

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

THE INSURANCE (MISCELLANEOUS PROVISIONS) BILL

EXPLANATORY MEMORANDUM

The purpose of this Bill is to secure the investment in Nigeria of certain reserves held by insurance companies for the purpose of meeting local risks and of the funds maintained by insurance companies for the purpose of satisfying their liabilities under life insurance policies and policies of a similar nature.

ZANNA BUKAR DIPCHARIMA,
Minister of Commerce and Industry

A BILL

FOR

AN ACT TO PROVIDE FOR THE INVESTMENT IN NIGERIAN SECURITIES, BY PERSONS CARRYING ON BUSINESS AS INSURERS IN NIGERIA, OF CERTAIN ASSETS OF THE BUSINESS; TO MAKE FURTHER PROVISION AS RESPECTS CERTAIN CONTRACTS OF INSURANCE; AND FOR PURPOSES CONNECTED WITH THE MATTERS AFORESAID.

[See section 7(3)]

Commencement.

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) A contract of insurance to which this section applies shall
5 be void in so far as it makes provision for compensation in respect of local risks unless the party undertaking to pay the compensation is a Nigerian company.

Additional provisions as respects insurance against local risks.

(2) Where a person has, as a principal and not as a servant or agent,
10 received in any financial year payments by way of premium made in respect of any period under contracts of insurance to which this section applies he shall, subject to the next following subsection, take such steps as may be necessary to secure that at all times during the next following financial year he is the owner of Nigerian investments which are free from
15 encumbrances and equal in value to not less than two-fifths of such proportion of the aggregate amount of those payments as is attributable in accordance with insurance practice to local risks; and in calculating that proportion there shall be deducted the proportion so attributable to the local risks in question of the aggregate amount of any payments by way of premium made by that person under contracts of re-insurance in
20 respect of the same period or any part of it.

(3) A person who owns Nigerian investments in pursuance of the last foregoing subsection and who satisfies or proposes to satisfy a claim which—

(a) is made in respect of local risks in pursuance of a contract of insurance to which this section applies, or of such a contract as renewed with or without modifications ; and 5

(b) falls to be treated in accordance with insurance practice as an abnormally large claim,

shall not be treated as failing to comply with the provisions of that subsection if— 10

(i) he realises or charges such of the investments as is appropriate in accordance with insurance practice for the purpose of satisfying that claim or of replacing moneys used to satisfy it ; and

(ii) the period in respect of which he relies on the provisions of paragraph (i) of this subsection in connection with that claim does not exceed thirty days. 15

(4) A person who fails to comply with the provisions of subsection (2) of this section shall be guilty of an offence and liable on conviction on indictment to a fine of an amount not exceeding one thousand pounds.

(5) This section applies to contracts of insurance made on or after the date when this subsection comes into force, other than contracts of endowment insurance and contracts of such descriptions, if any, as may be prescribed for the purposes of this section. 20

(6) The foregoing provisions of this section shall come into force on such date as the Minister may by order appoint (not being earlier than the first day of April, one thousand nine hundred and sixty-four), and different dates may be so appointed for different subsections ; and subsection (2) of this section shall, as respects the financial year next following that in which that subsection comes into force, have effect as if for the words "two-fifths" there were substituted the words "one-fifth". 25 30

Additional provisions as respects endowment insurance.

2.—(1) A contract of endowment insurance made in Nigeria on or after the date when this section comes into force under which payments by way of benefit are expressed to become payable in respect of an individual who is a citizen of Nigeria at the time when the contract is made shall be void unless— 35

(a) the party undertaking to make the payments is a Nigerian company ; and

(b) the contract is a Nigerian contract of endowment insurance ; so however that the foregoing provisions of this subsection shall not apply to a contract of re-insurance if it does not provide for the making of payments corresponding to payments by way of benefit in respect of any individual which in the aggregate are less than, or of less value than, forty thousand pounds. 40

(2) Every person who, as a principal and not as a servant or agent, carries on endowment insurance business shall take such steps as may be necessary to secure that, on and after the first day of April, one thousand nine hundred and sixty-six, he is the owner of Nigerian investments free from encumbrances which are equal in value to the aggregate of 45

5 (a) the value at the time of the close of business on the thirty-first day of March, one thousand nine hundred and sixty-two, of such of the assets of each relevant fund as are attributable in accordance with insurance practice to Nigerian contracts of endowment insurance; and

10 (b) the value of such of the assets paid or credited to each relevant fund after the time aforesaid as are so attributable, reduced by the amount of any payments made out of the relevant fund in question after the time aforesaid for the purpose of satisfying liabilities and expenses so attributable which fall to be satisfied out of that fund in accordance with insurance practice.

15 In this subsection "relevant fund", in relation to a person carrying on endowment insurance business, means a fund maintained by him to which are paid or credited moneys received by him for the purposes of the business.

20 (3) In relation to a person who begins to carry on endowment insurance business after the thirty-first day of March, one thousand nine hundred and sixty-two, the references in the last foregoing subsection to that date shall be construed as references to the thirty-first day of March of the year next following that in which he begins to carry on the business.

25 (4) Where apart from this subsection any amount in respect of payments by way of premium under a contract of endowment insurance would, under the provisions of the Income Tax Management Act, 1961, fall to be deducted in ascertaining, in respect of any year of assessment within the meaning of that Act beginning after the end of the year one thousand nine hundred and sixty-four, the income or loss for income tax purposes of any individual, the amount to be so deducted shall not exceed a sum equal to one-third of the payments in question unless
30 either—

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No. 21.

(a) the contract is a Nigerian contract of endowment insurance; or

35 (b) the individual furnishes to the Board of Inland Revenue a certificate in the prescribed form issued by the person by whom payments by way of benefit fall to be made in pursuance of the contract stating that the last-mentioned person is the owner of Nigerian investments which are—

(i) free from encumbrances; and

(ii) equal in value to the aggregate of the relevant payments by way of premium; and

40 (iii) allocated to those payments in accordance with regulations made in pursuance of paragraph (b) of section four of this Act; or

(c) the contract was made before the first day of March, one thousand nine hundred and sixty-four.

This subsection applies to Lagos only.

45 (5) A person who fails to comply with the provisions of subsection (2) of this section shall be guilty of an offence and liable on conviction on indictment to a fine of an amount not exceeding one thousand pounds;

and a person who issues a certificate for the purposes of paragraph (b) of the last foregoing subsection which he knows to be false in a material particular or recklessly issues such a certificate which is false in a material particular shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine of an amount not exceeding two hundred pounds or both.

Appoint-
ment and
functions of
inspector.

1961,
No. 53.

3.—(1) There shall be an inspector for the purposes of this Act; whose office shall be an office in the department of government for which responsibility is assigned to the Minister and who shall be a person having such qualifications and experience as are appropriate for a person required to perform the functions conferred on the inspector by virtue of this Act; so however that, if the Public Service Commission of the Federation so directs, the person who is the registrar for the purposes of the Insurance Companies Act, 1961, shall also be the inspector for the purposes of this Act.

(2) Provision may be made by regulations as to the functions of the inspector and, without prejudice to the generality of the power to make regulations conferred by the foregoing provisions of this subsection, the regulations may in particular include provision—

(a) requiring copies of records maintained in pursuance of this Act to be furnished to the inspector periodically and on such specific occasions as he may determine;

(b) authorising the inspector to examine and take copies of or extracts from any books or papers appearing to him to be connected with contracts of insurance, and requiring persons having such books and papers in their possession or under their control to produce them for examination by the inspector;

(c) requiring persons appearing to the inspector to be, or to have been, carrying on business as insurers in Nigeria to furnish to him, either orally or in writing as he may direct, any information relating to the business which he may reasonably require them to furnish for the purpose of enabling the inspector to satisfy himself whether provisions of this Act or of regulations have been infringed.

(3) It shall be the duty of the inspector in exercising his functions not to interfere unreasonably with the affairs of persons affected by his activities.

(4) Any power conferred on the inspector by virtue of this Act may be exercised by the inspector in person and by any public officer who produces an instrument signed by the inspector authorising him to exercise that power on behalf of the inspector; and references to the inspector in this section shall be construed accordingly.

Supple-
mentary
administra-
tive
provisions.

4. Without prejudice to any other power to make regulations conferred by this Act, provision may be made by regulations—

(a) for securing that a person who is required to own Nigerian investments by virtue of this Act shall maintain in accordance with the regulations a record containing—

(i) particulars of the investments from time to time owned by him for the purposes of this Act; and

(ii) particulars of the contracts in respect of which the investments are owned; and

(iii) such other particulars, if any, as may be prescribed;

(b) for requiring a person who proposes to issue a certificate for the purposes of paragraph (b) of subsection (4) of section two of this Act to allocate Nigerian investments, in accordance with the regulations, to the payments in respect of which he proposes to issue the certificate; and

(c) as to the manner of determining—

(i) any value falling to be determined for the purposes of this Act; and

(ii) whether a loan is adequately secured for those purposes by a mortgage or charge.

5.—(1) In this Act, "Nigerian investments" means property of any of the following descriptions, that is to say—

Nigerian investments.

(a) stock, notes, bonds and other securities issued by the government of the Federation or a Region;

(b) stock, shares and debentures issued by a body corporate established directly by a law in force in Nigeria, or issued by a Nigerian company;

(c) rights to receive payments by way of interest or dividend which have accrued due in respect of any such securities as are mentioned in the foregoing paragraphs;

(d) moneys standing to the credit of any current or deposit account maintained with a branch situated in Nigeria of a licenced bank within the meaning of the Banking Act;

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(e) moneys standing to the credit of any deposit account maintained with a person who is carrying on business in Nigeria as a building society and is approved by the Minister for the purposes of this paragraph;

(f) an estate in fee simple absolute in possession in land in Nigeria, and a term of years absolute in possession in such land;

(g) rights to be repaid a loan which is adequately secured by a first mortgage of such an estate or term as is mentioned in the last foregoing paragraph, or by a first charge on machinery or plant situated in Nigeria;

(h) rights to receive payments by way of premium which have accrued due under contracts of insurance made in Nigeria;

(i) rights to be repaid a loan made in Nigeria to any person in consequence of his being a person who has undertaken to make payments by way of premium under a contract of endowment insurance, and rights to receive payments by way of interest which have accrued due on such a loan;

(j) property of such other descriptions, if any, as may be prescribed.

(2) Where by virtue of any provision of this Act a person is required to own Nigerian investments of any amount, he shall not be treated as satisfying that requirement unless—

(a) the investments allocated by him to satisfy that requirement include investments of the description mentioned in paragraph (a) of the foregoing subsection equal in value to one quarter of the amount in question; and

(b) the investments so allocated do not include investments of the description mentioned in paragraph (f) of that subsection which exceed in value one-tenth of the amount.

Interpretation, etc.

6.—(1) In this Act the following expressions have the meanings hereby assigned to them respectively, that is to say—

“contract of endowment insurance” means a contract of insurance in which benefit is expressed to become payable on the occurrence of an event or circumstance which is certain to occur, or on the occurrence of any of a number of events or circumstances of which at least one is certain to occur, other than a contract of such description, if any, as may be prescribed for the purposes of this definition ;

“endowment insurance business” means the business of undertaking liability to make payments by way of benefit under contracts of endowment insurance in so far as the business is carried on in Nigeria ;

“insurance” includes re-insurance, and references to contracts of insurance shall be construed accordingly ;

“insurance practice” means normal insurance practice in Nigeria ;

“local risk” means an event or circumstance occurring within Nigeria ;

“the Minister” means the Minister of the government of the Federation responsible for insurance ;

“Nigerian company” means a company which is formed and registered under the Companies Act or which complies with the provisions of subsection (1) of section two hundred and thirty-nine of that Act (which relate to companies incorporated outside Nigeria which establish places of business within Nigeria) and includes, except in section five of this Act, an association of underwriters registered under the Insurance Companies Act, 1961, and any member of such an association ;

“Nigerian contract of endowment insurance” means a contract of endowment insurance which provides that all payments falling to be made in pursuance of the contract shall be payable in Nigerian money only ;

“prescribed” means prescribed by regulations ; and

“regulations” means regulations made by the Minister ;

and references in this Act to payments by way of benefit under a contract of endowment insurance shall be construed, in relation to such a contract which is a contract of re-insurance, as references to payments under the contract of re-insurance corresponding to payments by way of benefit.

(2) For the avoidance of doubt it is hereby declared that where a contract of insurance is renewed, the renewal constitutes a new contract of insurance for the purposes of this Act.

(3) Nothing in this Act shall be construed as purporting to affect any insurance undertaken by the government of a Region which does not extend beyond the limits of the Region.

7.—(1) This Act may be cited as the Insurance (Miscellaneous Provisions) Act, 1964.

(2) Except as provided by subsection (4) of section two of this Act, this Act shall apply throughout the Federation.

Cap. 37.

Short title, extent, commencement and repeals.

(3) Subject to the provisions of subsection (6) of section one of the Act, this Act shall come into force on such date as the Minister may by order appoint.

5 (4) Section twenty-eight of the Insurance Companies Act, 1961, and paragraph (b) of subsection (2) of section forty-four of that Act (which contain provisions for requiring insurance companies to invest a percentage of their profits in Nigeria) are hereby repealed.

(800)

THE BILLS OF EXCHANGE BILL

EXPLANATORY MEMORANDUM

The main purpose of this Bill is to enable bankers to pay or collect cheques and certain other instruments without concerning themselves with endorsements in cases where payment is made to a banker or the proceeds are collected for crediting to the account of the ostensible payee.

F. S. OKOTIE-EBON,
Minister of Finance

A BILL

FOR

AN ACT TO AMEND THE LAW RELATING TO BILLS OF EXCHANGE; AND FOR PURPOSES CONNECTED THEREWITH.

[See section 5 (2)]

Commencement.

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) Where a banker, in good faith and in the ordinary course of business, pays a prescribed instrument drawn on him to a banker, he does not in doing so incur any liability by reason only of the absence of, or irregularity in, endorsement of the instrument and—

Payment by bankers of unendorsed cheques and other instruments.

(a) in the case of a cheque, he is deemed to have paid it in due course;

(b) in the case of any other prescribed instrument, the payment discharges the instrument.

(2) A prescribed instrument which is unendorsed but appears to have been paid by the banker on whom it is drawn is evidence of the receipt by the payee of the sum mentioned in the instrument.

(3) For the purposes of subsection (1) of section sixty of the Bills of Exchange Act (which provides that in certain circumstances a cheque shall be deemed to be paid in due course though its endorsements are forged or unauthorised), a document payable to order which is a prescribed instrument by virtue of paragraph (b) of subsection (1) of section four of this Act shall be deemed to be a bill payable to order on demand.

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2.—(1) A banker who gives value for, or has a lien on, a cheque payable to order which the payee delivers to him for collection either without endorsing it or without endorsing it regularly has such rights, if any, as he would have had if upon delivery the payee had endorsed it regularly in blank.

Protection of collecting bankers.

(2) Where a banker, in good faith and without negligence,

(a) receives payment for a customer of a prescribed instrument to which the customer has no title or a defective title; or

(b) having credited the customer's account with the amount of such a prescribed instrument, receives payment of the instrument for himself,

the banker does not incur any liability to the true owner of the instrument by reason only of his having received payment of it; and a banker is not to be treated for the purpose of this subsection as having been negligent by reason only of his failure to concern himself with the absence of, or irregularity in, endorsement of a prescribed instrument of which the customer in question appears to be the payee.

(3). Section eighty-two of the Bills of Exchange Act (which contains provisions as to crossed cheques which are included in the provisions of subsection (2) of this section) is hereby repealed.

Extension of enactments relating to crossed cheques.

3. The provisions of the Bills of Exchange Act relating to crossed cheques shall, so far as applicable, have effect in relation to a prescribed instrument other than a cheque as those provisions have effect in relation to a cheque.

Interpretation, etc.

4. (1) In this Act "prescribed instrument" means any of the following instruments, that is to say—

(a) a cheque;

(b) a document issued by a customer of a banker which is not a bill but is intended to enable a person to obtain payment from the banker of the sum mentioned in the document;

(c) a draft drawn by a banker upon himself and payable on demand at an office of his bank.

(2) This Act shall be construed as one with the Bills of Exchange Act, so however that references in this Act to a payee do not include references to an endorsee under a special endorsement.

(3) Nothing in this Act shall make negotiable an instrument which apart from this Act is not negotiable.

Short title, extent and commencement.

5.—(1) This Act may be cited as the Bills of Exchange Act, 1964, and shall apply throughout the Federation.

(2) This Act shall come into force on such day as the Minister of the government of the Federation responsible for finance may by order appoint.

(881)

THE PRESIDENTIAL PROCEEDINGS BILL

EXPLANATORY MEMORANDUM

The purpose of this Bill is to make the detailed provisions about the election and removal of the President of the Republic which are contemplated by Chapter IV of the Constitution of the Federation.

T. O. ELIAS,
Attorney-General of the Federation and
Minister of Justice

ARRANGEMENTS OF CLAUSES

Clause

Joint meetings of Houses of Parliament

1. Procedure at certain joint meetings of Houses of Parliament.

Presidential ballots, etc.

2. Arrangements connected with ballots.
3. Voting.
4. Counting of votes, etc.
5. Application of sections 2 to 4 to ancillary ballots.

Declaration of election of President, etc.

6. Declaration and evidence of election.

Investigation of conduct of President

7. Establishment and attendance at meetings of investigating committee.

8. Powers and procedure of committee.

9. Report to Parliament.

Supplemental

10. Short title, extent and interpretation.

A BILL

FOR

AN ACT TO MAKE SUPPLEMENTARY PROVISION FOR THE PURPOSES OF CHAPTER IV OF THE CONSTITUTION OF THE FEDERATION AS RESPECTS THE ELECTION AND REMOVAL OF THE PRESIDENT OF THE REPUBLIC; AND FOR PURPOSES CONNECTED THEREWITH.

[]

Commencement.

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 :—

Joint meetings of Houses of Parliament

- 5 1.—(1) At any joint meeting of both Houses of Parliament held in pursuance of Chapter IV of the Constitution of the Federation (which among other things provides for the election and removal of the President) the following person shall preside, that is to say—
(a) the President of the Senate ;

Procedure at certain joint meetings of Houses of Parliament.

(b) in his absence, the Speaker of the House of Representatives ;

(c) in their absence, the Deputy President of the Senate ;

(d) in the absence of the persons aforesaid, the Deputy Speaker of the House of Representatives ;

and while none of those persons is present, such member of either House as the Prime Minister may designate from time to time shall preside at the joint meeting. 5

(2) The President of the Senate and the Speaker of the House of Representatives, acting jointly, may make rules regulating, subject to the provisions of the said Chapter IV and this Act, the conduct of joint meetings ; and except so far as it is otherwise provided by rules made in pursuance of this subsection, the Standing Orders of the House of Representatives which on the twelfth day of December, 1962, were ordered by that House to be printed shall, subject as aforesaid, apply with the necessary modifications to joint meetings as they apply to meetings of that House. 10 15

(3) Any question arising at a joint meeting as to the application or interpretation of provisions of the rules or standing orders aforesaid shall be determined by the person presiding at the joint meeting when the question arises ; and any question arising at a joint meeting which in the opinion of that person is not regulated by those provisions shall be determined by him. 20

Presidential ballots, etc.

Arrange-
ments
connected
with
ballots.

2. —(1) It shall be the duty of the President of the Senate to make arrangements for securing that, when a presidential ballot is ordered, there are available for the purposes of the ballot— 25

(a) a list of the persons entitled to vote at the relevant election meeting ;

(b) five hundred ballot papers capable of being folded and bearing on their reverse sides consecutive serial numbers only, each of which is attached to a counterfoil bearing only the same number as the ballot paper to which it is attached ; 30

(c) an instrument for affixing the special mark mentioned in subsection (2) of the next following section ;

(d) such number of compartments (not being less than twelve) at the place where the relevant election meeting is held as he considers appropriate for securing that each person voting in the ballot is able to mark his ballot paper screened from observation and that the ballot is speedily concluded ; and 35

(e) a single ballot box. 40

(2) The person by whom a presidential ballot is ordered shall specify the premises to be used for the purposes of the ballot and shall secure—

(a) that the premises are adequate to accommodate at the same time all the persons entitled to vote at the relevant election meeting and such officials as he may designate to assist at the ballot ; 45

(b) that no person other than the persons so entitled and the officials aforesaid is admitted to those premises after the ballot is ordered ;

(c) that every person so entitled (other than a witness designated in pursuance of paragraph (e) of this subsection) leaves those premises forthwith after casting his vote and is not thereafter admitted to those premises before the ballot is declared closed ;

(d) that no person so entitled who is not already on those premises is admitted to the premises after the expiration of one hour from the time when the ballot was ordered and before the ballot is declared closed ; and

(e) that, subject to subsection (4) of this section, the compartments, ballot box and unused ballot papers aforesaid allocated to the ballot are, throughout the period beginning with the ordering of the ballot and ending with the declaration of its result, within the immediate view of the following persons, that is to say—

(i) one member of each House of Parliament designated for the purposes of the ballot by the Prime Minister ; and

(ii) one member of either House of Parliament designated for the purposes of the ballot by each candidate in the ballot respectively.

(3) A designation in pursuance of paragraph (e) of the last foregoing subsection shall be made by notice in writing served on the person who ordered the ballot in question ; and in relation to that ballot the persons designated in pursuance of that paragraph by the Prime Minister are hereafter in this Act referred to as "the official witnesses" and a person so designated by a candidate is hereafter in this Act referred to as a "candidate's witness".

(4) If the power of designation conferred on a particular candidate by sub-paragraph (ii) of the said paragraph (e) is not exercised by him before the expiration of the period of five minutes beginning with the time when the relevant ballot is ordered, that power shall not be exercised by him in relation to that ballot ; but nothing in the foregoing provisions of this section shall be construed as preventing an official witness or a candidate's witness from complying with the provisions of subsection (3) of the next following section for the purpose of voting in a presidential ballot.

3.—(1) Each ballot paper for use in a presidential ballot shall, without prejudice to the requirements of the next following subsection, bear on its face only the names of the persons who are candidates for election in the ballot.

(2) When a presidential ballot is ordered, the person who ordered it shall forthwith determine what special mark shall be affixed to ballot papers and counterfoils to be used in the ballot, and the mark shall—

(a) be such as will identify the papers and counterfoils as valid only for that particular ballot ; and

(b) be affixed by embossing or perforating it on the paper and its counterfoil immediately before the paper is detached from its counterfoil and handed to the voter by whom it is to be used ;

Voting

and the ballot paper issued to each voter shall be taken at random from among the remaining ballot papers allocated to the ballot and not in such a sequence or other manner as to permit the identification of the voter to whom it was issued.

(3) A person voting in a presidential ballot shall cast his vote by— 5

(a) obtaining in person a ballot paper marked with the appropriate special mark from the officer instructed by the person who ordered the ballot to issue the ballot papers for that ballot; and

(b) immediately thereafter entering one of the compartments provided in pursuance of the last foregoing section so that he is 10 screened from view and there—

(i) marking a cross on the paper at the end of the name of a single candidate for whom he casts his vote; and

(ii) folding the paper so that the face of it is not visible; and

(c) immediately thereafter and without unfolding the paper, 15 showing the special mark on it to the official from whom he received the paper and placing the paper in the ballot box indicated by that official.

(4) A person to whom a ballot paper is issued in pursuance of the last foregoing subsection shall, subject to the following provisions 20 of this subsection, not be entitled to dispose of the paper otherwise than in the manner provided by that subsection; but if such a person marks his ballot paper in a manner other than that which he intends, he may, before placing the paper in the ballot box in accordance with the last foregoing subsection but not thereafter, return the paper to 25 the official from whom he received it, and the official shall thereupon—

(a) issue him with a further ballot paper for that ballot; and

(b) burn the returned paper and record on its counterfoil the fact that it has been burnt and the number of the further paper.

(5) Not more than two further ballot papers shall be issued in 30 pursuance of subsection (4) of this section to the same person for the purposes of the same presidential ballot; and where the number of ballot papers provided for a particular ballot in pursuance of paragraph (b) of subsection (1) of the last foregoing section is insufficient to enable effect to be given to the foregoing provisions of this section, the person, 35 by whom the ballot was ordered shall make such arrangements as he considers appropriate for furnishing such additional similar ballot papers as may be necessary for meeting the deficiency.

(6) When a ballot paper or further ballot paper is issued to any person in pursuance of this section, the official who issued the paper 40 shall record against the name of that person on the list of persons entitled to vote at the relevant election meeting the fact that a ballot paper or further paper has been issued to him; but no record shall be made, either on the list or elsewhere, of the number of any ballot paper issued to a particular person. 45

(7) When, at any time after the expiration of one hour from the time when a presidential ballot was ordered, it appears to the person who ordered it that all persons eligible to vote in the ballot and present in the premises specified in pursuance of subsection (2) of the last

foregoing section have had a reasonable opportunity of casting their votes, he shall declare the ballot to be closed; and no vote shall be cast in the ballot after the declaration is made.

4.—(1) When a presidential ballot is declared closed, the ballot papers used in the ballot shall forthwith be scrutinised, and the votes entered on the papers in favour of each candidate respectively counted and recorded by the official witnesses and the person who ordered the ballot acting jointly (hereafter in this section referred to as "the scrutineers") and shall be so scrutinised, counted and recorded in the premises specified in pursuance of subsection (2) of section two of this Act and in the immediate view of the candidates' witnesses.

Counting
of votes, etc.

(2) In counting and recording the votes aforesaid there shall be disregarded any ballot paper which, in the opinion of the scrutineers or any two of them,—

- (a) does not bear the appropriate special mark; or
- (b) is not marked with a vote; or
- (c) is marked with a vote in such manner as not to indicate a particular candidate as the sole candidate for whom the vote is cast; or
- (d) is marked in such a manner as to enable the voter to be identified; or

(e) bears the same serial number as any other ballot paper which purports to have been used in the ballot and which does not fall to be disregarded in pursuance of any of the foregoing paragraphs of this subsection;

but, subject to the foregoing provisions of this subsection, the fact that a ballot paper is marked elsewhere than at the proper place or otherwise than by means of a cross shall not entitle the scrutineers to disregard the paper if they or any two of them are of opinion that the paper clearly indicates an intention to vote for a particular candidate.

(3) On completing the recording of the votes cast in a presidential ballot the scrutineers shall exhibit the record to the candidates' witnesses; and if—

- (a) in the opinion of the scrutineers or any two of them a recount of the votes is appropriate; or
- (b) any candidate's witness demands a recount of the votes and in the opinion of the scrutineers or any two of them the demand is reasonable,

the scrutineers shall forthwith order a recount of the votes and proceed in accordance with subsections (1) and (2) of this section as upon a declaration that the ballot is closed.

(4) Where a record is exhibited to the candidates witnesses in pursuance of the last foregoing subsection and no recount is ordered, the person who ordered the ballot shall forthwith announce the result of the ballot to the joint meeting.

5. The provisions of sections two to four of this Act shall, subject to the provisions of subsection (9) of section thirty-five of the Constitution of the Federation, apply to a ballot held in pursuance of subsection (8) of that section (which provides for the elimination of one of two candidates in a presidential ballot where each receives the same number of votes which is less than the number received by a further candidate) as those provisions apply to a presidential ballot.

Application
of ss. 2 to 4
to ancillary
ballots.

Declaration of election of President, etc.

Declaration
and
evidence
of election.

6.—(1) Where the result of a presidential ballot is that a candidate is elected as the President of the Republic, the person presiding at the joint meeting when the result is announced shall forthwith—

(a) declare that candidate to be so elected; and

(b) execute in duplicate in the presence of the official witnesses and in accordance with subsection (11) of section thirty-six of the Constitution of the Federation (which provides for proof of the election of a person as the President) such an instrument as is mentioned in that subsection.

(2) Each of the official witnesses shall sign his name upon the instruments aforesaid in witness of their execution, and one of those instruments shall be deposited and preserved in the records of the Senate and the other in the records of the House of Representatives; and rules made by the President of the Senate and the Speaker of the House of Representatives, acting jointly, may provide for the issue of authenticated copies of the instruments.

Investigation of conduct of President

Establish-
ment and
attendance
at meetings
of
investiga-
ting
committee.

7.—(1) Subject to the next following subsection, the committee mentioned in subsection (5) of section thirty-eight of the Constitution of the Federation (which provides for a committee of members of Parliament to investigate and report to Parliament on the conduct of the President of the Republic where a motion for the investigation is passed by a joint meeting) shall consist of—

(a) four persons nominated in writing by the Prime Minister, of whom two shall be Senators and the others shall be members of the House of Representatives and of whom one shall be designated by the Prime Minister as the chairman of the committee; and

(b) four Senators nominated by resolution of the Senate; and

(c) four members of the House of Representatives nominated by resolution of that House.

(2) The powers of nomination conferred by paragraphs (b) and (c) of the foregoing subsection shall, without prejudice to any nomination made in the exercise of those powers during the period of four days beginning with the date of the passing of the motion in consequence of which the committee is set up, not be exercisable as respects the committee after the expiration of that period.

(3) There shall be a legal assessor to the committee, who shall be a judge of the Supreme Court nominated in writing by the Prime Minister.

(4) It shall be the duty of every member of the committee and the legal assessor to be present throughout every meeting of the committee unless he is excused from attendance by the committee on the ground of serious illness; and a person who—

(a) is so excused; or

(b) without being so excused is absent from a meeting of the committee,

shall cease to be a member of the committee or its assessor, as the case may be, and shall, in a case falling within paragraph (b) of this subsection, be guilty of contempt of the committee and punishable accordingly.

5 (5) Where the chairman of the committee or its legal assessor dies or ceases to hold office by virtue of the last foregoing subsection, then—

10 (a) in the case of the chairman, the Prime Minister shall designate an existing member of the committee (whether or not a person nominated as a member by the Prime Minister) to be its chairman; and

(b) in the case of the legal assessor, the power to nominate a legal assessor shall again be exercised; but no person shall be nominated as a member of the committee in the place of a person who has ceased to be such a member.

8.—(1) The committee shall, during the period beginning with the date of its first meeting and ending with the date of its dissolution, be a superior court of record.

20 (2) The committee shall meet at such times and places as the chairman of the committee may determine, and the chairman shall so exercise his powers under this subsection as to secure that the business of the committee is concluded with all reasonable speed and within the period of three months mentioned in subsection (5) of section thirty-eight of the Constitution of the Federation; and every meeting of the committee shall, except so far as the committee otherwise determines, be held in public.

25 (3) Any question for determination by the committee shall be determined by the votes of a majority of the members of the committee; and in case of an equality of votes the chairman of the committee shall exercise a second or casting vote.

30 (4) Subject to subsections (2), (3) and (9) of this section, the President of the Senate, the Speaker of the House of Representatives and the Attorney-General of the Federation, acting jointly, may make rules as to the procedure to be followed and the rules of evidence to be observed in proceedings before the committee; and except so far as is otherwise provided by this Act or by rules made in pursuance of this subsection, the rules of procedure to be followed and the rules of evidence to be observed in proceedings before the committee shall, subject to the necessary modifications, be the same as those having effect with respect to proceedings on indictment in the High Court of Lagos.

35 (5) Any question as to the application or interpretation, in relation to proceedings of the committee, of any such rules as are mentioned in the last foregoing subsection shall be determined by the committee, and the committee shall, before making a determination in pursuance of this subsection, take into consideration the advice of the legal assessor on the question; and where such a determination is, in the opinion of the assessor, not in accordance with his advice, the assessor shall state his opinion and the reasons for it to the committee and the committee shall include in its report to Parliament a statement of the determination and of the advice, opinion and reasons aforesaid.

Powers
and
procedure
of
committee.

(6) The committee may, if it thinks fit, appoint such legal practitioners as it considers appropriate to assist the committee in the conduct of its proceedings.

(7) No process touching the committee or its proceedings shall issue out of any court except—

(a) at the instance of the committee; or

(b) for the purpose of securing the attendance of witnesses or the production of evidence in connection with proceedings before the committee; or

(c) in connection with an alleged offence of perjury committed in connection with such proceedings.

(8) No punishment for contempt of the committee shall be imposed by the committee on any person except with the concurrence of the legal assessor.

(9) Where a new legal assessor is nominated in pursuance of subsection (5) of the last foregoing section then, except so far as the committee otherwise determines with the consent of the person whose conduct is the subject of its proceedings, it shall be the duty of the committee, without prejudice to its power to take again any evidence previously given before the committee, to disregard for the purposes of its report any proceedings before the committee which took place before the nomination of the new assessor.

Report to
Parliament.

9.—(1) The report of the committee on the conduct of the President of the Republic shall be in writing and the committee shall present the report to Parliament by causing a copy of the report to be served on the Clerk to the Senate.

(2) It shall be the duty of the Clerk to the Senate forthwith to cause a report served on him in pursuance of this section to be printed and a printed copy of it to be made available to each Senator and each member of the House of Representatives respectively.

(3) On the presentation of its report to Parliament, the committee shall stand dissolved.

Supplemental

Short
title,
extent and
interpreta-
tion.

10.—(1) This Act may be cited as the Presidential Proceedings Act, 1964, and shall apply throughout the Federation.

(2) In this Act—

“candidate’s witness” and “official witnesses” have the meanings assigned to them by subsection (3) of section two of this Act;

“election meeting” and “presidential ballot” have the same meanings as in section thirty-five of the Constitution of the Federation; and

“joint meeting” means a joint meeting of both Houses of Parliament held in pursuance of Chapter IV of the Constitution of the Federation.