

**PETROLEUM PRODUCTION AND DISTRIBUTION
(ANTI-SABOTAGE) DECREE 1975**



Decree No. 35

[7th November 1975]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Any person who does any of the following things, that is to say—

Offence of
sabotage.

(a) wilfully does anything with intent to obstruct or prevent the production or distribution of petroleum products in any part of Nigeria ; or

(b) wilfully does anything with intent to obstruct or prevent the procurement of petroleum products for distribution in any part of Nigeria ; or

(c) wilfully does anything in respect of any vehicle or any public highway with intent to obstruct or prevent the use of that vehicle or that public highway for the distribution of petroleum products—

shall, if by doing that thing he, to any significant extent, causes or contributes to any interruption in the production or distribution of petroleum products in any part of Nigeria, be guilty of the offence of sabotage under this Decree.

(2) Any person who—

(a) aids another person, or

(b) incites, counsels or procures any other person—

to do any of the things specified in subsection (1) of this section shall, whether or not that other person actually does the thing in question, be guilty of the offence of sabotage under this Decree.

2. Any person who commits an offence of sabotage under section 1 of this Decree shall be liable on conviction to be sentenced either to death or to imprisonment for a term not exceeding twenty-one years.

Penalty for
offence of
sabotage.

3.—(1) The Head of the Federal Military Government may constitute for any part of Nigeria one or more military tribunals for the trial of persons charged with offences under this Decree.

Constitu-
tion of
military
tribunals.

(2) A military tribunal shall consist of—

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

(b) two, three or four other members, each of whom must be an officer in the armed forces who has held a commission for not less than three years,

who shall all be appointed by the Head of the Federal Military Government.

Jurisdiction
of military
tribunals.

4.—(1) Subject to subsections (2) and (3) of this section, a military tribunal constituted under section 3 of this Decree—

(a) shall, to the exclusion of all other courts of law in Nigeria, have jurisdiction to try any person charged with an offence of sabotage under this Decree, but

(b) shall have no jurisdiction in respect of any other offence whatsoever.

(2) Where any person is brought before a military tribunal for an offence under this Decree, the tribunal, if in its opinion the case is not one which ought to be tried by a military tribunal, may direct fresh proceedings to be commenced against the accused in a civil court.

(3) Where proceedings are brought against a person in a civil court in pursuance of a direction given under subsection (2) above, that person—

(a) shall not be charged with an offence under this Decree ; but

(b) may be charged with any other offence in respect of the conduct by reason of which he was brought before the tribunal.

Practice and
procedure of
military
tribunals.
1960 No. 26.

5.—(1) Subject to this section and section 6 below, the practice and procedure applicable to proceedings before a court-martial under the Nigerian Army Act 1960 shall, with such necessary modifications as may be necessary, be followed in proceedings before a military tribunal.

(2) The prosecution of any offence under this Decree before a military tribunal shall be conducted either by a legal practitioner or by a police officer of or above the rank of inspector, who need not be a legal practitioner.

(3) In any proceedings before a military tribunal the accused person shall be entitled to defend himself in person or by a person of his own choice who is a legal practitioner.

Confirmation
of pro-
ceedings of
military
tribunals.

6.—(1) Where a military tribunal finds the accused guilty of an offence under this Decree, the record of the proceedings of the tribunal shall be transmitted to the confirming authority for confirmation of the sentence of the tribunal for that offence.

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

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

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

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

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

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

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

(6) Where the confirming authority determines to withhold confirmation of a sentence, the determination shall be made known to the accused without delay and shall have effect as from the time when it is made known to him as an absolute discharge of the accused.

(7) Sections 100 to 107 of the Nigerian Army Act 1960 (which relate to the confirmation, revision and review of proceedings of courts-martial) shall not apply in relation to proceedings of military tribunals; and, without prejudice to the foregoing provisions of this section, no appeal shall lie from a decision of a military tribunal.

1960 No. 26.

(8) For the purpose of this section the confirming authority shall be the Head of the Federal Military Government.

7.—(1) A sentence of death imposed by a military tribunal shall, if confirmed, be executed by hanging the offender by the neck till he be dead or by causing him to suffer death by a firing squad.

Execution of sentences of military tribunals.

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

8. The question whether any provision of Chapter III of the Constitution of the Federation has been, is being or would be contravened by anything done or proposed to be done in pursuance of any provision of this Decree shall not be inquired into in any court of law, and accordingly sections 32, 115 and 117 (2) (d) of that Constitution shall not apply in relation to any such question.

Exclusion of remedies for breaches of Chapter III of the Constitution of the Federation. 1963 No. 20.

Interpretation.

9. In this Decree—

“civil court” means a court of ordinary criminal jurisdiction;

“military tribunal” or “tribunal” means any military tribunal constituted under section 3 of this Decree;

“petroleum products” includes motor spirits, gas oil, diesel oil, automotive gas oil, fuel oil, aviation fuel, kerosene, liquefied petroleum gases and any lubricating oil or greases or other lubricant;

“public highway” means any road to which members of the public have access;

“vehicle” means anything constructed or adapted for use in the transportation of petroleum products by land, sea or air.

10. This Decree may be cited as the Petroleum Production and Distribution (Anti-Sabotage) Decree 1975.

Citation.

MADE at Lagos this 7th day of November 1975.

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

EXPLANATORY NOTE

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

The Decree creates the offence of sabotage in respect of wilful acts calculated to disrupt or interfere with the distribution of petroleum products in any part of the country. Offenders are to be tried by Military Tribunals to be constituted by the Head of the Federal Military Government. Persons found guilty of the offence of sabotage are to be sentenced to death or to imprisonment for up to twenty-one years.