on the coming to an end of that concession ; or

(iii) that interest, being a leasehold interest, comes to an end otherwise than on the person entitled thereto acquiring the interest which is reversionary thereon ; or

(iv) the building, structure or works of a permanent nature are demolished or destroyed or, without being demolished or destroyed, cease altogether to be used for the purposes of a trade or business carried on by the owner thereof ;

(b) plant, machinery or fixtures are disposed of if they are sold, discarded or cease altogether to be used for the purposes of a trade or business carried on by the owner thereof ;

(c) assets in respect of which qualifying mining expenditure is incurred are disposed of if they are sold or if they cease to be used for the purposes of the trade or business of the company incurring the expenditure either on such company ceasing to carry on such trade or business or on such company receiving insurance or compensation monies therefor.

13.—(1) The value of an asset at the date of its disposal shall be the net proceeds of the sale thereof or of the relevant interest therein, or if it was disposed of without being sold, the amount which, in the opinion of the Board, such asset or the relevant interest therein, as the case may be, would have fetched if sold in the open market at that date, less the amount of any expenses which the owner might reasonably be expected to incur if the asset were so sold.

Value of an
asset.

(2) For the purposes of this paragraph, if an asset is disposed of in such circumstances that insurance or compensation monies are received by the owner thereof, the asset or the relevant interests therein, as the case may be, shall be treated as having been sold and as though the net proceeds of the insurance or compensation monies were the net proceeds of the sale thereof.

(3) So much of sub-paragraph (1) above as relates to the circumstances for determining the value of an asset by reference to the disposal of such asset other than by way of sale shall have effect—

(a) in relation to any asset or the relevant interest therein disposed of, not being by way of bargain made at arm's length ; or

(b) where the sale is between persons who are related to each other or between persons both of whom are controlled by some other person or one of whom has control over the other.

14.—(1) Any reference in this Schedule to the disposal, sale or purchase of any asset includes a reference to the disposal, sale or purchase of that asset, as the case may be, together with any other asset, whether or not qualifying expenditure has been incurred on such last-mentioned asset ; and where an asset is disposed of, sold, or purchased together with another asset, so much of the value of the assets as, on a just apportionment, is properly attributable to the first-mentioned asset shall, for the purposes of this Schedule, be deemed to be the value of or the price paid for that asset, as the case may be.

Apportion-
ment.

For the purposes of this sub-paragraph, all the assets which are purchased or disposed of in pursuance of one bargain shall be deemed to be purchased or disposed of together, notwithstanding that separate prices are or purport to be agreed for each of those assets or that there are or purport to be separate purchases or disposals of those assets.

(2) The provisions of sub-paragraph (1) of this paragraph shall apply, with any necessary modifications, to the sale or purchase of the relevant interest in any asset together with any other asset or relevant interest in any other asset.

Part of an asset.

15. Any reference in this Schedule to any asset shall be construed whenever necessary as including a reference to a part of any asset (including an undivided part of that asset in the case of joint interests therein) and when so construed any necessary apportionment shall be made as may, in the opinion of the Board, be just and reasonable.

Extension of meaning of "in use".

16.—(1) For the purposes of this Schedule, an asset shall be deemed to be in use during a period of temporary disuse.

(2) For the purposes of paragraphs 6, 7 and 8—

(a) an asset in respect of which qualifying expenditure has been incurred by the company owning such asset for the purposes of a trade or business carried on by it shall be deemed to be in use, for the purposes of that trade or business, between the dates hereinafter mentioned, where the Board is of the opinion that the first use to which the asset will be put by the company incurring such expenditure will be for the purposes of that trade or business ;

(b) the said dates shall be taken to be the date on which such expenditure was incurred and the date on which the asset is in fact first put to use :

Provided that where any allowances have been given in consequence of this sub-paragraph and the first use to which such asset is put is not for the purposes of such trade or business, all such additional assessments shall be made as may be necessary to counteract the benefit obtained from the giving of any such allowances.

Exclusion of certain expenditure.

17. Where any company has incurred expenditure which is allowed to be deducted, in computing the profits of its trade or business under section 20 of this Decree, such expenditure shall not be treated as qualifying expenditure.

Application of lessors.

18.—(1) Where a company owning any asset—

(a) has incurred capital expenditure in respect thereof for the purposes of leasing that asset for use wholly, exclusively, necessarily and reasonably for the purposes of a trade or business carried on or about to be carried on by a person, and

(b) leases the asset to such person ; and

(c) during the whole or part of the term of the lease, the asset is used wholly and exclusively by such person in such trade or business,

the provisions of this Schedule shall apply, with such necessary modifications as the Board may direct, as though such expenditure were incurred wholly, exclusively, necessarily and reasonably for the purposes of a trade or business carried on by the owner from the date when such expenditure was incurred and as though the owner were using the asset for the purpose of such last-mentioned trade or business in the way in which and for the period or periods during which the asset is in fact in the first-mentioned trade or business.

(2) For the purposes of this paragraph in relation to the trade or business which an owner is to be treated as carrying on, his basis period for any year of assessment shall be taken to be the year immediately preceding that year of assessment.

(3) Where a company owning an equipment has incurred capital expenditure in respect thereof for the purposes of leasing that equipment for the use wholly, exclusively, necessarily and reasonably for the purposes of a trade or business carried on or about to be carried on by a person, the provisions of this Schedule shall apply to all such leases.

(4) Subject to the provisions of this Schedule where a company has incurred expenditure wholly, exclusively necessarily and reasonably for the purposes of agricultural plant and equipment, there shall be due to that company an investment allowance of ten *per cent* of such expenditure.

19.—(1) The following provisions of this paragraph shall apply where either or both of the following conditions apply with respect to any asset—

(a) the owner of the asset has incurred in respect thereof qualifying expenditure partly for the purposes of a trade or business carried on by him and partly for other purposes ;

(b) the asset in respect of which qualifying expenditure has been incurred by the owner thereof is used partly for the purposes of a trade or business carried on by such owner and partly for other purposes.

(2) Any allowances and any charges which would be made if both such expenditure were incurred wholly, exclusively, necessarily and reasonably for the purposes of such trade or business and such asset were used wholly and exclusively for the purposes of such trade or business shall be computed in accordance with the provisions of this Schedule.

(3) So much of the allowances and charges computed in accordance with the provisions of sub-paragraph (2) of this paragraph shall be made as in the opinion of the Board is just and reasonable having regard to all the circumstances and to the provisions of this Schedule.

20. Where an asset in respect of which qualifying expenditure has been incurred by the owner thereof has been disposed of in such circumstances that such owner remains the owner thereof, then, for the purposes of determining whether and, if so, in what amount, any annual or balancing allowance or balancing charge shall be made to or on such owner in respect of his use of that asset after the date of such disposal—

(a) qualifying expenditure incurred by such owner in respect of such asset prior to the date of such disposal shall be let out of account ; but

(b) such owner shall be deemed to have bought such asset immediately after such disposal for a price equal to the residue of such qualifying expenditure at the date of such disposal, increased by the amount of any balancing charge or decreased by the amount of any balancing allowance made as a result of such disposal.

21: Any reference in this Schedule to an allowance made includes a reference to an allowance which would be made but for an insufficiency of assessable profits against which to make it.

22. No allowance shall be made to any company for any year of assessment under the provisions of this Schedule unless claimed by it for that year or where the Board is of the opinion that it would be reasonable and just so to do.

Asset used or expenditure incurred partly for the purposes of a trade or business.

Disposal without change of ownership.

Meaning of "allowances made."

Claims for allowances.

Election in double taxation cases.

23.—(1) Where a company makes a claim to an initial or annual allowance under this Schedule in connection with any trade or business, if the taxes in respect of the profits of the trade or business are the subject of an arrangement, having effect by virtue of section 33, between Nigeria and any other territory, for relief from double taxation, it may elect, at the time of making such claim or within such reasonable time thereafter as the Board may allow, that that allowance shall be calculated at a lesser rate than that provided for in paragraph 6 or 7 and in making such election it shall specify the amount of such lesser rate.

(2) Where an election has been made under this paragraph, the amount of such lesser rate shall be taken to be the appropriate rate in relation to that allowance for all the purposes of this Schedule.

Manner of making allowances and charges.

24.—(1) The amount of any charge to be made on a company under the provisions of this Schedule shall be made by making an addition to its assessable profits for the year of assessment for which such charge falls to be made under the provisions of this Schedule :

Provided that where any such charge falls to be made on any company for any year of assessment, whenever necessary by reason of the assessment on that company having become final and conclusive for that year or for other sufficient reason, the Board may make an additional assessment upon such company in respect of the amount of such charge.

(2) Subject to the provisions of this paragraph, the amount of any allowance to be made to a company under the provisions of this Schedule shall be made by making a deduction from the remainder of its assessable profits for the year of assessment for which such allowance falls to be made under the provisions of this Schedule.

(3) For the purposes of this paragraph any such remainder for a year of assessment shall be ascertained by first giving full effect to the provisions of sub-paragraph (1) of this paragraph and to the provisions of section 26 relating to the deduction of the amount of any loss.

(4) Where full effect cannot be given to any deduction to be made under sub-paragraph (2) of this paragraph for any year of assessment owing to there being no such remainder for that year, or owing to the remainder for that year being less than such deduction, the deduction or part of the deduction to which effect has not been given as the case may be, shall, for the purpose of ascertaining total profits (of the company entitled to such deduction) under section 26 for the following year, be deemed to be a deduction for that year, in accordance with the provisions of sub-paragraph (2) of this paragraph, and so on for succeeding years.

(5) Where a company is entitled to a deduction under the preceding sub-paragraph, or to a deduction in respect of a balancing allowance, in respect of an asset used in a trade or business carried on by it, for a year of assessment in which that trade or business permanently ceases to be carried on by it and full effect cannot be given to any such deduction for that year owing to there being no such remainder of assessable profits for that year, or owing to the remainder of its assessable profits for that year being less than such deduction, that deduction or the part to which effect has not been given, as the case may be, may, on a claim being made by such company, be given by way of deduction from any remainder of its assessable profits for the preceding year of assessment, and so on for other preceding years, so, however, that no such deduction shall be given by virtue of this sub-paragraph for any year earlier than the fifth year before the first-mentioned year of assessment :

Provided that where any relief is given under this sub-paragraph in respect of any such deduction, the provisions of the preceding sub-paragraph shall cease to have effect in respect of that deduction for any year of assessment subsequent to the year of assessment in which such trade or business ceases.

(6) Where any deduction falls to be given under the provisions of the preceding sub-paragraph for any preceding years of assessment, whenever necessary, by reason of any assessments for those years having become final and conclusive, or for other sufficient reason, the Board with respect to each such year may make such repayment or set-off of the tax, or of any part of such tax, paid or charged for any such year as may be appropriate, in lieu of making any such deduction.

TABLE I—INITIAL ALLOWANCES (Paragraph 6)

Qualifying Expenditure in respect of :—	Rate per centum
Qualifying Building Expenditure	5
Qualifying Agricultural Plant Expenditure ..	10
Qualifying Industrial Building Expenditure ..	15
Qualifying Mining Expenditure	20
Qualifying Plant Expenditure	20
Qualifying Plantation Expenditure	25

TABLE II—ANNUAL ALLOWANCES (Paragraph 7)

Residue of Qualifying Expenditure in respect of :—	Rate per centum
Qualifying Building Expenditure	10
Qualifying Industrial Building Expenditure ..	10
Qualifying Mining Expenditure	12½
Qualifying Plant Expenditure	12½
Qualifying Plantation Expenditure	15

SCHEDULE 3

TAX EXEMPTION ON CERTAIN INTERESTS

TABLE I (Section 9 (6))

TABLE OF TAX EXEMPTION ON INTEREST ON FOREIGN LOANS

Repayment Period including Moratorium	Grace Period	Tax Exemption allowed
(i) Above 7 years	Not less than 2 years	100%
(ii) 5-7 years	Not less than 18 months	70%
(iii) 2-4 years	Not less than 12 months	40%
(iv) Below 2 years	Nil	Nil

TABLE II

(Section 9 (7))

TABLE OF TAX EXEMPTION ON INTEREST ON LOANS BY BANKS
GRANTED FOR THE PURPOSE OF AN AGRICULTURAL TRADE OR BUSINESS

<i>Repayment Period including Moratorium</i>	<i>Grace Period</i>	<i>Tax Exemption allowed</i>
(i) Above 7 years	Not less than 2 years	100%
(ii) 5-7 years	Not less than 18 months	70%
(iii) 2-4 years	Not less than 12 months	40%
(iv) below 2 years	Nil	Nil

SCHEDULE 4

(Section 61)

WARRANT AND AUTHORITY TO LEVY BY DISTRESS UNDER THE
COMPANIES INCOME TAX DECREE 1979

To (a).....

Name of Company (b).....

Amount of tax to be levied by distress (c).....

The Federal Board of Inland Revenue, in exercise of powers vested in it by section 61 of the Companies Income Tax Decree 1979, hereby authorises you to collect and recover the sum of (c)....., being arrears of tax due for the years of assessment hereinafter mentioned from the above named company whose place of business is at (d).....; and for the recovery thereof the said Board further authorises that you, with the aid (if necessary) of your assistants and calling to your assistance any police officer (if necessary) which assistance he is by law required to give, do forthwith levy by distress the said sum together with the costs and charges of and incidental to the taking and keeping of such distress, on the goods, chattels, land, premises or other distrainable things of the said company wherever the same may be found and on all goods which you may find in any premises or on any lands in the use or possession of the said company or of any other person on its behalf or in trust for the company.

And for the purpose of levying such distress you are hereby authorised if necessary, with such assistance as aforesaid to break open any building or place in the daytime.

2. The particulars of the said arrears of tax are as follows :—

	<i>Year of Assessment</i>	<i>No. of Notice of Assessment</i>	<i>Amount of tax due</i> ₦ : k	
(i)	} (e)
(ii)	
(iii)	

Signed for and on behalf of the Federal Board of Inland Revenue at

.....this.....day of.....19.....

Signature (f).....
Chairman
Federal Board of Inland Revenue

NOTES

(a) *Insert the name of the officer who is authorised by the board to execute the warrant of distress.*

(b) *Insert the name of the company on whose goods, chattels, land, premises or other distrainable things the warrant of distress is to be executed.*

(c) *Insert the amount of tax outstanding against the company and which amount is to be levied by distress.*

(d) *Insert the address of the place of business of the company.*

(e) *Insert the particulars of the arrears of tax to be levied by distress, stating the years of assessment, the numbers of notices of assessment and the amount of tax due in respect of each such year of assessment.*

(f) *To be signed by the Chairman, Federal Board of Inland Revenue.*

SCHEDULE 5

(Section 21)

FUNDS, BODIES AND INSTITUTIONS IN NIGERIA TO WHICH DONATIONS MAY BE MADE UNDER SECTION 21 OF THIS DECREE

1. The Boys Brigade of Nigeria.
2. The Boy Scouts of Nigeria.
3. The Christian Council of Nigeria.
4. The Cocoa Research Institute of Nigeria.
5. Any educational institution affiliated under any law with any university in Nigeria, or established under any law in Nigeria and any other educational institution recognized by any Government in Nigeria.

6. The Girl Guides of Nigeria.
7. Any hospital owned by the Government of the Federation or of a State or any University Teaching Hospital or any hospital which is carried on by a society or association otherwise than for the purpose of profits or gains to the individual members of that society or association.
8. The Institute of Medical Laboratory Technology.
9. The National Commission for Rehabilitation.
10. The National Library.
11. The Nigerian Council for Medical Research.
12. The National Science and Technology Development Agency.
13. The Nigerian Institute for International Affairs.
14. The Nigerian Institute for Oil Palm Research.
15. The Nigerian Institute for Trypanosomiasis Research.
16. The Nigerian Museum.
17. The Nigerian Red Cross.
18. A public fund established and maintained for providing money for the construction or maintenance of a public memorial relating to the civil war in Nigeria which ended on 15th January 1970.
19. A public institution or public fund (including the Armed Forces Comfort Fund) established or maintained for the comfort, recreation or welfare of members of the Nigerian Army, Navy or Air Force.
20. A public fund established and maintained exclusively for providing money for the acquisition, construction, maintenance or equipment of a building used or to be used as a school or college by the Government of the Federation or a State or by a public authority or by a society or association which is carried on otherwise than for the purpose of profit or gain to the individual members of that society or association.
21. The National Youth Council of Nigeria.
22. National Sports Commission and its State Associations.
23. The Nigerian Society for the Deaf and Dumb.
24. The Society for the Blind.
25. The Nigerian National Advisory Council for the Blind.
26. Associations or Societies for the Blind in Nigeria.
27. Training Centres and Residential Schools for the Blind in Nigeria.
28. The National Braille Library of Nigeria.
29. The Nigerian Youth Trust.
30. Van Leer Educational Trust Fund.
31. Southern Africa Relief Fund.
32. Islamic Education Trust.

33. Any public fund established or approved by the Government of the Federation or established by any of the State Governments in aid of or for the relief of drought or any other national disaster in any part of the Federation.

MADE at Lagos this 12th day of July 1979.

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 repeals and re-enacts, with sundry amendments the Companies Income Tax Act 1961 as amended and generally has effect from 1st April 1977.

2. The Decree *inter alia* particularly introduces the following amendments:—

(a) section 7 (4) authorises the Federal Board of Inland Revenue to serve, in cases where personal service has proved difficult or impossible, notices of assessment by posting the notice on the last known address of the company or as a last resort by advertising the same in a single issue of the Federal Gazette;

(b) section 7 (5) imposes stiff penalties for obstruction or the use of violence against any officers of the Board;

(c) section 8 (1) (g) imposes appropriate tax on income arising from use of the assets of a foreign company where no accounts have been rendered but allows a deduction of 45 *per-centum* of such income as capital allowance and for other expenses;

(d) section 9 provides for the imposition of appropriate tax on interest accruing to a foreign company from Nigeria. Subsections (6) and (7) waive such payment in stipulated cases relating to foreign and agricultural loans respectively;

(e) section 40 (1) makes it obligatory for every company to file an annual audited account under that section;

(f) section 40 (4) makes it obligatory for every company to submit provisional accounts within three months of the end of its accounting year;

(g) sections 50(1) and 56(1) provide for the reduction from 30 days to 15 days the time within which a company may object to an assessment or lodge an appeal against an assessment to the body of Appeal Commissioners respectively;

(h) section 55 stipulates the procedure for enforcement after the body of Appeal Commissioners has delivered its judgment;

(i) section 56 provides that appeals from the decision of the body of Appeal Commissioners to the Federal Revenue Court shall be by way of case stated and shall relate strictly to points of law;

(j) section 58 (4) compels every company which has submitted provisional accounts to pay appropriate tax thereon within 30 days of the submission.

3. The Companies Income Tax Act 1961 as amended shall cease to have effect with respect to tax on income or profits of companies for all years of assessment beginning after the 31st day of March 1977.

NATIONAL LIBRARY (AMENDMENT) DECREE 1979



Decree No. 29

[12th July 1979]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The National Library Decree 1970 is hereby amended as follows :—

Amendment
of 1970
No. 29.

(a) for the existing paragraphs 3 and 4 of Schedule 1 thereto, there shall be substituted the following paragraphs, that is—

“3.—(1) Subject to the provisions of this Decree, a person appointed to be a member of the Board, not being a public officer, shall hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment for one further period of three years.

(2) Any member, not being a public officer, may resign his appointment by a letter addressed to the Commissioner.

4.—(1) If it appears to the Commissioner that a member of the Board should be removed from office on the ground of misconduct or inability to perform the functions of his office, the Commissioner shall after consultation with the interests, if any, represented by that member make a recommendation to that effect to the Federal Executive Council and if that Council approves the recommendation, the Commissioner shall declare, in writing, the office of that member vacant.

(2) Subject to sub-paragraph (1) above—

(a) any member who is absent from two consecutive ordinary meetings of the Board shall file his explanation in writing with the Secretary for consideration by the Board and if the explanation is not accepted by the Board, the Board may recommend to the Commissioner that the member be removed, and the Commissioner may declare, in writing, the office of that member vacant ;

(b) where the Board is satisfied that the continued presence on the Board of any member is not in the national interest or the interest of the Board, the Board may recommend to the Commissioner that the member be removed, and the Commissioner may declare, in writing, the office of that member vacant.” ;

(b) paragraphs 5, 6 and 7 of Schedule 1 thereto are hereby repealed ; and

(c) in paragraph 9 of Schedule 1, for the words "paragraphs 3 to 8" there shall be substituted the words "paragraphs 3, 4 and 8".

Citation.

2. This Decree may be cited as the National Library (Amendment) Decree 1979.

MADE at Lagos this 12th day of July 1979.

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 amends the National Library Decree 1970 by prescribing a three year tenure of office for every member of the Board who is not an *ex-officio* member.

COMMODITY BOARDS (AMENDMENT) DECREE 1979



Decree No. 30

[See section 4 (2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Commodity Boards Decree 1977 is hereby amended as follows—

Amendment
of Decree
No. 29 of
1977.

(a) in section 1, paragraph (g) of subsection (1) and paragraph (g) of subsection (2) thereof shall be deleted ;

(b) in section 5—

(i) in subsection (1) thereof, immediately after the word “commodity” where it occurs in the last line, there shall be added the words (“including processed and semi-processed commodities”) ; and

(ii) for subsection (2) thereof, there shall be substituted the following new subsection—

“(2) For the purposes of this section, the relevant commodities shall be as specified respectively for each Board in Schedule 2 to this Decree.” ;

(c) in paragraph (b) of subsection (3) of section 23 thereof, after the words “under this section”, where those words occur in the second line there shall be inserted the words “(other than their accumulated pension funds which shall be transferred to the Federal Military Government)” ;

(d) in section 24, all the words occurring in the third line after the words “Schedule 2 to this Decree” shall be deleted ;

(e) in the definition of “commodity” in section 26 thereof, all the words after the words “Schedule 2 to this Decree” shall be deleted ;

(f) for Schedule 2 thereof, there shall be substituted the following new schedule, that is—

“SCHEDULE 2

(Sections 5 and 13)

COMMODITIES TO WHICH THIS DECREE APPLIES

A. THE NIGERIAN COCOA BOARD—

(1) cocoa, cocoa butter, cocoa cake, cocoa liquor, cocoa powder, cocoa paste, cocoa nibs

(2) coffee

(3) tea

B. THE NIGERIAN GROUNDNUT BOARD—

- (1) groundnuts, groundnut cake, groundnut oil, groundnut pellets
- (2) soya beans, soya bean cake, soya bean oil, soya bean pellets
- (3) beniseed, beniseed cake, beniseed oil, beniseed pellets
- (4) sheanuts, sheanut oil, sheanut butter, sheanut cake
- (5) ginger

C. THE NIGERIAN COTTON BOARD—

- (1) seed cotton
- (2) cottonseed, cotton seed oil, cotton seed cake, cotton seed pellets
- (3) cotton lint, cotton lintas
- (4) kenaf
- (5) tobacco

D. THE NIGERIAN PALM PRODUCE BOARD—

- (1) palm oil
- (2) palm kernel, palm kernel oil, palm kernel cake, palm kernel pellets
- (3) copra, coconut oil, coconut pellets

E. THE NIGERIAN RUBBER BOARD—
rubber

F. THE NIGERIAN GRAINS BOARD—

- (1) guinea corn
- (2) maize and corn oil
- (3) millet
- (4) wheat and wheat offals
- (5) rice
- (6) beans.” ; and

(e) in Schedule 3, in subparagraph (1) of paragraph 2 thereof, after the words “rights and interests”, there shall be added the words “(other than the accumulated pensions funds of the corresponding produce marketing board which shall vest in the Federal Military Government)”.

Dissolution of the Nigerian Tuber and Root Crops Board and transfer of its assets.

2.—(1) The Nigerian Tuber and Root Crops Board is hereby dissolved and, accordingly, and notwithstanding the Commodity Boards Decree 1977 or any other enactment, all assets, funds, resources and other movable or immovable property which immediately before the commencement of this Decree were vested in the Nigerian Tuber and Root Crops Board (in this Decree referred to as “the board” shall, by virtue of this Decree and without any further assurance, be vested in the National Root Crops Production Company (in this Decree referred to as “the company”).

(2) As from the commencement of this Decree—

(a) the rights, interests, obligations and liabilities of the board existing immediately before the commencement of this Decree under any contract or instrument or at law or in equity apart from any contract or instrument are hereby assigned to and vested in the company without further assurance but for this Decree ; and

(b) any such contract or instrument as is mentioned in paragraph (a) above shall be of the same force and effect against or in favour of the company and shall be enforceable as fully and effectively as if instead of the board, the company had been named therein or had been a party thereto.

(3) Any proceeding or cause of action pending or existing immediately before the commencement of this Decree by or against the board in respect of any right, interest, obligation or liability of the board may be continued or, as the case may be, commenced and any determination of a court of law, tribunal or other authority or person may be enforced by or against the company to the same extent that any such proceeding, cause of action or determination might have been continued, commenced or enforced by or against the board if this Decree had not been made.

3. Notwithstanding the dissolution of the board by this Decree, if the company thinks it expedient that any vacancy in the company should be filled by a person holding office at the commencement of this Decree in the board, it may employ such person by way of transfer to the company and previous service in the board by such person shall count as service for the purposes of any pension subsequently payable by the company.

Transfer of staff.

4.—(1) This Decree may be cited as the Commodity Boards (Amendment) Decree 1979.

Citation and commencement.

(2) Sections 2 and 3 of this Decree shall be deemed to have come into force on 1st April 1979.

MADE at Lagos this 12th day of July 1979.

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 amends the Commodity Boards Decree 1977 to confer on the respective commodity boards exclusive right to the export of the processed and semi-processed products of their relevant commodities. The principal Decree had earlier conferred on the respective boards exclusive right to the export of their relevant raw materials. It also dissolves the Nigerian Tuber and Root Crops Board and transfers its assets to the National Root Crops Production Company.

The Decree further vests the accumulated pensions funds of the defunct States' marketing boards in the Federal Government, which now assumes responsibility for payment of the pensions of the former employees of those bodies.

**NIGERIAN LIVESTOCK AND MEAT AUTHORITY
(REPEAL, ETC.) DECREE 1979**



Decree No. 31

[1st February 1979]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The Nigerian Livestock and Meat Authority Decree 1971 is hereby repealed and, accordingly, and notwithstanding the Companies Decree 1968 or the articles of association of the company, all assets, funds, resources and other movable or immovable property which immediately before the commencement of this Decree were vested in the Nigerian Livestock and Meat Authority (in this Decree referred to as “the authority”) shall, by virtue of this Decree and without any further assurance, be vested in the National Livestock Production Company (in this Decree referred to as “the company”).

Repeal of
1971 No. 42
and transfer
of assets
and liabilities,
etc.
1968 No. 51.

(2) As from the commencement of this Decree—

(a) the rights, interests, obligations and liabilities of the authority existing immediately before the commencement of this Decree under any contract or instrument or at law or in equity apart from any contract or instrument are hereby assigned to and vested in the company without further assurance but for this Decree ; and

(b) any such contract or instrument as is mentioned in paragraph (a) above shall be of the same force and effect against or in favour of the company and shall be enforceable as fully and effectively as if instead of the authority, the company had been named therein or had been a party thereto.

(3) Any proceeding or cause of action pending or existing immediately before the commencement of this Decree by or against the authority in respect of any right, interest, obligation or liability of the authority may be continued or, as the case may be, commenced and any determination of a court of law, tribunal or other authority or person may be enforced by or against the company to the same extent that any such proceeding, cause of action or determination might have been continued, commenced or enforced by or against the authority if this Decree had not been made.

2. Notwithstanding the dissolution of the authority by this Decree, if the company thinks it expedient that any vacancy in the company should be filled by a person holding office at the commencement of this Decree in the authority, it may employ such person by way of transfer to the company and previous service in the authority by such person shall count as service for the purposes of any pension subsequently payable by the company.

Transfer of
staff.

Citation and
commence-
ment.

3. This Decree may be cited as the Nigerian Livestock and Meat Authority (Repeal, etc.) Decree 1979 and shall be deemed to have come into force on 1st February 1979.

Made at Lagos this 12th day of July 1979.

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 repeals the Nigerian Livestock and Meat Authority Decree 1971 and transfers the assets and liabilities of the Nigerian Livestock and Meat Authority to the National Livestock Production Company.