

The following Bill, which will in due course be presented to Parliament for enactment, is published for general information.

NIGERIAN COLLEGE OF ARTS, SCIENCE AND TECHNOLOGY (TRANSFER) BILL

EXPLANATORY MEMORANDUM

The main purpose of this Bill is to make possible the transfer of the Branches of the Nigerian College of Arts, Science and Technology at Zaria, Ibadan and Enugu to the University of Northern Nigeria, the University of Ife and the University of Nigeria at Nsukka respectively in accordance with the proposals for Universities and Technical Institutes in the White Paper on Educational Development, 1961-70.

AJA NWACHUKU,
Minister of Education

NIGERIAN COLLEGE OF ARTS, SCIENCE AND TECHNOLOGY (TRANSFER) BILL

ARRANGEMENT OF CLAUSES

Clause

1. Short title and extent.
2. Interpretation, etc.
3. Transfer of property of Council to Universities of Northern Nigeria, of Nigeria at Nsukka and of Ife, etc.
4. Abolition of the College and its Council.
5. Financial provisions.
6. Repeals and savings.

SCHEDULE: Provisions relating to transfer of property to Provisional Councils, etc.

A BILL FOR

AN ACT TO TRANSFER THE ASSETS AND LIABILITIES OF THE COUNCIL OF THE NIGERIAN COLLEGE OF ARTS, SCIENCE AND TECHNOLOGY TO THE UNIVERSITY OF NORTHERN NIGERIA, THE UNIVERSITY OF NIGERIA AT NSUKKA AND THE UNIVERSITY OF IFE ; TO ABOLISH THE COLLEGE AND THE COUNCIL ; AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[See constitution s.4 (1)]

Commence-
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows :—

5 1. This Act may be cited as the Nigerian College of Arts, Science and Technology (Transfer) Act, 1961, and shall apply throughout the Federation.

Short title
and extent.

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

Interpreta-
tion, etc.

“the College” means the Nigerian College of Arts, Science and Technology ;

10 “the College Council” means the Council of the College ;

“the Minister” means the Minister of the Government of the Federation concerned with education ;

15 “property” includes rights, liabilities and obligations arising otherwise than in connection with an appointment to the staff of the College ; and

“transfer date” has the meaning assigned to it by subsection (4) of section three of this Act.

(2) Any reference in this Act to an enactment is a reference to that enactment as amended by or under any subsequent enactment.

20 (3) Any direction or notice under this Act shall be in writing and may, without prejudice to any other method of service, be served by post.

Transfer of
property of
Council to
Universities
of Northern
Nigeria, of
Nigeria at
Nsukka and
of Ife, etc.

3.—(1) The property held immediately before the transfer date by the College Council shall on that date, by virtue of this subsection and without further assurance, vest in the Provisional Council of the University of Northern Nigeria and, subject to the provisions of any enactment (past or future) of the Legislature of Northern Nigeria, shall be held by that Provisional Council for the purposes of that University.

(2) The property held immediately before the transfer date by the College Council for the purposes of the branch of the College at Ibadan shall on that date, by virtue of this subsection and without further assurance, vest in the Provisional Council of the University of Ife and, subject to the provisions of any enactment (past or future) of the Legislature of Western Nigeria, shall be held by that Provisional Council for the purposes of that University; and on that date the College Council shall cease to exercise any functions in relation to the property transferred by this subsection and the Branch Committee and any other committee or board established for the branch aforesaid shall be abolished.

(3) The property held immediately before the transfer date by the College Council for the purposes of the branch of the College at Enugu shall on that date, by virtue of this subsection and without further assurance, vest in the Provisional Council of the University of Nigeria and, subject to the provisions of any enactment (past or future) of the Legislature of Eastern Nigeria, shall be held by that Provisional Council for the purposes of that University; and on that date the College Council shall cease to exercise any functions in relation to the property transferred by this subsection and the Branch Committee and any other committee or board established for the branch aforesaid shall be abolished.

(4) In this Act, the "transfer date", in relation to any Provisional Council mentioned in the foregoing provisions of this section, means such date as the Minister may by order appoint as respects that Provisional Council, so however that the transfer date or transfer dates appointed as respects the Provisional Councils mentioned in subsections (2) and (3) of this section shall precede the transfer date appointed as respects the other Provisional Council.

(5) Subject to the provisions of the Nigeria (Constitution) Order in Council, 1960, the provisions of the Schedule to this Act shall have effect with respect to the transfer by this Act to a Provisional Council of any property of the College Council and with respect to matters arising out of the transfer and the other matters mentioned in that Schedule.

Abolition
of the
College and
its Council.

4.—(1) On the transfer date as respects the Provisional Council mentioned in subsection (1) of the last foregoing section—

(a) the College shall cease to exist; and

(b) the College Council shall cease to exercise any functions except so far as may be necessary for winding up its affairs; and

(c) it shall become the duty of the Council to complete the winding up of its affairs with all reasonable speed and to give notice of the completion to the Minister; and in winding up its affairs the Council shall comply with such directions (if any) as it may receive from the Minister.

(2) When the Minister receives the notice aforesaid or, if it appears to him that the College Council has been unduly dilatory in winding up its affairs, without receiving that notice, the Minister shall by order appoint a day for the purposes of this subsection; and on that day the College shall cease to exist and the College Council and any remaining Branch Committee or other committee or board of the College shall be abolished.

5. Without prejudice to the practice whereby no payment is made after the end of a financial year out of moneys provided by Parliament in respect of that year, the Minister of the Government of the Federation responsible for finance is authorised—

Financial provisions.

(a) as soon as may be after the transfer date appointed as respects the Provisional Council mentioned in subsection (2), or as the case may be subsection (3), of section three of this Act, to pay to that Council such portion of the moneys so provided for the purposes of the College in respect of the financial year ending on the 31st day of March, 1962, as the Minister may determine; and

(b) as soon as may be after the transfer date appointed as respects the Provisional Council mentioned in subsection (1) of the said section three, to pay to that Council the balance of the moneys aforesaid and any further sum which may hereafter be appropriated by Parliament for the purposes of the College (less so much of the balance or further sum as before that date has been paid over to, or for the purposes of, the College).

6.—(1) Subject to subsection (3) of this section, the Nigerian College of Arts, Science and Technology Ordinance is hereby repealed—

Repeals and savings.

(a) in its application to Western Nigeria, as from the transfer date appointed under this Act as respects the Provisional Council of the University of Ife; and

(b) in its application to Eastern Nigeria, as from the transfer date so appointed as respects the Provisional Council of the University of Nigeria.

(2) Subject to subsection (3) of this section, the following provisions are hereby repealed as from the day appointed for the purposes of subsection (2) of section four of this Act, that is to say—

(a) the Nigerian College of Arts, Science and Technology Ordinance;

(b) the Nigerian College of Arts, Science and Technology (Amendment) Ordinance, 1958;

(c) the Nigerian College of Arts, Science and Technology (Amendment) Ordinance, 1960;

(d) in paragraph 17 of Part I of the Schedule to the Constitution of the Federation, the reference to the College.

(3) Without prejudice to the provisions of section fourteen of the Interpretation Ordinance (which relates to the effect of repeals), nothing in the foregoing provisions of this section shall affect—

(a) any power to grant, or any contingent right to receive, pensions, gratuities, allowances or other retiring benefits in respect of periods of service which precede the day appointed as aforesaid;

(b) section seventeen of the Ordinance mentioned in subsection (1) above (which charges pensions and other benefits payable by virtue of that Ordinance on the revenues of the Federation);

but any such power exercisable apart from this Act by the College Council shall instead be exercisable by the Minister acting in his discretion and without any certificate of a Branch Principal or any other person; and accordingly references in any relevant by-laws of the College Council to any officer of that Council concerned with the grant of any benefits shall be construed as references to the Minister.

(4) Subject to the provisions of the Nigeria (Constitution) Order in Council, 1960, and without prejudice to the provisions of the Schedule to this Act, the Minister may, within the period of one year beginning with the day appointed as aforesaid, by order make such alterations (whether by way of amendment or repeal) of any enactment as he considers necessary for the purpose of removing provisions which are redundant in consequence of this Act or of bringing the provisions of the enactment into conformity with this Act; and any such order may be made so as to take effect from a date not earlier than the day aforesaid, and may contain such transitional provisions as the Minister considers expedient.

Section 3 (5).

SCHEDULE

PROVISIONS RELATING TO TRANSFER OF PROPERTY TO PROVISIONAL COUNCILS, ETC.

1.—(1) Any dispute as to whether any property was held on a transfer date for purposes mentioned in section three of this Act shall be determined by the Minister.

(2) Where it appears to the Minister that any property was held as to one part for some of those purposes and as to another part for others of them he may, notwithstanding anything in the said section three, by an instrument signed by him allocate those parts in such manner as he thinks fit; and subsection (1), (2) or (3), as the case may be, of the said section three shall apply to property so allocated to a Provisional Council as it applies to the property mentioned in that subsection.

2.—(1) Every agreement to which the College Council was a party immediately before a transfer date, whether in writing or not and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned by the College Council, shall, unless its terms or subject matter make it impossible that it should have effect as modified in the manner provided by this sub-paragraph, have effect as from the transfer date, so far as it relates to property transferred by this Act on that date to a Provisional Council, as if—

(a) the Provisional Council had been a party to the agreement;

(b) for any reference (however worded and whether express or implied) to the College Council there were substituted, as respect anything falling to be done on or after the transfer date, a reference to the Provisional Council; and

(c) for any reference (however worded and whether express or implied) to a member or officer of the College Council there were substituted, as respects anything falling to be done on or after the transfer date, a reference to such person as the Provisional Council may appoint or, in default of appointment, to the member or officer

of the Provisional Council who corresponds as nearly as may be to the member or officer in question of the College Council.

5 (2) Other documents, including enactments, which refer, whether specially or generally, to the College Council shall be construed in accordance with sub-paragraph (1) of this paragraph so far as applicable.

10 (3) Without prejudice to the generality of the foregoing provisions of this Schedule, where, by the operation of any of them or of section three of this Act, any right, liability or obligation vests in a Provisional Council, that Council and all other persons shall, as from the transfer date, have the same rights, powers and remedies (and, in particular, the same rights as to the taking or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of
15 that Council.

20 (4) Any legal proceedings or application to any authority pending on a transfer date by or against the College Council and relating to property transferred by this Act on that date to a Provisional Council may be continued on or after that date by or against the Provisional Council.

25 3. Notwithstanding anything in subsections (1) to (3) of section three of this Act, if the law in force at the place where any property transferred by this Act is situated provides for the registration of transfers of property of the kind in question (whether by reference to an instrument of transfer or otherwise), the law shall, so far as it provides for alterations of a register (but not for avoidance of transfers, the payment of fees or any other matter) apply with the necessary modifications to the transfer of the property aforesaid; and it shall be the duty of the transferee to furnish the necessary particulars of the transfer
30 to the proper officer of the registration authority, and of that officer to register the transfer accordingly.

4. No stamp or other duty shall be payable in respect of any transfer of property by this Act.

35 5. Anything done or omitted, whether before or after the passing of this Act, by the College Council or a Provisional Council mentioned in section three of this Act in anticipation of the transfer of any property effected by this Act shall be and be deemed always to have been as valid as if the transfer in question had taken place.

40 6.—(1) The Minister may by regulations make such ancillary, supplemental or incidental provision as he considers expedient for carrying out the purposes of this Act.

45 (2) Regulations under the foregoing subparagraph may provide that the foregoing paragraphs of this Schedule or subsection (3) of section six of this Act shall, in their application to any case specified by the regulations, have effect with such alterations (including omissions) as may be so specified; and any such regulations may be made so as to take effect from a date not earlier than the transfer date applicable to the case in question.