

ROYAL NIGERIAN MILITARY FORCES ORDINANCE, 1960

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J. W. ROBERTSON,
Governor-General

(L.S.)

No. 26

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO CONSOLIDATE AND AMEND THE LAW AS TO THE ESTABLISHMENT, GOVERNMENT AND DISCIPLINE OF THE ROYAL NIGERIAN MILITARY FORCES AND ITS RESERVES AND TO PROVIDE FOR APPEALS FROM COURTS-MARTIAL AND PURPOSES CONNECTED THEREWITH AND INCIDENTAL THERETO.

Title.

[By Notice, see section 1]

Commence-
ment.

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

Enactment.

PART I.—PRELIMINARY

1. (1) This Ordinance may be cited as the Royal Nigerian Military Forces Ordinance, 1960, and shall come into operation on a date to be appointed by the Governor-General by notification in the Gazette after the signification of Her Majesty's pleasure thereon.

Short title,
commence-
ment
and
applica-
tion.

(2) This Ordinance shall have effect throughout the Federation.

Interpretation.

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Eliz. 2, c.18.

2. (1) In this Ordinance, unless the context otherwise requires—

"the Act" means the Army Act, 1955, of the United Kingdom as amended from time to time and any enactment substituted therefor ;

"acting rank" means rank of any description (however called) such that under regulations made under section 203 a commanding officer has power to order the holder to revert from that rank, and "acting warrant officer" and "acting non-commissioned officer" shall be construed accordingly ;

"aircraft" means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon ;

"aircraft material" includes—

(a) parts of, and components of or accessories for, aircraft, whether for the time being in aircraft or not ;

(b) engines, armaments, ammunition and bombs and other missiles of any description in, or for use in, aircraft ;

(c) any other gear, apparatus or instruments in, or for use in, aircraft ;

(d) any apparatus used in connection with the taking-off or landing of aircraft or for detecting the movement of aircraft, and

(e) any fuel used for the propulsion of aircraft and any material used as a lubricant for aircraft or aircraft material ;

"appropriate superior authority" has the meaning assigned to it by subsection (1) of section 79 and subsection (1) of section 83 ;

"arrest" includes open arrest ;

"before the enemy", in relation to a person, means that he is in action against the enemy or about to go into action against the enemy or is under attack or threat of imminent attack by the enemy ;

"Boards of Inquiry Rules" means rules regulating boards of inquiry made by the Governor-General under paragraph (e) of subsection (2) of section 128 ;

"boy" means a soldier enlisted in accordance with the provisions of subsection (2) of section 16 and who has not attained the age of eighteen years ;

"civil court" means a court of ordinary criminal jurisdiction, but does not, except where otherwise expressly provided, include—

(a) any such court outside the Commonwealth ; or

(b) a local or native court however so called ;

"civil offence" has the meaning assigned to it in subsection (2) of section 72 ;

"colour service" means service under the provisions of this Ordinance otherwise than service in the reserve ;

"the Commander" means the officer appointed by the Governor-General under section 156 to have the command, direction and general superintendence of the units raised under this Ordinance ;

"commanding officer" in relation to any person, means the officer commanding the unit to which the person belongs or is attached ;

"Commonwealth" means the British Commonwealth of Nations ;

"corresponding civil offence" has the meaning assigned to it by subsection (2) of section 72 ;

"corresponding rank" in relation to any rank or rating in Her Majesty's forces, means such rank or rating in any other of those forces as may be declared by regulations made under section 203 to correspond therewith;

"court-martial" except where it is expressed to be under service law means a court-martial under this Ordinance;

"damage" includes destruction and references to damaging shall be construed accordingly;

"date of attestation", in relation to any person, means the date on which he is attested in accordance with the provisions of regulations made in that behalf under Part IV;

"decoration" includes medal, medal ribbon, clasp and good conduct badge;

"desertion" shall be construed in accordance with subsection (2) of section 43;

"enemy" includes all persons engaged in armed operations against any of Her Majesty's forces and also includes all armed mutineers, armed rebels, armed rioters and pirates;

"the Force" means the force raised under this Ordinance;

"the Forces Council" means the Royal Nigerian Military Forces Council established under section 6;

"Her Majesty's forces" means any of the naval, military or air forces raised by Her Majesty in any part of the Commonwealth;

"Imprisonment Rules" means rules regulating imprisonment made by the Governor-General under paragraph (c) of subsection (2) of section 128;

"native court" includes an alkali's court and a customary court;

"provost officer" means a provost marshal or officer appointed to exercise the functions conferred by or under service law on provost officers;

"public" when used adjectivally means belonging to the Government of the Federation or of any part of Nigeria or to the Government of the United Kingdom;

"recruiting officer" means a person authorized as such under section 5;

"the reserve" means the body of troops comprised of those persons who are subject to reserve service or liability under Part IX;

"reservist" means a member of the reserve;

"Rules of Procedure" means the Rules of Procedure, as from time to time in force, made under the Act, as applied under section 128, with such rules amending, varying or modifying the same as may be made by the Governor-General under that section;

"service", when used adjectivally, means belonging to or connected with Her Majesty's forces or any part of Her Majesty's forces;

"service law" means this Ordinance, the Royal Nigerian Navy Ordinance, 1956, the Act, the Air Force Act, 1955, or the Naval Discipline Act, 1957, as amended from time to time or any enactment substituted for any of those enactments;

"ship" includes any description of vessel;

No. 28 of
1956.
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Eliz. 2, C.18
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Eliz. 2, C.19.
5 and 6
Eliz. 2, C.53

"soldier" does not include an officer but, with the modifications contained in this Ordinance in relation to warrant officers and non-commissioned officers, includes a warrant officer and a non-commissioned officer and every person subject to military law under this Ordinance during the time that he is so subject;

"steals" has the meaning assigned to it in section 383 of the Criminal Code;

"stoppages" means the recovery by deductions, from the pay of the offender, of a specified sum by way of compensation for any expense, loss or damage occasioned by the offence;

"unit" means a battalion or any other formation of troops which has been declared to be a unit by the Commander.

(2) Where in this Ordinance it is provided that any person subject to military law under this Ordinance is liable on conviction by court-martial to imprisonment and no term or maximum term is specified, then such person shall be liable to imprisonment for any term.

(3) Save as is otherwise provided by any Instructions under Her Majesty's Sign Manual and Signet, the Governor-General shall consult with the Council of Ministers in the exercise of all powers conferred upon him by this Ordinance and shall act in accordance with the advice of the Council.

Provisions
as to active
service.

3. (1) In this Ordinance the expression "on active service" in relation to any unit means that it is engaged in operations against an enemy, and in relation to a person means that he is serving in or with such a unit which is on active service.

(2) Where it appears to the Governor-General that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that a unit should be deemed to be on active service he may declare that for such period, not exceeding three months, beginning with the coming into force of the declaration as may be specified therein that unit shall be deemed to be on active service.

(3) Where it appears to the Governor-General that it is necessary for the public service that the period specified in a declaration under subsection (2) should be prolonged or, if previously prolonged under this subsection should be further prolonged, he may declare that the said period shall be prolonged by such time, not exceeding three months, as may be specified in the declaration under this subsection.

(4) If at any time while any unit is deemed to be on active service by virtue of the foregoing provisions of this section, it appears to the Governor-General that there is no necessity for the unit to continue to be treated as being on active service, he may declare that as from the coming into operation of the declaration the unit shall cease to be, or to be deemed to be, on active service.

Establish-
ment and
employ-
ment.

4. (1) There shall be established and maintained in Nigeria such number of bodies of troops forming part of the Royal Nigerian Military Forces as the Governor-General may think fit.

(2) Every unit shall be charged with the defence of and maintenance of order in Nigeria and with such other duties as may be from time to time defined by the Governor-General.

(3) The Governor-General may order that any officer or soldier of the Force shall proceed to any place outside Nigeria for the purpose of undergoing instruction or training or for duty or employment.

5. (1) There shall be maintained in Nigeria a reserve force to be known as the Royal Nigerian Military Forces Reserve.

Constitution of the reserve.

(2) The reserve shall consist of—

(a) all soldiers who at the commencement of this Ordinance are serving in the Royal Nigerian Military Forces Reserve as constituted by the Royal Nigerian Military Forces Reserve Ordinance hereby repealed; and

(b) all soldiers who are transferred to the reserve on completion of their colour service.

PART II.—ROYAL NIGERIAN MILITARY FORCES COUNCIL

6. (1) There shall be a Royal Nigerian Military Forces Council which shall, subject to the provisions of subsection (2), be responsible under the general authority of the Minister charged with responsibility for matters relating to Defence for the command, discipline and administration of, and all other matters relating to, the Force.

Establishment of Royal Nigerian Military Forces Council.

(2) The responsibility of the Forces Council shall not extend to the operational use of the Force, for which use responsibility shall be vested in the Commander subject to the overall directions of the Council of Ministers:

Provided that the Prime Minister may give to the Commander such directions with respect to the operational use of the Force in Nigeria for the purpose of maintaining and securing public safety and public order, notwithstanding that the directions of the Council of Ministers have not been obtained, and the Commander shall comply with those directions or cause them to be complied with.

7. (1) The members of the Forces Council shall be—

Membership of Council.

(a) the Minister charged with responsibility for matters relating to Defence, who shall be the Chairman of the Council;

(b) such other Minister as may be appointed under subsection (2);

(c) the Commander;

(d) the Permanent Secretary of the Ministry responsible for Defence.

(2) The Prime Minister may, if he sees fit, appoint a Minister, other than the Minister charged with responsibility for matters relating to Defence, to be a member of the Forces Council.

(3) The Chairman may nominate any member to perform the duties of the Chairman at any meeting of the Forces Council at which the Chairman is absent, and such nomination may be either general or in respect of a particular occasion.

(4) In the event of any member being for any reason unable to perform his duties as a member he may with the approval of the Chairman nominate a person to perform such duties during his inability.

8. The Secretary to the Forces Council shall be the Permanent Secretary of the Ministry responsible for Defence.

Secretary.

9. The Forces Council may provide for all or any of the following matters—

Powers of Council.

(a) the organization of the work of the Council and the manner in which it shall perform its functions and the duties and responsibilities of the several members thereof;

(b) the delegation by notification in the Gazette to any members of the Council of any of the powers or duties of the Council;

(c) the consultation by the Council with persons other than members thereof;

(d) the procedure to be followed by the Council in conducting its business;

(e) any other matters for which the Council may consider it necessary or desirable to provide in order to secure the better performance of the functions of the Council.

PART III.—OFFICERS

Conditions
of appoint-
ing
officers.

Appoint-
ment of
officers.

10. No person shall be appointed to a commission in the Force unless he has been recommended by a board of officers set up by the Commander.

11. (1) A person recommended for appointment to a commission in the Force shall be appointed to a commission either for an indefinite period or for a specified time.

(2) Every officer on appointment shall be issued with a commission in the form prescribed by regulations made under section 13 and signed by the Governor-General.

(3) The appointment of a person to a commission in the Force shall be notified in the Gazette.

Promotion
etc., of
officers.

12. (1) All promotions of officers shall be notified in the Gazette.

(2) Any retirement or resignation of an officer shall be notified in the Gazette.

Governor-
General to
make regu-
lations.

13. The Governor-General may make regulations governing the commissioning of officers, their terms of service, promotion, retirement, resignation and such other matters concerning officers of the Force as seem to him necessary.

Reserve of
officers.

14. (1) A reserve of officers shall be maintained consisting of those officers of the Force who have been permitted to retire from the active list of the Force.

(2) The Governor-General may make regulations governing the pay, duties, and method of recall of officers of the reserve and any other matters pertaining to such reserve as seem to him necessary.

PART IV.—ENLISTMENT AND TERMS OF SERVICE

ENLISTMENT

Recruiting
officers.

15. Any person authorized in that behalf by regulations made under this Part may enlist recruits in the Force in the prescribed manner.

Enlist-
ment.

16. (1) A person offering to enlist in the Force shall be given a notice in the prescribed form setting out the questions to be answered on attestation and stating the general conditions of the engagement to be entered into by him, and a recruiting officer shall not enlist any person in the Force unless satisfied by that person that he has been given such a notice, understands it, and wishes to be enlisted.

(2) A recruiting officer shall not enlist a person under the apparent age of eighteen years unless consent to the enlistment has been given in writing by his parent or guardian or, where the parents or guardian are dead or unknown, by an administrative officer of the division in which such person resides.

TERMS AND CONDITIONS OF SERVICE

Terms of
enlistment.

17. (1) The term for which a person enlisting in the Force may be enlisted shall be such a term, beginning with the date of his attestation, as is mentioned in the following provisions of this section.

(2) Where the person enlisting has apparently attained the age of eighteen years the said term shall be—

(a) such term not exceeding twelve years as may be prescribed, being a term of colour service ; or

(b) such term not exceeding twelve years as may be prescribed, being as to such part thereof as may be prescribed a term of colour service and as to the remainder a term of service in the reserve.

(3) Where the person enlisting has not apparently attained the age of eighteen years the said term shall be—

(a) a term ending with the expiration of such period not exceeding twelve years as may be prescribed, beginning with the date on which he attains such age, being a term of colour service ; or

(b) a term ending with the expiration of such period as aforesaid, being as to such part thereof as may be prescribed a term of colour service and as to the remainder a term of service in the reserve.

RE-ENGAGEMENT AND EXTENSION OF SERVICE

18. (1) Any soldier before or after completing the term of his colour service may with the approval of the competent military authority re-engage for such further period or periods of colour service and service in the reserve as may be prescribed :

Re-engage-
ment and
continuance
in service.

Provided that—

(a) at the expiration of twelve years' continuous colour service from the date of his original attestation or the date when he apparently attained the age of eighteen years, whichever is the later, all reserve service due by him shall be deemed to have been completed ; and

(b) such further period or periods of colour service, together with the original period of colour service, shall not, except as provided by subsections (2) and (3), exceed a total continuous period of eighteen years' colour service from the date of the soldier's original attestation or the date upon which he apparently attained the age of eighteen years, whichever is the later.

(2) Any soldier who has completed a period of eighteen years' colour service may, if he so desires and with the approval of the competent military authority, continue to serve to complete twenty-two years' colour service in all respects as if his term of colour service was still unexpired :

Provided that—

(a) it shall be lawful for him to claim his discharge at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged ; and

(b) it shall be lawful for his commanding officer to give him three months' notice of intention to discharge him.

(3) Any soldier who has completed a period of twenty-two years' colour service may, if he so desires and with the approval of the competent military authority, continue to serve in all respects as if his term of colour service was still unexpired.

Prolonga-
tion of
service.

19. Any soldier whose term of colour service expires during a state of war, insurrection, hostilities or public emergency may be retained in the Force and his service prolonged for such further period as the competent military authority with the approval of the Minister charged with responsibility for matters relating to Defence may direct.

DISCHARGE AND TRANSFER TO THE RESERVE

Discharge.

20. (1) Save as is otherwise provided in this Ordinance, every soldier upon becoming entitled to be discharged shall be discharged with all convenient speed but until discharged shall remain subject to military law under this Ordinance.

(2) When a soldier who is entitled to be discharged is serving out Nigeria, then he shall be returned to Nigeria free of cost with all convenient speed and shall be discharged on his arrival there or, if he consents to his discharge being delayed, within six months from his arrival.

(3) Except in pursuance of the sentence of a court-martial under service law, a soldier shall not be discharged unless his discharge has been authorized by order of the competent military authority in accordance with regulations made under this Part.

(4) Every soldier shall be given on his discharge a certificate of discharge containing such particulars as may be prescribed:

Provided that a soldier who is discharged within six months of the date of attestation shall not be entitled to receive a certificate of discharge.

(5) A soldier who is discharged in Nigeria shall be entitled to be conveyed free of cost from the place where he is discharged to the place stated in his attestation paper to be the place where he was attested or to any place at which he intends to reside and to which he can be conveyed with no greater cost.

Transfer
to the
reserve.

21. (1) Save as otherwise provided in this Ordinance, every soldier upon falling to be transferred to the reserve shall be transferred to the reserve but until so transferred shall remain subject to military law under this Ordinance.

(2) When a soldier who falls to be transferred to the reserve is serving out of Nigeria he shall be returned to Nigeria free of cost with all convenient speed and shall be transferred to the reserve on his arrival there or, if he consents to his transfer being delayed, within six months from his arrival.

(3) A soldier who is transferred to the reserve in Nigeria shall be entitled to be conveyed free of cost from the place where he is transferred to the place stated in his attestation paper to be the place where he was attested or to any place at which he intends to reside and to which he can be conveyed with no greater cost.

(4) Notwithstanding anything in this section, the competent military authority may, when a soldier falls to be transferred to the reserve as aforesaid, discharge him forthwith without giving any reason and in any such case the provisions of section 20 shall apply.

22. (1) Notwithstanding anything in this Part, a soldier shall not be entitled to be discharged or transferred to the reserve at a time when he has become liable, as a person subject to service law, to be proceeded against for an offence against any of the provisions of service law :

Postponement of discharge or transfer pending proceedings for offences, etc.

Provided that if it is determined that the offence shall not be tried by court-martial, this subsection shall cease to apply.

(2) Notwithstanding anything in this Part, a soldier who is serving a sentence of imprisonment or detention awarded by a court-martial under service law or by his commanding officer shall not be entitled to be discharged or transferred to the reserve during the currency of the sentence.

23. A warrant officer who is reduced to the ranks may thereupon claim to be discharged unless a state of war, insurrection, hostilities or a public emergency exists.

Right of warrant officer to discharge on reduction to ranks.

24. A soldier may be discharged by the competent military authority at any time during the currency of any term of engagement.

Power to discharge.

25. (1) A soldier shall be entitled to claim his discharge at any time within six months after the date of his first attestation, and if he makes such a claim he shall on payment of ten pounds or such less sum as a competent military authority may approve be discharged with all convenient speed, but until discharge shall remain subject to military law under this Ordinance :

Right of soldier to purchase discharge.

Provided that the provisions of section 20 shall not apply to a soldier discharged under the provisions of this section.

(2) Notwithstanding the provisions of this section, no soldier shall be entitled to claim his discharge at a time when or so long as soldiers are required to prolong their colour service under the provisions of section 19.

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

26. (1) In reckoning the service of any soldier for discharge or re-engagement or transfer to the reserve there shall be excluded therefrom—

Rules for reckoning service.

(a) all periods during which he has been absent from his duty from any of the following causes—

(i) imprisonment ;

(ii) desertion ;

(iii) absence without leave exceeding twenty-eight days ; and

(b) any period ordered by a court-martial to be forfeited.

(2) Regulations under this Part may make provision for restoring service excluded by the provisions of subsection (1) in consideration of good service or on other grounds justifying the restoration of service so excluded.

27. (1) Where a person has made such declaration upon his attestation as may be prescribed and has thereafter received pay as a soldier—

Validity of attestation and enlistment.

(a) the validity of his enlistment shall not be called in question on the grounds of any error or omission in his attestation paper ;

(b) after the expiration of a period of three months from the date on which he made the said declaration he shall be deemed to have been validly enlisted notwithstanding any non-compliance with the requirements of this Ordinance or any regulations made as to enlistment or attestation or any other ground whatsoever (not being an error or omission in his attestation paper) and he shall be deemed to be a soldier until his discharge.

(2) Where a person has received pay as a soldier without having previously made such declaration as aforesaid then—

(a) he shall be deemed to be a soldier until discharged ;

(b) he may claim his discharge at any time and if he makes such claim the claim shall be submitted as soon as may be to the competent military authority who shall cause him to be discharged with all convenient speed.

(3) Nothing in the foregoing provisions of this section shall be construed as prejudicing the determination of any question as to the term for which a person was enlisted or as preventing the discharge of a person who has not claimed his discharge.

Regulations
as to
enlistment.

28. The Governor-General may make such regulations as appear to him to be necessary or expedient for the purpose of, or in connection with, the enlistment of recruits for the Force and generally for carrying this Part into effect and without prejudice to the generality of the foregoing such regulations may make provision—

(a) for prescribing the form of attestation paper to be used ; and

(b) for an oath or affirmation to be administered on enlistment.

Interpreta-
tion of
Part IV.

29. In this Part—

“competent military authority” means any prescribed officer ;

“prescribed” means prescribed by regulations made under this Part.

PART V.—DISCIPLINE AND TRIAL AND PUNISHMENT OF MILITARY OFFENCES

TREACHERY, COWARDICE AND OFFENCES ARISING OUT OF MILITARY SERVICE

Aiding the
enemy.

30. (1) Any person subject to military law under this Ordinance who with intent to assist the enemy—

(a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend ; or

(b) does any act calculated to imperil the success of operations of Her Majesty's forces, of any forces co-operating therewith or of any part of any of those forces ; or

(c) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever not authorized by international usage ; or

(d) furnishes the enemy with arms or ammunition or with supplies of any description ; or

(e) harbours or protects an enemy not being a prisoner of war, shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Ordinance.

(2) Any person subject to military law under this Ordinance who knowingly and without lawful excuse—

(a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend ; or

(b) does any act calculated to imperil the success of operations of Her Majesty's forces, of any forces co-operating therewith or of any part of any of those forces ; or

(c) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of other measures calculated to influence morale, or in any other manner whatsoever not authorized by international usage ; or

(d) furnishes the enemy with arms or ammunition or with supplies of any description ; or

(e) harbours or protects an enemy not being a prisoner of war, shall, on conviction by court-martial, be liable to suffer imprisonment or any less punishment provided by this Ordinance.

31. (1) Any person subject to military law under this Ordinance who with intent to assist the enemy communicates with or gives intelligence to the enemy shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Ordinance.

Communi-
cation with
the enemy.

(2) Any person subject to military law under this Ordinance who without authority communicates with or gives intelligence to the enemy shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance.

(3) In this section the expression "intelligence" means information which is or purports to be information as to any matter such that information about it would or might be directly or indirectly useful to an enemy, and in particular (but without prejudice to the generality of the foregoing provisions of this subsection) as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say—

(a) the number, description, armament, equipment, disposition, movement or condition of any of Her Majesty's forces or of any forces co-operating therewith, or of the ships or aircraft of any such co-operating force ;

(b) any operations or projected operations of any of such forces, ships or aircraft as aforesaid ;

(c) any code, cipher, call sign, password or countersign ;

(d) any measures for the defence or fortification of any place on behalf of Her Majesty ;

(e) the number, description or location of any prisoners of war ;

(f) munitions of war.

32. (1) Any person subject to military law under this Ordinance who when before the enemy—

Cowardly
behaviour.

(a) leaves the post, position or other place where it is his duty to be ; or

(b) throws away his arms, ammunition or tools, in such a manner as to show cowardice, or otherwise behaves in such a manner as to show cowardice, shall be guilty of an offence against this section.

(2) Any person subject to military law under this Ordinance who when before the enemy induces any other person subject to service law and before the enemy to commit an offence under subsection (1) shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance.

33. Any person subject to military law under this Ordinance who—

(a) spreads (whether orally, in writing, by signal, or otherwise) reports relating to operations of Her Majesty's forces, of any forces co-operating therewith, or of any part of any of those forces, being reports calculated to create despondency or unnecessary alarm; or

(b) when before the enemy, uses words calculated to create despondency or unnecessary alarm,

shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance.

34. (1) Any person subject to military law under this Ordinance who, through disobedience to orders or wilful neglect of his duty, is captured by the enemy shall be guilty of an offence against this section.

(2) Any person subject to military law under this Ordinance who, having been captured by the enemy, fails to take, or prevents or discourages any other person subject to service law who has been captured by the enemy from taking, any reasonable steps to rejoin Her Majesty's service which are available to him or, as the case may be, to that other person shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance.

35. (1) Any person subject to military law under this Ordinance who while on guard duty—

(a) sleeps at his post; or

(b) when not on duty at a post, is asleep at a time when he is not allowed to be asleep; or

(c) is drunk; or

(d) leaves his post without having been regularly relieved or otherwise absents himself from any place where it is his duty to be, shall be guilty of an offence against this section.

(2) For the purposes of this section a person shall be treated as being drunk if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty.

Offences
against
morale

Becoming
a prisoner
of war
through
disobe-
dience or
wilful
neglect and
failure to
rejoin
forces.

Offences by
or in rela-
tion to
sentries, etc

(3) Any person subject to military law under this Ordinance who strikes or otherwise uses force against any person on guard duty, being a member of any of Her Majesty's forces, or of any forces co-operating therewith, or by the threat of force compels any such person to let him or any other person pass, shall be guilty of an offence against this section.

(4) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance:

Provided that if the offence was not committed on active service he shall not be liable to be imprisoned for more than two years.

(5) References in this section to a person on guard duty are references to a person who—

(a) is posted or ordered to patrol or has adopted the position of sentry at a post or has undertaken the patrol; or

(b) is a member of a guard or other party mounted or ordered to patrol, for the purpose of protecting any persons, premises or place.

(6) The foregoing provisions of this section shall apply in relation to persons posted or ordered to patrol or who have adopted the position of sentries at a post or have undertaken the patrol, and to members of a party mounted or ordered to patrol, for the purpose of preventing or controlling access to or egress from any premises or place, or of regulating traffic by road, by rail or on any inland navigation, as they apply to persons on guard duty.

36. Any person subject to military law under this Ordinance who—

Looting.

(a) steals from, or with intent to steal searches, the person of anyone killed or wounded in the course of warlike operations; or

(b) steals any property which has been left exposed or unprotected in consequence of warlike operations; or

(c) takes otherwise than for the public service any vehicle, equipment or stores abandoned by the enemy,

shall be guilty of looting and liable, on conviction by court-martial, to imprisonment or any less punishment provided by this Ordinance.

MUTINY AND INSUBORDINATION

37. (1) Any person subject to military law under this Ordinance who—

Mutiny.

(a) takes part in a mutiny involving the use of violence or the threat of the use of violence, or having as its object or one of its objects the refusal or avoidance of any duty or service against, or in connection with operations against the enemy, or the impeding of the performance of any such duty or service; or

(b) incites any person subject to service law to take part in such a mutiny, whether actual or intended,

shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Ordinance.

(2) Any person subject to military law under this Ordinance who, in a case not falling within subsection (1), takes part in a mutiny, or incites any person subject to service law to take part in a mutiny, whether actual or intended, shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance.

(3) In this Ordinance the expression "mutiny" means a combination between two or more persons subject to service law, or between persons two at least of whom are subject to service law—

(a) to overthrow or resist lawful authority in Her Majesty's forces or any forces co-operating therewith or in any part of any of the said forces ; or

(b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline, or with the object of avoiding any duty or service against, or in connection with operations against the enemy ; or

(c) to impede the performance of any duty or service in Her Majesty's forces or in any forces co-operating therewith or in any part of any of those forces.

Failure to
suppress
mutiny.

38. Any person subject to military law under this Ordinance who, knowing that a mutiny is taking place or is intended—

(a) fails to use his utmost endeavours to suppress or prevent it ; or

(b) fails to report without delay that the mutiny is taking place or is intended,

shall on conviction by court-martial—

(i) if his offence was committed with intent to assist the enemy, be liable to suffer death or any other punishment provided by this Ordinance ; or

(ii) in any other case, be liable to imprisonment or any less punishment provided by this Ordinance.

Insub-
ordinate
behaviour.

39. (1) Any person subject to military law under this Ordinance who—

(a) strikes or otherwise uses violence to, or offers violence to, his superior officer ; or

(b) uses threatening or insubordinate language to his superior officer, shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance :

Provided that he shall not be liable to be imprisoned for more than two years if the offence was not committed on active service or did not involve the striking or other use of violence, or offering of violence, to a superior officer exercising authority as such.

(2) In the foregoing provisions of this section the expression "superior officer", in relation to any person, means an officer, warrant officer or non-commissioned officer subject to service law of superior rank, and includes an officer, warrant officer or non-commissioned officer so subject of equal rank but greater seniority while exercising authority as the said person's superior.

Disobedi-
ence to
particular
orders.

40. (1) Any person subject to military law under this Ordinance who, in such manner as to show a wilful defiance of authority, disobeys any lawful command given or sent to him personally shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance.

(2) Any person subject to military law under this Ordinance who, whether wilfully or through neglect, disobeys any lawful command, shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance :

Provided that if the offence was not committed on active service he shall not be liable to be imprisoned for more than two years.

41. Any person subject to military law under this Ordinance who—

(a) obstructs ; or

(b) when called on, refuses to assist,

Obstruction
of provost
officers.

any person known to him to be a provost officer, or to be a person (whether subject to military law under this Ordinance or not) lawfully exercising authority under or on behalf of a provost officer, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

42. (1) Any person subject to military law under this Ordinance who contravenes or fails to comply with any provision of orders to which this section applies, being a provision known to him, or which he might reasonably be expected to know, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

Disobedi-
ence to
standing
orders.

(2) This section applies to standing orders or other routine orders of a continuing nature made for any formation, unit or body of troops, or for any area, garrison or place, or for any ship, train or aircraft.

DESERTION, ABSENCE WITHOUT LEAVE, ETC.

43. (1) Any person subject to military law under this Ordinance who—

(a) deserts ; or

(b) persuades or procures any person subject to service law to desert, shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance :

Desertion .

Provided that a person shall not be liable to be imprisoned for more than two years unless—

(i) if the offence was against paragraph (a) of this subsection, he was on active service or under orders for active service at the time when it was committed ; or

(ii) if the offence was an offence against paragraph (b) of this subsection, the person in relation to whom it was committed was on active service or under orders for active service at that time.

(2) For the purposes of this Ordinance a person deserts who—

(a) leaves Her Majesty's service or, when it is his duty to do so, fails to join or rejoin Her Majesty's service, with (in either case) the intention, subsisting at the time of the leaving or failure or formed thereafter, of remaining permanently absent from his duty ; or

(b) being an officer enlists in or enters any of Her Majesty's forces without having resigned his commission, or being a soldier enlists in or enters any of Her Majesty's forces without having been discharged from his previous enlistment ; or

(c) absents himself without leave with intent to avoid serving at any place out of Nigeria or to avoid service or any particular service when before the enemy,

and references in this Ordinance to desertion shall be construed accordingly.

(3) In addition to or in lieu of any punishment authorized by subsection (1) the court-martial by whom a soldier is convicted of desertion may direct that the whole or part of his service previous to the period as respects which he is convicted of having been a deserter shall be forfeited :

Provided that this subsection shall not apply to reservists called out on permanent service.

Absence
without
leave.

44. Any person subject to military law under this Ordinance who—

(a) absents himself without leave ; or

(b) persuades or procures any person subject to service law to absent himself without leave,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

Assisting
and con-
cealing
desertion
and absence
without
leave.

45. Any person subject to military law under this Ordinance who—

(a) knowingly assists any person subject to service law to desert or absent himself without leave ; or

(b) knowing that any person subject to service law has deserted or absented himself without leave, or is attempting to desert or absent himself without leave, fails to report that fact without delay, or fails to take any steps in his power to cause that person to be apprehended, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance

Failure to
perform
military
duties.

46. Any person subject to military law under this Ordinance who without reasonable excuse fails to attend for any parade or other military duty of any description or leaves any such parade or duty as aforesaid before he is permitted to do so shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

MALINGERING AND DRUNKENNESS

Malingering.

47. (1) Any person subject to military law under this Ordinance who—

(a) falsely pretends to be suffering from sickness or disability ; or

(b) injures himself with intent thereby to render himself unfit for service, or causes himself to be injured by any person with that intent ; or

(c) injures another person subject to service law, at the instance of that person with intent thereby to render that person unfit for service ; or

(d) with intent to render or keep himself unfit for service does or fails to do anything (whether at the time of the act or omission he is in hospital or not) whereby he produces, or prolongs or aggravates, any sickness or disability,

shall be guilty of malingering and shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

(2) In this section the expression "unfit" includes temporarily unfit.

48. (1) Any person subject to military law under this Ordinance who is guilty of drunkenness, whether on duty or not, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance :

Drunken-
ness.

Provided that where the offence is committed by a soldier neither on active service nor on duty the sentence imposed shall not exceed imprisonment for a period of six months.

(2) For the purpose of this section a person is guilty of drunkenness if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform, or behaves in a disorderly manner or in any manner likely to bring discredit on Her Majesty's service.

OFFENCES RELATING TO PROPERTY

49. Any person subject to military law under this Ordinance who—

Offences in
relation to
public and
service
property.

(a) steals or fraudulently misapplies any public or service property, or is concerned in or connives at the stealing or fraudulent misapplication of any public or service property ; or

(b) receives or retains any public or service property knowing or having reason to believe it to have been stolen, or to have been fraudulently misapplied ; or

(c) wilfully damages, or is concerned in the wilful damage of, any public or service property ; or

(d) by wilful neglect causes damage to any public or service property, shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance.

50. Any person subject to military law under this Ordinance who—

Offences in
relation to
property of
members of
forces.

(a) steals or fraudulently misapplies any property belonging to a person subject to service law, or is concerned in or connives at the stealing or fraudulent misapplication of any such property ; or

(b) receives or retains any such property knowing or having reason to believe the same to have been stolen or to have been fraudulently misapplied ; or

(c) wilfully damages, or is concerned in the wilful damage of, any property belonging to a person subject to service law,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

51. Any person subject to military law under this Ordinance who—

Miscella-
neous
offences
relating to
property.

(a) loses any public or service property of which he has the charge or which has been entrusted to his care or which forms part of property of which he has the charge or which has been entrusted to his care ; or

(b) by negligence damages any public or service property of which he has the charge or which has been entrusted to his care or which forms part of the property of which he has the charge or which has been entrusted to his care ; or

(c) by negligence causes damage to any public or service property ; or

(d) fails to take proper care of any animal or bird used in the public service which is in his charge ; or

(e) makes away (by pawning or in any other way) with any military naval or air force decoration granted to him or any clothing, arms, ammunition or other equipment issued to him for his use for military purposes, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance:

Provided that it shall be a defence for any person charged under paragraph (a) with losing any property that he took reasonable steps for the care and preservation thereof.

FLYING, ETC., OFFENCES

Dangerous
flying, etc.

52. Any person subject to military law under this Ordinance who is guilty of any act or neglect in flying or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance:

Provided that if the offender has not acted wilfully or with wilful neglect he shall not be liable to be imprisoned for more than two years.

Inaccurate
certification
of aircraft,
etc.

53. Any person subject to military law under this Ordinance who signs any certificate in relation to an aircraft or to aircraft material without ensuring the accuracy of the certificate shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

Low
flying.

54. Any person subject to military law under this Ordinance who, being the pilot of one of Her Majesty's aircraft, flies it at a height less than such height as may be provided by any regulations made by the Governor-General, except—

(a) while taking off or alighting, or

(b) in such other circumstances as may be so provided,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

Annoyance
by flying.

55. Any person subject to military law under this Ordinance who, being the pilot of one of Her Majesty's aircraft, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

OFFENCES RELATING TO AND BY PERSONS IN CUSTODY

Irregular
arrest and
confinement.

56. (1) Any person subject to military law under this Ordinance who, when another person subject thereto is under arrest—

(a) unnecessarily delays the taking of such steps as it is his duty to take for investigating the allegations against that other person or for having the allegations against that other person investigated by his commanding officer or an appropriate superior authority or, as the case may be, tried by court-martial; or

(b) fails to release, or effect the release of, that other person when it is his duty to do so,

shall be guilty of an offence against this section.

(2) Any person subject to military law under this Ordinance who, having committed a person (hereinafter referred to as "the prisoner") to the custody of any provost officer or other officer, or any warrant officer or non-commissioned officer, fails without reasonable cause to deliver—

(a) at the time of the committal; or

(b) if it is not practicable so to do at the time of the committal, then within twenty-four hours thereafter,

to the person to whose custody the prisoner was committed a report in writing signed by himself of the offence which the prisoner is alleged to have committed, shall be guilty of an offence against this section.

(3) Where any person (hereinafter referred to as "the prisoner") is committed to the charge of a person subject to military law under this Ordinance who is in command of a guard, then if without reasonable cause that person does not as soon as he is relieved from his guard and any further duty, or, if he is not sooner relieved, within twenty-four hours after the committal, give to the officer to whom it is his duty to report—

(a) a written statement containing so far as known to him, the prisoner's name and alleged offence and the name and rank or other description of the officer or other person by whom the prisoner is alleged to have committed the offence; and

(b) if he has received it, the report required by subsection (2), he shall be guilty of an offence against this section.

(4) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

57. (1) Any person subject to military law under this Ordinance who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Ordinance.

Permitting escape, and unlawful release of prisoners.

(2) Any person subject to military law under this Ordinance who—

(a) without proper authority releases any person who is committed to his charge; or

(b) without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

58. (1) Any person subject to military law under this Ordinance who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or strikes or otherwise uses violence to, or offers violence to, any such officer, shall be guilty of an offence against this section whether or not the officer is his superior officer.

Resistance to arrest.

(2) Any person subject to military law under this Ordinance who strikes or otherwise uses violence to, or offers violence to, any person whose duty it is to apprehend him or in whose custody he is shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

Escape from
confinement.

59. Any person subject to military law under this Ordinance who escapes from arrest, prison or other lawful custody (whether military or not) shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

OFFENCES IN RELATION TO COURTS-MARTIAL AND CIVIL AUTHORITIES

Offences in
relation to
courts-
martial.

60. (1) Any person subject to military law under this Ordinance who—

(a) having been duly summoned or ordered to attend as a witness before a court-martial, fails to comply with the summons or order; or

(b) refuses to swear an oath when duly required by a court-martial to do so; or

(c) refuses to produce any document in his custody or under his control which a court-martial has lawfully required him to produce; or

(d) when a witness, refuses to answer any question which a court-martial has lawfully required him to answer; or

(e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of the court; or

(f) wilfully interrupts the proceedings of a court-martial, or otherwise misbehaves before the court,

shall, on conviction by a court-martial, other than the court in relation to which the offence was committed, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

(2) Notwithstanding anything in subsection (1), where an offence against paragraph (e) or paragraph (f) of that subsection is committed in relation to any court-martial held in pursuance of this Ordinance that court, if of opinion that it is expedient that the offender should be dealt with summarily by the court instead of being brought to trial before another court-martial, may by order under the hand of the president order the offender to be imprisoned for a period not exceeding twenty-one days.

(3) References in paragraphs (a) to (f) of subsection (1) to a court-martial shall include references to a court-martial held in pursuance of service law.

False
evidence.

61. (1) Any person subject to military law under this Ordinance who, having been lawfully sworn as a witness or as an interpreter in proceedings before a court-martial or before any board or person having power to administer oaths under service law, makes a statement material in those proceedings which he knows to be false or does not believe to be true shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

(2) A person shall not be liable to be convicted of an offence against this section solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Obstruction
of police
officer
arresting
officer or
soldier.

62. Any person subject to military law under this Ordinance who at any place in the Commonwealth prevents or obstructs—

(a) the execution by a police officer of a warrant for the arrest of a person subject to service law who has committed or is suspected of having committed an offence punishable on conviction by a civil court; or

(b) the arrest of a person subject to service law by a police officer acting in the exercise of his powers of arrest without warrant, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

MISCELLANEOUS OFFENCES

63. (1) Any person subject to military law under this Ordinance who without authority discloses, whether orally, in writing, by signal or by any other means whatsoever, any information which is or purports to be information useful to an enemy shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

Injurious disclosures.

(2) In this section the expression "information useful to an enemy" means information as to any matter such that information as to it would or might be directly or indirectly useful to an enemy, and in particular (but without prejudice to the generality of the foregoing provisions of this subsection) information as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say—

(a) the number, description, armament, equipment, disposition, movement or condition of any of Her Majesty's forces or of any forces co-operating therewith, or any of Her Majesty's ships or aircraft or of the ships or aircraft of any such co-operating force ; or

(b) any operations or projected operations of any of such forces, ships or aircraft as aforesaid ; or

(c) any code, cipher, call sign, password or countersign ; or

(d) any measures for the defence or fortification of any place on behalf of Her Majesty ; or

(e) the number, description or location of any prisoners of war ; or

(f) munitions of war.

64. Any person who, when before a recruiting officer for the purpose of being attested in pursuance of Part IV, has knowingly made a false answer to any question contained in the attestation paper and put to him by or by the direction of the recruiting officer shall if he has since become and remains subject to military law under this Ordinance be liable, on conviction by court-martial, to imprisonment for a term not exceeding three months or to any less punishment provided by this Ordinance.

Making of false statements on enlistment.

65. Any person subject to military law under this Ordinance who—

(a) makes, signs or makes an entry in any service report, return, pay list or certificate or other service document, being a document or entry which is to his knowledge false in a material particular ; or

(b) alters any service report, return, pay list or certificate or other service document, or alters any entry in such a document, so that the document or entry is to his knowledge false in a material particular, or suppresses, defaces or makes away with any such document or entry which it is his duty to preserve or produce ; or

(c) with intent to defraud, fails to make an entry in any such document ; or

(d) aids, abets, commands, counsels, procures or connives at the commission by another person subject to service law of an offence against this

Making of false documents.

section or the corresponding section of the appropriate service law, as the case may be (whether or not he knows the nature of the document in relation to which that offence will be committed),

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

Scandalous
conduct of
officer.

66. Every officer subject to military law under this Ordinance who behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall, on conviction by court-martial, be cashiered.

Ill-treat-
ment of
officers or
soldiers of
inferior
rank.

67. If—

(a) any officer subject to military law under this Ordinance strikes or otherwise ill-treats any officer subject to service law of inferior rank or less seniority or any soldier subject to service law ; or

(b) any warrant officer or non-commissioned officer subject to military law under this Ordinance strikes or otherwise ill-treats any person subject to service law, being a warrant officer or non-commissioned officer of inferior rank or less seniority or a soldier,

he shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

Disgraceful
conduct.

68. Any person subject to military law under this Ordinance who is guilty of disgraceful conduct of a cruel, indecent or unnatural kind shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

False
accusation.

69. Any person subject to military law under this Ordinance who—

(a) makes an accusation against any officer or soldier subject to service law, which he knows to be false or does not believe to be true ; or

(b) in making a complaint where he thinks himself wronged, makes a statement affecting the character of an officer or soldier subject to service law, which he knows to be false or does not believe to be true, or wilfully suppresses any material facts,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

Attempts to
commit
military
offences.

70. Any person subject to military law under this Ordinance who attempts to commit an offence against any of the foregoing provisions of this Part shall, on conviction by court-martial, be liable to the like punishment as for that offence :

Provided that if the offence is one punishable by death he shall not be liable to any greater punishment than imprisonment.

Conduct to
prejudice
of military
discipline.

71. Any person subject to military law under this Ordinance who is guilty of any conduct or neglect to the prejudice of good order and military discipline shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Ordinance.

CIVIL OFFENCES

Civil
offences.

72. (1) Any person subject to military law under this Ordinance who commits a civil offence, whether in Nigeria or elsewhere, shall be guilty of an offence against this section.

(2) In this Ordinance the expression "civil offence" means any act or omission punishable by any law enacted by the Legislature of the Federation or having effect as if it were so enacted or which, if committed in the Federal territory of Lagos, would be punishable by any such law; and in this Ordinance the expression "the corresponding civil offence" means the civil offence the commission of which constitutes the offence against this section.

(3) A person convicted by court-martial of an offence against this section shall—

(a) if the corresponding civil offence is treason or murder, be liable to suffer death; and

(b) in any other case, be liable to suffer any punishment or punishments which a civil court could award for the corresponding civil offence, if committed in the Federal territory of Lagos, being a punishment or punishments provided by this Ordinance, or such punishment, less than the maximum punishment, which a civil court could so award, as is so provided:

Provided that where a civil court could not so award imprisonment, a person so convicted shall be liable to suffer such punishment, less than cashiering in the case of an officer, or discharge with ignominy in the case of a soldier, as is so provided.

(4) A person shall not be charged with an offence against this section committed in Nigeria if the corresponding civil offence is treason, murder, manslaughter, treason-felony or rape.

(5) Where the corresponding civil offence is murder or manslaughter, an offence against this section shall be deemed, for the purposes of subsection (4), to have been committed at the place of the commission of the act or occurrence of the neglect which caused the death, irrespective of the place of the death.

PUNISHMENTS

73. (1) The punishments which may be awarded to an officer by sentence of a court-martial under this Ordinance are, subject to the limitations hereinafter provided on the powers of certain courts-martial, those set out in the following scale; and in relation to an officer references in this Ordinance to punishments provided by this Ordinance are references to those punishments.

Punishment
of
officers.

(2) The said scale is—

(a) death;

(b) imprisonment;

(c) cashiering;

(d) dismissal from Her Majesty's service;

(e) a fine of a sum not exceeding the equivalent of ninety days' pay;

(f) severe reprimand or reprimand;

(g) where the offence has occasioned any expense, loss or damage, stoppages.

(3) For the purposes of this Part a punishment specified in any paragraph of the said scale shall be treated as less than the punishments specified in the preceding paragraphs, and greater than those specified in the following paragraphs, of the scale.

(4) Save as expressly provided in this Ordinance, not more than one punishment shall be awarded by a court-martial for one offence.

(5) Stoppages may be awarded by a court-martial either in addition to or without any other punishment.

(6) A severe reprimand or reprimand may be awarded by a court-martial in addition to a fine.

(7) Where an officer is sentenced by a court-martial to imprisonment, he shall also be sentenced to be cashiered :

Provided that if the court-martial fails to sentence him to be cashiered, the sentence of imprisonment shall not be invalid but shall be deemed to include a sentence of cashiering.

Punishment
of
soldiers.

74. (1) The punishments which may be awarded to a soldier by sentence of a court-martial under this Ordinance are, subject to the limitations hereinafter provided on the powers of certain courts-martial, those set out in the following scale ; and in relation to a soldier references in this Ordinance to punishments provided by this Ordinance are references to those punishments.

(2) The said scale is—

- (a) death ;
- (b) imprisonment ;
- (c) discharge with ignominy from Her Majesty's service ;
- (d) in the case of a warrant officer, dismissal from Her Majesty's service ;
- (e) in the case of a warrant officer or non-commissioned officer, reduction to the ranks or any less reduction in rank ;
- (f) a fine of a sum not exceeding the equivalent of ninety days' pay ;
- (g) in the case of a warrant officer or non-commissioned officer, severe reprimand or reprimand ;
- (h) where the offence is desertion, forfeiture of service ;
- (i) where the offence has occasioned any expense, loss or damage, stoppages.

(3) For the purposes of this Part a punishment specified in any paragraph of the said scale shall be treated as less than the punishments specified in the preceding paragraphs, and greater than those specified in the following paragraphs, of the scale.

(4) Save as expressly provided in this Ordinance, not more than one punishment shall be awarded by a court-martial for one offence.

(5) A soldier sentenced by a court-martial to imprisonment may in addition thereto be sentenced to be discharged with ignominy from Her Majesty's service.

(6) Where a warrant officer or non-commissioned officer is sentenced by a court-martial to imprisonment, he shall also be sentenced to be reduced to the ranks :

Provided that if the court-martial fails to sentence him to be so reduced, the sentence shall not be invalid but shall be deemed to include a sentence of reduction to the ranks.

(7) In the case of a warrant officer or non-commissioned officer, a severe reprimand or reprimand may be awarded by a court-martial in addition to a fine.

(8) Stoppages may be awarded by a court-martial either in addition to or without any other punishment.

75. (1) In relation to an offence committed by a soldier on active service, the scale set out in subsection (2) of section 74 shall have effect as if after paragraph (d) thereof there were inserted the following paragraph—

Field
punishment.

“(dd) field punishment for a period not exceeding ninety days;” and subsection (6) of section 74 shall apply to field punishment as it applies to imprisonment.

(2) Field punishment shall consist of such duties or drills, in addition to those which the offender might be required to perform if he were not undergoing punishment, and such loss of privileges, as may be provided by or under rules made under this Part, and may include confinement in such place and manner as may be so provided and such personal restraint as may be necessary to prevent the escape of the offender and as may be so provided.

ARREST

76. (1) Any person subject to military law under this Ordinance found committing an offence against any provision of this Ordinance, or alleged to have committed or reasonably suspected of having committed any such offence, may be arrested in accordance with the following provisions of this section.

Power to
arrest
offenders.

(2) An officer may be arrested by an officer subject to service law of superior rank, or, if engaged in a quarrel or disorder, by such an officer of any rank.

(3) A soldier may be arrested by any officer, warrant officer or non-commissioned officer subject to service law:

Provided that a person shall not be arrested by virtue of this subsection except by a person of superior rank.

(4) A provost officer, or any officer, warrant officer, non-commissioned officer or rating subject to service law lawfully exercising authority under a provost officer or on his behalf, may arrest any officer or soldier:

Provided that an officer shall not be arrested by virtue of this subsection except on the order of another officer.

(5) The power of arrest given to any person by this section may be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.

77. (1) The allegations against any person subject to military law under this Ordinance who is under arrest shall be duly investigated without unnecessary delay, and as soon as may be either proceedings shall be taken for punishing his offence or he shall be released from arrest.

Provisions
for avoiding
delay after
arrest.

(2) Wherever any person subject to military law under this Ordinance, having been taken into military custody, remains under arrest for a longer period than eight days without a court-martial for his trial being assembled, a special report on the necessity for further delay shall be made by his commanding officer to the prescribed authority in the prescribed manner and a similar report shall be made to the like authority and in the like manner every eight days until a court-martial is assembled or the offence is dealt with summarily or he is released from arrest:

Provided that in the case of a person on active service compliance with this subsection shall be excused in so far as it is not reasonably practicable having regard to the exigencies of military operations.

(3) For the purposes of subsection (1) of section 56 the question whether there has been unnecessary delay in the taking of any steps for the investigations against a person under arrest shall be determined without regard to the provisions of subsection (2) of this section.

INVESTIGATION OF AND SUMMARY DEALING WITH CHARGES

Investigation of charges by commanding officer.

78. Before an allegation against a person subject to military law under this Ordinance (hereinafter referred to as "the accused") that he has committed an offence against any provision of this Part is further proceeded with, the allegation shall be reported, in the form of a charge, to the accused's commanding officer and the commanding officer shall investigate the charge in the prescribed manner.

Charges to be dealt with summarily or by court-martial.

79. (1) After investigation, a charge against an officer below the rank of lieutenant-colonel or against a warrant officer may, if an authority has power under the provisions of this Part to deal with it summarily, be so dealt with by that authority (in this Ordinance referred to as "the appropriate superior authority") in accordance with those provisions.

(2) After investigation, a charge against a non-commissioned officer or soldier may be dealt with summarily by his commanding officer, subject to and in accordance with the following provisions of this Part.

(3) Any charge not dealt with summarily as aforesaid shall after investigation be remanded for trial by court-martial.

(4) Notwithstanding anything in the foregoing provisions of this section, where the commanding officer has investigated a charge against an officer or warrant officer he may dismiss the charge if he is of opinion that it ought not to be further proceeded with.

(5) References in this Ordinance to dealing summarily with a charge are references to the taking by the appropriate superior authority or the commanding officer of the accused, as the case may require, of the following action, that is to say, determining whether the accused is guilty, dismissing the charge or recording a finding of guilty accordingly, and awarding punishment.

Further proceedings on charges against non-commissioned officers and soldiers.

80. (1) The following provisions of this section shall have effect where the commanding officer has investigated a charge against a non-commissioned officer or soldier.

(2) If the charge is one which can be dealt with summarily but the commanding officer is of opinion that it should not be so dealt with, he shall take the prescribed steps with a view to the charge being tried by court-martial.

(3) Otherwise the commanding officer shall proceed to deal with the charge summarily; and if he records a finding of guilty he may award one or more of the following punishments, that is to say—

(a) if the accused is a non-commissioned officer—

(i) reduction to the ranks or any less reduction in rank;

(ii) a fine of a sum not exceeding the equivalent of twenty-eight days' pay;

(iii) severe reprimand or reprimand;

- (iv) admonition ;
- (v) where the offence has occasioned any expense, loss or damage, stoppages ;
- (b) if the accused is a soldier other than a non-commissioned officer or a boy—
 - (i) imprisonment for a period not exceeding twenty-eight days or, if the accused is on active service, field punishment for a period not exceeding twenty-eight days ;
 - (ii) dismissal from Her Majesty's service ;
 - (iii) a fine of a sum not exceeding the equivalent of twenty-eight days' pay ;
 - (iv) confinement to barracks for a period beginning with the day of the sentence and not exceeding twenty-eight days ;
 - (v) extra guards or piquets not exceeding seven in number ;
 - (vi) admonition ;
 - (vii) where the offence has occasioned any expense, loss or damage, stoppages ;
- (c) if the accused is a boy—
 - (i) dismissal from Her Majesty's service ;
 - (ii) a fine of a sum not exceeding the equivalent of twenty-eight days' pay ;
 - (iii) confinement to barracks for a period beginning with the day of the sentence and not exceeding seven days ;
 - (iv) extra guards or piquets not exceeding seven in number ;
 - (v) admonition ;
 - (vi) when the offence has occasioned any expense, loss or damage, stoppages.

(4) Where the commanding officer has taken steps with a view to a charge being tried by court-martial, any higher authority to whom the charge is referred may refer the charge back to the commanding officer to be dealt with summarily ; and on any such reference subsection (3) shall apply as if the commanding officer had originally been of opinion that the charge should be dealt with summarily.

81. (1) After investigating a charge against an officer or warrant officer the commanding officer shall, unless he has dismissed the charge, submit it in the prescribed manner to a higher authority ; and thereupon it shall be determined by such authority how the charge is to be proceeded with in accordance with subsections (2) and (3).

Further proceedings or charges against officers and warrant officers.

(2) The charge may be referred to the appropriate superior authority.

(3) If the charge is not so referred, the prescribed steps shall be taken with a view to its being tried by court-martial.

(4) Where the charge is referred to the appropriate superior authority, that authority shall investigate the charge in the prescribed manner and determine whether the accused is guilty of the charge and accordingly dismiss the charge or record a finding of guilty :

Provided that if in the course of investigating the charge the authority determines that it is desirable that the charge should be tried by court-martial, the prescribed steps shall be taken with a view to its being so tried.

(5) If the appropriate superior authority records a finding of guilty, the authority may award one or more of the following punishments, that is to say—

(a) a fine of a sum not exceeding the equivalent of twenty-eight days pay ;

(b) severe reprimand or reprimand ;

(c) where the offence has occasioned any expense, loss or damage, stoppages.

(6) Notwithstanding anything in subsection (4), where the appropriate superior authority has determined that the accused is guilty and if the charge is dealt with summarily will award a fine or stoppages, the authority shall not record a finding until after affording the accused an opportunity of electing to be tried by court-martial ; and if the accused so elects, the authority shall not record a finding but shall take the prescribed steps with a view to the charge being tried by court-martial.

Dismissal
of charges
referred to
higher
authority.

82. (1) Notwithstanding anything in sections 80 and 81 where a charge—
(a) has been referred to higher authority with a view to its being tried by court-martial ; or

(b) has been submitted to higher authority for determination how it is to be proceeded with,

that authority may, subject to the provisions of this section, refer the charge back to the commanding officer of the accused with a direction that it shall be dismissed, and in any such case the commanding officer shall dismiss the charge.

(2) The reference back of a charge in pursuance of this section shall be without prejudice to the preferring of another charge if the higher authority has so directed or the commanding officer thinks fit.

Officers who
are to act as
appropriate
superior
authorities
and to whom
commanding
officers
may
delegate
powers.

83. (1) The following persons may act as appropriate superior authority in relation to a person charged with an offence, that is to say, the Commander and any officer of the rank of brigadier or above or officer of corresponding rank under whose command the person is for the time being.

(2) Rules made by the Governor-General for the purpose of this section may confer on commanding officers power to delegate their functions, in such cases and to such extent as may be specified in the rules, to officers of a class so specified.

COURTS-MARTIAL—GENERAL PROVISIONS¹

Powers of
courts-
martial.

84. (1) A court-martial shall subject to the provisions of this section have the power to try any person subject to military law under this Ordinance for any offence which, under this Ordinance, is triable by court-martial and to award for any such offence any punishment authorized by this Ordinance for that offence.

(2) A court-martial for the trial of an officer or a warrant officer shall consist of at least five officers.

(3) A court-martial consisting of less than five officers shall not award any punishment higher in the scale of punishment than imprisonment for two years.

(4) A court-martial shall not unless it consists of at least five officers try any offence for which the maximum or only punishment is death.

85. A court-martial may be convened by the Commander or by any general officer, brigadier or colonel or officer of corresponding rank commanding a body of troops or any officer for the time being acting in place of the Commander or such general officer, brigadier or colonel or officer of corresponding rank.

Officers having power to convene courts-martial.

86. (1) Subject to the provisions of section 84, a court-martial shall consist of the president and not less than two other officers.

Constitution of courts-martial.

(2) An officer shall not be appointed to be a member of a court-martial unless he is subject to service law and has been an officer in any of Her Majesty's forces for a period of not less than two years or for periods amounting in the aggregate to not less than two years.

(3) The president of a court-martial shall be appointed by order of the convening officer and shall not be under the rank of major or corresponding rank unless in the opinion of the convening officer a major or officer of corresponding rank having suitable qualifications is not, with due regard to the public service, available; and in any event the president of a court-martial shall not be under the rank of captain or corresponding rank.

(4) The members of a court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

87. (1) The officer who convenes a court-martial shall not be a member of that court-martial:

Supplementary provisions as to constitution of courts-martial.

Provided that if it is not practicable in the opinion of the convening officer to appoint another officer as president, he may himself be president of the court-martial.

(2) An officer who, at any time between the date on which the accused was charged with the offence and the date of the trial, has been the commanding officer of the accused, and any other officer who has investigated the charge against the accused, or who under service law has held, or has acted as one of the persons holding, an inquiry into matters relating to the subject matter of the charge against the accused, shall not sit as a member of a court-martial or act as judge advocate at such a court-martial.

(3) When the officer convening a court-martial appoints a captain or officer of corresponding rank to be president, being of opinion that a major or officer of corresponding rank having suitable qualifications is not with due regard to the public service available, the order convening the court-martial shall contain a statement of such opinion, and that statement shall be conclusive.

88. (1) Subject to the provisions of this section, a court-martial shall sit at such place as may be specified in the order convening the court; and the convening officer may convene it to sit at a place outside the limits of his command.

Place for sitting of courts-martial and adjournment to other places.

(2) A court-martial sitting at any place shall, if the convening officer directs it to sit at some other place, and may without any such direction if it appears to the court requisite in the interests of justice to sit at some other place, adjourn for the purpose of sitting at that other place.

COURTS-MARTIAL—PROVISIONS RELATING TO TRIAL

Challenges
by
accused.

89. (1) An accused about to be tried by a court-martial shall be entitled to object, on any reasonable grounds, to any member of the court, whether appointed originally or in lieu of another officer.

(2) For the purpose of enabling the accused to avail himself of the right conferred by subsection (1) the names of the members of the court shall be read over in the presence of the accused before they are sworn, and he shall be asked whether he objects to any of those officers.

(3) Every objection made by an accused to any officer shall be considered by the other officers appointed members of the court.

(4) If objection is made to the president and not less than one-third of the other members of the court allow it, the court shall adjourn and the convening officer shall appoint another president.

(5) If objection is made to a member of the court other than the president and not less than one-half of the members entitled to vote allow it, the member objected to shall retire and the vacancy may, and if otherwise the number of members would be reduced below the legal minimum shall, be filled in the prescribed manner by another officer.

Administra-
tion of oaths.

90. (1) An oath shall be administered to every member of a court-martial and to any person in attendance on a court-martial as judge advocate, officer under instruction, shorthand writer or interpreter.

(2) Every witness before a court-martial shall be examined on oath :

Provided that where any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given upon oath, if in the opinion of the court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth, so however that, where the evidence is given on behalf of the prosecution, the accused shall not be liable to be convicted upon such evidence alone unless it is corroborated by some other material evidence in support thereof implicating the accused.

(3) An oath required to be administered under this section shall be in the prescribed form and shall be administered at the prescribed time by the prescribed person and in the prescribed manner.

Courts-
martial to
sit in open
court.

91. (1) Subject to the provisions of this section, a court-martial shall sit in open court and in the presence of the accused.

(2) Nothing in subsection (1) shall affect the power of a court-martial to sit in camera on the ground that it is necessary or expedient in the interests of the administration of justice to do so ; and without prejudice to that power a court-martial may order that, subject to any exceptions the court may specify, the public shall be excluded from all or any part of the proceedings of the court if it appears to the court that any evidence to be given or statement to be made in the course of the proceedings or that part, as the case may be, might otherwise lead to the disclosure of any information which would or might be directly or indirectly useful to an enemy.

(3) A court-martial shall sit in closed court while deliberating on their finding or sentence on any charge.

(4) A court-martial may sit in closed court on any other deliberation amongst the members.

(5) Where a court-martial sits in closed court no person shall be present except the members of the court and such other persons as may be prescribed.

92. (1) Where, whether before or after the commencement of the trial, it appears to the convening officer necessary or expedient in the interests of the administration of justice that a court-martial should be dissolved, the convening officer may by order dissolve the court-martial.

Dissolution
of courts-
martial

(2) Without prejudice to the generality of subsection (1), if after the commencement of the trial a court-martial is, by reason of the death of one of the members or for any other reason, reduced below the legal minimum, it shall be dissolved.

(3) If after the commencement of the trial the president dies or is otherwise unable to attend and the court is not reduced below the legal minimum, then—

(a) if the senior member of the court is of the rank of captain or corresponding rank or is of higher rank, the convening officer may appoint him president and the trial shall proceed accordingly; but

(b) if he is not, the court shall be dissolved.

(4) Without prejudice to the generality of subsection (1), if after the commencement of the trial it is represented to the convening officer that owing to the sickness or other incapacity of the accused it is impracticable having regard to all the circumstances to continue the trial within a reasonable time, the convening officer may dissolve the court.

(5) Where a court-martial is dissolved under the foregoing provisions of this section the accused may be tried by another court-martial.

93. (1) Subject to the provisions of this section, every question to be determined on a trial by court-martial shall be determined by a majority of the votes of the members of the court.

Decisions
of courts-
martial.

(2) In the case of an equality of votes on the finding, the court shall acquit the accused.

(3) A finding of guilty where the only punishment which the court can award is death shall not have effect unless it is reached with the concurrence of all members of the court; and where on such a finding being come to by a majority of the members there is no such concurrence, the court shall be dissolved and the accused may be tried by another court.

(4) Where the accused is found guilty and the court has power to sentence him either to death or to some less punishment, sentence of death shall not be passed without the concurrence of all the members of the court.

(5) In the case of an equality of votes on the sentence or on any question arising after the commencement of a trial, except the finding, the president shall have a second or casting vote.

94. (1) Without prejudice to the provisions of section 91, the finding of a court-martial on each charge shall be announced in open court.

Finding
and
sentence.

(2) Any finding of guilty shall be, and be announced as being, subject to confirmation.

(3) Any sentence of a court-martial, together with any recommendation to mercy, shall be announced in open court, and a sentence of a court-martial shall be, and be announced as being, subject to confirmation.

Power to
convict of
offence
other than
that
charged.

95. (1) An accused charged before a court-martial with an offence under this Ordinance may, on failure of proof of the offence having been committed under circumstances involving a higher degree of punishment, be found guilty of the offence as having been committed under circumstances involving a less degree of punishment.

(2) An accused charged before a court-martial with any offence may be found guilty of attempting to commit that offence.

(3) An accused charged before a court-martial with attempting to commit an offence may be convicted on that charge notwithstanding that it is proved that he actually committed the offence.

(4) Where an accused is charged before a court-martial under section 72 in respect of attempting to commit a civil offence, he may be convicted on that charge notwithstanding that it is proved that he actually committed the civil offence.

(5) Where an accused is charged before a court-martial with an offence against section 72, and the corresponding civil offence is one in proceedings for which, if he had been tried by a civil court for committing the offence in the Federal territory of Lagos, he might have been found guilty of another civil offence, then if the court finds that he has committed that other civil offence he may be convicted of an offence against section 72 in respect of the commission of that other civil offence.

(6) An accused charged before a court-martial with an offence specified in the first column of the First Schedule may be found guilty of an offence specified in relation thereto in the second column of that Schedule.

First
Schedule.

Rules of
evidence.

96. (1) Save as otherwise provided in this Ordinance, the rules as to evidence to be observed in proceedings before courts-martial shall be the same as those observed in civil courts in the Federal territory of Lagos, and no person shall be required in proceedings before a court-martial to answer any question or to produce any document which he could not be required to answer or produce in similar proceedings before a civil court in the Federal territory of Lagos.

(2) Notwithstanding anything in subsection (1), a statutory declaration shall, in a trial by court-martial, be admissible as evidence of the facts stated in the declaration in a case where, and to the extent which, oral evidence to the like effect would be admissible in that trial:

Provided that a statutory declaration shall not be admitted in evidence in any such trial on behalf either of the prosecution or of the defence—

(a) where the declaration is put forward on behalf of the prosecution, unless a copy of the declaration has, not less than seven days before the commencement of the trial, been served on the accused; or

(b) where the declaration is put forward on behalf of the defence, unless a copy of the declaration has, not less than seven days, or such less period as the commanding officer may allow, before the commencement of the trial, been served on the commanding officer of the accused; or

(c) in any case, if, not later than three days before the commencement of the trial or within such further time as the court-martial may in special circumstances allow, the accused or, as the case may be, the commanding officer of the accused serves a notice in the prescribed form on the commanding officer or accused requiring that oral evidence shall be given in lieu of the declaration; or

(d) in any case, if the court-martial is of opinion that it is desirable in the interests of justice that oral evidence should be given in lieu of the declaration and declares that it is of that opinion.

(3) A court-martial shall take judicial notice of all matters of notoriety, including all matters within the general service knowledge of the court, and of all other matters of which judicial notice would be taken in a civil court in the Federal territory of Lagos.

97. A witness before a court-martial or any other person whose duty it is to attend on or before the court shall be entitled to the same immunities and privileges as a witness before the Federal Supreme Court.

Privilege of witnesses and others at courts-martial.

98. (1) Where in Nigeria any person other than a person subject to military law under this Ordinance—

Offences by civilians in relation to courts-martial.

(a) having been duly summoned to attend as a witness before a court-martial, fails to comply with the summons ; or

(b) refuses to swear an oath when duly required by a court-martial to do so ; or

(c) refuses to produce any document in his custody or under his control which a court-martial has lawfully required him to produce ; or

(d) when a witness, refuses to answer any question which a court-martial has lawfully required him to answer ; or

(e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of the court ; or

(f) wilfully interrupts the proceedings of a court-martial or otherwise misbehaves before the court ; or

(g) does any other thing which would, if the court-martial had been a court of law having power to commit for contempt, have been contempt of that court,

the president of the court-martial may certify the offence of that person under his hand to any court of law in the part of Nigeria where the offence is alleged to have been committed, being a court having power to commit for contempt, and that court of law may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court to which the offence is certified.

(2) In this section "court-martial" means a court-martial held under service law.

99. If—

Affirmations.

(a) a person required by virtue of this Ordinance to take an oath for the purposes of proceedings before a court-martial objects to being sworn, and states as the ground of his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief ; or

(b) it is not reasonably practicable to administer an oath to such a person as aforesaid in the manner appropriate to his religious belief, he shall be required to make a solemn affirmation in the prescribed form instead of taking an oath.

CONFIRMATION, REVISION AND REVIEW OF PROCEEDINGS OF COURTS-MARTIAL

Confirmation of proceedings of courts-martial.

100. (1) Where a court-martial finds the accused guilty of any charge, the record of the proceedings of the court-martial shall be transmitted to a confirming authority for confirmation of the finding and sentence of the court on that charge.

(2) A finding of guilty or sentence of a court-martial shall not be treated as a finding or sentence of the court until confirmed :

Provided that this subsection shall not affect the keeping of the accused in custody pending confirmation, or the operation of sections 101 and 102, or the provisions of this Ordinance as to confirmation or approval.

Petitions against finding or sentence.

101. At any time after a court-martial has sentenced the accused, but not later than the prescribed time after confirmation is completed, the accused may in the prescribed manner present a petition against finding or sentence or both.

Revision of findings of courts-martial.

102. (1) A confirming authority may direct that a court-martial shall revise any finding of guilty come to by the court in any case where it appears to him—

(a) that the finding was against the weight of evidence ; or

(b) that some question of law determined at the trial and relevant to the finding was wrongly determined.

(2) Any such direction shall be accompanied by the necessary directions for the reassembly of the court, and shall contain a statement of the reasons for the direction.

(3) On any revision of a finding the court shall reconsider the finding, and (unless the court adheres thereto) may substitute therefor either a finding of not guilty or any other finding to which the court could originally have come at the trial in lieu of the finding under revision.

(4) On any such revision the court shall not have power to receive further evidence.

(5) Where on any such revision the court either adheres to the original finding or substitutes therefor a finding of guilty of another offence, or of the same offence in different circumstances, the court may substitute a different sentence for the original sentence :

Provided that the court shall not have power to substitute a sentence of a punishment greater than the punishment or the greatest of the punishments awarded by the original sentence, or to substitute a sentence which in the opinion of the court is more severe than the original sentence.

(6) The confirming authority shall not have power to direct the revision of any substituted finding come to by the court on a previous direction of a confirming authority, or the revision of the original finding if adhered to by the court on such a previous direction ; but save as aforesaid this Ordinance shall apply to the proceedings of the court on any such revision as it applies to their deliberation on the original finding or sentence, and any substituted finding or sentence shall be treated for all purposes as an original finding or sentence of the court :

Provided that the decision of the court on the revision shall not be required to be announced in open court.

103. (1) Subject to the provisions of section 102 and to the following provisions of this section, a confirming authority shall deal with the finding or sentence of a court-martial either by withholding confirmation, if of opinion that the finding of the court is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any grounds, there was a miscarriage of justice, or by confirming the finding or sentence or referring the finding or sentence, or both, for confirmation to a higher confirming authority.

Powers of
confirming
authority.

(2) In lieu of withholding confirmation of the finding of a court-martial, a confirming authority may, if—

(a) some other finding of guilty could have been validly made by the court-martial on the charge before it; and

(b) he is of opinion that the court-martial must have been satisfied of the facts necessary to justify that other finding,

substitute that other finding, and if he does so he shall consider in what manner, if at all, the powers conferred by subsection (4) should be exercised.

(3) Where it appears to a confirming authority that a sentence of a court-martial is invalid, he may in lieu of withholding confirmation of the sentence substitute therefor a sentence of any punishment or punishments which could have been awarded by the court, not being greater than the punishment or the greatest of the punishments awarded by the court, and not in his opinion more severe than that punishment or those punishments.

(4) In confirming the sentence of a court-martial, a confirming authority may—

(a) remit in whole or in part any punishment awarded by the court; or

(b) commute any such punishment for one or more punishment or punishments provided by this Ordinance, being less than the punishment commuted.

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

(6) The confirmation of a finding or sentence shall not be deemed to be completed until the finding or sentence has been promulgated; and in the event of any such substitution, remission or commutation as aforesaid the finding or sentence shall be promulgated as it has effect after the substitution, remission or commutation.

(7) Where the confirming authority determines to withhold confirmation, the determination shall be promulgated and shall have effect as from the promulgation thereof.

104. (1) Subject to the provisions of this section, the following shall have power to confirm the finding and sentence of any court-martial, that is to say—

Confirming
authorities.

(a) the officer who convened the court-martial or any officer superior in command to that officer; or

(b) the successor of any such officer or superior officer, or any person for the time being exercising the functions of any such officer or superior officer ; or

(c) failing such officer as aforesaid any officer appointed by the Forces Council to act as confirming authority whether for the particular case or for a specified number of cases.

(2) The following shall not have power to confirm the finding or sentence of a court-martial, that is to say—

(a) any officer who was a member of the court-martial ; or

(b) any person who, as commanding officer of the accused, investigated the allegations against him or who is for the time being the commanding officer of the accused ; or

(c) any person who, as appropriate superior authority, investigated the allegations against the accused.

Sentence of death must be approved by Governor-General.

105. A sentence of death passed by a court-martial shall not be carried into effect unless approved by the Governor-General.

Review of findings and sentences of courts-martial.

106. (1) A finding or sentence which has been confirmed may at any time be reviewed by a reviewing authority, and if after confirmation of a finding or sentence a petition is duly presented under section 101 against the finding or sentence then, subject to the provisions of this section, the finding or sentence shall be so reviewed as soon as may be after the presentation of the petition and after consideration of the matters alleged therein.

(2) The reviewing authorities for the purposes of this Ordinance are—

(a) the Forces Council, or (so far as the delegation extends), any officer to whom the powers of the Forces Council as reviewing authority, or any of those powers, may be delegated ; or

(b) any officer superior in command to the confirming authority.

(3) If an appeal or application for leave to appeal is lodged with the Registrar of the Federal Supreme Court under the provisions of Part VI, so much of subsection (1) as requires the review of a finding or sentence against which a petition has been presented shall thereupon cease to apply to the finding to which the appeal or application for leave to appeal relates and the sentence passed in consequence of that finding.

(4) On a review under this section the reviewing authority may—

(a) in so far as the review is of a finding, quash the finding and, if the sentence relates only to the finding quashed, the sentence ; or

(b) in so far as the review is of a sentence, quash the sentence ; or

(c) in any case, exercise the like powers of substituting findings, substituting valid for invalid sentences and remitting or commuting punishment as are conferred on a confirming authority by subsections (2) to (4) inclusive of section 103,

and any substituted finding or sentence, or sentence having effect after the remission or commutation of punishment, shall be treated for all purposes as a sentence of the court duly confirmed.

(5) Where a reviewing authority exercises any of the powers conferred by subsection (4), the determination of the authority shall be promulgated and shall have effect as from the promulgation thereof.

107. (1) Sentences of imprisonment passed by courts-martial may be reconsidered by the Commander or by such officers (not below the rank of colonel or corresponding rank) as may be from time to time appointed by the Governor-General; and if on any such reconsideration it appears that the conduct of the offender since his conviction has been such as to justify remission of the sentence, whether in part or in whole, it may be remitted accordingly.

Reconsideration of sentences of imprisonment.

(2) The power to reconsider a sentence may be exercised at any time after confirmation, and where, after review, a sentence remains effective it shall be reconsidered at intervals of six months:

Provided that delay in complying with this section shall not invalidate the sentence.

REVIEW OF SUMMARY FINDINGS AND AWARDS

108. (1) Where a charge has been dealt with summarily, otherwise than by the dismissal thereof, the authority hereinafter mentioned may at any time review the finding or award.

Review of summary findings and awards.

(2) The said authority is—

(a) the Forces Council; or

(b) any officer superior in command to the officer who dealt summarily with the charge.

(3) Where on a review under this section it appears to the said authority expedient so to do by reason of any mistake of law in the proceedings on the summary dealing with the charge or of anything occurring in those proceedings which in the opinion of the authority involved substantial injustice to the accused, the authority may quash the finding; and if the finding is quashed the authority shall also quash the award.

(4) Where on a review under this section it appears to the said authority that a punishment awarded was invalid, or too severe, or (where the award included two or more punishments) that those punishments or some of them could not validly have been awarded in combination or are, taken together, too severe, the authority may vary the award by substituting such punishment or punishments as the authority may think proper, being a punishment or punishments which could have been included in the original award and not being in the opinion of the authority more severe than the punishment or punishments included in the original award.

FINDINGS OF INSANITY, ETC.

109. (1) Where, on the trial of a person by court-martial, it appears to the court that the accused is by reason of insanity unfit to stand his trial, the court shall so find; and if the finding is confirmed in accordance with the following provisions of this section the accused shall be kept in custody in such manner as may be provided by or under rules made under this Part until the directions of the Governor-General are known or until any earlier time at which the accused is fit to stand his trial.

Provisions where accused found insane.

(2) Where, on the trial of a person by court-martial, it appears to the court that the evidence is such as, apart from any question of insanity, to support a finding that the accused was guilty of any offence, but that at the time of the acts or omissions constituting that offence the accused was by reason of mental disease or natural mental infirmity not criminally responsible for the act or omission alleged as constituting the offence, the court shall find that the accused committed the act or omission but was insane at the said time, and thereupon the accused shall be kept in custody in such manner as may be provided by or under rules made under this Part until the directions of the Governor-General are known.

(3) In the case of any such finding as aforesaid the Governor-General may give orders for the safe custody of the accused during his pleasure in such place and in such manner as the Governor-General thinks fit.

(4) A finding under subsection (1) shall not have effect unless and until the finding has been confirmed by an authority who would have had power to confirm a finding of guilty come to by the court-martial in question and has been promulgated.

(5) Where the court or the confirming authority comes to or substitutes a finding under subsection (2) the confirming authority or, as the case may be, the reviewing authority shall not have power to substitute for that finding a finding of guilty; but save as aforesaid the provisions of this Ordinance as to revision, confirmation and review (and in particular the provisions of this Ordinance which confer power to substitute for any finding any other finding which could have been come to by the court-martial in question) apply in relation to such findings as are provided for by subsection 2) as those provisions apply in relation to findings of guilty.

(6) Save as otherwise provided in this Ordinance or unless the context otherwise requires, any references in this Ordinance to a conviction or a finding of guilty in respect of any offence includes a reference to a finding under subsection (2) in respect of the offence.

COMMENCEMENT, SUSPENSION AND DURATION OF SENTENCES

Commence-
ment of
sentences

110. Save as otherwise provided in this Ordinance, a sentence of imprisonment or field punishment shall begin to run from the beginning of the day on which sentence was originally pronounced by the court-martial trying the offender or, as the case may be, was originally awarded by his commanding officer.

Duration of
sentences
of imprison-
ment.

111. (1) Where any person serving a sentence of imprisonment becomes unlawfully at large during the currency of the sentence, then, in calculating the period for which he is liable to be imprisoned in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day on which he became at large and ending with the day on which, as a person having become unlawfully at large, he is taken into military, naval or air force custody or the custody of a civil authority or (not having been taken into such custody) returns to the place in which he was imprisoned before he became unlawfully at large :

Provided that if he satisfies such authority as may be specified in that behalf by or under Imprisonment Rules that during any time during the last-mentioned period he was—

(a) in the custody of a civil authority; or

(b) if and in so far as Imprisonment Rules so provide, in the custody of any military, naval or air force authority of any country or territory outside Nigeria as respects which arrangements have been made under section 113,

otherwise than on account of an offence committed by him while unlawfully at large, the last-mentioned time shall not be disregarded in calculating the period for which he is liable to be imprisoned or detained in pursuance of the military sentence.

(2) In subsection (1) the expression "civil authority" means a civil authority (whether of the Federation or of any country or territory outside Nigeria) authorized by law to detain persons, and includes a police officer.

(3) Without prejudice to subsection (1), where any person serving a sentence of imprisonment has in accordance with Imprisonment Rules been temporarily released on compassionate grounds, then, in calculating the period for which he is liable to be imprisoned in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day after that on which he is released and ending with the day on which he is required to return to custody.

(4) A person who for any period is released as mentioned in subsection (3) or who is otherwise allowed, in pursuance of Imprisonment Rules, out of military custody for any period or subject to any condition shall, on failure to return at the expiration of the period or to comply with the condition, be treated for the purposes of subsection (1) as being unlawfully at large.

(5) A person serving a sentence of imprisonment in civil custody who, after being temporarily released under civil law, is at large at any time during the period for which he is liable to be detained in civil custody in pursuance of his sentence shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made in pursuance of civil law.

(6) References in subsection (5) to release or recall under civil law are references to release or recall in pursuance of the law of the country or territory in which he is serving his sentence.

112. A person sentenced to death or imprisonment and committed or transferred to a civil prison in pursuance of rules made under this Part, or of Imprisonment Rules, shall while in that prison be confined and otherwise dealt with in the same manner as a person confined therein under a like sentence of a civil court.

Special provisions as to civil prisoners in Nigeria.

113. The Governor-General may from time to time make arrangements with the authorities of any country or territory outside Nigeria whereby sentences of death passed by courts-martial may in accordance with rules made under this Part be carried out in establishments under the control of those authorities and sentences of imprisonment may in accordance with Imprisonment Rules be served wholly or partly in such establishments.

Special provisions as to carrying out or serving of sentences outside Nigeria.

114. (1) A person who is serving a sentence of imprisonment in Nigeria may, as may be specified by or under Imprisonment Rules, be removed out of Nigeria to any place where the unit or any part thereof to which for the time being he belongs is serving or is under orders to serve, but not to any other place.

Country in which sentence of imprisonment to be served.

(2) Subject to the following provisions of this section, a person sentenced under this Ordinance, by a court-martial held out of Nigeria, to imprisonment for more than twelve months shall as soon as practicable after the confirmation of the sentence is completed be removed to Nigeria.

(3) Where a person has been sentenced under this Ordinance, by a court-martial held out of Nigeria, to imprisonment for more than twelve months, the confirming or reviewing authority may, notwithstanding anything in subsection (2), direct that he shall not be required to be removed to Nigeria until he has served such part of his sentence, not exceeding two years, as may be specified in the direction; and in determining whether or not to exercise the powers conferred by this subsection, a confirming or reviewing authority shall have regard to any recommendation in that behalf made by the court-martial.

(4) Any direction of a confirming authority under this section may at any time be revoked by the confirming authority or by a reviewing authority, or superseded by any direction of the confirming authority or a reviewing authority which the authority could have given under subsection (3); and any direction of a reviewing authority under this section may at any time be revoked by a reviewing authority or superseded as aforesaid.

(5) Any direction given under this section, and the revocation of any such direction, shall be promulgated.

(6) In ascertaining at any time for the purposes of this section the nature or length of a sentence regard shall be had to any commutation or remission of the sentence previously directed.

115. (1) It shall be the duty, in so far as rules made under this Part or Imprisonment Rules so provide, of the superintendent or other person in charge of a prison (not being a military prison) to receive any person duly sent to that prison in pursuance of such rules and to confine him until execution of the sentence is completed or the prisoner is discharged or delivered over in due course of law.

(2) Where a person is in military custody in pursuance of a sentence of imprisonment, then on receipt of a written order in that behalf purporting to be signed by that person's commanding officer it shall be the duty of any such superintendent or other person as aforesaid, or the police officer in charge of a police station or of any person in charge of any other place in which prisoners may be lawfully confined to keep that person in custody for a period not exceeding seven days unless the said person is earlier discharged or delivered over in due course of law.

TRIAL OF PERSONS CEASING TO BE SUBJECT TO MILITARY LAW UNDER THIS ORDINANCE AND TIME LIMITED FOR TRIALS

116. (1) Subject to the provisions of section 117 where an offence under this Ordinance triable by court-martial has been committed, or is reasonably suspected of having been committed, by any person while subject to military law under this Ordinance, then in relation to that offence he shall be treated, for the purposes of the provisions of this Ordinance relating to arrest, keeping in custody, investigation of charges, trial and punishment by court-martial (including confirmation, review and reconsideration) and execution of sentences as continuing subject to military law under this Ordinance notwithstanding his ceasing at any time to be subject thereto.

Duties of
persons in
charge of
prisons
and others
to receive
prisoners.

Trial and
punishment
of offences
under this
Ordinance
notwith-
standing
offender
ceasing to
be subject
thereto.

(2) Where, while a person is in custody by virtue of this section (whether before, during or after trial) he commits, or is reasonably suspected of having committed, an offence which if he were subject to military law under this Ordinance would be an offence under this Ordinance triable by court-martial, then in relation to that offence or suspected offence he shall be treated, for the purposes of the provisions of this Ordinance mentioned in subsection (1) and the provisions thereof as to the summary dealing with charges, as having been subject to military law under this Ordinance when the offence was committed or is suspected of having been committed and as continuing subject thereto thereafter.

(3) Where by virtue of either subsection (1) or subsection (2) a person is treated as being at any time subject to military law under this Ordinance for the purpose of any provision of this Ordinance, that provision shall apply to him—

(a) if he holds any military rank, as to a person having that rank;

(b) otherwise as to a person having rank which he had when last actually subject to military law under this Ordinance:

Provided that as respects any time after he has been sentenced for the offence in question and the sentence has been confirmed the said provision shall apply to him (in any case) as to a soldier.

(4) Where apart from this subsection any provision of this Ordinance would under subsection (3) apply to a person, in relation to different offences, as to a person having different ranks, it shall apply to him as to a person having the lower or lowest of those ranks.

117. (1) No person shall be tried by court-martial for any offence, other than one against section 37 or section 38 or desertion, unless the trial is begun within three years after the commission of the offence, there being disregarded any time during which he was a prisoner of war and any time during which he was illegally absent:

Limitation
of time for
trial of
offences
under this
Ordinance.

Provided that—

(a) in the case of an offence against section 72 where proceedings for the corresponding civil offences must, by virtue of any written law, be brought within a limited time, that limit of time shall apply to the trial of the offence under section 72 in substitution for the foregoing provisions of this subsection;

(b) subject to any such limit of time as is mentioned in paragraph (a) of this proviso, a person may be tried by court-martial for a civil offence committed outside Nigeria notwithstanding that it was committed more than three years before the beginning of the trial, if the Attorney-General of the Federation consents to the trial.

(2) Where a person who has committed an offence of desertion, other than desertion on active service, has since the offence served as a soldier continuously in an exemplary manner for not less than three years, he shall not be tried for that offence.

(3) A person shall not be triable by virtue of subsection (1) of section 116 unless his trial is begun within three months after he ceases to be subject to military law under this Ordinance or the trial is for a civil offence committed outside Nigeria and the Attorney-General of the Federation consents to the trial:

Provided that this subsection shall not apply to an offence against section 37 or section 38 or to desertion.

(4) A person shall not be arrested or kept in custody by virtue of subsection (1) of section 116 for an offence at any time after he has ceased to be triable for the offence.

RELATIONS BETWEEN MILITARY AND CIVIL COURTS AND FINALITY OF TRIALS

Powers of
civil courts.

118. (1) Subject to the provisions of section 139 nothing in this Ordinance shall restrict the offences for which persons may be tried by any civil court, or the jurisdiction of any civil court to try a person subject to military law under this Ordinance for any offence.

(2) Where a person is tried by a civil court for any offence, and he has, in pursuance of this Ordinance, been punished for any act or omission constituting (whether wholly or in part) that offence by his commanding officer or an appropriate superior authority, the civil court shall, in awarding punishment, have regard to his punishment in pursuance of this Ordinance.

Persons not
to be tried
under this
Ordinance
for offences
already
disposed of.

119. (1) Where a person subject to military law under this Ordinance—

(a) has been tried for an offence by a competent civil court or a court-martial under service law ; or

(b) has been charged with an offence under service law, and has had the charge dismissed, or has been found guilty on the charge, by his commanding officer or an appropriate superior authority ; or

(c) has had an offence condoned by his commanding officer,

he shall not be liable in respect of that offence to be tried by court-martial or to have the case dealt with summarily by his commanding officer or an appropriate superior authority.

(2) For the purposes of this section—

(a) a person shall not be deemed to have been tried by a court-martial if confirmation is withheld of a finding by the court-martial that he is guilty of the offence ;

(b) a case shall be deemed to have been dealt with summarily by a commanding officer or an appropriate superior authority notwithstanding that the finding of that officer or authority has been quashed, or the award of that officer or authority quashed or varied, on the review thereof ;

(c) an offence shall be deemed to have been condoned by the commanding officer of a person alleged to have committed the offence if, and only if, that officer or any officer authorized by him to act in relation to the alleged offence has with knowledge of all relevant circumstances informed him that he will not be charged therewith ;

(d) a person ordered under subsection (2) of section 60, or the corresponding provisions of any service law, to be imprisoned or to undergo detention for an offence against that section or provision shall be deemed to have been tried by court-martial for the offence.

(3) Where confirmation of a finding of guilty of an offence is withheld the accused shall not be tried again by court-martial for that offence unless the order convening the later court-martial is issued not later than twenty-eight days after the promulgation of the decision to withhold confirmation.

(4) Save as provided in the foregoing provisions of this section, proceedings for an offence against this Ordinance (whether before a commanding officer or an appropriate superior authority or before a court-martial) shall not be barred on the ground of condonation.

INQUIRIES

120. (1) Subject to and in accordance with the provisions of rules made under this Part (herein referred to as "Boards of Inquiry Rules"), the Forces Council or any military, naval or air force officer commanding a body of troops may convene a board of inquiry to investigate and report on the facts relating to any matter which may be referred to such board by the Forces Council or any such officer as aforesaid; and a board shall, if directed so to do, express their opinion on any question arising out of any matters referred to the board.

Boards of inquiry.

(2) A board of inquiry shall consist of such number of persons as may be provided for by the Boards of Inquiry Rules; who shall be persons subject to service law and the president of a board of inquiry shall be an officer not below the rank of lieutenant or corresponding rank.

(3) Evidence given before a board of inquiry shall not be admissible against any person in proceedings before a court-martial, commanding officer or appropriate superior authority other than proceedings for an offence against section 61 or for an offence against section 72 when the corresponding civil offence is perjury.

121. (1) Where a board of inquiry inquiring into the absence of an officer or soldier reports that he has been absent without leave or other sufficient cause for a period specified in the report, not being less than twenty-one clear days, a record of the report shall in accordance with Boards of Inquiry Rules be entered in the service books.

Inquiries into absence.

(2) A record entered in pursuance of subsection (1) shall, unless the absentee subsequently surrenders or is arrested, or the report of the board of inquiry is annulled by the Forces Council or a subsequent board of inquiry, have the like effect as a conviction by court-martial for desertion.

MISCELLANEOUS PROVISIONS

122. (1) The following provisions shall have effect where a person has been convicted by court-martial of unlawfully obtaining any property, whether by stealing it, receiving it or retaining it knowing or having reason to believe it to have been stolen, fraudulently misapplying it or otherwise.

Restitution or compensation for theft, etc.

(2) If any of the property unlawfully obtained has been found in the possession of the offender, it may be ordered to be delivered or paid to the person appearing to be the owner thereof.

(3) If there has been found in the possession of the offender any property (other than money) appearing to have been obtained by him by the conversion or exchange of any of the property unlawfully obtained, the property may be ordered to be delivered to the person appearing to be the owner of the property unlawfully obtained.

(4) Where money is found in the possession of the offender, then whether or not it appears to have been obtained as aforesaid an order may be made that there shall be paid out of that money to the person appearing to be the owner of the property unlawfully obtained such sum as may be specified in the order as or towards compensation for the loss caused to the said person by the offence, in so far as not otherwise made good under this Ordinance or by the recovery of the property unlawfully obtained.

(5) Where any of the property unlawfully obtained has been sold or given in pawn to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution

to the owner thereof of the property sold or given as aforesaid, there shall be paid to the said other person, out of any money found in the possession of the offender (whether or not the money appears to be proceeds of the sale or giving in pawn), such sum as may be specified in the order as or towards compensation for the loss caused to him in consequence of the sale or giving in pawn.

(6) Where any of the property unlawfully obtained has been given in exchange to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner thereof of the property given as aforesaid, there shall be restored to the said other person the property taken in exchange for the property unlawfully obtained.

(7) An order under this section may be made by the court-martial by whom the offender is convicted, by the confirming authority, or by any reviewing authority; and in this section the expression "appearing" means appearing to the court or authority making the order.

(8) An order under this section made by a court-martial shall not have effect until confirmed by the confirming authority and the provisions of this Part as to the confirmation and review of the proceedings of courts-martial shall apply to an order under this section as they apply to a sentence.

(9) The operation of any order under this section shall be suspended—

(a) in any case, until the expiration of the period prescribed under Part VI as the period within which an application for leave to appeal to the Federal Supreme Court against the conviction must be lodged; and

(b) if such an application is duly lodged, until either the application is finally refused or is withdrawn or the appeal is determined or abandoned; and where the operation of such an order as aforesaid is suspended under this section—

(i) it shall not take effect if the conviction is quashed on appeal;

(ii) the Federal Supreme Court may by order annul or vary the order although the conviction is not quashed;

(iii) such steps shall be taken for the safe custody, during the period during which the operation of the order is suspended, of the property ordered to be restored or handed over or the money to which the order relates as may be provided by rules of court made under Part VI.

(10) Notwithstanding anything in subsection (9), an order under this section shall not, so far as it relates to the delivery of property to the person appearing to be the owner thereof, be suspended if the court or authority making the order directs to the contrary in any case in which, in the opinion of the court or authority, the title to the property is not in dispute.

(11) An order under this section shall not bar the right of any person, other than the offender or a person claiming through him, to recover any property delivered or paid in pursuance of such an order from the person to whom it is delivered or paid.

123. The appointment of a judge advocate to act at any court-martial may be made by the convening officer.

124. Any finding, sentence, determination or other thing required by this Ordinance to be promulgated shall be promulgated either by being communicated to the accused or as the confirming or reviewing authority, as the case may be, may direct.

Promulgation.

125. (1) The record of the proceedings of a court-martial shall be kept in the custody of the Commander for not less than the prescribed period, being a period sufficient to ensure that the rights conferred by subsections (2) and (3) shall be capable of being exercised.

Custody of proceedings of courts-martial and right of accused to a copy thereof.

(2) Subject to the provisions of this section, any person tried by a court-martial shall be entitled to obtain from the Commander on demand at any time within the relevant period and on payment therefor at such rate as may be prescribed a copy of the record of the proceedings of the court.

(3) Where a person tried by court-martial dies within the relevant period, his personal representatives or any person who in the opinion of the Commander ought to be treated for the purposes of this subsection as his personal representative shall subject to the provisions of this section be entitled to obtain from the Commander on demand at any time within the period of twelve months from the death and on payment therefor at the prescribed rate a copy of the record of the proceedings of the court.

(4) If, on an application in pursuance of either subsection (2) or subsection (3) for a copy of the record of any proceedings, the Minister responsible for Defence certifies that it is requisite for reasons of security that the proceedings or any part thereof should not be disclosed, the applicant shall not be entitled to a copy of the proceedings or part to which the certificate relates.

(5) In this section the expression "the relevant period", in relation to any person tried by court-martial, means the period of five years beginning with the date of his acquittal or, where he was convicted, of the promulgation of the findings and sentence or, where a finding of guilty was not confirmed, of the promulgation of the withholding of confirmation:

Provided that where the proceedings relate to two or more charges and the person tried was acquitted on one or more of the charges and convicted on another or others, the relevant period shall be the period of five years beginning with the date of the promulgation of the findings of guilty and the sentence thereon or of the withholding of confirmation of that finding, or those findings.

(6) Any reference in this section to the record of the proceedings of a court-martial includes a reference to the record of the proceedings with respect to the confirmation or revision of the findings and sentence of the court-martial.

126. No action shall lie in respect of anything done by any person in pursuance of a sentence of imprisonment if the doing thereof would have been lawful but for a defect in any warrant or other instrument made for the purposes of that sentence.

Indemnity for prison officers, etc.

127. (1) In this Part—

"civil prison" means a prison in Nigeria in which a person sentenced by a civil court to imprisonment can for the time being be confined;

"convening officer", in relation to a court-martial, means the officer convening that court-martial and includes his successor or any person for the time being exercising his or his successor's functions;

Interpretation of Part V.

"military prison" means separate premises designated by the Commander for persons serving military sentences of imprisonment ;

"prescribed" means prescribed by Rules of Procedure ;

"prison" means a civil prison or a military prison.

(2) References in this Part to a sentence of imprisonment are references to a sentence of imprisonment passed by a court-martial or awarded by a commanding officer.

(3) References in this Part to warrant officers do not include references to acting warrant officers.

(4) References in this Part to non-commissioned officers include references to acting non-commissioned officers and also to acting warrant officers.

Rules of
Procedure
and other
rules.

128. (1) Subject to the provisions of rules made under paragraph (a) of subsection (2), the Rules of Procedure shall apply to all proceedings of courts-martial and summary dealing with charges under this Part with such adaptations, modifications and exceptions as may be necessary to give effect to the foregoing provisions of this Part.

(2) The Governor-General may make rules—

(a) amending, varying or modifying the Rules of Procedure ;

(b) with respect to the execution of sentences of death under this Ordinance, including the manner and place where such executions are to be carried out and the custody, treatment and removal of persons under sentence of death ;

(c) for the execution of sentences of imprisonment including the prisons, whether civil or military, in which they are to be served, the classification, treatment, employment, discipline, control, removal and temporary release on compassionate grounds of persons serving such sentence and the appointment, powers and duties of inspectors, visitors, governors and other members of the staff and officers in charge of persons serving sentences of imprisonment ;

(d) with respect to field punishment ;

(e) for the convening, constitution and procedure of boards of inquiry, the rules of evidence to be observed and the taking of evidence by such boards, including the administration of oaths and affirmations to witnesses and the making of reports by such boards ;

(f) in respect of matters for which rules may be made under the foregoing provisions of this Part ;

(g) for such incidental and supplementary matters as appear requisite for the purposes of the foregoing.

PART VI.—APPEALS FROM COURTS-MARTIAL

Right of
appeal.

129. Subject to the following provisions of this Part, an appeal shall lie from decisions of a court-martial to the Federal Supreme Court with the leave of the Federal Supreme Court :

Provided that an appeal as aforesaid shall lie as of right without the leave of the Federal Supreme Court from any decision of a court-martial involving a sentence of death.

130. (1) (a) Leave to appeal to the Federal Supreme Court shall not be given except in pursuance of an application in that behalf made by or on behalf of the appellant, and lodged, subject to subsection (2), within forty days of the date of promulgation of the finding of the court-martial in respect of which the appeal is brought, with the Registrar of the Federal Supreme Court, being an application in the prescribed form and specifying the grounds on which leave to appeal is sought and such other particulars, if any, as may be prescribed.

Procedure for applying for leave to appeal or lodging appeal.

(b) An appeal against a decision involving a sentence of death shall not be entertained by the Federal Supreme Court unless the appeal is lodged by or on behalf of the appellant, within ten days of the date of promulgation of the finding of the court-martial in respect of which the appeal is brought, with the Registrar of the Federal Supreme Court in the prescribed manner.

(2) Rules of court may provide that, in such circumstances as may be specified in the said rules, any such application or appeal which is lodged with such person (other than the Registrar) as is specified in the said rules shall be treated, for the purposes of subsection (1), as having been lodged with the Registrar.

(3) The Federal Supreme Court may extend the period within which an application for leave to appeal is required by paragraph (a) of subsection (1) to be lodged, whether that period has expired or not.

(4) In considering whether or not to give leave to appeal, the Federal Supreme Court shall have regard to any expression of opinion made by a judge advocate, if any, who acted at the court-martial that the case is a fit one for appeal, and, if any such expression is made, may give leave to appeal.

(5) Where the Federal Supreme Court dismisses an application for leave to appeal it may, if it considers the application to have been frivolous or vexatious, order that any sentence passed upon the applicant in the proceedings from which it was sought to bring the appeal shall begin to run from the day on which the Court dismisses the application.

131. (1) Subject to the provisions of section 132 on an appeal under this Part against a conviction, the Federal Supreme Court shall allow the appeal if it thinks that the finding of the court-martial is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any ground, there was a miscarriage of justice, and in any other case shall dismiss the appeal :

Determination of appeals in ordinary cases.

Provided that the Federal Supreme Court may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(2) If the Federal Supreme Court allows an appeal against a conviction under this Part, it shall quash the conviction.

(3) On an appeal under this Part against sentence the Federal Supreme Court shall, if it is of opinion that a different sentence should have been passed, quash the sentence passed by the court-martial and pass such other sentence (whether more or less severe) in substitution therefor as it thinks ought to have been passed, being a sentence which, under section 73 or section 74, could lawfully have been passed for the offence of which the appellant was convicted, or, if it is not of that opinion, dismiss the appeal.

(4) The term of any sentence passed by the Federal Supreme Court under subsection (3) shall, unless the Federal Supreme Court otherwise directs, begin to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal is brought, and any such sentence shall be deemed for the purposes of this Ordinance to be a sentence passed by the court-martial being a sentence that has been confirmed.

Powers of
the Federal
Supreme
Court in
special
cases.

132. (1) If it appears to the Federal Supreme Court that an appellant, though not properly convicted on some charge preferred against him before the court-martial by which he was tried, was properly convicted on some other charge so preferred, then, if the sentence passed by the court-martial on the appellant was not one which could lawfully be passed by the court-martial for the offence of which he was convicted on the other charge, the Federal Supreme Court shall pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as it thinks proper, being a sentence which, under section 73 or section 74, might lawfully be passed in respect of the charge on which the appellant was properly convicted, but not being a sentence of greater severity.

(2) Where an appellant has been convicted of an offence and the court-martial by which he was tried could lawfully have found him guilty of some other offence, and it appears to the Federal Supreme Court that the court-martial must have been satisfied of facts which proved him guilty of that other offence, the Federal Supreme Court may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the other offence and pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as it thinks proper, being a sentence which, under section 73 or section 74, could lawfully have been passed for that other offence but not being a sentence of greater severity.

(3) Where—

(a) an appellant has been convicted of an offence committed under circumstances involving the higher of two degrees of punishment, and it appears to the Federal Supreme Court that the court-martial by which he was tried ought to have found him guilty of the offence as being committed under circumstances involving the lower degree of punishment; or

(b) an appellant has been convicted of an offence and it appears to the Federal Supreme Court that the court-martial by which he was tried ought to have found him guilty of the offence subject to exceptions or variations,

the Federal Supreme Court may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the offence as being committed under circumstances involving the lower degree of punishment or, as the case may be, guilty of the offence subject to exceptions or variations and pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as it thinks proper, being a sentence which, under section 73 or section 74, could lawfully have been passed for the offence specified or involved in the substituted finding, but not being a sentence of greater severity.

(4) If, on an appeal, it appears to the Federal Supreme Court that, although the appellant committed the act or omission charged against him, he was insane at the time the act was done, or the omission made, so as not

to be responsible according to law for his actions, the Federal Supreme Court may quash the sentence passed at the trial and order the appellant to be kept in custody under the provisions of section 109, in like manner as on a special finding of insanity by the court-martial by which the appellant was convicted.

(5) The term of any sentence passed by the Federal Supreme Court under any of the foregoing provisions of this section shall, unless the Federal Supreme Court otherwise directs, begin to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal is brought, and any such sentence shall be deemed for the purposes of this Ordinance to be a sentence passed by the court-martial being a sentence that has been confirmed.

133. Subject to the provisions of any written law relating to appeals to Her Majesty in Council from judgments of the Federal Supreme Court, any determination by the Federal Supreme Court of any appeal or other matter which it has power to determine under the provisions of this Part shall be final and no appeal shall lie from the Court to any other court.

Appeals to be final.

134. For the purposes of this Part the Federal Supreme Court may, if it thinks it necessary or expedient in the interests of justice, appoint any person with special expert knowledge to act as assessor to the Court in any case where it appears to the Federal Supreme Court that such special knowledge is required for the proper determination of the case.

Supplementary powers of the Federal Supreme Court.

135. An appellant shall not be entitled to be present at the hearing of an appeal to the Federal Supreme Court under this Part or at any proceedings preliminary or incidental to such an appeal except where rules of court provide that he shall have the right to be present or the Federal Supreme Court gives him leave to be present, and accordingly any power of the Court under this Part to pass a sentence may be exercised notwithstanding the absence of the appellant.

Proceedings to be heard in absence of appellants.

136. It shall be the duty of the Attorney-General of the Federation on an appeal against a decision of a court-martial to undertake the defence of the appeal.

Defence of appeals.

137. An appellant may if he so desires, instead of presenting his case orally, present it in writing in the prescribed form.

Right of appellant to present his case in writing.

138. Where a conviction by court-martial involves sentence of death—

Suspension of death sentences

(a) the sentence shall not in any case be executed until the expiration of the period within which an appeal to the Federal Supreme Court against the conviction shall be lodged ;

(b) if such an appeal is duly lodged, the sentence shall not be executed until the appeal is determined or abandoned ;

(c) if the appeal is dismissed, the sentence shall not be executed until the expiration of the period within which an application for leave to appeal to Her Majesty in Council may be made under any written law relating to such an application ; and

(d) if an application for leave to appeal to Her Majesty in Council is duly made, the sentence shall not be executed until the application is finally refused or is withdrawn or the appeal to Her Majesty in Council is determined or abandoned.

Persons not to be tried again where conviction quashed.

139. Where the conviction of a person by a court-martial for an offence has been quashed under this Part, he shall not be liable to be tried again for that offence by a court-martial or by any other court.

Removal of prisoners for purposes of proceedings under Part VI.

140. Imprisonment Rules may provide in what manner an appellant, when in custody, is to be taken to, kept in custody at, and brought back from any place at which he is entitled to be present for the purposes of this Part or any place to which the Federal Supreme Court or a judge thereof may order him to be taken for the purpose of any proceedings of the Federal Supreme Court.

Furnishings, on appeal, of documents relating to trial.

141. In the case of every appeal, or application for leave to appeal, under this Part to the Federal Supreme Court against a decision of a court-martial, it shall be the duty of the Commander to furnish to the Registrar of the Federal Supreme Court, in accordance with rules of court, the proceedings of the court-martial (including any proceedings with respect to the revision of the findings or sentence of the court-martial in pursuance of subsection (1) of section 102) with respect to the confirmation of the finding and sentence of the court-martial.

Duties of Registrar of the Federal Supreme Court with respect to appeals, etc.

142. (1) The Registrar of the Federal Supreme Court shall take all necessary steps for obtaining the determination of an appeal or application under this Part, and shall obtain and lay before the Federal Supreme Court in proper form all documents, exhibits and other things relating to the proceedings in the court-martial before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

(2) The Registrar of the Federal Supreme Court shall furnish the necessary forms and instructions relating to appeals or applications for leave to appeal under this Part to any person who demands them, to persons in charge of places where persons sentenced by court-martial may lawfully be confined for the purpose of serving their sentences and to such other persons as he thinks fit; and every person in charge of such a place as aforesaid shall cause the forms and instructions to be placed at the disposal of persons confined in that place who desire to lodge an appeal or make application for leave to appeal under this Part.

Rules of court.

143. (1) The Chief Justice of the Federation may make rules of court for regulating the procedure and practice to be followed in the Federal Supreme Court for the purposes of this Part.

(2) Rules of court made for the purposes of any provision of this Part may make different provision in relation to different classes of cases and may provide for any incidental or supplementary matters for which it appears to the Federal Supreme Court to be necessary or expedient for the purposes of that provision to provide.

(3) Reference in this Part to "prescribed" means prescribed by such rules of court.

144. Nothing in this Part shall affect the exercise by reviewing authorities of the powers conferred by section 106 in respect of a decision of a court-martial so far as regards the exercise thereof at a time before the lodging with the Registrar of the Federal Supreme Court of an appeal or an application for leave to appeal to the Federal Supreme Court against the decision and nothing in this Part shall affect the exercise by the Governor-General of the prerogative of mercy.

Saving of reviewing authorities' powers.

145. Upon the hearing of any appeal from a court-martial the Federal Supreme Court shall consist of at least three judges.

Composition of court.

146. Notwithstanding the provisions of section 145, any judge of the Federal Supreme Court may—

Exercise of certain powers of the Federal Supreme Court by a judge.

(a) give leave to appeal; or

(b) extend the period within which an application for leave to appeal is required by paragraph (a) of subsection (1) of section 130 to be lodged; or

(c) allow an appellant to be present at any proceedings under this Part, but if the judge refuses an application on the part of an appellant to exercise in his favour any of the powers hereinbefore mentioned, the appellant, upon making a requisition in that behalf within the prescribed period and in the prescribed form and manner, shall be entitled to have the application determined in accordance with the provisions of section 145.

147. Subject to the provisions of this Part and to any rules of court, the provisions of the Federal Supreme Court (Appeals) Ordinance relating to the hearing of appeals from subordinate courts shall apply to the hearing and determination of an appeal under this Part.

General provisions as to procedure.

PART VII.—PAY, FORFEITURES AND DEDUCTIONS

148. The Governor-General shall make regulations governing the pay, allowances and other emoluments of the officers and soldiers of the Force (hereinafter referred to as Pay Regulations) and other matters pertaining thereto and in particular governing the following provisions of this Part.

Regulations as to pay.

149. (1) No forfeiture of the pay of an officer or soldier shall be imposed unless authorized by service law or some other written law and no deduction from such pay shall be made unless so authorized or authorized by Pay Regulations.

Forfeitures and deductions: general provisions.

(2) Pay Regulations shall not authorize the making of any penal deduction that is to say a deduction to be made by reason of the commission of any offence or other wrongful act or in consequence of any negligence.

(3) The foregoing provisions of this section shall not prevent the making of Pay Regulations providing for the imposition of any forfeiture authorized by this Ordinance or the making of any deduction so authorized, or for the time at which and manner in which sums may be deducted from pay to give effect to authorized deductions or the manner in which amounts may be so deducted in order to recover any fine imposed in pursuance of this Ordinance, or as to the appropriation of any such sum or amount when deducted, or of providing for the determination of questions relating to forfeitures or deductions.

(4) Notwithstanding any deduction from the pay of an officer or soldier he shall (subject to any forfeiture) remain in receipt of pay at not less than such minimum rate as may be prescribed in Pay Regulations.

(5) Notwithstanding that forfeiture of pay of an officer or soldier for any period has been ordered in pursuance of this Ordinance, he shall remain in receipt of pay at such a minimum rate as aforesaid, but the amount received for that period may be recovered from him by deduction from pay.

(6) Any amount authorized to be deducted from the pay of an officer or soldier may be deducted from any balance (whether or not representing pay) which may be due to him as an officer or soldier and references in this Ordinance to the making of deductions from pay shall be construed accordingly.

Forfeiture
of pay for
absence
from duty.

150. (1) The pay of an officer or soldier may be forfeited—

(a) for any day of absence in such circumstances as to constitute an offence under section 43 or section 44 or, if the Commander so directs, of other absence without leave;

(b) for any day of imprisonment, detention or field punishment awarded under service law by a court-martial or commanding officer, or of imprisonment or detention of any description to which he is liable in consequence of an order or sentence of a civil court;

(c) where he is found guilty (whether by court-martial, an appropriate superior authority or his commanding officer) of an offence under service law, for any day (whether before or after he is found guilty) on which he is in hospital on account of sickness or injury certified by the proper medical officer to have been occasioned by the offence.

(2) The pay of an officer or soldier may be forfeited for any day of absence by reason of his having been made a prisoner of war if the Commander is satisfied—

(a) that he was made a prisoner of war through disobedience of orders or wilful neglect of his duty; or

(b) that having been made a prisoner of war he failed to take any reasonable steps available to him to rejoin Her Majesty's service; or

(c) that having been made a prisoner of war he served with or aided the enemy in the prosecution of hostilities or measures calculated to influence morale or in any other manner whatsoever not authorized by international usage,

but, save as aforesaid, nothing in paragraph (a) of subsection (1) shall apply to absence by reason of having been made a prisoner of war.

(3) Pay Regulations may make provision as to the computation of time for the purposes of this section and in particular as to the counting or disregarding of parts of days.

Deductions
for pay-
ment of
civil
penalties.

151. Where an officer or soldier charged with an offence before a civil court (whether within or without the Commonwealth) is sentenced or ordered by the court to pay any fine, penalty, damages, compensation or costs, and the whole or part thereof is met by a payment made by or on behalf of any military authority, the amount of the payment may be deducted from his pay.

152. (1) Without prejudice to the provisions of this Ordinance as to the imposition of stoppages as a punishment, the following provisions shall have effect where, after such investigation as may be prescribed by Pay Regulations, it appears to the Forces Council, the Commander or an officer authorized in Pay Regulations that any loss of, or damage to, public or service property has been occasioned by any wrongful act or negligence of an officer or soldier (hereinafter referred to as "the person responsible").

Compensation for loss occasioned by wrongful act or negligence

(2) The Forces Council, the Commander or authorized officer, as the case may be, may order the person responsible to pay as or towards compensation for the loss or damage, such sum as may be specified in the order, and such sum, in so far as not otherwise paid by the person responsible, may be deducted from his pay.

(3) No order shall be made under the provisions of subsection (2) if, in proceedings before a court-martial under service law, an appropriate superior authority or a commanding officer, the person responsible—

(a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question; or

(b) has been awarded stoppages in respect of the same loss or damage, but save as aforesaid, the fact that such proceedings have been brought in respect of the wrongful act or negligence in question shall not prevent the making of an order or deductions under subsection (2).

153. (1) When damage occurs to any premises in which one or more units or parts of such units are quartered or billeted, or any fixtures, furniture or effects in or belonging to such premises are damaged or lost, and it appears on investigation in accordance with the provisions of Pay Regulations that the damage or loss was occasioned by the wrongful act or negligence of persons belonging to any of the units or parts of units in occupation thereof, but that the said persons cannot be identified, any person belonging to any of such units or parts of units may be required to contribute towards compensation for the damage or loss such amount as may in accordance with Pay Regulations be determined to be just, and the amount may be deducted from his pay.

Deductions for barrack damage.

(2) The provisions of subsection (1) shall extend to ships, trains, motor vehicles and aircraft in which units or parts of units are being transported and reference to premises, quartering and occupation shall be construed accordingly.

154. Any forfeiture or deduction imposed under the provisions of section 150, section 151, section 152 or section 153 or under Pay Regulations may be remitted by the Governor-General or in such manner and by such authority as may be provided by such Regulations.

Remission of forfeitures and deductions.

PART VIII.—GOVERNMENT AND GENERAL PROVISIONS

COMMAND

155. (1) The seconded officers, officers, seconded warrant officers and warrant officers, seconded non-commissioned officers and non-commissioned officers, and soldiers shall stand with each other in order of precedence as may be prescribed by regulations.

Command and precedence.

(2) Officers, warrant officers and non-commissioned officers may be seconded to the Force with the approval of the Governor-General.

(3) Officers of the same rank shall stand with each other in order of precedence and command in accordance with any order which may be signified by the Governor-General and where no such order is signified then according to their seniority reckoned by the date of their respective appointments to the rank for the time being held by them.

Command
of the
Force.

156. The Governor-General on the advice of the Prime Minister after consultation by the Prime Minister with the Forces Council may appoint such officer (in this Ordinance called "the Commander") as he thinks fit, in whom the command of the Force shall be vested and subject to the terms of such appointment and to such directions in relation to the operational use thereof as may be given under subsection (2) of section 6 such person shall have the command, direction and general superintendence of the Force.

Regulations
as to
command.

157. The Governor-General may make regulations as to the persons in whom command over the units or any member thereof is vested and as to the circumstances in which such command as aforesaid is to be exercised, and, without prejudice to the generality of the foregoing, may in such regulations provide for the duties, functions and powers of the Commander, his military staff and the officers, warrant officers, non-commissioned officers and soldiers.

Powers of
command of
members of
co-operating
forces.

158. In so far as powers of command depend on rank, a member of any of Her Majesty's forces who—

(a) is acting with any unit; or

(b) is a member of a body of any of those forces which is acting with any unit,

shall have the like such powers as a member of the Force of corresponding rank; and for the purposes of sections 39 and 76 any such member of the said Forces shall be treated as if he were a member of the Force of corresponding rank.

Co-operation
with
other
military
forces.

159. (1) If the whole or any part of the Force is required to act with any other military force the Governor-General may place the Force or such part thereof under the command of the officer commanding such other force if that officer is senior in rank to all the officers of the Force or such part thereof.

(2) Where any part of the Force is acting in co-operation with any other force the commander of that part of the Force may, in agreement with the commander of that other force, define the powers of command and the order of precedence of the officers, warrant officers and non-commissioned officers of the Force in relation to an officer, warrant officer, or non-commissioned officer of such other force who is of the same or the equivalent rank.

Attachment
of members
of the
Force.

— 160. The Commander may place at the disposal of any Commonwealth force such officers and soldiers of the Force who are in that other part of the Commonwealth for the purposes of training or for any other reason pertaining to the well-being of the Force.

REDRESS OF COMPLAINTS

161. (1) If an officer thinks himself wronged in any matter by a superior officer or authority and on application to his commanding officer does not obtain the redress to which he thinks he is entitled, he may make a complaint with respect to that matter to the Forces Council.

Complaints
by officers.

(2) On receiving any such complaint it shall be the duty of the Forces Council to investigate the complaint and to grant any redress which appears to the Council to be necessary or if the complaint so requires, the Council shall through the responsible Minister make their report on the complaint in order to seek the directions of the Governor-General.

162. (1) If a soldier thinks himself wronged in any matter by any officer or by any soldier, he may make a complaint with respect to that matter to his commanding officer.

Complaints
by soldiers.

(2) If a soldier thinks himself wronged in any matter by his commanding officer, either by reason of redress not being given to his satisfaction on a complaint under subsection (1) or for any other reason, he may make a complaint with respect thereto to any military, naval or air force officer under whom the complainant is for the time being serving, being an officer not below the rank of brigadier or corresponding rank.

(3) It shall be the duty of a commanding or other officer to have any complaint received by him under this section investigated and to take any steps for redressing the matter complained of which appear to him to be necessary.

EXEMPTIONS FOR MEMBERS OF THE FORCE

163. (1) Duties or tolls for embarking from or disembarking on any pier, wharf, quay or landing place in Nigeria, or for passing over any road, ferry or bridge in Nigeria, shall not be payable in respect of—

Exemptions
from tolls,
etc.

(a) members of the Force on duty ;

(b) vehicles in military service, being vehicles belonging to the Federation or other vehicles driven by persons (whether a member of the Force or not) in the public service of the Federation ;

(c) goods carried in such vehicles ;

(d) horses or other animals in military service.

(2) In subsection (1) the expression "in military service" means employed under proper military authority for the purposes of any unit or accompanying any body of the Force.

164. No judgment, decree or order given or made against a member of the Force by any court in Nigeria shall be enforced by the levying of execution on any property of the person against whom it is given or made, being public property, used by him for military purposes.

Exemption
from taking
in execu-
tion of
property
used for
military
purposes.

PROVISIONS RELATING TO DESERTERS AND ABSENTEES
WITHOUT LEAVE

Arrest of
deserters
and
absentees
without
leave.

165. (1) A police officer may arrest without a warrant any person whom he has reasonable cause to suspect of being an officer or soldier who has deserted or is absent without leave.

(2) Where no police officer is available any person may arrest without a warrant any person whom he has reasonable cause to suspect as aforesaid.

(3) Any person having authority to issue a warrant for the arrest of a person charged with crime, if satisfied by evidence on oath that there is, or is reasonably suspected of being, within his jurisdiction an officer or soldier who has deserted or is absent without leave or is reasonably suspected of having deserted or of being absent without leave, may issue a warrant authorizing his arrest.

(4) Any person in custody in pursuance of this section shall as soon as practicable be brought before a magistrate's court.

(5) Notwithstanding the provisions of any other law to the contrary a person arrested and brought before a magistrate's court under the provisions of this section or of section 166 or section 167 shall not be admitted to bail.

Proceedings
before a
civil court
where per-
sons sus-
pected of
illegal
absence.

166. (1) Where a person who is brought before a magistrate's court is alleged to be an officer or soldier of the Force who has deserted or is absent without leave, the following provisions shall have effect.

(2) If he admits that he is illegally absent from the Force and the court is satisfied of the truth of the admission, then—

(a) unless he is in custody for some other cause the court shall, and

(b) notwithstanding that he is in custody for some other cause, the court may,

forthwith either cause him to be delivered into military custody in such manner as the court may think fit or commit him to some prison, police station or other place provided for the confinement of persons in custody, to be kept there for such reasonable time as the court may specify (not exceeding such time as appears to the court reasonably necessary for the purpose of enabling him to be delivered into military custody) or until sooner delivered into such custody. Any time specified by the court may be extended by the court from time to time if it appears to the court reasonably necessary so to do for the purpose aforesaid.

(3) If he does not admit that he is illegally absent as aforesaid, or the court is not satisfied of the truth of the admission, the court shall consider the evidence and any statement of the accused, and if satisfied that he is subject to military law under this Ordinance and if of opinion that there is sufficient evidence to justify his being so tried for an offence of desertion or absence without leave, then, unless he is in custody for some other cause, the court shall cause him to be delivered into military custody or commit him as aforesaid, but otherwise shall discharge him :

Provided that if he is in custody for some other cause the court shall have power, but shall not be required, to act in accordance with this subsection.

(4) When proceedings are taken in a magistrate's court under this section, the law applicable in that court in relation to the constitution and procedure of magistrate's courts holding preliminary inquiries and conferring powers of adjournment and remand on such courts so acting, and as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses, shall apply to such proceedings.

167. (1) Where a person surrenders himself to a police officer as being illegally absent from the Force, the police officer shall (unless he surrenders himself at a police station) bring him to a police station.

Deserters and absentees without leave surrendering to police.

(2) The police officer in charge of a police station at which a person has surrendered himself as aforesaid, or to which a person who has so surrendered himself is brought, shall forthwith inquire into the case, and if it appears to that officer that the said person is illegally absent as aforesaid he may cause him to be delivered into military custody without bringing him before a magistrate's court or may bring him before such a court.

168. (1) Where a magistrate's court in pursuance of section 166 deals with a person as illegally absent, then when that person is delivered into military custody there shall be handed over a certificate in the prescribed form signed by a magistrate, containing the particulars so prescribed as to his arrest or surrender and the proceedings before the court.

Certificates of arrest or surrender of deserters and absentees.

(2) Where a person is delivered into military custody without being brought before a court, whether under the provisions of section 167 or under any other lawful power, there shall be handed over a certificate in the prescribed form signed by the police officer who causes him to be delivered into military custody, containing the prescribed particulars relating to his surrender.

(3) In any proceedings for an offence under section 43 or section 44—

(a) a document purporting to be a certificate under either subsection (1) or subsection (2), or under the corresponding provisions of any service law (other than this Ordinance) and to be signed as thereby required, shall be evidence of the matters stated in the document;

(b) where the proceedings are against a person who has been taken into military, naval or air force custody on arrest or surrender, a certificate in the prescribed form purporting to be signed by a provost officer or any corresponding officer of a force raised under the law of a country in the Commonwealth, or by any other officer in charge of the guard-room or other place where that person was confined on being taken into custody, stating the fact, date, time and place of arrest or surrender shall be evidence of the matters stated in the certificate.

169. (1) It shall be the duty of the superintendent or other person in charge of a civil prison to receive any person duly committed to that prison by a magistrate's court as illegally absent from the Force and to detain him until in accordance with the directions of the court he is delivered into military custody.

Duties of superintendents of prisons and others to receive deserters and absentees.

(2) Subsection (1) shall apply to the person having charge of any police station or other place (not being a prison) provided for the confinement of persons in custody as it applies to the superintendent of a prison.

OFFENCES RELATING TO MILITARY MATTERS
PUNISHABLE BY CIVIL COURTS

Punishment
for pre-
tending to be
a deserter.

170. Any person who falsely represents himself to any military, naval, air force or civil authority to be a deserter from the Force shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

Punishment
for procur-
ing and
assisting
desertion.

171. Any person who—

(a) procures or persuades any officer or soldier of the Force to desert or to absent himself without leave ; or

(b) knowing that any such officer or soldier is about to desert or absent himself without leave, assists him in so doing ; or

(c) knowing any person to be a deserter or absentee without leave from the Force, conceals him or assists him in concealing himself or assists in his rescue from custody,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding one year, or to both such a fine and such imprisonment.

Punishment
for
obstructing
members of
the Force
in execution
of duty.

172. Any person who wilfully obstructs or otherwise interferes with any officer or soldier of the Force acting in the execution of his duty shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

Punishment
for aiding
malingering.

173. Any person who—

(a) produces in an officer or soldier of the Force any sickness or disability ;
or

(b) supplies to or for him any drug or preparation calculated or likely to render him, or lead to the belief that he is permanently or temporarily unfit for service,

with a view to enabling him to avoid military service, whether permanently or temporarily, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding one year or to both such a fine and such imprisonment.

Unlawful
purchase,
etc., of
military
stores.

174. (1) Any person who acquires any military stores or solicits or procures any person to dispose of any military stores, or acts for any person in the disposing of any military stores, shall be guilty of an offence, unless he proves either—

(a) that he did not know, and could not reasonably be expected to know, that the chattels in question were military stores ; or

(b) that those chattels had (by the transaction with which he is charged or some earlier transaction) been disposed of by order or with the consent of the Governor-General or of some person or authority who had, or whom he had reasonable cause to believe to have, power to give the order or consent ; or

(c) that those chattels had become the property of an officer who had retired or ceased to be an officer, or of a soldier who had been discharged, or of the personal representatives of a person who had died,

and shall be liable on conviction to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years or to both such a fine and such imprisonment.

(2) A police officer may arrest without warrant any person whom he has reasonable grounds for suspecting of having committed an offence against this section, and may seize any property which he has reasonable grounds for suspecting of having been the subject of the offence.

(3) Any person having authority to issue a warrant for the arrest of a person charged with crime may, if satisfied by evidence on oath that a person within his jurisdiction has, or is reasonably suspected of having, in his possession any property which has been the subject of an offence against this section, grant a warrant to search for such property as in the case of stolen goods; and any property suspected of having been the subject of such an offence which is found on such a search shall be seized by the officer charged with the execution of the warrant, and that officer shall bring the person in whose possession or keeping the property is found before a magistrate's court.

(4) In this section—

“acquire” means buy, take in exchange, take in pawn or otherwise receive (whether apart from this section the receiving is lawful or not);

“dispose” means sell, give in exchange, pledge or otherwise hand over (whether apart from this section the handing over is lawful or not);

“military stores” means any chattel of any description belonging to the government of the Federation, which has been issued for use for military purposes or is held in store for the purpose of being so issued when required, and includes any chattel which had belonged, and had been issued or held, as aforesaid at some past time.

(5) For the purposes of subsection (3) property shall be deemed to be in the possession of a person if he has it under his control, and whether he has it for his own use or benefit or for the use or benefit of another.

175. (1) Any person who—

(a) as a pledge or a security for a debt; or

(b) with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person, receives, detains or has in his possession any official document issued in connexion with the payment to any person of any pay, pension, allowance, gratuity or other payment payable in respect of his or any other person's military service shall be guilty of an offence against this section.

(2) Any person who has in his possession without lawful authority or excuse (the proof whereof shall lie on him) any such document as aforesaid or any official document issued in connexion with the mobilization or demobilization of any of Her Majesty's forces or any member thereof, shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such a fine and such imprisonment.

(4) For the purposes of this section a document shall be deemed to be in the possession of a person if he has it under his control and whether he has it for his own use or benefit or for the use or benefit of another.

Illegal dealings in documents relating to pay, pensions, mobilization, etc.

Unauthor-
ised use of
and deal-
ing in
decorations,
etc.

176. (1) Any person who—

(a) without authority uses or wears any military decoration, or any badge, wound stripe or emblem supplied or authorized by the Governor-General, Forces Council or by the Government of the United Kingdom; or

(b) uses or wears any decoration, badge, wound stripe, or emblem so nearly resembling any military decoration, or any such badge, stripe or emblem as aforesaid, as to be calculated to deceive; or

(c) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, badge, stripe or emblem as is mentioned in paragraph (a),

shall be guilty of an offence against this section :

Provided that nothing in this subsection shall prohibit the use or wearing of ordinary regimental badges or of brooches or ornaments representing them.

(2) Any person who purchases or takes in pawn any naval, military or air force decoration awarded to any member of Her Majesty's forces, or solicits or procures any person to sell or pledge any such decoration, or acts for any person in the sale or pledging thereof, shall be guilty of an offence against this section unless he proves that at the time of the alleged offence the person to whom the decoration was awarded was dead or had ceased to be a member of those forces.

(3) Any person guilty of an offence against this section shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

PROVISIONS AS TO EVIDENCE

General
provisions
as to
evidence.

177. (1) The following provisions shall have effect with respect to evidence in proceedings under this Ordinance, whether before a court-martial, a civil court or otherwise.

(2) A document purporting to be a copy of the attestation paper signed by any person and to be certified to be a true copy by a person stated in the certificate to have the custody of the attestation paper shall be evidence of the enlistment of the person attested.

(3) The attestation paper purporting to be signed by a person on his enlistment shall be evidence of his having given the answers to questions which he is therein recorded as having given.

(4) A letter, return or other document stating that any person—

(a) was or was not serving at any specified time or during any specified period in any part of Her Majesty's forces or was discharged from any part of those forces at or before any specified time; or

(b) held or did not hold at any specified time any specified rank or appointment in any of those forces, or had at or before any specified time been attached, posted or transferred to any part of those forces, or at any specified time or during any specified period was or was not serving or held or did not hold any rank or appointment in any particular country or place; or

(c) was or was not at any specified time authorized to use or wear any decoration, badge, wound stripe or emblem,
shall, if purporting to be issued by or on behalf of the Commander, be evidence of the matters stated in the document.

(5) A record made in any service book or other document prescribed by regulations of the Governor-General for the purposes of this subsection, being a record made in pursuance of service law or regulations, or otherwise in pursuance of military duty, and purporting to be signed by the commanding officer or by any person whose duty it was to make the record, shall be evidence of the facts stated therein; and a copy of a record (including the signature thereto) in one of the said service books and a copy of such document, purporting to be certified to be a true copy by a person stated in the certificate to have the custody of the book or the original document, as the case may be, shall be evidence of the record.

(6) A document purporting to be issued by order of the Forces Council or the Commander and to contain instructions or orders given or made by the Forces Council or the Commander shall be evidence of the giving of the instructions or making of the orders and of their contents.

(7) A certificate purporting to be issued by or on behalf of the Forces Council or the Commander and stating—

(a) that a decoration of a description specified in or annexed to the certificate is a military, naval or air force decoration; or

(b) that a badge, wound stripe or emblem of a description specified in or annexed to the certificate is one supplied or authorized by the Governor-General, Forces Council or by the Government of the United Kingdom, shall be evidence of the matters stated in the certificate.

(8) A certificate purporting to be signed by a person's commanding officer or any officer authorized by him to give the certificate, and stating the contents of, or any part of, standing orders or other routine orders of a continuing nature made for—

(a) any formation, unit or body of troops; or

(b) any area, garrison or place; or

(c) any ship, train or aircraft,

shall in proceedings against the said person be evidence of the matters stated in the certificate

178. (1) Where a person subject to military law under this Ordinance has been tried before a civil court (whether at the time of the trial he was so subject or not), a certificate signed by a judge or a magistrate and stating all or any of the following matters—

Proof of
outcome of
civil trial.

(a) that the said person has been tried before the court for an offence specified in the certificate;

(b) the result of the trial;

(c) what judgment or order was given or made by the court;

(d) that other offences specified in the certificate were taken into consideration at the trial,

shall for the purposes of this Ordinance be evidence of the matters stated in the certificate.

(2) A document purporting to be a certificate under this section and to be signed by a judge or a magistrate shall, unless the contrary is shown, be deemed to be such a certificate.

Evidence of proceedings of court-martial.

179. (1) The original proceedings of a court-martial under service law purporting to be signed by the president of the court and being in the custody of the Commander or of any person having the lawful custody thereof shall be admissible in evidence on production from that custody.

(2) A document purporting to be a copy of the original proceedings of a court-martial under service law or any part thereof and to be certified by the Commander or any person authorized by him, or by any other person having the lawful custody of the proceedings, to be a true copy shall be evidence of the contents of the proceedings or the part to which the document relates, as the case may be.

(3) This section applies to evidence given in any court, whether civil or criminal.

REDUCTION OF WARRANT AND NON-COMMISSIONED OFFICERS

Restrictions on reduction in rank of warrant officers and non-commissioned officers.

180. (1) A warrant officer shall not be reduced in rank except by sentence of a court-martial under service law or by order of an officer not below the rank of brigadier under whose command the warrant officer is.

(2) A non-commissioned officer shall not be reduced in rank except by sentence of a court-martial under service law, by award of his commanding officer or by order of an officer not below the rank of brigadier under whose command the non-commissioned officer is.

(3) For the purposes of this section reduction in rank does not include reversion from acting rank.

MISCELLANEOUS PROVISIONS

Temporary reception in civil custody of persons under escort.

181. (1) Where a person is in military custody when charged with, or with a view to his being charged with, an offence against Part V or the corresponding provisions of any other service law it shall be the duty of the superintendent or other person in charge of a civil prison, or of the person having charge of any police station or other place in which prisoners may be lawfully detained, upon delivery to him of a written order purporting to be signed by the commanding officer of the person in custody to receive him into his custody for a period not exceeding seven days.

(2) In this section "civil prison" has the meaning ascribed to it in section 127.

Avoidance of assignment of, or charge on, military pay, pensions, etc.

182. (1) Every assignment of or charge on, and every agreement to assign or charge, any pay, military award, grant, pension or allowance payable to any person in respect of his or any other person's service in Her Majesty's forces shall be void.

(2) Save as expressly provided by this Ordinance, no order shall be made by any court the effect of which would be to restrain any person from receiving anything which by virtue of this section he is precluded from assigning and to direct payment thereof to another person.

(3) Nothing in this section shall prejudice any enactment providing for the payment of any sum to a bankrupt's trustee in bankruptcy for distribution among creditors.

Power of certain officers to take statutory declarations

183. (1) An officer of a rank not below that of major (hereinafter referred to as an "authorized officer") may, outside Nigeria, take statutory declarations from persons subject to this Ordinance.

(2) A document purporting to have subscribed thereto the signature of an authorized officer in testimony of a statutory declaration being taken before him in pursuance of this section and containing in the jurat or attestation a statement of the date on which and the place at which the declaration was taken and of the full name and rank of that officer shall be admitted in evidence without proof of the signature being the signature of that officer or of the facts so stated.

PART IX.—RESERVE

184. Notwithstanding the provisions of section 192 this Part shall apply to every soldier who is, by virtue of the provisions of section 5, a member of the reserve.

Reservists.

185. (1) Every reservist shall be liable to be called out for training at such place and for such periods not exceeding twenty-eight days in any one year as may be specified in regulations made under this Part.

Annual training.

(2) Every reservist may, during any training for which he may be called out, be attached to and trained with any unit.

186. (1) The Governor-General may, at any time when occasion appears to require, call out the reserve, or as many reservists as he thinks necessary, to aid the civil power in the preservation of the public peace.

Calling out of the reserve to aid the civil power.

(2) Reservists called out for service under this section shall not be liable to serve at any one time for a period exceeding twenty-eight days.

187. (1) In the event of a state of war being declared or of insurrection, hostilities or public emergency it shall be lawful for the Governor-General, by proclamation, to call out the reserve on permanent service.

Calling out of the reserve on permanent service.

(2) The Governor-General may, in any such proclamation as aforesaid, give or authorize a Minister to give such directions as may seem necessary or proper for calling out the reserve or any reservist.

(3) Every such proclamation and the directions given in pursuance thereof shall be obeyed, and every reservist called out by such directions shall attend at the place and time fixed by those directions, and at and after that time shall be deemed to be called out on permanent service.

(4) Every reservist when called out on permanent service shall be liable to serve as a soldier of the Force until his services are no longer required, so, however, that he shall not be required to serve for a period exceeding in the whole the remaining unexpired term of service in the reserve and any further period not exceeding twelve months as a soldier may, under section 19, be retained in the Force after the time at which he would otherwise be entitled to be discharged.

188. (1) Any reservist who, without leave lawfully granted or other reasonable excuse, fails to appear at the time and place appointed for annual training, or when called out to aid the civil power or on permanent service, shall—

Punishment for non-attendance.

(a) if called out on permanent service, be guilty, according to the circumstances, of deserting within the meaning of section 43 or of absenting himself without leave within the meaning of section 44; or

(b) if called out to aid the civil power or for annual training, be guilty of absenting himself without leave within the meaning of section 44.

(2) Any reservist who commits any offence under this section shall be liable—

(a) to be tried by court-martial, and on conviction to suffer imprisonment for a term not exceeding two years or such less punishment as is provided by this Ordinance ; or

(b) to be tried by a magistrate's court and, on conviction, shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a term not exceeding two years.

(3) Section 76 and sections 165 to 169 inclusive shall apply to reservists who commit or are alleged to have committed or are reasonably suspected of having committed an offence against this section as they apply to persons otherwise subject to military law under this Ordinance.

Record of
illegal
absence.

189. Where a reservist fails to appear at the time and place appointed for annual training or when called out to aid the civil power or on permanent service, and his absence continues for not less than twenty-one clear days, an entry of such absence shall be made by an officer in the service books prescribed by regulations made under this Part and such entry shall be *prima facie* evidence of the fact of such absence.

Discharge
during
service.

190. A reservist may be discharged by the competent military authority prescribed by regulations made under this Part at any time during the currency of any term of reserve service.

Regulations
as to the
reserve.

191. The Governor-General may make regulations with respect to the government and discipline of the reserve, and, without prejudice to the generality of the foregoing, may make regulations—

(a) for the calling out for training of reservists ;

(b) for the calling out of the reserve to aid the civil power and on permanent service ;

(c) for providing for the pay of reservists, whether on the reserve or called out under section 185, section 186 or section 187 ;

(d) requiring reservists to report themselves from time to time, and to obtain the permission of the competent military authority prescribed by such regulations before leaving Nigeria ; and

(e) providing for any matter which is required by this Part to be prescribed.

PART X.—APPLICATION OF THE ORDINANCE AND SUPPLEMENTARY PROVISIONS

APPLICATION

Applica-
tion of the
Ordinance.

192. (1) The following persons shall be subject to military law under this Ordinance—

(a) officers and soldiers of the Force ;

(b) officers of the reserve when called out on service ; and

(c) reservists called out for training, to aid the civil power or on permanent service.

(2) This Ordinance shall apply to the persons subject thereto under the provisions of this section and in relation to the units raised under this Ordinance as well outside as within Nigeria.

193. (1) Subject to the modifications hereinafter specified, where any unit is on active service, Part V shall apply to any person who is employed in the service of that unit or any part or member thereof, or accompanies the said unit or any part thereof, and is not subject to service law, as Part V applies to persons subject to military law under this Ordinance.

Applica-
tion of the
Ordinance
to civilians.

(2) The said modifications are the following—

(a) the punishments which may be awarded by a court-martial shall include a fine, but shall not include any other punishment less than imprisonment;

(b) the punishment which may be awarded where a charge is dealt with summarily shall, in the case of any offence, be a fine not exceeding ten pounds, but no other punishment;

(c) the following provision shall have effect in substitution for subsections (2) to (4) inclusive of section 76, that is to say, that a person may be arrested by a provost officer, by any warrant officer or non-commissioned officer legally exercising authority under a provost officer or on his behalf, or by order of any officer;

(d) the provisions of this Ordinance relating to the investigation of, and summary dealing with, offences shall, save as otherwise expressly provided, apply as they apply to soldiers;

(e) for the purposes of the provisions of this Ordinance relating to the investigation of offences, the commanding officer shall be such officer as may be appointed by an officer authorized to convene a court-martial;

(f) for references in sections 116 and 117 to being, continuing, or ceasing to be subject to military law under this Ordinance there shall be substituted references to being, continuing to be or ceasing to be in such circumstances that Part V applies, and subsection (3) of section 116 shall not apply.

(3) Any fine awarded by virtue of this section, whether by a court-martial or the commanding officer, shall be recoverable as a debt due to the Federation.

194. (1) It is hereby declared that officers, warrant officers and non-commissioned officers who, being members of the United Kingdom military forces, are subject to military law under the Act and are seconded to serve with the Force shall remain subject to military law under the Act and shall not be subject to military law under this Ordinance.

Seconded
members of
United
Kingdom
Forces.

(2) The powers of arrest conferred by section 74 of the Act and the provisions of sections 186 to 190 inclusive of the Act (which relate to deserters and absentees without leave) shall apply in Nigeria to the persons referred to in subsection (1) as they apply in a colony of the United Kingdom.

(3) In the event of a person referred to in subsection (1) committing an offence against the provisions of the Act he may be held, tried and punished in Nigeria for the offence thereunder.

WILLS AND DISTRIBUTION OF PROPERTY

Soldier on enlistment to register the name of person to whom estate is to be paid in event of his dying intestate.

195. (1) Every soldier on enlistment shall declare the name of the person or persons to whom, in the event of his decease without having made a valid will, any money or personal property due or belonging to him should be paid or delivered, and the name of such person or persons shall be recorded on his attestation paper; or he may direct that his estate is to be administered by the native court of some named place according to the customs of his tribe. The record shall be verified periodically, and it shall be the duty of the soldier to report any alteration in the record which he wishes made.

(2) Any officer of or seconded to the Force or of the Treasury or other public department, having in his charge or control any pay, accumulations of pay, gratuity or other allowance, or any personal property or money belonging to any soldier dying intestate who has complied with the above conditions, may pay or deliver the same to the person whose name has been recorded by the soldier in the manner prescribed.

Special provisions relating to soldier's wills.

196. (1) Any will made by a soldier shall be valid for disposing of any money or personal property which is due or belonging to him at his decease if it is in writing and signed or acknowledged by him in the presence of, and in his presence attested by one witness, being an officer of or seconded to the Force or any Government medical officer; such will shall be deemed well made for the purpose of being admitted to probate, and the person taking out representation to the testator under such will shall exclusively be deemed the testator's representative with respect to the money or personal property thereby bequeathed.

(2) Any officer of or seconded to the Force or of the Treasury or other public department, having in his charge or control any pay, accumulation of pay, gratuity or other allowance, or any personal property or money belonging to such testator, not exceeding in the aggregate the value of a hundred pounds, may pay or deliver the same to any person entitled thereto under the will, or to the person entitled to procure probate of or administration under such will; although probate or administration may not have been taken out.

(3) If the value of the said money and personal property exceeds a hundred pounds, the paymaster or other officer as aforesaid, having the same in his charge or control, shall require probate or administration to be taken out and thereupon pay and deliver the said money and effects to the legal representative of the deceased.

Distribution in case of deceased soldier's intestacy.

197. If any soldier dies without having complied with the requirements stated in section 195, and without having made any valid will under section 196 or other enactment regulating wills for the time being in force, any officer of or seconded to the Force or of the Treasury or other public department having in his charge or control money or personal property of the deceased as aforesaid may, with the concurrence of the Commander or an officer acting on his behalf, pay or deliver such money or personal property to any claimant who proves to the satisfaction of the Commander or such officer that he is either the widow of the deceased or the child or any near relative of the deceased according to the rules of kinship of the tribe to which the deceased belonged, and where there are more such claimants than one, then in such shares and proportions as the claimants would be entitled to receive under the rules of succession prevailing

among such tribe or as nearly as may be. In the case of a Mohammedan, the distribution of the estate may be carried out by the alkali's court of the district from which the deceased person came, the alkali being responsible to his divisional officer that the distribution is carried out in accordance with Mohammedan law.

198. (1) Notwithstanding anything hereinbefore contained, if, in cases where probate of the will or administration of the estate of the deceased is not taken out, an officer of or seconded to the Force or of the Treasury or other public department, before disposing of the money and personal property of the deceased in manner aforesaid has notice of any debt due by the deceased, he shall apply such money and property as may remain in his charge or control or so much thereof as may be requisite in or towards payment of such debt, subject to the following conditions—

Payment of debts of deceased soldier.

(a) that the debt accrued within three years before the death ;

(b) that the payment of it is claimed within one year after the death ;

(c) that the claimant proves the debt to the satisfaction of the Commander or an officer acting on his behalf.

(2) Any person claiming to be a creditor of a deceased soldier shall not be entitled to obtain payment of his debt out of any money that may be in the hands of any officer of or seconded to the Force or of the Treasury or other public department, except by means of a claim on an officer responsible for a soldier's pay or an administrative officer, and proceeding thereon under and in accordance with this Ordinance. If the estate is being administered by a native court, any Government debts shall be paid by the officer concerned before the balance of the estate is passed to the native court. All debts other than Government debts shall be settled by the native court which is administering the estate.

199. In all cases where the money or personal property of a deceased soldier or any part thereof is paid or delivered to any person as being interested therein by reason of his name having been recorded in accordance with section 195, or under the will of the deceased, or as his widow or child, or near relative, or otherwise in accordance with this Ordinance, any creditor of the deceased shall have the same rights and remedies against such person as if he had received the same as a legal personal representative of the deceased.

Property of deceased soldier distributed subject to rights of creditors.

200. (1) If the money or personal property belonging to a deceased soldier, or any part thereof, remains for one year undisposed of or unappropriated, and without any valid claim thereto having been made, then the same shall be paid over to the Accountant-General of the Federation and be applied towards forming a fund for the benefit of soldiers and ex-soldiers of the Force who are in distress, for the benefit of the Force generally or for charitable purposes :

Deceased soldier's money undisposed of or applied to prescribed fund.

Provided that the application under this section of any such money or property or part thereof undisposed of or unappropriated as aforesaid, shall not be deemed to bar any claim of any person to the same, or any part thereof, that may be established at any time after such application.

(2) The formation of the fund and disbursements therefrom shall be in accordance with regulations to be made by the Governor-General.

(3) The fund referred to in this section may be the same fund as that referred to in section 206 or may be a separate fund for the purposes of this section, and regulations may provide accordingly.

Uniforms and decorations of deceased soldier.

201. Uniforms and decorations shall not be considered to be comprised in the personal estate of any deceased soldier with reference to claims of creditors or for any of the purposes of administration under this Ordinance or otherwise, and the same shall be delivered to and held by the officer concerned and disposed of in such manner as may be prescribed.

Application of money, etc., in case of desertion.

202. In every case of desertion any money or property of the deserter in the charge or control of an officer of or seconded to the Force or of the Treasury or other public department as aforesaid, shall be disposed of in such manner as may be prescribed :

Provided that in every such case the provisions of section 198 shall, *mutatis mutandis*, apply as nearly as may be.

MISCELLANEOUS PROVISIONS

Power to make regulations.

203. Subject to the foregoing provisions of this Ordinance, the Governor-General may make regulations for the better carrying out of the provisions of this Ordinance and generally for providing for any matter required by this Ordinance to be prescribed or provided for by regulations.

Powers exercisable in subsidiary legislation.

204. (1) Any power conferred by this Ordinance to make regulations, rules, orders or other instruments shall include power to make provision for specified cases or classes of cases, and to make different provisions for different classes of cases, and for the purposes of any such instrument classes of cases may be defined by reference to any circumstances specified in the instrument.

(2) Any such regulations, rules, orders, or other instruments as aforesaid may impose conditions, require acts or things to be performed or done to the satisfaction of any person named therein whether or not such persons are members of the Force or of Her Majesty's Forces, empower such persons to issue orders either orally or in writing requiring acts or things to be performed or done or prohibiting acts or things from being performed or done, and prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled and provide for appeal against any such order, requirement or direction.

Execution of orders, instruments, etc.

205. Save as expressly provided by any rules or regulations under this Ordinance, any order or determination required or authorized to be made under this Ordinance by any military officer or authority may be signified under the hand of any officer authorized in that behalf ; and any instrument signifying such an order or determination and purporting to be signed by an officer stated therein to be so authorized shall unless the contrary is proved be deemed to be signed by an officer so authorized.

Royal Nigerian Military Forces Benefit Fund.

206. (1) All fines awarded under sections 73, 74, 80, 81 and 193 shall be paid over to the Accountant-General of the Federation and be applied towards forming a fund to be known as the Royal Nigerian Military Forces Benefit Fund for the purpose of making moneys available for the benefit of soldiers and ex-soldiers of the Force who are in distress, for the benefit of the Force generally or for charitable purposes,

(2) The formation of the fund and disbursements therefrom shall be in accordance with regulations to be made by the Governor-General.

207. (1) The power to establish and maintain land forces under this Ordinance shall include power to establish and maintain forces consisting of or including women, and any force so established and maintained shall be deemed to form part of the Royal Nigerian Military Forces.

Application of Ordinance to women's land forces.

(2) Subject to subsection (3), the provisions of this Ordinance which specify the persons who are subject to military law under this Ordinance and any other enactment (including enactments in this Ordinance other than the provisions aforesaid) in so far as it contains the word "soldier" or other word importing a reference to persons of the male sex only as, or as having been, members of the Force, shall have effect as if for such words there had been substituted therein words having a like meaning in other respects but importing a reference to persons of either sex.

(3) In relation to women members of the Force this Ordinance shall have effect subject to the following modifications—

(a) so much of Parts I, II, III and IX as relates to service in, and transfer to, the reserve shall not apply;

(b) so much of Part V as provides for field punishment shall not apply;

(c) references in sections 197 and 199 to a widow shall be construed as references to a widower.

208. (1) The Royal Nigerian Military Forces Ordinance, the Royal Nigerian Military Forces Reserve Ordinance and the Royal Nigerian Military Forces (Military Units) Ordinance, 1953, are hereby repealed:

Repeal. No. 7 of 1953.

Provided that—

(a) all units raised under the provisions of the first-named Ordinance shall be deemed to be raised under this Ordinance; and

(b) all soldiers serving with the Force raised under the first-named Ordinance on the day on which this Ordinance comes into operation shall be deemed to have been enlisted under this Ordinance but such soldiers shall not be required to serve with the Force for a longer period than that for which they were required to serve at the time of their original enlistment or re-engagement.

(2) The transitional provisions set out in the Second Schedule to this Ordinance shall take effect on the repeal of the first-named Ordinance.

Second Schedule.

FIRST SCHEDULE

[s. 95]

ALTERNATIVE OFFENCES OF WHICH ACCUSED MAY BE CONVICTED
BY COURT-MARTIAL

<i>Offence charged</i>	<i>Alternative offences</i>
1. Any offence against subsection (1) of section 30.	1. Any offence against subsection (2) of section 30.
2. Any offence against subsection (1) of section 31.	2. Any offence against subsection (2) of section 31.
3. Communicating with or giving intelligence to the enemy, either with intent to assist the enemy or without authority.	3. Disclosing information without authority.
4. Any offence against subsection (1) of section 37.	4. Any offence against subsection (2) of section 37.
5. Striking his superior officer.	5. (a) Using violence to his superior officer otherwise than by striking him. (b) Offering violence to his superior officer.
6. Using violence to his superior officer otherwise than by striking him.	6. Offering violence to his superior officer.
7. Using threatening language to his superior officer.	7. Using insubordinate language to his superior officer.
8. Disobeying, in such a manner as to show wilful defiance of authority, a lawful command given or sent to him personally.	8. Disobeying a lawful command.
9. Desertion.	9. Absence without leave.
10. Attempting to desert.	10. Absence without leave.
11. Stealing any property.	11. Fraudulently misapplying the property.
12. Any offence against section 49 involving wilfulness.	12. The corresponding offence involving negligence.
13. Any offence against subsection (1) of section 57.	13. Any offence against subsection (2) of section 57.
14. Any offence against section 58 involving striking.	14. (a) The corresponding offence involving the use of violence other than striking. (b) The corresponding offence involving the offering of violence.
15. Any offence against section 58 involving the use of violence other than striking.	15. The corresponding offence involving the offering of violence.

SECOND SCHEDULE

[s. 208]

TRANSITIONAL PROVISIONS

1. In this Schedule "the old Ordinance" means the Royal Nigerian Military Forces Ordinance (hereby repealed).

2. (1) In relation to an offence against any section in Part II of the old Ordinance, sections 73 to 119 inclusive and 122 to 126 inclusive of this Ordinance, and the rules made under section 128 of this Ordinance shall apply as if the said section of the old Ordinance had been contained in this Ordinance, and this Ordinance had been in force when the offence was committed, and as if any finding or punishment having effect before the date upon which this Ordinance comes into operation, and anything done before that day by virtue of or in relation to such a finding or sentence, had been come to, awarded or done under this Ordinance :

Provided that nothing in this sub-paragraph shall render an offence capable of being tried by court-martial or dealt with summarily, if by reason of the time or place of the commission of the offence it could not have been so tried or dealt with under the old Ordinance.

(2) Notwithstanding anything in sub-paragraph (1) where any proceedings for such an offence as aforesaid have been begun before the date upon which this Ordinance comes into operation, any step in the proceedings taken after that day shall be deemed to be validly taken if taken in accordance with the old Ordinance and the rules made thereunder.

(3) In section 119 of this Ordinance (which provides against trial for offences already disposed of), references to this Ordinance or to any provision thereof shall be construed as including respectively references to the old Ordinance and to the corresponding provision thereof.

3. Where after the date upon which this Ordinance comes into operation a person is alleged—

(a) to have committed an offence continuing over a period beginning before that day and ending thereon or thereafter ; or

(b) to have committed an offence between two dates falling within such a period,

and the offence would be one against a provision in Part V of this Ordinance if it had been in operation at all material times, he may be proceeded against as if this Ordinance had so been in operation.

4. Any officer who immediately before the date upon which this Ordinance comes into operation was authorized to recruit or attest soldiers shall, without prejudice to any subsequent withdrawal of the authorization, be deemed without further authorization a recruiting officer for the purposes of Part IV of this Ordinance.

5. Any forfeiture of, or deduction from, pay having effect under the old Ordinance immediately before the date upon which this Ordinance comes into operation shall continue to have effect notwithstanding the repeal of the old Ordinance.

6. Any document made before the date upon which this Ordinance comes into operation which would have been admissible in evidence under the provisions of the old Ordinance, or those provisions as applied by any other enactment, shall be admissible to the like extent and in the like proceedings notwithstanding that the old Ordinance has ceased to be in operation.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

COMPARATIVE TABLE

LIST OF ABBREVIATED REFERENCES

Ord.—Royal Nigerian Military Forces Ordinance (Chapter 200).

R. Ord.—Royal Nigerian Military Forces Reserve Ordinance (Chapter 201).

AA.—Army Act, 1955, of the United Kingdom.

CM(A) A.—Courts-Martial (Appeals) Act, 1951, of the United Kingdom.

VF(BC) A.—Visiting Forces (British Commonwealth) Act, 1933, of the United Kingdom.

Clause of Bill	Corresponding U.K. Provisions	Corresponding Nigerian Provisions	Clause of Bill	Corresponding U.K. Provisions	Corresponding Nigerian Provisions
1	—	—	58	AA s.55	Ord. s.10
2	AA s.225	Ord. s.111	59	AA s.56	Ord. s.22
3	AA s.224	Ord. s.112	60	AA s.57	Ord. s.28
4	—	Ord. s.3	61	AA s.58	Ord. s.29
5	—	R. Ord. ss.4 & 5	62	AA s.59	Ord. s.39
6	—	—	63	AA s.60	Ord. s.36
7	—	—	64	AA s.61	Ord. s.33
8	—	—	65	AA s.62	Ord. s.25
9	—	—	66	AA s.64	—
10	—	—	67	AA s.65	Ord. s.37
11	—	—	68	AA s.66	Ord. s.18
12	—	—	69	AA s.67	Ord. s.27
13	—	—	70	AA s.68	—
14	—	—	71	AA s.69	Ord. s.40
15	AA s.1	—	72	AA s.70	Ord. s.41
16	AA s.2 (1) & (3)	—	73	AA s.71	—
17	AA s.4	—	74	AA s.72	Ord. s.44
18	—	Ord. s.75	75	AA s.73	Ord. s.44
19	—	Ord. s.78	76	AA s.74	Ord. s.45
20	AA s.11	Ord. ss.80 & 81	77	AA s.75	—
21	AA s.12	Ord. s.80	78	AA s.76	Ord. s.46
22	AA s.13	Ord. s.80	79	AA s.77	Ord. s.46
23	AA s.15	—	80	AA s.78	Ord. s.46
24	—	Ord. s.82	81	AA s.79	—
25	AA s.14	—	82	AA s.80	—
26	AA s.17 (1) & (5)	Ord. s.74	83	AA s.82	—
27	AA s.18	Ord. s.91	84	—	Ord. s.50
28	AA s.22	Ord. s.72	85	—	Ord. s.50
29	AA s.23	—	86	AA s.87	—
30	AA s.24	Ord. ss.4 & 5	87	AA s.90	—
31	AA s.25	Ord. ss.4 & 5	88	AA s.91	—
32	AA s.26	Ord. ss.4 & 5	89	AA s.92	Ord. s.50 (10)
33	AA s.27	Ord. s.5	90	AA s.93	Ord. s.50 (10)
34	AA s.28	Ord. s.5	91	AA s.94	Ord. s.50 (10)
35	AA s.29	Ord. s.6	92	AA s.95	Ord. s.50 (10)
36	AA s.30	Ord. s.6	93	AA s.96	Ord. s.50 (10)
37	AA s.31	Ord. s.7	94	AA s.97	Ord. s.50 (10)
38	AA s.32	Ord. s.7	95	AA s.98	Ord. s.50 (10)
39	AA s.33	Ord. s.8	96	AA s.99	Ord. s.50 (10)
40	AA s.34	Ord. s.9	97	AA s.100	—
41	AA s.35	Ord. s.6	98	AA s.101	Ord. s.64
42	AA s.36	Ord. ss.11 & 13	99	AA s.102	—
43	AA s.37	Ord. s.12	100	AA s.107	—
44	AA s.38	Ord. s.15	101	AA s.108	—
45	AA s.39	Ord. s.14	102	AA s.109	—
46	AA s.41	Ord. s.15	103	AA s.110	Ord. s.52
47	AA s.42	Ord. s.18	104	AA s.111	Ord. s.52
48	AA s.43	Ord. s.19	105	AA s.112 (2)	Ord. s.52
49	AA s.44	Ord. ss.17 & 18	106	AA s.113	—
50	AA s.45	Ord. s.18	107	AA s.114	—
51	AA s.46	Ord. s.24	108	AA s.115	—
52	AA s.49	—	109	AA s.116	—
53	AA s.50	—	110	AA s.118	—
54	AA s.51	—	111	AA s.119	Ord. s.55
55	AA s.52	—	112	AA s.125	Ord. s.55
56	AA s.53	Ord. s.21	113	AA s.126	—
57	AA s.54	Ord. s.20	114	AA s.127	—

COMPARATIVE TABLE—continued

Clause of Bill	Corresponding U.K. Provisions	Corresponding Nigerian Provisions	Clause of Bill	Corresponding U.K. Provisions	Corresponding Nigerian Provisions
115	AA s.129	Ord. s.55	166	AA s.187	Ord. s.61
116	AA s.131	—	167	AA s.188	Ord. s.61
117	AA s.132	Ord. s.42	168	AA s.189	Ord. s.61
118	AA s.133	Ord. s.95	169	AA s.190	—
119	AA s.134	Ord. s.95	170	AA s.191	Ord. s.99
120	AA s.135	—	171	AA s.192	Ord. s.96
121	AA s.136	Ord. s.53	172	AA s.193	—
122	AA s.138	—	173	AA s.194	—
123	AA s.139	—	174	AA s.195	Ord. s.97
124	AA s.140	—	175	AA s.196	—
125	AA s.141	—	176	AA s.197	—
126	AA s.142	—	177	AA s.198	Ord. s.50 (10)
127	AA s.143	—	178	AA s.199	Ord. s.50 (10)
128	AA s.103	Ord. s.72	179	AA s.200	Ord. s.50 (10)
129	CM(A) A s.3	—	180	AA s.201	—
130	CM(A) A s.4	—	181	AA s.202	—
138	CM(A) A s.14	—	182	AA s.203	Ord. s.94
139	CM(A) A s.16	—	183	AA s.204	—
140	CM(A) A s.17	—	184	—	R. Ord. s.3
141	CM(A) A s.18	—	185	—	—
142	CM(A) A s.19 (2)	—	186	—	—
143	CM(A) A s.27	—	187	—	—
144	—	—	188	—	R. Ord. s.8
145	—	—	189	—	—
146	—	—	190	—	—
147	—	—	191	—	R. Ord. s.11
148	—	—	192	AA s.205 (1)	Ord. s.110
149	AA s.144	—	193	AA s.209	—
150	AA s.145	Ord. s.56	194	—	—
151	AA s.146	—	195	—	Ord. s.101
152	AA s.147	—	196	—	Ord. s.102
153	AA s.148	Ord. s.59	197	—	Ord. s.103
154	AA s.149	—	198	—	Ord. s.104
155	—	Ord. ss.65 & 66	199	—	Ord. s.105
156	—	Ord. s.65	200	—	Ord. s.106
157	AA s.177 (1)	—	201	—	Ord. s.107
158	AA s.178	—	202	—	Ord. s.108
159	—	—	203	—	Ord. s.72
160	VF(BC) A s.4 (2)	—	204	—	—
161	AA s.180	—	205	AA s.23	—
162	AA s.181	—	206	—	Ord. s.58
163	AA s.184	—	207	AA s.213	—
164	AA s.185	—	208	—	—
165	AA s.186	—			

BORSTAL TRAINING (LAGOS) ORDINANCE, 1960

ARRANGEMENT OF SECTIONS

1. Short title, commencement and application.
2. Interpretation.
3. Power of High Court and Chief Magistrates to pass sentences of Borstal training.
4. Committal for sentence by Chief Magistrate.
5. Reports to be considered before sentence of Borstal training passed.
6. Appeal from sentence of Borstal training.
7. Consequential and minor amendments.

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 29

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

**AN ORDINANCE TO MAKE PROVISION FOR THE AWARD OF SENTENCES OF BORSTAL
TRAINING BY COURTS IN THE FEDERAL TERRITORY OF LAGOS.**

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 Borstal Training (Lagos) Ordinance, 1960, and shall come into operation on a day to be appointed by the Minister by notice in the Gazette.

**Short title,
commence-
ment and
application.**

(2) This Ordinance shall have effect in respect of the Federal Territory of Lagos.

Interpreta-
tion.

No. 24 of
955.

2. (1) In this Ordinance, unless the context otherwise requires—

“Borstal institution” means a Borstal institution established under the provisions of the Borstal Institutions and Remand Centres Ordinance, 1960 ;

“Chief Magistrate” means a Chief Magistrate appointed under the provisions of the Magistrates’ Court (Lagos) Ordinance, 1955 ;

“High Court” means the High Court of Lagos ;

“magistrate” means a magistrate appointed under the provisions of the Magistrates’ Court (Lagos) Ordinance, 1955.

(2) Where the age of any person at any time is material for the purposes of any provisions of this Ordinance regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.

(3) References in this Ordinance to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under any enactment upon the imprisonment of offenders of his age, but shall not be construed as including an offence for which the court is required to impose a sentence of imprisonment for life.

(4) Where any provision of this Ordinance empowers a court on conviction of the offender to pass a sentence in lieu of dealing with him in any other manner, the said provision shall not be construed as taking away any power of the court to order the offender to pay costs, damages or compensation.

3. Where a person is convicted by the High Court or a Chief Magistrate of an offence punishable with imprisonment, then if on the day of his conviction he is not less than sixteen years but under twenty-one years of age, and the court is satisfied having regard to such evidence as is available as to his character and previous conduct, and to the circumstances of the offence, that it is expedient for his reformation and the prevention of crime that he should undergo a period of training in a Borstal institution, the court may, in lieu of any other sentence, pass a sentence of Borstal training.

4. (1) Where a person is convicted by a magistrate other than a Chief Magistrate of an offence punishable with imprisonment, then if on the day of his conviction he is not less than sixteen but under twenty-one years of age, and the magistrate is satisfied of the matters mentioned in section 3, the magistrate may commit him in custody for sentence by a Chief Magistrate in accordance with the following provisions of this section.

(2) Where an offender is committed by a magistrate as aforesaid to a Chief Magistrate, the registrar to the committing magistrate shall notify the registrar to the Chief Magistrate, and the registrar to the Chief Magistrate shall give notice to the prosecutor and to the officer in charge of the place where he is in custody of the date on which the case will be dealt with by the Chief Magistrate.

(3) Where an offender is committed by a magistrate for sentence as aforesaid to a Chief Magistrate, the Chief Magistrate shall enquire into the circumstances of the case and may—

(a) if satisfied of the matters mentioned in section 3, sentence him to Borstal training ; or

(b) in any case, deal with him in any manner in which the committing magistrate might have dealt with him.

Power of
High Court
and Chief
Magistrates
to pass
sentences of
Borstal
training.

Committal
for sentence
by Chief
Magistrate.

5. (1) Before a sentence of Borstal training is passed under section 3, and before a person is committed for sentence under subsection (1) of section 4, the court shall consider any report or representation made by or on behalf of the Director of Prisons on the offender's physical and mental condition and his suitability for the sentence, and if the court has not received such a report or representation it shall after conviction remand the offender in custody in a remand centre for such period or periods (not exceeding three weeks in the case of any single period) as the court thinks necessary to enable the report or representations to be made.

Reports to be considered before sentence of Borstal training passed.

(2) A copy of any report or representation in writing made to a court by or on behalf of the Director of Prisons for the purposes of subsection (1) shall be given by the court to the offender or his counsel or solicitor.

6. The provisions of any enactment relating to appeals from sentences generally of a court shall apply in respect of sentences of Borstal training passed by the court under the provisions of this Ordinance as they apply to other sentences passed by the court.

Appeal from sentence of Borstal training.

7. The enactments mentioned in the first column of the Schedule shall have effect subject to the amendments specified in the second column of the Schedule (being amendments of a consequential and minor nature).

Consequential and minor amendments. Schedule.

SCHEDULE

CONSEQUENTIAL AND MINOR AMENDMENTS

<i>Ordinance to be amended</i>	<i>Amendment</i>
Magistrates' Court (Lagos) Ordinance, 1955. (No. 24 of 1955).	In section 35 after the words "section 36" insert the following— "of this Ordinance and of section 4 of the Borstal Training (Lagos) Ordinance, 1960"; in section 58 (as amended by the Magistrates' Court (Lagos) (Amendment) Ordinance, 1956), in paragraph (a) of subsection (2) after the word "imprisonment" in the first place where it occurs insert the following— "or Borstal training".
High Court of Lagos Ordinance, 1955. (No. 25 of 1955).	In section 49A (as inserted by the High Court of Lagos (Amendment) Ordinance, 1960), in subsection (1)— (i) after the word "imprisonment" in the first place where it occurs insert the following— "or Borstal training"; (ii) delete the words "and any time" and substitute the following— and, in the case of a sentence of imprisonment, any time".

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 30



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE LAW RELATING TO CORPORAL PUNISHMENT

Title.

[

]

Commence-
ment.

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

Enactment.

1. This Ordinance may be cited as the Criminal Procedure (Corporal Punishment) Ordinance, 1960, and shall apply to Lagos.

Short
title and
application.

Corporal
punishment
whipping
modified.

2. (1) Where in any written law enacted, or having effect as if enacted, by the Federal Legislature, reference is made to whipping in relation to the award of corporal punishment, such reference shall be read and construed as a reference to caning.

(2) For the avoidance of doubts, wherever in any such written law there is provision for the award of a sentence of whipping and a sentence of whipping is thereunder ordered, a light rod or cane or birch only shall be used in the execution of such sentence.

Amendment
of Part XLII
of Criminal
Procedure
Ordinance.

(3) The Criminal Procedure Ordinance is amended by—

(a) the deletion from Part XLII of the words "whipping" and "whipped" wherever they occur and the substitution therefor in each case of the words "caning" and "caned" respectively ;

(b) the deletion from subsection (1) of section 386 of the words "or whip".

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 31

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO MAKE PROVISION FOR THE ENFORCEMENT IN NIGERIA OF JUDGMENTS GIVEN IN FOREIGN COUNTRIES WHICH ACCORD RECIPROCAL TREATMENT TO JUDGMENTS GIVEN IN NIGERIA, FOR FACILITATING THE ENFORCEMENT IN FOREIGN COUNTRIES OF JUDGMENTS GIVEN IN NIGERIA, AND FOR OTHER PURPOSES IN CONNEXION WITH THE MATTERS AFORESAID.

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 Foreign Judgments (Reciprocal Enforcement) Ordinance, 1960, and shall come into operation on a day to be appointed by the Governor-General by notice in the Gazette.

Short title,
commence-
ment and
application.

(2) This Ordinance shall be of Federal application.

Interpreta-
tion.

2. (1) In this Ordinance—

“appeal” includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution;

“country of the original court” means the country in which the original court is situated;

“judgment” means a judgment or order given or made by a court in any civil proceedings and shall include an award in proceedings on an arbitration if the award has in pursuance of the law in force in the place where it was made become enforceable in the same manner as a judgment given by a court in that place, or a judgment or order given or made by a court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party;

“judgment creditor” means the person in whose favour the judgment was given, and includes any person in whom the rights under the judgment have become vested by succession or assignment or otherwise;

“judgment debtor” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable under the law of the original court;

“judgments given in the superior courts in Nigeria” means judgments given in a High Court or the Federal Supreme Court and includes judgments given in any courts on appeals against any judgments so given;

“original court” in relation to any judgment means the court by which the judgment was given;

“prescribed” means prescribed by rules of court;

“registration” means registration under Part I of this Ordinance, and the expressions “register” and “registered” shall be construed accordingly;

“registering court” in relation to any judgment means the court to which an application to register the judgment is made;

“superior court in Nigeria” means the High Court of a Region or of Lagos or of the Southern Cameroons.

(2) For the purposes of this Ordinance the expression “action *in personam*” shall not be deemed to include any matrimonial cause or any proceedings in connexion with any of the following matters, that is to say matrimonial matters, administration of the estates of deceased persons, bankruptcy, winding up of companies, lunacy, or guardianship of infants.

PART I.—REGISTRATION OF FOREIGN JUDGMENTS

Power to
extend Part I
of Ordinance
to foreign
countries
giving
reciprocal
treatment.

3. (1) The Governor-General if he is satisfied that, in the event of the benefits conferred by this Part of this Ordinance being extended to judgments given in the superior courts of any foreign country, substantial reciprocity of treatment will be assured as respects the enforcement in that foreign country of judgments given in the superior courts in Nigeria, may by order direct—

(a) that this Part of this Ordinance shall extend to that foreign country; and

(b) that such courts of that foreign country as are specified in the order shall be deemed superior courts of that country for the purposes of this Part of this Ordinance.

(2) Any judgment of a superior court of a foreign country to which this Part of this Ordinance extends, other than a judgment of such a court given on appeal from a court which is not a superior court, shall be a judgment to which this Part of this Ordinance applies, if—

(a) it is final and conclusive as between the parties thereto; and

(b) there is payable thereunder a sum of money, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty; and

(c) it is given after the coming into operation of the order directing that this Part of this Ordinance shall extend to that foreign country, or if it is a judgment to which section 10 of this Ordinance applies.

(3) For the purposes of this section, a judgment shall be deemed to be final and conclusive notwithstanding that an appeal may be pending against it, or that it may still be subject to appeal, in the courts of the country of the original court.

(4) The Governor-General may by a subsequent order vary or revoke any order previously made under this section.

4. (1) A person, being a judgment creditor under a judgment to which this Part of this Ordinance applies, may apply to a superior court in Nigeria at any time within six years after the date of the judgment, or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings, to have the judgment registered in such court, and on any such application the court shall, subject to proof of the prescribed matters and to the other provisions of this Ordinance, order the judgment to be registered:

Provided that a judgment shall not be registered if at the date of the application—

(a) it has been wholly satisfied; or

(b) it could not be enforced by execution in the country of the original court.

(2) Subject to the provisions of this Ordinance with respect to the setting aside of registration—

(a) a registered judgment shall, for the purposes of execution, be of the same force and effect; and

(b) proceedings may be taken on a registered judgment; and

(c) the sum for which a judgment is registered shall carry interest; and

(d) the registering court shall have the same control over the execution of a registered judgment;

as if the judgment had been a judgment originally given in the registering court and entered on the date of registration:

Provided that execution shall not issue on the judgment so long as, under this Part of this Ordinance and the rules of court made thereunder, it is competent for any party to make an application to have the registration of the judgment set aside, or, where such an application is made, until after the application has been finally determined.

(3) Where the sum payable under a judgment which is to be registered is expressed in a currency other than the currency of Nigeria, the judgment shall be registered as if it were a judgment for such sum in the currency of Nigeria as, on the basis of the rate of exchange prevailing at the date of the judgment of the original court, is equivalent to the sum so payable.

(4) If at the date of the application for registration the judgment of the original court has been partly satisfied, the judgment shall not be registered in respect of the whole sum payable under the judgment of the original court, but only in respect of the balance remaining payable at that date.

(5) If, on an application for the registration of a judgment, it appears to the registering court that the judgment is in respect of different matters and that some but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

(6) In addition to the sum of money payable under the judgment of the original court, including any interest which by the law of the country of the original court becomes due under the judgment up to the time of registration the judgment shall be registered for the reasonable costs of and incidental to registration, including the costs of obtaining a certified copy of the judgment from the original court.

Rules of
court.

5. (1) The power to make rules of court conferred by any Ordinance or Law establishing a High Court shall, subject to the provisions of this section, include power to make rules for the following purposes—

(a) for making provision with respect to the giving of security for costs by persons applying for the registration of judgment ;

(b) for prescribing the matters to be proved on an application for the registration of a judgment and for regulating the mode of proving those matters ;

(c) for providing for the service on the judgment debtor of notice of the registration of a judgment ;

(d) for making provision with respect to the fixing of the period within which an application may be made to have the registration of the judgment set aside and with respect to the extension of the period so fixed ;

(e) for prescribing the method by which any question arising under this Ordinance whether a foreign judgment can be enforced by execution in the country of the original court, or what interest is payable under a foreign judgment under the law of the original court, is to be determined ;

(f) for prescribing any matter which under this Part of this Ordinance is to be prescribed.

(2) Rules made for the purposes of this Part of this Ordinance shall be expressed to have, and shall have, effect subject to any such provisions contained in orders made under section 3 of this Ordinance as are declared by the said orders to be necessary for giving effect to agreements made between Her Majesty and foreign countries in relation to matters with respect to which there is power to make rules of court for the purposes of this Part of this Ordinance.

Cases in
which
registered
judgments
must, or may
be set aside.

6. (1) On an application in that behalf duly made by any party against whom a registered judgment may be enforced, the registration of the judgment—

(a) shall be set aside if the registering court is satisfied—

(i) that the judgment is not a judgment to which this Part of this Ordinance applies or was registered in contravention of the foregoing provisions of this Ordinance ; or

(ii) that the courts of the country of the original court had no jurisdiction in the circumstances of the case ; or

(iii) that the judgment debtor, being the defendant in the proceedings in the original court, did not (notwithstanding that process may have been duly served on him in accordance with the law of the country of the original court) receive notice of those proceedings in sufficient time to enable him to defend the proceedings and did not appear ; or

(iv) that the judgment was obtained by fraud ; or

(v) that the enforcement of the judgment would be contrary to public policy in Nigeria ; or

(vi) that the rights under the judgment are not vested in the person by whom the application for registration was made ;

(b) may be set aside if the registering court is satisfied that the matter in dispute in the proceedings in the original court had previously to the date of the judgment in the original court been the subject of a final and conclusive judgment by a court having jurisdiction in the matter.

(2) For the purposes of this section the courts of the country of the original court shall, subject to the provisions of subsection (3), be deemed to have had jurisdiction—

(a) in the case of a judgment given in an action *in personam*—

(i) if the judgment debtor, being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in the proceedings otherwise than for the purpose of protecting, or obtaining the release of, property seized, or threatened with seizure, in the proceedings or of contesting the jurisdiction of that court ; or

(ii) if the judgment debtor was plaintiff in, or counter-claimed in, the proceedings in the original court ; or

(iii) if the judgment debtor, being a defendant in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the country of that court ; or

(iv) if the judgment debtor, being a defendant in the original court, was at the time when the proceedings were instituted resident in, or being a body corporate, had its principal place of business in, the country of that court ; or

(v) if the judgment debtor, being a defendant in the original court, had an office or place of business in the country of that court and the proceedings in that court were in respect of a transaction effected through or at that office or place ;

(b) in the case of a judgment given in an action of which the subject matter was immovable property or in an action *in rem* of which the subject matter was movable property, if the property in question was at the time of the proceedings in the original court situate in the country of that court ;

(c) in the case of a judgment given in an action other than any such action as is mentioned in paragraph (a) or paragraph (b), if the jurisdiction of the original court is recognized by the law of the registering court.

(3) Notwithstanding anything in subsection (2), the courts of the country of the original court shall not be deemed to have had jurisdiction—

(a) if the subject matter of the proceedings was immovable property outside the country of the original court ; or

(b) except in the cases mentioned in sub-paragraphs (i), (ii) and (iii) of paragraph (a) and in paragraph (c) of subsection (2), if the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the country of that court ; or

(c) if the judgment debtor, being a defendant in the original proceedings, was a person who under the rules of public international law was entitled to immunity from the jurisdiction of the courts of the country of the original court and did not submit to the jurisdiction of that court.

Powers of
registering
court on
application
to set aside
registration.

7. (1) If, on an application to set aside the registration of a judgment, the applicant satisfies the registering court either that an appeal is pending, or that he is entitled and intends to appeal, against the judgment, the court, if it thinks fit, may, on such terms as it may think just, either set aside the registration or adjourn the application to set aside the registration until after the expiration of such period as appears to the court to be reasonably sufficient to enable the applicant to take the necessary steps to have the appeal disposed of by the competent tribunal.

(2) Where the registration of a judgment is set aside under subsection (1), or solely for the reason that the judgment was not at the date of the application for registration enforceable by execution in the country of the original court, the setting aside of the registration shall not prejudice a further application to register the judgment when the appeal has been disposed of or if and when the judgment becomes enforceable by execution in that country as the case may be.

(3) Where the registration of a judgment is set aside solely for the reason that the judgment, notwithstanding that it had at the date of the application for registration been partly satisfied, was registered for the whole sum payable thereunder, the registering court shall, on the application of the judgment creditor, order judgment to be registered for the balance remaining payable at that date.

Foreign
judgments
which can be
registered
not to be
enforceable
otherwise.

8. No proceedings for the recovery of a sum payable under a foreign judgment, being a judgment to which this part of this Ordinance applies, other than proceedings by way of registration of the judgment, shall be entertained by any court in Nigeria.

Application
of Part I of
Ordinance to
Her
Majesty's
dominions
outside
Nigeria.

9. (1) This Part of this Ordinance shall apply to Her Majesty's dominions outside Nigeria and to judgments obtained in the courts of the said dominions as it applies to foreign countries and to judgments obtained in the courts of foreign countries, and the Reciprocal Enforcement of Judgments Ordinance shall cease to have effect except in relation to those parts of the said dominions to which it extends at the date of the commencement of this Ordinance.

Cap. 192.

(2) If an order is made under section 3 of this Ordinance extending Part I of this Ordinance to any part of Her Majesty's dominions to which the Reciprocal Enforcement of Judgments Ordinance extends as aforesaid, the said Ordinance shall cease to have effect in relation to that part of Her Majesty's dominions, except as regards judgments obtained before the coming into operation of the order and registered in accordance therewith.

(3) In this section the expression "Her Majesty's dominions outside Nigeria" shall be deemed to include any British protectorate or protected State and any territory in respect of which a mandate or trusteeship under the League of Nations or United Nations has been accepted by Her Majesty.

Provisions
respecting
certain
existing
judgments.

Cap. 192.

10. Notwithstanding any other provision of this Ordinance—

(a) a judgment given before the commencement of an order under section 3 of this Ordinance applying Part I of this Ordinance to the foreign country where the judgment was given may be registered within twelve months from the date of the judgment or such longer period as may be allowed by a superior court in Nigeria, and

(b) any judgment registered under the Reciprocal Enforcement of Judgments Ordinance at the time of coming into operation of an order made under section 3 of this Ordinance in respect of the foreign country where the judgment was given shall be treated as if registered under this Ordinance and compliance with the rules applicable to the former Ordinance shall satisfy the requirements of rules made under this Ordinance.

Cap. 192.

PART II.—MISCELLANEOUS

11. (1) Subject to the provisions of this section, a judgment to which Part I of this Ordinance applies or would have applied if a sum of money had been payable thereunder, whether it can be registered or not, and whether, if it can be registered, it is registered or not, shall be recognized in any court in Nigeria as conclusive between the parties thereto in all proceedings founded on the same cause of action and may be relied on by way of defence or counter-claim in any such proceedings.

General
effect of
certain
foreign
judgments.

(2) This section shall not apply in the case of any judgment—

(a) where the judgment has been registered and the registration thereof has been set aside on some ground other than—

(i) that a sum of money was not payable under the judgment; or

(ii) that the judgment had been wholly or partly satisfied; or

(iii) that at the date of the application the judgment could not be enforced by execution in the country of the original court; or

(b) where the judgment has not been registered and it is shown (whether it could have been registered or not) that if it had been registered the registration thereof would have been set aside on an application for that purpose on some ground other than one of the grounds specified in paragraph (a).

(3) Nothing in this section shall be taken to prevent any court in Nigeria recognizing any judgment as conclusive of any matter of law or fact decided therein if that judgment would have been so recognized before the passing of this Ordinance.

12. (1) If it appears to the Governor-General that the treatment in respect of recognition and enforcement accorded by the courts of any foreign country to judgments given in the superior courts of Nigeria is substantially less favourable than that accorded by the courts of Nigeria to judgments of the superior courts of that country, the Governor-General may by order apply this section to that country.

Power to
make
foreign
judgments
unenforce-
able in
Nigeria if no
reciprocity.

(2) Except in so far as the Governor-General may by order under this section otherwise direct, no proceedings shall be entertained in any court in Nigeria for the recovery of any sum alleged to be payable under a judgment given in a court of a country to which this section applies.

(3) The Governor-General may by a subsequent order vary or revoke any order previously made under this section.

13. Where a judgment under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, has been entered in a superior court in Nigeria against any person and the judgment creditor is desirous of enforcing the judgment in a country or territory to which Part I of this Ordinance applies, the court shall, on an application made by the judgment creditor and

Issue of
certificates
of judgments
obtained in
Nigeria.

on payment of such fee as may be fixed for the purposes of this section by rules of court of the High Court in question, issue to the judgment creditor a certified copy of the judgment, together with a certificate containing such particulars with respect to the action, including the causes of action, and the rate of interest, if any, payable on the sum payable under the judgment, as may be prescribed :

Provided that, where execution of a judgment is stayed for any period pending an appeal or for any other reason, an application shall not be made under this section with respect to the judgment until the expiration of that period.

Repeal
Cap. 73.

14. The Foreign Judgments (Reciprocal Enforcement) Ordinance is repealed.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

ARRANGEMENT OF SECTIONS

PART I.—PRELIMINARY

1. Short title, commencement and application.
2. Interpretation.

PART II.—ESTABLISHMENT AND GOVERNMENT OF REMAND
CENTRES AND BORSTAL INSTITUTIONS

3. Minister may by order constitute and discontinue remand centres and Borstal Institutions.
4. Regulations.
5. Standing orders.

PART III.—OFFICERS, ETC.

6. Director of Prisons to have charge of remand centres and Borstal institutions.
7. Officers of remand centres and Borstal institutions.
8. Visitors and visiting committees.
9. Voluntary visitors.

PART IV.—MISCELLANEOUS

10. Application of Prisons Ordinance, 1960.
11. Facilities for observation in remand centres.
12. Transfers from Borstal institution to prison.
13. Release and supervision after Borstal training.
14. Prison Officers' Reward Fund.

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 32

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF BORSTAL INSTITUTIONS
AND REMAND CENTRES AND FOR REGULATING THE GOVERNMENT THEREOF.

[By Notice, see ss. 1 and 8 (6)]

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

PART I.—PRELIMINARY

1. (1) This Ordinance may be cited as the Borstal Institutions and Remand Centres Ordinance, 1960, and shall, subject to the provisions of subsection (6) of section 8, come into operation on a day to be appointed by the Minister by notice in the Gazette.

(2) This Ordinance shall have effect throughout the Federation.

Title.

Commence-
ment.

Enactment.

Short title,
commence-
ment
and
application.

Interpreta-
tion.

2. (1) In this Ordinance, unless the context otherwise requires—

“Borstal institution” means any building or place or any part thereof declared to be a Borstal institution under section 3 ;

“Director” means the Director of Prisons ;

“inmate” means any person lawfully confined in a remand centre or Borstal institution ;

“Minister” means the Minister of the Federation charged with responsibility for matters relating to remand centres and Borstal institutions ;

“prison” and “prison officer” have the meaning assigned to those expressions in the Prisons Ordinance, 1960 ;

“remand centre” means any building or place or any part thereof, declared to be a remand centre under section 3.

(2) References in this Ordinance to a Region and to a Minister of the Region shall be deemed to include references to the Southern Cameroons and to a Minister of the Southern Cameroons respectively.

PART II.—ESTABLISHMENT AND GOVERNMENT OF REMAND CENTRES AND BORSTAL INSTITUTIONS

3. (1) The Minister may by order declare any building or place within the Federation to be—

(a) a remand centre, that is to say a place for the detention of persons not less than sixteen but under twenty-one years of age who are remanded or committed in custody for trial or sentence ; or

(b) a Borstal institution, that is to say a place in which offenders who were not less than sixteen but under twenty-one years of age on the day of conviction may be detained and given such training and instruction as will conduce to their reformation and the prevention of crime,

and by the same or any subsequent order declare the area for which any such building or place shall be used for the purposes of a remand centre or Borstal institution.

(2) The Minister may by order direct that any building or place declared to be a remand centre or Borstal institution under subsection (1) shall cease to be used as a remand centre or Borstal institution.

(3) A prison or any part of a prison shall not be deemed to be discontinued as a prison by reason only that it has been declared to be a remand centre or Borstal institution under subsection (1).

4. (1) The Governor-General may by regulation prescribe or provide for—

(a) the regulation and government of remand centres and Borstal institutions ;

(b) the appointment, powers, duties, conduct and disciplinary control of the officers and other persons employed in remand centres or Borstal institutions ;

(c) the functions and duties of visitors, visiting committees and voluntary visitors ;

(d) the classification, treatment, diet, clothing, maintenance, employment, discharge, discipline, instruction and control of inmates ;

Minister may
by order con-
stitute and
discontinue
remand
centres
and Borstal
institutions.

Regulations.

- (e) the release of inmates on parole ;
 - (f) the establishment of after-care associations, that is to say organisations for the welfare and reformation of persons discharged from Borstal institutions ;
 - (g) the form in which any order shall be made ;
 - (h) such matters as are required or permitted by this Ordinance to be prescribed or provided for by regulations,
- and generally for the better carrying out of the purposes of this Ordinance.

(2) Regulations made under subsection (1) may provide that any regulations made under the Prisons Ordinance, 1960, shall apply in relation to remand centres or Borstal institutions as they apply in relation to prisons subject to such adaptations and modifications as may be prescribed.

5. (1) Standing orders made under section 7 of the Prisons Ordinance, 1960, for the good order, discipline and welfare of prisons shall apply in relation to remand centres and Borstal institutions as they apply in relation to prisons, subject to such adaptations and modifications as the Director may, with the approval of the Minister, make by standing orders, and shall be binding on all prison officers employed in remand centres or Borstal institutions.

Standing
orders.

(2) Standing orders made under subsection (1) need not be published in the Gazette.

PART III.—OFFICERS, ETC.

6. The Director shall have the general charge and superintendence of remand centres and Borstal institutions in the whole or such part of the Federation as the Minister may direct.

Director of
Prisons to
have charge
of remand
centres and
Borstal
institutions.

7. (1) Prison officers may be required to carry out duties in relation to remand centres and Borstal institutions.

Officers of
remand
centres and
Borstal
institutions.

(2) Any prison officer so required shall not be deemed to cease to be a prison officer within the meaning of the Prisons Ordinance, 1960, by reason only of such requirement.

8. (1) The Minister may, after consultation with the appropriate Minister of the Region concerned, by notice in the Gazette, appoint such persons as he may think fit to be visitors in relation to such remand centres and Borstal institutions as may be specified in the notice.

Visitors and
visiting
committees.

(2) The following shall *ex-officio* be visitors—

(a) in relation to all remand centres and Borstal institutions in the Federation, the Chief Justice of the Federation and Federal Justices of the Federal Supreme Court ;

(b) in relation to remand centres and Borstal institutions in the area of their jurisdiction only—

(i) the Chief Justices and Judges of the High Courts of the Regions and of Lagos ;

- (ii) all District Judges ;
- (iii) all Magistrates ;
- (iv) all alkalai and presidents of native courts ;
- (v) all justices of the peace.

(3) The Minister may, after consultation with the appropriate Minister of the Region concerned, by notice in the Gazette appoint any visitor or visitors to be a visiting committee in relation to such remand centres and Borstal institutions as may be specified in the notice without prejudice to the general right of visitation on the part of other visitors.

(4) Visitors and visiting committees shall perform such functions and duties in relation to remand centres and Borstal institutions as may be prescribed.

(5) The Minister may by notice in the Gazette delegate the powers conferred by this section to appoint visitors and visiting committees to the appropriate Minister of a Region in respect of remand centres and Borstal institutions in his Region.

(6) The provisions of this section which appoint officers or authorities of Regions to be visitors shall not come into operation in respect of any Region until the Governor-General shall have signified in the Gazette the consent of the Governor of the Region thereto.

Voluntary
visitors.

9. The Director may authorise such persons as he may think fit as voluntary visitors to carry out such functions and duties in relation to remand centres and Borstal institutions as may be prescribed.

PART IV.—MISCELLANEOUS

Application
of Prisons
Ordinance,
1960.

10. Except as otherwise provided by this Ordinance, the Prisons Ordinance, 1960, shall, subject to such adaptations and modifications as the Governor-General may make by regulations under section 4 of this Ordinance, apply in relation to remand centres and Borstal institutions and to inmates as it applies in relation to prisons and prisoners.

Facilities
for
observation
in remand
centres.

11. The Minister shall cause to be provided in remand centres facilities for the observation of any person detained therein on whose physical or mental condition a medical report is required for the assistance of a court in determining the most suitable method of dealing with his case.

Transfers
from Borstal
institution
to prison.

12. If a person detained in a Borstal institution is reported to the Minister by the Director to be incorrigible, or to be exercising a bad influence on the other inmates of the institution, the Minister may direct that the said person shall be detained in a prison for such term, not exceeding the unexpired portion of the term for which the said person is then liable to be detained in a Borstal institution, as the Minister may determine ; and for the purpose of this Ordinance the said person shall be treated as if he had been sentenced to imprisonment for that term :

Provided that no such report by the Director to the Minister shall be made earlier than six months following the date of the sentence of the person concerned to Borstal training.

Release and
supervision
after Borstal
training.
Schedule.

13. Subject to the provisions of section 12, a person sentenced to Borstal training shall be detained in a Borstal institution and after his release therefrom shall be subject to supervision in accordance with the provisions of the Schedule.

14. All fines and forfeitures of pay inflicted upon prison officers carrying out duties in relation to a remand centre or Borstal institution for offences against discipline under regulations or standing orders made or applicable under this Ordinance shall be paid into the Prison Officers' Reward Fund established under section 43 of the Prisons Ordinance, 1960, to be applied in accordance with the provisions of that section.

Prison
Officers'
Reward
Fund.

SCHEDULE

(sections 12 and 13)

BORSTAL TRAINING

(1) A person sentenced to Borstal training shall be retained in custody in a prison for as short a period as possible only and, after any necessary period in a remand centre, shall be detained in a Borstal institution for such period, not extending beyond three years after the date of his sentence, as the Director may determine, and then shall be released :

Provided that the Director shall not release any such person from a Borstal institution before the expiration of nine months from the date of his sentence unless required to do so by directions of the Minister under this Schedule.

(2) A person shall, after his release from a Borstal institution and until the expiration of four years from the date of his sentence, be under the supervision of such after-care association or person as may be specified in a notice to be given to him by the Director on his release, and shall while under that supervision, comply with such requirements as may be so specified :

Provided that the Director may at any time modify or cancel any of the said requirements or order that a person who is under supervision as aforesaid shall cease to be under supervision.

(3) If before the expiration of four years from the date of his sentence the Director is satisfied that a person who is under supervision after his release from a Borstal institution under paragraph (1) has failed to comply with any requirement for the time being specified in the notice given to him under paragraph (2), he may direct him to be recalled to a Borstal institution ; and thereupon he shall be liable to be detained in the Borstal institution until the expiration of three years from the date of his sentence, or the expiration of six months from the date of his being taken into custody under the direction, whichever is the later, and, if at large, shall be deemed to be unlawfully at large :

Provided that—

(a) any such direction shall, at the expiration of four years from the date of the sentence, cease to have effect unless the person to whom it relates is then in custody thereunder ; and

(b) the Director may at any time release a person who is detained in a Borstal institution under this paragraph ; and the foregoing provisions of this Schedule shall apply in the case of a person so released as they apply in the case of a person released under paragraph (1).

(4) If any person while under supervision, or after his recall to a Borstal institution, as aforesaid, is sentenced by a court in any part of the Federation to Borstal training, his original sentence of Borstal training shall cease to have

effect; and if any such person is so sentenced to imprisonment, any period for which he is so imprisoned under that sentence shall count as part of the period for which he is liable to detention in a Borstal institution under his original sentence.

(5) The Director in exercising his functions under this Schedule shall act in accordance with any general or special directions of the Minister regarding the advisability of releasing a person from a Borstal institution.

(6) In this Schedule, any references to the date of a sentence of Borstal training shall, in relation to a person who has appealed against his sentence, be construed as a reference to the date on which the sentence was finally affirmed.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 33



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE ELECTRICITY CORPORATION OF NIGERIA
ORDINANCE, 1950.

Title.

[30th September, 1960]

Commence-
ment.

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

Enactment.

1. This Ordinance may be cited as the Electricity Corporation of
Nigeria (Amendment) Ordinance, 1960, and shall be of Federal application.

Short title
and
applicatio

Amendment
of section 32.

2. Section 32 of the Electricity Corporation of Nigeria Ordinance, 1950, is amended by—

(a) the deletion from subsection (2) of paragraph (a) and the substitution therefor of the following—

“(a) to the creation of a general reserve and such other reserves as may be sanctioned by the Governor-General in Council ; and” ;

(b) the repeal of subsection (3) and the substitution therefor of the following—

“(3) The maximum size of the general reserve or any other reserve created in accordance with the provisions of subsection (2) shall be such as may be fixed by the Governor-General in Council from time to time, and the Corporation may from time to time place such proportion of the balance of its revenue as the state of its affairs shall permit in such reserve or reserves up to the maximum fixed as aforesaid.”.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 34

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II
SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.
Governor-General and Commander-in-Chief

AN ORDINANCE TO MAKE SUPPLEMENTARY PROVISION FOR THE SERVICE OF THE
FEDERATION OF NIGERIA FOR THE YEAR ENDING ON THE THIRTY-FIRST
DAY OF MARCH, ONE THOUSAND NINE HUNDRED AND SIXTY-ONE ADDI-
TIONALLY TO THAT MADE BY THE APPROPRIATION (1960-61) ORDINANCE,
1960.

Title.

[30th September, 1960]

Commence-
ment.

WHEREAS by the Appropriation (1960-61) Ordinance, 1960 (hereinafter referred to as the Appropriation Ordinance) a sum of Forty-Six Million, Six Hundred and Twenty-Nine Thousand, Nine Hundred and Thirty Pounds was provided for the service of the Federation of Nigeria for the year ending on the 31st day of March, 1961, to be applied and expended in the manner therein described and for the services set forth in the Schedule to that Ordinance:

Preamble.
No. 10 of
1960.

							£
<i>Brought forward</i>	..	..	..	..	..	..	769,230
47. Agriculture (Research)	..	..	..	..	..	..	10,650
52. Marketing and Exports	..	..	..	..	..	..	3,010
58. Legislature	..	..	..	..	..	..	9,200
64. Contributions to the Development Fund	..	..	..	..	..	..	500,000
Total	..	..	..	..	..	..	<u>£1,292,090</u>

SECOND SCHEDULE

(Section 3)

							£
23. Cabinet Office	..	..	..	..	..	..	20,000
47. Agriculture (Research)	..	..	..	..	..	..	1,080
53. Ministry of Transport and Aviation	..	..	..	..	..	..	500
							<u>£21,580</u>

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 35



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE NIGERIAN COLLEGE OF ARTS, SCIENCE AND
TECHNOLOGY ORDINANCE, 1952 (No. 12 of 1952).

Title.

[30th September, 1960]

Commence-
ment.

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

Enactment.

1. This Ordinance may be cited as the Nigerian College of Arts, Science
and Technology (Amendment) Ordinance, 1960, and shall be of Federal
application.

Short title
and
application.

Amendment
of section 15.
No. 12 of
1952.

2. Section 15 of the Nigerian College of Arts, Science and Technology Ordinance, 1952, is amended by the addition after subsection (3) of the following new subsection—

“(4) The Minister may by order declare that any office which is a pensionable appointment for the purposes of subsection (1) shall be deemed to have been a pensionable appointment as from such date prior to its inclusion as a pensionable appointment in the Second Schedule as may be specified in the order, and thereupon an appointment may accordingly be made under subsection (1) to that office on pensionable terms with effect from that or any later date.”.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 36



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO PROVIDE IN CERTAIN SPECIAL CASES FOR THE RECKONING FOR PENSION PURPOSES OF PERIODS OF SERVICE WITH THE GASKIYA CORPORATION AND OF PUBLIC SERVICE IN NON-PENSIONABLE OFFICES PRIOR TO THE 1ST OCTOBER, 1954.

Title.

[30th September, 1960]

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 Pensions (Special Application) Ordinance, 1960, and shall be read as one with the Pensions Ordinance, 1951.

Short
title, con-
struction and
application.
No. 29 of
1951.

(2) This Ordinance shall be of Federal application.

Certain
service to be
pensionable.
Schedule.

2. For all the purposes of the Pensions Ordinance, 1951, each person specified in the Schedule shall be deemed to have held a pensionable office in the public service of the Government of Nigeria continuously between the dates specified in the Schedule opposite his name, notwithstanding any periods, between those dates, of service with the Gaskiya Corporation or of public service in a non-pensionable office.

Status of
persons
specified in
Schedule.
No. 29 of
1951.

3. Each such person specified in the Schedule shall, for the purposes of the Pensions Ordinance, 1951, have a status equivalent in all respects to that of a transferred officer as defined in section 26 of that Ordinance.

SCHEDULE

Alhaji Abubakar Imam	..	..	1st December, 1938 to 30th September, 1954, inclusive
Alhaji Makama	..	..	1st August, 1941 to 30th September, 1954, inclusive
Mallam Abubakar Tunau	..	..	9th April, 1943 to 30th September, 1954, inclusive
Mallam Maman Kolo	..	..	20th March, 1944 to 30th September, 1954, inclusive
Mallam Abu Musawa	..	..	16th March, 1944 to 30th September, 1954, inclusive

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 37



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II
SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.
Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE GOVERNMENT SECURITIES ORDINANCE.

[1st October, 1960]

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

1. (1) This Ordinance may be cited as the Government Securities (Amendment) Ordinance, 1960, and shall come into operation on the 1st October, 1960.

(2) This Ordinance shall be of Federal application.

Title.

Commence-
ment.

Enactment.

Short title,
commence-
ment and
application.

Amendment
of section 2.

2. Section 2 of the Government Securities Ordinance (hereinafter referred to as the principal Ordinance) is amended by the deletion of the expression "1877 to 1900" and the substitution therefor of the following—
"1877 to 1948".

Repeal and
replacement
of section 3.

3. Section 3 of the principal Ordinance is repealed and replaced by the following section—

"Application. 3. This Ordinance applies to all securities created or issued on behalf of the former Government of the Colony of Lagos or of the former Government of the Colony of Southern Nigeria or of the former Government of the Colony or of the Government of the Federation, to which for the time being the Colonial Stock Acts apply, and which are for the time being registered in the United Kingdom in accordance with the provisions of those Acts, each and all of which securities are hereinafter referred to as Government securities."

Amendment
of section 4.

4. Section 4 of the principal Ordinance is amended by the deletion of the words "Government of the Colony" and the substitution therefor of the following—

"Government of the Federation".

Repeal and
replacement
of section 6.

5. Section 6 of the principal Ordinance is repealed and replaced by the following section—

"Certain legislation to be agreed with the United Kingdom Government. 6. Legislation which appears to Her Majesty's Government in the United Kingdom to alter any of the provisions affecting Government securities to the injury of holders or to involve a departure from the original contract in regard to those securities, shall not be submitted to the Governor-General for his assent except after agreement with Her Majesty's Government in the United Kingdom, and if attention is drawn to any such legislation as aforesaid after the passing thereof, the Government of the Federation will take the necessary steps to ensure such amendment as may be requested by Her Majesty's Government in the United Kingdom."

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 38

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.
Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE MILITARY PENSIONS ORDINANCE, 1955
(No. 12 of 1955)

Title.

[1st May, 1958]

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 Military Pensions (Amendment) Ordinance, 1960, and shall be deemed to have come into operation on the 1st day of May, 1958.

(2) This Ordinance shall have effect throughout the Federation.

Short title,
commence-
ment
and
application.

Amendment
of section 14
No. 12 of
1955.

2. The Military Pensions Ordinance, 1955, is amended by the repeal of section 14 and the substitution therefor of the following section—

"Gratuity
where an
officer or
other rank
dies in the
service or
after
retirement.

14. (1) Subject to the provisions of section 7, where an officer or other rank dies while in the military service, the Governor-General may grant to his legal personal representative a gratuity of an amount not exceeding either his annual pensionable emoluments, or his commuted pension gratuity if any, whichever is the greater.

(2) For the purposes of subsection (1)—

(a) "annual pensionable emoluments" means the emoluments which would be taken for the purpose of computing any pension or gratuity granted to the officer or other rank if he had retired at the date of his death in the circumstances described in paragraph (d) of subsection (1) or paragraph (a) of subsection (2) or paragraph (b) of subsection (3) or paragraph (b) of subsection (4) of section 7.

(b) "commuted pension gratuity" means the gratuity, if any, which might have been granted to the officer or other rank under regulation 15 of the Military Pensions Regulations, 1955 as amended, if he had retired at the date of his death in the circumstances described in paragraph (d) of subsection (1) or paragraph (a) of subsection (2) or paragraph (b) of subsection (3) or paragraph (b) of subsection (4) of section 7, and elected to receive a gratuity and reduced pension.

(3) Where any such officer or other rank to whom a pension, gratuity or other allowance has been granted under this Ordinance dies after retirement from the military service, and the sums paid or payable to him at his death on account of any pension, gratuity or other allowance in respect of any military service are less than the amount of the annual pensionable emoluments enjoyed by him at the date of his retirement, the Governor-General may grant to his legal personal representative a gratuity equal to the deficiency."

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 39

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE NIGERIAN BROADCASTING CORPORATION
ORDINANCE, 1956 (No. 39 OF 1956)

Title.

[30th September, 1960]

Commence-
ment.

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

Enactment.

1. This Ordinance may be cited as the Nigerian Broadcasting Corpora-
tion (Amendment) Ordinance, 1960, and shall be of Federal application.

Short title
and appli-
cation.

Amend-
ment of
section 5
No. 39 of
1956.

2. Section 5 of the Nigerian Broadcasting Corporation Ordinance, 1956, is amended by—

(a) the deletion from paragraph (c) of the word “ten” and the substitution therefor of the following—

“twelve”;

(b) the insertion in paragraph (c) after sub-paragraph (vii) of the following new sub-paragraphs—

“(viii) one shall be a person chosen to represent Lagos in virtue of his close touch with opinion therein;

(ix) one shall be a person holding an office in the Ministry for which the Minister is responsible;”.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA.
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 40



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO MAKE PROVISION FOR THE PREVENTION OF ABUSE OF
THE OFFICIAL SEAL, EMBLEM AND NAME OF THE WORLD METEOROLOGICAL
ORGANISATION.

Title.

[30th September, 1960]

Commence-
ment.

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

Enactment.

1. This Ordinance may be cited as the World Meteorological Organisa-
tion (Protection) Ordinance, 1960, and shall be of Federal application.

Short title
and
application.

2. It shall not be lawful for any person, without the authority of the
Minister of the Federation charged with responsibility for trade marks, to
use for any purpose whatsoever any of the following, that is to say—

Improper
use of
W.M.O.
official seal,
emblem and
name
prohibited.
Schedule.

(a) the design in the Schedule which is the official seal and emblem of
the World Meteorological Organisation, or

(b) the designation "World Meteorological Organisation" or any
abbreviation of that designation,

Penalties.

3. If any person contravenes the provisions of section 2 he shall be guilty of an offence and shall be liable to a fine of one hundred pounds, and to forfeit any goods upon or in connection with which the seal, emblem or designation was used.

SCHEDULE

(Section 2)

SCEAU OFFICIEL ET EMBLÈME de l'Organisation Météorologique Mondiale (O.M.M.).

THE OFFICIAL SEAL AND EMBLEM of the World Meteorological Organisation (W.M.O.)



This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA.
Clerk of the Parliaments

PRISONS ORDINANCE, 1960

ARRANGEMENT OF SECTIONS

PART I.—PRELIMINARY

1. Short title, commencement and application.
2. Interpretation.

PART II.—ESTABLISHMENT AND GOVERNMENT OF PRISONS

3. Minister may by order constitute prisons.
4. Extent of prisons.
5. Appropriation of prisons to particular classes of prisoners.
6. Regulations.
7. Standing orders.

PART III.—PRISON OFFICERS, ETC.

8. Director of Prisons, deputy director and assistant directors.
9. Prison officers.
10. Medical officers.
11. Visitors and visiting committees.
12. Voluntary visitors.

PART IV.—CUSTODY, REMOVAL AND DISCHARGE OF PRISONERS

13. Prisoners in legal custody of superintendents.
14. Legal custody of prisoners under sentence of death.
15. Superintendents to detain persons committed.
16. Removal of prisoners to temporary prisons.
17. Production of persons before a court, etc.
18. Removal of prisoners to other prisons.
19. Insanity of any prisoner.
20. Insanity of prisoners under sentence of death.
21. Insanity of prisoners other than those under sentence of death.
22. Operation of ss. 19 to 21 in case of Regional officers.
23. Removal of sick prisoners to hospital.
24. Monthly report on prisoners in hospital.
25. Return of prisoners in hospital to prison.
26. Liability of prison officers for escape limited.
27. Medical officers and hospital officials to take precautions for preventing escapes.
28. Superintendent may take measures for further security of prisoners under treatment.
29. Return of prisoner to his own district or place of sentence on discharge.
30. Discharge.

PART V.—NATIVE AUTHORITY AND LOCAL GOVERNMENT COUNCIL PRISONS

31. Power to transfer prisoners to and from non-government prisons.
32. Imprisonment in non-government prisons.

PART VI.—OFFENCES IN RELATION TO PRISONS

33. Penalty for trafficking.
34. Unlawful possession of prison articles.
35. Incitement and abetting of desertion.
36. Incitement to mutiny and sedition.
37. Harboursing prisoners.
38. Offences under this part.

PART VII.—MISCELLANEOUS

- 39. Effect of sentence.
- 40. Use of weapons.
- 41. Removal of prisoners into another Region.
- 42. Prison Officers' Reward Fund.
- 43. Continuance of past declarations, etc.
- 44. Amendment of Firearms Ordinance, 1958.
- 45. Repeal.

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 41



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.
Governor-General and Commander-in-Chief

**AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF PRISONS AND FOR
REGULATING THE GOVERNMENT THEREOF.**

[By Notice, see sections 1, 22 and 27]

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

1. (1) This Ordinance may be cited as the Prisons Ordinance, 1960, and shall, subject to the provisions of sections 22 and 27, come into operation on a day to be appointed by the Minister by notice in the Gazette.

(2) This Ordinance shall have effect throughout the Federation.

Title.

**Commence-
ment.**

Enactment.

**Short title,
commence-
ment and
application.**

Interpreta-
tion.

2. (1) In this Ordinance, unless the context otherwise requires—

“Director” means the Director of Prisons referred to in section 8 and includes the deputy director of prisons there referred to ;

“medical officer” means a person directed under section 10 to perform the duties of a medical officer ;

“Minister” means the Minister of the Federation charged with responsibility for matters relating to prisons ;

“prison” means any building or place, or any part thereof, declared to be a prison under section 3 and includes any lock-up house, grounds, building or place forming part of a prison under section 4 or section 16 ;

“prison officer” means any officer of whatever rank appointed to carry out duties in relation to prisons ;

“prisoner” includes any person lawfully committed to custody ;

“sentence of imprisonment” means any sentence involving confinement in a prison, whether combined or not with labour, and includes a sentence awarded by way of commutation as well as an original sentence passed by a court ;

“sheriff” includes a deputy sheriff ;

“superintendent” in relation to any prison means the prison officer or other person in charge of the prison.

(2) Wherever there are references in this Ordinance to a Region, this Ordinance shall apply as though Lagos and the Southern Cameroons were Regions, and for such purpose references to a Minister of a Region shall be construed as references to a Minister of the Federation and a Minister of the Southern Cameroons respectively.

(3) Where, in this Ordinance, a person is authorised to make an order under his hand for any purpose, an order so made need not be published in the Gazette.

PART II.—ESTABLISHMENT AND GOVERNMENT OF PRISONS

Minister may
by order
constitute
prisons.

3. The Minister may by order declare any building or place within the Federation to be a prison under this Ordinance, and by the same or any subsequent order declare the area for which any such building or place shall be used for the purposes of a prison. Subject to the provisions of this Ordinance with respect to the appropriation of prisons to particular classes of prisoners, every building or place so declared a prison shall be a prison for the imprisonment of prisoners of every description.

Extent of
prisons.

4. Any lock-up house for the temporary detention or custody of prisoners newly apprehended or under remand declared by the Minister by order to be part of a prison and the grounds and buildings within a prison enclosure shall form part of the prison.

Appropriation
of
prisons to
particular
classes of
prisoners.

5. The Minister may, for effecting the separation of different classes of prisoners or for the training of any class of prisoner or for any other purpose, by order appropriate any particular prison or part thereof to particular classes of prisoners and any prisoner of the class for which any prison or part thereof shall be so appropriated may be lawfully conveyed thereto and imprisoned therein, notwithstanding that the warrant or order for the imprisonment of such prisoner shall have been issued by a court not having its ordinary local jurisdiction in the place where the prison is situated.

6. The Governor-General may by regulation prescribe or provide for— Regulations.

- (a) the regulation and government of prisons ;
 - (b) the appointment, powers, duties, conduct and disciplinary control (including the imposition of fines and forfeitures of pay for breaches of discipline) of the officers and other persons employed in prisons and their arms and accoutrements ;
 - (c) the functions and duties of visitors, visiting committees and voluntary visitors ;
 - (d) the classification, diet, clothing, maintenance, employment, discharge, discipline, instruction, treatment, correction and the recording of particulars of prisoners ;
 - (e) the remission of a portion of the sentences of prisoners ;
 - (f) the release of prisoners on parole ;
 - (g) the form in which any order shall be made ;
 - (h) the administration of the Prisons Officers' Reward Fund ;
 - (i) a scheme for the earning of wages by prisoners, including rates of payment and the categories of prisoners eligible to participate ;
 - (j) the establishment of prisoners' aid societies and associations ;
 - (k) the disposal or sale of ex-prisoners' property left unclaimed for such period as may be prescribed, and the manner in which the proceeds of any such sale shall be utilised ;
- and generally for the better carrying out of the purposes of this Ordinance.

7. (1) The Director may, with the approval of the Governor-General, make such standing orders as he may think fit and proper for the good order, discipline and welfare of prisons, and such standing orders shall be binding on all prison officers but need not be published in the Gazette. Standing Orders.

(2) Without prejudice to the generality of subsection (1), such standing orders may provide for the following matters—

- (a) organisation, administration enlistment, discharge, training and discipline (including the imposition of fines and forfeitures of pay for breaches of discipline) ;
- (b) dress, clothing and equipment ;
- (c) general duties of prison officers ;
- (d) management and good government of offices, workshops and training schools ;
- (e) management and good government of cells and of persons confined therein ;
- (f) distribution and posting of prison officers, removal of prison officers from prison to prison, and the place or places in which prison officers shall reside.

PART III.—PRISON OFFICERS, ETC.

8. There shall be a Director of Prisons who shall have the general charge and superintendence of the prisons system in the whole or such part of the Federation as the Governor-General may direct, and he shall be assisted by a deputy director and assistant directors.

Director of
Prisons,
deputy
director and
assistant
directors.

Prison
officers.

9. There shall be such superintendents of prisons, assistant superintendents and technical instructors of one or more grades, and such subordinate officers as may be necessary.

Medical
officers.

10. The duties of the medical officer of a prison shall be performed by such of the medical officers in the service of the Government of the Federation or of a Region as the Governor-General may direct, subject, in the case of a medical officer in the service of the Government of a Region, to the necessary consent of the Governor of the Region.

Visitors and
visiting
committees.

11. (1) The Minister may, after consultation with the appropriate Minister of the Region concerned, by notice in the Gazette appoint such persons as he may think fit to be prison visitors in relation to such prison or prisons as may be specified in the notice.

(2) The following shall *ex-officio* be prison visitors—

(a) in relation to all prisons in the Federation the Chief Justice of the Federation and the Federal Justices of the Federal Supreme Court ;

(b) in relation to prisons in the area of their jurisdiction only—

(i) the Chief Justices and Judges of the High Courts of the Regions ;

(ii) all District Judges ;

(iii) all magistrates ;

(iv) all alkalai and presidents of native courts ;

(v) all justices of the peace.

(3) The Minister may, after consultation with the appropriate Minister of the Region concerned, by notice in the Gazette appoint any visitor or visitors to be a visiting committee in relation to such prison or prisons as may be specified in the notice without prejudice to the general right of visitation on the part of other visitors.

(4) Visitors and visiting committees shall perform such functions and duties in relation to prisons as may be prescribed.

(5) The Minister may by notice in the Gazette delegate the powers conferred by this section to appoint prison visitors and visiting committees to the appropriate Minister of a Region in respect of prisons in his Region.

(6) The provisions of this section which appoint officers or authorities of Regions to be visitors shall not come into operation until the Governor-General shall have signified in the Gazette the consent of the Governors of each Region thereto.

Voluntary
visitors.

12. The Director may authorise such persons as he may think fit as voluntary visitors to carry out such functions and duties in relation to prisons as may be prescribed.

PART IV.—CUSTODY, REMOVAL AND DISCHARGE OF PRISONERS

Prisoners
in legal
custody of
superinten-
dents.

13. Subject to the provisions of section 14, every prisoner confined in a prison shall be deemed to be in the legal custody of the superintendent thereof and shall be subject to prison discipline and regulations made under this Ordinance whether he is or is not within the precincts of the prison.

14. In the case of a prisoner under sentence of death, the superintendent shall, at such time on the day on which the sentence is to be carried out as may be fixed by the sheriff, hand over the legal custody of the prisoner to the sheriff, and from such time until the actual carrying out of the sentence the prisoner shall be in the legal custody of the sheriff, and the sheriff shall have jurisdiction and control over that portion of the prison where the prisoner is confined and the officers thereof so far as may be necessary for the safe custody of the prisoner during such period and for the purpose of carrying out the sentence and for any purpose relating thereto.

Legal custody of prisoners under sentence of death.

15. Every superintendent is hereby authorised and, subject to the provisions of this Ordinance, required to keep and detain all persons duly committed to his custody by any court, judge, magistrate, justice of the peace, or other authority lawfully exercising civil or criminal jurisdiction, according to the exigency of any warrant or order by which such person has been committed until such person is discharged by due course of law.

Superintendents to detain persons committed.

16. Whenever it appears to the Director—

(a) that the number of prisoners in any prison is greater than can be conveniently kept therein, and that it is not convenient to transfer the excess number of prisoners to some other prison ; or

Removal of prisoners to temporary prisons.

(b) that, by reason of the outbreak within any prison of disease or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoner,

the Director may by order under his hand give directions for the shelter and safe custody in such building or place outside the prison as he may specify of so many of the prisoners as cannot be conveniently or safely kept in the prison, and any building or place specified for that purpose shall be deemed to form part of the prison for the purposes of this Ordinance until the order is cancelled :

Provided that in respect of any such building or place situate outside Lagos which is not the property of the Government of the Federation the Regional Minister concerned shall have given his consent to the making of the order.

17. (1) Whenever the presence of any person confined in a prison is required in a court of civil or criminal jurisdiction, the court may issue an order addressed to the superintendent of the prison requiring production before the court of that person in proper custody at the time and place specified in the order, and may by endorsement on the order require that person to be brought up again at any adjourned hearing thereof.

Production of persons before a court, etc.

(2) If any person brought before a court in pursuance of the provisions of this section is remanded, committed for trial, imprisoned or detained by the court, he shall be so dealt with either in the prison whence he came or in such other prison as the court may direct.

(3) If any person is charged with an offence before a court and is brought before the court in pursuance of the provisions of this section the like proceedings shall be had with respect to the offence as if he had been brought up on a warrant.

(4) The Director, on proof to his satisfaction that the presence of any prisoner at any place in the Federation is required for the interests of justice or for the purpose of any public inquiry, may by writing under his hand order that the prisoner be taken to that place.

(5) The prisoner taken from a prison in pursuance of an order made under this section, shall whilst outside the prison be kept in such custody as the Director may by writing under his hand direct and whilst in that custody shall be deemed to be in lawful custody.

Removal of
prisoners
to other
prisons.

18. The Director or, if so authorised in writing by the Director, any assistant director of prisons, may by order under his hand direct any person in prison under the sentence of any court for an offence committed by him to be removed from the prison in which he is confined to any other prison, and whenever any prisoner is removed to any other prison than that named in the warrant or order under which he is imprisoned, the said warrant or order, together with an order of removal, either endorsed on the warrant or order, or separate therefrom, shall be sufficient authority for the removal of such prisoner to the prison named in the order of removal, and his detention therein, and for carrying out the sentence described in the warrant or order of imprisonment, or any part thereof which may remain unexecuted.

Insanity of
any prisoner.

19. (1) Where it appears to the superintendent of a prison in Lagos that any prisoner therein undergoing a sentence of imprisonment or under sentence of death is of unsound mind, he shall forthwith report the matter to the Minister who shall appoint two or more qualified medical practitioners, one of whom may be the medical officer of the prison, to enquire into the sanity of the prisoner, and may if necessary for such purpose order the removal of the prisoner from the prison to some other prison or to a hospital.

(2) The medical practitioners so appointed shall forthwith examine the prisoner and enquire as to his mental condition, and shall give their opinion thereon in a report in writing to the Director who shall forward the same to the Minister. If the medical practitioners or a majority of them are of opinion that the prisoner is insane the report shall include a certificate to that effect.

(3) The provisions of subsections (1) and (2) shall apply in respect of the officer in charge of a prison elsewhere than in Lagos, save that the report shall be made to the appropriate Minister of the Region who shall exercise the powers of appointment referred to in subsection (1).

Insanity of
prisoners
under
sentence of
death.

20. (1) Where a prisoner into whose soundness of mind an enquiry has been ordered under section 19 is under sentence of death, the superintendent of the prison shall report the circumstances to the authority in whom is vested the power of pardon and upon the order of such authority, the execution of such sentence shall be suspended until the report of the medical practitioners has been received.

(2) Where a prisoner under sentence of death is certified to be of unsound mind in accordance with section 19 and the authority in whom the power of pardon is vested is the Governor-General, the Governor-General shall order execution of the sentence of death to be stayed and may by order in writing under his hand directed to the superintendent of the prison direct that such prisoner be removed to any fit place for the custody and treatment of lunatics which may have been appointed for the purpose (hereinafter referred to as an 'asylum') and thereupon such prisoner shall be removed to such asylum and shall, subject to the provisions of the Lunacy Ordinance relating to the removal of lunatics, be detained therein or in any other asylum to which he may be transferred pursuant to the provisions of that Ordinance, during the Governor-General's pleasure.

(3) Where a prisoner under sentence of death is certified to be of unsound mind in accordance with the provisions of section 19 and the authority in whom the power of pardon is vested is not the Governor-General, the execution of such sentence shall upon the order of such authority be stayed, and the superintendent of the prison shall comply with such directions as to the removal of the prisoner from the prison and otherwise as may, by order in writing under his hand, be given by such authority.

(4) Where in the case of a person who is detained in an asylum pursuant to an order made under the provisions of subsection (2) it is certified by two qualified medical practitioners that such person is no longer of unsound mind the Governor-General shall make such order as to him shall seem just, or if satisfied that it is proper for him so to do, may by order in writing under his hand direct that such person shall be removed to prison to be dealt with according to law.

21. (1) Where a person other than a prisoner under sentence of death is certified to be of unsound mind in accordance with section 19 and the authority in whom the power of pardon is vested is the Governor-General, the Minister shall, by order in writing under his hand directed to the superintendent of the prison, direct that such prisoner be removed to an asylum.

Insanity of prisoners other than those under sentence of death.

(2) Any person removed to an asylum pursuant to an order made under the provisions of subsection (1) shall, subject to the provisions of the Lunacy Ordinance relating to the removal of lunatics, be detained therein or in any other asylum to which he may be transferred pursuant to the provisions of that Ordinance, until the term of imprisonment to which he is subject determines, or until it is certified by two qualified medical practitioners that he is sane, in which case he shall by order in writing under the hand of the Minister be removed to prison to be dealt with according to law.

(3) Where a person is detained in an asylum in accordance with the provisions of subsection (2) and his term of imprisonment is about to determine it shall be the duty of the officer in charge of such asylum to give information on oath to a magistrate in accordance with the Lunacy Ordinance for consideration of the adjudication of such prisoner as a lunatic as from the date of the determination of his sentence.

(4) Where a person other than a prisoner under sentence of death is certified to be of unsound mind in accordance with section 19 and the authority in whom the power of pardon is vested is not the Governor-General such authority or the appropriate officer of the Region concerned shall by order in writing under his hand directed to the superintendent of the prison, give directions for the removal of such prisoner from the prison and give such further directions as may be considered appropriate and such prisoner shall be removed accordingly.

22. (1) The provisions of sections 19 to 21 shall not come into operation in respect of prisoners under sentence, other than prisoners under sentence in respect of whom the power of pardon is vested in the Governor-General, until notification by the Minister in the Federal Gazette that the consent of the Governor of each Region to the conferring of the functions referred to in such sections on officers and authorities of the Region has been given, and for such purpose such sections may be brought into operation at different times in respect of the officers and authorities of different Regions.

Operation of ss. 19 to 21 in case of Regional Officers.

(2) Notwithstanding anything contained in this Ordinance, until the provisions of sections 19 to 21 have come into operation in respect of the officers and authorities of a Region the provisions of section 13 of the Prisons Ordinance (Cap 177 of the Revised Edition of the Laws, 1948) shall continue in force in the circumstances in which such officers or authorities would be called upon to act under such sections.

Removal of
sick
prisoners
to hospital.

23. In case of the serious illness of a prisoner confined in a prison in which there is not suitable accommodation for such prisoner, the Director may, on the certificate of the medical officer of the prison by order under his hand direct his removal to such hospital as may be specified in the order. In case of emergency such removal may be made by the superintendent of the prison upon the certificate of the medical officer of the prison.

Monthly
report on
prisoners
in hospital.

24. So long as any prisoner removed to any hospital under the provisions of section 23 remains therein, the medical superintendent or other person in charge thereof shall, at the end of every month, transmit to the superintendent of the prison a certificate signed by him that it is in his opinion necessary that he should remain in the hospital.

Return of
prisoners
in hospital
to prison.

25. So soon as, in the opinion of the medical superintendent or other officer in charge of a hospital to which a prisoner has been removed under the provisions of section 23, it is no longer necessary for the prisoner to remain therein, he shall transmit to the superintendent of the prison a certificate, stating that such necessity has ceased and thereupon the superintendent shall forthwith cause the prisoner to be brought back to the prison if he is still liable to be confined therein.

Liability
of prison
officers
for escape
limited.

26. If any prisoner escapes during such time as he is in hospital or other place of safe custody under the provisions of this Part, no prison officer shall be held answerable therefor unless such prisoner shall have been in the personal custody of such officer.

Medical
officers and
hospital
officials to
take pre-
cautions for
preventing
escapes.

27. (1) Every reasonable precaution shall be taken by the medical officers and other officers of hospitals and other places of safe custody to prevent the escape of prisoners who may at any time be under treatment therein, and it shall be lawful for the said officers to take such measures for preventing the escape of any such prisoner as shall be necessary :

Provided that nothing shall be done under the authority of this section which is likely to be prejudicial to the health of the prisoner.

(2) In so far as the provisions of sections 24 and 25 and of this section impose functions upon officers or authorities of Regions, such provisions shall not come into operation in any Region until notification by the Minister in the Federal Gazette that the consent of the Governor of such Region to the exercise of such functions by such officers or authorities has been given.

Superinten-
dent may
take
measures for
further
security of
prisoners
under
treatment.

28. (1) Where in any case in view of the gravity of the offence for which any prisoner may be in custody or for any other reason the superintendent of the prison considers it to be desirable to take special measures for the security of the prisoner while under treatment in a hospital or other place of safe custody, he may give the prisoner into the charge of fit and proper persons not being less than two in number, one of whom at the least shall always be with the prisoner day and night, or he may place the prisoner in charge of a military guard.

(2) Any person or military guard in whose charge a prisoner has been placed under subsection (1) shall be vested with full power and authority to do all things necessary to prevent the prisoner from escaping and shall be answerable for his safe custody until such time as he is handed over to the superintendent of the prison on his discharge from the hospital or other place of safe custody or until such time as his term of imprisonment determines, whichever may first occur.

29. Where it appears to the Director to be advisable in the public interest or in the interest of the prisoner that a prisoner undergoing a sentence of imprisonment should on discharge be sent back to the district wherein he has his usual place of abode or in which the court which passed sentence on him has jurisdiction, the Director may, on the termination of his term of imprisonment, direct that he shall be sent back to that district, and may further direct that all necessary and proper precautions shall be taken to ensure his arrival in that district.

Return of prisoner to his own district or place of sentence on discharge.

30. (1) Any prisoner whose term of imprisonment would determine on a Sunday or on Good Friday or on Christmas Day or on the day declared under the Public Holidays Ordinance to be a public holiday in celebration of the birthday of the prophet Mohammed (Id el Maulud) shall be discharged on the day next preceding.

Discharge.

(2) Any prisoner whose term of imprisonment would determine on either of the two days declared under the said Ordinance to be public holidays in celebration of the Mohammedan festival of Id el Fitr or to be public holidays in celebration of the Mohammedan festival of Id el Kabir shall be discharged on the day next preceding the first of the two days so declared.

(3) A prisoner who, at the determination of his term of imprisonment, is under medical treatment shall not, except at his request, be discharged unless a medical officer certifies that in his opinion such discharge can be effected without danger to the health of the prisoner.

PART V.—NATIVE AUTHORITY AND LOCAL GOVERNMENT COUNCIL PRISONS

31. (1) The Director or, if so authorised in writing by the Director, any assistant director of prisons, may by order under his hand direct that any prisoner confined in any prison within the meaning of this Ordinance shall be transferred to and placed in safe custody in any prison maintained by a native authority or a local government council :

Power to transfer prisoners to and from non-government prisons.

Provided that no such order shall be made in respect of a prison maintained as aforesaid in a Region except with the consent of the Minister of the Region charged with responsibility for matters relating to prisons, or of such person as he may authorise in writing under his and.

(2) The Minister of a Region charged with responsibility for matters relating to prisons or such person as he may authorise in writing under his hand may by order under his hand direct that any person confined in any prison maintained in the Region by a native authority or a local government council shall be transferred to and placed in safe custody in any prison within the meaning of this Ordinance :

Provided that no such order shall be made except with the consent of the Director.

(3) Any order made under subsection (1) or subsection (2) shall be sufficient authority to all persons for conveying the person named in the order to the prison named in the order, and for his safe custody therein and for carrying into effect any sentence or order set forth in the order.

32. The Governor of a Region may by order direct that all persons committed to custody by the High Court or a magistrate's court in the Region sitting in any specified area may be imprisoned and serve such sentences as may be imposed on them in a prison maintained in the Region by a native authority or local government council.

Imprisonment in non-government prisons.

PART VI.—OFFENCES IN RELATION TO PRISONS

Penalty for
trafficking.

33. (1) Any person who brings, throws or by any means whatever introduces into any prison or removes therefrom, or gives to or takes from any prisoners, any spiritous liquor, tobacco, any intoxicating or poisonous drug, or any article prohibited by regulations made under this Ordinance, and whoever communicates or attempts to communicate with any prisoner without the permission of the superintendent shall be guilty of an offence.

(2) If any person in the presence of a prison officer commits any offence specified in this section and refuses on demand of such prison officer to state his name and residence, or gives a name or residence which such prison officer knows or has reason to believe to be false, such prison officer may arrest him and shall without unnecessary delay make him over to a police officer, and thereupon such police officer shall proceed as if the offence had been committed in his presence.

Unlawful
possession
of prison
articles.

34. Any person who is found in possession of any article whatsoever which has been supplied to any prison officer for the execution of his duty, or of other prison property and who fails to account satisfactorily for the possession thereof, or who without due authority purchases or receives any such article or property from any prison officer or who aids or abets any prison officer to sell or dispose of any such article or property, shall be guilty of an offence.

Incitement
and abetting
of desertion.

35. Any person who by any means directly or indirectly procures or persuades, or attempts to procure or persuade, any prison officer to desert, or who aids, abets or is accessory to the desertion of any prison officer, or who, having reason to believe that any person is such a deserter, harbours such deserter, or aids him in concealing himself, or assists in his rescue, shall be guilty of an offence.

Incitement
to mutiny
and
sedition.

36. Any person who, directly or indirectly, instigates, commands, counsels, or solicits any mutiny, sedition, or disobedience to any lawful command of a senior officer by any prison officer, or maliciously endeavours to seduce any prison officer from his allegiance or duty, shall be guilty of an offence.

Harbouring
prisoners.

37. Any person who knowingly harbours in or about his house, lands or otherwise, or who knowingly employs any person under sentence of imprisonment and illegally at large, shall be guilty of an offence.

Offences
under this
Part.

38. Any person who commits an offence under this Part shall be liable to a fine of one hundred pounds or to imprisonment for six months, or to both such fine and imprisonment.

PART VII.—MISCELLANEOUS

Effect of
sentence.

39. (1) Every sentence of imprisonment passed upon a prisoner shall subject the prisoner during the term of such sentence to be imprisoned and to work at such labour as may be directed by the officer in charge of the prison. So far as is practicable such labour shall take place in association or outside cells.

(2) The medical officer may order any prisoner to be excused labour or to perform light labour, and any prisoner ordered to perform light labour shall be required to work for which he is certified as fit by the medical officer.

40. (1) A prison officer may use weapons against any prisoner escaping or attempting to escape, but resort shall not be had to the use of any such weapons unless such officer has reasonable grounds to believe that he cannot otherwise prevent the escape.

Use of
weapons.

(2) A prison officer may use weapons on any prisoner engaged in any combined outbreak or in any attempt to force or break open the outside door or gate or enclosure wall of the prison, and may continue to use such weapons so long as such combined outbreak or attempt is actually being prosecuted.

(3) A prison officer may use weapons against any prisoner using violence to any prison officer or other person, provided that such officer has reasonable grounds to believe that the prison officer or other person is in danger of life or limb, or that other grievous hurt is likely to be caused to him.

(4) Before using firearms against a prisoner under the authority contained in subsection (1), the officer shall give warning to the prisoner that he is about to fire.

(5) No prison officer, if there is a superior officer of his present, may use arms of any sort against a prisoner in the case of an outbreak or attempt to escape except under the orders of such superior officer.

(6) The use of weapons under this section shall, as far as possible, be to disable and not to kill.

(7) Every police officer who is for the time being serving in the capacity of an escort guard or of a guard in or about a prison for the purpose of ensuring the safe custody of any prisoner or prisoners in such prison shall be deemed to have all the powers and privileges granted to prison officers under this section.

41. Whenever it is necessary for the purposes of sections 16, 18, 19, 20, 21, 23 or 31 to remove a prisoner to a prison, hospital, asylum or other place of safe custody or to a prison maintained by a native authority or local government council, an order for such removal given under the provisions of this Ordinance shall be sufficient authority for such removal and the detention of the prisoner notwithstanding that such prison, hospital, asylum or prison maintained by a native authority or local government council is situate in another Region.

Removal of
prisoners
into
another
Region.

42. There shall be established a fund to be called the Prison Officers' Reward Fund into which shall be paid all fines and forfeitures of pay inflicted upon prison officers for offences against discipline under regulations or standing orders made under this Ordinance. Such fund shall be applied to the purposes of rewarding prison officers for extra or special services and to the procuring of any comforts or conveniences and advantages to prison officers which are not chargeable on the general revenue, and to the payment of any compassionate gratuity which may be granted to the widow or children of any deceased prison officer, and shall be administered by the Director in accordance with regulations made under this Ordinance.

Prison
Officers'
Reward
Fund.

43. Any order, declaration, direction, appointment, appropriation of a prison or standing orders made or given under any of the provisions of the Prisons Ordinance hereby repealed shall continue to have effect in so far as is consistent with the provisions of this Ordinance, and shall be deemed for all purposes to have been made or given under and in accordance with the corresponding provisions of this Ordinance.

Continuance
of past
declarations,
etc.

Amendment
of Firearms
Ordinance,
1958. No. 7
of 1958.

44. Section 39 of the Firearms Ordinance, 1958, is amended by the insertion after the words "police force" wherever they appear of the following words—

"or a prison officer".

Repeal.

45. Except as provided by subsection (2) of section 22 of this Ordinance, the Prisons Ordinance (Cap. 177 of the Revised Laws, 1948) is repealed.

—

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 42



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.
Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE NIGERIAN EX-SERVICEMEN'S WELFARE
ASSOCIATION ORDINANCE

[30th September, 1960]

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

1. This Ordinance may be cited as the Nigerian Ex-Servicemen's Welfare Association (Amendment) Ordinance, 1960, and shall be of Federal application.

Title.

Commence-
ment.

Enactment.

Short title
and
application.

Amendment
of section 10.

2. Section 10 of the Nigerian Ex-Servicemen's Welfare Association Ordinance is amended by the deletion from subsection (1) of the word "Governor" and the substitution therefor of the following—
"appropriate Minister of the Region."

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

ARRANGEMENT OF SECTIONS

PART I.—PRELIMINARY

1. Short title, commencement and application.
2. Interpretation.

PART II.—CITIZENSHIP BY REGISTRATION AND NATURALISATION

3. Registration of certain persons as citizens.
4. Registration of minors.
5. Effect of registration as a citizen.
6. Naturalisation of aliens.

PART III.—RENUNCIATION AND DEPRIVATION OF CITIZENSHIP

7. Renunciation of citizenship by reason of dual citizenship or nationality.
8. Deprivation of citizenship on naturalisation or exercise of certain rights in other countries or failure to renounce other nationality or citizenship.
9. Deprivation of citizenship of citizens by registration and naturalised persons.
10. Deprivation of citizenship of Nigeria when persons deprived of citizenship elsewhere.
11. Effect of renunciation or deprivation of citizenship.

PART IV.—SUPPLEMENTAL

12. Posthumous children.
13. Decision of Minister to be final.
14. Certificate of citizenship in cases of doubt.
15. Evidence.
16. Offences.
17. Regulations.
18. Inconsistency with Constitutional provisions.
19. Repeals.

FIRST SCHEDULE—Oath of Allegiance.

SECOND SCHEDULE—Qualifications for Naturalisation.

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 43

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

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SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE RELATING TO CITIZENSHIP OF NIGERIA.

[1st October, 1960]

WHEREAS it is proposed that, upon the relinquishment by Her Majesty's Government in the United Kingdom of their responsibility for the Government of the Federation of Nigeria, the Constitution of Nigeria will contain certain provisions relating to citizenship of Nigeria including provisions for the acquisition of citizenship by birth and by descent :

AND WHEREAS it is further proposed that under the said Constitution it will continue to be within the competence of the Legislature of the Federation of Nigeria to make laws consistent therewith for the acquisition and termination of and other matters relating to citizenship :

Title.

Commence-
ment.

Preamble.

AND WHEREAS it is considered expedient to provide for the acquisition of citizenship by registration and naturalisation, the termination of citizenship and other matters relating to citizenship generally with the intent that such provisions will come into operation simultaneously with the coming into operation of the proposed Constitutional provisions :

Enactment.

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

PART I.—PRELIMINARY.

Short title,
commence-
ment and
application.
Interpreta-
tion.

1. (1) This Ordinance may be cited as the Nigerian Citizenship Ordinance, 1960, and shall come into operation on the 1st October, 1960.

(2) This Ordinance shall apply throughout the Federation.

2. (1) In this Ordinance, unless the context otherwise requires—

“alien” means a person who is not a Commonwealth citizen, a protected person or a citizen of the Republic of Ireland ;

“certificate of naturalisation” means a certificate of naturalisation granted under this Ordinance ;

“the Commonwealth” means Nigeria, any country mentioned in subsection (5) of section 3 and any dependency of any such country ;

“the Constitution” means the Constitution of Nigeria ;

“foreign country” means a country (other than the Republic of Ireland) that is not part of the Commonwealth ;

“the Minister” means the Minister charged with responsibility for matters relating to citizenship of Nigeria ;

“minor” means a person who has not attained the age of twenty-one years, and when used adjectivally shall be construed accordingly ;

“Nigerian consulate” means an office of a consular officer of the Government of the Federation where a register of births is kept, or where there is no such office, such office as may be prescribed ;

“protected person” means any person who under any enactment for the time being in force in any country that is part of the Commonwealth is a British protected person or a protected person of that country.

(2) For the purposes of this Ordinance a person born in a ship or aircraft registered in Nigeria or belonging to the Government of the Federation shall be deemed to have been born in Nigeria.

(3) A person shall for the purposes of this Ordinance be of full age if he has attained the age of twenty-one years and of full capacity if he is not of unsound mind.

(4) For the purposes of this Ordinance a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.

PART II.—CITIZENSHIP BY REGISTRATION AND NATURALISATION

Registration
of certain
persons as
citizens.

3. (1) Subject to the provisions of subsection (4), a citizen of any country mentioned in subsection (5) or of the Republic of Ireland or a protected person, being a person of full age and capacity, on making application therefor to the Minister in the prescribed manner, may be registered as a citizen of Nigeria if he satisfies the Minister—

(a) that he is of good character ;
(b) that he has a sufficient knowledge of a language in current use in Nigeria ; and

(c) that he is ordinarily resident in Nigeria and has been so resident throughout the period of five years, or such shorter period as the Minister may in the special circumstances of any particular case accept, immediately preceding his application.

(2) Subject to the provisions of subsection (4), any person of full age and capacity born outside Nigeria whose father was at the time of that person's birth a citizen of Nigeria by descent may, on making application therefor to the Minister in the prescribed manner, be registered as a citizen of Nigeria.

(3) Subject to the provisions of subsection (4), a woman who is or has been married to a citizen of Nigeria, or who has been married to a person who would but for his death have become a citizen of Nigeria may, on making application therefor to the Minister in the prescribed manner, be registered as a citizen of Nigeria whether or not she is of full age and capacity.

(4) A person shall not be registered as a citizen of Nigeria under this section unless and until he has made a declaration in writing of his willingness to renounce any other nationality or citizenship he may possess and has taken an oath of allegiance in the form specified in the First Schedule.

First
Schedule.

(5) (a) The following are the countries hereinbefore referred to—that is to say, the United Kingdom and Colonies, Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan, the Federation of Rhodesia and Nyasaland, Ceylon, Ghana, the Federation of Malaya and the State of Singapore.

(b) The Governor-General may by order amend paragraph (a) of this subsection for the purpose of adding any country to the countries mentioned therein.

4. (1) The Minister may cause the minor child of any citizen of Nigeria to be registered as a citizen of Nigeria upon application made in the prescribed manner by a parent or guardian of the child.

Registration
of minors.

(2) The Minister, in such special circumstances as he thinks fit, may cause any minor to be registered as a citizen of Nigeria.

5. A person registered under section 3 or section 4 shall be a citizen of Nigeria by registration as from the date on which he is registered.

Effect of
registration
as a citizen.

6. The Minister, if application therefor is made to him in the prescribed manner by any alien of full age and capacity who satisfies him that he is qualified under the provisions of the Second Schedule for naturalisation, may grant to him a certificate of naturalisation, and the person to whom the certificate is granted shall, on taking an oath of allegiance in the form specified in the First Schedule, and on making a declaration in writing of his willingness to renounce any other nationality or citizenship he may possess and any claim to the protection of any other country, be a citizen of Nigeria by naturalisation as from the date on which that certificate is granted.

Naturalisation
of aliens.
Second
Schedule

First
Schedule.

PART III.—RENUNCIATION AND DEPRIVATION OF CITIZENSHIP

7. (1) If any citizen of Nigeria of full age and capacity who is also—

(a) a citizen of any country that is part of the Commonwealth or of the Republic of Ireland ; or

(b) a national of a foreign country,

Renunciation
of citizenship
by reason of
dual citizen-
ship or
nationality.

makes a declaration in the prescribed manner of renunciation of citizenship of Nigeria, the Minister may cause the declaration to be registered : and, upon the registration, that person shall cease to be a citizen of Nigeria ;

Provided that the Minister may withhold registration of any such declaration if it is made during any war in which Nigeria may be engaged by a person who is a national of a foreign country or if in his opinion it is otherwise contrary to public policy.

(2) For the purposes of this section any woman who has been married shall be deemed to be of full age.

Deprivation of citizenship on naturalisation or exercise of certain rights in other countries or failure to renounce other nationality or citizenship.

8. (1) The Minister may by order deprive any person, other than a person who is a citizen of Nigeria by virtue of his having been born in Nigeria, of his Nigerian citizenship if the Minister is satisfied that that person has at any time while a citizen of Nigeria and of full age and capacity—

(a) acquired the nationality or citizenship of a foreign country by any voluntary and formal act other than marriage ; or

(b) voluntarily claimed and exercised—

(i) in a foreign country ; or

(ii) in any other country under the law of which provision is in force for conferring on its own citizens rights not available to Commonwealth citizens generally, any right available to him under the law of that country, being a right accorded exclusively to its own citizens,

and that it is not conducive to the public good that he should continue to be a citizen of Nigeria.

(2) The Minister may require any such citizen of Nigeria as is referred to in section 7 to renounce his nationality or citizenship of any other country within such period as the Minister may specify and in the event of any such person failing to renounce such nationality or citizenship within the time specified the Minister may by order deprive that person of his citizenship of Nigeria.

(3) Upon an order being made under this section in respect of any person, he shall cease to be a citizen of Nigeria.

Deprivation of citizenship of citizens by registration and naturalised persons.

9. (1) A citizen of Nigeria who is such by registration or naturalisation shall cease to be a citizen of Nigeria if he is deprived of that citizenship by an order of the Minister made under this section or section 10.

(2) Subject to the provisions of this section, the Minister may by order deprive any such citizen of his citizenship if he is satisfied that the registration or certificate of naturalisation was obtained by means of fraud, false representation or the concealment of any material fact.

(3) Subject to the provisions of this section the Minister may by order deprive any citizen of Nigeria who is such by naturalisation of his citizenship if he is satisfied that that citizen—

(a) has shown himself by act or speech to be disloyal or disaffected towards Her Majesty or the Government of Nigeria ; or

(b) has, during any war in which Nigeria was engaged, unlawfully traded or communicated with any enemy or been engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist an enemy in that war ; or

(c) has within seven years after becoming naturalised been sentenced in any country to imprisonment for a term of not less than twelve months.

(4) The Minister may by order deprive any citizen by naturalisation of his citizenship of Nigeria if he is satisfied that that person has been ordinarily resident in a foreign country or foreign countries for a continuous period of seven years and during that period has not registered annually in the prescribed manner at a Nigerian consulate, or by notice in writing to the Minister, his intention to retain his citizenship of Nigeria.

(5) The Minister shall not deprive a person of citizenship under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Nigeria.

10. When a naturalised person who was a citizen of any country that is part of the Commonwealth or of the Republic of Ireland has been deprived of that citizenship on grounds which, in the opinion of the Minister, are substantially similar to any of the grounds specified in subsections (2), (3) and (4) of section 9, then, if that person is a citizen of Nigeria, the Minister may by an order made under this section deprive him of his Nigerian citizenship, if the Minister is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Nigeria.

Deprivation of citizenship of Nigeria when persons deprived of citizenship elsewhere.

11. The renunciation by any person of his Nigerian citizenship or the deprivation of any person's Nigerian citizenship under the provisions of this part shall not affect the liability of that person for any offence committed by him before the renunciation or deprivation of his citizenship.

Effect of renunciation or deprivation of citizenship.

PART IV.—SUPPLEMENTAL

12. Any reference in this Ordinance to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before the 1st October, 1960, and the birth occurred after the 30th September, 1960, the national status that the father would have had if he had died on the 1st October, 1960, shall be deemed to be his national status at the time of his death.

Posthumous children.

13. The Minister shall not be required to assign any reason for the grant or refusal of any application under this Ordinance and the decision of the Minister on any such application shall not be subject to appeal to or review in any court.

Decision of Minister to be final.

14. The Minister may in such cases as he thinks fit, on the application of any person with respect to whose citizenship of Nigeria a doubt exists, whether on a question of fact or law, certify that that person is a citizen of Nigeria; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be *prima facie* evidence that that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date.

Certificate of citizenship in cases of doubt.

15 (1) Every document purporting to be a notice, certificate, order or declaration, or an entry in a register, or a subscription of an oath of allegiance, given, granted or made under this Ordinance or under the Constitution, shall be received in evidence, and shall, unless the contrary is proved, be deemed to have been given, granted or made by or on behalf of the person by whom or on whose behalf it purports to have been given, granted or made.

Evidence.

(2) *Prima facie* evidence of any such document as aforesaid may be given by production of a document purporting to be certified as a true copy thereof by such person and in such manner as may be prescribed.

(3) Any entry in a register made under this Ordinance or under the Constitution, shall be received as evidence of the matters stated in the entry.

Offences.

16. (1) Any person who for the purpose of procuring anything to be done or not to be done under this Ordinance or under the Constitution makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be guilty of an offence and on conviction be liable to a fine of one hundred pounds and to imprisonment for six months.

(2) Any person who fails to comply with any requirement imposed on him by regulations made under this Ordinance with respect to the delivering up of certificates of naturalisation shall be guilty of an offence and on conviction be liable to a fine of one hundred pounds and to imprisonment for six months.

Regulations.

17. The Governor-General may by regulations make provision generally for carrying into effect the purposes of this Ordinance, and in particular—

(a) for prescribing anything which under this Ordinance is to be prescribed;

(b) for the registration of anything required or authorised under this Ordinance to be registered;

(c) for the administration and taking of oaths of allegiance under this Ordinance, for the time within which oaths of allegiance shall be taken and for the registration of oaths of allegiance;

(d) for the giving of any notice required or authorised to be given to any person under this Ordinance;

(e) for the cancellation of the registration of, and the cancellation and amendment of certificates of naturalisation relating to, persons deprived of citizenship under this Ordinance, and for requiring such certificates to be delivered up for those purposes;

(f) for the registration by officers in the service of the Government of the Federation of the births and deaths of persons of any class or description born or dying elsewhere than in Nigeria;

(g) for enabling the births and deaths of citizens of Nigeria born or dying in any country in which the Government of the Federation has for the time being no diplomatic or consular representatives to be registered by persons serving in the diplomatic, consular or other foreign service of any country which, by arrangement with the Government of the Federation, has undertaken to represent that Government's interest in that country, or by a person authorised in that behalf by the Governor-General;

(h) for the imposition and recovery of fees in respect of any application made to the Minister under this Ordinance or in respect of any registration, or the making of any declaration, or the grant of any certificate, or the taking of any oath of allegiance, authorised to be made, granted or taken by or under this Ordinance, and in respect of supplying a certified or other copy of any notice, certificate, order, declaration or entry, given, granted or made as aforesaid and for the application of any such fees.

18. The provisions of this Ordinance shall have effect subject to any provision inconsistent therewith for the time being contained in the Constitution.

Incon-
sistency
with
Constitu-
tional
provisions.

19. The British Nationality and Status of Aliens Fees Ordinance, the Naturalisation of Aliens Ordinance and the British Nationality (Offences and Fees) Ordinance, 1949, and all subsidiary legislation made under those Ordinances are repealed.

Repeals.
Cap. 22.
Cap. 146.
No. 22 of
1949.

FIRST SCHEDULE

(ss. 3 & 6)

OATH OF ALLEGIANCE

I, swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law and that I will support and uphold the Constitution of Nigeria as by law established. So help me God.

SECOND SCHEDULE

(s. 6)

QUALIFICATIONS FOR NATURALISATION

The qualifications for naturalisation of an alien who applies therefor are—

(a) that he has resided in Nigeria throughout the period of twelve months immediately preceding the date of the application; and

(b) that during the seven years immediately preceding the said period of twelve months he has resided in Nigeria for periods amounting in the aggregate to not less than five years; and

(c) that he has an adequate knowledge of a language in current use in Nigeria ; and

(d) that he is of good character ; and

(e) that he intends, if naturalised, to continue to reside permanently in Nigeria.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 44



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.E.E.
Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE MONEYLENDERS ORDINANCE

Title.

[1st October, 1960]

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 Moneylenders (Amendment) Ordinance, 1960, and shall come into operation on the first day of October, 1960.

Short title,
commence-
ment and
application,

(2) This Ordinance shall apply to the Federal Territory of Lagos.

Amendment
of section 2.

2. Section 2 of the Moneylenders Ordinance (hereinafter referred to as the principal Ordinance) is amended by—

(a) the insertion after the definition of "firm" of the following definition—

No. 19 of
1958.

"licensed bank" means a bank which is in possession of a valid licence granted under the Banking Ordinance, 1958 ;"

(b) the deletion from the definition of "moneylender" of paragraph (d).

Addition of
new section
2A.

3. The principal Ordinance is amended by the addition after section 2 of the following new section—

"Exemption. 2A. The Minister may by order exempt any person or body corporate from all or any of the provisions of this Ordinance."

Amendment
of section 3.

4. Section 3 of the principal Ordinance is amended by the deletion of the letter ", (d),".

Amendment
of section 4.

5. Section 4 of the principal Ordinance is amended by the deletion from subsection (1) of the word "five" and the substitution therefor of the following—

"twenty-five".

Amendment
of section 6.

6. Section 6 of the principal Ordinance is amended by the addition after subsection (3) of the following subsection—

"(3A) Every certificate granted to a moneylender shall, in addition to the requirements of subsection (3), specify the name of the bank and the address of the branch thereof at which the person to whom such certificate relates is maintaining a current account for the purposes of the provisions of section 12A."

Amendment
of section 8.

7. Section 8 of the principal Ordinance is amended by—

(a) the insertion in paragraph (d) of subsection (1) after the word "disqualified" of the following—

"under subsection (3) of section 12A or";

(b) the addition in subsection (1) after paragraph (d) of the following new paragraph—

"(dd) that the applicant is not maintaining a current account with a licensed bank for the purposes of the provisions of section 12A ;".

Amendment
of section
12.

8. Section 12 of the principal Ordinance is amended by the addition in subsection (3) after paragraph (a) of the following new paragraph—

"(aa) the name of the bank and the branch thereof on which the cheque, by means of which the money was lent, was drawn and the number of the cheque ;".

Addition of
new section
12A.

9. The principal Ordinance is amended by the addition after section 12 of the following new section—

"Loans to 12A. (1) Every moneylender shall maintain a current account be made by with a licensed bank. cheque.

(2) No contract by a borrower or his agent for the repayment or securing of money lent to the borrower or to any agent on his behalf by a moneylender or for the repayment by the borrower or by any agent on his behalf of interest on money so lent and no security given by the borrower or by any such agent as aforesaid

in respect of any such contract shall be enforceable unless the money lent was lent by means of a cheque drawn by the moneylender upon his current account at a licensed bank to the order of the borrower.

(3) Any moneylender who makes or attempts to make any arrangement whereby the borrower is prevented from obtaining the full amount of the cheque drawn in his or his agent's favour or any arrangement whereby the borrower or his agent is required directly or indirectly to refund to the moneylender, otherwise than by repayment of the loan, any part of the said amount shall be guilty of an offence and liable to a penalty not exceeding fifty pounds, and upon conviction of a moneylender for an offence under this subsection his moneylender's licence shall be deemed to be revoked and he shall be disqualified for the grant of a moneylender's licence at any time thereafter."

10. Section 14 of the principal Ordinance is amended by the deletion from subsection (1) of the word "fifty" and the substitution therefor of the following—

Amendment
of section
14.

"three hundred".

11. (1) The amendments to the principal Ordinance effected by section 6 of this Ordinance shall not apply in respect of any certificate granted to a moneylender before the coming into operation of this Ordinance.

Application
of certain
amendments.

(2) The amendments to the principal Ordinance effected by sections 8 and 9 of this Ordinance shall not be deemed to render unenforceable any contract made before the coming into operation of this Ordinance.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

CITIZENSHIP AND LEADERSHIP TRAINING CENTRE
ORDINANCE, 1960
ARRANGEMENT OF CLAUSES

A 277

Preamble

1. Short title.
 2. Interpretation.
 3. Citizenship and Leadership Training Centre.
 4. Citizenship and Leadership Training Centre Management Committee.
 5. Power to co-opt.
 6. Deputies of members.
 7. Extraordinary vacancies.
 8. Meetings of committee.
 9. Minutes.
 10. Standing Orders.
 11. Powers of committee.
 12. Funds of committee.
 13. Moneys to be banked.
 14. Accounts and audit.
 15. Estimates.
 16. Staff.
 17. Special pensionable appointments.
 18. Power to declare pensionable offices.
 19. Allowances, etc.
 20. Payment of pensions, etc.
 21. Application of Widows' and Orphans' Pensions Ordinance.
 22. Staff control.
 23. Special power as to entry on land.
 24. Validation of payments, etc.
 25. Regulations.
- Schedule.

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 45



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO PROVIDE FOR A TRAINING CENTRE FOR THE DEVELOPMENT OF CITIZENSHIP AND LEADERSHIP, FOR THE ESTABLISHMENT OF A MANAGEMENT COMMITTEE, AND FOR OTHER PURPOSES CONNECTED THEREWITH.

Title.

WHEREAS a Training Centre for the development of citizenship and leadership in and for the public benefit is and for some time heretofore has been operating in Nigeria under the name of the Man O'War Bay Training Centre, and it is expedient that other provision be made therefor and that payments to and acts by that training centre be validated :

Preamble

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

Enactment

1. This Ordinance may be cited as the Citizenship and Leadership Training Centre Ordinance, 1960, and shall be of Federal application.

Short title

Interpretation.

2. In this Ordinance unless the context otherwise requires—

“the Centre” means the Citizenship and Leadership Training Centre under this Ordinance;

“the Committee” means the Citizenship and Leadership Training Centre Management Committee established under this Ordinance;

“the Gazette” means the Federation of Nigeria *Official Gazette*;

“the Minister” means the Federal Minister charged with responsibility for education;

“Nigeria” means the Colony and the Protectorate together with the Cameroons;

“the Principal” means the Principal of the Citizenship and Leadership Training Centre.

Citizenship and Leadership Training Centre.

3. (1) The Training Centre operating in Nigeria in and for the public benefit by developing principles of citizenship and leadership and known as the Man O'War Bay Training Centre shall, on the passing of this Ordinance, be called the Citizenship and Leadership Training Centre; and under that name shall continue to exist and be located in such place or places in Nigeria as the Minister from time to time by order in the Gazette may declare.

(2) The Citizenship and Leadership Training Centre shall for all purposes be deemed to be a charitable organisation.

Citizenship and Leadership Training Centre Management Committee.

4. (1) There is hereby established a Committee to be known as the Citizenship and Leadership Training Centre Management Committee which shall be charged with the general management and control of the Centre subject to the provisions of this Ordinance.

(2) The Committee shall be a body corporate with perpetual succession and a common seal, and be capable of suing and being sued, and doing and suffering all such other things as bodies corporate may lawfully do and suffer.

(3) The Committee shall consist of—

(a) three members appointed by the Minister of whom one shall be nominated from each of the Northern, Eastern and Western Regions by the respective Governors;

(b) one person nominated by the Lagos Chamber of Commerce and appointed by the Minister;

(c) the Chief Federal Adviser on Education;

(d) the Permanent Secretary to the Ministry of Education;

(e) five fit persons from time to time appointed by the Minister where he is satisfied that they are persons concerned with or interested in training organisations or youth organisations.

(4) The Chairman shall be appointed by the Minister from amongst the members of the Committee; and members appointed otherwise than by office shall hold office as members during the pleasure of the Minister.

(5) All appointments under this section otherwise than by office shall be published in the Gazette.

Power to co-opt.

5. The Committee may from time to time co-opt any person or persons not exceeding two in number to assist the Committee; and any person co-opted may take part in the deliberations of the Committee but shall not be deemed to be a member of the Committee for the purposes of voting at a meeting.

6 (1) If any member of the Committee appointed otherwise than by office is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may by notice in the Gazette appoint a deputy to act for that member during his incapacity, and any such deputy shall, while he acts as such, be deemed to be a member of the Committee.

Deputies of members.

(2) No appointment of a deputy and no acts done by him as such, and no act done by the Committee while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

(3) Any member appointed by office may, where likewise incapacitated, by writing for any meeting nominate a substitute officer; and the provisions as to deputies under this section shall extend and apply where the Chairman or other person presiding is notified of the nomination of the substitute officer at the meeting attended.

7. (1) Any member of the Committee appointed otherwise than by office may resign his office by writing addressed to the Minister.

Extraordinary vacancies.

(2) If any member of the Committee is absent without leave from two consecutive ordinary meetings of the Committee, or is guilty of misconduct in his office as a member, he shall be deemed to have become incapable under this Ordinance of holding office as a member of the Committee.

(3) If any member dies, or resigns or is removed from office, the vacancy created shall be deemed to be an extraordinary vacancy.

(4) An extraordinary vacancy shall be filled by the appointment of some person in the same manner as the appointment of the vacating member.

(5) The powers of the Committee shall not be affected by any vacancy in the membership thereof.

8. (1) The Committee shall meet not less than twice in every year for the despatch of business at such times and places as the Chairman may from time to time appoint.

Meetings of Committee.

(2) The Chairman may, and on the request in writing of six members of the Committee shall, call a special meeting of the Committee at such time and place as he may appoint.

(3) If the Chairman for any reason fails to call a meeting the power shall be exercisable by the Minister.

(4) At every meeting of the Committee the Chairman shall preside, and in his absence the Committee shall appoint one of the members to act as Chairman of the meeting.

(5) All questions arising at any meeting of the Committee shall be decided by a majority of the valid votes recorded at the meeting.

(6) Six members shall form a quorum at any meeting of the Committee.

(7) The Chairman or other person presiding at any meeting shall have a deliberative vote and, in the case of an equality of votes, he shall also have a casting vote.

9. Minutes of the proceedings of every meeting of the Committee shall be regularly entered in a book to be kept for the purpose, and shall, after approval, be signed by the Chairman at the next ensuing meeting.

Minutes.

Standing
Orders.

10. (1) The Committee may from time to time make Standing Orders not inconsistent with this Ordinance, to regulate its proceedings and the proceedings of any sub-committee. Any Standing Order may at any time be amended, varied or revoked by the Committee.

(2) Standing Orders when made shall be observed and be binding upon the Committee and any sub-committee of the Committee.

Powers of
Committee.

11. Subject to any direction given from time to time by the Minister, the Committee may—

(a) enter into contracts and do all things necessary for the purposes of this Ordinance ;

(b) acquire and hold movable or immovable property ;

(c) with the approval in writing of the Minister sell, mortgage, lease, transfer or otherwise deal with immovable property ;

(d) sell or otherwise deal with any movable property ;

(e) borrow at interest, on the security of any land or movable property of the Committee, such moneys as the Committee may from time to time require for the purposes of this Ordinance ;

(f) from time to time invest the funds of the Committee as it thinks fit ;

(g) appoint sub-committees from amongst its members—

(i) to inquire into and report to the Committee on matters affecting the functions of the Committee, or

(ii) to deal with matters of an urgent or local nature where directed or approved by the Chairman of the Committee, subject to such conditions as he may by writing impose ;

(h) advise the Principal as and when necessary.

Funds of
Committee.

12. (1) The funds of the Committee shall include—

(a) all moneys raised for the general purposes of the Centre ;

(b) all moneys accruing to the Committee on behalf of the Centre by any means including grants-in-aid, endowments and donations ;

(c) all charges, dues or amounts recovered by the Committee ;

(d) all interest on moneys invested by the Committee.

(2) The funds of the Committee shall, subject to the approval of the Minister, be applied by the Committee for the purposes of this Ordinance. The approval of the Minister may be general or specific in any case.

(3) The Committee may from time to time out of its funds pay the reasonable expenses of members of the Committee incurred by them in the performance of any duty under this Ordinance.

Moneys to
be banked.

13. All sums of money received on account of the Centre by the Committee shall, unless the Committee otherwise directs, be paid into such bank as may be approved by the Committee, for the credit of its general, current or deposit accounts.

Accounts
and Audit.

14. (1) The Committee shall cause to be prepared not later than the 30th day of September in each year—

(a) a statement showing the income and expenditure of the Centre for the year ended 31st day of March immediately preceding ; and

(b) a statement of the assets and liabilities of the Centre as at the 31st day of March immediately preceding.

(2) Every statement under this section shall be audited in such manner as the Governor-General may direct, and be published as the Minister may, from time to time, prescribe.

15. (1) The Committee shall—

Estimates.

(a) review and approve annually a general programme of the activities to be conducted by the Centre based on the recommendations of the Principal;

(b) cause to be prepared not later than the 1st day of September in every year a statement of the expenditure necessary to carry out the approved programme for the next financial year;

(c) consider annual and other reports by the Principal on the progress of the work of the Centre and the expenditure and liabilities incurred.

(2) The programme as approved together with the estimates and the reports of the Principal shall be forwarded by the Committee to the Minister, with such other information as the Committee thinks fit.

16. (1) Subject to the provisions of this Ordinance, members of the staff and servants of the Centre shall be appointed or employed as the case may be—

Staff.

(a) as to the Principal, and such instructors as may be required from time to time, by the Committee;

(b) as to servants of the Centre and non-pensionable members of the staff whose wages and salaries do not exceed three hundred and forty-eight pounds per annum, or the maximum of whose salary scales (if any) does not exceed three hundred and forty-eight pounds per annum, by the Principal;

(c) as to other members of the staff, by the Committee on the recommendation of the Principal.

(2) For the purposes of this section, all persons holding office on the staff or employed as servants of the Centre on the coming into operation of this Ordinance shall be deemed to have been duly appointed or employed as the case may be under this section:

Provided that nothing in this Ordinance shall be construed so as to preclude the dismissal of any person in the ordinary course of the business of the Centre.

17. (1) Subject to the provisions of section 16, the Committee may, with the approval of the Governor-General, appoint such persons as it thinks fit as members of the staff of the Centre to the pensionable appointments specified in the first column of the Schedule to this Ordinance; but nothing in this subsection shall authorise appointments in excess of the maximum number specified in the second column of the Schedule. Appointments under this subsection shall be upon conditions as to probationary service, confirmation, and other cognate matters as may from time to time be prescribed by the Committee.

Special pensionable appointments.

(2) The Governor-General, after taking into account any existing rights may, at any time, upon the recommendation of the Committee, by notification in the Gazette, vary the Schedule to this Ordinance by the addition of any office under the Committee and the maximum number of appointments

that may be made to such offices, or by grouping two or more offices and by fixing the maximum aggregate number of appointments that may be made to offices so grouped, or by removing any office therefrom, or by altering the maximum number of new appointments that may be made to a new office.

Power to
declare
pensionable
offices.

18. (1) It shall be lawful for the Governor-General by order published in the Gazette to declare any office under this Ordinance to be a pensionable office for the purposes of the Pensions Ordinance. The provisions of the Pensions Ordinance shall apply or continue to apply to employees under this Ordinance who are confirmed in offices declared under this subsection to be pensionable, as if such employees were serving in a civil capacity in a pensionable office under the Government of the Federation of Nigeria; and for the purposes of this subsection, the Pensions Ordinance shall have effect as if in paragraph 1 of section 7, and subsection (1) of section 9 of that Ordinance the words "the Citizenship and Leadership Training Centre Management Committee established under the Citizenship and Leadership Training Centre Ordinance 1960" were substituted for the words "Governor-General" wherever the words "Governor-General" appear therein.

(2) Nothing in this section shall be construed to prevent the appointment of a person to a pensionable office on terms which preclude the grant of a pension under the Pensions Ordinance to such a person in respect of his service in that office.

Allowances
etc.

19. Annual allowances and gratuities may be granted to non-pensionable employees under this Ordinance as if they were employed in the service of the Government of the Federation of Nigeria, and were subject to rules or other authorities applicable to employees of such Government relating to the grant of allowances and gratuities, and for the time being in force.

Payment of
pensions
etc.

20. (1) There shall be charged on and be paid out of the revenue of the Federation all sums of money from time to time required to pay any pension authorised under this Ordinance.

(2) For the purposes of this section, "pension" includes any gratuity, allowance or retiring benefit.

Application
of Widows'
and
Orphans'
Pensions
Ordinance.

21. (1) The provisions of the Widows' and Orphans' Pensions Ordinance (in this section called the Ordinance) shall apply or continue to apply to members of the staff of the Centre who, if they were in the public service of Nigeria would be deemed to be European officers within the meaning of the Ordinance, in the same manner and to the same extent as they would apply to such members of the staff if they were in the public service of the Federation.

(2) In the application of the Ordinance to members of the staff of the Centre, it shall be interpreted with such verbal adaptations and modifications not affecting the substance thereof as are necessary to render the Ordinance conveniently applicable.

Staff
control.

22. (1) Every employee under this Ordinance whose annual salary is not less than three hundred and forty-eight pounds or whose appointment provides for increases in salary, and who in either case may receive a maximum annual salary in excess of five hundred and seventy-five pounds shall be subject to the authority of the Committee:

Provided that nothing in this subsection shall authorise the dismissal of any such person without the approval of the Minister who may make such enquiries as he thinks fit.

(2) Every employee under this Ordinance whose annual salary is less than three hundred and forty-eight pounds, or whose appointment contains provisions for increases in salary not exceeding a maximum of three hundred and forty-eight pounds, or who is paid otherwise than in terms of an annual salary, shall be subject to the authority of the Principal who may from time to time give such directions as he thinks fit for the purposes of maintaining proper discipline. Nothing in this subsection shall authorise the dismissal of a pensionable member of the staff without the approval of the Committee.

23. (1) The Committee or any person authorised by the Committee may enter upon any land and may do there such things as are necessary for purposes incidental to a training programme of the Centre.

Special power as to entry on land.

(2) In the exercise of its powers under this section, the Committee or the Principal on behalf of the Committee as the case may be, shall give notice to the occupier of any land of the intention to enter; and where entry is made as little damage as possible shall be done. Compensation for any damage caused by the exercise of its powers under this section shall be paid by the Committee.

24. For the removal of doubts, all payments heretofore made to the M11 O'War Bay Training Centre and all acts done by any committee on behalf of that training centre before the passing of this Ordinance, are hereby validated and declared to have been lawfully made or done.

Validation of payments etc.

25. The Committee may make regulations prescribing the fees to be charged to students and sponsors for training by the Centre, and for the due administration and discipline of the Centre. When approved by the Minister the regulations shall be published in the Gazette.

Regulations.

SCHEDULE

(section 17)

<i>Pensionable appointment</i>	<i>Maximum number of appointments</i>
Principal	1
Assistant Instructor	1

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 46



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.
Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE BILLS OF EXCHANGE ORDINANCE

[30th September, 1960]

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

1. This Ordinance may be cited as the Bills of Exchange (Amendment) Ordinance, 1960, and shall be of Federal application.

Title.
Commence- ment.
Enactment.
Short title and appli- cation.

Amendment
of section 41.

2. Section 41 of the Bills of Exchange Ordinance (hereinafter referred to as the principal Ordinance) is amended by the addition after subsection (1) of the following new subsection—

“(1A) Notwithstanding anything contained in subsection (1), a bill may be presented for acceptance by means of an advice addressed to the person or persons to whom presentment must under subsection (1) be made, and sent through the post office before the bill is overdue, stating that the bill is held for acceptance by the sender and giving the name of the drawer and particulars of the place at which it is so held, the amount for which and the date on which it was drawn and any usance applicable to the bill. Where presentment is made in pursuance of this subsection, the bill shall be deemed to be duly presented for acceptance at the time the advice is posted.”.

Amendment
of section 43.

3. Section 43 of the principal Ordinance is amended by the insertion in paragraph (a) of subsection (1) after the word “obtained” of the following—

“or, where an advice is sent through the post office in pursuance of subsection (1A) of section 41, such an acceptance is not obtained within ten days from the time the advice is posted”.

Amendment
of section 45.

4. Section 45 of the principal Ordinance is amended—

(a) by the insertion in paragraph (a) of subsection (2) after the word “must” of the following—

“subject to the provisions of subsection (3),” ;

(b) by the addition after subsection (2) of the following new subsection—

“(3) (a) Notwithstanding anything contained in subsection (2), a bill may, subject to the provisions of this subsection, be presented for payment by means of an advice addressed to the person or persons to whom presentment must under that subsection be made, at the proper place as defined in that subsection, and sent through the post office, stating that the bill is held for payment by the sender and giving the name of the drawer and particulars of the place at which it is so held, the amount for which and the date on which it was drawn and any usance applicable to the bill. Where presentment is made in pursuance of this subsection, the bill shall be deemed to be duly presented for payment at the time the advice is posted.

(b) A bill shall not be deemed to be duly presented for payment by virtue of an advice sent in pursuance of this subsection unless the advice is posted—

(i) in the case of a bill not payable on demand, not more than ten days and not less than five days before the bill falls due ; or

(ii) in the case of a bill payable on demand, within such reasonable time as is mentioned in paragraph (b) of subsection (2).”.

Amendment
of section 47.

5. Section 47 of the principal Ordinance is amended by the insertion in paragraph (a) of subsection (1) after the word “obtained” of the following—

“or, where an advice is sent through the post office in pursuance of subsection (3) of section 45, payment is not obtained—

(i) in the case of a bill not payable on demand, on or before the date the bill falls due ; or

(ii) in the case of a bill payable on demand, within ten days from the time the advice is posted”.

6. Section 51 of the principal Ordinance is amended by the insertion in subsection (4) after the word "dishonour" of the following—

Amendment
of section 51.

"or on the next succeeding business day thereafter".

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliament

J. W. ROBERTSON,
Governor-General

(L.S.

No. 47



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO ENABLE NIGERIA TO BECOME A MEMBER OF THE INTERNATIONAL MONETARY FUND, THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, THE INTERNATIONAL FINANCE CORPORATION AND THE INTERNATIONAL DEVELOPMENT ASSOCIATION.

Title.

[30th September, 1960]

Commence-
ment.

Preamble.

WHEREAS pursuant to the Articles of Agreement drawn up at the United Nations Monetary and Financial Conference held in the year nineteen hundred and forty-four at Bretton Woods in New Hampshire in the United States of America two international bodies known as the International Monetary Fund and the International Bank for Reconstruction and Development were established:

AND WHEREAS pursuant to the Articles of Agreement approved by the executive directors of the said International Bank for Reconstruction and Development in the year nineteen hundred and fifty-five an international body known as the International Finance Corporation was established:

AND WHEREAS pursuant to the Articles of Agreement approved by the executive directors of the said International Bank for Reconstruction and Development in the year nineteen hundred and sixty an international body known as the International Development Association is about to be established:

AND WHEREAS copies of the texts of all the said Agreements have been laid before the Legislature of the Federation of Nigeria:

AND WHEREAS it is expedient that the Government of the Federation of Nigeria, on the attainment of independent status in the year nineteen hundred and sixty, should be a member of each of the said international bodies:

AND WHEREAS in pursuance of the said several Articles of Agreements the said international bodies have each prescribed terms and conditions on which the Government of the Federation of Nigeria may become a member thereof and on which the said relevant Articles of Agreement relating thereto may be signed on behalf of the Government of the Federation of Nigeria, except that the International Development Association has not prescribed such terms and conditions:

Enactment.

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

Short title.

1. This Ordinance may be cited as the International Financial Organisations Ordinance, 1960, and shall apply throughout the Federation.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

“Association” means the International Development Association;

“Association Agreement” means the articles of agreement for the establishment and operation of the Association;

“Bank” means the International Bank for Reconstruction and Development;

“Bank Agreement” means the articles of agreement for the establishment and operation of the Bank;

“Corporation” means the International Finance Corporation;

“Corporation Agreement” means the articles of agreement for the establishment of the Corporation;

“Federal Government” means the Government of the Federation of Nigeria;

“Federation” means the Federation of Nigeria;

“Fund” means the International Monetary Fund;

“Fund Agreement” means the articles of agreement for the establishment of the Fund;

“Minister” means the Minister of the Federation charged with responsibility for matters relating to finance.

Authoriza-
tion for
signing of
the
agreements.

3. Subject to the provisions of section 6, the Minister is hereby authorized on behalf of the Federal Government to sign the Fund Agreement, the Bank Agreement, the Corporation Agreement and the Association Agreement and to deposit, in the cases of the Fund Agreement and the Bank Agreement, with the Government of the United States, and, in the cases of the Corporation Agreement and the Association Agreement, with the Bank, instruments of acceptance of the said agreements and of the terms and conditions respectively prescribed thereunder relating to the admission of the Federal Government to membership, or by instruments under his hand, to empower such person as may be named in such instruments to sign the said Agreements and to deposit the said instruments of acceptance as aforesaid.

4. (1) There shall be paid out of the Development Fund or the Consolidated Revenue Fund, on the warrant of the Minister, all sums required for the purposes of paying—

(a) the subscription payable to the Fund in accordance with section 2 of Article II of the Fund Agreement and the Resolution of the Board of Governors of the Fund relating to membership of the Federation in the Fund ;

(b) any sums payable to the Fund under paragraph (b) or paragraph (d) of section 8 of Article IV of the Fund Agreement (which relates to changes in the par or foreign exchange values of currencies of members) ;

(c) any sums required for implementing the guarantee required by section 3 of Article XIII of the Fund Agreement, that is to say, a guarantee of the assets of the Fund against loss resulting from failure or default of the depository designated by the Federal Government under the said Article ;

(d) any compensation required to be paid to the Fund or to any member thereof under Schedule D of the Fund Agreement (which relates to the withdrawal of members from the Fund) or under Schedule E thereof (which relates to the liquidation of the Fund) ;

(e) the moneys on account of the subscription for shares in the Bank under Article II of the Bank Agreement, (including any sums payable to the Bank under section 9 of that Article relating to changes in the par or foreign exchange values of currencies of members) and the Resolution of the Board of Governors of the Bank relating to membership of the Federation in the Bank ;

(f) any amounts required to be paid to the Bank under head (iv) of paragraph (c) of section 4 of Article VI of the Bank Agreement ;

(g) the moneys payable on account of the subscription for shares in the Corporation under Article II of the Corporation Agreement and the Resolution of the Board of Governors of the Corporation relating to membership of the Federation in the Corporation not exceeding in the aggregate the sum of three hundred and sixty-nine thousand United States Dollars ;

(h) any amounts required to be paid to the Corporation under head (iii) of paragraph (c) of section 4 of Article V of the Corporation Agreement ;

(i) subject to the provisions of section 6, all sums required to be paid on behalf of the Federal Government under the Association Agreement, that is to say—

(I) paragraph (a) to (d) of section 2 of Article II (which relate to the initial subscription of members) ;

(II) paragraph (a) of section 2 of Article IV (which relates to changes in the par or foreign exchange value of currencies of members) ;

(j) any amounts or charges required to be paid to the Fund, the Bank, the Corporation or the Association, such amounts or charges being incidental to the Federal Government's membership thereof respectively, or to the operations or transactions in relation thereto ;

and for the purpose of providing any sums to be paid out of the Development Fund of the Federation or the Consolidated Revenue Fund of the Federation as aforesaid moneys may, if required, from time to time, be borrowed in the manner provided in the Treasury Bills Ordinance, 1959, or the Local Loans (Registered Stock and Securities) Ordinance (but without prejudice to any other method of raising the moneys) without any authorization of the Legislature other than this section and any moneys so borrowed shall be paid into the Consolidated Revenue Fund of the Federation.

(2) The Minister may, if he thinks fit so to do, create and issue to the Fund, the Bank or the Association, in such form as he thinks fit, any such non-interest-bearing and non-negotiable notes or other obligations as are provided for by section 5 of Article III of the Fund Agreement, by section 12 of Article V of the Bank Agreement and by paragraph (e) of section 2 of the Association Agreement (which sections relate to the acceptance by the Fund, the Bank, or the Association, as the case may be, of notes or similar obligations in place of currency), and the sums payable under such notes or obligations so created and issued shall be charged on the Consolidated Revenue Fund of the Federation.

(3) Any sums received by the Federal Government from the Fund (other than sums received by reasons of the operations or transactions under Article V of the Fund Agreement), any sums received by the Federal Government from the Bank or the Corporation on account of its subscriptions to the capital stock thereof and any sums received by the Federal Government from the Association on account of its subscription therein or of supplementary resources provided by it, shall be paid into the Consolidated Revenue Fund of the Federation.

5. (1) The juridical personality of the Fund, the Bank, the Corporation and the Association is recognized by the Federation and in particular the capacity to contract; to acquire and dispose of immovable and movable property; and to institute legal proceedings. The provision regarding judicial process contained in section 3 of Article II of the Fund Agreement, in section 3 of Article VII of the Bank Agreement, in section 3 of Article VI of the Corporation Agreement and in section 3 of Article VIII of the Association Agreement respectively, shall have the force of law in the Federation.

(2) Without prejudice to the powers conferred by section 3 of the Diplomatic Privileges (Extension) Ordinance, 1947, the Governor-General shall by Order make such provisions as are necessary for carrying into effect any of the provisions of the Fund Agreement, the Bank Agreement, the Corporation Agreement and the Association Agreement, relating to the status, immunities and privileges of the Fund, the Bank, the Corporation and the Association and their respective governors, executive directors, directors, alternates, officers and employees, or any of the provisions of the Fund agreement as to the unenforceability of exchange contracts.

6. For the avoidance of doubts as to the effect of certain provisions of this Ordinance, all references to, and all acts authorized to be done in relation to, the Association in this Ordinance shall not have effect or be done, as the case may be, unless and until the Governor-General declares by notice in the Gazette that the Association is established and thereafter all such references and all such acts shall have effect or be done, as the case may be, as from such day as the Governor-General shall declare by the same or a subsequent notice in the Gazette.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

Status and
immunities
of organisa-
tions.

Ordinance
No. 25 of
1947.

Certain
provisions
not to take
effect.

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 48

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO REGULATE THE DISPLAY AND USE OF THE NATIONAL FLAG AND CERTAIN OTHER FLAGS, THE NATIONAL COAT OF ARMS AND THE ROYAL COAT OF ARMS.

Title.]

[1st October, 1960]

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 Flags and Coats of Arms Ordinance, 1960, and shall be of Federal application.

Short title,
application
and com-
mencement.

(2) This Ordinance shall come into operation on the 1st October, 1960.

2. In this Ordinance—

“the National Flag” means the National Flag of Nigeria ;

“public place” means any highway, wharf, street, bridge and thoroughfare, and includes every place (including any foreshore or any beach or open space belonging to the Crown) to which the public under ordinary

circumstances have the right of legal access, whether with or without payment of any entrance fee or gate money, and also includes all land and land covered with water contiguous to a public place from which an act constituting an offence against this Ordinance would ordinarily be viewable by persons in such public place.

Restriction
on flying
certain
flags.

3. (1) Any person who otherwise than in conformity with the terms of a licence granted by the Minister or under other lawful authority, flies or exhibits in any public place any of the following flags, that is to say—

(a) the Royal Standard or the personal standard of any member of the Royal Family ;

(b) any flag for the time being appointed to be flown by the Governor-General ;

(c) any flag appointed to be flown only on ships of the Royal Nigerian Navy or Her Majesty's Ships, or in connection with establishments of the armed forces of Nigeria or the armed forces of any member state of the Commonwealth ;

(d) any flag for the time being appointed to be flown only by a Department, or any branch of a Department, of the Government of the Federation ;

(e) any flag so closely resembling any such flag as aforesaid that it might reasonably be taken to be that flag,

shall be guilty of an offence against this Ordinance.

(2) Any person who, except otherwise than in conformity with the terms of a licence granted by the Minister or under other lawful authority, flies or exhibits in any public place—

(a) the National Flag ; or

(b) the Union Jack ; or

(c) the flag of any member state of the Commonwealth,

if the flag so flown or exhibited bears thereon any addition, or is in any way modified or defaced, shall be guilty of an offence against this Ordinance :

Provided that nothing in this subsection shall be deemed to restrict the flying or exhibiting of the flag of any Region in so far as the National Flag forms part thereof.

(3) Subject as hereinafter provided, any person who in any public place flies or exhibits the national flag of any foreign state without at the same time flying or exhibiting the National Flag in accordance with the following provisions, that is to say—

(a) the National Flag shall not be smaller than the flag of the foreign state and shall be in no less good condition than the flag of the foreign state ; and

(b) where the National Flag and the flag of the foreign state are flown from the same staff or jack the National Flag shall be uppermost, shall be guilty of an offence against this Ordinance :

Provided that nothing in the foregoing provisions of this subsection shall have effect—

(i) in relation to the flying, by a foreign ship, of the national or any other official flag of the foreign state to which that ship belongs ; or

(ii) in relation to the flying at the embassy, consulate, vice-consulate or consular agency of any foreign state, of the national or any other official flag of that foreign state.

4. Any person who, otherwise than in conformity with the terms of a licence granted by the Minister or under other lawful authority, uses or displays—

(a) in connection with the carrying on of any business, trade, profession or calling; or

(b) in connection with the activities of any body of persons, whether corporate or unincorporate,

the National Flag, the National Coat of Arms or the Royal Coat of Arms, or any flag or arms so closely resembling that flag or either of those coats of arms that they might reasonably be taken to be that flag or coat of arms, shall be guilty of an offence against this Ordinance.

5. Any person who flies or exhibits the National Flag in a defaced or bad condition shall be guilty of an offence against this Ordinance.

6. Any police officer may seize and remove any flag in respect of which any offence against this Ordinance has occurred, and may cause any flag so seized and removed to be disposed of in such manner as the Minister may direct.

7. (1) Licences issued by the Minister under the provisions of this Ordinance shall contain such terms and conditions as to the Minister may seem fit, and may at any time be revoked, amended or altered by the Minister.

(2) All applications for such licences shall be in writing addressed to the Permanent Secretary of the Ministry having authority in matters to which this Ordinance relates, and shall contain such information as the Minister may from time to time require.

8. Any person guilty of an offence against this Ordinance shall be liable to a fine of fifty pounds, and in the case of a continuing offence to a fine of five pounds for every day or part of a day during which the offence is continued after the day on which such person is first convicted.

Restrictions on using National Flag, National Coat of Arms and Royal Coat of Arms.

National Flag not to be displayed in faded or bad condition.

Power of police to seize and remove flags.

Licences may be subject to terms and conditions.

Penalty.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 49



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF
HER MAJESTY QUEEN ELIZABETH II
SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.
Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE CRIMINAL CODE ORDINANCE.

[30th September, 1960]

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

1. This Ordinance may be cited as the Criminal Code (Amendment) Ordinance, 1960, and shall be of Federal application.

Title.

Commence-
ment.

Enactment.

Short title
and
application.

Amendment
of heading
to Chapter
XVI.

2. The Schedule to the Criminal Code Ordinance (hereinafter referred to as the Criminal Code) is amended by the deletion from the heading to Chapter XVI of the words "the Coin" and the substitution therefor of the following—

"Currency".

Amendment
of section
146.

3. Section 146 of the Criminal Code is amended by the insertion in the definition of "nickel coin" and in the definition of "silver coin" after the words "by virtue of" of the following—

"any Ordinance or".

Deletion
of ref. to
Chapter
XVIA.

4. The Criminal Code is amended by the deletion of the words "CHAPTER XVIA.—Offences relating to Currency Notes" appearing immediately before section 160A.

Addition
of new
section
160B.

5. The Criminal Code is amended by the addition immediately after section 160A of the following new section—

"Portrayal
of Nigerian
notes and
coins.

160B. Any person who, without the written permission of the Minister of the Federation charged with responsibility for matters relating to finance, makes or sells, or exposes or offers for sale, or uses for the purpose of advertising any material or document on or in which is portrayed a note or coin in any way resembling a currency note, bank note or coin current in Nigeria is guilty of a misdemeanour, and is liable to imprisonment for one year, or to a fine of one hundred pounds."

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 50



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE CUSTOMS AND EXCISE MANAGEMENT
ORDINANCE, 1958 (No. 55 OF 1958). Title.

[30th September, 1960]

Commence-
ment.

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

Enactment.

1. This Ordinance may be cited as the Customs and Excise Management
(Amendment) (No. 2) Ordinance, 1960, and shall be of Federal application.

Short title
and
application.

2. Section 2 of the Customs and Excise Management Ordinance, 1958,
(hereinafter referred to as the principal Ordinance) is amended by the
insertion in the definition of "goods" after the word "articles", of the
following—

Amendment
of sec. 2.
No. 55 of
1958.

"produce,".

Amendment
of sec. 24.

3. Section 24 of the principal Ordinance is amended by the addition after subsection (7) of the following new subsection—

“(8) The Board may by notice in writing direct that within such time of the arrival of a ship or aircraft to which this section applies as may be specified in the notice, the person administering the area within which the discharge of the ship or aircraft took place, or the owner of the ship or aircraft either by himself or by his agent, shall deliver to the proper officer, with such documents and additional information as the Board may specify in the notice, copies of the report of the ship or aircraft made in accordance with subsection (1). If any person fails to comply with any such direction given by the Board, he shall be liable to a fine of one hundred pounds.”.

Amendment
of sec. 40.

4. Section 40 of the principal Ordinance is amended by the deletion from subsection (1) of the words “it may permit the goods to be delivered on importation,” and the substitution therefor of the following—

“or consumed on board the importing ship or aircraft, it may permit the goods to be delivered on importation, or to remain on board the importing ship or aircraft for re-exportation or consumption on board as the case may be,”.

Amendment
of sec. 53.

5. Section 53 of the principal Ordinance is amended by the deletion from subsection (1) of paragraph (c).

Addition of
new sec.
53A.

6. The principal Ordinance is amended by the addition after section 53 of the following new section—

“Power to
require list
of cargo
exported.

53A. (1) The Board may by notice in writing direct that either before or within such period after the clearance of any exporting ship as may be specified in the notice, the ship's master or agent shall deliver to the proper officer a full list of all cargo carried in such ship in such form and manner and with such documents and additional information as it may specify in the notice.

(2) If any person fails to comply with any direction given by the Board under this section, he shall be liable to a fine of one hundred pounds, and any goods in respect of which the offence was committed shall be liable to forfeiture.”.

Amendment
of sec. 66.

7. Section 66 of the principal Ordinance is amended by—

(a) the repeal of subsection (1) and the substitution therefor of the following new subsection—

“(1) Any person who has entered or is about to leave Nigeria shall declare and produce to the proper officer at such places and in such manner as the Board may direct, all goods imported or to be exported by him, shall answer all questions put to him by the proper officer with respect to such goods, and shall not remove such goods from the place of examination without the permission of the proper Officer.”;

(b) the repeal of subsection (3) and the substitution therefor of the following new subsection—

“(3) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be liable to a fine of six times the value of the baggage or article in respect of which the offence is committed or two hundred pounds, whichever is the greater.”.

8. The principal Ordinance is amended by the addition after section 102 of the following new section—

Addition of
new sec.
102A.

“Remission of excise duty on beer for export or loading as stores. 102A. The Board may, subject to such conditions as it sees fit to impose, allow beer brewed in Nigeria to be delivered from the brewery of manufacture for exportation or loading as stores in accordance with the customs and excise laws, without payment of the excise duty chargeable thereon.”.

9. Section 127 of the principal Ordinance is amended by being re-numbered as subsection (1) of section 127 and the addition of the following new subsection—

Amendment
of sec. 127.

“(2) In all final calculations of duties, rents, drawbacks and other charges fractions of a penny shall be disregarded.”.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 51

1960



Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE INCOME TAX ADMINISTRATION ORDINANCE,
1958 (No. 39 OF 1958).

Title.

[30th September, 1960]

Commence
ment.

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

Enactment

1. This Ordinance may be cited as the Income Tax Administration
(Amendment) Ordinance, 1960, and shall be of Federal application.

Short title
and appli
cation.

Amend-
ment of
section 11
No. 39 of
1958.

2. Section 11 of the Income Tax Administration Ordinance, 1958, (hereinafter referred to as the principal Ordinance) is amended by the substitution of a semi-colon for the fullstop at the end of subsection (3) and the insertion in that subsection after paragraph (f) of the following new paragraph—

“(g) shall make a declaration of secrecy before a magistrate in the form set out in the Fourth Schedule.”.

Amend-
ment of
section 14

3. Section 14 of the principal Ordinance is amended by—

(a) the deletion from paragraph (a) of subsection (4) of the words “, 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) the insertion in subsection (4) after paragraph (a) of the following new paragraph—

“(aa) its Secretary shall, at the request of the Chairman of the Committee—

(i) make available for scrutiny by the Committee any return, statement, account or other document received by the Federal Inland Revenue Department in connection with the determination of such income;

(ii) inform the Committee of the assessable income of that person for each of the three preceding years;”.

Addition of
new section
14A.

4. The principal ordinance is amended by the addition after section 14 of the following new section—

“Secrecy. 14A. Every member of a Scrutineer Committee shall—

(a) for the purposes of subsection (1) of section 4 of the principal Ordinance, be deemed to be employed in the administration of that Ordinance; and

(b) for the purposes of subsection (2) of that section, be deemed to have possession of any return, statement, account or other document made available for scrutiny by the Committee under sub-paragraph (i) of paragraph (a) of subsection (4) of section 14 of this Ordinance or any information given to the Committee under sub-paragraph (ii) of that paragraph.”.

Addition of
new Fourth
Schedule.

5. The principal Ordinance is amended by the addition after the Third Schedule of the following new Schedule—

FOURTH SCHEDULE

(section 11 (3))

FORM OF DECLARATION OF SECRECY

....., do solemnly and sincerely
promise that I will not directly or indirectly reveal, otherwise than as authorised by the Minister of Finance of the Federation, the contents of any document or any information which has been or shall be entrusted to me as a member of a Scrutineer Committee in confidence by any person

holding office under the Government of the Federation or which I may obtain in the course of the work which I perform as a member of a Scrutineer Committee, and I will, further, during the continuance of this work exercise due care and diligence to prevent the knowledge of any such document or information being communicated to any unauthorised person.

.....
Signature of Member

.....
Signature of Magistrate"

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

THE NIGERIAN RED CROSS SOCIETY, 1960

ARRANGEMENT OF SECTIONS

Section

1. Short title, commencement and application.
2. Interpretation.
3. Incorporation of Nigerian Red Cross Society.
4. Purposes of the Society.
5. Recognition as Voluntary Aid Society.
6. Government of Society.
7. Power to make rules.
8. Offences.
9. Vesting of assets of former Branch.
10. Regional application of the Ordinance.

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 52



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO INCORPORATE THE NIGERIAN RED CROSS SOCIETY

[By Notice, see Section I]

WHEREAS (1) the International Red Cross is an Association for the promotion of divers humanitarian purposes throughout the world and comprises all duly recognised National Red Cross Societies together with two other Associations known as the International Committee of the Red Cross and the League of Red Cross Societies ;

(2) one of the conditions for the recognition of a National Red Cross Society is that it shall be constituted on the territory of an independent State where one of divers international conventions relative to the Relief of Sick and Wounded is in force ;

Title.

Commence-
ment.

Preamble.

schedule.

(3) the Government of the Federation has acceded to certain of such conventions further particulars whereof are set out in the Schedule to this Ordinance (hereinafter referred to as the said conventions) ;

(4) the said conventions provide, among other things for the functions of National Red Cross Societies and other Voluntary Aid Societies recognised and authorised by their Government, and for the use of the distinctive emblem of a Red Cross on a white ground and of the words "Red Cross" or "Geneva Cross", and for the prevention of their misuse ;

(5) there has been in operation in Nigeria for some years past an association affiliated to the British Red Cross Society and known as the Nigeria Central Branch of the British Red Cross Society (hereinafter referred to as the former Branch) the trustees whereof have obtained a certificate of incorporation under the Land (Perpetual Succession) Ordinance ;

(6) the Central Council of the former Branch, being the governing body of the said Branch, is desirous of forming a body corporate, to be known as The Nigerian Red Cross Society, and of obtaining recognition for such body corporate as a Voluntary Aid Society within the meaning of the said conventions, to enable it to be recognised as a National Red Cross Society and to obtain membership of the League of Red Cross Societies ;

(7) the formation of such a body corporate and its recognition as a Voluntary Aid Society would facilitate the promotion of the humanitarian purposes of the International Red Cross in Nigeria ;

AND WHEREAS it is expedient to make provision by legislation for the various matters aforesaid, and section 53 of the Nigeria (Constitution) Order in Council, 1954, as the same has been amended, enables the Federal Legislature by Ordinance to make provision in relation to Regions and the Southern Cameroons for the implementation of (*inter alia*) agreements with and arrangements relating to international and similar organisations outside Nigeria with respect to any matter, subject in certain cases to the publication of certain Gazette notices on behalf of the Governments of Regions and of the Southern Cameroons :

Enactment.

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

Short title, commencement and application.

1. (1) This Ordinance may be cited as the Nigerian Red Cross Society Ordinance, 1960, and shall come into operation on a day to be appointed by the Governor-General by notice in the Gazette, after the signification of the pleasure of Her Majesty thereon.

(2) This Ordinance shall, subject to the provisions of section 10, have effect throughout the Federation.

Interpretation.

2. In this Ordinance "the Society" means the Nigerian Red Cross Society constituted by this Ordinance.

Incorporation of Nigerian Red Cross Society.

3. For the purpose of maintaining and carrying on the objects set out in section 4 of this Ordinance, the President, trustees, officers and members of the former Branch, and all persons who may hereafter become President, officers or members of the Society in the manner laid down in the rules of the Society, are hereby constituted a body corporate by the name of the Nigerian Red Cross Society, and shall have perpetual succession and a common seal and power to sue and be sued in its corporate name and to acquire, hold and dispose of movable and immovable property.

4. (1) The general purposes of the Society shall be—

Purposes of
the Society.

(a) in time of war, to furnish volunteer aid to the sick and wounded both of armies and among non-belligerents, and to prisoners of war and civilian sufferers from the effects of war, in accordance with the spirit and conditions of the said conventions ;

(b) to perform all the duties devolved upon a national society by each nation which has acceded to the said conventions ;

(c) in time of peace or war, to carry on and assist in work for the improvement of health, the prevention of disease and the mitigation of suffering throughout the world ;

(d) to succeed to and take over all the right and property heretofore or now held and enjoyed by and all the duties heretofore performed by the former Branch.

(2) The particular purposes of the Society shall be defined by rules made by the Central Council in accordance with section 7 :

Provided that nothing in such purposes shall be inconsistent with the provisions of this Ordinance or with the spirit and intention of the said conventions.

5. (1) The Society shall be recognised by the Government of the Federation as a Voluntary Aid Society, auxiliary to the public authorities, for the purposes of the said conventions and shall have the right to have and use in carrying out its purposes as an emblem and badge a red cross with vertical and horizontal arms of the same length on and completely surrounded by a white ground.

Recognition
as Voluntary
Aid Society.

(2) The Society is hereby authorised with or without the co-operation of any other society, organisation or association which may have been accorded similar powers by Ordinance of the Federal Legislature, to act in matters of relief under the said conventions.

6. (1) The governing body of the Society shall be a Central Council, consisting of not more than fifty members appointed or elected in such manner as may be determined from time to time by the Central Council :

Government
of Society.

Provided that not less than half the members of the Central Council shall be persons elected thereto by the divisions or branches of the Society organised in accordance with subsection (2).

(2) The Central Council shall have power to provide for the organisation of such divisions and branches in various parts of the Federation as may seem expedient for the more effectual carrying out of the purposes of the Society under such rules as the Central Council may prescribe. The existing organisation of the former Branch shall continue until other provision is made by the Central Council of the Society.

(3) There shall be an Executive Committee of the Society consisting of not less than twenty and not more than thirty persons appointed or elected by the Central Council from among its members. Ten members of the Executive Committee shall form a quorum.

(4) The Executive Committee shall have and exercise all the power granted by this Ordinance when the Central Council is not in session subject, however, to such regulations or restrictions as the Central Council may from time to time determine.

(5) Until a Central Council and an Executive Committee of the Society have been constituted under this section, the members of the Central Council and of the Executive Committee of the former Branch shall respectively exercise the powers of the Central Council and the Executive Committee of the Society.

Power to
make rules.

7. (1) The Central Council shall make such rules as appear to it necessary for carrying out the purposes of the Society and in particular, and without prejudice to the generality of the foregoing, for providing for :

(a) the particular purposes of the Society, in accordance with sub-section (2) of section 4 of this Ordinance ;

(b) the organisation and functions of branches and divisions of the Society ;

(c) the appointment and duties of the officers of the Society ;

(d) the custody of the property of the Society and the keeping and auditing of accounts ;

(e) the use of the Red Cross emblem and badge by officers and members of the Society ;

(f) the making of appeals to the public for financial or other support for the Society ;

(g) the terms on which the Society may accept grants or subventions from Governments or other public authorities ;

(h) the terms on which the Society may associate with other voluntary organisations for any purpose which is included among the purposes of the Society ;

(i) the qualifications and functions of the members of the Society and their organisation in various classes according to their qualifications :

Provided that the Society shall not withhold membership from any citizen of Nigeria on grounds of race, sex, religion or political opinions.

(2) Rules made under this section shall be such as to ensure the impartiality and the political, religious and economic independence of the Society and its existence as a voluntary, public and self-governing organisation.

(3) Notwithstanding anything contained in section 22 of the Interpretation Ordinance, it shall not be necessary for any rules made by the Central Council under this section to be published in the *Gazette of the Federation*, but a copy of any such rules shall be furnished to the Federal Minister responsible for defence.

Offences.

8. Any person who falsely and fraudulently—

(a) holds himself out to be or knowingly allows himself to be supposed to be a member of or an agent for, the Society for the purpose of soliciting, collecting or receiving money or material ; or

(b) wears or displays the emblem of the Red Cross on any article of clothing, badge, piece of paper, or in any other way whatsoever, or any insignia coloured in imitation thereof in such a way as to be likely to deceive those to whom it is visible, for the purpose of inducing the belief that he is a member of, or an agent for, the Society, or that he has been recognised by the Society as possessing any qualification for administering first aid or other treatment for the relief of sickness,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred pounds or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

9 (1) On the day on which this Ordinance comes into operation all the assets and liabilities of the former Branch shall be transferred to and vest in the Society by virtue of this section and without further assurance.

Vesting of assets of former Branch.

(2) All deeds, bonds, instruments and contracts subsisting immediately before the day on which this Ordinance come into operation to which the trustees of the former Branch are parties shall be of as full force and effect against or in favour of the Society and enforceable as fully and effectually as if, instead of the trustees of the former Branch, the Society had been a party thereto.

(3) All assets held by the former Branch for the purpose of any Regional Branch or Division of the former Branch shall continue to be held by the Society for the purposes of the corresponding Regional Branch or Division of the Society.

10. This Ordinance to which the provisions of subsection (1) of section 53 of the Nigeria (Constitution) Order in Council, 1954, as the same has been amended, apply, shall not have effect in relation to any Region or to the Southern Cameroons unless and until the Governor of the Region or the Commissioner of the Cameroons, as the case may be has declared by notice published in the *Official Gazette* of the Region or of the Southern Cameroons, as the case may be, that they shall so have effect.

Regional application of the Ordinance.

SCHEDULE

(Preamble)

FURTHER PARTICULARS OF CERTAIN INTERNATIONAL CONVENTIONS TO WHICH THE GOVERNMENT OF THE FEDERATION HAS ACCEDED

Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field of 12th August, 1949.

Geneva Convention for the amelioration of the condition of wounded, sick and shipwrecked members of armed forces at sea, of 12th August, 1949.

Geneva Convention relative to the treatment of prisoners of war of 12th August, 1949.

Geneva Convention relative to the protection of civilian persons in time of war, of 12th August, 1949.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 53



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE WORKMEN'S COMPENSATION ORDINANCE
(CHAPTER 234)

Title.

[30th September, 1960]

Commence-
ment.

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

Enactment.

1. This Ordinance may be cited as the Workmen's Compensation
(Amendment) Ordinance, 1960, and shall be of Federal application.

Short title
and
application.

2. Section 3 of the Workmen's Compensation Ordinance (hereinafter
referred to as the principal Ordinance) is amended by the insertion in subsec-
tion (1) after the definition of "insurer" of the following definition—

Amendment
of section 3.
Cap. 234.

"labour officer" bears the same meaning as in section 5 of the Labour
Code Ordinance;

Amendment
of section
28D.

3. (1) Section 28D of the principal Ordinance is amended by—

(a) the deletion of the words "certified as" ;

(b) the deletion of the words "compensation shall be payable as if any disease so specified" and the substitution therefor of the following—

"where a medical practitioner grants a certificate that a workman is suffering from any disease so specified and a Court, on the hearing of an application, is satisfied on the evidence as to the matters stated in the certificate compensation shall be payable as if the disease" ;

(c) the insertion in paragraph (c) of the proviso after the word "certified" of the following—

"by a medical practitioner" ;

(d) the deletion from paragraph (c) of the proviso of the words "immediately before" and the substitution therefor of the following—

"at any time within one month immediately preceding".

(2) The amendments effected by subsection (1) shall not apply in relation to any claim made under section 28D of the principal Ordinance in respect of the incapacity of a workman which commenced or the death of a workman which occurred before the coming into operation of this Ordinance.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

ARRANGEMENT OF SECTIONS

Section

1. Short title and application.
2. Interpretation.

PUNISHMENT OF OFFENDERS AGAINST CONVENTIONS

3. Grave breaches of Conventions.
4. Power to provide for punishment of other breaches of Conventions.

PROVISIONS AS TO CERTAIN LEGAL PROCEEDINGS

5. Notice of trial of protected persons to be served on protecting power.
6. Legal representation of certain persons.
7. Appeals by protected persons.
8. Deferment of execution of sentence of death on prisoner of war.
9. Reduction of sentence and custody of protected person.

PREVENTION OF ABUSE OF RED CROSS AND OTHER EMBLEMS

10. Use of Red Cross and other emblems.

MISCELLANEOUS

11. Institution of proceedings and jurisdiction.
12. Regional application of certain sections.
13. Repeal.

FIRST SCHEDULE.—Articles of the Conventions defining grave breaches of the Conventions and providing for the trial of persons alleged to have committed such breaches.

SECOND SCHEDULE.—Certain other Articles of the Conventions referred to in the Ordinance.

THIRD SCHEDULE.—Enactments repealed,

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 54



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.

Governor-General and Commander-in-Chief

AN ORDINANCE TO ENABLE EFFECT TO BE GIVEN IN THE FEDERATION OF NIGERIA TO CERTAIN INTERNATIONAL CONVENTIONS DONE AT GENEVA ON THE TWELFTH DAY OF AUGUST, NINETEEN HUNDRED AND FORTY-NINE AND FOR PURPOSES CONNECTED THEREWITH.

Title.

[30th September, 1960]

Commence-
ment.

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

Enactment.

1. This Ordinance may be cited as the Geneva Conventions Ordinance, 1960, and, subject to the provisions of section 12, shall have effect throughout the Federation.

Short title
and applica-
tion.

Interpreta-
tion.

2. (1) In this Ordinance the expression "the Conventions" means—
- (a) the First Geneva Convention, 1949,
 - (b) the Second Geneva Convention, 1949,
 - (c) the Third Geneva Convention, 1949, and
 - (d) the Fourth Geneva Convention, 1949,

and such Conventions respectively mean the Convention done in each case at Geneva on the 12th day of August, 1949—

(i) for the amelioration of the condition of the wounded and sick in armed forces in the field,

(ii) for the amelioration of the condition of wounded, sick and shipwrecked members of the armed forces at sea,

(iii) relative to the treatment of prisoners of war, and

(iv) relative to the protection of civilians in time of war;

(2) In this Ordinance unless the context otherwise requires—

"protected internee" means a person protected by the Fourth Geneva Convention, 1949, and interned in Nigeria;

"protected prisoner of war" means a person protected by the Third Geneva Convention, 1949;

"protecting power", in relation to a protected prisoner of war or a protected internee, means the power or organisation which is carrying out, in the interests of the power of which he is a national, the duties assigned to protecting powers under the Third or, as the case may be, Fourth Geneva Convention, 1949;

"solicitor" includes any legal practitioner having the right of audience before the Federal Supreme Court.

PUNISHMENT OF OFFENDERS AGAINST CONVENTIONS

Grave
breaches of
Conventions.

3. (1) If, whether in or outside the Federation, any person, whatever his nationality, commits, or aids, abets or procures any other person to commit any such grave breach of any of the Conventions as is referred to in the articles of the Conventions set out in the First Schedule to this Ordinance, that is to say—

- (a) article 50 of the First Geneva Convention, 1949;
- (b) article 51 of the Second Geneva Convention, 1949;
- (c) article 130 of the Third Geneva Convention, 1949;
- (d) article 147 of the Fourth Geneva Convention, 1949;

he shall, on conviction thereof—

(i) in the case of such a grave breach as aforesaid involving the wilful killing of a person protected by the Convention in question, be sentenced to death; and

(ii) in the case of any other such grave breach, be liable to imprisonment for a term not exceeding fourteen years.

(2) A person may be proceeded against, tried and sentenced in the Federal territory of Lagos for an offence under this section committed outside the Federation as if the offence had been committed in Lagos, and the offence shall, for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in Lagos.

(3) If in proceedings under this section for a grave breach of any of the Conventions any question arises under article 2 of the relevant Convention (which relates in the case of each Convention to the circumstances in which the Convention applies and is set out in the Second Schedule to this Ordinance), that question shall be determined by the Minister of the Federation charged with responsibility for matters relating to defence and a certificate purporting to set out any such determination and to be signed by or on behalf of such Minister shall be received in evidence and deemed to be so signed without further proof, unless the contrary is shown.

Second
Schedule.

4. (1) The Governor-General may by order provide that if any person—

(a) in the Federation commits, or aids, abets or procures any other person to commit, whether in or outside the Federation ; or

(b) being a citizen of Nigeria, or a member of, or attached or seconded to the armed forces of Nigeria, or a person to whom section 193 of the Royal Nigerian Military Forces Ordinance, 1960, applies, or a member of or serving with any voluntary aid society formed in the Federation and recognised as such by the Government of the Federation, commits, whether in or outside the Federation, or aids, abets or procures any other person to commit, whether in or outside the Federation, any breach of any of the Conventions which may be specified in the order other than one punishable under section 3,

Power to
provide for
punishment
of other
breaches of
Conventions.

he shall be liable to imprisonment for a term not exceeding seven years.

(2) A person may be proceeded against, tried and sentenced in the Federal territory of Lagos for an offence under an order made under this section committed outside the Federation as if the offence had been committed in Lagos, and the offence shall, for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in Lagos.

PROVISIONS AS TO CERTAIN LEGAL PROCEEDINGS

5. (1) The court before which—

(a) a protected prisoner of war is brought up for trial for any offence ; or

(b) a protected internee is brought up for an offence for which that court has power to sentence him to death or to imprisonment for a term of two years or more, shall not proceed with the trial until it is proved to the satisfaction of the court that a notice containing the particulars mentioned in subsection (2), so far as they are known to the prosecutor, has been served not less than the three weeks previously on the protecting power and, if the accused is a protected prisoner of war, on the accused and the prisoners' representative.

Notice of
trial of pro-
tected per-
sons to be
served on
protecting
power.

(2) The particulars referred to in subsection (1) are—

(a) the full name and description of the accused, including the date of his birth and his profession or trade, if any, and, if the accused is a protected prisoner of war, his rank and army, regimental, personal or serial number ;

(b) his place of detention, internment or residence ;

(c) the offence with which he is charged ; and

(d) the court before which the trial is to take place and the time and place appointed for the trial.

(3) For the purposes of this section a document purporting—

(a) to be signed on behalf of the protecting power or by the prisoners' representative or by the person accused, as the case may be; and

(b) to be an acknowledgment of the receipt by that power, representative or person on a specified day of a notice described therein as a notice under this section, shall, unless the contrary is shown, be sufficient evidence that the notice required by subsection (1) was serviced on that power, representative or person on that day.

(4) In this section "prisoners' representative" in relation to a particular protected prisoner of war at a particular time means the person by whom the functions of prisoners' representative within the meaning of article 79 of the Third Geneva Convention, 1949, (which is set out in the Second Schedule to this Ordinance) was exercisable in relation to that prisoner at the camp or place where that prisoner was, at or last before that time, detained as a protected prisoner of war.

(5) Notwithstanding anything in any other enactment, any court which adjourns a trial to enable the requirements of this section to be complied with may remand the accused for the period of the adjournment.

6. (1) The court before which—

(a) any person is brought up for trial for an offence under section 3 or 4;

or

(b) a protected prisoner of war is brought up for trial for any offence, shall not proceed with the trial unless—

(i) the accused is represented by a solicitor; and

(ii) it is proved to the satisfaction of the court that a period of not less than fourteen days has elapsed since instructions for the representation of the accused at the trial were first given to the solicitor representing the accused,

and if the court adjourns the trial for the purpose of enabling the requirements of this sub-section to be complied with, then, notwithstanding anything in any other enactment, the court may remand the accused for the period of the adjournment.

(2) Where the accused is a protected prisoner of war, in the absence of a solicitor accepted by the accused as representing him, a solicitor instructed for the purpose on behalf of the protecting power shall, without prejudice to the requirements of paragraph (ii) of sub-section (1), be regarded for the purpose of that sub-section as representing the accused.

(3) If the court adjourns the trial in pursuance of sub-section (1) by reason that the accused is not represented by a solicitor, the court shall direct that a solicitor be assigned to watch over the interests of the accused at any further proceedings in connection with the offence, and at any such further proceeding, in the absence of a solicitor either accepted by the accused as representing him or instructed as mentioned in sub-section (2), a solicitor assigned in pursuance of this sub-section shall, without prejudice to the requirements of paragraph (ii) of sub-section (1), be regarded for the purposes of that sub-section as representing the accused.

(4) A solicitor shall be assigned in pursuance of sub-section (3) in such manner as may be provided by rules of court, which the Chief Justices of the respective High Courts are hereby severally empowered to make, and shall be entitled to be paid out of moneys provided by the Legislature of the Federation such sums in respect of fees and disbursements as the Governor-General may by regulations prescribe.

Second
Schedule.

Legal repre-
sentation of
certain per-
sons.

7. (1) Where a protected prisoner of war or a protected internee has been sentenced to death or to imprisonment for a term of two years or more, the time within which he must give notice of appeal to any other court in the Federation shall, notwithstanding anything in any other Ordinance or any Law, be deemed to commence on the day on which he receives a notice given, in the case of a protected prisoner of war by an officer of Her Majesty's forces, and in the case of a protected internee by or on behalf of the superintendent in charge of the prison in which he is confined, that the protecting power has been notified of his conviction and sentence, or of the determination of his appeal, as the case may be.

Appeals by
protected
persons.

(2) Nothing in subsection (1) shall affect the power which any court may possess under any written law to enlarge the time within which an appeal may be brought.

(3) In any case to which subsection (1) of this section applies, the period of thirty days referred to in subsection (1) of section 28 of the Federal Supreme Court Ordinance, 1960 (which relates to the revesting and restitution of property on conviction) and any period prescribed for the like purpose in any other written law, shall be deemed to commence on the day on which the notice referred to in subsection (1) of this section is received.

(4) In this section—

(a) any reference to a notice of appeal includes a reference to a notice of application for leave to appeal;

(b) where an appeal lies from the court in which a case is tried to any other court, and from that other court to any further court or courts in the Federation any reference to a notice of appeal, or to the determination of an appeal, includes a notice of appeal against any judgment or decision given by any court other than the Federal Supreme Court, whether at first instance or on appeal, or to the determination of an appeal by any court other than the Federal Supreme Court; and

(c) a reference to a person who has been sentenced to imprisonment for a term of two years or more includes a person who, after the determination of any appeal, is ordered to be imprisoned for a term of two years or more.

8. Where a prisoner of war has been sentenced to death by any court in the Federation, the sentence shall not be carried out until at least six months after the date on which the protecting power receives a detailed communication containing—

Deferment
of execution
of sentence
of death on
prisoner of
war.

(a) the precise wording of the finding and sentence; and

(b) a summarised report of any preliminary investigation and of the trial emphasising in particular the elements of the prosecution and the defence.

9. (1) In any case in which a protected prisoner of war or a protected internee is convicted of an offence and sentenced to a term of imprisonment, there shall be deducted from that term the period, if any, during which that person was in custody in connection with that offence, either on remand or after committal for trial (including the period of the trial), before the sentence began to run, or is deemed to have begun to run.

Reduction of
sentence and
custody of
protected
person.

(2) It shall be lawful for the Governor-General in a case where he is satisfied that a protected prisoner of war accused of an offence has been in custody in connection with that offence, either on remand or after committal for trial (including the period of the trial), for an aggregate period of not less than three months, to direct that the prisoner shall be transferred from that custody to the custody of an officer of Her Majesty's forces and that he shall

thereafter remain in military custody at a camp or place in which protected prisoners of war are detained, and be brought before the court at the time appointed by the remand or committal order.

PREVENTION OF ABUSE OF RED CROSS AND OTHER EMBLEMS

Use of Red
Cross and
other
emblems.

10. (1) Subject to the provisions of this section, it shall not be lawful for any person, without the authority of the Minister of the Federation charged with responsibility for matters relating to defence, to use for any purpose whatsoever any of the following emblems or designations, that is to say—

(a) the emblem of a red cross with vertical and horizontal arms of the same length on, and completely surrounded by, a white ground, or the designation "Red Cross" or "Geneva Cross";

(b) the emblem of a red crescent moon on, and completely surrounded by, a white ground, or the designation "Red Crescent";

(c) the following emblem in red on, and completely surrounded by, a white ground, that is to say, a lion passing from right to left of, and with its face turned towards the observer, holding erect in its raised right forepaw a scimitar, with, appearing above the lion's back, the upper half of the sun shooting forth rays, or the designation "Red Lion and Sun".

(2) Nothing in subsection (1) shall prevent the use of the emblem and title of the Red Cross by the Nigerian Red Cross Society and its officers and members in accordance with the provisions of the Nigerian Red Cross Society Ordinance, 1960, and any rules made thereunder.

(3) Subject to the provisions of this section, it shall not be lawful for any person, without the authority of the Minister of the Federation charged with responsibility for matters relating to trade marks to use for any purpose whatsoever—

(a) any design consisting of a white or silver cross with vertical and horizontal arms of the same length on, and completely surrounded by, a red ground, being the heraldic emblem of the Swiss Confederation, or any other design so nearly resembling that design as to be capable of being mistaken for that heraldic emblem;

(b) any design or wording so nearly resembling any of the emblem or designations specified in subsection (1) as to be capable of being mistaken for, or, as the case may be, understood as referring to, one of those emblems.

(4) If any person contravenes the foregoing provisions of this section he shall be liable on summary conviction to a fine not exceeding fifty pounds and to forfeit any goods upon or in connection with which the emblem, designation, design or wording was used.

(5) Any goods which cannot be used without a contravention of subsection (3) shall be prohibited imports for the purposes of the customs laws.

(6) The foregoing provisions of this section shall not apply to a trade mark registered in the Federation before the date on which this Ordinance comes into operation by reason only of its consisting of or containing a design or wording which reproduces or resembles an emblem or designation specified in paragraph (b) or (c) of subsection (1) and where a person is charged with

using such design or wording for any purpose, and it is proved that he used it otherwise than as, or part of, a trade mark registered as aforesaid, it shall be a defence to prove—

(a) that he has lawfully used that design or wording in the Federation for that purpose continuously since before the 1st day of September, 1949, on which date the Geneva Conventions Act, 1957, of the Parliament of the United Kingdom was made applicable to the Federation; or

(b) in a case where he is charged with using the design or wording on goods, that the design or wording had been applied to the goods before he acquired them by some other person who had manufactured or dealt with the goods in the course of trade, and who has lawfully used the design or wording in the Federation on similar goods continuously since before the 1st day of September 1959.

(7) Where an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate, or any 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 shall be liable to be proceeded against and punished accordingly, and in this subsection the expression "director", in relation to any body corporate established by or under any enactment for the purpose of carrying on under public ownership any industry or undertaking or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body.

(8) It is hereby declared that this section extends to the use in or outside the Federation of any such emblem, designation, design or wording as referred to in subsections (1) and (3) on any British ship or aircraft registered in the Federation.

MISCELLANEOUS

11. (1) Proceedings for an offence under this Ordinance or under an order made under this Ordinance shall not be instituted except by or on behalf of the Attorney-General of the Federation.

Institution
of proceed-
ings and
jurisdiction.

(2) Notwithstanding anything in any other written law, neither a magistrate's court nor a court martial convened under the Royal Nigerian Military Forces Ordinance, 1960, or the Royal Nigerian Navy Ordinance, 1960, shall have jurisdiction to try any person for an offence under section 3 of this Ordinance or under an order made under section 4 of this Ordinance.

12. The provisions of sections 5, 6 and 8, being provisions to which subsection (1) of section 53 of the Nigeria (Constitution) Orders in Council, 1954, as the same has been amended, apply, shall not have effect in relation to any Region or to the Southern Cameroons unless and until the Governor of the Region or the Commissioner of the Cameroons, as the case may be, has declared by notice published in the *Official Gazette* of the Region or of the Southern Cameroons, as the case may be, that they shall so have effect.

Regional
application
of certain
sections.

13. The enactments set out in the Third Schedule to this Ordinance shall cease to have effect in relation to the Federation.

Repeal.
Third
Schedule.

FIRST SCHEDULE

[section 3 (1)]

ARTICLES OF THE CONVENTIONS DEFINING GRAVE BREACHES OF THE
CONVENTIONS AND PROVIDING FOR THE TRIAL OF PERSONS ALLEGED
TO HAVE COMMITTED SUCH BREACHES

1. Article 49 of the First Geneva Convention, 1949,
Article 50 of the Second Geneva Convention, 1949,
Article 129 of the Third Geneva Convention, 1949,
Article 146 of the Fourth Geneva Convention, 1949.

(the texts of all four articles being identical save as stated below)—

"The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the treatment of Prisoners of War of August 12, 1949."

(Note: In the third Geneva Convention, 1949, the words "the present Convention" are used in place of the words "the Geneva Convention relative to the treatment of Prisoners of War of August 12, 1949").

2. Article 50 of the First Geneva Convention, 1949.—Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

3. Article 51 of the Second Geneva Convention, 1949.—Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

4. Article 130 of the Third Geneva Convention, 1949.—Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the Convention: wilful killing, torture or inhuman treatment, including bio-

logical experiments, wilfully causing great suffering or serious injury to body or health, compelling a prisoner of war to serve in the forces of the hostile power, or wilfully depriving a prisoner of war of the rights of fair and regular trial prescribed in this convention.

5. *Article 147 of the Fourth Geneva Convention, 1949.*—Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

SECOND SCHEDULE

(sections 3 (3) and 5 (4))

CERTAIN OTHER ARTICLES OF THE CONVENTIONS REFERRED TO IN THE ORDINANCE

1. *Application of the Conventions.*—In each of the Conventions Article 2 lays down the application of the Convention, and reads as follows—

“In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of War is not recognised by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.”

2. *Prisoners' Representatives Article 79 of the Third Geneva Convention, 1949.*—In all places where there are prisoners of war, except in those where there are officers, the prisoners shall freely elect by secret ballot, every six months, and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International Committee of the Red Cross and any other organisation which may assist them. These prisoners' representatives shall be eligible for re-election.

Election.

In camps for officers and persons of equivalent status or in mixed camps, the senior officer among the prisoners of war shall be recognised as the camp prisoners' representative. In camps for officers, he shall be assisted by one or more advisers chosen by the officers; in mixed camps, his assistants shall be chosen from among the prisoners of war who are not officers and shall be elected by them.

Officer prisoners of war of the same nationality shall be stationed in labour camps for prisoners of war, for the purpose of carrying out the camp administration duties for which the prisoners of war are responsible. These officers may be elected as prisoners' representatives under the first paragraph of this Article. In such a case the assistants to the prisoners' representatives shall be chosen from among those prisoners of war who are not officers.

Every representative elected must be approved by the Detaining Power before he has the right to commence his duties. Where the Detaining Power refuses to approve a prisoner of war elected by his fellow prisoners of war, it must inform the Protecting Power of the reason for such refusal.

In all cases the prisoners' representative must have the same nationality, language and customs as the prisoners of war whom he represents. Thus, prisoners of war distributed in different sections of a camp, according to their nationality, language or customs, shall have for each section their own prisoners' representative, in accordance with the foregoing paragraphs.

THIRD SCHEDULE

(section 13)

ENACTMENTS REPEALED

Geneva Convention Act, 1911. 1 and 2 Geo. 5, c.20.

Geneva Convention Act, 1911 (Colonies) Order in Council 1917.

British Protectorates (Geneva Convention) Order in Council, 1917.

Geneva Convention Act, 1937. 1 Edw.8 and Geo. 6, c.15.

Geneva Convention Act, 1937 (Colonies) Order in Council, 1937.

British Protectorates (Geneva Convention) Order in Council, 1937.

Geneva Conventions, 1906 and 1929 (Mandated Territories) Order in Council, 1937.

Geneva Conventions Act, 1957 (5 and 6 Eliz. 2, c.52).

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

J. W. ROBERTSON,
Governor-General

(L.S.)

No. 55



1960

Federation of Nigeria

IN THE NINTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

SIR JAMES WILSON ROBERTSON, G.C.M.G., G.C.V.O., K.B.E.
Governor-General and Commander-in-Chief

AN ORDINANCE TO AMEND THE INTERPRETATION ORDINANCE

[30th September, 1960]

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

1. This Ordinance may be cited as the Interpretation (Amendment)
Ordinance, 1960, and shall be of Federal application.

Title.

Commence-
ment.

Enactment.

Short title
and
application.

Amend-
ment of
section 3.

2. Section 3 of the Interpretation Ordinance is amended by the deletion of the definition of "military forces" and the substitution therefor of the following—

' "military forces" includes all officers, warrant officers, non-commissioned officers, civilians, ratings and rank and file belonging to and borne on the strength of or seconded for service with the Royal Nigerian Military Forces or the Royal Nigerian Navy ;'.

This printed impression has been carefully compared by me with the Bill which has passed the Federal Legislative Houses and found by me to be a true and correctly printed copy of the said Bill.

B. ADE. MANUWA,
Clerk of the Parliaments

SUPPLEMENTARY APPROPRIATION (1960-61)
(No. 2) ACT, 1960
ARRANGEMENT OF SECTIONS

Section

1. Short Title.
2. Supplementary Appropriation of £729,060.