

# THE NIGERIAN CONSTITUTION SECOND AMENDMENT ACT, 1962



1962, No. 21

AN ACT TO MAKE CERTAIN POWERS OF THE DIRECTOR OF PUBLIC PROSECUTIONS OF THE FEDERATION EXERCISABLE SUBJECT TO THE DIRECTIONS OF THE ATTORNEY-GENERAL OF THE FEDERATION ; AND FOR PURPOSES CONNECTED THEREWITH.

[See section 2 (2)]

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 :—

1.—(1) The powers conferred on the Director of Public Prosecutions of the Federation by section ninety-seven of the Constitution of the Federation (which among other things authorises him to begin and prosecute criminal proceedings, to take over the conduct of criminal proceedings begun otherwise than by him, and to discontinue any criminal proceedings before judgment is given) shall be exercised in accordance with any general or special directions given by the Attorney-General of the Federation acting in his discretion ; but except at the instance of the Attorney-General the question whether any such directions have been given, or what the directions were, shall not be enquired into by any court.

Control of  
Director  
of Public  
Prosecu-  
tions by  
Attorney-  
General.

(2) Accordingly, the Constitution of the Federation shall have effect subject to the following amendments, that is to say—

(a) for subsection (5) of section ninety-seven there shall be substituted the following subsection—

“(5) The powers conferred on the Director of Public Prosecutions of the Federation by this section shall be exercised in accordance with any general or special directions given by the Attorney-General of the Federation acting in his discretion ; but except at the instance of the Attorney-General the question whether any such directions have been given, or what the directions were, shall not be enquired into by any court.” ;

(b) subsection (6) of that section shall be omitted ; and

(c) at the end of subsection (2) of section eighty-three (which specifies the cases in which the Council of Ministers is not collectively responsible for things done by a member of the Council) there shall be added the following words—

“ ; or

(d) directions given by the Attorney-General of the Federation in pursuance of section 97 of this Constitution.” ;

and the other provisions of the Constitution are hereby altered, in

so far as they relate to the Director of Public Prosecutions of the Federation, to the extent (if any) necessary to enable this Act to have effect.

Cap. 100.

(3) For the removal of doubt it is hereby declared that section four of the Law Officers Act (which authorised the Solicitor-General of the Federation to perform the functions of the Attorney-General of the Federation in his absence) ceased to have effect on the coming into operation of the Nigeria (Constitution) Order in Council, 1960.

Short title,  
extent and  
commence-  
ment.

2.—(1) This Act may be cited as the Nigerian Constitution Second Amendment Act, 1962, and shall apply throughout the Federation.

(2) This Act shall come into force on such date as the Governor-General may by order appoint.

## SUPPLEMENTARY APPROPRIATION ACT, 1962



1962, No. 22

AN ACT TO AUTHORISE THE ISSUE OUT OF THE CONSOLIDATED REVENUE FUND OF THREE MILLION ONE THOUSAND EIGHT HUNDRED AND NINETY-ONE POUNDS FOR THE PURPOSE OF REPLACING ADVANCES FROM THE CONTINGENCIES FUND AND OF MAKING FURTHER PROVISION FOR THE SERVICE OF THE YEAR ENDING ON THE THIRTY-FIRST DAY OF MARCH, ONE THOUSAND NINE HUNDRED AND SIXTY-THREE; AND TO APPROPRIATE THAT AMOUNT FOR THE PURPOSES SPECIFIED IN THIS ACT.

[13th September, 1962]

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:—

1. The aggregate amount mentioned in section one of the Appropriation Act, 1962 (which provides for the issue out of the Consolidated Revenue Fund during the year ending on the 31st day of March, 1963, of sums not exceeding in the aggregate £52,084,700) shall be increased by three million, one thousand, eight hundred and ninety-one pounds; and the additional amount shall be appropriated—

(a) as to six hundred and seventy thousand, four hundred and fifty-one pounds, to the replacement of advances from the Contingencies Fund; and

(b) as to two million, three hundred and thirty-one thousand, four hundred and forty pounds, to heads of expenditure as indicated in the Schedule to this Act;

and section three of that Act (which provides for the lapse of balances outstanding at the end of the financial year) shall have effect accordingly.

2. This Act may be cited as the Supplementary Appropriation Act, 1962, and shall apply throughout the Federation.

Commencement.

Issue and appropriation of £3,001,891 from Consolidated Revenue Fund for Contingencies Fund and for service of 1962-63.  
1962, No. 5.

Short title and extent.

### Section 1

### SCHEDULE

Head	Amount £
22 Cabinet Office .. .. .	42,040
23 Police .. .. .	29,400
25 Ministry of Communications .. .. .	89,950
26 Ministry of Defence .. .. .	37,390
<i>Carried forward</i>	<u>198,780</u>

## SCHEDULE—continued

Head	Amount						
<i>Brought forward</i>							£ 198,780
28 Royal Nigerian Navy	..	..	..	..	..	..	8,390
34 Statistics	..	..	..	..	..	..	43,200
36 Ministry of Education	..	..	..	..	..	..	1,313,830
44 Ministry of Foreign Affairs and Commonwealth Relations	..	..	..	..	..	..	80,000
45 Ministry of Health	..	..	..	..	..	..	45,800
46 Ministry of Information	..	..	..	..	..	..	523,500
49 Ministry of Justice	..	..	..	..	..	..	35,800
50 Ministry of Labour	..	..	..	..	..	..	6,000
52 Ministry of Lagos Affairs	..	..	..	..	..	..	44,720
54 Geological Survey	..	..	..	..	..	..	5,420
58 Ministry of Works and Surveys	..	..	..	..	..	..	26,000
Total	..	..	..	..	..	..	£3,001,891



## ARRANGEMENT OF CLAUSES

### Clauses

1. Establishment of Niger Dams Authority.
2. Principal functions of the authority.
3. Powers of the authority.
4. Establishment and function of Advisory Council.
5. Compulsory acquisition of lands, etc.

6. Consequential provisions as to functions of persons other than the authority.
7. Financial provisions.
8. Annual report.
9. Short title, extent and interpretation.
- Schedule—Constitution, etc., of the authority.

1962, No. 23

AN ACT TO ESTABLISH AN AUTHORITY TO BE RESPONSIBLE FOR THE CONSTRUCTION AND MAINTENANCE OF DAMS AND OTHER WORKS ON THE RIVER NIGER AND ELSEWHERE ; TO PROVIDE FOR THE USE, IN CONNECTION WITH THE WORKS, OF WATER POWER FOR GENERATING ELECTRICITY AND OF WATER FOR THE PURPOSE OF IMPROVING NAVIGATION AND PROVIDING FISHERIES AND IRRIGATION ; TO ESTABLISH A NIGER DAMS ADVISORY COUNCIL ; AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[13th September, 1962]

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 :—

1.—(1) There shall be established a body corporate by the name of the Niger Dams Authority (hereafter in this Act referred to as “the authority”) which shall consist of five members appointed by the Prime Minister of whom—

Establish-  
ment of  
Niger Dams  
Authority.

(a) one shall be a person appearing to the Prime Minister to have shown outstanding ability in the organisation and management of projects comparable to the projects envisaged by this Act, and shall be designated in his instrument of appointment as the chairman of the authority ;

(b) one shall be a person appearing to the Prime Minister to be of outstanding ability in the field of hydro-electrical engineering, including in particular the construction and maintenance of dams and the generation and supply of electricity ; and

(c) one shall be a person appearing to the Prime Minister to be of outstanding ability in the fields of finance and management.

(2) The provisions of the Schedule of this Act shall have effect with respect to the constitution of the authority and the other matters there mentioned.

Principal  
functions of  
the  
authority.

2. The principal functions of the authority shall be—

(a) to construct and maintain, in accordance with arrangements approved by the Prime Minister, a dam on the river Niger in the vicinity of the village of Kainji in Northern Nigeria, together with its associated reservoir, locks, canals and other ancillary works (which dam and works are hereafter in this Act collectively referred to as "the Kainji works");

(b) to use the Kainji works for the purposes of generating electricity, improving navigation on inland waterways, promoting pisciculture and operating irrigation schemes;

(c) to acquire and maintain such electricity generating stations belonging to or controlled by the Electricity Corporation of Nigeria (hereafter in this Act referred to as "the corporation") and such other works belonging to or controlled by the corporation (including transmission lines) as may be agreed between the authority and the corporation or, in default of agreement, as may be determined by the Prime Minister;

(d) to construct and maintain, either above, on or below ground, works (including transmission lines) for the purpose of distributing electricity generated by the authority;

(e) to supply in bulk to the corporation (but, except with the approval of the Prime Minister, not to any other person) electricity generated by the authority, on such terms including terms as to the places and voltages of the supply as may be agreed or determined as aforesaid;

(f) to prepare, and to submit to the Prime Minister for his approval, schemes for the provision of works, in addition to the Kainji works, on or in connection with the river Niger and its affluents with a view to providing further facilities for all or any of the purposes mentioned in paragraph (b) above, and to carry into effect any such schemes approved by the Prime Minister, either as prepared by the authority or as altered in such manner as the Prime Minister may direct.

Powers of  
the  
authority.

3.—(1) Subject to subsections (2) and (3) of this section, the authority shall have power to do anything which in its opinion is calculated to facilitate the carrying on of its activities.

(2) Except with the general or special approval of the Prime Minister, the authority shall not have power to incur expenditure or borrow money or dispose of any property; and no charges shall be made for any thing sold or any facilities provided by the authority unless the charges have been approved by the Prime Minister, or are in accordance with a scale of charges so approved.

(3) The Prime Minister may give the authority directions of a general character or relating generally to particular matters with regard to the exercise of its functions by the authority, and it shall be the duty of the authority to comply with the directions.

(4) The authority may make by-laws for regulating navigation in waters on or adjoining lands under the control of the authority; but no by-law made in pursuance of this subsection shall come into force before it is confirmed by the Prime Minister.



4.—(1) There shall also be established a body, to be called the Niger Dams Advisory Council (and hereafter in this Act referred to as "the council"), which shall consist of—

Establishment and function of Advisory Council.

(a) one person appointed by the Prime Minister to be the chairman of the council ;

(b) one person appointed by the Minister of the government of the Federation responsible for power ;

(c) three persons, of whom one each shall be appointed by the Governors of Northern, Western and Eastern Nigeria respectively ;

(d) the chairman of the authority ;

(e) the chief executive officer and general manager of the corporation ;

(f) the director of the inland waterways department of the government of the Federation ; and

(g) the chairman of the Niger Delta Development Board ; and the Prime Minister may if he thinks fit appoint other persons (not exceeding three in number) to be members of the council.

(2) It shall be the function of the council to tender to the Prime Minister, either on the initiative of the council or at the invitation of the Prime Minister, advice with respect to—

(a) such schemes as are mentioned in paragraph (f) of section two of this Act ;

(b) the terms on which electricity is supplied to the corporation by the authority ;

(c) the regulation of navigation in waters on or adjoining lands controlled by the authority ;

(d) the operation of irrigation schemes with which the authority is or may be concerned ; and

(e) such other matters, if any, as the Prime Minister may determine.

(3) The quorum of the council shall be four, and the council may regulate its own procedure.

(4) The Prime Minister may from time to time make available to the council such facilities by way of accommodation, staff and otherwise as he considers appropriate ; but those facilities shall not include the making of any payment to members of the council.

5.—(1) For the purposes of this Act,—

(a) the Land and Native Rights Act shall have effect as if—

(i) references in section thirteen to the government of the Federation included references to the authority ;

(ii) references in sections twenty-nine to thirty-three, thirty-five, thirty-seven and thirty-eight to the Electricity Act and the Governor were references to this Act and the Governor-General respectively ; and

(iii) section thirty-four were omitted ; and

(b) sections forty-nine to fifty-one of the Electricity Corporation of Nigeria Act (which confer power, subject to certain safeguards, to enter on lands and carry out works) shall have effect as if the references to the corporation and the Minister were references to the authority and the Prime Minister respectively ;

Compulsory acquisition of lands, etc. Cap. 96.

Cap. 58.

and it shall be the duty of the authority to secure that as little damage as is reasonably possible is done in the exercise of powers conferred by virtue of this subsection.

(2) Property vested in the authority shall not be liable to be acquired compulsorily under any enactment; and, notwithstanding anything in any other enactment, no mining operations shall be carried on, in or under any lands vested in the authority or any lands over which the authority are entitled to rights of support for the benefit of lands so vested, except with the prior consent in writing of the Prime Minister or the authority.

(3) Any person who suffers loss by reason of subsection (1) of this section or the provisions of the last foregoing subsection relating to mining operations shall—

(a) be paid adequate compensation by the authority in respect of the loss; and

(b) be entitled to refer any question as to his interest in the subject matter of the loss and as to the amount of any compensation payable in pursuance of this subsection for determination by the High Court having jurisdiction in the area in which the subject matter is situated.

(4) This section binds the Crown.

Consequen-  
tial  
provisions  
as to  
functions  
of persons  
other than  
the  
authority.

6.—(1) The Prime Minister may by regulations make such provision as he considers necessary or expedient for the purpose of securing that the functions of any person or organisation (including in particular the bodies mentioned in paragraphs (e) to (g) of subsection (1) of section four of this Act) are not inconsistent with the functions of the authority; and the regulations may provide for repealing or otherwise altering the provisions of any enactment passed or made before the commencement of this Act.

(2) If either House of Parliament, on any of the twenty days on which it sits next after the day on which any regulations under this section come into force, resolves that the regulations be annulled they shall, except in relation to anything previously done by virtue of the regulations, cease to have effect on the day next following the date of the resolution and be deemed never to have had effect.

Financial  
provisions.

7.—(1) The authority shall prepare and submit to the Prime Minister, not later than the thirty-first day of December in the year nineteen hundred and sixty-three and each subsequent year, an estimate of their expenditure and income (excluding payments to the authority out of moneys provided by Parliament) during the next succeeding financial year.

(2) The authority shall keep proper accounts in respect of each financial year, and proper records in relation to those accounts, and shall cause their accounts to be audited as soon as may be after the end of the financial year to which the accounts relate by a firm of auditors approved, as respects that year, by the Minister of the government of the Federation responsible for finance.

(3) There may be made to the authority, out of moneys provided by Parliament, payments for the purposes of this Act, either by way of grant or by way of loan or both, of such amounts and on such terms as may be approved by the Prime Minister.

(4) Any expenses attributable to subsection (4) of section four of this Act shall be defrayed out of moneys provided by Parliament.

Annual  
report.

8.—(1) The authority shall prepare and submit to the Prime Minister, not later than the thirtieth day of June in the year nineteen hundred and sixty-four and each subsequent year, a report in such form



as the Prime Minister may direct on the activities of the authority during the last preceding financial year, and shall include in the report a copy of the audited accounts of the authority for that year and of the auditor's report on the accounts.

In this subsection, "mining operations" includes prospecting for minerals, the getting of minerals, and any activities preparatory or incidental thereto.

(2) The Prime Minister shall cause a copy of each report made to him under this section to be laid before each House of Parliament.

(3) For the purposes of the authority's first report under this section, the last preceding financial year shall be deemed to include so much of any period before the beginning of that year as begins with the date of the first meeting of the authority.

9.—(1) This Act may be cited as the Niger Dams Act, 1962, and shall apply throughout the Federation.

Short title,  
extent and  
interpreta-  
tion.

(2) In this Act—

"the authority" has the meaning assigned to it by section one of this Act ;

"the corporation" has the meaning assigned to it by section two of this Act ;

"the council" has the meaning assigned to it by section four of this Act ;

"functions" includes powers and duties ; and

"the Kainji works" has the meaning assigned to it by section two of this Act.

## SCHEDULE

## Section 1.

### Constitution, etc., of the authority

#### *Tenure of office of members*

1. A member of the authority shall hold office for such period and on such terms as may be specified in his instrument of appointment.

#### *Proceedings of the authority*

2.—(1) Subject to the provisions of this Schedule, the authority may make standing orders regulating the proceedings of the authority.

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

#### *Officers and servants*

3. Without prejudice to the generality of subsection (1) of section three of this Act, but subject to subsections (2) and (3) of that section, the authority shall have power—

(a) to appoint such officers and servants as it may determine ;

(b) to pay its officers and servants such remuneration and allowances as the authority may determine ; and

(c) as regards any officer or servants in whose case it may determine to do so, to pay to or in respect of them such pensions and gratuities, or to provide and maintain for them such superannuation schemes (whether contributory or not), as the authority may determine.

*Miscellaneous*

4.—(1) The fixing of the seal of the authority shall be authenticated by the signature of a member of the authority.

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

(3) Any document purporting to be a document executed under the seal of the authority authenticated as aforesaid shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

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

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