

Supplement to Official Gazette Extraordinary No. 30 Vol. 71, 18th April,
1984—Part—A

**THE FEDERAL MILITARY GOVERNMENT (SUPREMACY
AND ENFORCEMENT OF POWERS) DECREE 1984**



Decree No. 13

[17th May 1984]

Commence-
ment.

WHEREAS the military revolution which took place on 31st December 1983 effectively abrogated the whole pre-existing legal order in Nigeria except what has been preserved under the Constitution (Suspension and Modification) Decree 1984 :

1984 No. 1.

AND WHEREAS the military revolution aforesaid involved an abrupt political change which was not within the contemplation of the Constitution of the Federal Republic of Nigeria 1979 (hereafter in this Decree referred to as the Constitution") :

AND WHEREAS by the Constitution (Suspension and Modification) Decree 1984 aforesaid there was established a new government known as the "Federal Military Government" with absolute powers to make laws for the peace, order and good government of Nigeria or any part thereof with respect to any matter whatsoever and, in exercise of the said powers, the said Federal Military Government permitted certain provisions of the said Constitution to remain in operation :

1984 No. 1.

AND WHEREAS by section 5 of the said Constitution (Suspension and Modification) Decree 1984, no question as to the validity of any Decree or any Edict (in so far as by section 2 (4) thereof the provisions of the Edict are not inconsistent with the provisions of a Decree) shall be entertained by any court of law in Nigeria :

AND WHEREAS by section 1 (2) of the said Constitution (Suspension and Modification) Decree 1984 the provisions of a Decree shall prevail over those of the unsuspended provisions of the said Constitution :

NOW, THEREFORE, THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The preamble hereto is hereby affirmed and declared as forming part of this Decree.

(2) It is hereby declared also that—

(a) for the efficacy and stability of the government of the Federal Republic of Nigeria ; and

Exclusion of
civil pro-
ceedings.

(b) with a view to assuring the effective maintenance of the territorial integrity of Nigeria and the peace, order and good government of the Federal Republic of Nigeria—

(i) no civil proceedings shall lie or be instituted in any court for or on account of or in respect of any act, matter or thing done or purported to be done under or pursuant to any Decree or Edict and if any such proceedings are instituted before, on or after the commencement of this Decree the proceedings shall abate, be discharged and made void.

(ii) the question whether any provision of Chapter IV of the Constitution has been, is being or would be contravened by anything done or proposed to be done in pursuance of any Decree or an Edict shall not be inquired into in any court of law and, accordingly, no provision of the Constitution shall apply in respect of any such question.

Citation.

2. This Decree may be cited as the Federal Military Government (Supremacy and Enforcement of Powers) Decree 1984.

MADE at Lagos this 17th day of May 1984.

MAJOR-GENERAL M. BUHARI,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

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

Section 5 (1) of the Constitution (Suspension and Modification) Decree 1984 had earlier affirmed the supremacy of a Decree or, in an appropriate case, an Edict over the modified or unsuspended provisions of the 1979 Constitution. For the avoidance of doubt, the Decree reaffirms that position, and accordingly, renders null and void any suit pending before any court of law challenging the competence of the Federal or State Military Government to make any Decree or Edict.

RECOVERY OF PUBLIC PROPERTY (SPECIAL MILITARY
TRIBUNALS) (AMENDMENT) (No. 2) DECREE 1984



Decree No. 14

[31st December 1983]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Recovery of Public Property (Special Military Tribunals) Decree 1984, as amended by the Recovery of Public Property (Special Military Tribunals) (Amendment) Decree 1984 is hereby further amended as follows :—

Amendment
of Decree
No. 3 of
1984.
1984 No. 8.

(a) for subsection (1A) of section 1 of the Recovery of Public Property (Special Military Tribunals) Decree 1984, as inserted by the Recovery of Public Property (Special Military Tribunals) (Amendment) Decree 1984, there shall be substituted the following new subsection (1A), that is—

“(1A) Any public officer who—

(a) has engaged in corrupt practices or has corruptly enriched himself or any other person ;

(b) has by virtue of abuse of his office contributed to the economic adversity of the Federal Republic of Nigeria ;

(c) has in any other way been in breach of the Code of Conduct ; or

(d) has attempted, aided, counselled, procured or conspired with any person to commit any of the offences set out in this section,

at any time after 30th September 1979 shall be guilty of an offence under this Decree and upon conviction shall, apart from any other penalty prescribed by or pursuant to any other provision of this Decree, forfeit the assets, whether movable or immovable property connected with the commission of the offence, to the Federal Military Government.” ;

(b) immediately after section 7 thereof, there shall be inserted the following new section 7A, that is to say—

“Evidence of accomplices. 7A. Notwithstanding anything to the contrary in any law (including any rule of law), no witness shall, in any trial or enquiry under this Decree, be presumed to be unworthy of credit by reason only that he took part in the commission of the offence.” ;

(c) in section 11 thereof, immediately after subsection (2) there shall be inserted the following new subsections, that is to say—

“(3) Where a person is charged with an offence but the evidence establishes an attempt to commit the offence he may be convicted of having attempted to commit that offence, although the attempt is not separately charged, and punished as provided in subsection (1) of this section.

(4) Where a person is charged with an offence under this Decree but the evidence established the commission of another offence under this Decree the offender shall not be entitled to acquittal but he may be convicted of that other offence and punished as provided in subsection (1) of this section.

Citation,
commence-
ment and
repeal.

2.—(1) This Decree may be cited as the Recovery of Public Property (Special Military Tribunals) (Amendment) (No. 2) Decree 1984 and shall be deemed to have come into force on 31st December 1983.

(2) The Recovery of Public Property (Special Military Tribunals) (Amendment) Decree 1984 is hereby repealed.

MADE at Lagos this 17th day of May 1984.

MAJOR-GENERAL M. BUHARI,
*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 Recovery of Public Property (Special Military Tribunals) Decree 1984, as amended—

- (a) to create the additional offence of aiding, counselling, procuring or conspiring with any other person to commit an offence under the Decree ;
- (b) to render admissible the evidence of an accomplice ; and
- (c) to empower the tribunals to convict for an offence alternate to that charged.