

The following Bill, which will in due course be presented to the House of Representatives for enactment, is published for general information.

A BILL

FOR

AN ORDINANCE FOR THE ESTABLISHMENT OF A FEDERAL BOARD OF INLAND REVENUE FOR THE DUE ADMINISTRATION OF THE INCOME TAX ORDINANCE, TO MAKE PROVISIONS FOR THE POWERS AND DUTIES OF SUCH BOARD, TO PROVIDE FOR THE ESTABLISHMENT OF SCRUTINEER COMMITTEES AND BODIES OF APPEAL COMMISSIONERS, AND TO PROVIDE FOR CONSEQUENTIAL AMENDMENTS AND CERTAIN MINOR AMENDMENTS TO THE INCOME TAX ORDINANCE.

Title.

(By Notice, see section 1)

Commence-
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria as follows—

Enactment.

1. (1) This Ordinance may be cited as the Income Tax Administration Ordinance, 1958, and shall come into operation on a day (in this Ordinance referred to as the appointed day) to be appointed by the Minister by notification in the Gazette.

Short title,
commence-
ment and
construction.

(2) This Ordinance shall be construed as one with the Income Tax Ordinance (in this Ordinance referred to as the principal Ordinance).

Cap. 92.

Interpretation.

2. (1) Definitions—

"Board" means the Federal Board of Inland Revenue established in accordance with section 3;

"Chairman" means the Chairman of the Board;

"Minister" means the Minister charged with responsibility for matters relating to income tax;

"subsidiary legislation" includes any order made by the Governor-General, any rules, regulations, conditions prescribed or other like instruments.

(2) Whenever necessary and appropriate any reference in this Ordinance to the principal Ordinance and to any subsidiary legislation made thereunder, shall be taken to include a reference to the Aid to Pioneer Industries Ordinance, 1952 (repealed by the next mentioned Ordinance subject to the saving provision therein mentioned) and to the Industrial Development (Income Tax Relief) Ordinance, 1958, and to any subsidiary legislation made under the latter two Ordinances in relation to and for the purposes of the provisions of Part III of those two Ordinances.

3. (1) There shall be taken to have been established, on the appointed day, a Board of which the official name shall be the Federal Board of Inland Revenue.

(2) The Board shall consist of not more than six members of whom one shall be Chairman and one Deputy Chairman.

(3) The Governor-General shall appoint a Secretary to the Board who shall not be a member of the Board but who shall be responsible for maintaining the records of the minutes of the Board and of any of its decisions, directions, instructions, authorisations and other like matters.

(4) The Chairman, Deputy Chairman and the other members of the Board shall be appointed by the Governor-General from amongst members of the public service of the Federation. The Chairman, Deputy Chairman and the Secretary to the Board shall be, and the remaining officers may be, officers whose normal duties are solely concerned with the administration or execution of the principal Ordinance or any other Ordinance the administration of which is entrusted to the Board.

(5) The Deputy Chairman shall act as Chairman—

(a) whenever the Chairman is absent from Nigeria;

(b) if the Chairman is outside Lagos or is temporarily absent from duty for any reason;

(c) whenever the office of Chairman is vacant;

unless some other person qualified to be appointed as Chairman has been appointed to act as such.

(6) Whenever any member of the Board (other than the Chairman) or its Secretary is temporarily absent from duty for any reason the Board may authorise an officer of the Federal Inland Revenue Department to be a member of the Board or its Secretary, as the case may be, during the period of such absence.

(7) Any three members of the Board, of whom one shall be the Chairman, shall constitute a quorum.

No. 10 of 1952.

No. 8 of 1958.

Establishment and constitution of Board.

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

4. Subject to the provisions of this Ordinance—

(1) the due administration of the principal Ordinance and the tax shall be under the care and management of the Board who may do all such acts as may be deemed necessary and expedient for the assessment and collection of the tax and shall account for all amounts so collected in a manner to be prescribed by the Minister;

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

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

(4) as from the appointed day all the powers and duties which are at that date in the Commissioner (whether by the definition of Commissioner in the principal Ordinance or otherwise) under or by virtue of the principal Ordinance and any subsidiary legislation made thereunder shall be taken to have been transferred to and conferred upon the Board by virtue of this Ordinance;

(5) the Board may by notice in the Gazette or in writing authorise any person within or without Nigeria to—

(a) perform or exercise, on behalf of the Board, any power or duty conferred upon the Board other than the powers or duties specified in the First Schedule, and

(b) receive any notice or other document to be given, delivered or served upon the Board under or in consequence of this Ordinance, the principal Ordinance and any subsidiary legislation made thereunder;

(6) in the exercise of the powers and duties conferred upon the Board, the Board shall be subject to the authority, direction, and control of the Minister and any written direction, order or instruction given by him after consultation with the Chairman shall be carried out by the Board: Provided that the Minister shall not give any direction, order or instruction in respect of any particular person which would have the effect of requiring the Board to raise an additional assessment upon such person or to increase or decrease any assessment made or to be made or any penalty imposed or to be imposed upon or any relief given or to be given to or to defer the collection of any tax, penalty or judgment debt due by such person, or which would have the effect of altering the normal course of any proceedings, whether civil or criminal, relating either to the recovery of any tax or penalty or to any offence relating to tax;

(7) every claim, objection, appeal, representation or the like made by any person under any provision of the principal Ordinance or of any subsidiary legislation made thereunder shall be made in accordance with such Ordinance and legislation; and

Powers and
duties of
the Board.

First
Schedule.

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

Significa-
tion and
execution
of powers,
duties, etc.

5. (1) Anything required to be done by the Board, in relation to the powers or duties specified in the First Schedule to this Ordinance, may be signified under the hand of the Chairman, or of an officer of the Federal Inland Revenue Department who has been authorised by the Board to signify from time to time anything done or to be done by the Board in respect of such powers or duties.

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

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

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

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

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

Redesigna-
tions.

6. The Inland Revenue Department and its Offices shall be redesignated and become known as the Federal Inland Revenue Department and as Federal Inland Revenue Offices respectively and the titles of officers of the Federal Inland Revenue Department as specified in the first column of the *Second Schedule shall be redesignated with the titles specified in the second column of such schedule.

Second
Schedule.

7. The provisions of the principal Ordinance and of any subsidiary legislation made thereunder are amended in accordance with the provisions of the Third Schedule.

Consequen-
tial
amendments
to the
principal
Ordinance.
Third
Schedule.

Retros-
pective
and transi-
tional
provisions.

8. (1) Whenever necessary and appropriate for the assessment and collection of tax (including any proceedings therefor), any prosecution, the imposition of any penalty or for the giving of any relief or other matter under the principal Ordinance and any subsidiary legislation made thereunder, for the year of assessment commencing on the 1st day of April, 1958, and for any preceding year of assessment, the powers and duties of the Minister and of the Board under this Ordinance and the amendments effected by the Third Schedule thereto shall be deemed always to have had effect.

Third
Schedule.

(2) Anything made or done or having effect as if made or done under or for the purpose of the principal Ordinance or any subsidiary legislation made thereunder by the Commissioner or by any person authorised by him, before

the appointed day and having any continuing or resulting effect shall be treated as from that day as if it were made or done by the Board and the provisions of this subsection shall apply in like manner to any notice or other document given to the Commissioner or to any such person under or for the purpose of the principal Ordinance and such legislation.

(3) Where in any proceedings, pending on the appointed day, the Commissioner is a party thereto, as from the appointed day the Board shall be and shall be deemed always to have been a party thereto, in substitution for the Commissioner, and where in any proceedings before the appointed day the Commissioner was a party thereto, and arising out of those proceedings, further proceedings, by way of execution or otherwise, are sought to be instituted on or after the appointed day the Board shall be treated as having been a party to such proceedings before the appointed day in substitution for the Commissioner.

(4) Where during the period from the appointed day to the 31st day of March, 1959 (both days inclusive) any printed form, book or other document is used for any purpose of the principal Ordinance or any subsidiary legislation made thereunder and in such form, book or other document there is any reference to the Commissioner or to the Commissioner of Income Tax the same shall be taken to be a reference to the Board.

9. Notwithstanding any of the provisions of this Ordinance, for the purpose of any order made under section 33 of the principal Ordinance which contains a provision as part of the arrangements specified in any such order for exchange of information with—

Certain double taxation arrangements.

(a) the Commissioner of Income Tax, then, as from the appointed day, the Chairman shall be taken to be the Commissioner of Income Tax for the purpose of and while any such order remains in force; or

(b) the Commissioner as defined in section 2 of the principal Ordinance, then such section 2 shall be taken to include, for the purpose of and while any such order remains in force, the following definition—

"Commissioner" means the Chairman of the Federal Board of Inland Revenue.

10. At any time after the appointed day the Governor-General may by Order delete any of the powers or duties specified in the First Schedule or include therein additional powers or duties and may do so by amendment of such Schedule or by substituting a new Schedule therefor.

Power to amend the First Schedule.

11. (1) From time to time, on or after the appointed day, the Minister may, by notice in the Gazette, declare the establishment of one or more committees (hereinafter referred to as Scrutineer Committees) for such area or areas within Nigeria as he shall think fit for the purpose of making recommendations in relation to the assessment of profits and to claims for losses incurred in such cases as may be referred to them in accordance with the provisions of this Ordinance.

Establishment and constitution of Scrutineer Committees.

(2) A Scrutineer Committee shall consist of not more than five persons, none of whom shall be a public officer.

(3) A member of a Scrutineer Committee—

(a) shall be appointed, by notice in the Gazette, by the Minister from among persons who appear to the Minister to have had experience and shown capacity in the management of a substantial trade or business in Nigeria;

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

(c) may at any time resign his membership by notice in writing addressed to the Minister;

(d) shall cease to be a member upon the Minister determining that his office as such member be vacant and upon Notice of such determination being published in the Gazette forthwith;

(e) shall be eligible for appointment or re-appointment to any Scrutineer Committee unless his office has become vacant under paragraph (d);

(f) shall be paid such fee for each meeting of the Scrutineer Committee which he attends and, if considered necessary for any particular member, such allowances for travelling expenses to such meetings, as may be determined by the Minister with the approval of the Council of Ministers.

(4) Without prejudice to the generality of paragraph (d) of subsection (3), if the Minister is satisfied that a member of a Scrutineer Committee—

(a) has been absent from two consecutive meetings of the Committee without the written permission of the Chairman where such Committee is meeting in the township of Lagos, or, in any other case, of the officer of the Federal Inland Revenue Department in charge of the office where such meetings are held; or

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

(c) has committed an offence under the principal Ordinance;

the Minister shall make a determination in accordance with paragraph (d) of subsection (3) that his office as such member is vacant.

(5) Any three members of a Scrutineer Committee shall constitute a quorum and at any meeting of a Scrutineer Committee the Committee shall appoint one of its members to be chairman of the Meeting.

Power of Minister to give directions in relation to specified classes of persons.

12. (1) As often as he thinks fit, after consultation with the Chairman, the Minister may give the Chairman a direction in writing with respect to any specific class of persons carrying on (whether in partnership or otherwise) any trade, business, profession or vocation in any area for which a Scrutineer Committee has been established and the Minister shall give copies of such direction to each member of such Committee.

(2) The Minister may, at any time, by notice in writing to the Chairman, and to each member of the Scrutineer Committee concerned, cancel any direction given under subsection (1).

(3) Where any such trade, business, profession or vocation is carried on in two or more areas in connection with which a direction has been given under subsection (1), the appropriate Scrutineer Committee for the purposes of the provisions of sections 13, 14 and 15 shall be the Scrutineer Committee of the area in which is situated the office of the Federal Inland Revenue Department where any assessment will be made in respect of the gains or profits of that trade, business, profession or vocation.

Lists of persons and incomes.

13. Subject to the provisions of section 15, so long as any direction given under section 12 is in force, before the making of any assessment under section 53 of the principal Ordinance upon any person falling within the class or persons specified in such direction, wholly or partly in respect of the gains or profits, or a share thereof, from such general or particular kind of trade, business, profession or vocation as may be referred to in any such direction,

the Board shall cause to be prepared, at such regular times as the Board shall direct, a List, for the Scrutineer Committee named in such direction, containing the name and address of every such person and the amount of the assessable income from such trade, business, profession or vocation which it is proposed to include in the computation of the chargeable income of such person for the purpose of making such assessment upon such person. Where the proposed amount has reference to a share of profits in a partnership, the proportion in which the person whose name appears against such amount is entitled to share in the partnership profits shall also be recorded in the List, if known to the Federal Inland Revenue Department.

14. (1) The Board shall instruct an officer of the Federal Inland Revenue Department to act as Secretary to a Scrutineer Committee which shall meet at such office of that Department in the area for which the Committee has been established as shall have been notified to each member of the Committee, at such regular times and day or days in each month as shall be arranged from time to time between the Committee and the officer-in-charge of that office, who shall have regard to the number of assessments to be made in connection with which a List will be required to be made for any such meeting; Provided that with respect to any regular day for a meeting so arranged, the officer-in-charge of that office may give due notice to the members of the Committee of the cancellation of such meeting, whenever there are no names for entry in a List for that meeting or an insufficiency of names to warrant a meeting.

(2) The Secretary of a Scrutineer Committee shall maintain an Attendance Book in which he shall record the date of each meeting of the Scrutineer Committee and he shall produce the book at each such meeting and each of the members thereof attending that meeting shall sign his name in that book.

(3) At each meeting of a Scrutineer Committee, its Secretary shall produce the appropriate List for the meeting, prepared in accordance with section 13, for scrutiny by the members of the Committee attending such meeting.

(4) At a meeting of a Scrutineer Committee, with respect to the proposed amount of the assessable income shown against the name of any person on the List produced at such meeting—

(a) the Committee may enquire of its Secretary the kind of trade, business, profession or vocation from which such income arose, the period for such income, whether the proposed amount was estimated either in the absence of a return, statement or account, or upon a rejection thereof as unsatisfactory, or was estimated or computed having regard to any such return, statement or account; but the Committee shall not have access to any such return, statement or other document in the possession of the Federal Inland Revenue Department;

(b) if after making any such enquiries the Committee, from its local or general knowledge of such income of that person or of such trade, business, profession or vocation or of the amount of income arising from a similar trade, business, profession or vocation for that period, is of opinion that the proposed amount is insufficient the chairman of the Committee shall at such meeting record, in writing against the proposed amount, the revised amount which the Committee recommends should replace the proposed amount and the brief reasons for such recommendation.

(5) The officer-in-charge of the Federal Inland Revenue Office where any such recommendation has been made shall have due regard thereto in giving instructions for the making of the assessment in question, and where the difference between the proposed amount and the revised amount

Meetings
and duties
of Scrutineer
Committees,
etc.

recommended is more than five hundred pounds, he shall refer the matter to the Board for its instructions before making any assessment, and the Board shall duly consider such recommendation and give such instructions as it thinks fit.

Assessment of persons about to leave Nigeria, etc.

15. (1) Notwithstanding the provisions of sections 13 and 14, where in the case of any person any officer-in-charge of a Federal Inland Revenue Office considers it necessary, by reason of the provisions of section 64 of the principal Ordinance, or for any other reason of urgency, that an assessment should be made upon such person immediately and but for such urgency the case would have been one where such person's name and address and proposed amount of assessable income would have been shown on a List in accordance with section 13, he may give instructions that such assessment be made at once.

(2) Where any such assessment has been made, at the meeting of the appropriate Scrutineer Committee to be held next after the making of such assessment, such name, address and proposed amount shall be shown in the List for such meeting and where any recommendation is made to revise that amount the provisions of subsection (5) of section 14 shall apply with any necessary modifications with a view to increasing such assessment, if under objection or appeal, or to the making of an additional assessment.

Losses for Scrutineer Committee Lists.

16. Where any person has made a claim, under the provisions of section 20 of the principal Ordinance, in respect of a loss incurred by him in any trade, business, profession or vocation, then before the amount of the claim is admitted or determined, the name and address of such person and the amount in which it is proposed to admit or determine such claim shall be included in any List prepared in accordance with section 13 in which, if such person had declared income from such trade, business, profession or vocation, his name, address, and a proposed amount of assessable income in respect of such trade, business, profession or vocation, would have appeared in such List and in such event the provisions of sections 13 and 14 shall apply with any necessary modifications, and in particular, in paragraph (b) of subsection (4) of section 14, substituting for the word "insufficient" the word "excessive".

Exclusion of certain individuals from Scrutineer Committee Lists.

17. The provisions of sections 12 to 15 shall not apply to any individual to be assessed to tax under section 25 of the principal Ordinance and the provisions of section 16 shall not apply to any individual who, but for his claim in respect of a loss, would normally have been so assessed to tax.

FIRST SCHEDULE (sections 4(5), 5(1) and 10)

POWERS OR DUTIES TO BE PERFORMED OR EXERCISED BY THE BOARD ALONE

As from the appointed day, the powers or duties specified in or imported into the following provisions (being powers or duties of the Commissioner before that day and by virtue of this Ordinance becoming powers or duties of the Board on that day) shall only be performed or exercised by the Board, who shall have no power to authorise any other person to perform the same, namely, the powers or duties in sections 3 (3), 4 (3), 5 (2), 9 (1) (k), (r), and (w), 10 (1) (h), 12 (2), 13 (2), (3) and (4), 14, 16, 17, 27, 28, 29 (1), 59, 67 (4), 69 (1), 70, 72 (3), 73 (2), and 77 of the principal Ordinance and in paragraph 20 of the Fourth Schedule thereto, the power, in paragraph 24 (7) of such Fourth Schedule to prescribe rules, and the powers or duties in section 15 of the Aid to Pioneer Industries Ordinance, 1952, and in section 14 of the Industrial Development (Income Tax Relief) Ordinance, 1958.

No. 10 of 1952.

No. 8 of 1958.

SECOND SCHEDULE

(section 6)

RE-DESIGNATION

First Column

Second Column

| | |
|---|--|
| Commissioner of Income Tax | Chairman of Federal Board of Inland Revenue |
| Deputy Commissioner of Income Tax | Deputy Chairman of Federal Board of Inland Revenue |
| Senior Assistant Commissioner of Income Tax | Chief Inspector of Taxes |
| Assistant Commissioner of Income Tax | Principal Inspector of Taxes |
| Senior Assessment Officer | Senior Inspector of Taxes |
| Assessment Officer | Inspector of Taxes |

THIRD SCHEDULE (sections 7 and 8 (1))

AMENDMENTS TO THE PRINCIPAL ORDINANCE

Section 2.

Delete the definition of "Commissioner" and substitute—

"'Board' means the Federal Board of Inland Revenue established under the Income Tax Administration Ordinance, 1958".

Throughout the principal Ordinance, and in any subsidiary legislation thereunder.

Delete the word "Commissioner" and its grammatical variations and substitute, with the appropriate grammatical variation—

"Board".

Section 3.

Delete subsections (1), (2) and (4).

Section 6.

Delete subsection (4).

Section 33.

In subsection (1)—

Before the words "any territory" insert the words—

"any other Region or of"

After the words "laws of that" insert the words—

"Region or"

At the end of section 33 add—

"(7) In this section 'Region' includes the Southern Cameroons".

Section 41.

Delete subsection (1) and insert—

"(1) The Board may by notice in writing if it thinks it necessary, declare any person to be the agent of any other person (whether resident or non-resident), and the person so declared shall be deemed to be the agent of such other person for the purposes of this Ordinance, and may be required to pay any tax which is or will be payable from any moneys including pensions, salary, wages or any other remuneration, which may be held by him for, or due or to become due by him to, the person whose agent he has been declared to be, and in default of such payment the tax shall be recoverable from him in the manner provided by section 67."

Section 59.

Delete from the marginal note the word "Supreme" and substitute—
"appropriate High".

Delete subsection (1) and insert—

"(1) (a) Subject to the provisions of subsection (16) of section 60 any person who, having appealed against an assessment made upon him to the appropriate Appeal Commissioners under the provisions of section 60, is aggrieved by the decision of such Commissioners may appeal against the assessment and such decision to the appropriate High Court upon giving notice in writing to the Board within thirty days after the date upon which such decision was given: Provided that notwithstanding the lapse of such period of thirty days by not more than a further period of sixty days, such person may appeal against the said assessment and decision if he shows to the satisfaction of the judge that, owing to absence from Nigeria, sickness or other reasonable cause he was prevented from giving notice of appeal within such period of thirty days, and that there has been no unreasonable delay on his part; and upon the judge being so satisfied, such person shall give such notice in writing to the Board within seven days thereof.

(b) Where no appropriate body of Appeal Commissioners has been appointed with jurisdiction to hear an appeal against an assessment made upon any person under the provisions of section 60, such person, being aggrieved by the assessment and having failed to agree with the Board in the manner provided in subsection (4) of section 57, may appeal against the assessment to the appropriate High Court upon giving notice in writing to the Board within thirty days after the date of service upon him of notice of the refusal of the Board to amend the assessment as desired and the provisions of the proviso to paragraph (a) so far as they are applicable shall apply.

(c) If the Board is dissatisfied with a decision of any Appeal Commissioners, it may appeal against the decision to the appropriate High Court (and the provisions of subsection (16) of section 60 shall not apply to any such appeal by the Board) upon giving notice in writing to the other party to the appeal under section 60 upon which such decision was given, within thirty days after the date upon which such decision was given and the provisions of this section so far as they are applicable shall apply to any such appeal to the appropriate High Court by the Board".

At the end of subsection (10) add—

"; and in making, amending or replacing any such rules so made there may be made such retrospective provisions as may be considered necessary and in particular having regard to the changes effected by the Income Tax Administration Ordinance, 1958, and to the retrospective provisions of section 8 thereof".

Section 60.

Delete section 60 and insert—

Appeals to
Appeal
Commis-
sioners.

"60. (1) Any person who, being aggrieved by an assessment made upon him, has failed to agree with the Board in the manner provided in subsection (4) of section 57, may appeal against the assessment to the appropriate Appeal Commissioners upon giving notice in writing to the Board and to the secretary to such Commissioners within thirty days after the date of service

upon him of notice of the refusal of the Board to amend the assessment as desired: Provided that notwithstanding the lapse of such period of thirty days, by not more than a further period of sixty days, such person may appeal against the said assessment if he gives such Commissioners the particulars mentioned in paragraphs (a) to (d) inclusive of subsection (2) and if he shows to their satisfaction that, owing to absence from Nigeria, sickness or other reasonable cause he was prevented from giving notice of appeal within such period of thirty days, and that there has been no unreasonable delay on his part; and upon the Commissioners being so satisfied, such person shall give such notice in writing to the Board and to such secretary within seven days thereof.

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

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

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

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

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

(e) the precise grounds of his appeal against the assessment; and

(f) an address for service of any notices, precepts or other documents to be given, by the secretary to the appropriate Appeal Commissioners, to the appellant: Provided that at any time the appellant may give notice to such secretary and to the Board, by delivering the same or by registered post, of a change of such address but any such notice shall not be valid until delivered or received.

(3) From time to time, on or after the appointed day, the Minister may, by notice in the Gazette, declare the establishment of such one or more bodies of Appeal Commissioners and for such area or areas within Nigeria as he shall think fit.

(4) A body of Appeal Commissioners shall consist of not more than five persons, none of whom shall be a public officer. At any meeting of such Commissioners they shall appoint one of themselves to be chairman and every decision of the Commissioners shall be signified under the hand of the chairman. Any three of such Commissioners may hear and decide an appeal.

(5) In respect of each body of Appeal Commissioners, each Appeal Commissioner—

(a) shall be appointed by notice in the Gazette, by the Minister from among persons who appear to the Minister to have had experience and shown capacity in the management of a substantial trade or business or the exercise of a profession in Nigeria and, so far as possible, the Minister shall endeavour to secure that one Commissioner of each body of Appeal

Commissioners is either a member of an incorporated society of accountants, having the approval of the Minister, or is a person who is experienced in the composition of and interpretation of accounts and has a working knowledge of general accountancy principles;

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

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

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

(e) shall be eligible for appointment or re-appointment to any body of Appeal Commissioners unless his office has been determined vacant under paragraph (d);

(f) shall be paid such remuneration by reference to each appeal meeting of the body of Appeal Commissioners to which he has been appointed, which he attends and, if considered necessary for any particular member, such allowances for travelling expenses to such meetings, as may be determined by the Minister with the approval of the Council of Ministers;

(g) having a direct or indirect financial interest in any trade, business, profession or vocation in Nigeria (including the holding of or the beneficial interest in any shares, stock or debentures in any company carrying on the same) or being a relative of any person having such an interest and having knowledge thereof, shall, when any appeal is pending, before the body of Appeal Commissioners of which he is a Commissioner, which is concerned with such trade, business, profession or vocation, declare such interest to the other Commissioners of that body and give notice to the Board, in writing, of such interest or relationship and interest and he shall not sit at any meeting for the hearing of that appeal. The like provisions shall apply where any Appeal Commissioner is entitled to practise in any Court in Nigeria or is an accountant and the appellant is, or has been, a client of that Commissioner.

(6) Without prejudice to the generality of paragraph (d) of subsection (5), if the Minister is satisfied that an Appeal Commissioner—

(a) has been absent from two consecutive meetings of the body of Appeal Commissioners of which he is a Commissioner (other than any meeting at which, by virtue of paragraph (g) of subsection (5), he may not sit) without the written permission of the Chairman where such a body is meeting in

the township of Lagos, or in any other case, of the officer of the Federal Inland Revenue Department in charge of the office in the area where such meetings are held ; or

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

(c) has failed to make any declaration and give any notice in accordance with paragraph (g) of subsection (5) ; or

(d) has committed an offence under the principal Ordinance, the Minister shall make a determination that his office as an Appeal Commissioner is vacant, in accordance with paragraph (d) of subsection (5).

(7) Where, by reason of the provisions of paragraph (g) of subsection (5) or otherwise there is an insufficient number of Commissioners, of any body of Appeal Commissioners, to hear one or more particular appeals the Minister may, make an *ad hoc* appointment in writing from among persons of the kind mentioned in paragraph (a) of subsection (5), of a person to be an Appeal Commissioner of such body for the purpose of his hearing that appeal or those appeals and the provisions of this section shall apply to such person with any necessary modifications.

(8) For each body of Appeal Commissioners established under subsection (3) for an area, the Minister shall appoint some person to be secretary to that body, whose appointment and official address shall be inserted in the Gazette, and all notices, precepts and documents, other than decisions of that body, may be signified under the hand of its secretary and all notices and documents to be given to that body shall be delivered at or sent by registered post to such address.

(9) For the purposes of this section, the appropriate Appeal Commissioners and their secretary to whom an appellant may give notice of appeal against an assessment under subsection (1) shall be the body of Appeal Commissioners, if any, established under subsection (3) for the area in which is situated the office of the Federal Inland Revenue Department from which the notice of that assessment was issued.

(10) As often as may be necessary, Appeal Commissioners shall meet to hear appeals in any town in their area in which is situated an office of the Federal Inland Revenue Department.

(11) Twenty-one clear days' notice shall be given to the Board and to the appellant of the date fixed for the hearing of his appeal and seven clear days' notice shall be so given of any adjourned hearing of that appeal, unless at the previous hearing the Appeal Commissioners shall have fixed a date for the next hearing of the appeal.

(12) The provisions of subsections (2), (4), (5) and (6) of section 59 shall apply to an appeal under this section with any necessary modifications.

(13) All appeals shall be heard in camera.

(14) At the hearing of any appeal against an assessment the representative for the Board may inform the Appeal Commissioners of any recommendation made by a scrutineer Committee which is relevant to that assessment.

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

(16) Where the tax payable in accordance with a decision of Appeal Commissioners does not exceed one hundred pounds no appeal shall lie from that decision under the provisions of section 59.

(17) Where a person has appealed to Appeal Commissioners as in this section provided and their decision is not final and conclusive by reason of the provisions of subsection (16), a further appeal shall lie to the appropriate High Court in accordance with the provisions of section 59.

(18) Where upon the hearing of an appeal under this section, relating to the gains or profits from a trade, business, profession or vocation—

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

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

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

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

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

(19) If upon the hearing of an appeal under section 59, against a decision of Appeal Commissioners given under the provisions of this section, a certified copy of that decision is produced before the appropriate High Court and such decision contains a record by reference to—

(a) paragraph (a) of subsection (18), such Court shall dismiss such appeal; or

(b) paragraph (b) of subsection (18), such Court may dismiss such appeal upon such *prima facie* evidence, with respect to such accounts, books or records having been so incomplete or unsatisfactory, as to the Court may seem sufficient; or

(c) paragraph (c) or (d) of subsection (18), such Court shall dismiss such appeal unless it considers that the cause of the refusal was reasonable.

(20) Notwithstanding that an appeal is pending before an appropriate High Court tax shall be paid, in accordance with the decision of the Appeal Commissioners, within one month of notification of the tax payable, in accordance with subsection (12) of this section and section 66, and if it is not so paid with or without applying the provisions of section 65 as the Board thinks fit, proceedings may be taken for its recovery in accordance with section 67.

(21) The Minister may make rules prescribing the procedure to be followed with respect to precepts and other like documents to be issued on behalf of Appeal Commissioners, for the examination of witnesses and in the conduct of appeals before them."

Section 67.

In subsection (3) after the words "signed by" insert—"any person duly authorised by".

Objects and Reasons

To provide for the establishment of a Federal Board of Inland Revenue for the administration of the Income Tax Ordinance. Hitherto by section 3 of that Ordinance, the Commissioner of Income Tax has been responsible for the administration of that Ordinance, for the assessment and collection of income tax and for accounting for the same. In accordance with more modern procedure in other territories, it is considered that the time has come when that individual responsibility and those powers should be transferred to a properly constituted Board.

The Third Schedule to the Bill provides for amendments to the Income Tax Ordinance which are consequential to the main provisions of the Bill and two minor amendments: the one to section 33 whereby the power to make Orders with respect to double taxation arrangements with overseas territories is extended to making Orders for such arrangements within Nigeria; the other amendment, to section 41, clarifies the present provisions of that section giving power to appoint an agent and for collection of tax from him.

Clauses 11 to 17 of the Bill give the Minister power to establish Scrutineer Committees for particular areas and to make directions with respect to classes of persons trading or exercising a profession. Where a Scrutineer Committee has been established and a direction made, with respect to any taxpayer concerned, before the Federal Inland Revenue Department make an assessment in respect of his trading or professional profits the proposed amount of the assessable income, in respect of the trade or profession, will be put before such Committee who, from their local or general knowledge, may recommend an increase in that amount. In cases where insufficient information with respect to such profits has been given to the Department, an assessment might otherwise be too low, and in the absence of any objection to the assessment by the taxpayer, no opportunity for review outside the Department would arise. There are similar provisions in respect of excessive claims for losses incurred in trading or in exercising a profession. A Scrutineer Committee, of experienced persons from outside the Department, should help to prevent under-assessment of profits or giving relief in respect of excessive losses.

The amendments in the Third Schedule to the Bill consist of replacing section 60 (which gave an option to appeal against an assessment, where the tax in dispute did not exceed £50, to a Board of Commissioners in lieu of an appeal to the Court) and making consequential amendments to section 59 relating to appeals to the Court. There has been no constituted Board of Commissioners for some years.

Under the new section 60, the Minister may constitute bodies of Appeal Commissioners for particular areas to hear appeals against income tax assessments. Where there is such a body to whom an appeal may be made then any such appeal must first be made to that body. In certain cases the right of a further appeal to the Court will lie but the tax payable in accordance with the decision of the Appeal Commissioners is payable, any overpayment as a result of the decision of the Court would be re-paid under the provisions of sections 59 (5) and 70A (2) of the Income Tax Ordinance. Appeal Commissioners will be experienced persons from outside the Department and these bodies should benefit the taxpayer by avoiding the costs and more detailed procedure involved on an appeal to a Court, at the same time they will assist the Department in more rapid disposal of disputes and in the collection of tax.

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