

NATIONAL DRUG LAW ENFORCEMENT AGENCY DECREE 1989



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SCHEDULES

Decree No. 48

[29th December 1989]

Commence-
ment.

WHEREAS the Federal Military Government—

(a) is deeply concerned about the magnitude of and the rising trend in the demand for and traffic in narcotic drugs and psychotropic substances which adversely affect the international image of Nigerians and Nigeria ;

(b) recognising the links between illicit traffic in drugs and psychotropic substances and other related organised criminal activities which undermine the legitimate economy and threaten the stability and security of the country ;

(c) recognising also that illicit traffic in narcotic drugs and psychotropic substances is an international criminal activity, the suppression of which demands urgent attention and highest priority ;

(d) is aware that illicit traffic in narcotic drugs and psychotropic substances generates large financial profits and wealth enabling trans-national criminal organisations to penetrate, contaminate and corrupt the structures of governments, legitimate commercial and financial business and society at all levels ;

(e) is determined to deprive persons engaged in illicit traffic in narcotic drugs and psychotropic substances of the proceeds of their criminal activities and thereby eliminate their incentives for so doing ;

(f) is desirous to eliminate the root causes of the problem of narcotic drugs and psychotropic substances, including the illicit demand for such drugs and substances and the enormous profits derived therefrom ;

(g) is determined to improve its international co-operation in the suppression of illicit traffic in narcotic drugs and psychotropic substances by sea, road and air ;

(h) recognising that eradication of illicit traffic in narcotic drugs and psychotropic substances should be vigorously pursued by reinforcing and promulgating a comprehensive legislation to supplement international measures already taken towards effective and meaningful eradication of the illicit traffic, misuse and abuse of narcotic drugs and psychotropic substances :

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

PART I—ESTABLISHMENT OF THE NATIONAL DRUG LAW ENFORCEMENT AGENCY, ETC.

1. There is hereby established a body to be known as the National Drug Law Enforcement Agency (hereafter in this Decree referred to as “the Agency”).

Establish-
ment of the
National
Drug Law
Enforcement
Agency.

2.—(1) The Agency shall consist of the following—

(a) a Chairman ;

Composition
and pro-
ceedings, etc.

(b) a representative of the Nigeria Police Force, not below the rank of an Assistant Inspector-General ;

(c) the Director, Military Intelligence ;

- (d) the Director of Customs and Excise ;
- (e) the Director, State Security Service ;
- (f) a representative of the Federal Ministry of Justice not below the rank of Director ;
- (g) the Director-General, National Intelligence Agency ;
- (h) a representative each of the Ministries of External Affairs, and Health not below the rank of Director ; and
- (i) three other persons.

(2) The President, Commander-in-Chief of the Armed Forces shall appoint the Chairman and the members specified in paragraph (i) of sub-section (1) of this section on the recommendation of the Attorney-General of the Federation.

(3) The Chairman of the Agency shall be the Chief Executive of the Agency and shall be the Accounting Officer of the Agency.

(4) The provisions of Schedule 1 to this Decree shall have effect with respect to the proceedings of the Agency and other matters mentioned therein.

Functions
of the
Agency.

3.—Subject to this Decree and in addition to any other functions expressly conferred on it by other provisions of this Decree, the Agency shall have responsibility for—

- (a) the enforcement and the due administration of the provisions of this Decree ;
- (b) the co-ordination of all drug laws and enforcement functions conferred on any person or authority, including Ministers in the Government of the Federation, by any such laws ;
- (c) adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from drug and drug-related offences or property whose value corresponds to such proceeds ;
- (d) adoption of measures to eradicate illicit cultivation of narcotic plants and to eliminate illicit demand for narcotic drugs and psychotropic substances with a view to reducing human suffering and eliminating financial incentives for illicit traffic in narcotic drugs and psychotropic substances ;
- (e) taking such measures which might require the taking of reasonable precautions to prevent the use of ordinary means of transport for illicit traffic in narcotic drugs including making special arrangements with transport owners ;
- (f) adoption of measures which shall include co-ordinated preventive and repressive action, introduction and maintenance of investigative and control techniques ;
- (g) adoption of measures to increase the effectiveness of eradication efforts ;
- (h) the facilitation of rapid exchange of scientific and technical information and the conduct of research geared towards eradication of illicit use of narcotic drugs and psychotropic substances ;

(i) taking measures for the early destruction or disposal of the narcotic drugs and psychotropic substances which have been seized, confiscated or forfeited ;

(j) facilitation or encouragement of the presence or availability of persons, including persons in custody who consent to assist in investigations or participate in proceedings relating to narcotic drugs and psychotropic substances ;

(k) enhancing the effectiveness of law enforcement to suppress illicit traffic in narcotic drugs and psychotropic substances ;

(l) establishing, maintaining and securing communication to facilitate the rapid exchange of information concerning offences and improving international co-operation in the suppression of illicit traffic in narcotic drugs and psychotropic substances by road, sea and air ;

(m) reinforcing and supplementing the measures provided in the Convention on Narcotic Drugs 1961, as amended by the 1972 Protocol, the 1971 Convention on Psychotropic Substances and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1989 as adopted by the Nigerian domestic law, in order to counter the magnitude and extent of illicit traffic in narcotic drugs and psychotropic substances and its grave consequences ;

(n) taking such measures that may ensure the elimination and prevention of the root causes of the problem of narcotic drugs and psychotropic substances ;

(o) strengthening and enhancing effective legal means for international co-operation in criminal matters for suppressing the international activities of illicit traffic in narcotic drugs and psychotropic substances ;

(p) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous to those of the Agency concerning, amongst others—

(i) the identities, whereabouts and activities of persons suspected of being involved in offences mentioned in this Decree ;

(ii) the movement of proceeds or property derived from the commission of such offences ;

(iii) the movement of narcotic drugs and psychotropic substances specified in Schedule 2 to this Decree, and instrumentalities used or intended for use in the commission of such offences ;

(iv) the exchange of personnel and other experts ;

(v) the establishment and maintainance of a system for monitoring international dealings in narcotic drugs and psychotropic substances in order to identify suspicious transactions and persons engaged in them ;

(g) taking charge, supervising, controlling, co-ordinating all the responsibilities, functions and activities relating to arrest, investigation, prosecution of all offences connected with or relating to illicit traffic in narcotic drugs and psychotropic substances, notwithstanding any law to the contrary, all drugs units under existing institutions dealing with offenders

or offences connected or relating to illicit traffic in narcotic drugs or psychotropic substances shall relate and be responsible to the Agency in the performance of their duties and functions ; and

(r) strengthening co-operation between the office of the Attorney-General of the Federation, the police force, customs agencies, immigration agencies, welfare officials, health officials and other law enforcement agencies in the eradication of illicit traffic in narcotic drugs and psychotropic substances.

Special powers of the Agency to investigate.

4.—(1) The Agency shall have power—

(a) to cause investigations to be conducted as to whether any person has committed an offence under this Decree ; and

(b) with a view to ascertaining whether any person has been involved in offences under this Decree or in the proceeds of any such offences, to cause investigations to be conducted into the properties of any person if it appears to the Agency that that person's life style and extent of the properties are not justified by his ostensible source of income.

(2) For the purpose of inquiring into and ascertaining whether an offence under paragraph (b) of subsection (1) of this section has been committed, the Agency may, by notice in writing, call upon any person to furnish to it within a time specified in the notice, such information, returns, accounts, books or other documents in custody of such person as the Agency may consider fit and proper within the circumstances.

(3) The Agency shall not exercise the power conferred upon it by paragraph (b) of subsection (1) of this section without first obtaining the approval of the Attorney-General of the Federation.

The Secretariats appointment of Secretary and other Staff of the Agency

5.—(1) There shall be established a Secretariat for the Agency.

(2) There shall be appointed for the Agency a Secretary whose rank shall be equivalent to that of Director-General in the civil service of the Federation and who shall be appointed by the President, Commander-in-Chief of the Armed Forces.

(3) The Secretary shall be the head of the Secretariat of the Agency.

(4) The Secretary shall be responsible for the administration of the Secretariat, keep the books and records of the Agency and shall be subject to the supervision and control of the Chairman and the Agency.

(5) The Agency may, from time to time, appoint such other staff, as it may deem necessary, to assist the Agency in the performance of its functions under this Decree.

(6) The staff of the Agency appointed under subsection (5) of this section shall be appointed upon such terms and conditions of service as the Agency may, after consultation with the Federal Civil Service Commission, determine.

(7) The staff of the Agency shall be public officers as defined in the Constitution of the Federal Republic of Nigeria 1979; as amended.

Establishment of special units, etc.

6.—(1) For the effective conduct of the functions of the Agency, there shall be established the following units, that is to say—

(a) general and assets investigation unit ;

(b) prosecution unit ; and

(c) counselling unit.

(2) Notwithstanding the provisions of subsection (1) of this section, the Agency shall have power to set up any technical committees to assist it in the performance of its duties and functions under this Decree.

7.—(1) The general and assets investigation unit shall be charged with the responsibility for—

Special
duties of the
units.

(a) prevention and detection of offences in violation of the provisions of this Decree ;

(b) working in collaboration with the Department of Customs and Excise in monitoring the movement of goods and persons in any customs area, customs stations, customs ports or customs airports and searching cargoes and incoming and outgoing vessels, including pleasure crafts, and fishing vessels, as well as aircrafts and vehicles and when appropriate searching crew members, passengers and their baggages ;

(c) detecting consignments suspected of containing narcotic drugs and psychotropic substances coming into or out of a customs area, customs station, customs port or customs airport ;

(d) maintaining surveillance in harbour and dock areas and at airports and border control points ;

(e) investigating assets and properties of persons arrested for committing any offence under this Decree ;

(f) identifying and tracing proceeds involved in any offence under this Decree and effecting forfeiture of such proceeds ; and

(g) dealing with matters connected with extradition and mutual assistance in criminal matters.

(2) The prosecution unit shall be charged with responsibility for—

(a) prosecuting offenders under this Decree ;

(b) supporting the general and assets investigating unit by providing the unit with legal advice and assistance whenever it is required ;

(c) conducting such proceedings as may be necessary towards the recovery of any assets or property forfeited under this Decree ;

(d) performing such other legal duties as the Agency may refer to it from time to time.

(3) The counselling unit shall, in collaboration with the Federal Ministry of Health, have responsibility for—

(a) campaigns, seminars and workshops aimed at educating the public on the danger of narcotic drugs and psychotropic substances thereby stimulating interest in and awareness about drug related problems ;

(b) after care rehabilitation, social reintegration and education of addicts ;

(c) the promotion of the welfare of convicts.

(4) There shall be appointed for each of the units a principal officer who shall be known by such designation as the Agency may determine.

8. The Agency shall initiate, develop or improve specific training programme for its law enforcement and other personnel charged with responsibility for the suppression of offences created by this Decree and such programme shall include—

Training
programme.

(a) methods used in the detection and suppression of offences under this Decree ;

(b) routes and techniques used by persons involved in offences under this Decree and appropriate counter-measures ;

(c) monitoring of the import and export of narcotic drugs and psychotropic substances ;

(d) detection and monitoring of the movement of proceeds and property derived from narcotic drugs, psychotropic substances and instrumentalities used or intended to be used in the commission of offences under this Decree ;

(e) methods used for the transfer, concealment or disguise of such proceeds, property and instrumentalities ;

(f) collection of evidence ;

(g) law enforcement techniques ; and

(h) dissemination of information about drug laws.

Power of the Attorney-General of the Federation to give directives to the Agency.

9.—(1) The Attorney-General of the Federation may, from time to time, give general policy guidelines to the Agency.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, the Attorney-General of the Federation may give to the Agency directives of a general nature or specific directive relating generally to a particular matter or case, as the case may be.

(3) It shall be the duty of the Agency to comply with any policy guideline or any directive given by the Attorney-General of the Federation pursuant to subsection (1) or (2) of this section.

PART II—OFFENCES

A—Offences relating to drug abuse or trafficking

Importation, etc. of cocaine, heroine, or similar drugs, etc.

10. Any person who, without lawful authority—

(a) imports, manufactures, produces, processes, plants or grows the drugs popularly known as cocaine, LSD, heroine or any other similar drugs shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life ; or

(b) exports, transports or otherwise traffics in the drugs popularly known as cocaine, LSD, heroine or any other similar drugs shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life ;

(c) sells, buys, exposes or offers for sale or otherwise deals in or with the drugs popularly known as cocaine, LSD, heroine or any other similar drugs shall be guilty of an offence and liable on conviction to be sentenced to imprisonment for life ; or

(d) knowingly possesses or uses the drugs popularly known as cocaine, LSD, heroine or any other similar drugs by smoking, inhaling or injecting the said drugs shall be guilty of an offence and liable on conviction to imprisonment for a term not less than fifteen years but not exceeding twenty-five years.

11.—(1) Any person who, without lawful authority (the proof of which shall lie on him) commits any of the following offences, that is to say—

Offences in relation to drug abuse and penalties.

(a) engages in the production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transportation, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention and its Protocols, or the 1971 Convention and its Protocols or the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1989;

(b) engages in the cultivation of opium, opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the 1961 Convention ;

(c) has in his possession or engages or purchases any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in paragraph (a) of this subsection ;

(d) engages in the acquisition, possession or use of property knowing at the time of its acquisition, possession or use that such property was derived from any offence referred to in this section ;

(e) engages in the possession of equipment or material or substance listed in Schedule 2 to this Decree knowing that such equipment, material or substance are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances ;

(f) incites or induces any person by any means whatsoever to commit any of the offences referred to in this section ;

(g) conspires with, aids, abets, counsels or attempts to commit any of the offences referred to in this section ;

(h) engages in the manufacture, transportation or distribution of equipment, materials or of any substance listed in Schedule 2 to this Decree knowing that such equipment, material or substance are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances ;

(i) engages in the management, organisation or financing of any of the offences under paragraphs (a) to (e) and (h) of this subsection ;

(j) engages in the conversion or transfer of property knowing that such property is derived from any offence under this subsection ;

(k) engages in the concealment or disguise of the true nature, source, location, disposition, movement, rights, with respect to or ownership of property knowing that such property is derived from any offence referred to in this section,

shall be guilty of an offence under this Decree and subject to the provisions of subsection (3) of this section, shall be liable on conviction to the penalties provided in subsection (2) of this section.

(2) The penalties for offences under subsection (1) of this section shall—

(a) in respect of an offence under paragraphs (a), (b), (d), (e), (h) and (j) thereof, be imprisonment for life ;

(b) in respect of offences under paragraphs (c), (f), (g) and (i) thereof, be imprisonment for a term not less than fifteen years and not exceeding twenty five years.

(3) The Tribunal before whom an accused is being convicted may in addition to the punishment prescribed in subsection (2) of this section,

make an order requiring an offender to undergo measures such as treatment, education, aftercare, rehabilitation or social re-integration.

(4) Notwithstanding subsections (2) and (3) of this section, the Tribunal before whom a minor is being convicted may, in an appropriate case, make an order as the circumstances may determine—

- (a) either as an alternative to conviction or punishment ; or
- (b) for treatment, education, aftercare, rehabilitation, social integration of the offender.

What constitutes exportation, etc.

12.—(1) A person shall be deemed to have exported a narcotic drug or psychotropic substance under this Decree if he brings to or deposits the narcotic drug or psychotropic substance concerned at anytime at any customs area, customs station, customs airport, customs ports or any other custom point generally.

(2) A person shall be deemed to commit an offence under this Decree if—

- (a) he actually does the act which constitutes the offence ; or
- (b) he does or omits to do any act for the purpose of enabling or aiding another person to commit the offence ; or
- (c) he aids another person in committing the offence ; or
- (d) he counsels or procures any other person to commit the offence in which case he may himself be charged with committing the offence or with counselling or procuring the commission of the offence.

(3) Any person convicted of counselling or procuring the commission of an offence under this Decree shall be liable to the same punishment as is prescribed under this Decree for the commission of the offence.

B—Offences Relating to Laundering of Monetary Instruments

Laundering of funds obtained through unlawful activity ; penalty and forfeiture.

13.—(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of a specified unlawful activity—

(a) with the intent to promote the carrying on of a specified unlawful activity ; or

(b) knowing that the transaction is designed in whole or in part—

(i) to conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of a specified unlawful activity ; or

(ii) to avoid a lawful transaction under Nigerian law, shall be guilty of an offence under this Decree.

(2) A person guilty of an offence under subsection (1) of this section shall be liable on conviction—

(a) in case of a financial institution or corporate body, to a fine of ₦2 million ; or

(b) in the case of a Director, Secretary or other functionary of the financial institution or corporate body, to imprisonment for a term not exceeding 25 years.

(3) Whoever transports or attempts to transport a monetary instrument or funds from a place in Nigeria to or through a place outside Nigeria or to a place in Nigeria from or through a place outside Nigeria—

(a) with the intent to promote the carrying of a specified unlawful activity ; or

(b) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or in part—

(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of a specified unlawful activity ;
or

(ii) to avoid a lawful transaction under Nigerian law,

shall be guilty of an offence under this Decree and liable on conviction to a fine of ₦1,000,000 or twice the value of the monetary instrument or funds involved in the transportation, whichever is greater, or imprisonment for a term not exceeding 25 years or to both such fine and imprisonment.

(4) As used in this section—

(a) the term “knowing that the property involved in a financial transaction represents the proceed of some form of unlawful activity” means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes an offence under this Decree ;

(b) the term “conducts” includes initiating, concluding, or participating in initiating, or concluding a transaction ;

(c) the term “transaction” includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected ;

(d) the term “financial transaction” means—

(i) a transaction involving the movement of funds by wire or other means or involving one or more monetary instrument, which in any way or degree affects foreign monetary instrument the licence of such financial institution shall be withdrawn and the institution shall be closed down ; or

(ii) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, foreign commerce in any way or degree ;

(e) the term “monetary instruments” means coin or currency of Nigeria or of any other country, traveller's cheques, personal cheques, bank cheques, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery ;

(f) the term “financial institution” means a bank as defined in the Banking Act 1969 ;

(g) the term “specified unlawful activity” means—

(i) any act or activity constituting an offence under this Decree ;

(ii) with respect to a financial transaction occurring in whole or in part in Nigeria, an offence against the laws of a foreign nation involving the manufacture, importation, sale, or distribution of a narcotic drug or psychotropic substance ;

(h) the term “proceeds” means any property derived or obtained, directly or indirectly through the commission of an offence under this Decree ;

(i) "property" includes assets, monetary instruments and instrumentalities used in the commission of an offence under this Decree.

Attempts.

14.—(1) Where a person is charged with any of the offences under this Decree and the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit that offence although the attempt is not separately charged and such a person shall be punished as prescribed for the offence under this Decree.

(2) Where a person is charged with an attempt to commit an offence under this Decree, but the evidence establishes the commission of the full offence, the offender shall not be entitled to acquittal but shall be convicted of the offence and punished as provided under this Decree.

**Offences by
bodies
corporate.**

15.—(1) Where an offence under this Decree which has been committed by a body corporate is proved to have been committed on the instigation or with the connivance of or attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, where practicable, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where a body corporate is convicted of an offence under this Decree, the Tribunal may order that the body corporate shall thereupon and without any further assurance, but for such order, be wound up and all its assets and properties forfeited to the Federal Military Government.

**Commercial
carrier.**

16.—(1) It shall be the duty of every commercial carrier to take reasonable precaution to—

(a) ensure that its means of transport are not used in the commission of offences under this Decree ;

(b) comply with appropriate security measures at points of entry and exit in the Federal Republic of Nigeria and other customs control areas, to prevent unauthorised cargo in its means of transportation.

(2) Such precautions as are referred to in subsection (1) of this section shall include—

(a) the training of personnel to identify suspicious consignment or persons ;

(b) promotion of integrity of their personnel ;

(c) submission of cargo manifests in advance ;

(d) use of tamper-resistant, individually verifiable seals on containers ;

(e) reporting to the Agency at the earliest opportunity all suspicious circumstances relating to drug trafficking.

(3) Any commercial carrier which violates the provisions of subsection (1) of this section shall, in addition to any other penalty provided in any other Act, Decree or enactment, be guilty of an offence.

(4) Where an offence under subsection (3) of this section is committed by a body corporate, every person who at the time of the commission of the offence was a proprietor, director, general manager, secretary or other similar officer, servant or agent of the body corporate (or a person purporting to act in any such capacity) he, as well as the body corporate, shall be deemed to be

guilty of the offence and may be proceeded against and liable on conviction to a fine not exceeding ₦100,000.

17.—(1) The Tribunal established under the Special Tribunal (Miscellaneous Offences) Decree 1984, as amended, shall have jurisdiction to try offenders under this Decree.

Jurisdiction,
etc.
1984 No. 20.

(2) The Tribunal shall have power, notwithstanding anything to the contrary in any other enactment, to impose the penalties provided for in this Decree.

(3) The Tribunal shall try and determine proceeding in respect of any offence brought before it under this Decree within three months of the date of commencement of the trial.

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

(5) In the exercise of its jurisdiction under this Decree or any other Act, Decree or enactment, the Tribunal seized with jurisdiction for the trial of offences under this Decree or any other Tribunal established pursuant to the provisions of any other Decree for the trial of any other offences under such Decree shall not be subject to any order of certiorari, mandamus or prohibition of any High Court or any other court order.

(6) The provisions of subsection (5) of this section shall apply notwithstanding the provisions of the Constitution of the Federal Republic of Nigerian, 1979, as amended wheresoever or any other enactment or law including any inherent power of any High Court or any other court howsoever.

18.—(1) Any person convicted of an offence under this Decree shall forfeit to the Federal Military Government—

Forfeiture
after con-
viction in
certain cases.

(a) all the assets and properties which may or are the subject of an interim order of the Tribunal after an attachment by the Agency as specified in section 25 of this Decree ;

(b) any asset or property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of such offence not already disclosed in the Assets Declaration Form or not falling under paragraph (a) of this subsection ;

(c) any of the person's property or instrumentalities used in any manner to commit or to facilitate the commission of such offence not already disclosed in the Assets Declaration Form or not falling under paragraph (a) of this subsection.

(2) The Tribunal in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to sections 9 and 10 of this Decree, that the person forfeit to the Federal Military Government all property described in subsection (1) of this section.

(3) In this section "proceeds" means any property derived or obtained, directly or indirectly, through the commission of the offence.

Forfeited
property.

19. For the avoidance of doubt and without any further assurance than this Decree, all the properties of a person convicted of an offence under this Decree and already the subject of an interim order shall be forfeited to the Federal Military Government.

Foreign
assets.

20.—(1) Where it is established that any convicted person has assets or properties in a foreign country, such assets or properties, subject to any treaty or arrangement with such foreign country, shall be forfeited to the Federal Military Government.

(2) The Agency shall, through the office of the Attorney-General of the Federation, ensure that the forfeited assets or properties are effectively transferred and vested in the Federal Military Government.

Forfeiture of
passports.

21. The passport of any person convicted of an offence involving the illegal importation or exportation of any narcotic drug or psychotropic substance shall be forfeited to the Federal Military Government and shall not be returned to that person unless or until the President, Commander-in-Chief of the Armed Forces directs otherwise after the grant of a pardon or on the exercise of the prerogative of mercy under the Constitution of the Federal Republic of Nigeria 1979, as amended.

Property
subject to
forfeiture.

22. The following property is subject to forfeiture to the Federal Military Government and no other proprietary right shall exist in them—

(a) any property, real or personal, which represents the gross receipts a person obtains directly as a result of the violation of this Decree or which is traceable to such gross receipts ;

(b) any property within Nigeria which represents the proceeds of an offence under the laws of a foreign country involving the manufacture, importation, sale, distribution, illicit traffic, abuse or misuse of any narcotic drug or psychotropic substance within whose jurisdiction such offence or activity would be punishable by imprisonment for a term exceeding one year and which would be punishable by imprisonment under this Decree if such act or activity had occurred within Nigeria.

Further
provisions as
to forfeiture
of property.

23. Without prejudice to the provisions of any other law permitting the forfeiture of property, the following shall also be subject to forfeiture under this Decree and no proprietary right shall exist in them —

(a) all narcotic drugs or psychotropic substances which have been manufactured, distributed, dispensed or acquired in any manner in violation of this Decree ;

(b) all raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any narcotic drug or psychotropic substance ;

(c) all instrumentalities of conveyance, including aircrafts, vehicles, or vessels which are used or are intended for use, to transport, or in any manner, to facilitate the transportation, sale, receipt, possession or concealment of substances described in paragraph (a) or (b) of this section, except that—

(i) no means of conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it shall appear that the owner or other person in charge of such means of conveyances was a consenting party or privy to a violation of this Decree ;

(ii) no means of conveyance shall be forfeited under this section by reason of any act established by the owner thereof to have been committed by any person other than such owner while such means of conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of Nigeria or any part thereof ; and

(iii) no means of conveyance shall be forfeited under this section to the extent of an interest of an owner, by reason of any act established by that owner to have been committed without the knowledge, consent or wilful connivance of that owner ;

(d) all books, records, and research, including formulae, microfilms, tapes and data used or intended to be used in violation of any provision of this Decree ;

(e) all moneys, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for any narcotic drug or psychotropic substance in violation of this Decree or all proceeds traceable to such an exchange, and all moneys, negotiable instruments and securities used or intended to be used to facilitate any violation of this Decree ;

(f) all real property, including any right, title and interest (including any leasehold interest) in the whole or any piece or parcel of land and any improvements or appurtenances which is used or intended to be used, in any manner or part to commit, or facilitate the commission of, an offence under this Decree.

24.—(1) Any property subject to forfeiture under this Decree may be seized by the Agency in the following circumstances—

Seizure of property.

(a) the seizure is incidental to an arrest or search ;

(b) in the case of property liable to forfeiture upon process issued by the Tribunal following application made by the Agency in accordance with the prescribed rules.

(2) Whenever property is seized under any of the provisions of this Decree, the Agency may—

(a) place the property under seal ;

(b) remove the property to a place designated by the Agency.

(3) Property taken or detained under this section shall be deemed to be in the custody of the Agency, subject only to orders of a Tribunal.

PART III—FORFEITURE OF ASSETS OF PERSONS ARRESTED FOR OFFENCES UNDER THIS DECREE

Investigation of assets and properties of persons arrested of an offence under this Decree, etc.

Disclosure of assets and properties by arrested person, etc.

25. Where a person is arrested for an offence under this Decree, the Agency shall immediately trace and attach all the assets and properties of the person and shall thereafter cause to be obtained an interim attachment order by the Tribunal.

26.—(1) Where a person is arrested for committing an offence under this Decree, it shall be obligatory for such person to make a full disclosure of all his assets and properties by completing the Declaration of Assets Form contained in Schedule 3 to this Decree.

(2) The Declaration of Assets Form shall be forwarded to the Agency for full investigation by the general and assets investigation unit of the Agency.

(3) Any person who—

- (a) knowingly fails to make full disclosure of his assets and liabilities ; or
- (b) knowingly makes a declaration that is false ; or
- (c) fails to answer any question ;

(d) fails, neglects or refuses to make a declaration or furnish any information required, in the Assets Declaration Form, shall be guilty of an offence under this Decree and liable on conviction to imprisonment for a term of 10 years.

(3) Subject to the provisions of section 24 of this Decree, whenever the assets and properties of any person arrested under this Decree has been attached the general and assets investigation unit shall apply to the Tribunal for an interim forfeiture order under the provisions of this Decree.

Interim forfeiture order.

27. Where—

- (a) the assets or properties of any person arrested for an offence under this Decree has been seized ; or
- (b) any asset or property has been seized by the Agency under this Decree,

the Agency shall cause an application to be made to the Tribunal for an interim order forfeiting the property concerned to the Federal Military Government and the Tribunal shall, if satisfied that there is *prima facie* evidence that the property concerned is liable to forfeiture, make an interim order forfeiting the property to the Federal Military Government.

Final order.

28. Where an arrested person is convicted of an offence under this Decree, the Agency, or any authorised officer shall apply to the Tribunal for a final order of confiscation and forfeiture of the convicted person's assets and properties already subject to an interim order under this Decree.

Final disposal of forfeited property.

29.—(1) A copy of every final order forfeiting the asset and property shall be forwarded to the Agency.

(2) Upon receipt of a final order pursuant to this section the Secretary, to the Agency shall take steps to dispose of the property concerned by sale or otherwise and where the property is sold the proceeds thereof shall be paid into the Consolidated Revenue Fund of the Federation.

(3) Where any part of the property included in a final order is money in a bank account or in the possession of any person, the Agency shall cause

a copy of the order to be produced and served on the manager or any person in control of the head office or branch of the bank concerned and that manager or person shall forthwith pay over the money to the Agency without further assurance than this Decree and the Agency shall pay the money received into the Consolidated Revenue Fund of the Federation.

(4) The Attorney-General of the Federation may make rules or regulations for the disposal or sale of any property or assets forfeited pursuant to this Decree.

30.—(1) Any person, who without due authorisation by the Agency, deals with, sells or otherwise dispose of any property or asset which is the subject of an attachment, interim order or final order shall be guilty of an offence and liable on conviction to imprisonment for a term of five years without the option of a fine.

Offences in relation to forfeiture orders.

(2) Any manager or person in control of the head office or branch of a bank who fails to pay over to the Agency upon the production to him of a final order shall be guilty of an offence under this Decree and shall be liable on conviction to imprisonment for a term of not less than one year and not more than three years, without the option of a fine.

31.—(1) Where a person is discharged or acquitted by a Tribunal of an offence under this Decree, the Tribunal may make an order of revocation or confirmation as the case may be, of an interim order made pursuant to this Decree whichever order is considered just, appropriate or reasonable within the circumstances: Provided that property may still be attached where an acquittal is merely given on technical grounds.

Consequence of an acquittal in respect of assets and properties.

(2) Where an interim order is revoked by a Tribunal under subsection (1) of this section, all assets and properties of the person concerned shall be released to him by the Agency.

32.—(1) For the purposes of this Decree—

(a) any police officer, customs officer or any member of the armed forces ; or

Power to search seize and arrest.

(b) the Director and any officer of the Agency authorised by regulations in that behalf—

(i) may, without warrant, enter and search any land, building or carrier, including aircraft, vehicle or container or any other instrumentalities whatsoever which he has reason to believe is connected with the commission of an offence under this Decree ;

(ii) may perform, test and take samples of any substances relating to the commission of an offence which are found on the land, building or carrier, including aircraft, vehicle, container or any other instrumentalities whatsoever searched pursuant to paragraph (a) of this subsection ;

(iii) arrest any person whom he has reason to believe has committed an offence under this Decree ;

(iv) seize any item or substance which he has reason to believe has been used in the commission of an offence under this Decree.

(2) A written receipt of the Agency shall be given for any item, substance or thing seized under subsection (1) of this section.

33.—(1) Notwithstanding anything contained in the Constitution of the Federal Republic of Nigeria 1979, as amended, or in any other Act, Decree or enactment, where any person is arrested under this Decree, the Chairman of the Agency and believes that the money in the account of an arrested person is made through illegal dealing in trafficking in narcotic drugs.

Freezing order on banks.

or psychotropic substances, he may issue, or instruct a bank examiner to issue an order addressed to the manager of the bank where the account is or is believed by him to be or the head office of the bank.

(2) The Chairman of the Agency or bank examiner may be by the order issued under subsection (1) of this section or by any subsequent order direct the bank to supply any information and produce books and documents relating to the account and to stop all outward payments, operations or transactions (including any bill of exchange) in respect of the account of the arrested person.

(3) An order under subsection (1) of this section shall not be issued or made without prior written approval of the Attorney-General of the Federation and shall be in the form prescribed in Schedule 4 to this Decree.

(4) The manager shall take necessary steps to comply with the requirements of this order made pursuant to subsection (2) of this section.

(5) In this section,

(a) "bank" has the meaning given to it in section 41 of the Banking Act 1969 ;

(b) the reference to an order issued includes a reference to any order, direction or requirement addressed to the manager of a bank or any other officer of a bank which directs or purports to direct the manager or such officer to stop all outward payments, operations or transactions in respect of any account with that bank.

34. The Agency may seek the authority of the President, Commander-in-Chief of the Armed Forces to conduct investigation on any person whose life-style appears to the Agency to be beyond his source of income and the provisions of this Decree, including declaration of assets and forfeiture of assets and properties, shall apply to such person as if he were a person committing an offence under this Decree.

PART IV—APPLICATION OF CERTAIN ENACTMENTS

35.—(1) The offences under Part II of this Decree shall, for the purposes of the Extradition Act 1966, as amended, be regarded as extraditable offences under that Act.

(2) The President, Commander-in-Chief of the Armed Forces may by order published in the *Gazette* extend the provisions of—

(a) the Transfer of Convicted Offenders (Enactment and Enforcement) Decree 1988 ; and

(b) the Mutual Assistance in Criminal Matters within the Commonwealth (Enactment and Enforcement) Decree 1988 to apply to any country outside the Commonwealth,

and, accordingly the provisions of the enactments mentioned in paragraphs (a) and (b) of this subsection shall have effect in their application to this Decree.

36.—(1) Every head of any Nigerian diplomatic mission abroad shall, at least once in every six months, forward to the Agency information and documents about Nigerians, convicted and sentenced for drug offences in their country of accreditation.

(2) The information and documents referred to in subsection (1) of this section are as follows—

(a) the name, date and place of birth of the convicted offender ;

(b) the address (if any) of the convicted offender ;

(c) a certified copy of the judgment ;

Application
of Decree
to certain
persons.

Application
of certain
enactments.
1966 No. 87.

1988 No. 5.

1988 No. 13.

Information
to be
supplied by
Nigerian
diplomatic
mission.

- (d) a statement of the facts upon which the conviction and sentence were based if not contained in the judgment ;
- (e) the nature, duration and date of the commencement of the sentence ;
- (f) whenever appropriate, any medical or social reports on the convicted offender and any information concerning his medical treatment in the sentencing country and any recommendation for his further treatment ;
- (g) identities, and whereabouts of persons suspected of being involved with the convicted offender ;
- (h) information about the proceeds or property derived from the commission of such offence.

PART V—MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

37.—(1) The Agency shall establish and maintain a fund from which shall be defrayed all expenditure reasonably incurred by the Agency for the execution of its functions under this Decree. Fund.

(2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section, such moneys as may in each year be approved by the Federal Military Government for the purpose of the Agency.

(3) The Agency may accept gifts of land, money or other property (whether within or outside Nigeria) upon such terms and conditions, if any, as may be specified by the person or organisation making the gift : provided that the terms and conditions are not contrary to the objectives and functions of the Agency under this Decree.

38. The Agency shall keep proper accounts, in a form which conforms with accepted commercial standards of its receipts, payments assets and liabilities and shall submit the accounts annually, for auditing by a qualified auditor from the list of auditors supplied by the Auditor-General of the Federation. Accounts and audit.

39. The Agency shall, not later than 30th September in each year, submit to the National Council of Ministers, a report of its activities during the immediately preceding year and shall include in such report the audited accounts of the Agency. Annual report.

40. Any part-heard proceedings pending before any tribunal on the date of the making of this Decree shall be continued and completed as if this Decree had not been made. Part-heard proceedings.

41. Any person who—

(a) wilfully obstructs the Agency or any authorised officer of the Agency in the exercise of any of the powers conferred on the Agency by this Decree ; or Obstruction of the Agency or authorised officers.

(b) fails to comply with any lawful enquiry or requirements made by any authorised officer in accordance with the provisions of this Decree, shall be guilty of an offence under this Decree and shall be liable on conviction to imprisonment for a term not exceeding 5 years or to a fine of ₦20,000 or to both such imprisonment and fine.

42. The Attorney-General of the Federation may make rules or regulations with respect to the exercise of any of the duties, functions or powers of the Agency under this Decree. Regulations.

43. Paragraph (h) of subsection (2) of section 3 of the Special Tribunal (Miscellaneous Offences) Decree 1984, as amended, is hereby repealed and consequentially, all the provisions of any amending Decrees relative to the aforesaid paragraph are hereby repealed. Repeal.

Inter-
pretation.

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

“Agency” means the National Drug Law Enforcement Agency established by section 1 of this Decree ;

“cannabis plant” means any plant of the genus of *Cannabis* ;

“coca bush” means the plant or any species of the genus of *Erythroxylon* ;

“commercial carrier” means any person or any public, private or other entity engaged in transporting persons, goods or mails for remuneration, hire or any other benefit ;

“confiscation” includes forfeiture or the permanent deprivation of property by order of a Tribunal ;

“freezing” or “seizure” means temporarily prohibiting the transfer, conversion, disposal or movement of property, asset or money or temporarily assuming custody or control of them on the basis of attachment by the Agency ;

“narcotic drug” means any of the substances, natural or synthetic in Schedule 1 of the single Convention on Narcotic Drugs 1961 and the Convention as amended by the 1972 Protocol Amending the single Convention on Narcotic Drugs, as amended in Schedule 2 to this Decree including the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1989 ;

“opium poppy” means the plant of the species of *Papaver somniferum* ;

“psychotropic substance” means any substance, natural or synthetic, or any natural materials specified in Schedules I, II, III and IV of the Convention on Drugs or Psychotropic Substances 1971. ;

Citation.

45. This Decree may be cited as the National Drug Law Enforcement Agency Decree 1989.

SCHEDULES

SCHEDULE 1

Section 2 (4)

SUPPLEMENTARY PROVISIONS RELATING TO THE AGENCY

Proceedings of the Agency

1. Subject to this Decree and section 26 of the Interpretation Act 1964 (which provides for decisions of a statutory body to be taken by a majority of its members and for the chairman to have a second or casting vote), the Agency may make standing orders regulating the proceedings of the Agency and any committee thereof.

2. Every meeting of the Agency shall be presided over by the Chairman or if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of their number to preside at that meeting.

3. The quorum at a meeting of the Agency shall consist of the Chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and six other members.

4. Where upon any special occasion, the Agency desires to obtain the advice of any person on any particular matter, the Agency may co-opt that person to be member for as many meetings as may be necessary, and that person while so co-opted shall have all the rights and privileges of a member, except that he shall not be entitled to vote or count towards a quorum.

Committees

5.—(1) Subject to its standing orders, the Agency may appoint such number of standing and ad-hoc committees as it thinks fit to consider and report on any matter with which the Agency is concerned.

(2) Every committee appointed under the provisions of sub-paragraph (1) of this paragraph shall be presided over by a member of the Agency and shall be made up of such number of persons, not necessarily members of the Agency, as the Agency may determine in each case.

6. The decision of a committee shall be of no effect until it is confirmed by the Agency.

Miscellaneous

7. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman and of the Secretary of the Agency or such other member authorised generally or specially by the Agency to act for that purpose.

8. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Agency by the Chairman or by any other person generally or specifically authorised by the Agency to act for that purpose.

9. Any document purporting to be a contract, instrument or other document signed or sealed on behalf of the Agency shall be received in evidence and, unless the contrary is proved, be presumed, without further proof, to have been so signed or sealed.

10. The validity of any proceedings of the Agency or a committee thereof shall not be adversely affected—

- (a) by any vacancy in the membership of the Agency ; or
- (b) by any defect in the appointment of a member of the Agency or committee ; or
- (c) by reason that a person not entitled to do so took part in the proceedings.

11. Any member of the Agency or a committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Agency or committee shall forthwith disclose his interest to the Agency or committee and shall not vote on any question relating to the contract or arrangement.

SCHEDULE 2 *Section 53 (p) (iii) and 11 (1) (h)*

Table I

Ephedrine
Ergometrine
Ergotamine
Hysergic acid

Table II

Acetic anhydride
Acetone
Anitranlic acid
Ethyl ether
Phenylacetic acid
Piperidine

1-phenyl-2-propanone
Pseudoephedrine.

The salts of the substances listed in this Table whenever the existence of such salts is possible.

The salts of the substances listed in this Table whenever the existence of such salts is possible.

SCHEDULE 3

Section 26

CONFIDENTIAL

FORM D

NATIONAL DRUG LAW ENFORCEMENT AGENCY DECREE 1989

ASSETS DECLARATION FORM

*To be completed in TRIPLICATE and in BLOCK LETTERS or typed.
All available information should be included*

Important.—It is an offence punishable by 10 years imprisonment under the Decree to :—

- A. (i) knowingly fail to make full disclosure of your assets and liabilities.
- (ii) knowingly make a declaration that is false.
- (iii) fail to answer any question contained in this form.
- (iv) fail, neglect or refuse to make a declaration or furnish any information required.
- B. (i) Each item is to be completed. If it does not apply, the person affected must write "nil" or "none" in the space. Where necessary an extra sheet or sheets may be used and attached to this form by the person affected.
- (ii) To the Secretary to the National Drug Law Enforcement Agency.

I, _____, being an accused of an offence _____ under the National Drug Law Enforcement Agency Decree 1989 to declare my assets hereby declare as follow :—

	SURNAME		Other Names	Date of birth	If dead state date of death	Place of birth	NATIONALITY		State of origin	Local Govt.	Occupation	Present address	Home address
	(a) Now	(b) At birth if different					(a) Now	(b) At birth					
5. Brothers (i)													
(ii)													
(iii)													
6. Sisters (i)													
(ii)													
(iii)													
7. Children (i)													
(ii)													
(iii)													
8. Dependant Relatives Uncle Aunt Next of Kin													

9. Associated persons

(i)

(ii)

(iii)

10. Aliens :

(a) State Alien Registration :

(b) if naturalised, state Certificate No. :

11. Schools attended with dates : Primary School :

Post Primary School :

or

Secondary :

University, etc.

Qualifications attained :

12. Amount held in own account ₦ : k

- (i) Cash in hand
 (ii) Cash at bank
 (iii) Outside Nigeria (Countries/Banks to be named)

13. Amount held on behalf of or as trustee for any person other than your wife/husband*

- (i) Cash in hand
 (ii) Cash in bank
 (iii) Outside Nigeria (Countries/Banks to be named)

14. Loans or advances made

15. Loans or advances received

16. Amount held on behalf of or as trustee of wife/husband

- (i) Cash in hand
 (ii) Cash at bank
 (iii) Outside Nigeria (Countries/Banks to be named)

17. Wife's/husband's/children's account held (beneficial or otherwise)

- (i) Cash in hand
 (ii) Cash at bank

(h) Outside Nigeria (Countries/Banks to be named)

18. Government securities, including premium bonds and other interests held in companies, firms or partnerships (giving names of companies firms and partnerships)—

- (a) by you (here state the bonds, etc.)
 (b) by wife (wives)/husband* (here state the bonds, etc.)
 (c) by children (here state the bonds, etc.)

19. Property in Nigeria in which you are interested in giving date when acquired—

- (i) Land :
 (ii) Buildings :
 (iii) Other property, (if any) :

20. Property outside Nigeria in which you are interested in giving date when acquired—

- (i) Land :
 (ii) Buildings :
 (iii) Other property, (if any) :

21. Property in Nigeria in which any wife/husband* is interested in giving date when acquired—

- (i) Land :
 (ii) Buildings :
 (iii) Other property, (if any) :

22. Property outside Nigeria in which any wife/husband* is interested in giving date when acquired—

- (i) Land :
 (ii) Buildings :

(iii) Other property, (if any) :

23. Property in Nigeria in which any child of yours is interested in, giving date when acquired—

(i) Land :

(ii) Buildings :

(iii) Other property, (if any) :

24. Property outside Nigeria in which any child of yours is interested in giving date when acquired—

(i) Land :

(ii) Buildings :

(iii) Other property, (if any) :

25. Names of other dependant relatives ;

26. Estate in which you are interested as trustee or beneficially interested.

(Name of deceased or trustee)

27. Property held by any person on your behalf—(in or outside Nigeria)

(i) Cash in hand ;

(ii) Cash at bank ;

(iii) Land ;

(iv) Building ;

(v) Other properties ;

If outside Nigeria, insert name of countries and banks

.....
Signature of Accused Person

.....
Signature and address of witness

SCHEDULE 4

Section 33

FORM

FREEZING ORDER

(This form may be amended according to circumstances)

To the Manager.....
(Here insert name and branch of bank)

Under the authority conferred on me by section 33 of the National Drug Law Enforcement Agency Decree 1989, you are hereby ordered—

(a) to supply the following information relating to the undermentioned accounts, that is to say :

(Here set out briefly the information required in respect of named accounts)

(b) to produce the books and documents relating to the undermentioned accounts, that is to say :

(Here set out the books and documents to be produced in respect of the named accounts)

(c) to stop all outward payments, operations or transactions (including bills of exchange) as far as possible in the ordinary course of banking in respect of the following accounts :

(Here indicate the accounts)

2. This order shall cease to have effect after the day of
19 unless sooner revoked by the President, Commander-in-Chief of the Armed Forces.

DATED at this day of 19

Chairman/Bank Examiner

MADE at Lagos this 29th day of December 1989.

GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

REVENUE MOBILISATION ALLOCATION AND FISCAL COMMISSION DECREE 1989



Decree No. 49

[29th December 1989]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows—

PART I—ESTABLISHMENT AND COMPOSITION OF COMMISSION, ETC.

1. There shall be established for the Federation a Revenue Mobilisation Allocation and Fiscal Commission (hereafter in this Decree referred to as "the Commission") which, under that name, shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name, and whose members shall exercise the functions specified in this Decree.

Establish-
ment of the
Revenue
mobilisation
Allocation
and fiscal
Commission.

2. The Commission shall consist of a Chairman and one member from each State of the Federation to be appointed by the President, Commander-in-Chief of the Armed Forces (hereafter in this Decree referred to as "the President") who are persons of unquestionable integrity with requisite qualifications and experience.

Composition
of the
Commission

3.—(1) Any person employed in the public service of the Federation or of a State shall not be disqualified for appointment as Chairman or member of the Commission :

Qualifica-
tion, etc. of
members of
the Commis-
sion.

Provided that where that person has been duly appointed he shall, on his appointment, be deemed to have resigned or where appropriate, withdrawn or retired from his former office as from the date of the appointment.

(2) No person shall be qualified for further appointment to the Commission if, having previously been appointed as a member otherwise than as an *ex-officio* member of the Commission, he has been re-appointed for a further term as a member of the Commission.

4. Subject to the provisions of section 5 of this Decree, a member of the Commission shall hold office for a period of 5 years from the date of his appointment as a member.

Tenure of
Office.

5. A member of the Commission may only be removed from that office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

Removal of
member and
cessation of
membership

PART II—POWERS AND FUNCTIONS OF COMMISSION

Powers of
the
Commission.

6. The Commission shall have power to—

(a) monitor the accruals to and disbursement of revenue from the Federation Account ;

(b) review, from time to time, the revenue allocation formulae and principles in operation to ensure conformity with changing realities ;

(c) advise the Federal, State and Local Governments on fiscal efficiency and methods by which their revenue is to be increased ;

(d) determine the remuneration appropriate to the holders of the offices as specified in Parts A and B of Schedule 1 to this Decree ;

(e) make recommendations and submit its finding by a report thereto to the Government of the Federation or of the States, as the case may be, regarding the formula for the distribution of the Federation Accounts and the Local Governments Accounts ; and

(f) discharge such other functions as may be conferred on the Commission by this Decree or any other enactment.

Independence of the
Commission.

7. The Commission shall be an independent and autonomous body and shall not be subject to the direction or control of any other authority or person in the exercise of its power to make appointments or to exercise disciplinary control over persons.

Proceedings
of the
Commission.

8. The provisions of Schedule 2 to this Decree shall apply with respect to the proceedings of the Commission and the other matters provided therein.

PART III—ORGANISATION AND STAFF

Appoint-
ments and
functions of
the
Secretary.

9. There shall be appointed by the President, a Secretary who shall carry out such duties as may be prescribed in this Decree and such other duties as may be directed by the Commission, and he shall—

(a) be responsible for preparing the minutes of the Commission's meetings ;

(b) keep and secure the records of the Commission ;

(c) issue notices of meetings of the Commission as directed by the Chairman or the Commission ;

(d) be responsible for the implementation of the Commission's decisions, subject to the direction of the Chairman or the Commission ;

(e) be the head of the Secretariat staff of the Commission and responsible for the general administration of the Secretariat and its staff ;

(f) perform such other functions as may be determined by the Commission.

Special
provision as
regards
personnel.

10.—(1) The Federal Military Government or a State Government may, on an application made to it by the Commission in that behalf, second to the Commission officers in the public service of the Federation or, as the case may be, of a State to assist the Commission in the discharge of its functions under this Decree.

(2) The Commission may, if it deems it necessary to do so and with the approval of the President, appoint persons not in the public service of the Federation to perform such duties as the Commission may direct.

11.—(1) Subject to subsection (2) of this section, persons employed in the Commission shall in respect of their service in the Commission be entitled to pensions, gratuities and other retirement benefits as prescribed under the Pensions Act 1979 in respect of persons holding equivalent posts, and accordingly, and notwithstanding the provisions of the Pensions Act 1979, it is hereby declared that service in the Commission shall be approved service for the purpose of that Act.

Service in the Commission to be pensionable. 1979, No. 102.

(2) Nothing in this section shall prevent the appointment of a person to any office in the Commission on terms and conditions which preclude the grant of a pension or gratuity in respect of services in that office.

PART IV—FINANCIAL PROVISIONS AND REPORTS

12.—(1) The Commission shall establish and maintain a Fund consisting of such moneys as may in each financial year be appropriated by the Government of the Federation for the purposes of the Commission.

Establishment of fund by the Commission.

(2) The Commission shall defray from the Fund established pursuant to subsection (1) of this section, all the amounts payable under or in pursuance of this Decree, being sums representing—

(a) amounts payable to the Chairman and other members of the Commission (including allowances) ;

(b) costs of employment of staff of the Commission ;

(c) amounts payable as pensions, gratuities and other retirement benefits under or pursuant to this Decree or any other enactment ;

(d) costs of acquisition and upkeep of premises belonging to the Commission and any other capital expenditure of the Commission ;

(e) any other payment for anything incidental to the foregoing provisions or in connection with or incidental to any other functions of the Commission under or pursuant to this Decree.

(3) The Chairman of the Commission shall be the accounting officer for the purpose of controlling and disbursing amounts from the Fund established pursuant to this section.

13. The Secretary to the Commission shall, in each year, prepare estimates of recurrent and capital expenditure and which shall be approved by the Commission and forwarded for approval to the Federal Military Government.

Accounts and audit.

(2) The Secretary shall keep proper accounts and proper records in relation thereto, under the direction and control of the Chairman.

(3) The accounts of the Commission shall be audited annually by external auditors appointed annually by the Commission on such terms as the Commission may, after consultation with the Auditor-General of the Federation, determine.

14. In addition to any other report prescribed under this Decree, the Commission shall prepare and submit to the National Council of Ministers not later than the 30th day of June in each financial year a report on the accounts of the Commission during the immediately preceding financial year, and shall include in that report a copy of the audited accounts of the Commission for that year and the auditor's report thereon.

Annual report.

PART V—INTERPRETATION

Interpreta-
tion.

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

“Chairman” means the Chairman of the Commission appointed under section 2 of this Decree ;

“Commission” means the Commission established under section 1 of this Decree ;

“functions” includes powers and duties ;

“member” used in relation to the Commission includes the Chairman ; and the expression “public service of the Federation” and “public service of a State” have the meanings assigned to them respectively in subsection (1) of section 277 of the Constitution of the Federal Republic of Nigeria 1979 as amended ; and

“Secretary” means the Secretary of the Commission appointed under section 9 of this Decree.

Citation

PART VI—TITLE AND COMMENCEMENT

16. This Decree may be cited as the Revenue Mobilisation Allocation and Fiscal Commission Decree 1989.

SCHEDULES

SCHEDULE 1

Section 6

PART A—OFFICES

President, the Chief of General Staff, Chief Justice of Nigeria, Justice of the Supreme Court, President of the Court of Appeal, Justice of the Court of Appeal, Chief Judge of the Federal High Court, Judge of the Federal High Court, Judge of the Federal High Court in the Federal Capital Territory, Grand Kadi and Kadi of the Sharia Court of Appeal of the Federal Capital Territory, President and Judge of the Customary Court of Appeal of the Federal Capital Territory, Inspector-General of Police, the Auditor-General of the Federation and the Chairmen and members of the following executive bodies, namely, the Code of Conduct Bureau, the Federal Civil Service Commission, the National Electoral Commission, the Federal Judicial Service Commission, the National Population Commission, the Revenue Mobilisation Allocation and Fiscal Commission, the Nigeria Police Council and the Public Complaints Commission.

PART B—OFFICES

Military Governor, Chief Judge of a State and Judge of the High Court of a State, Grand Kadi and Kadi of the Sharia Court of Appeal of a State, President and Judge of the Customary Court of Appeal of a State, the Auditor-General of a State, Auditor-General of the Local Government Councils of a State and Chairmen and members of the following bodies, that is to say, the State Civil Service Commission, the State Judicial Service Commission and the State Local Government Service Commission.

SCHEDULE 2

Section 8

Proceedings of the Commission

1. The Commission may make Standing Orders regulating the proceedings of the Commission or of any Committee thereof.

2. The quorum of the Commission shall be five and the quorum of any Committee of the Commission shall be determined by the Commission.

3. At any time while the office of the Chairman is vacant or the Chairman is in the opinion of the Commission temporarily or permanently unable to perform the functions of his office, a member of the Commission duly appointed by the Commission shall perform those functions and references in this Schedule to the Chairman shall be construed accordingly.

4.—(1) Subject to the provisions of any applicable Standing Orders, the Commission shall meet whenever summoned by the Chairman and if the Chairman is required so to do by notice given to him by not less than three other members, he shall summon a meeting of the Commission to be held within twenty-one days from the date on which the notice is given.

(2) At any meeting of the Commission, the Chairman or, in his absence, any member duly appointed by the Commission shall preside at that meeting.

(3) Where the Commission wishes to obtain the advice of any person on a particular matter, the Commission may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Commission and shall not count towards a quorum.

5.—(1) The Commission may appoint one or more Committees to carry out on behalf of the Commission, such of its functions as the Commission may determine.

(2) A Committee appointed under this paragraph shall consist of the number of persons determined by the Commission and not more than one-third of those persons may be persons who are not members of the Commission; and a person other than a member of the Commission shall hold office on the Committee in accordance with the terms of the instrument by which he is appointed.

(3) A decision of a Committee of the Commission shall be of no effect until it is confirmed by the Commission.

6. The fixing of the seal of the Commission shall be authenticated by the signature of the Chairman or of some other members authorised generally or specially by the Commission to act for that purpose.

MADE at Lagos this 29th day of December 1989.

GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

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

The Decree establishes the Revenue Mobilisation Allocation and Fiscal Commission with the functions, amongst others, of monitoring the accruals to and disbursement of revenue from the Federation Account, and reviewing, from time to time, the revenue allocation formulae and principles in operation to ensure conformity with changing realities.

The Commission is further expected to advise the Federal, State and Local Governments on fiscal efficiency and methods by which their revenue could be increased and above all, determine the remuneration of certain office holders.

NATURAL RESOURCES CONSERVATION COUNCIL DECREE 1989



ARRANGEMENT OF SECTIONS

Section

- | | |
|---|---|
| 1. Establishment of the Natural Resources Conservation Council. | 9. Appointment of other staff of the Council. |
| 2. Membership of the Council. | 10. Offices and premises. |
| 3. Functions of the Council. | 11. Fund of the Council. |
| 4. Powers of the Council. | 12. Power to accept gifts. |
| 5. Establishment of the National Advisory Committee on Conservation of Renewable Resources. | 13. Annual estimates, accounts and audit. |
| 6. Tenure of office of members. | 14. Annual report. |
| 7. Functions of the Advisory Committee. | 15. Application of Pensions Act 1979. |
| 8. Secretary to the Council. | 16. Regulations. |
| | 17. Interpretation. |
| | 18. Citation. |

Decree No. 50

[29th December 1989]

Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. There is hereby established a body to be known as the Natural Resources Conservation Council (hereafter in this Decree referred to as the "Council") which shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name.

Establishment of the Natural Resources Conservation Council.

2.—(1) The Council shall consist of a Chairman who shall be the President, Commander-in-Chief of the Armed Forces, and the following other members, that is to say—

Membership of the Council.

- (a) the Chief of General Staff ;
- (b) the Chief of Defence Staff ;
- (c) the Minister charged with responsibility for the following matters, that is—
 - (i) Agriculture ;
 - (ii) External Affairs ;

(iii) Works and Housing ;

(iv) Health ; and

(d) a representative of the Nigerian Conservation Foundation.

(2) The provisions of the Schedule to this Decree shall have effect with respect to the proceedings of the Council and the other matters contained therein.

Functions of the Council.

3. The functions of the Council shall be to—

(a) co-ordinate matters concerning the conservation of natural resources in Nigeria ;

(b) formulate a national policy for natural resources conservation ;

(c) monitor regularly activities of the various natural resources conservation agencies with regard to implementation of their respective programmes and projects ;

(d) resolve any conflict that may arise in respect of any project implementation under paragraph (c) of this section ;

(e) carry out such other activities calculated to facilitate the effectiveness of the performance of the functions of the Council under this Decree.

Powers of the Council.

4. The Council shall have power to —

(a) designate sites and species of conservation interests ;

(b) grant honours and give awards for projects that enhance national conservation objectives ;

(c) take fiscal measures to encourage conservation of natural resources in Nigeria ;

(d) provide grants for scientific investigation and study of ecological impacts of projects ;

(e) in collaboration with other bodies and agencies, control coastal zone development to minimise erosion on the national coastline.

Establishment of the National Advisory Committee on Conservation of Renewable Resources.

5.—(1) There is hereby established a committee to be known as the National Advisory Committee on Conservation of Renewable Resources (hereafter in this Decree referred to as the "Advisory Committee") which shall be an integral part of the Council.

(2) There shall be appointed by the Council as members of the Advisory Committee such number of persons to represent public and private interests in soil, water, forestry, fisheries and wildlife conservation.

Tenure of office of members.

6.—(1) A member of the Advisory Committee other than an *ex-officio* member shall—

(a) hold office for a period of five years and on such terms and conditions as may be specified in his letter of appointment ;

(b) unless he previously vacates his office, be eligible for re-appointment for one further term of five years.

(2) Members of the Advisory Committee shall be paid such remuneration and allowances out of the money at the disposal of the Council as the President, Commander-in-Chief of the Armed Forces may, from time to time, determine.

(3) The office of a member of the Advisory Committee who is not a public officer shall become vacant if—

(a) he resigns his office by a letter addressed by him to the Council ;

(b) the period of his appointment has expired ; or

(c) he is removed from office by notice in writing served on him by the Council for reasons stated in the notice.

(4) Subject to any directions from the Council, the Advisory Committee may regulate its proceedings.

7. Subject to the provisions of this Decree, the Advisory Committee shall be charged with responsibility for—

Functions of the Advisory Committee.

(a) mobilizing action of resources to finance operations geared towards conservation activities within Nigerian and advising the Council on ways and means of generating revenue ;

(b) compiling and maintaining the lists of wild species of economic and cultural significance ;

(c) reviewing of socio-economic factors inhibiting resources conservation ;

(d) monitoring implementation of the recommended actions in the natural conservation strategy ;

(e) promoting conservation measures for sustainable development in the economic and social sectors generally ; and

(f) reporting to the Council, on a regular basis, all conservation activities carried on by the Advisory Committee and advising the Council on permanent solution to conservation problems discovered from its activities.

8.—(1) There shall be appointed by the President, Commander-in-Chief of the Armed Forces, a Secretary to manage the affairs of the Council.

Secretary to the Council.

(2) Subject to the general control of the Council, the Secretary shall be the chief executive of the Council and shall be responsible for the execution of the policy of the Council and the day-to-day running of the affairs of the Council.

(3) Without prejudice to the generality of the provisions of subsections (1) and (2) of this section, the Secretary shall perform such other functions as the Council may, from time to time, direct.

9.—(1) The Council may appoint such other employees as it may consider necessary for the efficient performance of the Council's functions under this Decree.

Appointment of other staff of the Council.

(2) The terms and conditions of service (including the terms and conditions as to remuneration, allowances, retiring benefits and discipline) of the Secretary and other employees of the Council shall be such as may be determined, from time to time, by the Council.

10.—(1) For the purpose of providing offices and premises necessary for the performance of its functions, the Council may—

Offices and premises.

(a) purchase or take on lease any land ; and

(b) build, equip and maintain offices and premises.

(2) The Council may sell or lease any land, offices or premises held by it and which it no longer requires for the performance of its functions under this Decree.

Fund of the Council.

11.—(1) The Council shall establish and maintain a fund which shall be applied towards the promotion of the objectives specified in this Decree.

(2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section—

(a) such sums as may be provided by the Federal Military Government ;

(b) any fees charged for services rendered by the Council ; and

(c) subject to section 12 (2) of this Decree, all other sums accruing to the Council by way of gifts, testamentary disposition and endowments or contributions from philanthropic persons or organisations or otherwise howsoever.

Power to accept gifts.

12.—(1) The Council may within and outside Nigeria, accept gifts of land, money or other property or things upon such terms and conditions, if any, as may be specified by the person or organisation making the gift.

(2) The Council shall not accept any gift if the conditions attached by the person or organisation making the gift to the acceptance thereof are inconsistent with the aims and objectives of the Council under this Decree.

Annual estimates, accounts and audit.

13.—(1) The Council shall cause to be prepared not later than three months before the end of each year an estimate of the expenditure and income of the Council during the next succeeding year and when prepared they shall be submitted for approval of the National Council of Ministers.

(2) The Council shall cause to be kept proper accounts and proper records in relation thereto and when certified by the Council such accounts shall be audited as provided in subsection (3) of this section.

(3) The accounts of the Council shall be audited within six months after the end of the year to which the accounts relate by auditors appointed by the Council from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation and the fee of the auditors and expenses for the audit generally shall be paid from the funds of the Council in accordance with the guidelines on the level of fees to be paid to external auditors as provided by the Auditor-General of the Federation.

Annual report.

14. The Council shall, not later than six months after the end of each year, submit to the National Council of Ministers a report on the activities of the Council and its administration during the immediately preceeding year and shall include in such report the audited accounts of the Council and the auditor's comments thereon.

Application of Pensions Act 1979. 1979 No. 102.

15.—(1) Service in the Council shall be approved service for the purposes of the Pensions Act 1979, and, accordingly, officers and other persons employed in the Council shall be entitled to pensions, gratuities and other retirement benefits as are prescribed thereunder, so however that nothing in this Decree shall prevent the appointment of a person to any office on terms which preclude the grant of a pension, gratuity or other retirement benefit in respect of that office.

(2) For the purposes of the application of the provisions of the Pensions Act 1979, any power exercisable thereunder by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Council and not by any other person or authority.

16. The Council may make regulations for the carrying out of its functions under this Decree.

Regulations.

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

Interpretation.

“Advisory Committee” means the National Advisory Committee on Conservation of Renewable Resources established under section 5 of this Decree ;

“Council” means the Natural Resources Conservation Council established under section 1 of this Decree ;

“Secretary” means the person appointed as Secretary to the Council under section 8 of this Decree.

Citation.

18. This Decree may be cited as the Natural Resources Conservation Council Decree 1989.

SCHEDULE

Section 2 (2)

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

Proceedings of the Council

1.—(1) Subject to this Decree and to section 26 of the Interpretation Act 1964, the Council may make standing orders regulating proceedings of the Council or of any committee thereof.

(2) The quorum at any meeting of the Council shall be five and the quorum of any committee of the Council shall be determined by the Council.

2.—(1) The Council shall meet not less than four times in each year and, subject thereto, the Council shall meet whenever it is summoned by the Chairman.

(2) At any meeting of the Council the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of the numbers to preside at that meeting.

(3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him as a member for such period as it thinks fit but a person who is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Council and shall not count towards the quorum.

(4) Notwithstanding anything in the foregoing provisions of this paragraph, the first meeting of the Council shall be summoned by the President, Commander-in-Chief of the Armed Forces.

(5) The validity of any proceedings of the Council or of a committee thereof shall not be adversely affected by any vacancy in the membership of the Council or committee, or by any defect in the appointment of a member of the Council or committee, or by reason that a person not entitled to do so took part in the proceedings.

Committees

3.—(1) The Council may appoint one or more committees to carry out, on behalf of the Council, such of its functions as the Council may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily all members of the Council) as may be determined by the Council and a person other than a member of the Council shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

Miscellaneous

4.—(1) The fixing of the seal of the Council shall be authenticated by the signature of the Chairman and of some other member authorised specially to act for that purpose by the Council.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Council by the Secretary or any person generally or specially authorised to act for that purpose by the Council.

(3) Any document purporting to be a document duly executed under the seal of the Council shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.

5. Members of the Council who are not public officers shall be paid out of moneys at the disposal of the Council such remuneration, fees or allowances in accordance with such scales as may be approved, from time to time, by the President, Commander-in-Chief of the Armed Forces.

6. Any member of the Council or a committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council or a committee thereof shall forthwith disclose his interest to the Council committee and shall not vote on any question relating to such contract or arrangement.

MADE at Lagos this 29th day of December 1989.

GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

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

The Decree establishes the Natural Resources Conservation Council and confers on it the function, *inter alia*, of the conservation of natural resources of Nigeria and empowers it to formulate a national policy for natural resources conservation.

NATIONAL CENTRE FOR ECONOMIC MANAGEMENT AND ADMINISTRATION DECREE 1989



ARRANGEMENT OF SECTIONS

Section

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Establishment of the Centre. 2. Objectives and functions of the Centre. 3. Establishment of the Governing Council, etc. 4. Membership of Council. 5. Appointment of the Director-General of the Council. 6. Appointment of other staff of the Centre. | <ol style="list-style-type: none"> 7. Service in the Centre to be pensionable. 8. Financial provisions. 9. Borrowing powers. 10. Power to invest fund. 11. Estimate of income and expenditure. 12. Audited account. 13. Annual report. 14. Staff regulations. 15. Interpretation. 16. citation and Commencement. |
|---|--|

SCHEDULE

Decree No. 51

[See Section 16]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. There is hereby established a body to be known as the National Centre for Economic Management and Administration (hereafter in this Decree referred to as "the Centre") which shall have the functions assigned to it by this Decree.

Establish-
ment of the
Centre.

(2) The Centre shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

2.—(1) The Centre shall—

(a) serve primarily as a training centre for economic planners, budget and project officers at the Federal, State and Local Government levels.

Objectives
and
functions of
the Centre.

(b) develop and strengthen specific skills as will enhance the quality of management of the national economy at the micro and sectoral levels ;

(c) be a policy laboratory for vigorous and sustained development and promotion of highly specialized skills required for enhancing efficient and effective planning and management of the Nigerian economy ;

(d) organize and conduct specialized training courses and programmes designed to strengthen the capability of senior public functionaries in the formulation, analysis, implementation and monitoring of economic development plans, budgets and policies ;

(e) organize and conduct courses, workshops and seminars which address specific aggregate macro, sectoral and micro economic issues of interest and concern to all levels of government and combinations thereof ;

(f) undertake, commission and participate in in-depth research, studies and consultancy services in relevant fields to—

(i) improve the quality and coverage of courses and programme of the Centre ;

(ii) enhance the understanding of the workings of the Nigerian economy at the macro, sectoral and micro level of analysis ;

(iii) cater for national and specific organisational objectives ;

(g) issue certificates of merit and attendance to successful participants at the Centre.

(2) Without prejudice to the generality of subsection (1) of this section, the courses and programme to be organized and conducted by the Centre shall include—

(a) economic planning, including planning techniques, project evaluation and selection, plan implementation and monitoring ;

(b) economic policy formulation and analysis, including policy formulation techniques, impact analysis, policy implementation and monitoring ; and

(c) the use of high-technology computational facilities in economic planning and management.

Establish-
ment of the
Governing
Council, etc.

3.—(1) There shall be established for the Centre, a Governing Council (hereafter in this Decree referred to as "the Council") which shall provide the general policy guidelines for the day to day administration of the affairs of the Centre.

(2) Without prejudice to the generality of subsection (1) of this section, it shall be the responsibility of the Council to —

(a) consider and approve for the Centre, its—

(i) long-range plan of activities ;

(ii) programme of studies and research to be undertaken ;

(iii) annual budget ; and

(iv) investment plans ;

(b) advise the Minister on policies, plans and programme for effective planning and management of the Nigerian economy for sustained development ;

(c) establish and maintain for research purposes and for other purposes connected with the functions conferred on the Centre by or pursuant to this Decree an up-to-date library comprising reports and other publications for the advancement of knowledge in the area of work undertaken by it ;

(d) provide for and support the publication and effective dissemination of materials and ideas in areas connected with the functions conferred on the Centre by or pursuant to this Decree ;

(e) enter into such contracts as may be necessary or expedient for carrying into effect the provisions of this Decree ;

(f) acquire and hold such movable and immovable property as may be necessary or expedient for carrying into effect the provisions of this Decree and for the same purpose may sell, lease, mortgage, or otherwise allocate or dispose of any property acquired or held by the Centre and no longer required by the Centre; and

(g) carry out such other activities as are necessary and expedient for the full discharge of any of the functions conferred on the Council under or pursuant to this Decree.

4.—(1) The Council shall consist of a Chairman to be appointed by the President, Commander-in-Chief of the Armed Forces on the advice of the Minister and the following other members, that is—

Membership
of Council.

(a) the Director-General of the Centre ;

(b) the Director, Ministry of Planning and Budget ;

(c) the Director of Research, Central Bank of Nigeria ;

(d) the Director-General of each of the following bodies—

(i) Manpower Development Department, Federal Civil Service Commission or his representative ;

(ii) Federal Ministry of Finance and Economic Development or his representative ;

(iii) Nigerian Institute for Social and Economic Research ;

(e) one representative of the Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture ;

(f) one eminent scholar in economics, representing the interest of the universities, to be appointed by the Minister ; and

(g) one person with experience in national economic management to represent interests not otherwise represented above, to be appointed by the Minister.

(2) Subject to subsections (3) and (4) of this section, a person appointed as a member of the Council (not being an *ex-officio* member) shall serve for a period of three years and shall be eligible for re-appointment for one further period of three years.

(3) The Minister may remove from office, a member of the Council (not being an *ex-officio* member) if he is satisfied that it is not in the interest of the Centre that the person concerned should continue in office.

(4) A member of the Council may resign his office by notice in writing, under his hand, addressed to the Minister.

(5) The supplementary provisions contained in the Schedule to this Decree shall have effect with respect to the proceedings of the Council and the other matters mentioned therein.

5.—(1) There shall be appointed by the President, Commander-in-Chief of the Armed Forces on the recommendation of the Minister, a Director-General for the Centre.

Appointment
of the
Director-
General
of the Centre.

(2) The Director-General shall be the Chief Executive of the Centre and responsible to the Council for detailed management of the affairs of the Centre.

(3) The Director-General shall hold office on such terms and conditions as may be specified in his letter of appointment.

Appointment
of other staff
of the Centre.

6.—(1) There shall be appointed by the Council, the following officers for the Centre, that is—

- (a) a Secretary and Director of Personnel ;
- (b) a Director of each of the Training Departments ;
- (c) a Director of Research ;
- (d) a Director of Finance and Supplies.

(2) The Secretary and Director of Personnel shall be responsible to the Director-General of the Centre for the day-to-day administration and for the finances of the Centre.

(3) The Director of Training shall be responsible to the Director-General of the Centre for organizing and conducting the training courses, programmes, seminars and workshops and other studies undertaken by the Centre, including the collation and publication of course materials and other publications relating thereto.

(4) The Director of Research shall be responsible to the Director-General of the Centre for co-ordinating the research and consultancy staff of the Centre and for the collation and publication of research materials.

(5) The Director of Finance and Supplies shall be responsible to the Director-General of the Centre for the proper management of the finance and materials of the Centre.

(6) The Council may, from time to time, appoint such other staff as may be required for the purposes of the efficient performance of the functions conferred on the Centre under this Decree.

(7) The officers and other employees of the Centre (other than the Director-General) shall hold office on such terms and conditions as apply in similar organisations and as may be specified by the Council after consultation with the Minister.

Service in
the Centre
to be
pensionable.
1979
No. 102.

7.—(1) Service at the Centre shall be approved service for the purpose of the Pensions Act 1979 and, accordingly, officers and other persons employed in the Centre shall be entitled to pensions, gratuities and other retirement benefits as prescribed thereunder.

(2) Nothing in this section shall prevent the appointment of a person on a temporary basis to any office at the Centre on terms which preclude the grant of a pension and gratuity or other retirement benefit in respect of that office.

(3) For the purposes of the application of the provisions of the Pensions Act 1979, any power exercisable thereunder by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Council and not by any other person or authority.

Financial
provisions.

8.—(1) The Council shall establish and maintain a fund from which shall be defrayed all expenditures incurred by the Centre.

(2) There shall be paid or credited to the fund established pursuant to subsection (1) of this section—

(a) such sums as may be provided by the Federal Military Government or a State Government for payment into the fund ;

(b) all subscriptions, fees and charges for services rendered by the Centre ; and

(c) subject to subsection (3) of this section, all sums accruing to the Centre by way of gifts, testamentary disposition and endowments or contributions from philanthropic persons or organizations or otherwise howsoever.

(3) The Centre may, within and outside Nigeria, accept gifts of land, money or other property upon such terms and conditions, if any, as may be specified by the person or organisation making the gift :

Provided, however that the Centre shall not accept any gift if the conditions attached by the person or organization making the gift, to the acceptance thereof, are considered inconsistent with the functions of the Centre or its position as a non-partisan Centre free from any undue external influence.

9.—(1) The Centre may, with the consent of or in accordance with the general authority given by the Minister, borrow by way of loan or overdraft from any source any moneys required by the Centre for meeting its obligations and discharging its functions under this Decree.

Borrowing powers.

10.—(1) The Centre may, subject to the provision of this Decree and the conditions of any trust created in respect of any property, invest all or any of its funds with the consent or general authority given by the Minister.

Power to invest fund.

(2) The Council may invest any surplus fund of the Centre in such securities as may be approved by the Minister.

11. The Director-General of the Centre shall, not later than 31st October in each year, prepare an estimate of the income and expenditure of the Centre during the next succeeding year and when so prepared shall be submitted to the Minister for approval by the National Council of Ministers.

Estimates of income and expenditure.

12.—(1) The Council shall cause to be kept proper accounts and proper records in relation to its income and expenditure and when certified by the Council, such accounts shall be audited as provided in subsection (2) of this section.

Audited account.

(2) The accounts of the Centre shall be audited not later than six months after the end of each year by an auditor appointed by the Council from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

13. The Council shall, not later than 30th September in each year, prepare and submit to the Minister a report on the activities of the Centre during the immediately preceding year and shall include in such report the audited accounts of the Centre and the Auditor-General's report thereon.

Annual report.

14.—(1) The Council may, subject to the provisions of this Decree, make staff regulations relating generally to the conditions of service of employees of the Centre and without prejudice to the generality of the foregoing, regulations may provide for—

Staff regulations.

(a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Centre ; and

(b) appeals by such employees against dismissal or other disciplinary measures,

and until such regulations are made, any instrument relating to the conditions of service of public officers of the Federation shall be applicable, with such modifications as may be necessary, to the employees of the Centre.

(2) Staff regulations made under subsection (1) of this section shall not have effect until approved by the Minister and when so approved they need not be published in the *Gazette*, but the Council shall cause them to be brought to the notice of all affected persons in such manner as it may, from time to time, determine.

Interpreta-
tion.

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

“Centre” means the National Centre for Economic Management and Administration established under section 1 of this Decree ;

“Council” means the Governing Council of the Centre established by section 3 of this Decree ;

“Chairman” means the Chairman of the Council ;

“Director-General” means the Director-General of the Centre appointed pursuant to section 5 (1) of this Decree ;

“member” includes the Chairman of the Council ; and

“Minister” means the Minister charged with responsibility for matters relating to national planning.

Citation and
commence-
ment.

16. This Decree may be cited as the National Centre for Economic Management and Administration Decree 1989 and shall be deemed to have come into force on 22nd May 1986.

SCHEDULE

Section 3 (5)

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

Proceedings

1.—(1) Subject to this Decree and to section 26 of the Interpretation Act 1964, the Council may make standing orders regulating the proceedings of the Council or of any committee thereof.

(2) The quorum of the Council shall be the Chairman and four other members, and the quorum of any committee of the Council shall be determined by the Council.

(3) The Council shall meet not less than three times in each year and subject thereto, the Council shall meet whenever it is summoned by the Chairman ; and if the Chairman is required to do so by notice given to him by not less than three other members, he shall summon a meeting of the Council to be held within fourteen days from the date on which the notice is given.

(4) At any meeting of the Council the Chairman shall preside ; but if he is absent, the members present at the meeting shall appoint one of their number present at the meeting to preside at that meeting.

(5) Whenever the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him as a member for such period as it thinks fit ; but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards the quorum.

(6) Notwithstanding anything in the foregoing provisions of this paragraph, the first meeting of the Council shall be summoned by the Minister.

Committees

2.—(1) The Council may appoint one or more committees to carry out, on behalf of the Council, such of its functions under this Decree as the Council may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily all members of the Council) as may be determined by the Council ; and a person other than a member of the Council shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

The Seal of the Centre

3.—(1) The fixing of the seal of the Centre shall be authenticated by the signature of the Chairman or some other member authorised generally or specially to act for that purpose by the Council.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Centre by the Director-General of the Centre or any person specially authorized to act for that purpose by the Council.

(3) Any document purporting to be a document duly executed under the seal of the Centre shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.

Miscellaneous

4.—(1) Members of the Council who are not public officers shall be paid out of the moneys at the disposal of the Centre, such remuneration, fees or allowance which shall in accordance with such scales as may be approved, from time to time, by the Minister.

(2) The validity of any proceedings of the Council or of a committee thereof shall not be adversely affected by any vacancy in the membership of the Council or committee, or by any defect in the appointment of a member of the Council or of a committee, or by, reason that a person not entitled to do so took part in the proceedings.

(3) Any member of the Council, or any person holding office on a committee of the Council, who has a personal interest in any contract or arrangement, entered into or proposed to be considered by the Council or a committee thereof, shall forthwith disclose his interest to the Council and shall not vote on any question relating to the contract or arrangement.

MADE at Lagos this 29th day of December 1989.

GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

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

The Decree establishes the Centre for Economic Management and Administration to serve primarily as a training centre for economic planners, budget and project officers at the Federal, State and Local Government Levels.

The Decree confers the management of the affairs of the Centre on the Governing Council established under the Decree.

NATIONAL COMMISSION FOR REFUGEES, ETC. DECREE 1989



ARRANGEMENT OF SECTIONS

PART I—PROHIBITION OF EXPULSION OF REFUGEES, ETC.

1. Prohibition of expulsion or return of refugees.
2. Office to be responsible for matters relating to refugees.

PART II—ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL COMMISSION FOR REFUGEES

3. Establishment and composition of the National Commission for Refugees.
4. Functions of the Commission, etc.

PART III—THE FEDERAL COMMISSIONER FOR REFUGEES ETC.

5. Appointment of the Federal Commissioner for Refugees.
6. Eligibility Committee for Refugees.

PART IV—APPEAL BOARD

7. Establishment of Appeal Board.

PART V—PROCEDURES FOR SEEKING REFUGEE STATUS

8. Application for refugee's Status.
9. Residence in Nigeria pending recognition as refugee or after refusal of recognition.
10. Cessation or stay of proceedings in respect of illegal entry by refugees and protected persons.

11. Residence in Nigeria of persons granted refugees status.
12. Withdrawal of status of refugees.
13. Right of appeal to Secretary to the Federal Military Government.

PART VI—TREATMENT OF MEMBERS OF THE FAMILY OF A REFUGEE

14. Family members of refugees.

PART VII—RIGHTS AND DUTIES OF REFUGEES

15. Rights and duties of refugees.
16. Detention and expulsion of refugees.
17. Naturalization.

PART VIII—MISCELLANEOUS

18. Commission to give special assistance to refugees.
19. Regulations.
20. Meaning of "refugee", etc.
21. Interpretation.
22. Citation.

SCHEDULES

Decree No. 52

[29th December 1989]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

PART I—PROHIBITION OF EXPULSION OF REFUGEES, ETC.

1.—(1) As from the commencement of this Decree and notwithstanding any other law or enactment, no person who is a refugee within the meaning of this Decree shall be refused entry into Nigeria, expelled, extradited or returned in any manner whatsoever to the frontiers of any territory where—

Prohibition
of expulsion
or return of
refugees.

(a) his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular group or political opinion ; or

(b) his life, physical integrity or liberty could be threatened on account of external aggression, occupation, foreign domination or events seriously disrupting public order in any part or the whole of that territory.

(2) The provisions of subsection (1) of this section shall not apply to a refugee who—

(a) is a danger to the security of Nigeria ; or

(b) is convicted by a court or tribunal for committing any serious crime as stipulated in the conventions contained in Schedules 1 to 3 to this Decree.

(3) No person, claiming to be a refugee within the meaning of this Decree who has illegally entered into or is illegally present in Nigeria, shall be expelled, extradited or returned merely by reason of his illegal entry or presence in Nigeria or any part of Nigeria pending the determination of his application for a refugee status.

(4) A person who has lawfully entered into or is lawfully present in Nigeria and who wishes to remain in Nigeria on the grounds that he is a refugee within the meaning of this Decree shall not be compelled to leave Nigeria, unless he has found another country of asylum.

2. The office of the Secretary to the Federal Military Government shall, subject to the provisions of this Decree, be charged with responsibility for matters relating to refugees or refugee status.

Office to be
responsible
for matters
relating to
refugees.PART II—ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL
COMMISSION FOR REFUGEES

3.—(1) There is hereby established, under the supervision of the Secretary to the Federal Military Government, a commission to be called the National Commission for Refugees (hereafter in this Decree referred to as "the Commission") which shall consist of—

Establish-
ment and
composition
of the
National
Commission
for Refugees.

(a) a Chairman to be appointed by the President, Commander-in-Chief of the Armed Forces ;

(b) a representative of the Secretary to the Federal Military Government, as Vice-Chairman ;

(c) the Federal Commissioner for Refugees or his representative ;

(d) the Director-General of the Ministry of External Affairs or his representative ;

(e) the Director-General of the Ministry of Internal Affairs or his representative ; and

(f) the representative of the United Nations High Commissioner for Refugees in Nigeria as observer to be invited by the Commission, from time to time, to the meetings of the Commission when matters to be considered by the Commission have international import or are of global importance to refugees.

(2) The Commission shall hold its meetings as and when the Chairman is of the opinion that the Commission should meet and shall keep and furnish the Secretary to the Federal Military Government with records of its meetings.

(3) A member of the staff of the secretariat of the Federal Commissioner for Refugees shall perform secretarial duties during the meetings of the Commission.

Functions
of the
Commis-
sion, etc.

4.—(1) The functions of the Commission shall be to—

(a) lay down general guidelines and overall policy on general issues relating to refugees and persons seeking asylum in Nigeria ;

(b) advise the Federal Military Government on policy matters in relation to refugees in Nigeria ;

(c) consider such matters as the Secretary to the Federal Military Government may, from time to time, refer to it and make recommendations thereon to the Secretary to the Federal Military Government.

(2) The quorum of the Commission shall be three.

(3) The Commission may appoint such committees as it may deem necessary to deal with specific aspects of refugee problems in Nigeria.

(4) When there is a large scale influx of persons claiming to fall within the meaning of refugees under this Decree, the Commission shall meet on an emergency basis and advise the Federal Military Government on the appropriate measures to be taken, including the provision of adequate facilities and services necessary for the care of the particular group of persons affected by the influx.

PART III—THE FEDERAL COMMISSIONER FOR REFUGEES, ETC.

Appoint-
ment of the
Federal
Commis-
sioner for
Refugees.

5.—(1) There shall be appointed by the President, Commander-in-Chief of the Armed Forces, a Federal Commissioner for Refugees (hereafter in this Decree referred to as "the Federal Commissioner") who shall—

(a) grant refugee status to applicants on the recommendations of the Eligibility Committee constituted pursuant to section 6(1) of this Decree ;

(b) preside over the committees on refugees as may be appointed from time to time ;

(c) ensure the provision of adequate facilities and services for the reception and care of refugees in Nigeria ;

(d) take such steps as he considers necessary to ensure compliance with the provisions of section 1 (1) of this Decree ;

(e) exercise such other powers and perform such other duties relating to refugees as may be assigned to him, from time to time, by the Commission or the Secretary to the Federal Military Government.

(2) The Federal Commissioner shall perform the functions conferred upon him by this section under the supervision of the Secretary to the Federal Military Government, including compliance with any general instructions that may be given to him by the Secretary to the Federal Military Government.

6.—(1) There is hereby established, under the supervision of the Federal Commissioner, a committee to be known as the Eligibility Committee (for Refugees) hereafter in this Decree referred to as "the Eligibility Committee" which shall consist of—

Eligibility
Committee.

(a) the Director-General, Ministry of External Affairs or his representative, as Chairman ;

(b) the Director of the Immigration Department or his representative ;

(c) a representative of the Chief of General Staff ; and

(d) the representative of the office of the United Nations High Commissioner for Refugees in Nigeria who shall participate as an observer.

(2) The functions of the Eligibility Committee shall be to—

(a) process and consider applications for refugee status and recommend such applicants that qualify for that status to the Federal Commissioner ;

(b) register persons who have been granted refugees status under this Decree ; and

(c) exercise any other powers and perform any other duties that may be assigned to it, from time to time, by the Federal Commissioner or the Secretary to the Federal Military Government.

PART IV—APPEAL BOARD

7.—(1) There is hereby established a body to be known as the Refugee Appeal Board (hereafter in this Decree referred to as "the Board") which shall consist of three legal officers to be appointed by the Secretary to the Federal Military Government after consultation with the Attorney-General of the Federation and Minister of Justice, at least one of whom shall be a person with adequate knowledge in international and comparative law.

Refugee
Appeal
Board.

(2) The representative of the United Nations High Commissioner for Refugees in Nigeria may be invited to the proceedings of the Board and shall have the right to make oral or written representations on behalf of any person concerned in any appeal that is being heard by the Board.

(3) The Board shall meet at the invitation of the Federal Commissioner or at the request of the Secretary to the Federal Military Government.

(4) Subject to the provisions of section 8 of this Decree, the Board shall hear appeals against the decisions of the Eligibility Committee on cases referred to it by the Secretary to the Federal Military Government or the Federal Commissioner.

(5) The Board shall give due consideration to any representations made on behalf of an appellant before coming to a final decision on the appeal.

(6) The Board may invite the appellant for an oral interview and shall allow him to be represented by a legal practitioner if he so desires.

PART V—PROCEDURES FOR SEEKING REFUGEE STATUS

Application
for
refugee
status.

8.—(1) Application for the grant of a refugees status shall be made to the Federal Commissioner through the nearest competent officer or through the office of the United Nations High Commissioner for Refugees in Nigeria.

(2) A competent officer to whom a person seeking asylum first presents himself shall, if he is not himself an immigration officer, as soon as possible notify an immigration officer that a person seeking refugees status has entered into or is present in Nigeria.

(3) An application received by the office of the United Nations High Commissioner for Refugees shall be forwarded to the Eligibility Committee constituted under section 6 (1) of this Decree.

(4) The Eligibility Committee may invite the applicant to appear before it.

(5) The decision of the Eligibility Committee shall be notified in writing to the applicant by the Federal Commissioner.

(6) If the Eligibility Committee recommends that the applicant shall not be granted refugee status it shall give reasons for its decision.

(7) In the case of a refusal to grant refugee status, the applicant may appeal against the decision of the Eligibility Committee to the Board established by section 7 (1) of this Decree within 30 days of his being notified of the refusal.

(8) While awaiting the final decision by the Board, the applicant shall be allowed to remain in the country in accordance with section 1 (3) of this Decree.

(9) If the applicant is finally refused a refugee status, he shall be given reasonable time to seek admission as a refugee into another country.

Residence
in Nigeria
pending
recognition
as refugee
or after
refusal of
recognition.

9. Notwithstanding the provisions of any other law, any person who has applied under section 8 of this Decree for grant of refugee status and every member of his family, shall have the right to remain within Nigeria—

(a) until such person has been granted refugee status under the provision of this Decree ; or

(b) where the application of such person is unsuccessful, until such person has had an opportunity to exhaust his right of appeal as provided in subsection (7) of section 8 of this Decree ; or

(c) where such person has appealed under subsection (7) of section 8 of this Decree and his appeal has been unsuccessful, until such person has been allowed a reasonable time and if he is in detention, has in addition been afforded reasonable facilities to seek admission to another country of his choice.

10. Notwithstanding the provisions of the Customs and Excise Management Act 1958, as amended, no proceedings shall be instituted or continued against any person or any member of his family in respect of his unlawful entry into or unlawful presence within Nigeria—

Cessation or stay of proceedings in respect of illegal entry by refugees and protected persons.

(a) if such person applies under section 8 of this Decree for the grant of a refugee status, until a decision has been made on the application and, where appropriate, until such person has had an opportunity of exhausting his right of appeal under that section ; or

(b) if such person has been granted refugee status.

11.—(1) Every person who has been granted refugee status under this Decree and members of his family shall, subject to the provisions of this Decree be—

Residence in Nigeria of persons granted refugee status, etc.

(a) issued with an identity card in the form prescribed by the Minister charged with responsibility for matters relating to internal affairs. ;

(b) issued with residence permit ; and

(c) subject to all laws in force within Nigeria.

(2) Every refugee and members of his family lawfully staying in Nigeria shall, in accordance with Article 28 of the 1951 United Nations Refugee Convention and Article VI of the Organisation of African Unity Convention of 10th September 1969 Governing the specific Aspects of Refugees Problems in Africa (hereafter referred to as "the 1969 OAU Convention"), be issued with the United Nations Travel Document.

12.—(1) If at any time, the Federal Commissioner considers that there are reasonable grounds for believing that a person who has been granted a refugee status for the purposes of this Decree—

Withdrawal of status of refugee.

(a) should not have been so granted ; or

(b) has ceased to be a refugee,
the Federal Commissioner shall refer the case to the Eligibility Committee.

(2) Where a case has been referred to the Eligibility Committee under subsection (1) of this section, the Eligibility Committee shall cause a written notice to be served upon the person whose status as a refugee is under reconsideration—

(a) informing such person of the fact that his status as a refugee is to be reconsidered ; and

(b) inviting such person to make written representations to the Eligibility Committee within a period of fourteen days from the date of service of the notice, regarding his status as a refugee.

(3) The Eligibility Committee shall consider every case referred to it under subsection (1) of this section and may make any inquiry or investigation it deems necessary into any such case.

(4) After considering any advice or recommendation given or made to him by the Eligibility Committee in relation to any case referred to the Eligibility Committee under subsection (1) of this section, the Federal Commissioner—

(a) may withdraw the grant of refugee status ; and

(b) shall cause the person concerned to be notified in writing of his decision on the matter.

Right of appeal to the Secretary to the Federal Military Government.

13.—(1) Any person who is aggrieved by a decision of the Federal Commissioner to withdraw the grant of refugee status may, within seven days of being notified of such withdrawal, appeal in writing to the Secretary to the Federal Military Government.

(2) In any appeal under subsection (1) of this section, the Secretary to the Federal Military Government may confirm or set aside the decision of the Federal Commissioner and shall cause the Federal Commissioner to be informed of his decision on the matter :

Provided that, before reaching a decision on an appeal, the Secretary to the Federal Military Government may do all or any of the following, that is—

(a) invite the representative of the United Nations High Commissioner for Refugees in Nigeria to make oral or written representations in the matter ;

(b) refer the matter to the Eligibility Committee for further inquiry and investigation ;

(c) make such further inquiry and investigation into the matter as he may deem fit.

(3) Where the Federal Commissioner has under section 12 (4) of this Decree withdrawn the grant of refugee status, the person concerned shall cease to be a refugee, and any person who became a refugee by virtue of being a member of his family shall also cease to be a refugee with effect from—

(a) seven days after the date on which the Federal Commissioner notifies the person concerned that his refugee status has been withdrawn ; or

(b) where the person concerned has appealed to the Secretary to the Federal Military Government under subsection (1) of this section, the date on which the Secretary to the Federal Military Government notifies the person that he confirms the decision of the Federal Commissioner :

Provided that nothing contained in this section shall be construed as preventing a person who became a refugee by virtue of being a member of the family of the person concerned from himself applying for the grant of a refugee status.

PART VI—TREATMENT OF MEMBERS OF THE FAMILY OF A REFUGEE

Treatment of members.

14. The Federal Commissioner and all competent officers shall ensure that—

(a) the members of the family of a refugee benefit from the same treatment as provided in section 1 (3) of this Decree ;

(b) the members of the family of a refugee are permitted to enter Nigeria and to remain therein as long as the refugee concerned is permitted to remain in Nigeria under this Decree.

PART VII—RIGHTS AND DUTIES OF REFUGEES

15. Every person granted a refugee status in Nigeria shall be entitled to the rights and subject to the duties contained in—

Rights and duties of refugees.

(a) the articles of the United Nations Convention Relating to the Status of Refugees set out in Schedule 1 to this Decree ;

(b) the Protocol Relating to the Status of Refugees of 31st January 1967 set out in Schedule 2 to this Decree ; and

(c) the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa set out in Schedule 3 to this Decree ; and

(d) any laws in force in Nigeria.

16.—(1) A refugee may be detained or expelled for reasons of national security or public order provided that no refugee shall be expelled to a country where he has reasons to fear persecution.

Detention and expulsion of refugees.

(2). A refugee who has been notified of a decision of expulsion may appeal to the Board established under section 7 of this Decree for re-consideration of his position.

17. Subject to the provisions of relevant laws and regulations relating to naturalisation, the Federal Commissioner shall use his best endeavours to assist a refugee who has satisfied the criteria relating to the acquisition of Nigerian nationality to acquire the status of naturalisation under such relevant laws and regulations.

Naturalization.

PART VIII—MISCELLANEOUS

18. The Commission may—

(a) adopt procedures to be followed by the competent officer for the purpose of facilitating entry and residence in Nigeria of refugees and members of their families ;

Commission to give special assistance to refugees.

(b) seek co-operation with non-governmental organisations on matters relating to refugees ;

(c) give relief assistance to refugees while they are awaiting a final decision of the Board or the Secretary to the Federal Military Government ;

(d) assist in seeking employment or education for refugees and members of their families.

19.—(1) The Secretary to the Federal Military Government may make regulations prescribing all matters which by this Decree are required or permitted to be prescribed or which, in the opinion of the Secretary to the Federal Military Government, are necessary or convenient to be prescribed for the better carrying out or giving full effect to the provisions of this Decree.

Regulations.

(2) Regulations made under subsection (1) of this section, may provide for—

(a) the assignments to the Eligibility Committee of functions relating to the investigation, inspection and supervision of the reception, treatment and welfare of refugees ;

(b) the appointment of additional committees and the assignment to such committees of functions to be exercised, subject to the direction and control of the Federal Commissioner or the Eligibility Committee, in relation to the reception, treatment and welfare of refugees ;

(c) the procedure at meetings of the Eligibility Committee and of additional committees referred to in paragraph (b) of this subsection, including the participation at such meetings of the representative of the United Nations High Commissioner for Refugees in Nigeria ;

(d) the procedure for the consideration of applications for the grant of refugee status and the form in which such applications shall be made ;

(e) the manner and form in which appeals may be made to the Board or the Secretary to the Federal Military Government under sections 8 and 13 of this Decree ;

(f) the issuance of identification documents to persons who have applied for grant of refugee status, and to members of their families ;

(g) the form and issuance of identification and travel documents to refugees and to members of their families ;

(h) the form of any order or notice required to be served on any person under sections 12 or 13 of this Decree and the manner in which such order or notice may be served ;

(i) for persons who are detained after appealing unsuccessfully under section 8 of this Decree or who are detained under section 16 of this Decree, the opportunity to travel to another country of their choice : Provided that the Secretary to the Federal Military Government shall not make regulation for such a purpose except with the approval of the Minister to whom the administration of the Prisons Act 1972 has been assigned ;

(j) requiring employers, when considering applications for employment made by persons who are not citizens of Nigeria, to give preference to applicants who are refugees ;

(k) co-operation and consultation with the United Nations High Commissioner for Refugees concerning applicants for refugee status ;

(l) the making of representations by the United Nations High Commissioner for Refugees in relation to any person for the purposes of this Decree and the services and assistance that may be rendered by the High Commissioner for or on behalf of any person for the purposes of this Decree ;

(m) the form and manner in which effect shall be given to Article 35 of the Convention Relating to the Status of Refugees of the 28th July, 1951 and Article II of the 1967 Protocol to that Convention.

(3) Regulations made under subsection (1) of this section may prescribe penalties for contraventions thereof but, no such penalty shall exceed a fine of five hundred naira or imprisonment for a period of six months or both such fine and such imprisonment.

20.—(1) For the purposes of this Decree a person shall be considered a refugee if he falls within the definition provided by—

(a) Article 1 of the 1951 United Nations Convention set out in Schedule 1 to this Decree ;

Meaning of
"refugee,"

(b) Article 1 of the 1967 Protocol Relating to the Status of Refugee, set out in Schedule 2 to this Decree ;

(c) Article 1 of the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, set out in Schedule 3 to this Decree.

(2) A person shall not be considered to be a refugee under this Decree—

(a) when there are serious reasons to believe that he has committed a crime against peace, a war crime or a crime against humanity, as defined in any international instrument to which Nigeria is a party and which has been drawn up to make provisions in respect of such crimes ; or

(b) he has committed a serious non-political crime outside Nigeria prior to his entry ;

(c) he has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity.

(3) A person shall cease to be a refugee under this Decree if—

(a) he has voluntarily re-availed himself of the protection of the country of his nationality ; or

(b) he has voluntarily re-established himself in the country which he left, or outside which he remained owing to fear of persecution ; or

(c) he can no longer, because the circumstances in connection with which he was granted a refugee status have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality.

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

Interpreta-
tion.

“country of nationality” in relation to a person who has more than one nationality, means each of the countries of which that person is a national ;

“competent officer” means immigration officer, customs officer, police or security officer ;

“frontier” means land-frontier, sea-frontier, port or airport of entry ;

“members of the family” in relation to a refugee means spouse or spouses, unmarried children under the age of maturity and any other relative of the refugee who is dependent on him.

22. This Decree may be cited as the National Commission for Refugees, Etc. Decree 1989.

Citation.

SCHEDULES

SCHEDULE 1

Section 15 (a)

ARTICLES OF CONVENTIONS APPLICABLE TO
RECOGNISED REFUGEES AND PROTECTED PERSONS

PART 1

ARTICLES OF CONVENTION RELATING TO THE STATUS
OF REFUGEES OF THE 28TH JULY, 1951*Article I*

DEFINITION OF THE TERM "REFUGEE"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who :

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization ;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section ;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words "events occurring before 1 January 1951" in Article 1, Section A, shall be understood to mean either

(a) "events occurring in Europe before 1 January 1951"; or

(b) "events occurring in Europe or elsewhere before 1 January 1951", and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if :

(1) He has voluntarily re-availed himself of the protection of the country of his nationality ; or

(2) Having lost his nationality, he has voluntarily re-acquired it, or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality :

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality ;

(6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence :

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that :

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes ;

(b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2

GENERAL OBLIGATIONS

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3

NON-DISCRIMINATION

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4

RELIGION

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

Article 5

RIGHTS GRANTED APART FROM THIS CONVENTION

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6

THE TERM "IN THE SAME CIRCUMSTANCES"

For the purpose of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7

EXEMPTION FROM RECIPROCITY

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.

2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in Articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8

EXEMPTION FROM EXCEPTIONAL MEASURES

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation are prevented from applying the general principle expressed in this Article, shall, in appropriate cases, grant exemptions in favour of such refugees.

Article 9

PROVISIONAL MEASURES

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally, measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10

CONTINUITY OF RESIDENCE

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of coming into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11

REFUGEE SEAMEN

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER II JURIDICAL STATUS

Article 12

PERSONAL STATUS

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Article 13

MOVABLE AND IMMOVABLE PROPERTY

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14

ARTISTIC RIGHTS AND INDUSTRIAL PROPERTY

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to national of the country in which he has his habitual residence.

Article 15

RIGHT OF ASSOCIATION

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16

ACCESS TO COURTS

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.

2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatum solvi*.

3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

CHAPTER III GAINFUL EMPLOYMENT

Article 17

WAGE-EARNING EMPLOYMENT

1. The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions ;

(a) He has completed three years' residence in the country.

(b) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse ;

(c) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18

SELF-EMPLOYMENT

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19

LIBERAL PROFESSIONS

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories other than the metropolitan territory, for whose international relation they are responsible.

CHAPTER IV

WELFARE

Article 20

RATIONING

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21

HOUSING

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22

PUBLIC EDUCATION

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 23

PUBLIC RELIEF

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24

LABOUR LEGISLATION AND SOCIAL SECURITY

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters :

(a) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities : remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining ;

(b) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which,

according to national laws or regulations, is covered by a social security scheme), subject to the following limitations :

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition ;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

CHAPTER V

ADMINISTRATIVE MEASURES

Article 25

ADMINISTRATIVE ASSISTANCE

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.

3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.

4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this Article shall be without prejudice to Articles 27 and 28.

Article 26

FREEDOM OF MOVEMENT

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

Article 27

IDENTITY PAPERS

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

Article 28

TRAVEL DOCUMENTS

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory. They shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognised and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29

FISCAL CHARGES

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 30

TRANSFER OF ASSETS

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31

REFUGEES UNLAWFULLY IN THE COUNTRY OF REFUGE

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularised or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Article 32

EXPULSION

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 33

PROHIBITION OF EXPULSION OR RETURN ("REFOULEMENT")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

Article 34

NATURALIZATION

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI

EXECUTORY AND TRANSITORY PROVISIONS

Article 35

CO-OPERATION OF THE NATIONAL AUTHORITIES WITH THE UNITED NATIONS

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning :

- (a) the condition of refugees ;
- (b) the implementation of this Convention ; and
- (c) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

SCHEDULE 1

TRAVEL DOCUMENT

Paragraph 1

1. The travel document referred to in Article 28 of this Convention shall be similar to the specimen annexed hereto.

2. The documents shall be made out in at least two languages, one of which shall be English or French.

Paragraph 2

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

Paragraph 3

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passport.

Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

Paragraph 5.

The document shall have a validity of either one or two years at the discretion of the issuing authority.

Paragraph 6

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the former document.

2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.

3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents.

SCHEDULE 2

Section 15 (b)

PROTOCOL RELATING TO THE STATUS OF REFUGEES
OF 31st JANUARY 1967

*Entry into force : 4 October 1967, in accordance with Article
VIII Text : United Nations Treaty Series No. 8791 Vol. 606 P. 267*

The States Parties to the present Protocol :

Considering that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 (hereinafter referred to as "the Convention") covers only those persons who have become refugees as a result of events occurring before 1 January, 1951.

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention.

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951.

Have agreed as follows :

Article 1

GENERAL PROVISION

1. The States Parties to the present Protocol undertake to apply Articles 2 to 34 inclusive of the Convention to refugees as hereinafter defined.

2. For the purpose of the present Protocol, the term "refugees" shall, except as regards the application of paragraph 3 of this Article, mean any person within the definition of Article 1 of the Convention as if the words "As a result of events occurring before 1 January 1951 and....." and the words "..... as a result of such events" in Article 1A (2) were omitted.

3. The Present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already parties to the Convention in accordance with Article 1B (1) (a) of the Convention, shall, unless extended under Article 1B (2) thereof, apply also under the present Protocol.

Article II

CO-OPERATION OF THE AUTHORITIES WITH THE UNITED NATIONS

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.

2. In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning :

- (a) The condition of refugees ;
- (b) The implementation of the present Protocol ;
- (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article III

INFORMATION ON NATIONAL LEGISLATION

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

Article IV

SETTLEMENT OF DISPUTE

Any dispute between States Parties to the present Protocol which relates to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article V

ACCESSION

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialized agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article VI

FEDERAL CLAUSE

In the case of a Federal or non-unitary State, the following provisions shall apply :

- (a) with respect to those articles of the Convention to be applied in accordance with Article 1, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States ;

(b) with respect to those articles of the Convention to be applied in accordance with Article 1, paragraph 1, of the present Protocol that come within the legislative jurisdiction of constituent system of the Federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment ;

(c) a Federal State Party to the present Protocol shall, at the request of any other State Party hereto transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention to be applied in accordance with Article 1, paragraph 1 of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.

Article VII

RESERVATIONS AND DECLARATIONS

1. At the time of accession, any State may make reservations in respect of Article IV of the present Protocol and in respect of the application in accordance with Article 1 of the present Protocol of any provisions of the Convention other than those contained in Articles 1, 3, 4, 16 (1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this Article shall not extend to refugees in respect of whom the Convention applies.

2. Reservations made by States Parties to the Convention in accordance with Article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.

3. Any State making a reservation in accordance with paragraph 1 of this Article may at any time withdraw such reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

4. Declarations made under Article 40, paragraphs 1 and 2 of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The provisions of Article 40, paragraphs 2 and 3, and of Article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

Article IX

DENUNCIATION

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.

2. Such denunciation shall take effect for the State Party concerned one year from the date of which it is received by the Secretary-General of the United Nations.

Article X

NOTIFICATIONS BY THE SECRETARY-GENERAL OF THE UNITED NATIONS

The Secretary-General of the United Nations shall inform the States referred to in Article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

*Article XI*DEPOSIT IN THE ARCHIVES OF THE SECRETARIAT OF THE
UNITED NATIONS

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and the Secretary-General will transmit certified copies thereof to all States Members of the United Nations and to the other States referred to in Article V above.

APPENDIX

GENERAL ASSEMBLY RESOLUTION 2198 (XXI)

Protocol relating to the Status of Refugees

The General Assembly,

Considering that the Convention relating to the Status of Refugees signed at Geneva on 28th July 1951, covers only those persons who have become refugees as a result of events occurring before 1 January 1951.

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention.

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention, irrespective of the date-line of 1 January 1951.

Taking note of the recommendation of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees that the draft Protocol relating to the Status of Refugees should be submitted to the General Assembly after consideration by the Economic and Social Council, in order that the Secretary-General might be authorised to open the Protocol for accession by Governments within the shortest possible time.

Considering that the Economic and Social Council, in its resolution 1186 (XII) of 18 November 1966, took note with approval of the draft Protocol contained in the addendum to the report of the United Nations High Commissioner for Refugees and concerning measures to extend the personal scope of the Convention and transmitted the addendum to the General Assembly.

1. Takes note of the Protocol relating to the Status of Refugees, the text of which is contained in the addendum to the report of the United Nations High Commissioner for Refugees ;

2. Requests the Secretary-General to transmit the text of the Protocol to the States mentioned in Article V thereof, with a view to enabling them to accede to the Protocol.

1495th plenary meeting, 16 December 1966.

SCHEDULE 3

Section 16 (c)

ORGANISATION OF AFRICAN UNITY CONVENTION
GOVERNING THE SPECIFIC ASPECTS OF REFUGEE
PROBLEMS IN AFRICA

ADOPTED BY THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT
AT ITS ORDINARY SESSION (ADDIS ABABA, 10 SEPTEMBER, 1969)

*Entry into Force : 20 June 1974, in accordance with Article XI Text :
United Nations Treaty Series No. 14691*

PREAMBLE

We, the Heads of State and Government assembled in the city of Addis Ababa, from 6-10 September 1969.

1. Noting with concern the constantly increasing numbers of refugees in Africa and desirous of finding ways and means of alleviating their misery and suffering as well as providing them with a better life and future.

2. Recognizing the need for and essentially humanitarian approach towards solving the problems of refugees.

3. Aware, however, that refugee problems are a source of friction among many Member States, and desirous of eliminating the source of such discord.

4. Anxious to make a distinction between a refugee who seeks a peaceful and normal life and a person fleeing his country for the sole purpose of fomenting subversion from outside.

5. Determined that the activities of such subversion elements should be discouraged, in accordance with the Declaration on the Problem of Subversion and Resolution on the Problem of Refugees adopted at Accra in 1965

6. Bearing in mind that the Charter of the United Nations and the Universal Declaration of Human Rights have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination.

7. Recalling Resolution 2312 (XXII) of 14 December 1967 of the United Nations General Assembly, relating to the Declaration on Territorial Asylum.

8. Convinced that all the problems of our continent must be solved in the spirit of the Charter of the Organisation of African Unity and in the African context.

9. Recognizing that the United Nations Convention of 28 July 1951, as modified by the Protocol of 31 January 1967, constitutes the basic and universal instrument relating to the status of refugees and reflects the deep concern of States for refugees and their desire to establish common standard for their treatment.

10. Recalling Resolutions 26 and 104 of the Organisation of African Unity Assemblies of Heads of States and Government, calling upon Member States of the Organisation who had not already done so to accede to the United Nations Convention of 1951 and to the Protocol of 1967 relating to the Status of Refugees, and meanwhile to apply their provisions to refugees in Africa.

11. Convinced that the efficiency of the measure recommended by the present Convention to solve the problem of refugees in Africa necessitates close and continuous collaboration between the Organisation of African Unity and the Office of the United Nations High Commissioner for Refugees. Have agreed as follows :

Article I

DEFINITION OF THE TERM "REFUGEE"

1. For the purposes of this Convention, the term "refugee" shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.

2. The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

3. In the case of a person who has several nationalities, the term "a country of which he is a national" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of which he is a national if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

4. This Convention shall cease to apply to any refugee if :

(a) he has voluntarily re-availed himself of the protection of the country of his nationality, or

(b) having lost his nationality, he has voluntarily reacquired it, or,

(c) he has acquired new nationality, and enjoys the protection of the country of his new nationality, or,

(d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution, or,

(e) he can no longer, because the circumstances in connection with which he was recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality, or,

(f) he has committed a serious non-political crime outside his country of refuge after his admission to that country as a refugee, or,

(g) he has seriously infringed the purposes and objectives of this Convention.

5. The provisions of this Convention shall not apply to any person with respect to whom the country of asylum has serious reason for considering that :

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes,

(b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee,

(c) he has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity,

(d) he has been guilty of acts contrary to the purposes and principles of the United Nations.

6. For the purposes of this Convention, the Contracting State of Asylum shall determine whether an applicant is a refugee.

Article II

ASYLUM

1. Member States of the Organisation of African Unity shall use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality.

2. The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.

3. No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article 1, paragraphs 1 and 2.

4. Where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the Organisation of African Unity, and such other Member States shall in the spirit of African solidarity and international co-operation take appropriate measures to lighten the burden of the Member State granting asylum.

5. Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his resettlement in accordance with the preceding paragraph.

6. For reasons of security, countries of asylum shall, as far as possible settle refugees at a reasonable distance from the frontier of their country of origin

Article III

PROHIBITION OF SUBVERSIVE ACTIVITIES

1. Every refugee has duties to the country in which he finds himself, which require in particular that he conforms with its laws and regulations as well as with measures taken for the maintenance of public order. He shall also abstain from any subversive activities against any Member State of the Organisation of African Unity.

2. Signatory States undertake to prohibit refugees residing in their respective territories from attacking any Member of the Organisation of African Unity, by any activity likely to cause tension between Member States, and in particular by use of arms, through the press, or by radio.

Article IV

NON-DISCRIMINATION

Member States undertake to apply the provisions of this Convention to all refugees without discrimination as to race, religion, nationality, membership of a particular social group or political opinions.

Article V

VOLUNTARY REPATRIATION

1. The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.

2. The country of asylum, in collaboration with the country of origin, shall make adequate arrangement for the safe return of refugees who request repatriation.

3. The country of origin, on receiving back refugees, shall facilitate their resettlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligations.

4. Refugees who voluntarily return to their country shall in no way be penalized for having left it for any of the reasons giving rise to refugee situations. Whenever necessary, an appeal shall be made through national information media and through the Administrative Secretary-General of the Organisation of African Unity, inviting refugees to return home and giving assurance that the new circumstances prevailing in their country of origin will enable them to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished, and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum.

5. Refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, shall be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and international and inter-governmental organisations, to facilitate their return.

Article VI

TRAVEL DOCUMENTS

1. Subject to Article III, Member States shall issue to refugees lawfully staying in their territories travel documents in accordance with the United Nations Convention relating to the Status of Refugees and the Schedule and Annex thereto, for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require. Member States may issue such a travel document to any other refugee in their territory.

2. Where an African country of second asylum accepts a refugee from a country of first asylum, the country of first asylum may be dispensed from issuing a document with a return clause.

3. Travel documents issued to refugees under previous international agreements by States Parties thereto shall be recognized and treated by Member States in the same way as if they had been issued to refugees pursuant to this Article.

*Article VII*CO-OPERATION OF THE NATIONAL AUTHORITIES WITH THE
ORGANISATION OF AFRICAN UNITY

In order to enable the Administrative Secretary-General of the Organisation of African Unity to make reports to the competent organs of the Organization of African Unity, Member States undertake to provide the Secretariat in the appropriate form with information and statistical data requested concerning :

- (a) the condition of refugees,
- (b) the implementation of this Convention, and
- (c) laws, regulations and decrees which are, or any hereafter be, in force relating to refugees.

*Article VIII*CO-OPERATION WITH THE OFFICE OF THE UNITED NATIONS HIGH
COMMISSIONER FOR REFUGEES

1. Member States shall co-operate with the Office of the United Nations High Commissioner for Refugees.
2. The present Convention shall be the effective regional complement in Africa of the 1951 United Nations Convention on the Status of Refugees.

Article IX

SETTLEMENT OF DISPUTES

Any dispute between States signatories to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the Commission for Mediation, Conciliation and Arbitration of the Organisation of African Unity, at the request of any one of the Parties to the dispute.

Article X

SIGNATURE AND RATIFICATION

1. This Convention is open for signature and accession by all Member States of the Organisation of African Unity and shall be ratified by signatory States in accordance with their respective constitutional processes. The instruments of ratification shall be deposited with the Administrative Secretary-General of the Organisation of African Unity.
2. The original instrument, done if possible in African languages, and in English and French, all texts being equally authentic, shall be deposited with the Administrative Secretary-General of the Organisation of African Unity.
3. Any independent African State, Member of the Organisation of African Unity, may at any time notify the Administrative Secretary-General of the Organisation of African Unity of its accession to this Convention.

Article XI

ENTRY INTO FORCE

This Convention shall come into force upon deposit of instruments of ratification by one-third of the Member States of the Organisation of African Unity.

Article XII

AMENDMENT

1. This Convention may be amended or revised if any member State makes a written request to the Administrative Secretary-General to that effect, provided however that the proposed amendment shall not be submitted to the Assembly of Heads of State and Government for consideration until all Members States have been duly notified of it and a period of one year has elapsed. Such an amendment shall not be effective unless approved by at least two-thirds of the Members States Parties to the present Convention.

Article XIII

DENUNCIATION

1. Any Member State Party to this Convention may denounce its provisions by a written notification to the Administrative Secretary-General.

2. At the end of one year from the date of such notification, if not withdrawn, the Convention shall cease to apply with respect to the denouncing State.

Article XIV

Upon entry into force of this Convention, the Administrative Secretary-General of the Organisation of African Unity shall register it with the Secretary-General of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

Article XV

NOTIFICATIONS BY THE ADMINISTRATIVE SECRETARY-GENERAL
OF THE ORGANIZATION OF AFRICAN UNITY

The Administrative Secretary-General of the Organization of African Unity shall inform all members of the Organization :

(a) of signatures, ratifications and accessions in accordance with Article X ;

(b) of entry into force, in accordance with Article XI ;

(c) of requests for amendments submitted under the terms of Article XII ;

(d) of denunciations, in accordance with Article XIII.

IN WITNESS WHEREOF we, the Heads of African State and Government, have signed this Convention.

- | | | |
|--------------------------------|-----------------------|-----------------|
| 1. Algeria | 8. Congo (Kinshasa) | 16. Ivory Coast |
| 2. Botswana | 9. Dahomey | 17. Kenya |
| 3. Burundi | 10. Equatorial Guinea | 18. Lesotho |
| 4. Cameroon | 11. Ethiopia | 19. Liberia |
| 5. Central African
Republic | 12. Gabon | 20. Libya |
| 6. Chad | 13. Gambia | 21. Madagascar |
| 7. Congo (Brazzaville) | 14. Ghana | 22. Malawi |
| | 15. Guinea | 23. Mali |

- | | | |
|------------------|--------------------------|---------------------|
| 24. Mauritania | 32. Somalia | 39. United Republic |
| 25. Mauritius | 33. Sudan | of Tanzania |
| 26. Morocco | 34. Swaziland | 40. Upper Volta |
| 27. Niger | 35. Togo | 41. Zambia |
| 28. Nigeria | 36. Tunisia | |
| 29. Rwanda | 37. Uganda | |
| 30. Senegal | 38. United Arab Republic | |
| 31. Sierra Leone | | |

DONE in the City of Addis Ababa this 10th day of September 1969.

MADE at Lagos this 29th day of December 1989.

GENERAL I. B. BABANGIDA,
*President Commander-in-Chief
of the Armed Forces ,
Federal Republic of Nigeria*

EXPLANATORY NOTE

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

The Decree establishes a National Commission for Refugees for safeguarding the interest and treatment of persons who are seeking to become refugees in Nigeria or persons seeking for political asylum in the country. It lays down the procedures for applying to become refugees and for appeals against refusal by the Federal Commissioner for Refugees to grant refugee status to an applicant.

MORTGAGE INSTITUTIONS DECREE 1989



Decree No. 53

[

]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby Decrees as follows :—

Licensing of Mortgage Institutions

1.—(1) No mortgage business shall be transacted in Nigeria except by a company which is duly incorporated in Nigeria for that purpose and in possession of a valid licence granted by the Minister authorising it to do so.

Mortgage
business by
mortgage
institutions.

(2) Subsection (1) of this section shall not apply to—

(a) the Federal Mortgage Bank or any bank licensed under the Banking Act 1969 and carrying on mortgage business as part of its normal operations ; or

(b) any institution which before the coming into force of this Decree was carrying on mortgage business if such institution has before 1st day of March 1990 applied to the Minister through the Federal Mortgage Bank for licence and the application has been granted by the Minister before that date.

(3) Any person who transacts any mortgage business in contravention of the provisions of this section shall be guilty of an offence and liable on conviction to a fine of ₦100 for each day during which the offence continues.

2.—(1) If any company is desirous of carrying on mortgage business in Nigeria, it shall apply in writing through the Federal Mortgage Bank to the Minister for the grant of a licence in accordance with the following provisions of this Decree.

Licencing.

(2) Every application shall be accompanied by the following documents, namely—

(a) in the case of a company already in existence and engaged other than in mortgage business—

(i) a copy of the company's certificate of incorporation, memorandum and articles of association certified by a director, secretary or other senior official of the company ;

(ii) a copy of the latest balance sheet of the company ;

(iii) a feasibility survey report in respect of the company's proposal to engage in mortgage business ;

(iv) such other particulars as may be called for by the Federal Mortgage Bank ; and

(b) in the case of a company not yet engaged in any business—

(i) a copy of the company's certificate of incorporation, memorandum and articles of association certified by the Registrar of Companies ;

(ii) a feasibility survey report in respect of the company's proposal to engage in mortgage business ; and

(iii) such other particulars as may be called for by the Federal Mortgage Bank.

(3) Upon receipt of the application and the documents or particulars referred to in subsection (1) of this section, the Federal Mortgage Bank shall consider them and make a recommendation thereon to the Minister.

(4) After the receipt of an application, documents and particulars and the recommendation of the Federal Mortgage Bank thereon, the Minister is of the opinion—

(a) that a licence ought to be granted to the company, he shall issue it with such licence with or without condition ;

(b) that it would be undesirable in the public interest to issue a certificate, to such a company, he may refuse to issue such certificates, where the Minister refuses to issue a certificate, he shall state his reasons for so doing.

(5) An applicant aggrieved by the decision of the Minister may within 14 days appeal to the President, Commander-in-Chief of the Armed Forces who may confirm or revoke the decision of the Minister.

(6) Where a licence is subject to any condition, the mortgage institution shall comply with the condition.

(7) Any mortgage institution which fails to comply with any of the condition of its licence shall be guilty of an offence and liable on conviction to a fine of ₦100 for each day during which the condition is not complied with.

Revocation
of licence.

3.—(1) The Minister may, on the recommendation of the Federal Mortgage Bank by order published in the *Gazette*, revoke, any licence granted under this Decree—

(a) if the mortgage institution ceases to carry on in Nigeria the type of mortgage business for which it was licenced or goes into liquidation or is wound up or otherwise dissolved ; or

(b) if the mortgage institution fails to fulfil any condition subject to which the licence was granted ;

(c) in the circumstances and in the manner where under this Decree failure to comply with any provisions thereof is a ground for revocation of the licence.

(2) Where the Minister proposes to revoke any licence in accordance with subsection (1) of this section, he shall before revoking the licence give in writing notice of his intention to the mortgage institution concerned and shall give it an opportunity of making representations and submitting reasons why its licence should not be so revoked.

Require-
ment as to
minimum
paid up
capital.

4. No company shall be granted a licence as a mortgage institution and no mortgage institution shall hold a licence unless the paid up capital of the company or mortgage institution is not less than ₦5,000,000.

Operations of Mortgage Institutions

5.—(1) Every mortgage institution shall have power to—

(a) grant loan and advance to an individual for the purchase or construction of a dwelling house ;

(b) grant loan and advance to any person for the improvement or extension of a dwelling house ;

(c) subject to the provisions of the Banking Act 1969, accept savings and deposits from the public and to pay interest thereon.

Power to
grant
building
loans and
accept
savings
deposits.

(2) The interest rate applicable to any deposit, loan and advance shall be in accordance with the interest rate determined by the Federal Mortgage Bank.

6. Every mortgage institution shall—

(a) conduct proper evaluation of the mortgage loan proposal submitted to it ; and

(b) monitor the construction or extension of any dwelling house in respect of which a loan is granted.

Duty to
evaluate
proposals.

7. A mortgage institution shall not—

(a) grant a loan or advance for the building, improvement or extension of a dwelling house unless adequate security has been taken on an existing property or the property in respect of which the loan or advance is being granted ;

(b) grant to any person any loan, advance or credit facility or give any financial guarantee or incur any other liability on behalf of such person so that the total of the loan, advance, credit facility or guarantee is at any time more than twenty *per centum* of the sum of the paid up capital and statutory reserves of the mortgage institution ;

(c) grant any loan, advance or credit facility on the security of its own shares ; and

(d) engage in any commercial, agricultural, industrial or any other undertaking except as permitted under this Decree or as the mortgage institution may in any way acquire in the course of the satisfaction of debts due to it so however that any interest in such undertaking shall be disposed of within a reasonable time.

Require-
ments as to
security,
and certain
restrictions
on
operations.

8. No mortgage institution shall after the coming into force of this Decree, open or close any of its branch offices in Nigeria without the prior consent in writing of the Federal Mortgage Bank.

Opening
and closing
of branches.

9.—(1) Every mortgage institution shall maintain a reserve fund and shall, out of its net profits each year and before any dividend is declared, transfer to the reserve fund—

Maintenance
of reserve
fund.

(a) where the reserve fund is less than the paid-up share capital, a sum equal to not less than twenty-five *per centum* of such profits ; or

(b) where the reserve fund is equal to or in excess of the paid-up capital, a sum equal to not less than twelve and a half *per centum* of the net profits.

(2) No transfer under subsection (1) of this section shall be made until any past losses have been made good.

Restriction on dividend.

10.—(1) No mortgage institution shall pay any dividend on its shares until—

(a) all its preliminary expenses, organization expenses, amounts of losses incurred and other capitalized expenses not represented by tangible assets have been completely written off ;

(b) after adequate provision for bad and doubtful debts have been made to the satisfaction of the Federal Mortgage Bank ;

(c) adequate transfers have been made to the reserve fund in compliance with section 9 of this Decree.

(2) For the purposes of this section, an issue of bonus shares out of profits shall be deemed to be a payment of dividends.

Liquidity requirements.

11.—(1) Every mortgage institution shall maintain a minimum percentage of its total deposit liabilities as deposits with the Federal Mortgage Bank as may be prescribed, from time to time, by the Federal Mortgage Bank.

(2) Except as required for the purposes of subsection (1) of this section, a mortgage institution may commit all its deposit liabilities to the granting of loans in the manner permitted under this Decree.

Restriction as to amalgamation.

12.—(1) Every mortgage institution shall notify the Minister through the Federal Mortgage Bank of—

(a) any proposed agreement or arrangement for any sale or disposal of its business by amalgamation or otherwise ; or

(b) any proposal for reconstruction ;
and the Minister may, on the recommendation of the Federal Mortgage Bank, approve or withhold approval of such agreement or proposal for reconstruction.

(2) Where the Minister withholds approval under subsection (1) of this section, the mortgage institution shall not proceed with the proposed agreement or arrangement.

Books of Account

Keeping of books of account.

13.—(1) Every mortgage institution shall keep proper books of account with respect to all its transactions.

(2) For the purposes of subsection (1) of this section, proper books of account shall not be deemed to be kept with respect to all transactions if such books as are necessary to explain such transactions and give a true and fair view of the state of affairs of the mortgage institution are not kept by the mortgage institution.

(3) The books of account as are required to be kept pursuant to subsection (1) of this section shall be kept in the English language at the principal administrative office of the mortgage institution in Nigeria.

(4) Any person who being a director of any mortgage institution fails to take reasonable steps to secure compliance as respect any account required under this section shall be guilty of an offence and liable in respect of each offence to imprisonment for 2 years or to a fine of ₦5,000 or to both such fine and imprisonment.

(5) In any proceeding against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable grounds to believe and did believe that another person, who is competent and reliable, was charged with the duty of seeing that the said provisions were complied with.

14. The balance sheet of every mortgage institution shall give a true and fair view of the state of affairs of the mortgage institution for each year.

Contents of
balance
sheet.

15.—(1) Every mortgage institution shall, not later than 4 months after the end of each year—

Publication
of balance
sheet and
profit and
loss account.

(a) cause to be published in a daily newspaper printed and circulating in Nigeria ;

(b) exhibit in a conspicuous position in each of its offices and branches in Nigeria ; and

(c) forward to the Minister and to the Federal Mortgage Bank, copies of its balance sheet and profit and loss account duly signed and containing the full and correct names of the directors of the mortgage institution.

(2) The balance sheet and profit and loss account of a mortgage institution shall bear on their face the report of an approved auditor and may be published or exhibited in such abridged form as may be agreed with the Federal Mortgage Bank.

(3) For the purposes of subsection (2) of this section, "approved auditor" means an auditor approved for the purposes of section 16 of this Decree.

(4) Any mortgage institution which fails to comply with any of the requirements of this section shall in respect of each such failure be guilty of an offence and liable on conviction to a fine of ₦200.

16.—(1) Every mortgage institution shall appoint annually, a person approved by the Minister, in this section referred to as "the approved auditor" whose duties shall be to make to the shareholders a report upon the annual balance sheet and profit and loss account of that institution.

Appointment
and powers
of auditor.

(2) No person—

(a) having an interest in a mortgage institution otherwise than as a depositor ; or

(b) who is a director, officer or agent of a mortgage institution ; or

(c) which is a firm in which a director of a mortgage institution is interested as partner or director,

shall be eligible for appointment as the approved auditor for any mortgage institution.

(3) Any person appointed as the approved auditor—

(a) who subsequently acquires any such interest as are specified in subsection (2) of this section ; or

(c) subsequently becomes a partner in a firm in which a director of a mortgage institution is interested as partner or director, shall cease to be such auditor.

(4) If any mortgage institution—

(a) fails to appoint the approved auditor under subsection (1) of this section ; or

(b) at any time fails to fill a vacancy for such person, the Minister shall, after consultation with the Federal Mortgage Bank, appoint "the approved auditor" and shall fix the remuneration to be paid by the mortgage institution to such auditor.

(5) Every auditor of a mortgage institution shall have a right of access at all times to the books accounts and vouchers of the mortgage institution, and shall be entitled to require from the director, and officer of the mortgage institution such information and explanation as he thinks necessary for the performance of his duties.

(6) The report of the approved auditor shall be read together with the report of the board of management of the mortgage institution and two copies of each report together with the report of the board of management at the annual general meeting of the shareholders and two copies of each report together with the auditor's analysis of doubtful advances, shall be sent to the Federal Mortgage Bank which shall transmit a copy of each report to the Minister.

(7) For the purposes of this section, an approved auditor shall be an auditor who is a member of one of the professional bodies for the time being declared by the Ministry by notice in the *Gazette* to be approved for such purposes.

(8) No auditor shall be approved for the purposes of this section unless—

(a) he is resident in Nigeria ; and

(b) he is carrying on in Nigeria full-time professional practice as a public accountant and auditor.

General and Supplemental

17.—(1) Every mortgage institution shall submit to the Federal Mortgage Bank—

(a) not later than 28 days after the last day of each month, a statement of its assets and liabilities in such form as may be prescribed by the Federal Mortgage Bank ;

(b) such other periodical returns as may be prescribed by the Federal Mortgage Bank ; and

(c) on request, such information as may be required by the Federal Mortgage Bank.

(2) The Federal Mortgage Bank may require a mortgage institution to submit such further information as it may deem necessary for the proper understanding of any statement or information furnished under subsection (1) of this section and such information shall be submitted within such a reasonable period as the Federal Mortgage Bank may require.

Submission
of returns
to the
Federal
Mortgage
Bank.

(3) Any mortgage institution which fails to comply with any of the requirements of subsections (1) and (2) of this section shall be guilty of an offence and liable on conviction to a fine of ₦100 for each day during which the offence continues.

(4) It shall be the responsibility of the Federal Mortgage Bank to prepare and publish consolidated statements aggregating the figures in the statements furnished under subsection (1) of this section.

(5) The statements and information submitted by each mortgage institution under subsection (1) or (2) of this section shall be regarded as secret other than as between that mortgage institution and the Federal Mortgage Bank ;

Provided that the Federal Mortgage Bank—

(a) shall furnish any such information required by the Minister, and shall inform the Minister if at any time in its opinion there is need for an inspection of any mortgage institution ; and

(b) may in support of its opinion convey to the Minister such information as it possesses concerning the state of affairs of any mortgage institution.

18.—(1) There shall be an examiner who shall—

(a) be an officer of the Federal Mortgage Bank appointed by it with power to examine periodically the books and affairs of each and every mortgage institution ;

(b) have the right of access at all times to the books, accounts and vouchers of the mortgage institution ;

(c) be entitled to require from the officer and director of the mortgage institution such information and explanation as he thinks necessary for the performance of his duties ;

(d) have access to any accounts, returns or information regarding mortgage institutions that are in the possession of the Federal Ministry of Finance and Economic Development.

Appointment
and powers
of
examiners.

(2) An examiner shall make a report of his findings to the Federal Mortgage Bank which shall forward a copy of such report to the Minister.

19.—(1) Every director of a mortgage institution who is in any manner whatsoever, whether directly or indirectly, interested in any advance, loan or credit facility from that mortgage institution shall, as soon as practicable, declare the nature of his interest to the board of directors of that mortgage institution and the secretary of the mortgage institution shall cause the declaration to be circulated forthwith to all the other directors.

Disclosure
of interests
by directors.

(2) Every director of a mortgage institution who holds any office or possesses any property which creates duties or interests that conflict with his duties or interests as director shall declare at a meeting of the directors of that mortgage institution the fact and the nature, character and the extent of the conflict.

(3) The declaration referred to in subsection (2) of this section shall be made at the first meeting of directors held—

(a) after he became a director of the mortgage institution ; or

(b) if already a director, after he commenced to hold office or to possess the property.

Restriction
of interests
by officials
of mortgage
institutions.

20.—(1) No manager, official or employee of a mortgage institution shall—

(a) in any manner whatsoever, whether directly or indirectly be interested in any loan, advance or credit facility to be granted to any person by that mortgage institution ; or

(b) grant any loan, advance or credit facility to any person unless he is authorised in accordance with the rules and regulations of the mortgage institution and where adequate security is required by such rules and regulations, such security shall be obtained for the loan, advance or credit facility and shall be deposited with the mortgage institution.

(2) Every manager or other official who contravenes or fails to comply with the provisions of this section shall be guilty of an offence and liable on conviction to a fine of ₦10,000 or to imprisonment for a term of three years and in addition any money or property accruing to any person by reason of the contravention shall be forfeited to the Federal Military Government.

Prohibition
of receipt
of commis-
sion, etc. by
staff.

21. Any director, officer or employee of a mortgage institution or other persons being persons receiving remuneration from such mortgage institution, who asks for or receives, consents or agrees to receive any gift, commission, emolument, service, gratuity, money, property or thing of value for his own personal benefit or advantage or for that of any of his relations, from any person other than from the mortgage institution—

(a) for procuring or endeavouring to procure for any person any loan, advance or credit facility ; or

(b) for permitting any person to overdraw any account with the mortgage institution,

shall be guilty of an offence and liable on conviction to a fine of ₦10,000 or to imprisonment for a term of three years and in addition any money, property or thing of value accruing to any person by reason of the offence shall be forfeited to the Federal Military Government.

Priority of
deposit
liabilities.

22. Where a mortgage institution becomes unable to meet its obligation or suspends payments, the assets of such mortgage institution shall be available to meet all deposit liabilities of the mortgage institution and such deposit liabilities shall have priority over all other liabilities of the mortgage institution.

Jurisdiction.

23. The Federal High Court shall have jurisdiction to try all offences created under this Decree.

Application
of Compa-
nies Act
1968.

1968 No. 51.

24. The provisions of this Decree are without prejudice to the provisions of the Companies Act 1968 in so far as they relate to mortgage institutions and to winding up by the court :

Provided that where any of the provisions of that Act is inconsistent with any provisions of this Decree, the provisions of this Decree shall prevail.

Regulations.

25. The Minister may in consultation with the Federal Mortgage Bank make such regulations as may be required from time to time for carrying into effect the object of this Decree.

26. In this Decree unless the context otherwise requires—

Interpreta-
tion.

“approved auditor” means the person appointed and approved as such pursuant to section 16 of this Decree ;

“deposits” means monies lodged by the general public with any person for safe keeping or for the purpose of earning interest or dividend whether or not such moneys are repayable upon demand, upon a given period of notice or upon a fixed date ;

“director” includes any person by whatever name he may be referred to, carrying out or empowered to carry out substantially the same functions of a director in relation to the direction of a company registered under the Companies Act 1968 ;

“licence” means a licence granted under this Decree ;

“Minister” means the Minister charged with responsibility for matters relating to works and housing ;

“Mortgage Bank” or “Federal Mortgage Bank” means the Federal Mortgage Bank of Nigeria established by the Federal Mortgage Bank of Nigeria Act 1977 ;

“mortgage business” means the business of accepting deposits from members of the public for the purpose of granting mortgage loans and advances for the purchase, construction, improvement and extension of houses ;

1977 No. 7.

“mortgage institution” means any company licensed to carry on mortgage business under this Decree.

27. This Decree may be cited as the Mortgage Institutions Decree 1989.

Citation.

MADE at Lagos this 29th day of December 1989.

GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

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

The Decree make provisions for the establishment and licensing of mortgage institutions to grant Loan and advance to individuals for the purchase or construction of a dwelling house, improvement or extension of an existing dwelling house and to accept savings and deposits from member of the public and to pay interest thereon.