

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

THE POLICE (AMENDMENT) BILL 1965

EXPLANATORY MEMORANDUM

For the purpose of releasing regular members of the Police Force from the performance of certain relatively unimportant routine duties, it has been decided to employ Supernumerary Police Officers, whenever this is practicable, on duties connected with the administration of police offices, as personal orderlies to those entitled, and also for duties as guards in cases where it is necessary in the public interest for the Police Force to provide guards for public offices or installations.

The existing provisions governing the employment of Supernumerary Police Officers are contained in section 14 of the Police Act, but as these provisions allow for the employment on special duties of Supernumerary Police Officers at the request of private persons only, it is now necessary to amend the Police Act to enable this class of police officer to be employed on the beforementioned routine duties at the request of the appropriate superior police officer.

ABUBAKAR TAFAWA BALEWA,
Prime Minister

A BILL

FOR

AN ACT TO AMEND THE PROVISIONS OF THE POLICE ACT RELATING TO SUPERNUMERARY POLICE OFFICERS.

[] 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 sections set out in the Schedule to this Act shall be substituted for section 14 of the Police Act (which relates to the employment of supernumerary police officers).

Substitution
of new
sections for
s. 14 of
Police Act,
Cap. 154.

(2) In section 2 of the Police Act, after the definition of "superior police officer" there shall be inserted the following definition—

"supernumerary police officer" means a police officer appointed under section 14, 14A or 14C of this Act or under an authorisation given under section 14B of this Act ;

2.—(1) This Act may be cited as the Police (Amendment) Act 1965 and shall apply throughout the Federation.

Short title,
extent and
transitional
provision.

(2) Any person who immediately before the date of the passing of this Act was serving as a supernumerary police officer under section 14 of the Police Act—

(a) shall be deemed to have been appointed and enlisted under and in accordance with the corresponding provisions of the sections substituted for the said section 14 by section 1 of this Act, and to have been so appointed in respect of the police area in which immediately before that date he was employed on special duties ; and

(b) shall be employed exclusively on such duties as may be designated, in the case of a person serving in the Federal territory, by the Inspector-General of the Nigeria Police or, in the case of a person serving in a Region, by the Commissioner of Police of that Region.

Section 1.

SCHEDULE

SECTIONS TO BE SUBSTITUTED FOR S.14 OF THE POLICE ACT (CAP. 154)

Appointment
of supernu-
merary police
officers to
protect
property.

14.—(1) Any person (including any government department) who desires to avail himself of the services of one or more police officers for the protection of property owned or controlled by him may make application therefor to the Inspector-General, stating the nature and situation of the property in question and giving such other particulars as the Inspector-General may require. 5

(2) On an application under the foregoing subsection the Inspector-General may, with the approval of the Prime Minister, direct the appropriate authority to appoint as supernumerary police officers in the Force such number of persons as the Inspector-General thinks requisite for the protection of the property to which the application relates. 10

(3) Every supernumerary police officer appointed under this section— 15

(a) shall be appointed in respect of the area of the police province or, where there is no police province, the police district or police division in which the property which he is to protect is situated;

(b) shall be employed exclusively on duties connected with the protection of that property; 20

(c) shall, in the police area in respect of which he is appointed and in any police area adjacent thereto, but not elsewhere, have the powers, privileges and immunities of a police officer; and

(d) subject to the restrictions imposed by paragraphs (b) and (c) above and to the provisions of section 14D of this Act, shall be a member of the Force for all purposes and shall accordingly be subject to the provisions of this Act and in particular the provisions thereof relating to discipline. 25

(4) Where any supernumerary police officer is appointed under this section, the person availing himself of the services of that officer shall pay to the Accountant-General— 30

(a) on the enlistment of the officer, the full cost of the officer's uniform; and

(b) quarterly in advance, a sum equal to the aggregate of the amount of the officer's pay for the quarter in question and such additional amounts as the Inspector-General may direct to be paid in respect of the maintenance of the officer during that quarter; 35

and any sum payable to the Accountant-General under this subsection which is not duly paid may be recovered in a summary manner before a magistrate on the complaint of any superior police officer: 40

Provided that this subsection shall not apply in the case of an appointment made on the application of a department of the Government of the Federation.

(5) Where the person availing himself of the services of any supernumerary police officer appointed under this section desires the services of that officer to be discontinued, he must give not less than two months' notice in writing to that effect, in the case of an officer appointed 45

in respect of a police area within the Federal territory, to the Inspector-General or, in the case of an officer appointed in respect of a police area within a Region, to the Commissioner of Police of that Region; and on the expiration of such notice the services of the supernumerary police officer in question shall be withdrawn.

(6) Where the services of a supernumerary police officer are withdrawn in pursuance of subsection (5) above in the course of a quarter for which the sum mentioned in subsection (4) (b) above has been paid to the Accountant-General, the Accountant-General shall pay to the person by whom that sum was paid a sum which bears to that sum the same proportion as the unexpired portion of that quarter bears to the whole of that quarter.

(7) In this section "the Accountant-General" means the Accountant-General of the Federation, "government department" means any department of the Government of the Federation or of the Government of a Region, and "quarter" means any period of three months; and any reference in this section to the person availing himself of the services of a supernumerary police officer appointed under this section is a reference to the person on whose application the officer was appointed or, if that person has been succeeded by some other person as the person owning or controlling the property for the protection of which the officer in question was appointed, that other person.

14A.—(1) The appropriate authority may, at the request of any superior police officer, appoint any person as a supernumerary police officer in the Force with a view to that person's employment on duties connected with the administration or maintenance of premises occupied or used for the purposes of the Force, but shall not do so in any particular case unless satisfied that it is necessary in the interests of security or discipline that persons performing the duties in question should be subject to the provisions of this Act relating to discipline.

(2) Every supernumerary police officer appointed under this section—

(a) shall be appointed in respect of the area of the police province or, where there is no police province, the police district or police division in which the premises in connection with whose administration or maintenance he is to be employed are situated;

(b) shall be employed exclusively on duties connected with the administration or maintenance of those premises;

(c) shall, in the police area in respect of which he is appointed, but not elsewhere, have the powers, privileges and immunities of a police officer; and

(d) subject to the restrictions imposed by paragraphs (b) and (c) above and to the provisions of section 14D of this Act, shall be a member of the Force for all purposes and shall accordingly be subject to the provisions of this Act and in particular the provisions thereof relating to discipline.

14B.—(1) If at any time the Prime Minister is satisfied, as regards any police area, that it is necessary in the public interest for supernumerary police officers to be employed in that area, he may authorise the appropriate authority to appoint persons as supernumerary police officers in the Force under and in accordance with the authorisation.

Appointment of supernumerary police officers for employment on administrative duties on police premises.

Appointment of supernumerary police officers where necessary in the public interest.

(2) Every authorisation under this section shall be in writing and shall specify the police area to which it relates and the maximum number of supernumerary police officers who may be appointed under that authorisation.

(3) Every supernumerary police officer appointed under an authorisation given under this section—

(a) shall be appointed in respect of the police area to which the authorisation relates ;

(b) shall, in the police area in respect of which he is appointed and in any police area adjacent thereto, but not elsewhere, have the powers, privileges and immunities of a police officer ; and

(c) subject to the restriction imposed by paragraph (b) above and to the provisions of section 14D of this Act, shall be a member of the Force for all purposes and shall accordingly be subject to the provisions of this Act and in particular to the provisions thereof relating to discipline.

Appointment
of super-
numerary
police officers
for attach-
ment as
orderlies.

14C.—(1) The appropriate authority may at the request of the Inspector-General or of the Commissioner of Police of a Region appoint any person as a supernumerary police officer in the Force with a view to that person's attachment as an orderly to—

(a) a Minister of the Government of the Federation ; or

(b) a Minister of the Government of a Region ; or

(c) a police officer of or above the rank of assistant commissioner.

(2) Every supernumerary police officer appointed under this section—

(a) shall be employed exclusively on duties connected with the activities of the person to whom he is attached ;

(b) shall, while so employed, have throughout Nigeria the powers, privileges and immunities of a police officer ; and

(c) subject to the restriction imposed by paragraph (a) above and to the provisions of section 14D of this Act, shall be a member of the Force for all purposes and shall accordingly be subject to the provisions of this Act and in particular the provisions thereof relating to discipline.

Provisions
supple-
mentary to
ss. 14 to 14C.

14D.—(1) Every supernumerary police officer shall, on appointment, be enlisted to serve in the Force from month to month, and accordingly a supernumerary police officer may at any time resign his appointment by giving one month's notice in that behalf to the superior police officer in charge of the police area in respect of which he is appointed, and his appointment may be determined by the appropriate authority on one month's notice in that behalf or on payment of one month's pay instead of such notice.

(2) The ranks to which supernumerary police officers may be appointed shall be prescribed by regulations made by the Prime Minister under section 47 of this Act on the recommendation of the Nigeria Police Council ; but no such rank shall be above that of inspector.

(3) A supernumerary police officer shall have no claim on the Police Reward Fund ; and, without prejudice to any liability under the Workmen's Compensation Act to pay compensation to or in respect of any person by virtue of his employment as a supernumerary police officer, a person's service as such an officer shall not render him or any other person eligible for any pension, gratuity or annual allowance under this Act or the Pensions Act.

Cap. 222.

Cap. 147.

(5) In sections 14 to 14c of this Act and this section—

“the appropriate authority”, in relation to any power to appoint or determine the appointment of supernumerary police officers, means the Police Service Commission or any superior police officer to whom that power has been delegated in accordance with section 110 (1) of the Constitution of the Federation ;

1963 No. 20.

“police area” means any police province, police district or police division ;

“police province”, “police district” and “police division” mean respectively a police province, police district or police division established under the provisions of Standing Orders made under section 48 of this Act.

THE CURRENCY BILL 1965

EXPLANATORY MEMORANDUM

Sections 271 and 272 of the Criminal Procedure Act provide for the seizure and disposal of counterfeit coins and articles used for the purpose of making counterfeit coins. The West African Currency Notes Act is overdue for repeal. This Bill seeks to extend the application of Section 271 and 272 of the Criminal Procedure Act to notes and to repeal the West African Currency Notes Act.

F. S. OKOTIE-EBOH,
Minister of Finance

A BILL

FOR

AN ACT TO MAKE FURTHER PROVISION FOR THE DESTRUCTION OF COUNTERFEIT CURRENCY AND FOR CONNECTED PURPOSES AND TO REPEAL THE WEST AFRICAN CURRENCY NOTES ACT.

[]

Commence-
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria and by the authority of the same as follows :—

1.—(1) Subject to the following subsection, sections 271 and 272 of the Criminal Procedure Act (which, among other things, provide for the detention and destruction of counterfeit coins and of matter and things intended to be used for making them) shall apply in relation to notes purporting to be legal tender in Nigeria as those sections apply in relation to coins.

Detention
and destruc-
tion of
counterfeit
notes, etc.
Cap. 43.

(2) No note, coin, matter or thing shall be destroyed by virtue of the foregoing subsection unless either—

(a) a court orders its destruction, in connection with a conviction for an offence, in pursuance of the said section 271 as applied by that subsection; or

(b) it appears to a magistrates' court having jurisdiction in the place where the note, coin, matter or thing is for the time being situated, on an application made in accordance with rules of court, that the existence of the note, coin, matter or thing involves a breach of the law and the court makes an order for its forfeiture and destruction accordingly; or

(c) in the absence of any conviction for an offence in respect thereof and any pending prosecution for such an offence, and of any order or pending application for an order for its forfeiture, the note coin, matter or thing—

(i) has been voluntarily surrendered by the person having possession thereof to the proper official of the Central Bank of Nigeria or a superior police officer, or

(ii) is discovered in a lodgment made with the said Bank by a commercial bank.

2. The West African Currency Notes Act is hereby repealed.

3.—(1) This Act may be cited as the Currency Act 1965, and shall apply throughout the Federation.

(2) This Act shall come into operation on a date to be appointed by the Minister of the government of the Federation responsible for finance by an order published in the Federal Gazette.

Repeal.
Cap. 216.
Short title,
application
and com-
mencement.

THE REGISTERED LAND BILL 1965

EXPLANATORY MEMORANDUM

The object of this Bill is to substitute more suitable machinery provisions for those in the existing legislation in so far as they relate to investigation of claims under the system of compulsory universal registration of title to land in Lagos introduced by the Registered Land Act 1964.

Opportunity is also being taken by this Bill to provide sundry other amendments found necessary to implement registration of title after the constitution of land registers.

This Bill is a consolidation and amendment measure, and accordingly it provides for the repeal of the Act aforesaid.

MUSA YAR'ADUA,
Minister of Lagos Affairs

THE REGISTERED LAND BILL 1965

ARRANGEMENT OF CLAUSES

Clause

PART I—ADJUDICATION

1. Power to prescribe adjudication areas, etc., and effect of order.
2. Appointment and powers of officers engaged in adjudication.
3. Adjudication areas and notice.
4. Claims and attendance.
5. Stay of actions.
6. Lists of previously registered titles to be prepared.
7. Duties of demarcation officer.
8. Special powers of demarcation officer.
9. Duties and powers of registration officer.
10. Contents of adjudication record.
11. Principles of registration for adjudication record.
12. Procedure for ascertaining family representatives.
13. Notice of demarcation and registration.
14. Duties of adjudication officer.
15. Special powers of adjudication officer.
16. Evidence.
17. Retention of documents.
18. Notice of completion of adjudication record.
19. Correction of errors.
20. Appeals.

PART II—ORGANISATION AND ADMINISTRATION

Land Registries and Officers

21. Land registration district.
22. Land Registries.
23. Appointment of officers.
24. General powers of Registrar.
25. Seal of office.

Registers

26. The register.
27. Notice of opening of register to be given.
28. Manner of subsequent registration.
29. Replacement of existing registers.

Maps Parcels and Boundaries

30. Land Registry map.
31. Power of Registrar to require surveys and amend boundaries, etc.
32. Boundaries on Land Registry map, not conclusive.
33. Consequential amendments in records. Limitation.
34. Maintenance of boundary marks.
35. Combinations and subdivisions.
36. Foreshore not included in title.
37. Alteration of contiguous parcels by subdivision, etc.

PART III—EFFECT OF REGISTRATION

38. Interest to be conferred by registration.
39. Rights of proprietor.
40. Voluntary transfer.
41. Overriding interests.
42. Entries to give actual notice.

PART IV—CERTIFICATES AND SEARCHES

43. Issue of certificates as to ownership etc.
44. Certificate to be produced with dealings.
45. Lost or destroyed certificates.
46. Searches and copies.
47. Registration as evidence of signatures, etc.

PART V—DISPOSITIONS

General

48. Subsequent dealings only under this Act.
49. Protection of person dealing in registered land.
50. Additional fee for delayed registration.
51. Power to compel registration.
52. Priority of registered interests.

ARRANGEMENT OF CLAUSES—*continued**Clause*

- 53. Conflict with other laws.
- 54. Stay of registration.
- 55. Merger of registered interests.
- 56. Dispositions by family representatives.

Leases

- 57. Term of leases.
- 58. Periodic tenancies.
- 59. Registration of leases.
- 60. Restriction on transfer, etc., of lease if consent required.
- 61. Lease of charged land.
- 62. Reversionary leases.
- 63. Holding over.
- 64. Agreements implied in leases on the part of the lessor.
- 65. Agreements implied in leases on the part of the lessee.
- 66. Meaning of "in repair".
- 67. Forfeiture of lease.
- 68. Notice before forfeiture.
- 69. Relief against forfeiture.
- 70. Variation and extension of leases.
- 71. Substitution of leases.
- 72. Subleases.
- 73. Surrender of leases.
- 74. Determination of leases.

Charges

- 75. Form and effect of charges.
- 76. Second or subsequent charges.
- 77. Charges by companies.
- 78. Agreements implied in charges.
- 79. Variation of charges.
- 80. Right of redemption.
- 81. Notice in case of default.
- 82. Power of sale under a charge.
- 83. Application of purchase money.
- 84. Appointment and duties, etc., of receiver.
- 85. Foreclosure.
- 86. No right of entry into possession on default.
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- 88. Satisfaction of charge.
- 89. Tacking and further advances.
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Transfers

- 92. Mode of transfer.
- 93. Transfer of part.
- 94. Implied covenants, etc., on transfer of lease.
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Easements, Restrictive Covenants and Profits a Prendre

- 96. Grants of easements.
- 97. Restrictive covenants.
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Proprietorship and Partition

- 100. Registration and proprietorship.
- 101. Joint proprietors and severance of interest.
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- 104. Power for Registrar to order sale.
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Testamentary dispositions, etc.

- 106. Testamentary dispositions, etc., not affected.

PART VI—INSTRUMENTS AND AGENTS

- 107. Form of instruments.
- 108. Execution of instruments.
- 109. Proof of execution.
- 110. Instruments to be stamped.
- 111. Disposal of instruments.
- 112. Persons under disability and registered land.
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- 114. Powers of attorney.

PART VII—TRANSMISSIONS, TRUSTS AND FAMILY REPRESENTATION

- 115. Transmission on death.
- 116. Registration by personal representatives not on register.
- 117. Applications for registration on death of proprietor, etc.
- 118. Effect of transmission on death.
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ARRANGEMENT OF CLAUSES—*continued**Clause*

- 123. Trustees with no survivorship.
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OF EXECUTION

- 127. Power to register judgments, etc.
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- 155. Indemnity of officers.

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- 158. Conditions repugnant to interest transferred.

- 159. Offences.

- 160. Additional powers of Registrar.

- 161. Recovery of unpaid fees, etc.

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- 164. Registration of instruments in special cases.

- 165. Restricted application of other Acts.

- 166. Interpretation.

- 167. Short title, application and repeal.

SCHEDULE—Enactments affected.

DRAFT OF A BILL FOR

AN ACT TO AMEND AND CONSOLIDATE THE LAW AS TO REGISTRATION OF LAND
AND TITLES AND FOR MATTERS CONNECTED THEREWITH.

[]

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 :—

PART I.—ADJUDICATION

5 1.—(1) If it appears to the Minister to be expedient to provide
for the adjudication of interests in land or rights in land in the Federal
territory and for the registration of titles thereto, the Minister may by
order declare the whole or any part of the Federal territory to be an
10 adjudication area for the purposes of this Act ; and upon publication of
the order in the Gazette, this Act shall apply to the adjudication area so
declared and have effect accordingly.

Power to
prescribe
adjudication
areas, etc.
and effect
of order.

(2) An order under this section shall define the situation and limits
of the adjudication area to which it relates either by means of a plan
or by description ; and shall provide that the demarcation of parcels and
15 presentation of claims to interests in land or rights in land within the
adjudication area may begin at any time after a period to be prescribed.

(3) Where by reason of an order made under this section this Act is
to apply and lists of titles are prepared for the purposes of an adjudication,
no instrument or other document whatsoever shall be registered under
20 the Land Registration Act or the Registration of Titles Act as the case
may be, before the compilation of the register for the appropriate
section of the adjudication area, without the consent in writing of a
registration officer.

Cap. 99.
Cap. 181.

25 2.—(1) There shall be appointed a fit person to be an adjudication
officer for the purposes of this Act who shall be an officer of the High
Court and shall have power to inquire into and adjudicate upon claims to
land and interests or rights in land within the adjudication area for which
he was appointed or, subject to the terms of his appointment, for any
adjudication area.

Appointment
and powers
of officers
engaged in
adjudication

30 (2) An adjudication officer shall in respect of claims to land within
an adjudication area have all the powers of a judge of the High Court, and
shall exercise general control over all adjudications.

35 (3) There shall also be appointed for the purposes of demarcation of
parcels and of registration of title to and rights and interests in land
subject to this Act, fit persons as demarcation officers and registration
officers, who shall have the powers conferred upon such officers by this
Part of this Act.

(4) Any demarcation officer may at all reasonable times enter upon land within an adjudication area for the purpose of demarcating or surveying land within such area; and for such purpose may require persons likely in his opinion to have the knowledge, to give information regarding the boundaries of any such land.

(5) Any registration officer for the purposes of an inquiry under this Part of this Act may administer oaths and issue summonses, notices, or orders requiring the attendance of persons or the production of documents which he may consider necessary for any adjudication of claims under this Part of this Act.

(6) An adjudication officer may if he thinks fit exercise all or any of the powers and duties conferred upon demarcation officers and registration officers by this Part of this Act.

Adjudication
sections
and notice.

3.—(1) The adjudication officer may constitute within an adjudication area such adjudication sections as are necessary; and, whether or not adjudication sections are so constituted, notices in respect of the adjudication area or of each adjudication section as the case may be, shall be published by the adjudication officer in such manner as he thinks fit.

(2) A notice for publication under this section shall—

(a) fix a time within which persons claiming to be interested in land within the adjudication section are to present their claims; and

(b) require any person making any such claim to point out to a demarcation officer within the time prescribed the boundaries or boundary marks of the land affected; and as the case may require, the notice shall—

(c) specify as nearly as possible the situation and limits of the adjudication section;

(d) state that interests and rights in land within the adjudication section will be ascertained in accordance with the provisions of this Part of this Act and where so ascertained shall be registered under this Act;

(e) state that interests and rights in land within the boundaries of the adjudication section which are registered under the Registration of Titles Act will be brought on to the register under this Act without requiring any formal application by persons interested;

(f) confirm that if the name of a person appears in the list of owners prepared by the registration officer under this Part of this Act in respect of land in the adjudication section affected by the Land Registration Act as unregistered land and published as a schedule to the notice, the claim will be investigated by the registration officer, without the necessity for any claim by any such person.

Cap 181.

Cap. 99.

Claims and
attendance.

4.—(1) Persons other than those named in the schedule to a notice published under section 3 of this Act claiming unregistered rights or interests in land within an adjudication section shall present their claims within the time limited by the notice.

(2) Any person required by an officer under this Part of this Act to attend for purposes of or incidental to an adjudication, may appear or be represented by a duly authorised agent at the time and place required by such officer; and the person appearing or so represented shall produce to, and in proper case be given, an official receipt by the adjudication officer for any document or paper affecting or relating to his claim to land within the adjudication section.

(3) The demarcation, registration or adjudication of land within an adjudication section may proceed or, if begun may continue, notwithstanding the failure by any person to attend when required under this section.

5 (4) If an officer is satisfied in respect of any unregistered land in an adjudication section that claims are outstanding he may, if he thinks fit, require the attendance of any person appearing to be entitled, and deal with such land as if a claim had been duly made by or on behalf of any heirs or groups.

10 (5) Where a deceased claimant or owner is represented by one or more heirs or, in the case of separate group interests, by one or more of a group of heirs, in respect of a claim to land or an interest therein in any adjudication section, the appearance of such heirs or groups as the case may be in person or by duly authorised agents shall, unless the adjudication officer otherwise directs, be deemed to be an appearance by all the heirs and groups.

15 (6) Any instrument which may be void or voidable under any other Act by reason only of the fact that it has not been registered or presented for registration within the time prescribed under any other Act, shall be receivable in evidence.

20 (7) It is declared, for the avoidance of doubt that a claim based on acquisition by adverse possession or by prescription as the case may be, may be made in respect of land; and any such claim shall be an unregistered right or interest for the purposes of this section, and may be dealt with accordingly.

5.—(1) Subject to the provisions of this section, an action concerning land or rights therein in any adjudication section shall not be commenced in any court without the consent in writing of the adjudication officer.

Stay of actions.

30 (2) Where an action is commenced in any court before notice is given of intention to adjudicate upon claims under this Part of this Act the action shall, if it is one for the recovery of premises, be completed before the adjudication; but otherwise the action shall, subject to any direction of the court, be transferred to and be determined by the adjudication officer sitting as a court. If any action is so transferred, the fee payable in respect of the hearing before the adjudication officer shall be the fee which would have been payable to the High Court if the case had not been so transferred; and the fee shall be paid and credited accordingly.

40 6. Where an order is made declaring an adjudication area, the registrar of titles appointed under the Registration of Titles Act shall prepare a list of the titles registered under that Act and relating to land in the adjudication area, and shall provide the adjudication officer with such other information as the adjudication officer may from time to time require in respect of any such registered title.

List of previously registered titles to be prepared. Cap. 181.

Duties of
demarcation
officer.

7.—(1) Subject to the provisions of this section and any directions which may from time to time be given by the adjudication officer, it shall be the duty of a demarcation officer—

(a) to see that the boundaries of each separate parcel of privately owned land and of public roads, rights of way and water, and of graveyards, (if not already demarcated by a physical feature), are properly demarcated or indicated ; 5

(b) to submit to the adjudication officer, boundary disputes which the demarcation officer is unable to resolve ;

(c) to demarcate the boundaries of all waste or unoccupied land ; 10

(d) to prepare in respect of every adjudication section a plan (in this Act referred to as a "demarcation plan") showing thereon every parcel of land however owned, and marked so as to identify the parcels by means of a distinguishing number for each parcel ;

(e) to show on the demarcation plan by means of a distinct colour or otherwise howsoever every parcel, the title to which is registered under the Registration of Titles Act. 15

Cap. 181.

(2) Where the boundary is already demarcated by a physical feature, it shall not be necessary to determine whether the exact line of the boundary runs along the middle line of such feature, or on either side thereof. 20

Special
powers of
demarcation
officer.

8.—(1) In the performance of his duties, a demarcation officer may—

(a) if the boundary between separate parcels of land is curved or irregular or, in his opinion, if the boundary is otherwise inconvenient for the use of the land, re-align the boundary, and where necessary adjust the rights of the owners of the land affected by the exchange of land or by the payment of money ; 25

(b) demarcate any right of way necessary to give access to a public road in favour of any parcel of land completely surrounded by other parcels ; 30

(c) with the agreement of the owner or owners, group together in one or more parcels, separate areas of land owned by such owner or owners, if such grouping does not adversely affect the parcel of other persons. 35

(2) Where a boundary is re-aligned under this section the adjudication officer shall satisfy himself that the compensation is adequate, and in any proper case shall certify it as one in respect of which the person affected may appeal to the High Court.

Duties and
powers of
registration
officer.
Cap. 99.

9.—(1) A registration officer shall, when appointed, examine with all convenient speed such of the records or instruments kept in the land registry under the Land Registration Act as he considers relevant to land in the adjudication area, or section thereof, as the case may be. 40

(2) If after such examination the registration officer is satisfied that any person has a claim to or any right or interest in unregistered land within an adjudication section, he may, in his discretion, prepare for publication with the notice under section 3 of this Act a list of owners showing the names of all persons so far as are known to him, the parcels of land concerned, and the nature of the rights or interests to which any claims relate. 45 50

(3) After the time limited by the notice referred to in subsection (2) of this section has expired, the registration officer shall consider all claims presented in accordance with the notice or the schedule thereto and, after such investigation as he considers necessary, the registration officer shall prepare a record (in this Act referred to as "the adjudication record") comprising a form in respect of every parcel of land shown on the demarcation plan which is not registered under the Registration of Titles Act.

Cap. 181.

(4) If there are two or more claimants to any land or right in land within an adjudication section and the registration officer is unable to effect agreement between them he shall submit the case with particulars of the claim for hearing by the adjudication officer.

(5) The registration officer shall make any registration or re-registration and shall rectify the adjudication record in accordance with any order of the adjudication officer under this Act.

(6) The registration officer in the performance of his duties under this Act shall be subject to any general or special directions of the adjudication officer.

10.—(1) Every form comprising an adjudication record shall contain the following particulars that is to say—

Contents of
adjudication
record.

(a) the number of the parcel of land as shown on the demarcation plan and its approximate area ;

(b) the name and description of the owner and the limitation (other than disability) on his power of dealing with the land ;

(c) if any owner or other person having a registrable interest is under a disability, by reason of age, unsoundness of mind or otherwise howsoever, the name of his guardian ;

(d) details of any lease, right of occupation, charge or other encumbrance or interest whatsoever amounting to less than ownership affecting the land, whether by virtue of customary law or otherwise, together with the name and description of every person entitled to the benefit thereof and particulars of any restriction on his power of dealing with it ;

(e) the fact that in any particular case the land is state land ; and

(f) the date on which the form is completed.

(2) Every form shall be signed by the registration officer and by the owner of the land or of any lease or charge or by the duly authorised agent of such owner, unless the adjudication officer in his discretion dispenses with the signature of the owner or his agent.

11.—(1) When preparing an adjudication record,—

(a) if the registration officer is satisfied that the right or interest of any person in land is such as would entitle him to be registered under this Act as the proprietor of that land, he shall enter the name of that person accordingly ; but the exercise by any person of rights in or over one or more parcels of land shall not be construed as conferring upon such person rights of ownership in or over any extent of land greater than that in or over which the rights are exercised :

Principles of
registration
for adjudica-
tion record.

(b) if the registration officer is satisfied that no person is entitled to exercise rights of ownership over defined land or that the rights enjoyed by any person thereover would be insufficient to entitle such person to be registered under this Act as the proprietor of that land, he shall record the land as state land :

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(c) if the registration officer is satisfied that the right or interest of any person in or over land which is privately owned or in or over state land would be insufficient to entitle such a person to be registered under this Act as the proprietor of that land, but would entitle any such person to the benefit of any other registrable interest, he shall record such right accordingly with a note of the limits within which the right may be exercised, the extent to which the benefit thereof may be dealt with, and such other particulars as may be necessary to define the nature, incidence and extent of the right.

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(2) The registration officer shall, if land is owned by two or more persons, ascertain whether they hold as joint owners or as owners in common and, if as owners in common, the share of each such owner.

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(3) If the land is family land, the registration officer shall, subject to the next succeeding section of this Act,—

(a) register the names of all members of the family who are entitled to a share therein together with the size of the share of each such member ; or

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(b) if the number of members of a family exceeds *ten* or the majority of such members so requests, register the name of the family and the names of representatives of the family who jointly are to have the exclusive rights and powers and be the registered proprietors for the purpose of any dealing with the land or any part thereof or interest therein subject to this Act and to such restriction as, in any particular case, the registration officer may deem it necessary to impose.

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Procedure
for
ascertaining
family repre-
sentatives.

12.—(1) Where in the case of family land not more than ten names are submitted to the registration officer as the names of persons to represent a family, and no objection thereto is offered by any member of the family, the registration officer shall enter such names in the adjudication record as the family representatives.

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(2) Where in the case of family land no names or more than ten names are submitted, or where there is an objection to a member of the family, the registration officer shall refer the case to the adjudication officer ; and after considering any custom prevailing within the family the adjudication officer shall appoint not more than ten persons as family representatives, and shall direct the registration officer accordingly.

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(3) Where land is owned by a family and the adjudication officer is not satisfied that any custom exists in relation to the family land, the adjudication officer shall direct the holding of a family meeting not later than twenty-one days after delivery of the direction to the head of the family or his representative, requiring the family to elect not more than ten persons to be the family representatives. The head of the family or his representatives shall cause all adult members of the family, so far as possible, to be notified accordingly, and when held, all adult members

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present at the family meeting shall be entitled to vote ; but the fact that any member of the family fails to receive notice of or to attend such meeting shall not invalidate the meeting. If the number of names of the person elected as family representatives at the family meeting is not more than ten, notice thereof with a list of the names with sufficient other information which the adjudication officer may reasonably require shall be forwarded by the head of the family or his representative to the adjudication officer not later than seven days after the meeting ; and if he is satisfied that the family meeting was properly held, the adjudication officer shall enter those names as the family representatives in the adjudication record.

(4) Where for any reason it is not practicable to ascertain the family representatives the adjudication officer shall enter the name of the family in the adjudication record ; and when so recorded it shall have the effect of a restriction under this Act, and no dealing with the land shall be registered until such time as the family representatives are ascertained.

13. At least six clear days before demarcation is to begin, the demarcation officer shall, as directed by the adjudication officer, give notice in writing and in such other manner as he thinks fit, of the intended time and place of the demarcation and of registration thereafter to persons likely to be affected thereby.

Notice of demarcation and registration.

14.—(1) The adjudication officer shall exercise general supervision over adjudication and,—

Duties of the adjudication officer.

(a) shall hear and decide any dispute as to ownership or as to boundaries of land within the adjudication area or as to any lease, charge or other encumbrance, whatsoever affecting such land if the demarcation officer or the registration officer as the case may be has been unable to resolve the dispute ;

(b) shall hear and decide any petition—

(i) in respect of an act or decision of a demarcation officer, or

(ii) to rectify an original entry in the adjudication record prepared by a registration officer under the provisions of section 9 of this Act.

(2) The adjudication officer shall on the hearing of a dispute or petition under this section record the proceedings in such form as he thinks necessary ; and the procedure on the hearing of a civil suit shall, as far as practicable be followed and the fees prescribed for any such hearing shall be the fees payable.

15. In the course of an adjudication, the adjudication officer may—

(a) give such instructions as he thinks necessary to implement the provisions of this Part of this Act relating to the procedure to be followed when demarcating or registering land within an adjudication area ;

Special powers of adjudication officer.

(b) direct the owner of land to enclose it by means of a boundary wall, fence or hedge or prescribe the demarcation of the boundaries in some other permanent manner ;

(c) where persons, whether or not heirs of a deceased owner, jointly claim land as co-owners, order a partition of the land amongst such persons in accordance with an agreement approved by the adjudication officer or, if there is no agreement, as the adjudication officer may direct ;

and any person concerned or affected shall comply with the terms of any instruction, direction, or order, as the case may be, given or made by the adjudication officer.

Evidence.

16.—(1) The adjudication officer may act on any sworn testimony and may receive as evidence any statement, document, information or matter which in his opinion may assist him to deal effectively with the matters before him, whether the same would, apart from this section, be legally admissible evidence or not. 5

Cap. 62.

(2) Subject to the foregoing provisions of this section, the Evidence Act shall apply to all proceedings before an adjudication officer in the same manner as if he were a court within the meaning of that Act. 10

Retention of documents.

17. The adjudication officer and the registration officer, as the case may require, shall retain all documents of title produced in respect of any claim :

Provided that if any document of title produced to any such officer includes unregistered land not comprised in the claim, it shall not be retained ; and the adjudication officer after endorsing thereon a note of the claim shall return the document to the person producing it. 15

Notice of completion of adjudication record.

18.—(1) Where all claims in respect of an adjudication area or section as the case may be have been heard or are otherwise disposed of, the adjudication officer shall, in the Federal Gazette and in some newspaper published in and circulating in Lagos as well as in such other manner as he thinks fit, give public notice of the completion of the adjudication record in respect thereof. The notice shall state the time and place at which the completed adjudication record may be inspected ; and when so given, the notice shall be deemed to be sufficient notice to all persons affected thereby. 20 25

(2) Any person aggrieved by the act or decision of a demarcation officer, or by any entry in or omission from the adjudication record by the registration officer may appeal by way of petition to the adjudication officer in respect of any such act, decision, entry or omission within twenty-one days after the date of publication of notice of completion of the adjudication record ; and the provisions of section 14 of this Act (in so far as they relate to the disposal of petitions) shall thereupon have effect. 30 35

(3) The adjudication officer shall as soon as possible consider all petitions of which he has notice under this section, and shall thereafter sign the adjudication record with such amendments as may be necessary. If the adjudication officer has notice of any subsequent appeal to a court under this Part of this Act, he shall minute the adjudication record accordingly ; and subject thereto, the adjudication record as so signed shall be final, and shall forthwith thereafter be delivered by him to the Registrar for compilation of the register under this Act. 40

(4) If the Registrar opens a register in respect of land or any lease affected by an appeal to a court, he shall note the register to that effect and when so noted, the provisions of section 148 of this Act (in so far as they restrict dispositions) shall apply thereto. 45

Correction of errors.

19.—(1) Anything to the contrary in this Act notwithstanding, the adjudication officer may of his own motion at any time correct errors in the adjudication record, or supply omissions, not materially affecting the interest of any person. 50

(2) No other amendment shall be made in the adjudication record without the consent in writing of the person whose interest is or may be prejudicially affected, or as the case may be, an order of a court.

5 20.—(1) Any person aggrieved by a decision of the adjudication officer under this Part of this Act,— Appeals.

(a) relating to the completion of the adjudication record, or

(b) the disposal of any petition to him,
may appeal to the court by way of petition.

10 (2) The appeal shall be filed within twenty-one days after the completion of the adjudication record or of the disposal of the appeal by the adjudication officer, as the case may be, or within such extended time the court on motion after notice may direct or allow.

15 (3) Notice of appeal under this section shall be given to the Registrar of Land; and upon receipt of any such notice by him, the provisions of section 148 of this Act (which relate to noting the register etc.) shall thereupon have effect.

PART II.—ORGANIZATION AND ADMINISTRATION

Land Registries and Officers

20 21.—(1) The Federal territory shall be the land registration district for the purposes of this Act; and all land affected by a final adjudication record as well as land duly registered under the Registration of Titles Act shall be included in the land registration district and may be registered accordingly.

Registration districts.

Cap. 181.

25 (2) The boundaries of the land registration district may at any time by order of the Minister published in the Federal Gazette, be amended for the purpose of constituting any new land registration district or of adjusting boundaries of any existing land registration district.

30 22. There shall be maintained in every land registration district a Land Registry which shall form part of the High Court and in which there shall be kept in accordance with the provisions of this Act—

Land Registries.

(a) a register of land to be known as the register;

(b) a map to be known as the Land Registry map;

(c) parcel files containing the instruments, which support subsisting entries in the register, and any filed plans and documents;

35 (d) a book in the prescribed form to be known as the presentation book in which shall be recorded all applications numbered consecutively in the order in which they are presented to the Land Registry;

(e) a record to be known as the mutation record;

40 (f) an index to be known as the Nominal Index in which shall be kept in alphabetical order a record of the names of the proprietors (other than banks, building societies and such corporations as the Registrar may from time to time direct) of land, leases and charges of any description with such information as to the parcels affected;

(g) a register of powers of attorney.

45 23.—(1) There shall be appointed as a member of the Public Service of the Federation a fit person to be Registrar of Land and such person shall, under the general direction of the Chief Justice of Lagos have the control and administration of all Land Registries under this Act.

Appointment of officers.

(2) There shall also be appointed as members of such public service a deputy registrar of land and in respect of every Land Registry such assistant registrars and other officers or employees as may be necessary for carrying out the provisions of this Act.

(3) The deputy registrar shall have all the powers of the Registrar under this Act; but unless for any reason the Registrar is unable to exercise the power, a deputy registrar shall not have the power of delegation conferred by the next succeeding subsection. If the deputy registrar exercises his power under this subsection, he shall state the reason in the delegation.

(4) The Registrar may by instrument under his hand delegate to any assistant registrar any of the powers of the Registrar under this Act other than the power to delegate, and may at any time likewise revoke or vary any such delegation; but the fact that the Registrar has delegated any power under this subsection shall not preclude the Registrar from himself exercising the power.

(5) The person holding office at the commencement of this Act as Registrar of Land shall be deemed to have been appointed Registrar of Land under subsection (1) of this section; and all other persons who at the commencement aforesaid are officers or employees of the Land Registry established under the Registered Land Act 1964 shall, unless the Public Service Commission otherwise directs in respect of a particular office or employment, be deemed to have been appointed to the like offices or positions under this Act.

1964 No.
VII.

General
powers of
Registrar.

24.—(1) The Registrar, and every assistant registrar to the extent to which any powers are delegated to him, shall have and may exercise the following powers additional to any other powers conferred by this Act, that is to say—

(a) he may in respect of any particular parcel of land or encumbrance require the proprietor or any person to produce any instrument, certificate or other document or plan relating to the land, or encumbrance and the proprietor or other person as the case may be, shall produce the same;

(b) he may summon a proprietor or other person interested to appear and give information respecting any land, encumbrance or other instrument, certificate, document, or plan relating to the land of the proprietor or encumbrance affecting the land, and the proprietor or other person as the case may require, shall appear and give the information;

(c) he may refuse to register any deed or document presented to him if any instrument, certificate or other document or plan or information required by him to be produced or given is withheld or anything required by him to be done under this Act is not so done;

(d) he may administer oaths and may require that any proceedings, information or explanation affecting registration be verified on oath;

(e) he may order that the costs, charges and expenses incurred by him or by any other person in connection with any investigation or hearing held by him or survey to be made directed for the purposes of this Act shall be borne and paid by such persons and in such proportions as he may think fit.

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(2) Where the Registrar or any assistant registrar under this section is empowered to administer oaths any such officer may take an affirmation or a statutory declaration under the Oaths Act 1963 in substitution therefor, and in any case where an oath is administered or an affirmation or declaration is taken, no oath fee or stamp duty, as the case may be, shall be payable or be paid. 1963 No. 23.

25.—(1) There shall be a seal of the Land Registry showing the Coat of Arms and such reference on the surround to the Land Registry as the Chief Justice of Lagos may approve in writing. Every instrument bearing the imprint of such seal shall be received in evidence by all courts and persons ; and, unless the contrary is shown, it shall be deemed, without further proof, to have been duly sealed and issued by or under the direction of the Registrar. Seal of office.

(2) The seal approved for use in the Land Registry under the Registered Land Act 1964 shall, unless the Chief Justice of Lagos otherwise directs, be the seal of office for the purposes of this Act. 1964 No. III.

Registers

26.—(1) The Registrar may divide a registration district into parcels of land to be known as sections, and may open registers therefor and for registered leases thereof ; and accordingly all land dealt with at the time of an adjudication in respect of a registration section which is included therein (whether or not also included in the adjudication record) shall be entered in the relevant register. The register.

(2) The Registrar shall compile the register in the following manner, that is to say—

(a) if a section or, as the case may be, any lease thereof is registered under the Registration of Titles Act the register shall show all subsisting interests registered under that Act ; Cap. 181.

(b) if a section included in an adjudication record under the provisions of Part I of this Act is not registered under the Registration of Titles Act—

(i) every person entitled in the adjudication record to ownership shall be registered as proprietor of the parcel recorded in his name therein subject to any limitation, restriction, or encumbrance affecting the parcel of land ;

(ii) where no owner has been found, the parcel shall be registered as state land subject to any rights or interests in respect of it shown in the adjudication record ; and

(iii) in any other case, the person named in the adjudication record as entitled to the benefit of any rights or interests in any parcel shall, subject to overriding interests under this Act affecting the right or interest, be registered accordingly.

27.—(1) Where interests are registered under the Registration of Titles Act, and they are included in a register opened under this Act, the Registrar shall, as soon as may be thereafter, give notice in writing of the fact to all persons having any such interests. Notice of opening of register to be given.

Cap. 181.

(2) On the giving of any notice under this section, the Registration of Titles Act shall cease to apply to any such interests.

(3) The holder of a certificate of title, or charge certificate, issued under the Registration of Titles Act shall, when so notified, surrender his certificate to the Registrar and, if such holder so requests, he shall receive a certificate under this Act in substitution therefor.

Manner of subsequent registration.

28. Registration of any instrument after land is brought under this Act shall, on payment of the prescribed fees, be effected by an entry in the register made in such form as the Registrar may from time to time direct.

Replacement of existing registers.

29. If the number or the nature of the entries so require or the Registrar thinks fit, the Registrar may at any time open a new register in substitution for the existing register. The substituted register shall show subsisting entries; and all other entries that have been determined or have ceased to have any effect shall be omitted.

Maps, Parcels and Boundaries

Land Registry map.

30.—(1) There shall be a map to be called the Land Registry map showing the boundaries of each parcel of registered land and such other information as the Registrar may direct or require; and the map shall be drawn to such scale as the Registrar may approve, and comprise as many sheets as the Registrar thinks necessary.

(2) Where the Registrar divides a registration district into registration sections, he shall cause the division to be shown on the Land Registry map and identify the sections by distinctive names. Any registration section may be further divided by the Registrar into areas to be known as blocks, which shall be shown on the said map and be given distinctive numbers or letters, or a combination of numbers and letters, as the case may require.

(3) The Registrar may, at any time, combine or divide registration sections or blocks, or vary their boundaries.

(4) The parcels of land in each registration section or block shall be numbered consecutively; and the name of the registration section and the number and letter of the block (if any) and the number of the parcel shall together be a sufficient reference to any parcel.

(5) A plan may at any time be filed in respect of any parcel to supplement the information available from the Land Registry map; and the filing of such plan shall be noted in the register.

Power of Registrar to require surveys and amend boundaries, etc.

31.—(1) The Registrar may require a survey of any land to be made for the purposes of this Act and, subject to the provisions of this section, may with the agreement in writing of any person liable to be affected thereby, alter or replace the Land Registry map or any part thereof as a result of such survey.

(2) There shall be a form to be known as a mutation form, and no alteration of any boundary shown on the Land Registry map shall be made except as directed by the Registrar by means of a mutation form, which shall thereafter be filed in the Land Registry.

(3) Where the boundary of a parcel is altered, its parcel number shall be cancelled and the parcel as altered shall be given a new number.

(4) The Registrar may, at any time, direct the preparation of a new Land Registry map or any part thereof; and matter which the Registrar considers obsolete, may be omitted from any such new map.

Boundaries
on Land
Registry
map.

32.—(1) Subject to the next succeeding subsection, the Land Registry map shall not be final and conclusive evidence as to the precise position of any boundary; and where any uncertainty or dispute arises as to the position of a boundary but a survey is not necessary to define it, the Registrar, on the application of any interested party, shall give all persons appearing from the register to be affected an opportunity of being heard. On such evidence as he considers relevant, the Registrar shall fix the position of the uncertain or disputed boundary by description.

(2) If the Registrar thinks fit, or any person claiming an interest therein so requests him in writing, the Registrar may convene a meeting to fix the boundaries of any land by survey. Notice of any such proposal shall be given by the Registrar to all persons appearing from the register of the land affected and of any adjoining land to be interested, and to all other persons (if any) known to him to be in occupation of any such land; and after giving persons attending the meeting the opportunity of being heard, the Registrar shall in any proper case cause a survey to be made of the boundaries accordingly. As soon as may be after verification of the plan of survey by the Federal Director of Surveys, the Registrar shall note the relevant registers, or as the case may require, he shall amend the boundaries therein to agree with the plan of survey as so verified.

(3) No court shall entertain any action or other proceeding relating to a dispute as to the boundaries of registered land unless the dispute has been dealt with in the first instance by the Registrar under this section.

33.—(1) Where the Registrar exercises his powers under this Part of this Act, he shall note the Land Registry map and the appropriate register, and shall file the description or plan.

Consequen-
tial amend-
ments in re-
cords. Limi-
tation.

(2) No court shall entertain any action or other proceeding relating to a dispute as to the boundaries of registered land unless the dispute has been dealt with in the first instance by the Registrar.

34.—(1) The Registrar may at any time in writing direct which of adjoining proprietors shall be responsible for the care and maintenance of a boundary mark; and when so directed, the proprietor designated shall maintain in good order the boundary marks on his land.

Mainten-
ance of
boundary
marks.

(2) Any proprietor responsible for the maintenance of boundary marks who allows a boundary mark to fall into disrepair or be destroyed or removed shall be guilty of an offence and liable on summary conviction to a fine of ten pounds.

(3) If any other person wilfully defaces, destroys, removes, or otherwise impairs any boundary mark unless authorised to do so by the Registrar in writing, he shall be guilty of an offence and liable on summary conviction to a fine of twenty pounds or to imprisonment for a term of three months, or to both.

(4) Any person convicted of an offence under this section shall, whether or not any penalty therefor is imposed upon him, be liable to pay the cost of restoring such boundary marks ; and the cost of the restoration may in proper case be recovered as a civil debt by any person responsible under this section for the maintenance of boundary marks on the land affected.

(5) For the purposes of this section, "boundary mark" includes any fence, hedge, stone, pillar, (whether survey pillar, peg, pin or tube) or wall or other mark whatsoever which serves to demarcate the boundary of land.

Combina-
tions and
sub-
divisions.

35. Subject to the provisions of this Act,—

(a) where contiguous parcels of registered land are owned by the same proprietor and are subject in all respects to the same rights and obligations, the Registrar on the application of such proprietor, may combine the parcels by closing the registers relating thereto and opening new registers or a new register as the case may require in respect of the parcels resulting from such combination ;

(b) where the proprietor of unencumbered land applies for the division of it into two or more parcels and the Registrar is satisfied that the land is free from encumbrances and is suitable for such division, the Registrar shall, unless precluded by any Act, give effect to the application by means of a mutation record and by the closing of the register and the opening of new registers in respect of the separate parcels arising out of the division ; and the Registrar shall enter therein all relevant subsisting interests.

Foreshore
not included
in title.

36. It is declared that land below high water mark at ordinary spring tides shall in the case of any seaward or tidal river boundary be deemed to be excluded from any parcel of land in the register unless the contrary is expressly noted in the relevant register.

Alteration of
contiguous
parcels by
sub-
division, etc.

37.—(1) On the application of the proprietors of contiguous parcels of registered land who are desirous of subdividing or altering the boundaries thereof, the Registrar may if satisfied that all necessary consents in writing of other persons in whose names any right or interest in such parcels is registered and of any caveator have been given and are produced, and subject to the provisions of this section, give effect to the application by means of a mutation record and cancel the relevant registers relating to such parcels and prepare new registers in accordance with the scheme of subdivision or alteration of boundaries, as the case may require.

(2) If in the opinion of the Registrar any alteration of contiguous parcels under this section would involve substantial changes of ownership which should be effected by transfer under this Act without invoking the provisions of this section, he may in his absolute discretion, refuse to give effect to the application.

(3) Where any boundary is altered under this section, the new parcels shall, anything to the contrary in this Act notwithstanding, vest in the persons in whose names they are registered without further authority than this section.

PART III.—EFFECT OF REGISTRATION

38.—(1) Subject to the provisions of this Act,—

Interest to
be conferred
by
registration.

5 (a) the registration of any person as the proprietor of any land shall not confer any right to minerals or mineral oils thereon or thereunder, but otherwise it shall vest in the person so registered the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto ;

10 (b) the registration of any person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease together with all rights express and implied and appurtenances attached thereto and subject to all agreements express or implied and all liabilities and incidents of a lease.

(2) For the purposes of this section “mineral oils” and “minerals” have the meaning set out in the Mineral Oils Act and the Minerals Act.

Cap. 120.
121.

15 39.—(1) The rights of a proprietor, whether acquired on first registration or subsequently for valuable consideration or by an order of a High Court or any superior court shall be rights not liable to be defeated except as provided in this Act ; and such rights shall be held by the proprietor, together with all privileges and appurtenances belonging
20 thereto, free from all other interests and claims whatsoever, including those of the state, but subject—

Rights of
proprietor.

(a) to any encumbrances and to the conditions and restrictions, if any, shown in the register ;

25 (b) unless the contrary is expressed in the register, to such liabilities, rights and interests as affect the same and are declared by this Act not to require notification on the register.

(2) Nothing in this section shall be construed so as to relieve a proprietor from any duty or obligation to which he is subject as a trustee or family representative under this or any other Act.

30 40. Every proprietor who by transfer acquires any land, lease, or charge without valuable consideration shall hold the land, lease, or charge, as the case may be, subject to all unregistered rights and interests affecting the same to which they were subject when in the hands of his transferor, and subject also to the provisions of any law relating to
35 bankruptcy and to the winding up provisions of the Companies Act ; but otherwise any such transfer shall, when registered, have in all respects the same effect as a transfer for valuable consideration.

Voluntary
transfer.

Cap. 37.

40 41.—(1) All registered land shall, unless the contrary is expressed in the relevant register, be subject to such of the following overriding interests as may for the time being subsist and affect the same that is to say—

Overriding
interests.

(a) rights of way, rights of water and any easement or profit a prendre subsisting at the time of first registration under this Act ;

45 (b) rights of user, entry, search, compulsory acquisition and resumption conferred by any other Act ;

(c) leases or agreements for leases for any term less than five years where there is actual occupation under the lease or agreement ;

(d) any tax or rate for the time being declared by law to be a charge on land or buildings erected thereon ;

50 (e) rights acquired or in process of being acquired by virtue of any enactment relating to the limitation of actions or by prescription ; and

(f) the rights of every person in possession or actual occupation of the land to which he may be entitled in right of such possession or occupation, save where enquiry is made of such person and the rights are not disclosed.

(2) The Registrar may in proper case direct registration of any of the liabilities, rights and interests referred to in subsection (1) of this section in such manner as he thinks fit; and to the extent to which registration is so directed, this section shall cease to have effect. 5

Entries to
give actual
notice.

42. Every proprietor shall be deemed to have had notice of every entry in the register relating to any land, or encumbrance acquired by him. 10

PART IV.—CERTIFICATES AND SEARCHES

Issue of
certificates
as to
ownership
etc.

43.—(1) The Registrar shall, if requested by the proprietor of any interest in land, issue to him a certificate in the prescribed form showing all subsisting entries affecting that interest. 15

(2) Not more than one certificate shall be issued in respect of a particular interest in each parcel; and a certificate when issued, shall be prima facie evidence of the particulars set out in the register at the date only of issue of such certificate. The fact that a certificate has been issued shall not obviate the necessity for a search of the register; and the land and encumbrances (if any) shall be subject to all entries in the register, whether or not they are set out in the relevant certificate. 20

(3) Where there are more proprietors than one, the proprietors may agree among themselves as to who is to receive the certificate and, if they are unable to agree, the certificate shall be retained in the Land Registry. 25

(4) If a certificate is issued under this section the date of its issue shall be noted in the register.

Certificate
to be
produced
with dealings.

44.—(1) Where a certificate has been prepared and is not retained in the Land Registry, it shall be produced to the Registrar on the registration of any dealing with the land or interest therein to which it relates, unless the Registrar for sufficient cause dispenses with its production. 30

(2) Upon completion of the registration a note of the dealing shall, if the Registrar thinks fit, be made on the certificate, or the certificate may be cancelled, or be retained in the Land Registry. 35

Lost or
destroyed
certificates.

45.—(1) If a certificate is lost or destroyed the proprietor may apply to the Registrar for the issue of a new certificate and shall produce evidence to satisfy the Registrar of the loss or destruction of the previous certificate. 40

1963 No. 23.

(2) The Registrar may require a statutory declaration under the Oaths Act 1963 that the certificate has been lost or destroyed; and if satisfied with the evidence as to the loss or destruction of the certificate, and after publication in such manner as he may authorise of notice of intention to do so, the Registrar may issue a new certificate. 45

(3) If a lost certificate is thereafter found it shall be delivered to the Registrar for cancellation.

46.—(1) Any person may apply in writing to the Registrar to inspect during the hours of business, any register and any sheet of the Land Registry map or any instrument or plan filed in the Land Registry, and on payment of the prescribed fee, the applicant may make the search on such conditions as the Registrar thinks fit.

Searches and
copies.

(2) Any person may require an official search in respect of any parcel and upon prepayment of the prescribed fee shall be entitled to particulars of the subsisting entries in the register or to obtain a certified copy of any register or part of the Land Registry map or of any instrument or plan filed in the Land Registry.

47.—(1) Judicial notice shall be taken of the signature of the Registrar, the deputy registrar and every assistant registrar by all courts and persons; and every document purporting to be signed by any such person shall in all proceedings be received as sufficient evidence thereof accordingly, until the contrary is proved.

Registration
as evidence
of signatures,
etc.

(2) The register in the Land Registry shall be conclusive evidence of entries therein; but save with the leave of a court, no process for compelling the production of any part of the register or of the Land Registry map or of any instrument or plan filed in the Land Registry shall issue, and leave shall not be granted where a certified copy or other secondary evidence will suffice. If a court issues any such process, the process shall show on its face that it was issued with the leave of the court.

(3) Every copy or extract certified by the Registrar shall in any proceedings be received as prima facie evidence of the original entry in the register, or of the Land Registry map or of any instrument or plan filed in the Land Registry, and of the matter and transactions therein recorded or registered.

PART V.—DISPOSITIONS

General

48.—(1) Except as otherwise prescribed by this Act, land to which this Act applies and any registered encumbrance affecting such land, shall be dealt with only in accordance with this Act; and, any rule of law to the contrary notwithstanding, no interest therein or thereover shall be created or pass until registration of an instrument under this Act.

Subsequent
dealings only
under this
Act.

(2) Nothing in this section shall be construed so as to preclude—
(a) the operation as a contract of an instrument whether registrable or unregistrable under this Act; or

(b) succession to land under a will, or upon intestacy, or insolvency.

49.—(1) No person dealing or proposing to deal for valuable consideration with a proprietor under this Act shall be required or be in any way concerned—

Protection
of person
dealing in
registered
land.

(a) to enquire into or ascertain the circumstances in, or the consideration for, which such proprietor or any previous proprietor was registered; or

(b) to see to the application of the consideration or any part thereof;

(c) to search any register kept under the Land Registration Act or the Registration of Titles Act.

Cap. 99.
Cap. 181

(2) Where the proprietor of land or of a lease or a charge is a trustee or a family representative he shall, for the purpose of any registered dealings, be deemed to be the absolute proprietor thereof and no disposition by such trustee or family representative to a bona fide purchaser for valuable consideration shall be defeasible by reason only of the fact that such disposition amounted to a breach of trust or breach of family law or custom.

Additional
fee for
delayed
registration.

50. If an instrument is presented for registration later than two months from the date of its execution, an additional fee equal to the registration fee shall be payable for every period of two months which has elapsed since its execution; but in no case shall the additional fee payable exceed an amount that is more than five times the original registration fee payable.

Power to
compel
registration.

51.—(1) Where the Registrar is satisfied that an instrument in registrable form is in existence but the person in whose control it is has wilfully failed to register it, the Registrar may by notice in writing require such person to present the instrument for registration under this Act; and the registration fee and any additional fee under this Act shall, upon receipt of the notice, become due and payable, whether or not the instrument is thereafter presented for registration.

(2) Any person who, one month after the date of service upon him of a notice under this section fails to comply therewith, shall be guilty of an offence and liable on summary conviction to a fine of twenty pounds.

Priority of
registered
interests.

52.—(1) Subject to the provisions of this section, interests appearing in the register shall have priority according to the order in which the instruments creating them were presented for registration, irrespective of the dates of the instruments; and no person shall be concerned to see that registration is completed on the date of presentation of the relative instrument.

(2) Registration of an instrument may be effected by post or under cover, and the instrument shall be registered as at the end of the day if its delivery at the Land Registry is within the hours of registration; but otherwise it shall be registered as at the commencement of business on the next succeeding working day.

(3) If two or more instruments are sent by post or under cover, they shall be deemed to have been received at the Land Registry at the same time; and where there is no conflict of interest they shall, if otherwise in order, be registered in the order calculated to give effect thereto. If the Registrar is of opinion that a question of priority between any such instruments arises, he may refuse registration until he has heard and determined the rights of the parties interested under the instruments.

(4) An instrument prepared by the Registrar and settled in the Land Registry shall be deemed to have been presented for registration at the time when the application for its preparation is made to the Registrar; and the instrument when registered shall have effect accordingly.

Conflict
with other
laws.

53. Unless the contrary intention appears, nothing in this Act shall be construed as permitting any dealing prohibited by any enactment, or as overriding any provision thereof, in so far as the enactment prescribes the consent or approval of any authority to any dealing.

54.—(1) Where any person desirous of dealing with registered land or any interest therein applies with the consent in writing of the proprietor for an official search and the application gives particulars of the proposed dealing, registration of any instrument affecting the land intended to be affected shall, if no question of priority of registration at the date of lodging the application for such search arises, be stayed for fourteen days from the date the application was lodged, and the Registrar shall note the register accordingly.

Stay of registration.

(2) If within the said period of fourteen days a properly executed instrument giving effect to the proposed dealing is presented for registration, such instrument shall have priority over any other instrument presented for registration after the time of application for the search; and such instrument may be registered notwithstanding any caveat or any other entry made in the register during the said period, and the stay of registration shall lapse.

(3) Subject to the presentation of the instrument duly executed in respect of which the stay of registration was obtained and within the prescribed period, any other instrument and any caveat or application received in the Land Registry during such period, may be dealt with in the same manner, and shall have the same priority and be as effectual as if no stay of registration had been obtained.

55.—(1) Where on the registration of any disposition, interests under this section vest in the same proprietor, the interests shall not merge before a surrender or discharge is registered or, as the case may require, the parcels are combined in one title, or the instrument evidencing the disposition requires a merger.

Merger of registered interests.

(2) This section applies—

(a) to the interests of lessor and lessee;

(b) to the interests of mortgagor and mortgagee;

(c) where ownership of land burdened with an easement, profit a prendre or restrictive covenant and of land which benefits therefrom coalesce.

56. Where land is family land a disposition shall not be accepted if it is signed by a number of family representatives less than that appearing in the register unless—

Dispositions by family representatives.

(a) it is executed by all the surviving family representatives; and

(b) it is supported by a statutory declaration under the Oaths Act 1963 made by the surviving family representatives to the effect that they have consulted all adult members of the family in accordance with family custom and that a majority of such adult members is in favour of the disposition.

1963 No. 23.

Leases

57.—(1) Subject to the provisions of this or any other Act, the proprietor of land may lease it upon such conditions as he thinks fit to any person for a fixed or determinable term, or for a term which in itself is indefinite but may be determined by the lessor or the lessee by notice under this Act, or by mutual agreement.

Term of leases.

(2) For the avoidance of doubt, any room or part of a building erected on land may be the subject of a lease and any such disposition shall be registrable accordingly.

Periodic
tenancies.

58.—(1) Where in any lease the term is not specified and no provision is made for the giving of notice to determine the tenancy, the lease shall be deemed to create a periodic tenancy.

(2) Where the proprietor of any land permits the exclusive occupation of the land or any part thereof by any other person at a rent but without any agreement in writing, that occupation shall be deemed to create a periodic tenancy. 5

(3) For the purposes of this section, the term of a periodic tenancy shall be the term by reference to which rent is payable, but in no case exceeding six calendar months; and accordingly a periodic tenancy may be determined by either party giving to the other notice the length of which shall, subject to the requirements of any particular enactment, be not less than the term of such tenancy and expire on one of the days on which rent is payable, and by payment of all rent due up to the expiry date of the notice. 10 15

Registration
of leases.

59. A lease for a term of five years or more, or which is for a term less than five years but contains an option whereby the lessee can require the lessor to grant him either a further term or further terms which, with the original term, would exceed five years, shall be in the prescribed form. The lease shall be presented for registration against the land as an encumbrance, and registration shall be effected by the opening of a register in respect of the lease in the name of the lessee and by thereafter retaining one copy of the instrument in the Land Registry. 20

Restriction
on transfer,
etc., of lease,
if consent
required.

60.—(1) Upon the registration of a lease containing an agreement by the lessee that he will not transfer, sub-let, charge or part with possession of the land leased or any part thereof without the consent in writing of the lessor, the agreement shall be noted in the register and no dealing with the lease shall be registered until the consent of the lessor has been produced to the Registrar. 25

(2) Any such agreement shall, notwithstanding any express provision to the contrary in the lease, be deemed to be subject to a proviso that the consent of the lessor shall not be arbitrarily or unreasonably withheld. 30

Lease of
charged
land.

61. Where any land is subject to a charge, no lease of such land shall be registered without the previous consent in writing of the mortgagee unless the charge otherwise expressly so provides. 35

Reversionary
leases.

62.—(1) A lease may be made for a term to begin on a future date, not being later than twenty-one years from the date of the lease, but until it is registered, no person shall be affixed with notice thereof.

(2) Any instrument purporting to create a lease to begin on a date more than twenty-one years from and including the date of the instrument shall be void. 40

Holding
over.

63.—(1) Where a person, having lawfully entered into occupation of any land as a lessee, continues to occupy that land with the consent of the lessor after the determination of the lease, the person who so entered shall, in the absence of any evidence to the contrary, be deemed to be a tenant holding the land on a periodic tenancy; and subject to this or any other Act, the conditions of the determined lease, so far as they are appropriate to a periodic tenancy under this Act, shall continue to apply. 45

- (2) For the purposes of this section, the acceptance of rent in respect of any period after the determination of the lease shall, if the former tenant is still in occupation and there is no agreement to the contrary, be deemed to constitute evidence of consent to the continued occupation of the land.

64. Save as otherwise expressly provided in the lease, there shall be implied in every lease, agreements by the lessor with the lessee,—

Agreements implied in leases on the part of the lessor.

(a) that so long as the lessee pays the rent and observes and performs the agreements and conditions contained or implied in the lease and on his part to be observed and performed, the lessee shall and may peaceably and quietly possess and enjoy the land during the term of the lease without any lawful interruption from or by the lessor or any person rightfully claiming through or under him;

(b) that the lessor will not use or permit to be used any adjoining or adjacent land of which he is the proprietor or lessee in any way which would render the land leased unfit or materially less fit for the purpose for which it was leased;

(c) where any flat or room is leased furnished or unfurnished, that he will keep the roof and main walls in repair;

(d) where any dwelling-house, flat or room is leased furnished, that such dwelling house, flat or room is fit for habitation at the commencement of the tenancy.

65. Save as otherwise expressly provided in the lease, there shall be implied in every lease, agreements by the lessee with the lessor binding the lessee—

Agreements implied in leases on the part of the lessee.

(a) to pay the rent reserved by the lease at the times therein mentioned;

(b) during the continuance of the lease, to pay all rates and taxes which may be levied or imposed in respect of the land leased and are not otherwise exclusively payable by the lessor under any enactment;

(c) during the continuance of the lease to insure and keep insured all buildings on the demised premises against loss or damage by fire in the joint names of the lessor and the lessee with a reputable insurance company, and where the lessor has himself insured such buildings, to reimburse the lessor with the cost of such insurance upon production to the lessee of the receipt for payment of any relevant premium;

(d) not to make structural alterations to any building without the consent in writing of the lessor;

(e) in the case of agricultural land, to farm the same in accordance with the practice of good husbandry and to yield up the land at the end of the term in good heart;

(f) except where a dwelling-house is leased furnished, or a flat or room is leased furnished or unfurnished, to keep all buildings comprised in the lease in repair;

(g) to permit the lessor or his agent with or without workmen or others at all convenient times and after reasonable notice to enter on the land and examine the state and condition thereof;

(h) to repair or otherwise make good any defect or breach of agreement of which notice shall be given, within such reasonable period as may be specified in the notice.

Meaning of
"in repair".

66. Where an agreement is contained or implied in any lease to keep any building in repair, the building shall be kept in the same state of repair as that in which an owner might reasonably be expected to keep his property, due allowance being made for the age, character and locality of the building at the commencement of the lease :

Provided that there shall not be implied in any such agreement an undertaking to put any building into a better state of repair than that in which it was at the commencement of the lease.

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Forfeiture
of lease.

67. Subject to the provisions of this Act as to relief against forfeiture and to anything to the contrary in a lease, the lessor thereof shall have the right to forfeit the lease if the lessee commits a breach of any agreement or condition express or implied in the lease or on the bankruptcy or winding up of the lessee ; and the right of forfeiture may be exercised—

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(a) by entry upon and remaining in possession of the land affected where neither the lessee nor any person claiming through or under him is in occupation of the land ; or

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(b) by action in the High Court.

Notice
before for-
feiture.

68. Notwithstanding anything to the contrary contained in any lease, a lessor shall not be entitled to exercise the right of forfeiture for the breach of any express or implied agreement or condition in the lease, until the lessor has served on the lessee a notice—

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(a) specifying the particular breach complained of ; and

(b) if the breach is capable of remedy, requiring the lessee to remedy the breach within such reasonable period as may be specified in the notice ; and

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(c) where appropriate, requiring the lessee to make compensation in money for the breach,

and the lessee fails within a reasonable time thereafter to remedy the breach, if it is capable of remedy and, as the case may be, to make reasonable compensation in money.

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Relief
against
forfeiture.

69.—(1) A lessee upon whom a notice has been served under section 68 of this Act or against whom the lessor is proceeding by action or re-entry to enforce his right of forfeiture, may apply to the High Court for relief, and the High Court having regard to the proceedings and conduct of the parties and the circumstances of the case may, if it thinks fit, grant or refuse relief ; and relief if granted shall be upon such terms as the High Court may impose.

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(2) The High Court may, on application by any person claiming an interest in the property comprised in the lease or any part thereof as sublessee or mortgagee, make an order vesting the property or any part thereof as the case may require, in such sublessee or mortgagee as proprietor for the whole term of the lease or any less term, upon such conditions as the High Court in the circumstances of the case may think fit.

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(3) This section shall have effect notwithstanding any stipulation or agreement to the contrary in any lease, whether registered or not.

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(4) For the purposes of this section a lease limited to continue as long only as the lessee abstains from committing a breach of agreement or condition shall be construed and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such breach.

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5 70. Unless a notice under section 68 of this Act has been served on the lessee, the agreements and conditions contained or implied in any registered lease may be varied, negatived or added to, and the term of any lease may from time to time be extended by a memorandum executed by the lessor and the lessee for the time being, and registered before the expiration of the then current term of the lease.

Variation
and
extension
of leases.

10 71. Where a lease is presented for registration and the Registrar is satisfied on such evidence as he may require that the lessee is the person registered as the proprietor of a prior lease in respect of the same land, he shall, if the term has not expired, cancel the registration of the prior lease and register the new lease in substitution therefor, subject to all subsisting encumbrances.

Substitution
of leases.

15 72.—(1) Subject to the provisions of his lease, a lessee may sublet for any period less than the remainder of the term of his lease, by an instrument in the prescribed form; and unless otherwise expressly provided, the provisions of this Act affecting leases, and parties thereto shall apply to subleases and parties thereto with such adaptations as are necessary.

Subleases.

20 (2) There shall be implied in every sublease in addition to those implied by this Act in leases, an agreement by the sublessor that he will, during the continuance of the sublease pay, the rent reserved by the head lease and observe and perform the agreements and conditions thereof.

25 (3) Where any sublessee has paid to the head lessor of the land the rent or any part of the rent payable by his sublessor in respect of the head lease, the sublessee shall be entitled to set off any sum so paid against the rent payable by him to his sublessor in respect of his sublease.

30 (4) If a lease is determined by operation of law or by surrender under any law relating to bankruptcy, any sublease shall, if relief against forfeiture is not available, also be determined.

35 73.—(1) A lease may be surrendered by an instrument of surrender in the prescribed form or by writing the word "Surrendered" with the date of surrender, on the original or the duplicate or other copy acceptable to the Registrar, and by the execution thereof by the lessor and the lessee. Upon presentation of such document duly executed and on payment of the prescribed fee, the registration of the lease shall be cancelled and the interest of the lessee shall cease.

Surrender
of leases.

40 (2) No lease which is subject to a charge or sublease shall be surrendered without the consent in writing of the mortgagee or sublessee as the case may require.

74.—(1) Where a registered lease has been determined—

(a) by effluxion of time; or

(b) by the happening of an event upon which the lease is expressed to determine; or

45 (c) by lawful re-entry and recovery of possession;

the lessor may apply in writing to the Registrar to cancel the registration thereof.

Determina-
tion of
leases.

(2) An application under this section shall be supported by such evidence of the happening of the event and of the lawful re-entry as the Registrar may require, and if the Registrar is satisfied, he shall cancel the registration of the lease, and the land shall thereupon cease to be subject to the lease.

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Form and
effect of
charges.

Charges

75.—(1) The proprietor of any land, lease or charge under this Act may by instrument in the prescribed form create a charge thereover to secure the payment of a debt, present, future or contingent, or other money or money's worth or the fulfilment of any condition, and the instrument creating the charge may be registered as an encumbrance. 10

(2) A charge under this section, when registered, shall not operate as a transfer of the land charged, but shall have effect as a security only.

(3) Where a time for repayment is not prescribed in a charge, moneys intended to be thereby secured shall be deemed to be repayable three months after service of a demand in writing by the mortgagee on the mortgagor. 15

(4) There may be included in an instrument of charge securing the fulfilment of a condition or the payment of an annuity or other periodical payment not of the nature of interest on a capital sum, such provisions, not inconsistent with this Act, as the parties think fit for disposing of the money which may arise on the exercise by the mortgagee of his power of sale, either by investing the proceeds of sale or a part thereof to make future periodical payments, or by payment to the mortgagee of such proceeds or part thereof being the estimated capital value of the mortgagee's interest, or otherwise. 20 25

Second or
subsequent
charges.

76. A mortgagor may create subsequent charges in the same manner as a first charge and the same provisions with all necessary changes shall apply thereto; but a sale under any power express or implied in any such subsequent charge shall be subject to all prior subsisting charges. 30

Charges by
companies.
Cap. 37.

77. Where a charge is created by a company which has its registered office or an established place of business in Nigeria and the charge is required to be registered under the provisions of the Companies Act, the Registrar shall satisfy himself that the charge has been duly registered accordingly, before he accepts it for registration under this Act. 35

Agreements
implied in
charges.

78.—(1) There shall be implied in every registered charge, unless the contrary is expressed therein, agreements by the mortgagor with the mortgagee binding the mortgagor—

(a) to pay the principal sum on the day therein appointed and, so long as the principal sum or any part thereof remains unpaid, to pay interest thereon or on so much thereof as for the time being remains unpaid, at the rate and on the days and in manner therein specified; 40

(b) to pay all rates, taxes and other outgoings in respect of the charged land; 45

(c) to repair and keep in repair all buildings or other improvements upon the charged land and to permit the mortgagee or his agent, at all reasonable times until such charge is discharged and after reasonable notice to the mortgagor to enter upon the charged land and examine the state and condition of such buildings and improvement; 50

(d) to insure and keep insured all buildings upon the charged land against loss or damage by fire in the joint names of the mortgagor and the mortgagee with insurers approved by the mortgagee to the full insurable value thereof;

5 (e) not to lease the charged land or any part thereof for any period longer than one year without the previous consent in writing of the mortgagee; and

10 (f) in the case of a lease, to pay the rent as and when required thereunder and to perform and observe the other agreements and conditions on the part of the lessee to be performed and observed and to keep the mortgagee indemnified against all proceedings, expenses or claims on account of the non-payment of the said rent or any part thereof, or the breach, non-observance, or non-performance of the said agreements and conditions, or any of them.

15 (2) Where a charge contains an agreement, express or implied, by the mortgagor with the mortgagee that the mortgagor will not transfer the land, lease or charge so charged or any part thereof without the consent in writing of the mortgagee, the mortgagee may, when registering the charge, or at any time thereafter, apply in writing to the Registrar
20 to note the register accordingly; and when so noted, no transfer by the mortgagor shall be registered without the consent in writing of the mortgagee.

25 79. The amount secured, the rate of interest or the term of the charge may be varied by the registration of a memorandum of variation executed by the parties thereto; but no such variation shall affect the rights of the mortgagee under any subsequent charge unless he has consented thereto in writing on the memorandum of variation.

Variation of charges.

30 80.—(1) Subject to the provisions of this section, if at any time before it has been sold in exercise of the power of sale conferred by this Act, or before the making of a foreclosure order, as the case may be, a mortgagor pays or tenders payment of all moneys due and owing under the charge at the time of payment or tender of payment, or on fulfilment of any condition secured thereby, he shall be entitled to redeem the land charged; and any agreement or provision which purports to deprive
35 the mortgagor of the right of redemption shall be void.

Right of redemption.

40 (2) If the mortgagor seeks to redeem the land charged before the date specified in the charge, he shall, if the mortgagee so requires, pay to the mortgagee, in addition to any other money then due or owing under the charge, interest on the principal sum secured thereby for the unexpired portion of the term of the charge.

(3) If the mortgagor seeks to redeem the land charged after the date specified in the charge, he shall give the mortgagee three months notice in writing of his intention to redeem the charge, or pay him three months interest in lieu thereof.

45 (4) If at any time the mortgagor is entitled and desires to repay the money secured by the charge but the mortgagee for any reason cannot be found, or if the Registrar is satisfied that the charge cannot be discharged otherwise, the mortgagor may pay the amount due into the High Court to the credit of the mortgagee; and upon application in writing signed by
50 the mortgagor and production of the receipt for the money paid into that court, the Registrar shall cancel the registration of the charge.

Notice in
case of
default.

81. If default is made in payment of the principal sum, or of any interest or other periodical payment or any part thereof, or in the performance or observance of any agreement, express or implied, in any charge and such default continues for one month thereafter, the mortgagee may serve on the mortgagor notice in writing requiring him to pay the money owing, or to perform and observe the agreement, as the case may be.

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Power of
sale under
a charge.

82.—(1) If within three months after the service of a notice of default under this Act the mortgagor does not comply with it, the mortgagee acting in good faith and having regard to the interests of the mortgagor, may sell or concur with any other person in selling the charged land, lease or charge or any part thereof as the case may be, together or in lots, by public auction for a sum payable in one amount or by instalments, subject to such reserve price and conditions of sale as the mortgagee thinks fit, with power to vary or rescind any contract of sale and to resell by public auction without being answerable for any loss occasioned thereby.

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(2) A transfer by a mortgagee in exercise of his power of sale shall be in the prescribed form, and the Registrar may accept it as sufficient evidence that the power has been duly exercised.

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(3) Upon registration of such transfer, the interest of the mortgagor as described therein shall vest in the transferee freed and discharged from all liability on account of such charge, or on account of any charge registered subsequently thereto.

Application
of purchase
money.

83. The purchase money received by a mortgagee who has exercised his power of sale shall, after discharge of any prior encumbrance to which the sale is not made subject, or if the mortgagees cannot be found, after payment into court of a sum sufficient to meet any such prior encumbrances, be applied in the following order, that is to say—

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(a) in payment of all costs and expenses properly incurred incidental to the sale or any attempted sale;

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(b) in accordance with any express provision in the charge for disposing of such money and, in default of any such provision, in discharge of the money due to the mortgagee at the date of the sale;

(c) in payment of any subsequent charges in the order of their priority;

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and the balance (if any) of the money received shall be paid to the person who, if the land or other interest had not been subject to any charge so paid off under this section and but for the transfer, would have been entitled as the proprietor to give a receipt for the sale.

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Appoint-
ment and
duties, etc.,
of receiver.

84.—(1) If within three months after the service of a notice of default under this Act the mortgagor does not comply with it, the mortgagee may instead of exercising his power of sale, apply to the Registrar for the appointment of a receiver of the income, rents and profits of the charged property, or any part thereof; and the Registrar shall, on receipt of the application, appoint a fit person to be the receiver accordingly, and shall enter notice of the appointment in the register.

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(2) A receiver appointed under this section shall be deemed to be the agent of the mortgagor for the purposes for which he is appointed; and the mortgagor shall be solely responsible for the acts or defaults of the receiver, unless the instrument of charge otherwise provid

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(3) A receiver shall have power to demand and recover by action or otherwise, all the income of which he is appointed receiver, in the name of the mortgagor, and to give effectual receipts for the same; and where a person pays money to a receiver under this subsection he shall not be concerned to enquire into the validity of the appointment of the receiver.

(4) A receiver may be removed upon the application of the mortgagor or of the mortgagee, and a new receiver may at any time be appointed by the Registrar after giving both mortgagor and mortgagee an opportunity of being heard; and notice of every removal of and new appointment of a receiver shall be entered in the register.

(5) A receiver shall be entitled to retain out of any money received by him all costs, charges, and expenses incurred by him as receiver and, for his remuneration, a commission at such rate, not exceeding five *per centum* on the gross amount of all moneys received, as may be specified in his appointment. If no rate is specified in the appointment the rate of commission shall be five *per centum* on the gross amount of all moneys received or such other rate as the mortgagor and mortgagee agree or, in default of agreement, such rate as the court, upon the application of the receiver may allow.

(6) Where insurance money is paid to a receiver, he shall apply it in making good the loss or damage to the land charged and in respect of which the money is received; and subject thereto, the receiver shall apply all money received by him in the order following that is to say—

(a) in discharge of all rents, rates, taxes and outgoings whatever affecting the charged land; and

(b) in reduction of all annual sums or other payments, and interest on all principal sums, having priority to the charge in right whereof he is receiver; and

(c) in payment of his commission, costs, charges and expenses and of the premiums on fire insurance or other insurance (if any) properly payable under the charge or as prescribed by this Act, and the cost of executing necessary or proper repairs directed in writing by the mortgagee; and

(d) in payment of the interest accruing due in respect of the principal sum secured by the charge; and

(e) in or towards discharge of the principal sum secured by the charge if so directed in writing by the mortgagee,—

and the balance, if any, of the money received by him shall be paid to the person who, but for the possession of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the charged land, as the case may be.

85.—(1) Where in intended exercise of power of sale, land charged has been twice offered under the provision of this Act for sale by public auction with an interval of not less than six months between the offers, and the amount of the highest bidding is not sufficient to satisfy the money secured by the charge together with the expenses of the sale, the mortgagee may apply to the court for an order for foreclosure.

Foreclosure.

(2) The court shall, upon receipt of an application under subsection (1) of this section, cause notice to be advertised once in each of three successive weeks in at least one newspaper published in Lagos or published in Nigeria and circulating in Lagos, offering such land for private sale, and appointing a time not less than one month from the

date of the first of such advertisements, upon or after which if a sufficient amount has not been obtained by the sale of such land to satisfy the principal sum and interest secured and all expenses occasioned by such sale and the proceedings, the court will grant to the applicant an order for foreclosure.

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(3) An order for foreclosure shall be forwarded for registration to the Registrar; and when registered it shall have the effect of vesting in the mortgagee as proprietor, the land mentioned therein freed and discharged from any interest of the mortgagor, and from any charge or encumbrance registered subsequent thereto, not being a lease or easement to which the mortgagee has consented in writing; and the debt secured by the charge shall be extinguished.

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No right of
entry into
possession
on default.

86. A mortgagee shall not be entitled to enter into possession of charged land or to receive the rents and profits thereof, by reason only of default made by the mortgagor in the payment of the principal sum or of any interest or of any other periodical payment or of any part thereof, or in the performance or observance of any agreement, express or implied in the charge.

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Discharge
of charge.

87.—(1) A discharge, wholly or in part, may be made by an instrument in the prescribed form, or the word "Discharged" may be written on the instrument of charge; and when executed by the mortgagee a discharge may be registered under this Act.

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(2) The discharge shall be completed by the cancellation in the register of the charge, or part thereof as the case may be, and by filing the instrument in the Land Registry.

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Satisfaction
of charge.

88. Where in respect of any charge the Registrar is satisfied—

(a) that all money due has been paid to the mortgagee or to his credit, or

(b) that there has occurred the event or circumstances upon which the money secured ceases to be payable, and that no money is owing, the Registrar shall direct cancellation of the charge in the register; and thereupon the land, lease or charge affected shall cease to be subject to the charge.

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Tacking and
further
advances.

89. Any instrument of charge may provide for the making of further advances or giving credit to the mortgagor on a current or continuing account; but, unless such provision is noted in the register, further advances shall not rank in priority to any subsequent charge, without the consent in writing of the mortgagee under the subsequent charge, and save as provided in this section, the right to tack is abolished.

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Consolidation.

90. A mortgagee shall have no right to consolidate his charge with any other charge unless such right is expressly reserved in the instruments of charge or in one of them and a note thereof is made in the register against all the charges so consolidated.

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No lien by
deposit only
of land
certificate.

91. A certificate under this Act evidencing an interest in any land, lease or charge may be deposited with any person with the intention of creating a lien over the interest referred to therein; but a deposit so made shall not constitute notice thereof unless a caveat, in the prescribed form, is entered in the appropriate register.

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Transfers

92.—(1) A proprietor may transfer his land, lease or charge by an instrument in the prescribed form ; and the transfer shall be completed by registration of the transferee as proprietor of the land, lease or charge, and by filing the instrument in the Land Registry.

Mode of transfer.

(2) The transferee of a charge may require the person who executed the charge, or any person claiming through him, to execute the transfer for the purpose of acknowledging the amount due under the charge at the date of execution of the transfer.

93. No part of the land comprised in any title in the register shall be transferred unless the proprietor has first subdivided the land and new titles have been opened in respect of each subdivision.

Transfer of part.

94.—(1) On the transfer of a lease, unless the contrary is expressed in the transfer, there shall be implied—

Implied covenants, etc., on transfer of lease.

(a) on the part of the transferor, a warranty that the rent, agreements and conditions on the part of the lessee to be paid, performed and observed have been so paid, performed and observed up to the date specified in the transfer or, if no such date is specified, the date of the transfer, and to indemnify the transferee in respect thereof ; and

(b) on the part of the transferee, an agreement to pay the said rent as from the day following the date specified in the transfer or the date of the transfer, as the case may be, and to perform and observe the said agreements and conditions and to keep the transferor indemnified against all proceedings, claims and expenses on account of the non-payment of the said rent and the breach of any of the said agreements and conditions.

(2) Where land is leased, a transferee shall have the rights and be subject to the liabilities as lessor or lessee as the case may be ; and save in the case of the breach of any agreement, express or implied in the lease arising before the date of the transfer, the rights and obligations of the transferor shall cease.

95. In every transfer of land subject to a charge, there shall be implied an agreement by the transferee with the transferor to pay the interest secured by the charge at the rate and at the times and in the manner therein specified, and to keep the transferor indemnified against the principal sum secured by the charge, and from and against all liability in respect of any of the agreements therein contained or implied on the part of the transferor.

Implied covenants, etc., on transfer of charged land

Easements, Restrictive Covenants and Profits a Prendre

96.—(1) The proprietor of any land or lease may, by an instrument in such form as the Registrar may approve, grant an easement thereover to the proprietor or lessee of adjoining or adjacent land for the benefit of that land.

Grants of easements.

(2) Any proprietor transferring or leasing land may, in the transfer or lease, reserve an easement for the benefit of adjoining or adjacent land retained by him.

(3) The instrument creating the easement shall indicate clearly—

(a) the nature of the easement, the period for which it is granted and any conditions, limitations and restrictions intended to affect its enjoyment ;

(b) the land burdened by the easement and, if required by the Registrar, the particular part thereof so burdened ; and

(c) the land which enjoys the benefits of the easement.

(4) The grant or reservation of the easement shall be completed by its registration in respect of both the land burdened and the land which benefits, and by filing the instrument in the Land Registry.

Restrictive
covenants.

97.—(1) Any proprietor entitled to the benefit of a restrictive covenant (not being a covenant made between a lessor and lessee) with respect to the building on or other user of his land may apply to the Registrar to enter notice thereof in the register ; and the Registrar shall enter notice thereof by reference to the instrument containing the covenant and shall file the instrument in the Land Registry.

(2) Unless it is noted in the register against the title to the land intended to be burdened, a restrictive covenant shall not be binding on the proprietor of such land or any subsequent person acquiring the land.

(3) The fact that a restrictive covenant is noted in the register shall not operate to validate any defect in such covenant ; and accordingly any such restrictive covenant, if defective, shall have no greater effect than if it had not been so noted.

Profits a
prendre.

98.—(1) The proprietor of any land or lease may, by an instrument in such form as the Registrar may approve, grant a profit a prendre (in this Part of this Act unless the context otherwise requires, referred to as a "profit").

(2) The instrument shall indicate clearly the nature of the profit, its term, and whether it is to be enjoyed—

(a) in gross, or as appurtenant to other land ; and

(b) by the grantee exclusively, or concurrently with the grantor.

(3) The grant of a profit shall be completed by its registration as an encumbrance against the land affected and by filing the instrument in the Land Registry.

(4) Any profit granted under this section may thereafter be dealt with by the grantee as an interest in land.

Release, etc.,
of easements,
restrictive
covenants
and profits.

99.—(1) Upon production to the Registrar of a duly executed release in the prescribed form, the registration of any easement, restrictive covenant or profit shall be cancelled and the easement, restrictive covenant or profit shall thereupon cease to have effect.

(2) On the application of any person affected thereby, the Registrar may cancel the registration of any easement, restrictive covenant or profit upon proof to his satisfaction,—

(a) that the period of time for which it was intended to subsist has expired ; or

(b) that the event upon which it was intended to determine has occurred ; or

(c) that it has been abandoned.

(3) A court on the application of any person interested in land affected by an easement, restrictive covenant or profit may order the extinguishment or modification in whole or in part of any such easement, restrictive covenant or profit on payment by the applicant in any proper case of compensation to persons thereby suffering loss, if the court is satisfied—

(a) that by reason of changes in the character of the property or of the neighbourhood or otherwise as the court thinks fit the easement, restrictive covenant or profit is or ought to be deemed obsolete, or that the continued existence of the easement, restrictive covenant or profit would impede the reasonable user of the land for public or private purposes without securing any real benefit to other persons or would, unless modified, so impede such user; or

(b) that the proposed discharge or modification will not adversely affect the person or persons entitled to the benefit of the easement, restrictive covenant or profit, as the case may be.

Proprietorship and Partition

100.—(1) It is hereby declared that a sole proprietor may transfer land to himself for life with remainder to any other person, or may transfer any land, lease, or charge to himself and to any other person as joint proprietors or proprietors in common.

Registration
and
proprietor-
ship.

(2) No registration shall be made in favour of two or more persons unless it shows whether they are to hold as joint proprietors or proprietors in common; and if the tenure is as proprietors in common and the shares are not equal, the share of each proprietor shall be expressed as a vulgar fraction.

(3) Where there is doubt in any instrument presented for registration, joint proprietorship shall be presumed to have been intended by the parties unless the contrary is therein expressed.

101.—(1) If land, or any lease or charge is owned jointly, no proprietor thereof shall be entitled to any separate share; and unless otherwise prescribed by this Act, dispositions may be made only by all the joint proprietors.

Joint
proprietors
and
severance of
interest.

(2) On the death of a joint proprietor his interest shall vest in the surviving proprietors jointly; and upon proof, in such a manner as the Registrar may require, of the death of a joint proprietor, the register shall be amended accordingly.

(3) Joint proprietors, not being trustees, may execute an instrument in the prescribed form signifying that they agree to sever their joint proprietorship, and the severance shall be completed by registration of the joint proprietors as proprietors in common in equal shares and filing the instrument in the Land Registry.

(4) For the avoidance of doubt, it is declared that a joint proprietor of any land, lease or charge may transfer his interest therein to all the other joint proprietors, or may with the consent of all the other joint proprietors, sever his interest; and the provisions of subsection (3) of this section shall thereupon apply with all necessary changes.

Proprietor-
ship in
common.

102.—(1) Where land or any lease or charge is owned in common, each proprietor shall be entitled to a separate undivided share in the whole, and on the death of such a proprietor his share shall be administered as part of his estate.

(2) No proprietor owning any land, lease or charge in common with any other person or persons shall deal with his undivided share otherwise than in favour of another proprietor in common of the same land, lease or charge without the consent in writing of the remaining proprietors thereof; but any consent required by this subsection shall not be arbitrarily or unreasonably withheld.

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Partition.

103.—(1) An application in such form as the Registrar may approve for the partition of land owned in common may be made,—

(a) by any one or more of the proprietors; or

(b) by any person in whose favour an order for the sale of an undivided share in such land in execution of a decree has been made; and subject to the provisions of this or any other Act prescribing minimum areas or frontages or requiring the consent of any authority to a partition, the land shall be partitioned as agreed by the proprietors in common or, where there is no agreement, as the Registrar may by order direct.

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(2) The partition of land shall be completed by closing any relevant register and the opening of new registers in respect thereof, and by filing the application together with the agreement or the order, as the case may be, in the Land Registry.

Power for
Registrar to
order sale.

104.—(1) Where for any reason land to be partitioned is unsuitable to be so dealt with, or the partition would adversely affect the proper use of the land, the Registrar shall, upon request in writing by any person claiming a registered interest and in default of agreement between the proprietors in common, value the land and the shares of the proprietors in common, and the Registrar may give effect to the request by ordering the sale of the land or the separation and sale of such shares by public auction or, as the case may require, the Registrar may make such other order as he thinks fit.

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(2) Any proprietor in common shall be entitled to purchase the land or any share or shares offered for sale under this section, either at the auction or by private treaty before the auction.

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Procedure
where share
is small.

105.—(1) If land sought to be partitioned is suitable for such purpose but the share of any particular proprietor in common is or would be less in area than the minimum prescribed by any Act, the Registrar may add such share to the share of any other proprietor, or distribute such share amongst two or more other proprietors in such manner and in such proportions as, in default of agreement, he thinks fit.

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(2) The Registrar shall assess the value of any share to be dealt with under the foregoing subsection, and thereafter may direct payment to the proprietor of such share by every proprietor receiving an addition to his share, of the value of such addition.

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(3) An appeal to the court shall lie from any assessment and direction by the Registrar under this section, and subject thereto, the amount payable may by order of the Registrar, be secured by way of charge on the share of the person or persons liable to pay the value of the share affected.

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Testamentary Dispositions, etc.

106. Nothing in this Act shall be construed to abridge or limit the right of any proprietor, other than a joint proprietor, under the law relating to testamentary dispositions to make a will disposing of his land, lease or charge on his death, or to affect the law of intestate succession.

Testamen-
tary disposi-
tions, etc.,
not affected.

PART VI.—INSTRUMENTS AND AGENTS

107.—(1) Dealings with any land, lease or charge under this Act shall be effected by instruments in the prescribed forms as printed for and issued by the Registrar or as the Registrar in any particular case may approve. Leases shall be presented for registration in triplicate, and charges shall be so presented in duplicate.

Form of
instruments.

(2) Every instrument shall, according to its nature, contain a true statement of the purchase price, or loan or other consideration; and the statement shall set out how much, if any, of the purchase price, loan or other consideration has been paid or received, as the case may be.

(3) The form of instrument to be retained by the Registrar shall be exempt from the payment of stamp duty under the Stamp Duties Act if the Registrar is satisfied that stamp duty has in fact been paid on every other form of the instrument; and the provisions of the Stamp Duties Act shall be so construed accordingly.

Cap. 191.

108.—(1) Every instrument shall be executed by all parties thereto unless the Registrar dispenses with execution by any particular party as unnecessary in any particular case; but nothing in this subsection shall be construed so as to permit dispensing with execution by the donee under an instrument by way of gift.

Execution
of
instruments.

(2) An instrument shall be deemed to have been executed—

(a) if signed by a natural person;

(b) if sealed with the common seal of a corporation affixed in the presence of and attested by its clerk, secretary or other permanent officer and by a member of the board of directors, council or other governing body of the corporation;

(c) in the case of a corporation sole, if duly signed and there is affixed the office seal;

(d) in the case of a corporation not required by law to have a common seal, if signed by such persons as may be authorised in that behalf by any law or by the statute of the corporation or, in the absence of any express provision, by two or more persons duly appointed for that purpose by the corporation.

109.—(1) Unless the Registrar under the powers conferred by this section dispenses with verification, the parties executing an instrument shall appear before the Registrar or such other person as he may require or approve; and, if they are unknown to the Registrar or other person before whom they appear, they shall be accompanied by a credible witness or credible witnesses as the case may require for the purpose of establishing identity.

Proof of
execution.

(2) The Registrar or other person before whom any party appears shall satisfy himself as to the identity of the party so appearing before him; and after ascertaining that such party has freely and voluntarily executed the instrument, the Registrar or such other person, as the case may be, shall prepare and sign a certificate to that effect. Any such certificate may be endorsed on or be attached to the instrument to which it relates. 5

(3) The Registrar may dispense with verification under this section—

(a) if he considers that it cannot be obtained or can only be obtained with difficulty and he is satisfied by other sufficient evidence that the instrument has been properly executed; or 10

(b) if to his knowledge the instrument has been properly executed; and where the Registrar dispenses with verification he shall note on the instrument his reasons for dispensing with the appearance of the parties. 15

(4) No instrument executed out of Nigeria shall be registered unless it has endorsed thereon or attached thereto a certificate that it has been signed in the presence of a judge, magistrate, justice of the peace, notary public or any consul, Nigerian or foreign, as the case may be.

Instruments
to be
stamped.
Cap. 191.

110. No instrument liable for stamping shall, unless otherwise exempted under this Part of this Act, be presented for registration or be registered unless it is duly stamped under the Stamp Duties Act or, as the case may require, it is endorsed as exempt from such duty by a commissioner under that Act. 20

Disposal
of
instruments.

111.—(1) Subject to the provisions of this section, instruments registered under this Act shall be retained in the Land Registry for as long as they support current entries in the relevant register. 25

(2) Where the instrument registered is a lease or charge, particulars of the registration shall be noted on the duplicate and triplicate thereof, and they shall be returned to the person who presented them. 30

(3) Five years after an entry in the register has been superseded or has ceased to have effect, the Registrar may destroy the instrument which support the entry.

Persons
under
disability
and
registered
land.

112. It is hereby declared that the name of a person under the age of twenty-one years may appear in the register on first registration or as a transferee or on transmission; but the fact that the name of any such person appears in the register shall not be construed so as to authorise or permit any dealing with the land or any interest in land by such person during his minority; and if to the knowledge of the Registrar a minor is so registered, the Registrar shall enter a restriction accordingly. 35 40

Persons
under
disability,
and others
acting by
agents.

113.—(1) Save as provided in this section, an instrument executed by a person as agent for any other person shall not be accepted by the Registrar unless the person signing it was authorized in that behalf by a power of attorney duly executed and filed in the Land Registry, and the instrument is accompanied, where necessary, by a declaration of non-revocation of the power of attorney. 45

(2) If an instrument is executed on behalf of some person by his attorney the original or, with the consent of the Registrar, an authenticated copy of the power of attorney shall be filed in the Land Registry. 50

(3) Where any person who, if not under disability, might have made any application, done any act or been party to any proceeding under this Act is a minor, a person of unsound mind or under any other disability, the guardian of such person, or, if there is no such guardian, then a person appointed in accordance with the provisions of any enactment to represent such person, may make any application, do any act, and be party to any proceeding on behalf of any such person and shall generally represent any such person for the purposes of this Act.

(4) An instrument purporting to be signed on behalf of a person under disability shall not be accepted for registration unless the Registrar is satisfied that the person claiming to be the guardian is so entitled; and where he is not satisfied, the Registrar may require production of sufficient evidence of the appointment of the person to act on behalf of the person under disability.

114.—(1) Where a power of attorney contains authority to deal with any land, lease or charge, the power of attorney shall be in the prescribed form and shall, upon the application of the donor or of the donee be filed in the Land Registry.

Powers of
Attorney.

(2) The donor of a power of attorney filed under this section may at any time give notice to the Registrar in the prescribed form of the revocation thereof; and after noting the power of attorney, the Registrar shall file the notice in the Land Registry.

(3) Any interested person may in writing notify the Registrar that a power of attorney filed under this section has been revoked by the death, bankruptcy or disability of the donor or by the death or disability for any reason of the donee; and subject to the production to the Registrar of such evidence as he may require, the Registrar shall note the power of attorney accordingly and file the notice in the Land Registry.

(4) Nothing in subsections (2) and (3) of this section shall apply to a power of attorney given for valuable consideration and expressed to be irrevocable.

(5) A power of attorney, which has been filed under this section and of which no notice of revocation has been given to the Registrar, shall be deemed to be still subsisting; and no disposition in purported exercise of the powers therein contained shall be defeasible by reason only that the power has been revoked, unless the person for the time being claiming under such disposition had actual notice of such revocation.

(6) Any person who makes a payment or does an act under a power of attorney in good faith shall not be liable in respect of any such payment or act by reason only that at the date of payment or performance of the act the power of attorney had in fact been revoked by any means without the knowledge of the donee.

PART VII—TRANSMISSIONS, TRUSTS AND FAMILY REPRESENTATION

115.—(1) Subject to the provisions of this section, where a joint proprietor of any land, lease or charge dies, the Registrar shall delete the name of the deceased proprietor from the register; and in the case of the death of any other proprietor his legal personal representative shall be entitled to be registered by transmission to the interest of the deceased proprietor.

Transmis-
sion on
death.

(2) If the application is to delete the name of a joint proprietor, the applicant shall produce to the Registrar satisfactory evidence of such death.

(3) If the application is for registration as proprietor by transmission, the applicant shall apply on the prescribed form and produce therewith an office copy of probate of the will or letters of administration in the estate of the deceased proprietor, as the case may be; and the Registrar if satisfied, shall register the applicant in place of the deceased and shall add thereafter the words "as executor" or "as administrator" with such reference to the will or to the estate as the case may require. The Registrar may, if he thinks it necessary, enter a restriction to protect the interests of beneficiaries.

Registration
by personal
representa-
tives not on
register.

116. Notwithstanding the provisions of section 115 of this Act the Registrar, may if he thinks fit, upon production to him of probate or letters of administration and without requiring registration of the executor or administrator by transmission—

(a) register any transfer by the executor or administrator in pursuance of the will or by way of distribution under intestacy or in pursuance of an agreement between the persons entitled thereto or of a contract entered into by the proprietor in his lifetime; or

(b) register any discharge of a charge of which the deceased person was the proprietor; or

(c) register any surrender of a lease of which the deceased person was the proprietor.

Applications
for registra-
tion on death
of proprietor,
etc.

117.—(1) If the executor or administrator of a deceased proprietor fails or neglects to transfer any land, lease, or charge to the persons entitled thereto, or if such land, lease or charge is not for any reason registered in the name of the person entitled thereto, such person or any judgment creditor of such person or any person claiming an interest in such land, lease or charge may, at any time after the expiration of one year from the date of the grant of probate or letters of administration, apply to the Registrar for registration by transmission of land, lease or charge in the name of the person entitled thereto.

(2) If application is made to the Registrar under this section, he may, if satisfied that the executor or administrator has had notice of the application and that the estate has been fully administered, allow the application; and the person entitled thereunder shall be registered accordingly.

Effect of
transmis-
sion on
death.

118. Where pursuant to a will or upon intestacy, any land, lease, or charge is registered in the name of or is acquired by the heir, beneficiary, executor, or administrator of a deceased proprietor, as the case may be, the person registered shall, for the purpose of any dealing with such land, lease, or charge be deemed to have acquired it for valuable consideration, and the land, lease or charge may be dealt with accordingly; but until so dealt with the land, lease or charge shall be subject to all unregistered liabilities, rights, or interests affecting the title of, or created or imposed under the will of, the deceased proprietor.

Effect of
transmission
on
bankruptcy.

119.—(1) A trustee in bankruptcy shall, upon application to the Registrar in the prescribed form accompanied by a certified copy of the order of court adjudging a proprietor bankrupt, or directing that the

estate of a deceased proprietor be administered according to the law of bankruptcy, be registered as proprietor of any land, lease or charge in place of the bankrupt or deceased proprietor as the case may be and the entry to be made in the register shall describe the trustee in bankruptcy as trustee of the property of (*name of proprietor*), a bankrupt.

(2) The provisions of section 118 of this Act shall apply to any trustee in bankruptcy as they apply to persons therein set out, but the doctrine of relation back shall have effect according to the laws of bankruptcy or the terms of the order of the court as the case may be, and not according to this Act.

120. Where the proprietor of any land, lease or charge is a company being wound up and the liquidator produces to the Registrar a certified copy of the resolution or order appointing him liquidator, together with an application in the prescribed form to have notice of the appointment entered in the appropriate register, the Registrar shall, if satisfied, enter notice thereof accordingly; and when so entered, the liquidator shall have the powers of disposition conferred on him by such resolution or order or by any enactment in respect of any such land, lease or charge.

Effect of
notice of
liquidation.

121. Where the state or any person is entitled to any registered land under the provisions of any Act, or by virtue of any order or writ of execution, the Registrar shall, on the receipt of notice thereof in such form as he may require, register the state or such person as the proprietor thereof.

Registration
of transmis-
sion by
expropria-
tion, etc.

122.—(1) Any person who acquires any land, lease or charge in a fiduciary capacity may be described by that capacity in the instrument of acquisition and be registered with the addition of the words "as trustee"; but otherwise particulars of any trust shall not be entered in the register, and the fact that a person is registered as trustee shall not be construed as notice of, or require any person to enquire into particulars of, the trust.

Trust not to
be entered on
register.

(2) Any instrument or certified copy thereof declaring a trust may be deposited with the Registrar for safe custody; but such instrument or copy when deposited shall not form part of the register.

(3) Where the proprietor of land or of any lease or charge is a trustee, he shall hold the same subject to any unregistered liabilities, rights or interests to which the land, lease or charge is liable by virtue of the instrument creating the trust; but for the purpose of registration of any dealings, he shall be deemed to be the absolute proprietor thereof and the breach of a trust shall create no right to indemnity under this Act.

123. If two or more proprietors are entitled to be or are registered jointly as administrators or executors of a deceased person or otherwise as trustees, and the survivor of such proprietors would not be entitled to exercise alone the powers vested in them, the Registrar shall, upon request in writing or of his own motion, enter a restriction to that effect in the appropriate register.

Trustees
with no
survivorship.

124.—(1) Where the name of a family has been registered in respect of any land but no family representatives have been appointed, the family may, at any time, hold a family meeting for the purpose of appointing not more than ten persons to represent the family; and upon application in writing to him in that behalf accompanied by a list

Appoint-
ment of
family
representa-
tives.

of names of the persons so appointed, the Registrar shall, if he is satisfied that such meeting was after due notice properly held, enter the names in the register.

(2) If the registration of a disposition or transmission would result in the entry in the register of more than ten persons as proprietors of any land, lease or charge, the Registrar shall refuse the application unless partition is sought, and shall appoint representatives in the manner prescribed by this Act.

Removal and replacement of family representatives.

125.—(1) The Registrar, on proof to his satisfaction of the death of a family representative, shall delete the name of such representative from the register.

(2) The Registrar on the application of any member of the family and after giving the remaining family representatives an opportunity of being heard, may delete from the register the name of any family representative if he is satisfied that such family representative is by reason of mental or physical incapacity, absence or imprisonment, unable to act.

(3) If a family representative notifies the Registrar in writing that he no longer wishes to act as a family representative, the Registrar shall delete his name from the register and inform the remaining family representatives of the fact.

(4) Upon application in writing by a member of the family, the Registrar after such enquiries as he thinks fit, may amend the register to add names to the list of family representatives but so as not to increase their number to more than ten. In the application of this subsection the provisions of section 12 of this Act shall have effect as nearly as may be.

(5) The court, may at any time, on the application of a member of the family order the name of any family representative to be deleted from the register, and the Registrar shall, upon receipt of a certified copy of the order, delete the name off accordingly.

(6) Notwithstanding the deletion from the register of the names of any family representatives, while two or more family representatives remain thereon, they shall have all the powers of family representatives appointed under this Act; but nothing in this subsection shall be construed to prohibit a person duly appointed as sole representative from exercising the powers of family representative under this Act.

Effect of registration of family representatives.

126.—(1) Subject to any caveat or restriction, as the case may be, entered in the register, the family representatives shall, when registered, have the exclusive right of dealing with the family land, or with any lease or charge.

(2) Nothing in this Act shall relieve any person registered as the family representative from any duty, customary or otherwise, to consult other members of the family, and a person so registered shall be bound to exercise the powers vested in him by this Act on behalf and for the collective interest of the family; but any person dealing with him in good faith and for valuable consideration shall not be concerned to inquire whether the family representative has complied with this subsection, and any such failure by the family representative shall not confer any right to indemnity under this Act.

Power to register judgments, etc.

PART VIII.—JUDGMENTS AND WRITS OF EXECUTION

127 Where a court issues a judgment or writ of execution affecting any land, lease or charge, a certified copy of the judgment or writ, as the case may be, shall be sent by the registrar of the court to the

Registrar under this Act with particulars of the land, lease or charge affected thereby for registration against such land, lease or charge; but no judgment or writ of execution shall bind or affect the land, lease or charge, until it is registered.

5 128. While any judgment or writ of execution continues to be registered against any land, lease or charge, the Registrar shall not accept for registration any instrument in respect of such land, lease or charge, which is inconsistent therewith.

Effect of registration of judgment, etc.

10 129. Registration of a judgment or writ of execution shall be cancelled,—

Cancellation of registration of judgment, etc.

(a) at the request in writing of the judgment creditor or other person for whose benefit the judgment or writ of execution was issued; or

15 (b) on proof to the satisfaction of the Registrar that the judgment or writ of execution has been satisfied, or has lapsed in accordance with any Act or rules of court for the time being in force.

✓ 130.—(1) Where under the provisions of section 50 of the Sheriffs and Civil Process Act a court within the meaning of that Act has granted a certificate on absolute sale to the person declared to be the purchaser of immovable property which is subject to this Act, that section shall have effect as if there were added after the word “interest” where it secondly occurs, the words “when duly registered under the Registered Land Act 1965”; and the said section shall, for the purposes only of this subsection, be deemed to be so amended accordingly.

Sale in execution. Cap. 189.

25 (2) The sheriff or other person authorised by him shall deduct from the proceeds of the sale the registration fee for the certificate to which the foregoing subsection relates; and shall forward such registration fee together with the certificate to the Registrar. Upon receipt thereof and the payment of stamp duty (if any), the Registrar shall enter in the register the name of the person described in the certificate as purchaser of the land, lease or charge, as the case may be, and thereafter the Registrar shall file the certificate.

PART IX.—CAVEATS, ETC.

35 131.—(1) Any person claiming a right or interest in, or to have presented a bankruptcy petition against the proprietor of, any registered land, lease or charge, may if the right or interest is one not immediately capable of registration, but on the happening of any event or for any other reason would thereafter be registrable, lodge with the Registrar a caveat in the prescribed form; and when entered in the register, no disposition of the land, lease or charge shall, save to the extent to which the caveat may permit or allow, be registered or any entry affecting the same made, until notice under this Act has been served on the caveator, and the caveat has lapsed or the caveator consents in writing to the registration.

Caveats generally.

45 (2) A caveat shall set out briefly the right or interest claimed by the person lodging it; and the Registrar may require such person to support the claim by a statutory declaration under the Oaths Act 1963. Where he thinks it unnecessary or its purpose can be effected by the registration of an instrument under this Act he may reject the caveat; and if he is satisfied that a caveat was lodged to protect monetary advances, he may accept it if the circumstances of the case render it expedient to do so.

1963, No. 23.

(3) The Registrar shall give notice in writing of any caveat to the proprietor whose land, lease or charge is affected thereby.

(4) So long as any caveat is subsisting in the register, anything inconsistent with the terms of the caveat and relating to the land, lease or charge affected thereby shall not be registered except with the consent of the caveator, or by order of a court of competent jurisdiction.

(5) A caveat may be removed from the register with the consent of the caveator or by an order of a court, or by the Registrar under the next succeeding subsection.

(6) The Registrar may, on the application in writing of the proprietor or any other person interested, serve notice on the caveator warning him that his caveat will be removed at the expiration of the time stated in the notice; and at the expiration of the time stated, unless the caveator objects, the caveat shall lapse and the Registrar may remove the caveat from the register. If the caveator objects to the removal of his caveat he shall notify the Registrar in writing of his objection within the time specified in the notice and the Registrar shall forthwith thereafter give the parties an opportunity of being heard, and make such order as to its removal or otherwise and as to costs as he thinks fit.

(7) A restriction having effect as a caveat entered by the Registrar under the powers conferred upon him by this Act shall be removable only with his consent, or by order of a court.

(8) Where a caveat has lapsed or been withdrawn under this section, the Registrar may refuse to accept a further caveat by the same person or anyone on his behalf in relation to the same matter as that protected by the previous caveat.

Other prohibitions on registration.

132.—(1) A court may, on the application of any interested person, in its discretion prohibit or restrict the disposition of any land, lease or charge for the prevention of fraud or improper dealing or for other sufficient cause. Any order so made, may be registered against the appropriate register and, while it continues to be registered, shall have effect according to its tenor.

(2) The Registrar on the application by any person claiming to be interested or of his own motion and after hearing any person desirous of being heard and making such enquiries as he thinks fit, may by order restrict or prohibit dealings in the register for such period and upon such conditions as he may direct; and the order shall have effect as a restriction and may be registered against the appropriate register accordingly.

(3) The Registrar may order a restriction to be entered in the register if it appears to him there is any limitation or restriction on the power of the proprietor to deal with land, or any lease or charge.

(4) Upon the entry of a restriction the Registrar shall give notice thereof to the proprietor affected thereby.

(5) Subject to the next succeeding subsection, so long as any restriction is subsisting in the register, any registration against the land, lease or charge therein inconsistent with the terms of the restriction shall not be made without an order of court.

(6) The Registrar at any time upon the application of any person interested or of his own motion, and after giving the parties affected thereby an opportunity of being heard, may order the removal or variation of any restriction entered by him under this section.

(7) Upon the application of any proprietor affected by a restriction under this section, and upon notice thereof to the Registrar, the court may order the restriction to be removed or varied, or the court make such other order, including an order as to costs, as it thinks fit.

5 **PART X—ADVERSE POSSESSION AND PRESCRIPTION**

133.—(1) Ownership of land may be acquired by peaceable, overt and uninterrupted adverse possession thereof—

Acquisition
of land by
adverse
possession.

(a) against the state after a period of twenty years ; and

(b) in any other case after a period of twelve years.

10 (2) Any person claiming to have acquired land by virtue of the provisions of subsection (1) of this section may, after having advertised or given notice in such manner as the Registrar may require, apply to the court for an order directing him to be registered as the proprietor thereof.

15 134.—(1) Where it is shown that a person has been in possession of land or in receipt of the rents or profits thereof at a certain date, and such person is still in possession or receipt thereof, it shall be presumed that he has from that date, as to the land or the rents or profits as the case may be, been in continuous possession or receipt thereof until the
20 contrary is shown.

Principles of
possession.

(2) Possession of land or receipt of the rents or profits thereof by any person through whom a claimant derives title shall be deemed to have been possession or receipt of the rents or profits by the claimant.

25 (3) Where from the relationship of the parties or any other special cause it appears that the person in possession of land is or was in possession on behalf of another, his possession shall be deemed to be or to have been the possession of that other.

30 (4) If a person, whose possession of land is subject to conditions imposed by or on behalf of the proprietor, continues in such possession after the expiry of the term during which such conditions subsist without fulfilment or compliance with them by such person and without any exercise by the proprietor of his right to the land, such subsequent possession shall be deemed to be peaceable, overt and uninterrupted adverse possession, available for the purposes of this Act, and in the
35 application of this subsection—

(a) a tenancy at will shall be deemed to have determined at the expiration of a period of one year from the commencement thereof unless it has previously been determined, and

40 (b) a tenancy from year to year or other period shall be deemed to have determined at the expiration of the first year or other period ;
but where any rent is subsequently paid in respect of the tenancy, it shall be deemed to have determined at the expiration of the period for which the rent has been paid.

45 (5) Where at any time during the period prescribed by this Part of this Act, the true owner is under any legal disability, the period of such disability shall not be counted unless a court upon application made to it by the claimant or the owner or other person interested, otherwise directs ; and for the purposes of this subsection and the giving of a direction the court shall have power to hear and dispose of the case by
50 motion of which notice has been given under rules of court.

(6) Possession of land shall be interrupted—

(a) by physical entry thereon by any person claiming it in opposition to the person in possession with the intention of causing interruption and the possessor thereby loses possession ; or

(b) by the institution of legal proceedings by the proprietor to assert his right thereto ; or 5

(c) by any acknowledgment admitting the claim made by the person in possession to any person claiming to be the proprietor thereof.

(7) A person holding land in a fiduciary capacity shall not acquire title to land by adverse occupation against the person beneficially entitled thereto. 10

Acquisition
of easements,
etc., by
prescription.

135.—(1) Subject to the provisions of the next succeeding subsection, easements and profits a prendre may be acquired without registration by peaceable, overt and uninterrupted enjoyment thereof, if the land adversely affected thereby is state land, after a period of twenty years and any other case after a period of twelve years of such enjoyment. 15

(2) An easement or profit a prendre shall not be acquired by reason of enjoyment under the foregoing subsection unless the proprietor of the land burdened by such easement or profit a prendre knows or ought to have known of the enjoyment and might have prevented it by his own act. 20

(3) Any person claiming to have acquired any easement or profit a prendre by prescription under this section may, after notice thereof given in such manner as the Registrar may direct, apply to the High Court for an order directing entry of a record of the easement or profit a prendre as the case may be, in the register. 25

This Part not
to apply to
registered
land without
court order.

136.—(1) Subject to the next succeeding subsection, after land becomes subject to this Act, no title thereto by adverse possession shall be acquired, and no easement or profit a prendre thereover shall be acquired by prescription ; and this Part of this Act shall cease to have effect as to any such land accordingly. 30

(2) A court if satisfied that but for this Act a title or any easement or profit might be acquired to registered land, or to any right or interest therein by adverse possession or by prescription, as the case may be, may make such order in respect of such land as the circumstances require ; and the order when made may be registered, and shall have effect according to its tenor. 35

PART XI—REGISTERED LAND ASSURANCE FUND AND RECTIFICATION OF LAND REGISTER 40

Registered
Land Assu-
rance Fund.

137.—(1) There shall be established a fund to be called the Registered Land Assurance Fund (in this Act referred to as "the Assurance Fund") into which shall be paid all moneys collected under this Part of this Act ; and subject to the provisions of this section, moneys in the fund shall be available for the payment of claims under this Act. 45

(2) No claim shall be admitted or allowed by the Registrar unless the claimant satisfies the Registrar that he has exhausted all rights of action against his predecessor in ownership before making a claim under this Part of this Act, and the claim is thereafter certified for payment by the Registrar and approved by the Minister. Where the amount is in dispute, a court may direct the claim to be so certified by the Registrar. 50

(3) Moneys in the Assurance Fund shall, for the purpose of control and management, be deemed to be part of the public funds of Nigeria, and subject to the provisions of the Finance (Control and Management) Act 1958; and accordingly that Act shall apply save that interest earned shall accrue to the Assurance Fund and not form part of the Consolidated Revenue Fund.

No. 33 of
1958.

138.—(1) There shall be paid to the Registrar on the first registration after land is brought under the provisions of this Act, in addition to any registration fee such amount as may be prescribed, not exceeding in any case a rate of one halfpenny in the pound on the value of the land with all improvements existing thereon when so brought under this Act; and the Registrar may accept a certificate by the proprietor of the value for such purpose, or require a valuation to be made by a competent valuer.

Payment to
Assurance
Fund on
first
registration.

(2) Moneys so collected which are additional to the registration fees, shall be paid by the Registrar into the Assurance Fund.

(3) Any certificate given under this section shall be deemed to be a declaration as to value, and shall be construed and have effect accordingly.

(4) For the purposes of this section, where improvements on the land are disposed of not earlier than one month before the bringing of the land under this Act, the value of the improvements immediately before their disposal shall be taken into account unless the owner of the land or the lessee as the case may be, satisfies the Registrar that such improvements were disposed of without his knowledge or consent.

139.—(1) The Registrar may at any time with the consent of all persons interested, rectify entries in the register; and of his own motion may amend the register, or correct errors or supply omissions therein where they do not materially affect the interests of the proprietor, or where they relate to matters of form only.

Rectification
of the regis-
ter.

(2) Upon proof of the change of the name or address of any proprietor the Registrar shall, on the application in writing of the proprietor, amend the register accordingly.

140.—(1) Subject to the provisions of subsection (2) of this section a court may in any of the following cases order cancellation or amendment of a register—

Rectification
of the regis-
ter under
order of
court.

(a) where by mistake two or more persons have been registered as proprietors of the same land, lease or charge;

(b) where the court is satisfied that any registration (other than registration made pursuant to an adjudication record under this Act) has been obtained, made or omitted by fraud or mistake;

(c) where it is necessary to supply any material omission;

(d) where any person appears from the record to have acquired land or an interest in land by prescription under Part X of this Act;

and upon production of the original or a certified copy of the order and payment of the prescribed fee, the Registrar shall amend the register accordingly.

(2) An entry in the register shall not be cancelled or amended so as to affect adversely an interest acquired for valuable consideration by a proprietor who is in possession, unless such proprietor is a party or

	<p>privity to the omission, fraud or mistake in consequence of which cancellation or amendment is sought, or has caused such omission, fraud or mistake or substantially contributed thereto by his act, neglect or default.</p>	
Right to indemnity.	<p>141.—(1) Subject to the provisions of this Act, any person suffering loss by reason of—</p> <p>(a) any rectification of the register under this Act other than in the case of acquisition by adverse possession or by prescription ; or</p> <p>(b) any mistake or omission in the register which cannot be rectified under this Act, and the mistake or omission is one not arising in a first registration out of an adjudication record under this Act ; or</p> <p>(c) any error in a copy of or extract from the register or from any instrument or plan certified under the provisions of this Act ;</p> <p>may claim against the Assurance Fund in proper case, and if there are insufficient moneys in the Assurance Fund, the Minister of Finance of the government of the Federation upon application made by the Registrar and approved by the Minister may, if satisfied, authorise payment out of the Contingencies Fund subject to such conditions as he may prescribe.</p>	5
Cf. 1958 No. 33.	<p>(2) No indemnity shall be payable under this Act to any person who has himself caused or substantially contributed to the loss by his fraud or negligence, or who derives title (otherwise than under a registered disposition for value) from a person who so caused or substantially contributed to the loss.</p>	10
Costs, etc., on any claim.	<p>142. The Registrar on the application of any interested party may consider any claim against the Assurance Fund and may take into account any costs and expenses properly incurred.</p>	15
Restriction on claims in respect of surveys.	<p>143.—(1) Where the boundaries of any registered land are not sufficiently defined by survey, a claim shall not lie against the Assurance Fund in respect of any alteration in area by reason only of the survey of such land made at any time thereafter.</p> <p>(2) As between the state and a proprietor, no claim to compensation shall arise and no suit shall be maintainable on account of any surplus or deficiency in the area of any land disclosed by a survey forming the basis of the title and any subsequent survey of that land.</p> <p>(3) As between a proprietor and any person from or through whom he acquired the land, no claim to compensation shall be maintainable on account of any surplus or deficiency in the area thereof disclosed by a survey showing a different area from that in any other survey, or from the area shown in the register after a period of six months from the date of registration of the instrument under which the proprietor acquired the land.</p>	20
Amount of indemnity.	<p>144. Where a claim is allowed against the Assurance Fund in respect of the loss of land or any interest in land and there is no rectification of the register, the amount paid shall not exceed the value of the land or interest at the time when the mistake or omission which caused the loss was made ; and in any other case, the amount paid shall not exceed the value of the land or interest immediately before the date of rectification.</p>	25
Power to enforce covenant where indemnity paid.	<p>145. If indemnity is paid under this Part of this Act, the Minister shall be entitled to recover by suit or otherwise the amount so paid from any person who has caused or substantially contributed to the loss by his fraud or negligence and may if he thinks fit, enforce any express or implied covenant or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which the indemnity has been paid.</p>	30
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PART XII—DECISIONS OF REGISTRAR AND APPEALS

146. If any question arises with regard to the performance of any duty or the exercise of any functions by this Act conferred or imposed on him, the Registrar may state a case for the opinion of the High Court ;
5 and when given, the opinion shall be binding upon the Registrar.

Power for Registrar to state a case.

147.—(1) Any person aggrieved by a decision or order of the Registrar, may, within one month from the date of the decision or order, give notice to the Registrar in the prescribed form of his intention to appeal to the High Court against such decision or order.

Appeal against decision of Registrar.

10 (2) On receipt of a notice of appeal, the Registrar shall prepare and send to the High Court and to the appellant, and any other person appearing by the land register to be affected by the appeal, a brief statement of the question in issue.

15 (3) The High Court after hearing all interested parties may make such order on the appeal as the circumstances may require, and any order made shall if there is no further appeal, be binding on the Registrar.

(4) An appeal shall lie from an order of the High Court to the Supreme Court and shall be made within such time as rules of court may prescribe in the case of appeals relating to land in civil cases, as
20 nearly as may be.

(5) The costs of the appeal shall be in the discretion of the court making the order or disposing of the appeal as the case may be.

25 148.—(1) If an appeal to a court is pending the Registrar shall note the register affected ; and save as otherwise provided in this section, any disposition shall have effect subject to the outcome thereof.

Effect of notice of appeal on disposition.

(2) An appeal to a court shall not affect a disposition in good faith and for valuable consideration registered before delivery of notice of the appeal to the Registrar.

30 (3) This section shall apply to an appeal from an order of a High Court to the Supreme Court as it applies to an appeal to the High Court.

149.—(1) The Chief Justice of Lagos may make rules prescribing the procedure to be followed in the conduct of appeals from decisions of the Registrar to the High Court of Lagos.

Power to make rules of court.

35 (2) The Chief Justice of Nigeria may, for the purposes of this Part, make rules prescribing the procedure to be followed in the conduct of appeals from the High Court to the Supreme Court.

PART XIII.—MISCELLANEOUS AND TRANSITIONAL

40 150.—(1) No instrument intended for registration shall be accepted under this Act, unless it is in the prescribed form or is in such other forms as the Registrar may approve.

Certification of documents.

(2) Every such instrument shall have endorsed thereon a certificate to the effect that it is correct for the purposes of the Registered Land Act, and such certificate shall be signed by the party claiming interest thereunder or by his solicitor ; and no instrument shall be accepted
45 for registration if the certificate is not so signed. The making of any false certificate for the purposes of this Act shall be an offence for which the offender shall be liable on summary conviction to a fine of fifty pounds, and the court convicting may direct the removal from the register of the instrument, if registered.

Registration
fees.

151.—(1) There shall be paid upon the first registration made after the bringing of land under this Act such fees in respect of the dealing therewith, additional to the contribution to the Assurance Fund under section 138 of this Act, as may be prescribed by regulations for registration of instruments under this Act.

5

(2) There shall be paid in respect of every instrument thereafter presented for registration or otherwise to be dealt with by the Registrar, such fees as may be prescribed by regulations under this Act.

(3) No instrument shall be accepted for registration or be deposited or filed after the preparation of the register in respect of land subject to this Act, until the fees so prescribed for the instrument have been paid.

10

Addresses of
caveators
and others to
be given to
Registrar.

152. Any person who, lodges a caveat or any instrument for registration, or appears on the register as the proprietor of any land, lease or charge shall, if required, give to the Registrar in writing a postal address for service within the Federal territory of any notice under this Act, and shall in writing inform the Registrar of any subsequent change in the address so given.

15

Services of
notices.

153.—(1) A notice under this Act, shall be deemed to have been served on or given to any person—

(a) if it is served on him personally ; or

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(b) if it is left for him at his last known address ; or

(c) if it is sent by registered post to him at his last known address ; or

(d) if there is an attorney authorised to accept service and service is effected on him in accordance with the foregoing provisions of this subsection.

25

(2) If the Registrar is satisfied that service cannot be effected under the foregoing provisions of this section it shall be sufficient compliance with this section if the notice is prominently displayed on the land affected.

Hearings and
opportunity
of being
heard.

154.—(1) Where a thing may be done after a hearing or after giving a person an opportunity of being heard before the Registrar, it shall be sufficient for the purposes of this Act if the person concerned—

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(a) attends in person or by a legal practitioner or other agent, and is heard or states that he does not desire to be heard ; or

(b) having received notice appointing a place and time, not less than seven days after service, at which he will be heard with reference to the matter or thing in the notice, fails to attend the hearing.

35

(2) Notwithstanding the provisions of subsection (1) of this section, the Registrar in his discretion and whether or not the person concerned so attends or after notice given fails to attend, may adjourn the hearing from time to time ; and any such person may thereafter be heard at any subsequent meeting so adjourned.

40

(3) Where by this Act persons appearing by the register or any document in the possession of the Registrar to be interested or affected are to be given an opportunity of being heard, it shall be sufficient if all persons who, according to any subsisting entry in the register or by such document, as the case may be, appear to be so interested or affected, are given such an opportunity.

45

155. No officer of the Land Registry or officer engaged for the purposes of adjudication under Part I of this Act shall be liable to any action, suit or proceeding for or in respect of any act matter or thing in good faith done or omitted to be done in exercise or purported exercise of the powers conferred upon any such officer by this Act; and they are by this section hereby indemnified accordingly.

Indemnity
of officers.

156.—(1) The Registrar shall not register any instrument purporting to transfer, lease or vest any land situated within the area of a rating authority unless there is produced to the Registrar a written statement by the authority that all rates and other charges payable to the authority in respect of the land for the last twelve months have been paid, or otherwise secured.

Certificates
as to pay-
ment of rates

(2) Nothing in this section shall apply where the instrument relates—

- (a) to land which is subject to a lease, and the leasehold interest is, by virtue of any enactment, the rateable property; or
- (b) to a lease, and the land or another leasehold interest is, by virtue of any enactment, the rateable property.

157. An instrument shall not be expressed to take effect on the happening of any event or the fulfilment of any condition.

Effect of
instrument.

158.—(1) A condition or limitation in a transfer shall be void if it purports—

(a) to restrain the disposal of an interest in any land, lease, or charge; or

(b) to determine the interest created by the instrument on the happening or failure to happen of a future event.

Conditions
repugnant to
interest
transferred.

(2) Save in the case of the operation of a restrictive covenant, no transfer shall purport to direct the user or enjoyment of land or any interest therein.

159.—(1) Any person who—

(a) knowingly misleads or deceives any person authorised under this Act to require information in respect of any land or interest in land; or

(b) fraudulently procures, assists in fraudulently procuring or is privy to the fraudulent procurement of any certificate or instrument, or of any entry, erasure or alteration in the register, or in any form issued or approved by the Registrar; or

(c) fraudulently uses, assists in fraudulently using or is privy to the fraudulent using of any instrument or form purporting to be issued or authorised by the Registrar; or

(d) fraudulently removes from the Land Registry any part of a register or any instrument filed in the Land Registry or causes any defacement, obliteration, mutilation or unauthorized entry or alteration to be made thereto; or

(e) fails without reasonable excuse to comply with the requirements of the Registrar or an assistant registrar, as the case may be, in the exercise of any general power conferred by this Act, if the failure is not elsewhere declared an offence,

shall be guilty of an offence, and liable on conviction on indictment to a fine of five hundred pounds or to imprisonment for a term of three years, or to both, or liable on summary conviction to a fine of one hundred pounds or to imprisonment for a term of six months, or to both.

Offences.

(2) If any person fails without lawful excuse to comply with any order or direction of an adjudication officer he shall be guilty of an offence and be liable on summary conviction to a fine of one hundred pounds or to imprisonment for a term of six months, or to both.

(3) If any person after delivery to him of a summons issued under this Act, wilfully neglects or refuses to attend in pursuance of such summons, or to produce any map, plan, instrument or other document which he is required to produce for the purposes of this Act, or to answer upon oath or otherwise any question which may be lawfully put to him by the Registrar or any other officer he shall be guilty of an offence and be liable on summary conviction to a fine of twenty pounds.

Additional
powers of
Registrar.

160.—(1) The Registrar may register any instrument notwithstanding the failure for any reason to pay the prescribed fee or any part thereof; but in any such case a note of the fee or part of the fee remaining unpaid shall be entered in the register, and the Registrar may refuse to register any further disposition of any land, lease or charge while a fee so noted is unpaid.

(2) The Registrar may accept the amount of the consideration for the purpose of determining the registration fees payable as the value of any land under this Act; or he may appoint a valuer and act on his certificate of valuation.

Recovery of
unpaid fees,
etc.

161.—(1) Expenses incurred by the Registrar and unpaid fees under this Act shall in any case, constitute a debt and may be recovered in proceedings brought in a summary manner by the Registrar.

(2) For the avoidance of doubt it is declared—

(a) that where fees are prescribed and payable on the opening of a register or on first registration, as the case may be, time shall not run as against the state for recovery of the fees, and accordingly any enactment, or otherwise applicable statute of general application as part of the law in force in Lagos, in either case imposing a limitation of time, shall have no effect; and the fees may at any time be recovered under this section or, if the Registrar thinks fit, on any registration affecting the register concerned: and

(b) that the person primarily liable for payment of fees prescribed under paragraph (a) of this subsection is the owner of the land; and if any other person is required by the Registrar to pay the fees or any part thereof, the person who is the owner of the land immediately before the payment is made shall be deemed to have agreed to indemnify the person making the payment, and the fees shall in proper case, be recoverable from him accordingly by the person making the payment.

Enforcement
of Registrar's
orders of
payment.

162. An order for the payment of money made by the Registrar in the exercise of any power conferred upon him under this Act shall be deemed to be an order of a court and be enforceable in like manner.

Regulations.

163. Subject to the provisions of this Act, the Minister may make regulations prescribing—

(a) the forms for use under this Act;

(b) the fees to be paid under this Act or on the use of forms submitted for approval;

(c) any other matter or thing, necessary for any of the purposes of this Act.

164. Notwithstanding the provisions of this Act as to the requirements of form for any instrument, if the Registrar is satisfied that an instrument is otherwise in order for registration and was executed before the date of the constitution of the register intended to be affected or was executed within six months after that date, he may register the instrument on payment of the appropriate fees and certification of the instrument as prescribed by this Act.

Registration of instruments in special cases.

165. Where by reason of the declaration of an adjudication area this Act is to apply, the Acts mentioned in the Schedule to this Act shall, in so far as they apply to such area, cease to have effect.

Restricted application of other Acts.

166.—(1) In this Act unless the context otherwise requires—
“adjudication area” means any area to which this Act is applied, and
“adjudication section” means any subdivision thereof made for the purposes of an adjudication under this Act ;

Interpretation.

“adverse possession” includes the receipt of rent by a person wrongfully claiming the land in reversion ;

“Assurance Fund” means the Registered Land Assurance Fund established for the purpose of settling claims under this Act ;

“certificate” means a certificate as evidence of ownership and other matters issued under this Act ;

“certificate of title” means a certificate of title issued under the provisions of the Registration of Titles Act ;

Cap. 181.

“charge” means an interest in land securing the payment of money or money’s worth or the fulfilment of any condition and includes the interest in land known as mortgage, and “sub-charge” shall have the corresponding meaning ;

“court” or “the court” means the High Court of Lagos and includes any court of superior jurisdiction ;

“demarcation officer” means an officer appointed under this Act to survey or otherwise mark out land within an adjudication area ;

“demarcation plan” means a plan prepared for an adjudication under this Act ;

“disposition” means any act performed *inter vivos* whereby the rights of persons in or over land or any lease or charge are affected otherwise than by an executory contract or agreement, and includes any acquisition by operation of law ;

“easement” means any right which may be the subject of a deed of grant attaching to land whereby the use by the proprietor of the land is or may be restricted, or the use without ownership or occupation of the land is or may be enjoyed by the proprietor of adjoining or adjacent land ;

“encumbrance” includes any lease or charge capable of being registered under this Act ;

“first registration” means the registration of any dealing with the land or any lease or charge affecting the whole or any part of the land (not being an instrument having effect only as a caveat or caution) ;

“guardian” means any person under customary law or otherwise responsible for protecting the interest of any person under disability by reason of age, unsoundness of mind or other cause whatsoever ;

"the High Court" means the High Court of Lagos ;

"instrument" includes any deed, judgment, decree, order or other document in writing requiring or capable of registration under this Act ;

"interest" in relation to land includes absolute ownership or allodium ; 5

"land" means land affected by this Act and includes all things growing on the land, and buildings and other things permanently affixed thereto, and where land is covered with water, the land itself but does not include water, or any mine, minerals, mineral oil or mineral gas ; 10

"land registration district" means a district constituted for the purposes of registration of land under this Act ;

"Land Registry map" means the map compiled from a demarcation plan and kept by the Registrar for the purposes of this Act ; 15

"lease" includes sublease but not an agreement for a lease ;

"lessee" means the holder of a lease ;

"lessor" means the proprietor of leased land ;

"Minister" means the Minister of the government of the Federation for the time being charged with responsibility for registration of land ; 20

"mortgagee" means the proprietor of a charge ;

"mortgagor" means the proprietor of any land the subject of a charge under this Act ;

"mutation record" means a form recording changes in the Land Registry map kept by the Registrar under this Act ; 25

"parcel" means any area of land separately shown on the Land Registry map ;

"powers" when used in reference to the Registrar and his subordinates, includes duties ;

"presentation book" means the book in which are recorded all applications for registration under this Act ; 30

"profit a prendre" means a right to enter on the land of another and take substance therefrom either of the soil or products of the soil ;

"proprietor" means the person registered under this Act as the owner of land or of any lease or charge ; 35

"register" or "the register" means the record of ownership and of encumbrances and interests kept for the purposes of this Act ;

"registered land" means land registered under this Act ;

"registration officer" means the person appointed for the purposes of any adjudication under this Act ; 40

"Registrar" means the Registrar of Land under this Act and includes a deputy registrar and, to the extent to which he may be authorised by the Registrar, an assistant registrar ;

"registration section" means a division of a land registration district made by the Registrar on the Land Registry map ; 45

"transfer" means the acquisition of land, or any lease or charge by act of the parties and not by operation of law, and includes the instrument by which any such acquisition is effected ;

"transmission" means the acquisition by operation of law, of any interest in land, and where land may be acquired compulsorily under any Act, includes any such acquisition ;

"valuable consideration" does not include any nominal consideration in money.

(2) References to registration means references to the making of any entry, note, or record in the register under the provisions of this Act or of any Act repealed by this Act or, as the case may require, of the Registration of Titles Act, and cognate expressions shall have such extended meaning.

Cap. 181.

(3) References to an heir shall be construed and have effect as if this Act had not been passed,—

(a) where used in relation to registered land which before or after the commencement of this Act is affected by customary law, or to other registered land if before the commencement of this Act, the proprietor or any person beneficially entitled has died or executed any deed or instrument importing a reference to an heir, and

(b) where used in relation to unregistered land the subject of an investigation under this Act ;

and in any other case the references shall be construed to refer to the personal representatives or other persons beneficially entitled.

(4) References to marriage expressed as consideration in any instrument, shall be construed as valuable consideration for the purposes of this Act.

167.—(1) This Act may be cited as the Registered Land Act 1965, and shall apply to the Federal territory.

Short title,
application,
and repeal.

(2) The Registered Land Act 1964 is hereby repealed.

1964 No. III.

SCHEDULE

Section 165(1)

Enactments Affected

Chapter	Short Title	Extent affected
14	Arotas (Crown Grants) Act	The whole Act
44	Crown Grants (Lagos) Act	The whole Act
45	Crown Lands Act	Sections 31 and 33
61	Epetedo Lands Act	The whole Act
75	Glover Settlement Act	The whole Act
99	Land Registration Act	The whole Act

THE REMUNERATION OF THE PRESIDENT BILL 1965

EXPLANATORY MEMORANDUM

The purpose of this Bill is to prescribe the salary, allowances and pension for the holders of the office of the President in accordance with Section 133 of the Constitution.

J. C. OBANDE,
Minister of Establishments

A BILL

FOR

[]

Commence-
ment.

AN ACT TO MAKE PROVISION FOR THE SALARY, ALLOWANCES AND PENSION OF THE PRESIDENT OF THE REPUBLIC.

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.—(1) There shall be paid to the President of the Republic (hereafter referred to as "the President") as salary the sum of seven thousand one hundred and fifty pounds a year.

Salary and
allowances
of the
President.

(2) There shall also be paid to the President such allowances as are considered reasonable by the Government of the Federation acting in its discretion.

10 2. A pension of two thousand five hundred pounds a year shall be paid to the President on his resignation from office, or on his retirement on the expiration of the period of his tenure of office :

Pension of
the
President.

15 Provided that where any person is re-elected to the office of President no pension shall be payable to him during the period in which he again holds office as President.

This Act may be cited as the Remuneration of the President Act, 1965.

Short title.

THE CONTROL OF ADVERTISEMENTS (LAGOS) BILL 1965

EXPLANATORY MEMORANDUM

The expansion of trade and industries in Nigeria and the desire for patronage has given rise to indiscriminate display of advertisements and advertisement hoardings in the city with the result that the aesthetic features of Lagos are adversely affected. Often, these displays are erected without permits.

This Bill therefore seeks to empower the Lagos City Council to enact bye-laws for the purpose of controlling these displays of advertisements. It would also enable the Council to impose approved charges in respect of the display of advertisements in Lagos.

MUSA YAR'ADUA,
Minister of Lagos Affairs

A BILL

FOR

AN ACT TO PROVIDE FOR THE CONTROL OF ADVERTISEMENTS IN LAGOS AND FOR THE IMPOSITION OF CHARGES IN RESPECT OF THEIR DISPLAY.

[]

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.—(1) Subject to the provisions of this section, the Lagos City Council (in this section referred to as "the council") may make bye-laws—

Power of
Lagos City
Council to
make bye-
laws with
respect to
advertisements.

(a) for the control, by means of permits or otherwise, of the display of advertisements within the city so far as appears to the council to be expedient in the interests of amenity or public safety ; and

10 (b) for the imposition of prescribed charges in respect of the display within the city of advertisements of such classes or descriptions as may be prescribed.

(2) Without prejudice to the generality of the foregoing subsection, bye-laws made under this section may provide—

15 (a) for regulating the dimensions, appearance and position of advertisements which may be displayed within the city and the sites on which advertisements may be so displayed ;

(b) for prohibiting the display within the city of advertisements of any prescribed class or description ;

20 (c) for enabling the council to require the removal of any advertisement which is being displayed in contravention of the bye-laws, or the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the bye-laws.

(3) Bye-laws under this section—

25 (a) may be made with respect to the city generally or with respect to particular areas therein ;

(b) may make different provision, and prescribe different charges, in respect of advertisements of different classes or descriptions and with respect to advertisements in different situations, and generally with respect to different circumstances ;

Acts of
1959, page
D 109.

(c) may impose in respect of any breach of the bye-laws any such penalty as is mentioned in section 142 (1) of the Lagos Local Government Act 1959, and may make provision as to the persons who are to be treated as displaying an advertisement for the purposes of any provision of the bye-laws which makes it an offence to display an advertisement in breach of the bye-laws ; and

(d) generally may include such incidental or supplementary provisions as appear to the council necessary or expedient for giving effect to the purposes mentioned in subsection (1) above.

(4) Bye-laws made under this section may be made so as to apply to advertisements which are being displayed on the date on which the bye-laws come into force or to the use for the display of advertisements of any site which is being used for that purpose on that date ; but any bye-laws made as mentioned in this subsection shall provide for exempting from their operation—

(a) the continued display of any such advertisement, and

(b) the continued use for the display of advertisements of any such site,

during such period (not being less than three months) as may be prescribed.

(5) Section 145 of the Lagos Local Government Act 1959 (which provides that bye-laws made under certain provisions of that Act shall be subject to the approval of the Minister and requires them to be published in the Gazette) shall apply to bye-laws made under the provisions of this section as it applies to bye-laws made under the provisions of section 142 of that Act.

(6) In this section—

“advertisement” means any word, letter, model, sign, placard, board, notice, device or representation, whether illuminated or not, which is employed wholly or partly for the purposes of advertisement, announcement or direction, including any hoarding or similar structure used, or adapted for use, for the display of advertisements ;

“the city” has the same meaning as in the Lagos Local Government Act 1959 ;

“display”, in relation to an advertisement, means the display thereof in any public place, or in any other place such that the advertisement is visible from a public place, and, in relation to an advertisement consisting of a hoarding or similar structure, includes the construction or maintenance thereof in any such place as aforesaid ;

“prescribed” means prescribed by bye-laws made under this section.

(7) The provisions of this section shall be without prejudice to the powers of the council under sections 143 and 144 of the Lagos Local Government Act 1959 (which relate to building bye-laws).

2. This Act may be cited as the Control of Advertisements (Lagos) Act 1965, and shall apply to the Federal territory only.

Acts of 1959,
page D 109.

Short title,
and extent.

THE LAGOS LOCAL GOVERNMENT
(AMENDMENT) BILL 1965

EXPLANATORY MEMORANDUM

The purpose of this Bill is to raise from 42 to 45 the permissible number of councillors on the Lagos City Council. The Bill will not affect the number of councillors to be elected in the 1965 Council elections, since under section 15 (3) of the Lagos Local Government Act 1959 any alteration in the number of councillors must be notified at least 3 months before an election.

MUSA YAR'ADUA,
Minister of Lagos Affairs

A BILL

FOR

AN ACT TO INCREASE THE PERMISSIBLE NUMBER OF COUNCILLORS ON THE LAGOS CITY COUNCIL.

[]

Commence-
ment.

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

- 5 1. The total number of councillors who may be returned to the Lagos City Council by all wards shall be increased from forty-two to forty-five; and accordingly in section 15 (1) of the Lagos Local Government Act 1959, for the words "forty-two" there shall be substituted the words "forty-five".

Increase of
permissible
number of
councillors
on Lagos
City
Council.
Acts of
1959, page
D 109.

- 10 2.—(1) This Act may be cited as the Lagos Local Government (Amendment) Act 1965, and the Lagos Local Government Acts 1959 to 1964 and this Act may be cited together as the Lagos Local Government Acts 1959 to 1965.

Short title,
citation
and extent.

- (2) This Act shall apply to the Federal territory only.

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL 1965

EXPLANATORY MEMORANDUM

The object of the Bill is to amend and supplement the provisions of section 34 of the Workmen's Compensation Act (Cap. 222). It seeks to provide that, in respect of certain occupational diseases to be specified in an order made by the Minister, a Medical Board shall determine and certify such diseases instead of a single Medical Practitioner.

The Bill further seeks to enable the Minister to include in an order under section 34 a provision for securing that no compensation shall be paid in respect of incapacity or death of a workman caused by the disease called "byssinosis" unless the workman had been in employment in a specified occupation for a minimum period specified in the order.

Finally, the Bill makes certain minor improvements in the wording of section 34 of the Act.

ADELEKE ADEDOYIN
Minister of Labour,

A BILL

FOR

AN ACT TO SUPPLEMENT AND AMEND SECTION 34 OF THE WORKMEN'S COMPENSATION ACT

[]

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) In the Workmen's Compensation Act, after section 34 (which confers power by order to extend the provisions of that Act to incapacity or death caused by any disease specified in the order) there shall be inserted the following sections—

Amend-
ment of
Workmen's
Compensation Act
Cap. 222.

- 10 'Power to require existence of occupational disease to be certified by medical board.
- 15 34A. An order under section 34 may provide that, in relation to any particular disease specified in any such order, that section shall have effect subject to the modification that for the words "where a medical practitioner grants a certificate that a workman is suffering from any disease so specified" there shall be substituted the words "where a medical board appointed under section 34c determines that a workman is suffering from any disease so specified and grants a certificate to that effect".

Special
provi-
sions as
regards
byssino-
sis.

34B. An order made under section 34 in relation to byssinosis may include provision for securing that no compensation shall be payable under that Act in respect of incapacity or death of a workman caused by byssinosis unless (whether immediately or not) before the date of his disablement he has been employed in any occupation specified in the order in relation to byssinosis for a length of time (whether continuous or not) so specified.

Medical
boards.

34C.—(1) Medical boards for the purposes of section 34, where it has effect subject to the modification specified in section 34A, and for the purposes of any provision in any order under section 34 whereby any matter is authorised or required to be certified by a medical board, shall be appointed by the Minister on the recommendation of the Minister of the Government of the Federation responsible for matters relating to health, and shall consist of two or more qualified medical practitioners of whom one shall be appointed as chairman.

(2) A medical board shall not determine the question whether or not a workman is suffering from a disease specified in an order under section 34, or any other medical question—

(a) if any member of the board is unable to be present at the consideration of that question; or

(b) in the case of a board consisting of two members, if the board are unable to reach a unanimous decision on that question.

(3) In any case in which, by reason of subsection (2) of this section, a medical board are unable to determine any medical question, that question shall as soon as possible be referred to another medical board appointed under this section:

Provided that, in a case falling under subsection (2) (b) of this section, that other medical board shall be a board consisting of three members whose decision, if not unanimous, shall be that of the majority of the members.

(4) The Minister may pay to the members of medical boards appointed under this section such fees or other remuneration and such travelling and other allowances as may be approved by the Minister of the Government of the Federation responsible for finance.

(2) Section 34 of the Workmen's Compensation Act shall be amended as follows—

(a) in proviso (b), for the words "the employer from whom the" there shall be substituted the words "an employer from whom such";

(b) in proviso (c), for the words "the process or processes" there shall be substituted the words "any occupation".

Short title
and extent.

2. This Act may be cited as the Workmen's Compensation (Amendment) Act 1965 and shall apply throughout the Federation.

THE VISITING FORCES BILL 1965

EXPLANATORY MEMORANDUM

The main purpose of the Bill is to regulate the position under Nigerian law of detachments of the armed forces of other countries that come to Nigeria on the invitation of the Federal Government. Thus *clause 2* will enable the service courts and authorities of such countries to exercise here the same powers as they have at home, while *clause 10* will enable a visiting force to be placed in the same position as any of our own forces under the law of Nigeria.

The Bill also provides for the arrest of deserters and absentees without leave from the forces of other countries in the same way as deserters and absentees without leave from the Nigerian Army (*clause 8*), and makes provision for the mutual attachment of personnel (*clause 11*).

MUHAMMADU INUWA WADA,
Minister of Defence

ARRANGEMENT OF CLAUSES

Clause

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. Orders applying provisions of Act. 2. Powers in Nigeria of sending country's service courts etc. 3. Assistance in arrest of offenders from visiting forces. 4. Restriction of right to try members of visiting forces. 5. Nigerian courts to have regard to sentences of visiting forces' service courts. 6. Arrest, custody etc., of offenders against Nigerian law. 7. Exclusion from Nigerian courts of proceedings relating to visiting forces' terms of service. | <ol style="list-style-type: none"> 8. Apprehension etc., of deserters and absentees without leave. 9. Detention by Nigerian service authorities of sentenced members of visiting forces. 10. Application to visiting forces of law relating to home forces. 11. Attachment of personnel. 12. Attendance of civilian witnesses before visiting forces' service courts. 13. Proof of facts by certificate. 14. Interpretation. 15. Short title and extent. |
|--|--|

SCHEDULE : Offences referred to in
s. 4.

A BILL

FOR

AN ACT TO MAKE PROVISION WITH RESPECT TO MILITARY, NAVAL AND AIR FORCES OF OTHER COUNTRIES VISITING NIGERIA ; TO PROVIDE FOR THE APPREHENSION AND DISPOSAL OF DESERTERS AND ABSENTEES WITHOUT LEAVE IN NIGERIA FROM THE FORCES OF OTHER COUNTRIES ; TO MAKE PROVISION WITH RESPECT TO THE ATTACHMENT OF SERVICE PERSONNEL TO OR FROM THE FORCES OF OTHER COUNTRIES AND WITH RESPECT TO THE SERVICE TOGETHER OF SUCH FORCES AND NIGERIAN FORCES ; AND FOR CONNECTED PURPOSES.

[]

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.—(1) The President may by order published in the Federal Gazette direct that the following provisions of this Act, or any of them, shall have effect in relation to any country (other than Nigeria) specified in the order ; and references in this Act to a country to which a provision of this Act applies are references to any country in relation to which that provision has effect by virtue of an order under this section.

Orders
applying
provisions
of Act.

10 (2) The President may by order published as aforesaid provide that in so far as this Act has effect in relation to any country by virtue of an order under this section, it shall have effect subject to such limitations, adaptations or modifications as may be specified in the order.

15 2.—(1) Subject to the provisions of this Act, the service courts and service authorities of a country to which this section applies may within Nigeria, or on board any Nigerian ship or aircraft, exercise over members of any visiting force of that country all such powers as are exercisable by them according to the law of that country.

Powers in
Nigeria of
sending
country's
service
courts, etc.

20 (2) Subject to subsection (3) below, where any sentence has, whether within or outside Nigeria, been passed by a service court of a country to which this section applies upon a person who immediately before the sentence was passed was a member of a visiting force of that country, then for the purposes of any proceedings in a Nigerian court—

25 (a) that service court shall be taken to have been properly constituted ; and

(b) the sentence shall be taken to be within the jurisdiction of that service court and in accordance with the law of that country ; and

(c) if the sentence is executed according to its terms, it shall be taken to have been lawfully executed.

30 (3) A sentence of death passed by a service court of a country to which this section applies shall not be carried out in Nigeria unless under Nigerian law a sentence of death could have been passed in a similar case.

(4) Any person who—

(a) is detained in custody in pursuance of a sentence in respect of which subsection (2) above has effect ; or

(b) being a member of a visiting force of a country to which this section applies, is detained in custody pending or during the trial by a service court of that country of a charge brought against him, shall for the purposes of any proceedings in any Nigerian court be deemed to be in lawful custody. 5

(5) The members of any service court exercising jurisdiction in Nigeria by virtue of this section, and witnesses appearing before such a court, shall enjoy the like immunities and privileges as are enjoyed by members of, and witnesses appearing before, a court-martial exercising jurisdiction under the service law of Nigeria. 10

(6) Subsection (5) above is without prejudice to the powers conferred by section 10 of this Act. 15

Assistance
in arrest
of offenders
from visiting
forces.

3.—(1) For the purpose of enabling the service courts and service authorities of a country to which this section applies to exercise more effectively the powers mentioned in section 2 (1) of this Act, the Nigerian Army Council, the Navy Board or the Nigerian Air Council, if so requested by the appropriate authority of that country, may from time to time by general or special orders direct members of the home forces for whom they respectively have responsibilities to arrest any person, being a member of a visiting force of that country, who is alleged to be guilty of an offence punishable under the law of that country, and to hand him over to such service authority of that country as may be designated by or under the orders. 20 25

(2) For the purpose of enabling the service courts and service authorities of a country to which this section applies to exercise more effectively the powers mentioned in section 2 (1) of this Act, the Inspector-General of the Nigeria Police, if so requested by the appropriate authority of that country, may from time to time by general or special orders direct members of the Nigeria Police Force to arrest any person, being a member of a visiting force of that country, who is alleged to be guilty of an offence punishable under the law of that country, and to hand him over to such service authority of that country as may be designated by or under the orders : 30 35

Provided that, without prejudice to section 10 of this Act, nothing in this subsection shall be construed as enabling any powers of arrest to be conferred on any person which he would not possess apart from this subsection. 40

(3) Where in pursuance of subsection (1) or (2) above a request has been made by the appropriate authority of a country to which this section applies, the Minister may give to the body or person to whom the request was made such directions as the Minister thinks fit for the purpose of securing compliance with that request ; and it shall be the duty of that body or person to comply with any such directions : 45

Provided that the Minister shall not give any directions under this section to the Inspector-General of the Nigeria Police except with the consent of the Prime Minister.

4.—(1) Where a person charged with an offence against Nigerian law was at the time when the offence is alleged to have been committed a member of a visiting force of a country to which this section applies, then, subject to subsection (3) below—

Restriction
of right to
try members
of visiting
forces.

5 (a) in a case where this paragraph applies, a Nigerian court shall not try him for that offence unless before the trial the Minister has issued a certificate stating that the appropriate authority of the sending country has notified him that it is not proposed to deal with the case under the law of that country; and

10 (b) in a case where paragraph (a) above does not apply, a service court or service authority of the sending country shall not try him or deal with him summarily for that offence unless before the commencement of the trial or summary proceedings the Minister has issued a certificate stating that it is not proposed to deal with the case under Nigerian law.

15

(2) Paragraph (a) of subsection (1) above applies—

(a) where the alleged offence, if committed by the accused, arose out of and in the course of his duty as a member of the visiting force of which he was a member at the material time;

20

(b) where the alleged offence is an offence against the person, and the person or, if more than one, each of the persons in relation to whom it is alleged to have been committed was at the material time either—

25 (i) a member of the same or any other visiting force of the sending country of the accused, or

(ii) a dependent of a member of any such visiting force;

30

(c) where the alleged offence is an offence against property, and the whole of the property in relation to which it is alleged to have been committed (or, if different parts of that property were differently owned, each part of it) was at the material time the property of one of the following, that is to say—

(i) the sending country of the accused or an authority of that country, or

35

(ii) a member of the same or any other visiting force of the sending country of the accused, or

(iii) a dependent of a member of any such visiting force;

(d) where the alleged offence is an offence against the security of the sending country of the accused.

(3) Nothing in the foregoing provisions of this section—

40

(a) shall affect anything done or omitted in the course of a trial unless in the course of the trial objection has already been made that, by reason of those provisions, the court is not competent to deal with the case, or

45

(b) shall, after the conclusion of a trial, be treated as having affected the validity of the trial if no such objection was made in the proceedings at any stage before the conclusion of the trial.

50

(4) Without prejudice to the foregoing provisions of this section where in the exercise of the powers mentioned in section 2 (1) of this Act a person has been tried by a service court of a country to which this section applies, he shall not be tried for the same crime by a Nigerian court.

(5) In relation to cases where the charge (by whatever words expressed) is a charge of attempting or conspiring to commit an offence, or of aiding, abetting, procuring or being accessory to the commission of an offence, paragraphs (b) and (c) of subsection (2) above shall have effect as if references therein to the alleged offence were references to the offence which the accused is alleged to have attempted or conspired to commit or (as the case may be) the offence as regards which it is alleged that he aided, abetted, procured or was accessory to the commission thereof; and references in those paragraphs to persons in relation to whom, or property in relation to which, the offence is alleged to have been committed shall be construed accordingly. 5 10

(6) Nothing in this section shall be construed as derogating from the provisions of any other enactment restricting the prosecution of any proceedings or requiring the consent of any authority to the prosecution thereof. 15

(7) In this section the expressions "offence against the person" and "offence against property" shall be construed in accordance with the Schedule to this Act.

Nigerian courts to have regard to sentences of visiting forces' service courts.

5. Where a person who has been convicted by a service court of a country to which this section applies in the exercise of the powers mentioned in section 2(1) of this Act is convicted by a Nigerian court for a different crime, but it appears to that court that the conviction by the service court was wholly or partly in respect of acts or omissions in respect of which he is convicted by the Nigerian court, the Nigerian court shall have regard to the sentence of the service court. 20 25

Arrest, custody etc. of offenders against Nigerian law.

6.—(1) Nothing in section 4 or 5 of this Act shall affect—

(a) any powers of arrest, search, entry, seizure or custody exercisable under Nigerian law with respect to offences committed or believed to have been committed against that law; or

(b) any obligation on any person in respect of a recognizance or bail bond entered into in consequence of his arrest, or the arrest of any other person, for such an offence; or 30

(c) any power of any court to remand (whether on bail or in custody) a person brought before the court in connection with such an offence.

(2) Where a person has been taken into custody without a warrant for such an offence as aforesaid committed or believed to have been committed against Nigerian law, and there is reasonable ground for believing that in accordance with section 2 of this Act he is subject to the jurisdiction of the service courts of a country to which this section applies, then, with a view to its being determined whether he is to be dealt with for that offence under Nigerian law or dealt with by the service courts of that country for an offence under the law of that country, he may, notwithstanding anything in any law relating to criminal procedure, be detained in custody for a period not exceeding three days without being brought before a court, magistrate or justice of the peace; but if within that period he is not delivered into the custody of a service authority of that country, he shall as soon as practicable after the expiration of that period be released on bail or brought before a court, magistrate or justice of the peace having jurisdiction to deal with the case. 35 40 45

7. No proceedings shall be entertained by any Nigerian court with respect to—

(a) the terms of any person's service as a member of a visiting force to which this section applies ; or

(b) any person's pay in respect of such service ; or

(c) any person's discharge from such service.

Exclusion from Nigerian courts of proceedings relating to visiting forces' terms of service.

8.—(1) Subject to the provisions of this section, sections 165 to 167 and 169 of the Nigerian Army Act 1960 (which relate to the apprehension, custody and delivery into military custody of deserters and absentees without leave from the Nigerian Army) shall within Nigeria apply in relation to deserters and absentees without leave from the forces of any country to which this section applies as they apply in relation to deserters and absentees without leave from the Nigerian Army.

Apprehension etc., of deserters and absentees without leave.
1960 No. 26.

(2) The powers conferred by the said sections 165 to 167 and 169, as applied by the foregoing subsection, shall not be exercised in relation to a person except in compliance with a request (whether specific or general) of the appropriate authority of the country to which he belongs.

(3) In sections 166, 167 and 169 of the Nigerian Army Act 1960, as applied by subsection (1) above, references to the delivery of a person into military custody shall be construed as references to the handing over of that person to such authority of the country to which he belongs, and at such place in Nigeria, as may be designated by the appropriate authority of that country.

(4) For the purposes of any proceedings under or arising out of any provision of the Nigerian Army Act 1960 as applied by the foregoing provisions of this section—

(a) a certificate issued by or on behalf of the Minister, stating that a request has been made for the exercise of the powers mentioned in subsection (2) above and indicating the effect of the request, shall be sufficient evidence, unless the contrary is proved, of the facts stated therein ;

(b) a certificate issued by the officer commanding a unit or detachment of any of the forces of a country to which this section applies, stating that a person named and described therein was at the date of the certificate a deserter or absentee without leave from those forces shall be sufficient evidence, unless the contrary is proved, of the facts stated therein.

(5) References in this section to the country to which a person belongs are references to the country from whose forces he is suspected of being, or (where he has surrendered himself) appears from his confession to be, a deserter or absentee without leave.

9.—(1) Where any sentence of imprisonment or detention has been passed in Nigeria by a service court of a country to which this section applies upon a person who immediately before the sentence was passed was a member of a visiting force of that country, the Minister, if so requested by the appropriate authority of that country, may issue a warrant in writing authorising any Nigerian service authority to detain that person in custody for such period not exceeding the term of his sentence as may be specified in the warrant.

Detention by Nigerian service authorities of sentenced members of visiting forces.

(2) A person in respect of whom a warrant has been issued under this section may, in accordance therewith, be detained by any Nigerian service authority in like manner as if he were a member of the home forces liable to be detained in custody in pursuance of a corresponding sentence passed by a Nigerian service court.

5

(3) For the purposes of any proceedings arising out of the foregoing provisions of this section a certificate issued by or on behalf of the Minister, stating that a request has been made for the issue of a warrant under this section in respect of a person named in the certificate shall be sufficient evidence, unless the contrary is proved, of the facts stated therein.

10

Application
to visiting
forces of
law
relating to
home forces.

10.—(1) Where under any enactment a power is exercisable by any authority or person—

(a) with respect to any of the home forces or their members or other persons in any way connected with those forces, or

15

(b) with respect to any property used or to be used for the purposes of any of the home forces,

the Minister may by order provide for that power to be exercisable, subject to any conditions specified in the order, by that authority or person in the case of any visiting force of a country to which this section applies to the same extent, if any, to which it would be exercisable if the visiting force were a part of the home forces.

20

(2) The Minister may by order—

(a) provide for exempting any visiting force of a country to which this section applies, or members or service courts thereof, or other persons in any way connected with such a force, or property used or to be used for the purposes of such a force, from the operation of any enactment specified in the order to any extent to which it or they would be, or would be capable of being, exempted therefrom if the force were a part of the home forces, subject however to any conditions specified in the order; and

25

30

(b) provide for conferring on any such visiting force or on any such members, service courts, persons or property as aforesaid any other privilege or immunity specified in the order, being a privilege or immunity which would be enjoyed by, or would be capable of being conferred on, it or them if the force were part of the home forces, subject however to any conditions specified in the order.

35

(3) Where by any enactment the doing of anything is prohibited, restricted or required in relation to—

(a) any of the home forces or their members or service courts or other persons in any way connected with them; or

40

(b) any property used or to be used for the purposes of any of the home forces,

the Minister may by order provide for securing that the prohibition, restriction or requirement shall have effect in the case of any visiting force of a country to which this section applies to any extent to which it would so have effect if that visiting force were a part of the home forces.

45

(4) An order under this section may contain such incidental, consequential and supplementary provisions as appear to the Minister expedient for the purposes of the order, including provisions for applying, modifying, adapting or suspending any enactment.

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(5) An order under this section shall not have effect until it is published in the Federal Gazette.

(6) In this section "enactment" means any provision of—

5 (a) any Act of Parliament other than this Act, whether passed before or after the commencement of this Act; or

(b) any law enacted either before or after the commencement of this Act by the legislature of a Region; or

(c) any instrument made before 1st October 1960 in so far as the instrument has effect as such an Act or law; or

10 (d) any order, rules, regulations, rules of court or bye-laws made before or after the commencement of this Act in exercise of powers conferred by any such Act, law or instrument.

11.—(1) The appropriate authority—

Attachment
of personnel.

15 (a) may attach temporarily to the army, the navy or the air force any member of the forces of a country to which this section applies; or

20 (b) subject to anything to the contrary in the conditions applicable to his service, may place any member of any of the Nigerian forces at the disposal of the service authorities of a country to which this section applies for the purpose of his being attached temporarily by those authorities to any of the forces of that country.

(2) Where a member of the forces of a country to which this section applies is by virtue of the foregoing subsection attached temporarily to the army, the navy or the air force (in this subsection referred to as "the relevant Nigerian force") he shall, during the period of attachment, 25 be subject to the appropriate service Act in like manner as if he were a member of the relevant Nigerian force of corresponding rank, and accordingly he shall be so treated and shall have the like powers of command and punishment over members of the relevant Nigerian force:

30 Provided that if the Minister by order made under this subsection so directs in his case or in the case of any class of persons of which he is a member, the appropriate service Act shall, in its application to a person by virtue of this subsection, have effect subject to such modifications as may be specified in the order.

35 (3) Where the army, the navy or the air force (in this subsection referred to as "the relevant Nigerian force") and a force of a country to which this section applies (in this subsection referred to as "the other force") are serving together, whether alone or not—

40 (a) every member of the other force shall be treated, and shall have over members of the relevant Nigerian force, the like powers of command and punishment as if he were a member of the relevant Nigerian force of corresponding rank; and

45 (b) if the forces are acting in combination, any officer of the other force appointed by the appropriate authority, or in accordance with regulations made by the appropriate authority, to command the combined force or any part thereof shall have over members of the relevant Nigerian force the like powers of command and punishment and may be invested with the like authority to convene, and confirm the findings and sentences of courts martial as if he were an officer of the relevant Nigerian force of corresponding rank holding the same 50 command.

(4) For the purposes of this section—

(a) the army, the navy or the air force shall be taken to be serving together with or acting in combination with a force of a country to which this section applies if and only if it is declared by order of the appropriate authority to be so serving or so acting;

(b) the rank in the army, navy or air force corresponding to that of a member of the forces of a country to which this section applies shall be such as may be prescribed by regulations made by the appropriate authority, and references in this section to the corresponding rank shall be construed accordingly.

(5) In this section—

(a) "the army", "the navy" and "the air force" mean respectively the Nigerian Army, Navy and Air Force;

(b) "the appropriate authority" means the Nigerian Army Council, the Navy Board or the Nigerian Air Council, and "the appropriate service Act" means the Nigerian Army Act 1960, the Navy Act 1964 or the Air Force Act 1964, according, in either case, to whichever of the Nigerian forces is in question.

(6) Sections 158, 159, 160 and 194 of the Nigerian Army Act 1960, section 9 of the Navy Act 1964 and section 9 of the Air Force Act 1964 (which are superseded by the foregoing provisions of this section) are hereby repealed.

12.—(1) Where any person not subject to the service law of Nigeria is required as a witness for the purposes of proceedings before a service court of any visiting force of a country to which this section applies, the following provisions of this section shall apply, and he shall not be liable to attend before that court unless summoned in accordance with those provisions.

(2) If an application for the issue of a summons under this section in respect of such a person is made to a magistrates' court by—

(a) the authority by whom the service court was convened; or

(b) the member of the visiting force appointed to preside at the service court; or

(c) some other member of that force designated for the purposes of this section by the member appointed to preside as aforesaid, the magistrates' court, if satisfied that the person in question is likely to give material evidence in any proceedings before the service court, may issue a summons requiring him to attend, at a time and place mentioned therein, before the service court (to be sufficiently described therein) to give evidence in those proceedings and to take with him any specified documents or things and any other documents or things in his possession or power or under his control which relate to any matter in issue in those proceedings.

(3) Any person who attends a service court in pursuance of a summons under this section shall be entitled to receive the like expenses as if he were attending a court martial in pursuance of a notice under section 105 of the Navy Act 1964.

(4) Section 98 (1) of the Nigerian Army Act 1960 (which relates to offences by civilians in relation to courts-martial) shall within Nigeria apply in relation to a service court of any visiting force of a country to which this section applies as it applies in relation to a court-martial, subject to the following modifications, that is to say—

1960 No. 26.
1964 No. 21.
1964 No. 11.

Attendance
of civilian
witnesses
before
visiting
forces'
service
courts.

1964 No. 21.
1960 No. 26.

(a) the reference to a person subject to military law under that Act shall be construed as a reference to a person subject to the service law of Nigeria ; and

(b) the reference in paragraph (c) to a document in a person's custody or under his control which a court-martial has lawfully required him to produce shall be construed as a reference to such a document which a magistrates' court has lawfully required him to produce in pursuance of this section.

(5) For the purposes of this section a certificate issued by or on behalf of the appropriate authority of a country stating, as regards a service court of any visiting force of that country, the authority by whom that court was convened or that a member of that force named in the certificate has been appointed to preside at that court, or has been designated for the purposes of this section by a person so appointed, shall in any proceedings, on an application for the issue of a summons under this section be conclusive evidence of the facts stated therein.

(6) The provisions of this section are without prejudice to the powers conferred by section 10 of this Act.

13.—(1) For the purposes of this Act a certificate issued by or on behalf of the appropriate authority of a country stating that at a time specified in the certificate a person so specified either was or was not a member of a visiting force of that country shall, in any proceedings in any Nigerian court, be sufficient evidence of the fact so stated unless the contrary is proved.

Proof of
facts by
certificate.

(2) For the purposes of this Act a certificate issued by or on behalf of the appropriate authority of a country, stating with respect to a person specified in the certificate—

(a) that he has been tried, at a time and place specified in the certificate, by a service court of that country for a crime so specified ;
or

(b) that on a date so specified he was sentenced by a service court of that country to such punishment as is specified in the certificate, shall in any proceedings in any Nigerian court be conclusive evidence of the facts so stated.

(3) Where a person is charged with an offence against Nigerian law and at the material time he was a member of a visiting force to which this section applies, a certificate issued by or on behalf of the appropriate authority of the sending country stating that the alleged offence, if committed by him, arose out of and in the course of his duty as a member of that force shall, in any proceedings in any Nigerian court, be sufficient evidence of that fact unless the contrary is proved.

(4) For the purposes of this Act—

(a) a certificate issued by or on behalf of the appropriate authority of a country, stating that a body, contingent or detachment of the forces of that country is, or was at a time specified in the certificate, present in Nigeria shall in any proceedings in any Nigerian court be conclusive evidence of the facts stated therein ; and

(b) where in any such proceedings it is admitted or proved (whether by a certificate under paragraph (a) above or otherwise) that a body, contingent or detachment of the forces of a country is or was at any

time present in Nigeria, it shall be assumed in those proceedings, unless the contrary is proved, that the body, contingent or detachment is or was at that time present in Nigeria on the invitation of the Government of the Federal Republic of Nigeria.

(5) Where in any certificate issued for the purposes of this Act reference is made to a person by name, and in any proceedings in a Nigerian court reference is made to a person by that name (whether as a party to the proceedings or otherwise) the references in the certificate and in the proceedings shall, unless the contrary is proved, be taken to be references to one and the same person. 5

(6) Any document purporting to be a certificate issued for the purposes of any provision of this Act, and to be signed by or on behalf of an authority specified in the certificate, shall be received in evidence and shall, unless the contrary is proved, be taken to be a certificate issued by or on behalf of that authority; and where under the provision in question a certificate is required to be issued by or on behalf of the appropriate authority of a country, and the document purports to be signed by or on behalf of an authority of that country, that authority shall, unless the contrary is proved, be taken to be the appropriate authority of that country for the purposes of that provision. 10 15 20

Interpreta-
tion.

14.—(1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby assigned to them, that is to say—

“court” includes a service court;

“dependant”, in relation to a person, means any of the following, that is to say— 25

(a) the wife or husband of that person, and

(b) any other person wholly or mainly maintained by him or in his custody, charge or care;

“the home forces” means any part of the Nigerian Army, Navy or Air Force for the time being serving in Nigeria; 30

“forces”, in relation to a country, means any of the military, naval or air forces of that country;

“member”, in relation to a visiting force, means a person for the time being appointed to serve with or attached to that visiting force, being either— 35

(a) a member of the forces of the sending country, or

(b) a person subject to the service law of that country otherwise than as a member of that country's forces;

“the Minister” means the Minister of the Government of the Federation responsible for defence; 40

“Nigerian court” means a court exercising jurisdiction in Nigeria under Nigerian law otherwise than by virtue of section 2 of this Act;

“Nigerian law” means the law of Nigeria or of any part thereof;

“the sending country”, in relation to a visiting force, means the country to whose forces the visiting force belongs; 45

“service authorities” means military, naval or air force authorities;

“service court”, in relation to a country, means a court established under service law and includes any authority of that country who under the law thereof is empowered to review or confirm the

proceedings of such a court or to try or investigate charges brought against persons subject to the service law of that country; and references to trial by, or to sentences passed by, service courts of a country shall be construed respectively as including references to trial by, and to punishment imposed by, such an authority in the exercise of such powers;

"service law", in relation to a country, means the law governing all or any of the forces of that country;

"visiting force" means, for the purposes of any provision of this Act, any body, contingent or detachment of the forces of a country to which that provision applies, being a body, contingent or detachment for the time being present in Nigeria on the invitation of the Government of the Federal Republic of Nigeria.

(2) References in any provision of this Act to the appropriate authority of a country are references to such authority as may be appointed by the Government of that country for the purposes of that provision; but no such appointment shall take effect until notice thereof has been given to the Minister, who on receipt of notice of any such appointment shall publish notice thereof in the Federal Gazette.

(3) For the purpose of this Act a member of a force of any country which (by whatever name called) is in the nature of a reserve or auxiliary force shall be taken to be a member of that country's forces so long as, but only so long as, he is called into actual service (by whatever expression described) or is called out for training.

15. This Act may be cited as the Visiting Forces Act 1965 and shall apply throughout the Federation.

Short title
and extent.

SCHEDULE

OFFENCES REFERRED TO IN S. 4

Offences against the person

1. In section 4 of this Act "offence against the person" means any offence punishable under or by virtue of any of the provisions specified in column (2) below of any enactment mentioned in column (1) below.

(1)	(2)
The Criminal Code	Sections 214 to 225, 226 to 228, 315, 320 to 324, 327A to 329, 330 to 338, 340 to 342, 343 (1), 351 to 356, 358 to 362, 371, 402, 403 and 405.
The Criminal Code of Eastern Nigeria	Sections 214 to 225, 226 to 228, 315, 320 to 324, 327A to 329, 330 to 338, 340 to 342, 343 (1), 351 to 356, 358 to 362, 371, 402, 403 and 405.
The Criminal Code of Western Nigeria	Sections 152 to 165, 168, 170, 171, 253, 258 to 262, 266 to 268, 270 to 276, 281, 283 to 285, 286 (1), 292 to 297, 299 to 303, 312, 342, 343 and 345.

The Penal Code of
Northern Nigeria

Sections 220, 225, 226, 229, 230,
232 to 239, 244 to 253, 265 to
270, 283 to 285, 298 to 303 and
390.

Offences against property

2. In section 4 of this Act "offence against property" means any offence punishable under or by virtue of any of the provisions specified in column (2) below of any enactment mentioned in column (1) below.

(1)
The Criminal Code

(2)
Sections 76, 77, 390, 392 to 396,
400, 402, 403, 406, 407, 409, 411,
413, 414, 417 (a) to (d), 419, 427,
431, 433, 438, 443 to 456, 459,
459A, 460 and 461.

The Criminal Code of
Eastern Nigeria

Sections 76, 77, 390, 392 to 395,
400, 402, 403, 406, 407, 409, 411,
413, 414, 417 (a) to (d), 419, 427,
431, 433, 438, 443 to 448, 450 to
452, 456 and 461.

The Criminal Code of
Western Nigeria

Sections 71, 72, 331, 333 to 336,
340, 342, 343, 346, 347, 349, 351,
353, 354, 357 (a) to (d), 359, 366,
370, 372, 377, 382 to 392 and 395.

The Penal Code of
Northern Nigeria

Sections 287 to 290, 292 to 295,
298 to 303, 309, 310, 312 to 315,
317, 322 to 325, 327, 329 to 341,
353 to 359, 371, 431, 469 to 472,
474 and 475.

Supplementary provisions

3.—(1) In this Schedule—

Cap. 42.

"the Criminal Code" means the Criminal Code contained in the Schedule to the Criminal Code Act, as it applies in any part of Nigeria ;

E.R. Cap. 30.

"the Criminal Code of Eastern Nigeria" means the Criminal Code contained in the Schedule to the Criminal Code Law of the Eastern Region ;

W.R. Cap. 28.

"the Criminal Code of Western Nigeria" means the Criminal Code contained in the Schedule to the Criminal Code Law of the Western Region, as it applies in any part of Nigeria ;

N.R. Cap. 89.

"the Penal Code of Northern Nigeria" means the Penal Code contained in the Schedule to the Penal Code Law of the Northern Region, including the provisions forming part of that Code by virtue of the Penal Code (Northern Region) Federal Provisions Act 1960.

1960 No. 25.

(2) References in this Schedule to any enactment are references to that enactment as amended from time to time, and include references to any enactment replacing that enactment in its application to any part of Nigeria.

4. The Minister may by order published in the Federal Gazette amend the foregoing provisions of this Schedule, so however that where any such amendment takes effect at any time, no court shall by virtue of that amendment be prevented from trying, or continuing to try, any person for any offence in respect of which proceedings were commenced before that time.

THE OIL PIPELINES (AMENDMENT) BILL 1965

EXPLANATORY MEMORANDUM

The amendment removes from the Oil Pipelines Act (Cap. 145) the restriction of the grant of permits to survey and oil pipeline licences to holders of oil prospecting licences and oil mining leases. In future any person may apply for permits or licences under the Act. A licence will entitle the licensee to lay one pipeline only.

2. The term of oil pipeline licences is reduced from a possible 99 years to a maximum of 20 years.

3. A "common carrier" provision is inserted to permit the most economic and efficient use of pipelines. The owner of a pipeline who has excess capacity may now be required to make such capacity available to other users, under mutually agreed conditions.

4. An annual fee is imposed on oil pipeline licences.

5. Other minor amendments are designed to tidy up the Act.

Y. MAITAMA SULE,
Minister of Mines and Power

THE OIL PIPELINES (AMENDMENT) BILL 1965

A BILL

FOR

AN ACT TO AMEND THE OIL PIPELINES ACT

[]

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. Section 2 of the Oil Pipelines Act (hereafter referred to as “the principal Act”) is hereby amended by the addition thereto of the following definition—

Amend-
ment of
section 2 of
Cap. 145.

“oil pipeline” has the meaning given to it in section 11 (2) of this Act.”

2. Section 3 of the principal Act is hereby amended as follows—

Amend-
ment of
section 3 of
principal
Act.

- (a) by the deletion of the words “and to the extent that the grant is incidental and supplementary to oilfields and oil mining;” and
(b) by the insertion at the end of the section of the following proviso—

- “provided that each licence shall be issued in respect of and authorise the construction, maintenance and operation of one pipeline only.”

3. Section 4 of the principal Act is hereby repealed and the following section is substituted therefor—

Repeal and
replacement
of section 4
of principal
Act.

“Permit to
survey.

4.—(1) Any person may make an application to the Minister in accordance with the provisions of this Act and of any regulations made thereunder for the grant of a permit to survey the route for an oil pipeline for the transport of mineral oil, natural gas, or any product of such oil or such gas to any point of destination to which such person requires such oil, gas or product to be transported for any purpose connected with petroleum trade or operations.

(2) Every application for a permit to survey shall specify the approximate route or alternative routes proposed.

(3) The Minister may—

(a) grant the permit to survey on payment of the fees required by section 30 of this Act to be paid by the applicant on the submission of the application and on grant of the permit to survey respectively ; or 5

(b) for reasons which to him appear sufficient, refuse to grant the permit to survey. 10

(4) If the Minister refuses to grant the permit to survey he shall notify the applicant in writing of such refusal and the reasons therefor."

Repeal and replacement of section 7 of principal Act.

4. Section 7 of the principal Act is hereby repealed and the following section is substituted therefor— 15

"Oil pipeline licence.

7.—(1) The holder of a permit to survey may make an application to the Minister in accordance with the provisions of this Act and of any regulations made thereunder for the grant of an oil pipeline licence in respect of any oil pipeline the survey of the route for which has been completed by the applicant. 20

(2) The Minister may—

(a) grant the licence on payment of the fees required by section 30 of this Act to be paid by the applicant on the submission of the application and on the grant of the licence respectively ; or 25

(b) for reasons which the Minister considers sufficient, refuse to grant the licence.

(3) If the Minister refuses to grant the licence, he shall notify the applicant in writing of such refusal and the reasons therefor. 30

(4) No person other than the holder of a licence shall construct, maintain or operate an oil pipeline.

(5) Every person who acts in contravention of subsection (4) shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding five hundred pounds or to both such imprisonment and such fine." 35

(6) The Minister may require any person who is convicted of an offence under this section to have the pipeline in respect of which the offence was committed and any ancillary instalment removed to the extent that the Minister does not elect to purchase such pipeline or any such installation or any part thereof. In the event of failure to agree on the purchase price the same shall be determined by arbitration. 40 45

(7) An offender who is required by the Minister under subsection (6) to have a pipeline or any ancillary instalment removed shall make good any damage done to any land by such removal. " 50

5. Section 8 (1) of the principal Act is hereby amended by the deletion of the words "no more than six weeks" immediately after the word "date" and the substitution therefor of the words "not less than six weeks".

Amendment of section 8 (1).

5 6. Section 11 of the principal Act is hereby amended by—

Amendment of section 11.

(a) the deletion in subsection (1) of the words "or pipelines"; and

(b) the insertion at the end of the section of the following new subsection—

10

"6. For the removal of doubt it is hereby declared that the powers granted to the holder of a licence under this Act shall be exercisable only subject to the provisions of this Act and of any other enactment or rule of law."

7. The proviso at the end of section 14 is hereby repealed.

Amendment of section 14.

8. Section 17 of the principal Act is hereby amended by—

15

(a) the substitution for subsection (1) of the following new subsection—

Amendment of section 17.

"(1) A licence may be granted for such period not exceeding twenty years as the Minister may direct"; and

20

(b) the insertion at the end of subsection (1) of the following new subsection—

"(1A.) Nothing in subsection (1) shall affect the validity of any licence granted before the commencement of this Act for a period exceeding twenty years and every such licence shall, unless earlier revoked, be valid for the period for which it was granted."

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9. The principal Act is hereby amended by the addition after section 17 of the following new section—

Addition of new section 17A.

"Use of oil pipeline by a person other than the owner.

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17A—(1) An application may be made to the Minister with respect to an oil pipeline constructed, maintained and operated in pursuance of a licence granted under this Act by any person other than the owner of the pipeline who seeks a right to have conveyed by the pipeline on his behalf any of the things mentioned in subsection (2) of section 11 of this Act which the pipeline is designed to convey.

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(2) Every such application shall be made in the prescribed manner and form containing the prescribed particulars.

40

(3) The Minister shall consider every such application in consultation with the applicant and the owner of the pipeline to which the application relates.

45

(4) If upon such consideration the Minister is satisfied that the pipeline could, without prejudice to the proper and efficient operation thereof for the purpose of the conveyance on behalf of the owner, in the quantity required by him, of the thing which it is designed to convey, be so operated as to permit of the conveyance thereby on behalf of the applicant of the thing the right to the conveyance of which is sought by the applicant, the Minister shall declare that he is so satisfied.

(5) Subject to the subsequent provisions of this section, the conditions of the use of the pipeline by the applicant may be determined by agreement between the owner and the applicant and, failing such agreement, shall, subject as aforesaid, be determined by the Minister.

5

(6) Where the Minister makes under subsection (4) a declaration with regard to a pipeline he may by notice served on the owner impose such requirements as he thinks it necessary or expedient to impose for all or any of the following purposes, namely—

10

(a) securing to the person whose application resulted in the making of the declaration the right to have conveyed by the pipeline the thing to which the application related ;

(b) regulating the charges to be made for the conveyance of such thing by the pipeline on behalf of that person ;

15

(c) securing that the exercise of a right secured by virtue of paragraph (a) of this subsection is not prevented or impeded ;

20

but requirements imposed for the purpose specified in paragraph (a) of this subsection shall be so framed as, in the Minister's opinion, to secure that compliance therewith will not prejudice the proper and efficient operation of the pipeline for the purpose of the conveyance on behalf of the owner thereof, in the quantity required by him, of the thing which it is designed to convey.

25

(7) A notice served on the owner of a pipeline under subsection (6) may authorise such owner to recover, from the person to whom a right is secured by the notice by virtue of paragraph (a) of that subsection, payments of such amounts as may be determined in accordance with provisions in that behalf contained in the notice, being payments in consideration of the rights being secured to such person.

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35

(8) If the owner of a pipeline fails to comply with a requirement imposed by a notice served on him under subsection (6) of this section with reference to the pipeline he shall be guilty of an offence and liable, on summary conviction to a fine not exceeding five hundred pounds ; and, if the failure continues after his conviction he shall be guilty of a further offence and liable, in respect thereof, to a fine not exceeding twenty-five pounds for each day on which the failure continues.

40

(9) The Minister may by notice to the owner of a pipeline whose failure to comply with any such requirement as aforesaid continues after his conviction of a first offence under subsection (8) revoke the licence of such owner."

45

10. Section 30 of the principal Act is hereby repealed and the following section is substituted therefor—

Repeal and replacement of section 30.

“Fees.

30.—(1) The applicant for a permit to survey shall pay a fee of ten pounds upon submitting his application, and a fee of twenty-five pounds upon the grant of such permit.

(2) The applicant for a licence shall pay a fee of twenty-five pounds upon submitting his application, and a fee of one hundred pounds upon the grant of such licence.

(3) The holder of a permit shall pay a fee of twenty-five pounds in respect of each variation of such permit.

(4) The holder of a licence shall pay a fee of one hundred pounds in respect of each variation of such licence.

(5) An annual fee shall be paid on each licence of ten pounds per mile of the length of the pipeline subject to a minimum of one hundred pounds.

(6) The holder of a licence shall pay a fee of fifty pounds upon submitting his application for a restriction order under section 12 of this Act, and a fee of such amount as the Minister shall determine not exceeding two hundred pounds on such order being made.”

11. The principal Act is hereby amended by the insertion immediately after section 30 of the following new section—

Addition of new section 30A.

“Offences by bodies corporate.

30A. Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar 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 that offence and shall be liable to be proceeded against and punished accordingly.”

12. Section 31 of the principal Act is hereby amended by the insertion immediately after paragraph (c) of the following new paragraph—

Amendment of section 31.

“(cc) such matters relating to the construction, maintenance and operation of oil pipelines as the Minister considers it necessary or appropriate to prescribe;”

13. The principal Act is hereby amended by the insertion after section 31 of the following new section—

Addition of new section 31A.

“Delegation of powers of Minister.

31A. The powers conferred on the Minister by this Act, or any of them, may be exercised by any officer of the Ministry of Mines and Power designated in that behalf by the Minister.”

14. This Act may be cited as the Oil Pipelines Act 1965 and shall apply throughout the Federation.

Citation and extent.

THE PARLIAMENT (DISQUALIFICATION) BILL 1965

EXPLANATORY MEMORANDUM

The Bill seeks to make provision for further disqualification for a period of five years from the determination of sentence of imprisonment of a person disqualified under the provisions of the Constitution from being selected or elected to either House of Parliament by reason of his being under a sentence of imprisonment exceeding six months for any of the offences set out in the Schedule to the Bill, being offences involving dishonesty.

It also provides that a decision involving disqualification as a member of either House of Parliament shall not take effect until the time for bringing an appeal against such decision has expired or until an appeal, if instituted, is finally disposed of.

It further provides that while a disqualification is suspended for purposes of an appeal, the person concerned shall not be qualified to sit or vote in either House of Parliament even though he may become or remain a member.

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

A BILL

FOR

AN ACT TO MAKE FURTHER PROVISION WITH RESPECT TO DISQUALIFICATION
FOR MEMBERSHIP OF PARLIAMENT.

[]

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. Where under section 45 (1) (c) of the Constitution of the Federa-
tion a person is disqualified for election as a Senator or election to the
House of Representatives by reason of his being under a sentence of
imprisonment (by whatever name called) exceeding six months for any of
the offences mentioned in the Schedule to this Act (all of which involve
dishonesty), or by reason of his being under sentences of imprisonment
that include such a sentence for any of those offences, he shall not be
qualified for selection as a Senator or election to the House of Representa-
tives at any time during the period of five years beginning with the date
on which he is discharged from prison or otherwise ceases to be disquali-
fied under the said section 45 (1) (c) :

Prolongation
of dis-
qualification
for member-
ship of
Parliament
in certain
cases.

1963 No. 20.

Provided that a person shall not be disqualified under this section by
reason only of his having been under a sentence of imprisonment for an
offence in respect of which he has been granted a free pardon.

2.—(1) Where, under any law in force in any part of Nigeria, any
person—

Suspension
of dis-
qualification
for member-
ship of
Parliament
where an
appeal lies.

(a) has been adjudged to be a lunatic or otherwise declared to be
of unsound mind ; or

(b) has been sentenced to death or to imprisonment for a term
exceeding six months ; or

(c) has been adjudged or otherwise declared bankrupt,
and under any such law an appeal lies against the decision in question,
the following provisions of this section shall apply.

1963 No. 20

(2) The decision shall not have effect for the purposes of section 45 (1) or 49 (1) of the Constitution of the Federation (which relate to disqualifications for becoming or remaining a member of Parliament) unless either—

(a) the time for bringing an appeal against the decision has expired without such an appeal having been brought; or 5

(b) such an appeal has been brought and abandoned or has been finally determined by the upholding of the decision or, in the case of such a sentence as is mentioned in subsection (1) (b) above, by the substitution therefor of a sentence of imprisonment for a term exceeding six months. 10

(3) So long as, in accordance with subsection (2) above, the decision has not had effect for the purposes of the said section 45 (1) or 49 (1) but remains capable of so having effect, the person concerned, if a member of either House of Parliament, shall not be entitled to sit or vote in that House; and if the decision comes to have effect as aforesaid while the person concerned is a member of either House of Parliament, he shall vacate his seat accordingly. 15

Short title
and extent.

3. This Act may be cited as the Parliament (Disqualification) Act, 1965 and shall apply throughout the Federation. 20

Section 1.

SCHEDULE

OFFENCES WHICH MAY LEAD TO DISQUALIFICATION FOR MEMBERSHIP OF PARLIAMENT

Offences under the Criminal Code

1. Any offence punishable under or by virtue of any of the following provisions of the Criminal Code—

(a) Chapter XII (corruption and abuse of office) except sections 106 to 111, but in the case of an offence under section 104 only where the arbitrary act is done or directed to be done for purposes of gain;

(b) Chapter XIII (selling and trafficking in offices);

(c) Chapter XIV (offences relating to the administration of justice) except sections 129, 130, 132 and 133;

(d) Chapter XVI (offences relating to currency) except sections 156, 160, 160A and 160B;

(e) Chapter XVII (offences relating to posts and telegraphs) except sections 170 to 173 and 176 to 188;

(f) in Chapter XVIII (offences against public authority), sections 190A, 191 and 192;

(g) Chapters XXXIV, XXXV, XXXVI, XXXVII, XXXVIII, XXXIX and XL (stealing and like offences) but in the case of any offence under Chapter XXXVII involving the commission of, or the intention to commit, a felony, only where the felony committed or intended to be committed is an offence mentioned in this Schedule;

(h) Chapters XLIII, XLIV, XLV and XLVI (forgery and like offences and personation);

(i) Chapter XLVII (fraudulent debtors);

Chapter XLIX (secret commissions and corrupt practices).

Offences under the Criminal Code of Eastern Nigeria

2. Any offence punishable under or by virtue of any of the following provisions of the Criminal Code of Eastern Nigeria—

(a) Chapter XII (corruption and abuse of office) except sections 106 to 111, but in the case of an offence under section 104 only where the arbitrary act is done or directed to be done for purposes of gain ;

(b) Chapter XIII (selling and trafficking in offices) ;

(c) Chapter XIV (offences relating to the administration of justice) except sections 129, 130, 132 and 133 ;

(d) in Chapter XVIII (offences against public authority), sections 191 and 192 ;

(e) Chapters XXXIV, XXXV, XXXVI, XXXVII, XXXVIII, XXXIX and XL (stealing and like offences) but in the case of any offence under Chapter XXXVII involving the commission of, or the intention to commit, a felony, only where the felony committed or intended to be committed is an offence mentioned in this Schedule ;

(f) Chapters XLIII, XLIV, XLV and XLVI (forgery and like offences and personation) ;

(g) Chapter XLVII (fraudulent debtors) ; and

(h) Chapter XLIX (secret commissions and corrupt practices).

Offences under the Criminal Code of Western Nigeria

3. Any offence punishable under or by virtue of any of the following provisions of the Criminal Code of Western Nigeria—

(a) Chapter XII (corruption and abuse of office) except sections 90 to 95, but in the case of an offence under section 88 only where the arbitrary act is done or directed to be done for the purposes of gain ;

(b) Chapter XIII (selling and trafficking in offices) ;

(c) Chapter XIV (offences relating to the administration of justice) except sections 114, 115, 117 and 118 ;

(d) in Chapter XVI (offences against public authority), sections 132 and 133 ;

(e) Chapters XXXII, XXXIII, XXXIV, XXXV, XXXVI, XXXVII and XXXVIII (stealing and like offences) but in the case of any offence under Chapter XXXV involving the commission of, or the intention to commit, a felony, only where the felony committed or intended to be committed is an offence mentioned in this Schedule ;

(f) Chapters XLI, XLII, XLIII and XLIV (forgery and like offences and personation) ;

(g) Chapter XLV (fraudulent debtors) ; and

(h) Chapter XLVI (secret commissions and corrupt practices)

Offences under the Penal Code of Northern Nigeria

4. Any offence punishable under or by virtue of any of the following provisions of the Penal Code of Northern Nigeria—

(a) Chapter X (offences by or relating to public servants) except sections 125 to 130, 132 and 133 ;

(b) Chapter XII (false evidence and offences relating to the administration of justice) except sections 167, 170 to 173, 177 and 182 ;

(c) Chapter XIX (offences against property) except sections 293 and 326 to 352, but in the case of any offence under sections 353 to 357 involving the doing of anything in order to commit some other offence punishable with imprisonment, only where that other offence is an offence mentioned in this Schedule ;

(d) Chapter XX (forgery) except sections 369 and 372 to 380 ;

(e) Chapter XXXI (offences relating to coin and notes) ;

(f) Chapter XXXII (offences relating to revenue stamps) ;

(g) Chapter XXXIV (offences relating to posts and telegraphs) except sections 459 and 463 to 468 ;

(h) section 477 (false statements in applications for passports).

5.—(1) In this Schedule—

Cap. 42.

“the Criminal Code” means the Criminal Code contained in the Schedule to the Criminal Code Act, as it applies in any part of Nigeria ;

E.R.
Cap. 30.

“the Criminal Code of Eastern Nigeria” means the Criminal Code contained in the Schedule to the Criminal Code Law of Eastern Nigeria ;

W.R.
Cap. 28.

“the Criminal Code of Western Nigeria” means the Criminal Code contained in the Schedule to the Criminal Code Law of Western Nigeria, as it applies in any part of Nigeria ;

N.R. Cap. 89.

“the Penal Code of Northern Nigeria” means the Penal Code contained in the Schedule to the Penal Code Law of Northern Nigeria including the provisions forming part of that Code by virtue of the Penal Code (Northern Region) Federal Provisions Act 1960.

1960 No. 25.

1964 No. 1.

(2) Without prejudice to section 4 (1) of the Interpretation Act 1964, references in this Schedule to any enactment are references to that enactment as amended from time to time and include references to any enactment replacing that enactment in its application to any part of Nigeria.

THE LIQUOR LICENSING (AMENDMENT) BILL 1965

EXPLANATORY MEMORANDUM

The purpose of the Bill is to enable attendance fees to be paid to those members of the Liquor Licensing Board who are appointed by name and not by office.

MUSA YAR'ADUA,
Minister of Lagos Affairs

A BILL

FOR

AN ACT TO ENABLE FEES TO BE PAID TO CERTAIN MEMBERS OF THE LICENSING BOARD ESTABLISHED UNDER SECTION 3 OF THE LIQUOR (LICENSING) ACT 1959.

[]

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. Section 3 of the Liquor (Licensing) Act 1959 (which establishes the licensing board) shall be amended by adding after subsection (5) the following subsection—

Power to
pay fees to
certain
members of
licensing
board.

“(6) The Minister may pay to the chairman, if appointed by name, and to any other member of the board, if appointed by name, such fee for each meeting of the board which he attends as may be determined by the Minister with the approval of the Minister of the Government of the Federation responsible for finance”.

1959
No. 39.

2. This Act may be cited as the Liquor Licensing (Amendment) Act 1965 and shall apply to the Federal territory only.

Short title
and extent.

THE LAGOS SENATORS BILL 1965

EXPLANATORY MEMORANDUM

Under section 42 (2) of the Constitution of the Federation the selection of a chief and of two other persons to be Senators representing the Federal territory is to be carried out in such manner as may be prescribed by Parliament. The Bill is designed to replace in statutory form the subsidiary legislation (dating back to 1959) which at present regulates these matters.

MUSA YAR'ADUA,
Minister of Lagos Affairs

A BILL

FOR

AN ACT TO MAKE FOR THE PURPOSES OF SECTION 42 (2) OF THE CONSTITUTION OF THE FEDERATION PROVISION AS TO THE MANNER OF SELECTING SENATORS TO REPRESENT THE FEDERAL TERRITORY.

[]

Commence-
ment.

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

1.—(1) The selection of a chief from among the White-Cap Chiefs and War Chiefs of Lagos to be a Senator representing the Federal territory shall be by means of an election carried out as provided in this section ; and for the purposes of an election under this section the Minister shall appoint a person to be the returning officer.

Selection
of a chief
to represent
Lagos in
Senate.

(2) Whenever it is necessary to select a chief as aforesaid, the returning officer shall fix the date, time and place of the election to be held for the purpose and shall not less than seven days before the date so fixed give to every chief of Lagos a notice stating—

(a) the date, time and place fixed for the election, and
(b) the time and place at which nominations are to be delivered to the returning officer, which time shall be on a day not less than three days before the date fixed for the election.

(3) No person other than a chief of Lagos shall be entitled to vote at the election or to be nominated as a candidate.

(4) A candidate for election must be nominated by two chiefs of Lagos ; and a chief of Lagos shall not be entitled to nominate more than one candidate or to nominate himself as a candidate.

(5) The nomination of a candidate must be in writing, must contain—

(a) the name, title and address of the candidate ;

(b) the name, title and address of each of the nominators ; and

(c) a statement signed by the candidate that he is willing and qualified to be selected to be a Senator,

and must be delivered to the returning officer at the time and place stated in the notices given under subsection (2) above.

(6) If a nominated candidate dies before the commencement of voting in the election, the returning officer shall fix a new date for the election in accordance with subsection (2) above.

(7) Voting at the election shall be by secret ballot and shall be carried out in such manner as the returning officer may direct, so however that a voter shall not vote for more than one candidate or record more than one vote in favour of any candidate but, if a candidate, may vote for himself.

(8) When the voting has been completed, the returning officer shall forthwith count the votes in the presence of those who have voted.

(9) If an equality of votes is found to exist between any candidates so that the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and shall proceed as if the candidate on whom the lot falls had received an additional vote.

(10) When the result of the election has been ascertained, the returning officer shall announce the result of the election and shall prepare a certificate stating the result.

(11) The returning officer shall as soon as may be—

(a) deliver the certificate prepared by him under subsection (10) above to the President of the Republic ; and

(b) deliver a copy thereof to the Clerk of the Senate ;

and the Clerk of the Senate shall cause to be published in the Federal Gazette a notice stating the result of the election and declaring the person elected to have been selected as a Senator representing the Federal territory.

(12) In this section "chief of Lagos" has the meaning assigned by section 2 of the Oba and Chiefs of Lagos Act 1959.

2.—(1) For the purpose of selecting persons to be Senators representing the Federal territory in pursuance of section 42 (2) (c) of the Constitution of the Federation there shall be a selection committee which, subject to subsection (10) below, shall consist of—

(a) the Minister ;

(b) the chairman of the Lagos City Council ; and

1959
No. 22.

Selection
of two
other
persons to
represent
Lagos in
Senate.
1963 No. 20.

(c) one other person appointed by the Minister ;
and in deciding whom to appoint from time to time under paragraph
(c) above the Minister shall have regard to the desirability of securing
that the committee shall be reasonably representative of shades of
political opinion in Lagos.

(2) Whenever it is necessary to select a person as aforesaid, the
Minister shall fix the date, time and place at which a meeting of the
selection committee is to be held for the purpose, and shall not less
than seven days before the date so fixed give notice thereof to the
other members of the selection committee.

(3) At the meeting the selection committee shall, according to
whether the number of persons to be selected is two or one, nominate
two persons or one person for selection as aforesaid ; and for this
purpose—

(a) all the members of the committee must be present at the
meeting ;

(b) the Minister shall act as chairman ;

(c) a person shall be declared nominated if, but only if, the
committee are satisfied that he is willing and qualified to be selected
as a Senator and a proposal that he be nominated is supported by the
votes of a majority of the members of the committee ;

(d) subject to the foregoing paragraphs, the committee may
regulate their own procedure.

(4) As soon as may be after the selection committee have nominated
any person under subsection (3) above, the Minister shall submit the
nomination to the Council of Ministers for approval.

(5) If a nomination submitted to it under subsection (4) above is
approved by the Council of Ministers, the Secretary to the Council of
Ministers shall prepare a certificate to that effect and shall—

(a) deliver the certificate to the President of the Republic ; and

(b) deliver a copy thereof to the Clerk of the Senate ;

and the Clerk of the Senate shall cause to be published in the Federal
Gazette a notice stating that the nomination has been made and approved
and declaring the person nominated to have been selected as a Senator
representing the Federal territory.

(6) If a nomination under this section is not approved by the
Council of Ministers the Minister shall as soon as may be convene
another meeting of the selection committee in pursuance of subsection (2)
above for the purpose of making another nomination.

(7) If, on any occasion when it is necessary to select a person as
aforesaid, none of the persons proposed for nomination in respect of a
particular vacancy receives the necessary number of votes, and accord-
ingly no nomination is made by the selection committee, the Minister
shall as soon as may be after the conclusion of the meeting of the
committee submit to the Council of Ministers a full report of the
proceedings of the committee ; and after considering that report the
Council of Ministers shall as soon as may be, and without further
reference to the selection committee, select such person as it thinks
fit to fill that vacancy.

(8) The person selected under subsection (7) above may be either one of the persons proposed for nomination at the meeting of the selection committee or a person who was not so proposed, but the Council of Ministers shall not select any person under that subsection unless it is satisfied that he is willing and qualified to be selected as a Senator.

(9) Where a person is selected under subsection (7) above, subsection (5) shall, with the necessary modifications, apply as it applies where a nomination submitted to them under subsection (4) above is approved by the Council of Ministers.

(10) If it appears to the Council of Ministers that, for good reasons, the Minister will be unable to attend the meeting fixed by him under subsection (2) above, it shall appoint some other Minister of the Government of the Federation to perform in his place the functions of the Minister under subsections (3), (4) and (7) of this section, and references in those subsections to the Minister shall be construed accordingly; but an appointment under this subsection shall cease to have effect as soon as the person appointed has performed the functions of the Minister under those subsections at and in connection with the meeting in question.

Short title,
extent,
definition
and
revocation.

3.—(1) This Act may be cited as the Lagos Senators Act 1965 and shall apply throughout the Federation.

(2) In this Act "the Minister" means the Minister of the Government of the Federation responsible for Lagos municipal affairs.

(3) The instruments mentioned in the Schedule of this Act (which make provision for the matters to which sections 1 and 2 of this Act relate) are hereby revoked.

SCHEDULE

Section 3

INSTRUMENTS REVOKED

<i>Number</i>	<i>Title</i>
L.N. 264 of 1959 ..	The Senate (Appointment of Lagos Chief) Regulations 1959.
L.N. 265 of 1959 ..	The Senate (Lagos Representatives) Regulations 1959.
L.N. 29 of 1965 ..	The Adaptation of Laws (Miscellaneous Provisions) Order 1965.

THE CASINO TAXATION BILL 1965

EXPLANATORY MEMORANDUM

Recently the Federal Government passed a law authorising the licensing of Casinos to operate in the Federal Territory of Lagos. This Bill imposes a tax on the gross revenue of such casinos. There are other ancillary provisions relating to the assessment and collection of the tax and for other related purposes.

F. S. OKOTIE-BOH,
Minister of Finance

ARRANGEMENT OF CLAUSES

Clause

- | | |
|---|--|
| 1. Tax on net gaming revenue of companies licensed to operate casinos. | 12. Incorrect returns by licensee etc. |
| 2. Power to enter and inspect etc. returns. | 13. Action for tax by board. |
| 3. Returns and payment of tax. Indemnity. | 14. Offences relating to collection etc of tax. |
| 4. Chargeability to tax. | 15. Priority of claim for tax. |
| 5. Books of account. | 16. Power to distrain. |
| 6. Assessments, appeals etc. | 17. Place of an offence. |
| 7. Time within which payment is to be made. | 18. Delegation of certain powers by board. |
| 8. Errors and defects in assessment and notice. | 19. Signification and execution of powers, duties etc. |
| 9. Relief in respect of error or mistake. | 20. Returns etc. to be furnished. |
| 10. Service of documents, and failure to comply with terms of any notice. | 21. Official secrecy. |
| 11. False statements and returns. | 22. Refund of tax. |
| | 23. Prosecutions and liability to tax. |
| | 24. Penalties. |
| | 25. Regulations. |
| | 26. Short title, interpretation and commencement. |

A BILL

FOR

AN ACT TO IMPOSE A TAX ON THE NET GAMING REVENUE OF CASINOS IN THE FEDERAL TERRITORY, AND FOR RELATED PURPOSES

[See section 26(3)]

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 :—

Tax on net
gaming
revenue of
companies
licensed to
operate
casinos
1964
No. VII.

Cap. 37
1961 No. 22.

1.—(1) There shall be imposed in respect of every casino licensed
5 under the Casino Licensing Act 1964 (hereafter referred to as a "casino")
a tax on the net gaming revenue thereof to be known as casino revenue
tax and payable by the licensee as hereafter provided. Subject to the
10 provisions of this section, the tax shall be $12\frac{1}{2}$ per centum of such
revenue, and a licence to operate a casino shall be granted only to a
company having such purpose as its main object, and duly incorporated
in Nigeria under the Companies Act. Tax under this Act shall rank in
priority to tax under the Companies Income Tax Act 1961 (hereafter
15 referred to as "the Act of 1961") and be a debt recoverable by the
Federal Board of Inland Revenue (hereafter referred to as "the board");
but for the purposes of this Act, the Act of 1961 shall have effect and the
provisions thereof, subject to this Act, shall apply so however that, as
the case may require—

(a) references to any person in the Casino Licensing Act 1964 shall
20 be construed as references to a company so incorporated ;

(b) references in this Act to a licensee shall be construed as references
to any such company ; and

(c) references in the Act of 1961 to any company shall be construed
as references to a licensee under this Act.

(2) Tax under this Act shall be a first charge on the assets of the
25 licensee ; and anything in any other Act to the contrary notwithstanding
the tax shall accordingly rank in priority to all costs, taxes and charges
whatsoever.

(3) In the application of this section, "net gaming revenue"
30 means the daily takings in every period, continuous or intermittent, of
up to 15 hours in any one day of 24 hours computed from the time when
play at tables or elsewhere in the casino is first open for gaming during
any such period and thereafter is closed, allowance being made by way
of set-off only for winnings paid to patrons or their nominees by the
35 licensee in the course of play or within 15 hours after play is closed ;
and daily takings shall be construed accordingly.

(4) The House of Representatives may from time to time by
resolution reduce or increase the rate of tax imposed by subsection (1)
of this section, and the resolution may specify the date on which it is to
40 take effect. A copy of the resolution certified by the clerk to the House
shall be published in the Federal Gazette, and the resolution shall have
effect on the date specified in the resolution, or the date of such publica-
tion, as the case may be.

Power to
enter and
inspect etc.
returns.

2.—(1) Any person may, on production of a warrant signed by the chairman of the board authorising him in that behalf, enter on any part of the premises where the casino is, at any time during the hours of play or at reasonable times outside those hours and inspect statements or returns required for the purposes of this Act and where necessary certify as correct any such statement or return, whether or not it is intended to be delivered or sent to the board.

5

(2) The warrant of authority under this section shall in addition to authorising the holder to do such things as the board may require for the purposes of this Act, give information as to the name and status of the person authorised sufficient to identify him, and the warrant shall also be signed by such person.

10

Returns and
payment of
tax.
Indemnity.

3.—(1) The licensee shall in the afternoon of the day when play closes in the casino, or so soon thereafter as may be practicable deliver a return to the board showing the net gaming revenue received during the course of play in that period; and the return shall, before such delivery, be certified as correct by a person authorised for the purpose by the board under this Act.

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(2) The licensee shall, in addition, as directed by the board prepare and forward returns at intervals of not more than one week and one month respectively, calculated from such date as the board may in writing prescribe; and the returns shall be a consolidation of the net gaming revenue for the interval in respect of which the return is required.

20

(3) Where the prescribed interval does not exceed one week, the licensee shall, not later than the third day after delivery of the return to the board is required to be made, calculate and pay to the board an amount as tax under this Act, based on the net gaming revenue for that period.

25

(4) Where the prescribed interval does not exceed one month, and whether or not returns at lesser intervals are being delivered to the board, the return under this subsection shall be certified by a chartered accountant; and any amount as tax under this Act due and unpaid at the date of delivery of the return shall forthwith be paid by the licensee to the board without any assessment being raised.

30

(5) Every person answerable for payment of tax under this section may retain out of moneys coming into his hands on behalf of a licensee so much thereof as shall be sufficient to pay the tax, and shall be indemnified accordingly by virtue of this Act for all payments of tax made by him for the purposes of this Act.

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Charge-
ability to tax.

4. A licensee shall, for the purposes of this Act, be chargeable to tax—

40

(a) in its own name; or

(b) in the name of the managing director, or a director as the case may be of the licensee in Nigeria in like manner and to like amount as such company would be chargeable; or

45

(c) in the name of a receiver or liquidator, or of any attorney, agent or representative thereof in Nigeria, in like manner and to like amount as the licensee would have been chargeable if no receiver or liquidator had been appointed.

5.—(1) If the licensee chargeable with tax under this Act fails or refuses to keep books or accounts which, in the opinion of the board, are adequate for the purposes of such tax, the board may by notice in writing direct it to keep them in the English language and in such form as may be specified; and subject to the provisions of the next succeeding subsection, the licensee shall comply with any such direction.

Books of
account.

(2) An appeal shall lie to the Appeal Commissioners from any direction by the board under this section in the same manner as if the direction were a requirement under the Act of 1961. The Appeal Commissioners may confirm or modify any such direction and their decision shall be final.

(3) The failure to comply with any direction of the board, or requirement of the Appeal Commissioners as the case may be, under this section shall be an offence against this Act.

6.—(1) Anything to the contrary in this Act notwithstanding, the board of its own motion, or a licensee, may require an assessment to be raised for any year of assessment to which payment of tax under this Act relates, and the board shall raise an assessment accordingly.

Assessment
appeals etc.

(2) Any such assessment may include any earlier period or periods if the board is satisfied for any reason that a previous assessment is incorrect or has not been raised; but nothing in this subsection shall be construed so as to authorise an assessment for a period more than six years before the date of any assessment under subsection (1) of this section, or as the case may be, six years before the date when the assessment not raised ought, in the ordinary course, to have been raised.

(3) No objection or appeal by a licensee shall lie against the board in respect of any assessment under subsection (1) or (2) of this section raised on figures returned by the licensee; but in any other case the provisions of the Act of 1961 as to objections, revisions and appeals shall have effect so however—

(a) that references to tax shall be construed as references to tax under this Act; and

(b) references to income in relation to assessable, total or chargeable income, shall be construed as references to income in relation to net gaming revenue.

(4) For the purposes of this section—

(a) "year of assessment" means the period of twelve months commencing on 1st April; and

(b) notwithstanding the fact that under the Act of 1961 an assessment is final and conclusive, the board may take into account the amount which ought to have been charged, and shall consider all other facts which in its opinion are relevant.

7.—(1) Subject to the provisions of this section, where an assessment to tax is raised under this Act and objections and appeals as the case may be have been disposed of, any tax then outstanding and unpaid shall be payable by the licensee at the place stated in the notice of assessment within two months after service of such notice upon the licensee or the disposal of any appeal or objection whichever is the earlier, but the board in its discretion may extend the time within which payment is to be made.

Time within
which
payment is to
be made.

(2) Collection of tax in any case where notice of an objection or an appeal has been given by a licensee under this Act shall remain in abeyance until such objection or appeal is determined, but the board may enforce payment of that portion, if any, of the tax which is not in dispute; and upon the determination of an objection or appeal the Board shall serve upon the licensee a notice of the tax payable as so determined, and that tax shall be payable in accordance with the foregoing provisions of this section. 5

(3) If any tax is not paid as prescribed in this section the licensee shall be guilty of an offence against this Act, and in addition the provisions of this Act as to distraint shall have effect. 10

Errors and
defects in
assessment
and notice.

8.—(1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if it is in substance and effect in conformity with or according to the intent and meaning of this Act and if the licensee assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding. 15

(2) An assessment shall not be impeached or affected— 20

(a) by reason of a mistake therein as to—

(i) the name of the licensee or of a person in whose name the licence is chargeable; or

(ii) the description of any profits; or

(iii) the amount of tax charged; 25

(b) by reason of any variance between the assessment and the notice thereof:

Provided that in cases of assessment the notice thereof shall be duly served on the licensee or the person in whose name the licensee is chargeable, and such notice shall contain, in substance and effect, the particulars on which the assessment is made. 30

Relief in
respect of
error or
mistake.

9.—(1) If the licensee having paid tax for any year of assessment thereafter alleges that any assessment made upon it for that year was excessive by reason of some error or mistake in the return, statement or account made by or on behalf of the licensee for the purposes of the assessment, the licensee may, at any time not later than one year after the end of the year of assessment within which the assessment was made, make an application in writing to the board for relief. The board shall, on receipt of the application, make such enquiries as are necessary and, subject to the provisions of this section, give by way of refund of tax, such relief in respect of the error or mistake as appears to be reasonable and just; but no such relief shall be given in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where the return, statement or account was in fact made on the basis or in accordance with the practice of the board generally prevailing at the time when the return, statement or account was made. 35 40 45

(2) The board shall in respect of applications under this section have regard to all the relevant circumstances of the case, and shall take into account the liability of the licensee and assessments made upon the 50

licensee in respect of other years, and consider whether the granting of relief would result in the exclusion from charge to tax of any part of the net gaming revenue of the licensee.

5 (3) Any determination by the board under this section shall be final and conclusive.

10 10.—(1) Except in the case of personal service under the Act of 1961 as affected by this Act, it shall be sufficient compliance therewith if a duly stamped envelope containing the document to be served by post is addressed to the registered office of the licensee, or to the last known address of the licensee, as the case may be.

Service of documents, and failure to comply with terms of any notice.

(2) Where the document served is a notice touching or concerning tax under this Act the failure to comply with its requirements shall be an offence against this Act.

15 11.—(1) Any person other than a licensee under this Act or any person in the employ of the licensee who—

False statements and returns.

(a) for the purpose of obtaining any deduction, set-off, relief or repayment in respect of tax under this Act or in any return, account or particulars made or furnished with reference to such tax, knowingly makes any false statement or false representation; or

20 (b) aids, abets, assists, counsels, incites or induces any other person—

(i) to make or deliver any false return of statement under this Act; or

25 (ii) to keep or prepare any false accounts or particulars concerning any net gaming revenue on which tax is payable under this Act; or

(iii) unlawfully to refuse or neglect to pay tax, shall be guilty of an offence against this Act.

30 (2) The board may compound any offence under this section and with the leave of the court may, before judgment, stay or compound any proceedings thereunder.

12.—(1) If the licensee or any person in the employ of the licensee without reasonable excuse—

35 (a) makes or certifies a return which by reason of any omission or under-statement of the net gaming revenue liable to tax under this Act is incorrect; or

Incorrect returns by licensee etc.

(b) gives any incorrect information in relation to any matter or thing affecting the liability of the licensee to tax;

40 the licensee and any such person shall be guilty of an offence against this Act, and in addition shall be liable to double the amount of tax which has been undercharged in consequence of such incorrect return or information, or would have been so undercharged if the return or information had been accepted as correct.

45 (2) Nothing in the foregoing subsection shall apply unless the complaint concerning the offence was made in the year of assessment in respect of or during which the offence was committed, or within six years after the expiration thereof.

0 (3) The board may compound any offence under this section, and with the leave of the court may, before judgment, stay or compound any proceedings thereunder.

(4) For the purposes of this section, a return shall be deemed to be made both by the licensee and any other person signing the return on behalf of the licensee.

Action for
tax by board.

13. Tax under this Act may be recovered in any court of competent jurisdiction in the same manner as if it were tax for the purposes of the Act of 1961, and the provisions of that Act as to suits by the board shall with all necessary modifications, have effect accordingly. 5

Offences
relating to
collection
etc. of tax.

14. Any person who—

(a) being a person appointed for the due administration of this Act or employed in connection with the assessment and collection of the tax who— 10

(i) without proper regard thereto wilfully or negligently certifies figures in the daily return of net gaming revenue of a casino; or

(ii) demands from the licensee an amount in excess of the authorised assessment of the tax; or 15

(iii) withholds for his own use or otherwise any portion of the amount of tax collected; or

(iv) renders a false return, whether orally or in writing, of the amount of tax collected or received by him; or

(v) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully with the board; or 20

(b) not being authorised under this Act to do so, collects or attempts to collect the tax under this Act, shall be guilty of an offence against this Act.

Priority of
claim for tax.

15.—(1) No goods or chattels belonging to the licensee at the time any tax under this Act becomes in arrear shall be liable to be taken by virtue of any execution or other process, warrant or authority whatever, or by virtue of any assignment on any account or pretence whatever, unless the person at whose suit the execution or seizure is made or to whom the assignment was made, pays or causes to be paid to the board, before the sale or removal of the goods or chattels all arrears of tax which are due at the time of seizure, or which are payable for the year in which the seizure is made. 25 30

(2) In case of neglect or refusal to pay the tax so claimed, the board may distrain the goods and chattels notwithstanding the seizure or assignment, and may proceed to the sale thereof, as prescribed by section 16 of this Act for the purpose of obtaining payment of the whole of the charged and claimed, and reasonable costs and charges attending such distress and sale, and the board and every person acting under the authority of the board so doing shall be indemnified by virtue of this Act. 35 40

Power to
distrain.

16.—(1) If the licensee neglects or refuses to pay the sum charged upon demand made, a principal inspector of taxes shall for non-payment thereof distrain upon the premises in respect of which the tax is charged, without any further authority for the purpose than a warrant under this section issued for the purpose by the board. 45

(2) The sum included in the demand shall be deemed to be a debt by the licensee as judgment debtor owing to the board as judgment creditor and payable under a judgment of a High Court in the Federation, and for the purpose of levying distraint under the foregoing subsection, 50

the chairman of the board or in his absence his deputy, shall have the powers of registrar and sheriff of such a court ; but any seizure and sale by way of distress may be enforced under the following provision of this section by a principal inspector of taxes acting under a warrant signed by the chairman of the board, or his deputy.

(3) For the purpose of levying any such distraint, any inspector duly authorised by a warrant for that purpose, may break open in the day-time any premises, calling to his assistance any constable, and any such constable shall, when so required, aid and assist the inspector in the execution of the warrant and in levying the distress.

(4) The warrant to break open shall be executed by or under the direction of and in the presence of the inspector, and any distress so levied shall be kept for five days at the costs and charges of the licensee.

(5) If the licensee does not pay the sum due, together with the costs and charges within the said five days, the distress shall be appraised by a competent valuer and shall be sold by public auction for payment of the sum due and all costs and charges. Any overplus coming by the distress, after the deduction of the costs and charges and of the sum due, shall be restored to the licensee.

(6) If the premises are unoccupied and no distress can be found thereon at the time the tax is payable, the inspector may at any future time when there is any distress to be found on the premises enter, seize and sell under the same powers as if a distraint had been made on the premises at the time the tax became due and as if the licensee had been in occupation at that time.

17. Any offence under this Act shall be deemed to occur at the place where the offence was committed, or in Lagos.

Place of an offence.

18.—(1) Subject to the provisions of this section, the board may by notice in the Federal Gazette or in writing delegate to any person any special power or duty of the board under this Act or the Act of 1961, and may authorise any person to receive notices or other documents on its behalf. The delegation or authority as the case may require may be given upon such terms and conditions as the board thinks fit ; but nothing in this section shall be construed—

Delegation of certain powers by board.

(a) so as to authorise delegation of any power,—

(i) to administer this Act or the Act of 1961 ; or

(ii) to commence prosecution for offences under this Act ; or

(iii) to decide to appeal against any decision of a judge, magistrate or the appeal commissioners under the Act of 1961 ; or

(b) so as to prohibit the board from itself exercising any power so delegated, if the chairman thinks fit.

(2) The power conferred by this section to delegate authority shall not be exercised in favour of any officer below the rank of principal inspector of taxes without the approval in writing of the Minister, given on such terms as he thinks fit.

19.—(1) Subject to the provisions of this section, anything required to be done by the board for the purposes of this Act, shall be signified under the hand of the chairman or any person duly authorised by him ; and notice thereof shall be published in the Federal or any Regional Gazette as the case may be, unless the chairman otherwise directs.

Signification and execution of powers, duties etc.

- (2) Anything so done shall, until the contrary is shown, be valid if—
 (a) the notice or document, as the case may be, is printed and the name of the board appears in any manner thereon; and
 (b) it purports to be signed by the chairman or by any person authorised by the chairman.

Returns etc.
to be
furnished.

20.—(1) The board may from time to time prescribe forms for use under this Act, and include therein a declaration as to the truth of the contents. If any such form purports to be completed and signed by or on behalf of a licensee, it shall for all purposes be deemed to have been furnished accordingly, unless the contrary is proved. Any person signing a prescribed form shall be deemed to be cognisant of all matters therein.

(2) Any return, claim, objection or appeal under this Act shall, if a form is prescribed, be prepared on that form with such modifications as are necessary, unless the board for any reason dispenses with its use.

Official
secrecy.

21.—(1) All returns and other documents whatsoever relating to the operation of a casino and tax payable under this Act shall be classified as confidential and be so dealt with by all persons engaged in administering this Act.

(2) Any matter so classified may in any particular case, if the Minister thinks fit, be treated as classified matter under the Official Secrets Act 1962 the disclosure of which would be prejudicial to the security of Nigeria, and that Act shall have effect accordingly.

1962 No. 29.

(3) In any other case the disclosure without the authority of the board of matter classified as confidential under this section shall be an offence against this Act; but, without the authority in writing of the Minister, matter so classified shall not be divulged or communicated to any court in any prosecution under this section.

Refund of
tax.

22.—(1) Unless otherwise provided by this Act, a claim for refund of tax shall not be allowed unless it is made in writing within one year after the end of the year of assessment to which it relates.

(2) If the board certifies the amount of tax to be refunded under this Act or pursuant to any order of a court of competent jurisdiction, the Accountant-General of the Federation shall upon delivery to him of the certificate pay that amount to the person entitled.

Prosecutions
and liability
to tax.

23.—(1) Without prejudice to the institution of proceedings by the Attorney-General of the Federation, a prosecution in respect of any offence touching or concerning assessment to tax shall not be commenced except with the approval of the board.

(2) The institution of proceedings for, or the imposition of a penalty, fine or term of imprisonment shall not relieve a licensee from liability to payment of any tax for which the licensee is or may become liable under this Act.

Penalties.

24. Any person guilty of an offence against this Act, or against the Act of 1961 as applied by this Act and notwithstanding penalties for offences as therein prescribed, shall on conviction—

(a) for a first offence involving the licensee or a director of the casino, or its manager or secretary (not being the failure to furnish returns, statements or information where required or to keep pres-

cribed records) be liable to a fine of five hundred pounds or to imprisonment for a term of two years or to both, and on any subsequent conviction whether for the same type of offence or not, be liable to a fine of one thousand pounds or to imprisonment for a term of three years, or to both, and in addition on such subsequent conviction to forfeiture of the casino licence ;

(b) if the offence involves failure to furnish returns, statements or information where required or to keep prescribed records, the offender shall be liable to a further sum of fifty pounds for each and every day during which such failure continues, and in default of payment, in the case of a natural person to an additional term of imprisonment for a term of six months, and the liability therefor shall commence as directed by the court so convicting, or in default of such direction, on the day following the conviction ;

(c) for a first offence not involving the licensee or a director of the casino, or its manager or secretary, in any case be liable to a fine of two hundred pounds or to imprisonment for a term of one year or to both, and on any subsequent conviction whether for the same type of offence or not, to a fine of five hundred pounds or to imprisonment for a term of two years, or to both.

25. The Minister may make regulations generally for the purpose of this Act.

Regulations,

26.—(1) This Act may be cited as the Casino Taxation Act 1965, and shall apply to the Federal territory, so however that in respect of any company liable to tax under this Act, it shall apply to the Federation.

Short title.
inter-
pretation and
commence-
ment.

(2) In this Act—

“Act of 1961” means the Companies Income Tax Act 1961, to the extent of its application by this Act ;

1961 No. 22.

“board” means the Federal Board of Inland Revenue established under the Act of 1961 ;

“casino” has the meaning assigned by the Casino Licensing Act 1964 ;

1964 No.
VII.

“licensee” means any company within the meaning of section 1 of this Act operating a casino in the Federal territory, and liable to tax under this Act ;

“Minister” means the Minister of the government of the Federation charged with responsibility for finance ;

“net gaming revenue” has the meaning assigned by section 1 (3) of this Act.

(3) This Act shall come into force on the date of its passing, so however that it shall be deemed to have come into force on 1st April 1965, in respect of any casino operating in the Federal territory immediately before the date of the passing of this Act.