

THE MIDWIVES DECREE 1966



ARRANGEMENT OF SECTIONS

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SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE DISCIPLINARY TRIBUNAL AND TO THE CONDUCT OF PRELIMINARY INVESTIGATIONS.

Decree No. 79

[See s. 26(2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Midwives Board of Nigeria.

1.—(1) There shall be established a body to be known as the Midwives Board of Nigeria (in this Decree referred to as “the board”) which under that name shall be a body corporate with perpetual succession and a common seal and be charged with the general duty of—

Establish-
ment of
Midwives
Board.

(a) determining what standards of knowledge and skill are to be attained by persons seeking to become registered midwives (in this Decree referred to as “midwives”) and raising those standards from time to time as circumstances may permit ;

(b) securing in accordance with the provisions of this Decree the establishment and maintenance of—

(i) a register of midwives, and

(ii) a register to be known as “the provisional register” of such other persons as the board may recognise for the purposes of this Decree,

and thereafter securing the publication from time to time by the secretary to the board of lists of those persons whose names are entered in such registers ; and

(c) performing the other functions conferred on the board by this Decree.

(2) Subject to the provisions of this Decree, the board shall consist of persons appointed by the Federal Executive Council and shall comprise,—

(a) as chairman, the chief medical adviser for the time being to the Federal Military Government or, in his absence or because of his inability to act for any reason, the person for the time being discharging that function ; and

(b) as members, the following persons, namely,—

(i) the deputy chief medical adviser,

(ii) five persons only being the holders of office as principal matron or as the case may be chief nursing officer in the Federal territory and in Northern, Eastern, Western and Mid-Western Nigeria respectively,

(iii) five persons, being one professional representative from the Midwifery school in the Federal territory and one such representative from the midwifery school in each of the Regions referred to in sub-paragraph (ii) above,

(iv) the person who, by whatsoever designation known, is the principal officer in the Federal Ministry of Education concerned with secondary education of girls,

(v) two persons only as representatives of missionary hospitals in Nigeria, and

(vi) one member of the armed forces.

Financial provisions.

2.—(1) The board shall prepare and submit to the Federal Executive Council, not later than the first day of September of the year in which this subsection comes into force and of each subsequent year, an estimate of its expenditure and income during the next succeeding financial year.

(2) The board shall keep proper accounts in respect of each financial year, and proper records in relation to those accounts, and shall cause its accounts to be audited as soon as may be after the end of the financial year to which the accounts relate by a firm of auditors approved, as respects that year, by the Federal Executive Council.

(3) The Ministry may, with the approval of the Federal Executive Council, make to the board either by way of grant or by way of loan, payments of such amounts as that Council may from time to time determine.

Control of board generally.

3.—(1) The Federal Executive Council through the Federal Ministry of Health may give to the board directions of a general character or relating generally to particular matters (but not to any individual person or case) with regard to the exercise by the board of its functions, and it shall be the duty of the board to comply with the directions.

(2) Before giving a direction under subsection (1) of this section, the Ministry shall serve a copy of the proposed direction on the board and shall afford the board an opportunity of making representations to it with respect to the direction; and after considering any representations made in pursuance of this subsection, the Permanent Secretary may give the direction either without modification, or with such modifications as appear to be appropriate, having regard to the representations.

Appointment and Duties of Registrar, etc.

Appointment of registrar and preparation, etc., of registers.

4.—(1) There shall, on the recommendation of the board, be appointed as registrar of the board a fit person who may be a midwife in the employ of the Public Service of the Federation:

Provided that the registrar may also be the secretary with the approval of the Federal Executive Council.

(2) There may likewise be so appointed a deputy registrar, or education officer and such other officers as may from time to time be necessary for the purposes of this Decree.

(3) The registrar shall, in accordance with rules made by the board under this section, prepare and maintain a register of the names, addresses and approved qualifications and of such other particulars as may be specified, of all persons who are entitled to be registered under this Decree and who apply in the specified manner to be registered.

(4) Subject to the following provisions of this section, the board shall make rules with respect to the form and keeping of the registers and the making of entries therein, and in particular—

(a) regulating the making of applications for registration and providing for the evidence to be produced in support of applications;

(b) providing for the notification to the registrar, by the person to whom any registered particulars relate, of any change in those particulars ;

(c) specifying the fees to be paid to the board in respect of the entry of names on a register and authorising the registrar to refuse to enter a name on the appropriate register until any fee specified for the entry has been paid ;

(d) specifying anything falling to be specified under the foregoing provisions of this section ;

but rules made for the purposes of paragraph (d) of this subsection shall not come into force until they are confirmed by the Federal Executive Council.

(5) It shall be the duty of the registrar—

(a) to correct, in accordance with the directions of the board, any entry in the register which the board directs him to correct as being in the opinion of the board an entry which was incorrectly made ;

(b) to make from time to time any necessary alterations in the registered particulars of registered persons ; and

(c) to remove from the register the name of any registered person who has died.

(6) If the registrar—

(a) sends by post to any registered person a registered letter addressed to her at her address on the register enquiring whether the registered particulars relating to her are correct and receives no reply to the letter within the period of six months from the date of posting it ; and

(b) upon the expiration of that period sends in like manner to the person in question a second similar letter and receives no reply to that letter within three months from the date of posting it,

the registrar may remove the particulars relating to the person in question from the register ; and the board may direct the registrar to restore to the appropriate register any particulars removed therefrom under this subsection.

5.—(1) It shall be the duty of the registrar—

(a) to cause the registers to be printed, published and put on sale to members of the public not later than two years from the beginning of the year in which this section comes into force ; and

(b) in each year after that in which a register is first published under paragraph (a) of this subsection to cause to be printed, published and put on sale as aforesaid a corrected edition of the register or as the board thinks fit a list of corrections made to the register since it was last printed ; and

(c) to cause a print of each edition of the registers and of the list of corrections to be deposited at the principal office or offices, as the case may be, of the board ;

and it shall be the duty of the board to keep the registers and lists so deposited open at all reasonable times for inspection by members of the public.

Publication
of registers
and lists of
corrections.

(2) A document purporting to be a print of an edition of a register published under this section by authority of the registrar in the current year or documents purporting to be prints of an edition of a register so published in a previous year and of a list of corrections to that edition so published in the current year shall, as an alternative to any other mode of proof in any proceeding, be admissible as evidence that any person specified in the document or in the documents if read together, as being registered under this Decree—

(a) is so registered, or

(b) is so registered subject to payment of the prescribed fee ; and that if not specified in the registers he is not so registered.

(3) The registers shall show in an appropriately headed column when the registration fee was paid by each person appearing as registered therein, unless exempted under this Decree.

Training, Examination and Registration

6.—(1) The board may approve —

(a) any course of training intended for persons who are seeking to become or are already midwives, and which the board considers is designed to confer on persons completing it sufficient knowledge and skill for that occupation or for practice as members of a specialist branch thereof ;

(b) any institutions, either in Nigeria or elsewhere, which the board considers is properly organised and equipped for conducting the whole or any part of a course of training approved by the board under this section ;

(c) any qualification which, as a result of an examination taken in conjunction with a course of training approved by the board under this section, is granted to candidates reaching a standard at the examination indicating, in the opinion of the board, that they have sufficient knowledge and skill to practise as midwives ;

(d) experimental schemes for the basic and post-basic education of midwives ;

but no scheme of training and examination other than that prescribed for any recognised midwifery training institution in Nigeria shall, without the approval of the Federal Executive Council, be adopted by the board, or be put into operation or be extended in its operation.

(2) Any examination passed upon completion of a course of midwifery training under a scheme adopted by the board under this section shall be accepted by the board as sufficient evidence of entitlement to registration in the appropriate register ; and upon application and payment of fees in the prescribed manner, midwives so trained may be registered accordingly.

(3) Subject to the next succeeding subsection, the board may, if it thinks fit, withdraw any approval given under this section in respect of any course, qualification or institution ; but before withdrawing such an approval the board shall —

(a) give notice that it proposes to do so to each person in Nigeria appearing to the board to be a person by whom the course is conducted or the qualification is granted or the institution is controlled, as the case may be ; and

Approval,
etc., of
courses,
qualifications
and institu-
tions.

(b) afford each such person an opportunity of making to the board representations with regard to the proposal; and

(c) take into consideration any representations made as respects the proposal in pursuance of paragraph (b) of this subsection.

(4) As respects any period during which the approval of the board under this section for a course, qualification or institution is withdrawn, the course, qualification or institution shall not be treated as approved under this section; but the withdrawal of such an approval shall not prejudice the registration or eligibility for registration of any person who by virtue of the approval was registered or eligible for registration immediately before the approval was withdrawn.

(5) The giving or withdrawal of an approval under this section shall have effect from such date, either before or after the execution of the instrument signifying the giving or withdrawal of the approval, as the board may specify in that instrument; and the board shall—

(a) as soon as may be publish a copy of every such instrument in the Gazette; and

(b) not later than seven days before its publication as aforesaid, send a copy of the instrument to the Permanent Secretary.

7.—(1) It shall be the duty of the board to keep itself informed of the nature of the instruction given at approved institutions to, and examinations taken by, persons attending approved courses of training and for the purposes of performing that duty the board may appoint, either from among its own members or otherwise, persons to visit approved institutions or to attend such examinations.

Supervision of instruction and examinations leading to approved qualification.

(2) It shall be the duty of a visitor appointed under subsection (1) of this section to report to the board on—

(a) the sufficiency of the instruction given to persons attending approved courses of training at institutions visited by her;

(b) the sufficiency of any examinations attended by her; and

(c) any other matters relating to the institutions or examinations on which the board may, either generally or in a particular case, request her to report;

but no visitor shall interfere with the giving of any instruction or the holding of any examination.

(3) On receiving a report made in pursuance of this section, the board shall as soon as may be send a copy of the report to the person appearing to the board to be in charge of the institution or responsible for the examinations to which the report relates, requesting that person to make observations on the report to the board within such period as may be specified in the request, not being less than one month beginning with the date of the request.

8.—(1) Where any person has, outside Nigeria, completed a course of training as a midwife not acceptable to the board without further proof of competency, the board may require that person to undergo additional training in a teaching hospital or institution or under any scheme of training in Nigeria approved for the purposes of section 6 of this Decree; and upon completion of the prescribed further training to the satisfaction of the board such person may apply for registration under this Decree and be registered accordingly in the appropriate register.

Power to prescribe further training before registration.

(2) Every application for registration shall be accompanied by evidence of identity and payment of the prescribed fee.

Examination
qualifica-
tions and
power to
exempt.

9.—(1) The board shall from time to time arrange for the examination of candidates as midwives and for the issue of certificates under the provisions of this Decree; and for such purpose the board may prescribe fees and appoint examiners from time to time at such remuneration as the Federal Executive Council may approve.

(2) A certificate issued under subsection (1) of this section shall show that the person named therein is qualified to apply for registration as a midwife; and an applicant so qualified shall, upon payment of the prescribed fee, and satisfying the Registrar that the applicant is of good character as prescribed by this Decree, be registered under this Decree and be entitled to practise as a midwife accordingly.

(3) The board may exempt any person not a citizen of Nigeria from the requirements of examination under this section, either wholly or in part, where it is satisfied that such person is the holder of a diploma or a certificate, as the case may be, issued by any authority outside Nigeria recognised by the board and, as the applicant for registration, if she otherwise complies with the requirements of this Decree.

(4) For the purposes of this section, the board shall from time to time publish in the Gazette particulars of the examination qualification for the time being accepted by it.

Registration
of midwives.

10.—(1) An applicant for registration shall, unless otherwise precluded by this Decree, be entitled to registration as a midwife if she satisfies the board that she is of good character, and—

(a) is the holder of a certificate under this Decree, or

(b) is exempted from examination as the holder of a qualification granted outside Nigeria and for the time being accepted by the board: Provided that if the board so requires, the applicant shall satisfy the board that she has had sufficient practical experience as a midwife.

(2) Any person aggrieved by a decision of the board under this section may appeal to the High Court most convenient of access, within one month after notice is given to her of the decision of the board.

Restricted
effect of
registration
on use of
name.

11. Registration under this Decree shall not confer the right to assume any name, title or designation suggesting or implying that the person registered is by law entitled to take charge of cases of abnormality or disease in or relating to any pregnancy requiring medical attention.

Professional Discipline

Special
powers as to
discipline.

12. (1) There shall be a tribunal, to be known as the Midwives Disciplinary Tribunal (in this Decree referred to as "the tribunal"), which shall be charged with the duty of considering and determining any case recommended to the tribunal by a supervisory authority, as well as any other case of which the tribunal has cognisance under the provisions of this Decree.

(2) The tribunal shall consist of the chairman of the board and seven other members of the board appointed by the board.

(3) The provisions of the Schedule to this Decree shall have effect with respect to the tribunal.

(4) For the purposes of this section, if any case is referred by a supervisory authority to the board, the board shall consider the case, and if it thinks fit may cause it to be dismissed; but if the case is not dismissed, the board shall give effect to the recommendation of the supervisory authority and it shall be dealt with by the tribunal accordingly.

13. The board may appoint a fit person as the supervisory authority over registered midwives in a particular district or contiguous districts (in this Decree referred to as a "supervisory authority") and it shall be the duty of every supervisory authority so appointed,—

Supervisory
authorities.

(a) to co-operate with the district committees, and generally to exercise supervision as directed by the board;

(b) with or without the assistance of a district committee as the supervisory authority in any particular case thinks fit, to investigate charges of malpractice, negligence, or misconduct, or contravention of instructions given by the board;

(c) to report any matter to the board and in any particular case, to recommend to the Board that the matter so reported be dealt with by the tribunal under this Decree;

(d) to inform the board as soon as possible of the name of any midwife convicted of an offence;
but a supervisory authority shall not delegate any of the aforesaid duties to any other person, without the authority in writing of the board.

14.—(1) Where—

(a) any midwife registered under this Decree is convicted, by any court in Nigeria or elsewhere having power to award imprisonment, of an offence (whether or not an offence punishable with imprisonment) which in the opinion of the tribunal is incompatible with the status of a midwife; or

(b) the tribunal is satisfied that the name of any person has been fraudulently registered,

Penalties
for unprofes-
sional
conduct, etc.

the tribunal in either event may, if it thinks fit, caution or censure the midwife, or direct the removal of her name from the relevant register.

(2) The tribunal may, if it thinks fit, defer or further defer its decision as to the giving of a direction under the foregoing subsection until a subsequent meeting of the tribunal; but—

(a) no decision shall be deferred under this section for periods exceeding twelve months in the aggregate; and

(b) no person shall be a member of the tribunal for the purposes of reaching a decision which has been deferred or further deferred unless she was present as a member of the tribunal when the decision was deferred, or further deferred, as the case may be.

(3) For the purposes of subsection (1) of this section a person shall not be treated as convicted as mentioned in paragraph (a) of that subsection unless the conviction stands at a time when no appeal or further appeal is pending or may (without extension of time) be brought in connection with the conviction.

(4) When the tribunal exercises its powers under subsection (1) of this section, the tribunal shall cause notice thereof to be served on the person to whom it relates.

(5) The person to whom a direction for removal of name relates may, at any time within twenty-eight days from the date of service on her of the notice of the direction, appeal against the direction to the appropriate High Court; and the tribunal may appeal as respondent to the appeal and, for the purpose of enabling directions to be given as to the cost of the appeal and of proceedings before the tribunal, shall be deemed to be a party thereto whether or not it appears on the hearing of the appeal.

(6) A direction of the tribunal for removal of name under subsection (1) of this section shall take effect—

(a) where no appeal under this section is brought against the direction within the time limited for the appeal, on the expiration of that time;

(b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal;

(c) where such an appeal is brought and is not withdrawn or struck out as aforesaid, if and when the appeal is dismissed;

and it shall not take effect except in accordance with the foregoing provisions of this subsection.

(7) A person whose name is removed from a register in pursuance of a direction of the tribunal under this section shall not be entitled to be registered in that register again except in pursuance of a direction in that behalf given by the tribunal on the application of that person; and a direction under this section for the removal of the name of a midwife from a register may prohibit an application under this subsection by the person affected until the expiration of such period from the date of the direction (and where the person affected has duly made such an application, from the date of the last application) as may be specified in the direction.

Miscellaneous

Proof of
registration,
etc.

15.—(1) Any certificate as to registration or non-registration given by the registrar for the purposes of this Decree shall, in any proceedings, be conclusive evidence of the fact stated in the certificate.

(2) Without prejudice to any other mode of proof, a document purporting to be a print of an edition of a register or list of corrections published by authority of the registrar under this Decree shall, in respect of the year to which its publication relates be admissible in any proceedings as evidence that any person specified in the document, or print of an edition and list read together is, for the year of publication referred to in this subsection registered as a midwife, and that any person not specified therein is not so registered.

District
Midwifery
Committees.

16.—(1) It shall be the duty of the board to provide throughout Nigeria in respect of districts which the Federal Executive Council may from time to time indicate, committees to be called respectively “the (name of district) midwifery committee” (in this Decree referred to as “district committees”): and a district committee shall, under the general direction and control of the board and acting in collaboration with a supervisory authority appointed under this Decree, have and exercise in a designated locality or district the powers and duties conferred upon it by this Decree, or as the board may from time to time prescribe.

(2) The qualifications for membership of district committees shall be such as may from time to time be prescribed by regulations made under this Decree, and an unqualified person shall not be appointed to a district committee without the approval of the Federal Executive Council.

(3) A district committee shall keep the supervisory authority in its district informed of its activities.

17. The Federal Executive Council may from time to time by order published in the Gazette amend or replace the Schedule to this Decree.

Power to
amend the
Schedule,
Regulations.

18. The Federal Executive Council may by orders published in the Gazette make regulations generally for the purposes of this Decree and without prejudice to the generality of the foregoing, the power to make regulations conferred by this section shall include power—

(a) to make provision for the qualifications and tenure of office of members of the board, the powers and procedure of the board, an increase or reduction in the membership thereof, and such other matters in relation to the board as the Federal Executive Council may consider appropriate ;

(b) to make provision for such incidental and supplementary matters as the Federal Executive Council may consider expedient for the purpose of carrying this Decree into effect ; and

(c) to make different provisions for different circumstances.

19. Any person aggrieved,—

(a) by the refusal of the board to cause her name to be entered in the appropriate register ; or

(b) by the refusal of the board to approve a hospital or other similar institutions as a training school ; or

(c) by any direction of the board withdrawing approval of a training school for midwives ;

may within one month after the person is notified of such refusal appeal to the High Court most convenient of access to where such person resides.

Appeals to
High Court
in certain
cases.

Offences etc.

20.—(1) Every midwife authorised under this Decree shall, before commencing to practise, give notice of her intention to do so to the district committee in the locality ; and if a midwife registered under this Decree wishes to transfer to any other place in Nigeria for the purpose of practising there, the midwife shall within twenty-one days after the transfer, give notice to the appropriate district committee of the fact.

(2) The failure to comply with the requirements of this section shall be an offence punishable on conviction by a fine of ten pounds.

Midwives
to notify
intention to
practise.

21.—(1) Subject to subsection (2) of this section, any person other than a registered midwife in private practice shall not be entitled to payment in cash or in kind for services performed as a midwife ; and if payment is made, the amount or its equivalent in terms of Nigerian money, as the case may be, shall be recoverable in any court of competent jurisdiction from the person to whom payment was so made.

Payment to
midwives
and others
to be
recoverable
in certain
cases.

Offences
generally.

(2) The board may exempt from the provisions of this section, any registered midwife whether or not she has commenced to practise as a midwife in any particular district.

22.—(1) Any person not registered or exempted as a midwife under this Decree, who—

(a) for or in expectation of reward, practises or holds herself out to practise as a midwife; or

(b) employs any unregistered person as her substitute; or

(c) takes or uses any name, title, addition or description implying that she is authorised by law to practise as a midwife; shall be guilty of an offence.

(2) If a registered midwife employs an unregistered person as her substitute, she shall be guilty of an offence.

(3) If any person, for the purpose of procuring the registration of any name, qualification or other matter—

(a) makes a statement which he believes to be false in a material particular; or

(b) recklessly makes a statement which is false in a material particular,

he shall be guilty of an offence.

(4) If the registrar or any other person employed by the board wilfully makes any falsification in any matter relating to the register he shall be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable—

(a) on conviction otherwise than in a High Court, to a fine of fifty pounds, or to imprisonment for a term of four months, or to both;

(b) on conviction in a High Court, to a fine of five hundred pounds or imprisonment for a term of two years, or to both.

(6) Where an offence under this Decree 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.

Unauthorised
training an
offence.

23.—(1) It shall be an offence for any person outside a midwifery training institution in Nigeria, or without the approval of the Federal Executive Council, given on the recommendation of the board, to train or purport to train any person as a midwife, or to provide any course of training or establish any school for such purpose or as one of its purposes; and any such person shall be liable—

(a) on conviction otherwise than in a High Court, to a fine of fifty pounds, or to imprisonment for a term of six months, or to both;

(b) on conviction in a High Court to a fine of not less than one hundred pounds or more than five hundred pounds or to imprisonment for a term of two years, or to both.

(2) The provisions of this section shall extend to any case where approval having been given, is withdrawn under section 6 (3) of this Decree.

(3) It shall be a sufficient defence that any such training course, or school was approved by any former Minister of Health or by the Federal Executive Council, as the case may be, before the date of commencement of this Decree and approval has not been withdrawn; and subject thereto this section shall extend to any training, course, or school in operation or established before that date unless an application for approval thereof is received by the secretary to the board within seven days after the date of commencement of this Decree, and the application is approved by the Federal Executive Council within two months thereafter.

24.—(1) Subject to section 14 of this Decree and to the next following subsection, a person shall, without payment of any fee, be entitled under this Decree to be registered as a midwife if that person has at any time been enrolled under the provisions of the Midwives Act.

Transi-
tional
provisions.

Cap. 118.

(2) Any person not enrolled under the Midwives Act in consequence of proceedings for the name of the person to be erased or removed before the Midwives Board as a disciplinary committee under the Midwives Act shall be deemed for the purposes of this Decree to have had her name removed, in pursuance of a direction of the tribunal which took effect on the date when this subsection came into force, from the register of midwives maintained under this Decree; and the provisions of section 14 (7) of this Decree shall have effect accordingly as if the direction aforesaid prohibited applications under that subsection for the period of six months.

(3) Where—

(a) there is in any part of Nigeria an institution which was established before the commencement of this Decree, and which grants a qualification to persons who have completed a course of training in midwifery conducted at the institution; and

(b) the institution, course and qualification are recognised by the board for the purposes of this subsection,

any such qualification granted before that date to such a person as aforesaid, or after that date of a person who on that day was engaged in such a course at the institution with a view to obtaining such a qualification, shall be deemed to be a qualification approved by the board under section 9 of this Decree; and subject to the next following subsection and the provisions of section 12 and of rules made under section 4 of this Decree, a person shall, without obtaining a certificate of experience, be entitled to be fully registered by reference to a qualification which is approved qualification by virtue of this subsection.

(4) In the case of a person who is registered by virtue only of such a qualification as is mentioned in subsection (3) of this section, the registrar shall, on the expiration of the period of two years beginning with the date of the grant of the qualification or of the coming into force of this subsection, whichever is the later, remove from the register all particulars relating to that person unless before the expiration of that

period the person affected furnishes to the registrar a certificate issued by or on behalf of a Military Governor, stating that the person has, since that date, been engaged in practice as a midwife for a period of not less than twelve months within the Region of which he is Military Governor.

(5) For the purpose of enabling persons to qualify for membership of the board at any time during the period of two years beginning with the date when section 1 of this Decree comes into force, a person entitled by virtue of subsection (1) of this section to be registered as a midwife, shall be deemed to be so registered notwithstanding that the relevant register has not been established or that the name of that person is not registered in it.

Cap. 118.

(6) Any proceedings under the Midwives Act which, immediately before the date when the provisions of that Act relating to such proceedings are repealed, were pending before the disciplinary committee, by whatever name called, established or appointed thereunder or in the High Court, may be continued, and any right of appeal under the Midwives Act which was exercisable immediately before that date may be exercised, as if this Decree had not been made; and for the purposes of the foregoing provisions of this section and of enabling effect to be given to any order made or judgment given in connection with any such proceedings or appeal, but not for any other purposes, the roll maintained under the Midwives Act shall be deemed not to be abolished.

Interpretation, citation, etc.

25.— (1) In this Decree unless the context otherwise requires—

Interpre-
tation.

“the appointed day” means the day upon which this Decree or so much thereof as is provided for therein comes into operation by order of the Federal Executive Council;

“the board” means the Midwives Board of Nigeria;

“district committee” means a district midwifery committee established by the board under section 16 of this Decree;

“the Ministry” means the Ministry referred to in section 3 (1) of this Decree; and “Permanent Secretary” with or without reference to that Ministry shall have the like meaning;

“register” means a register under this Decree and in proper case includes a provisional register, and cognate expressions shall be construed accordingly;

“the registrar” means the registrar appointed for the purposes of this Decree;

“supervisory authority” has the meaning assigned by section 13 of this Decree.

“the tribunal” means the tribunal referred to in section 12(1) of this Decree.

(2) For the avoidance of doubt it is declared that words importing the feminine gender shall, if the case so requires, include the masculine gender.

(3) Any application, approval, consent, direction, notice, report, representation or request authorised or required to be given or made by or under this Decree shall be in writing and may, without prejudice to any other prescribed mode, be served by post.

26.—(1) This Decree may be cited as the Midwives Decree 1966 and shall apply throughout the Federation.

(2) This Decree shall come into operation on such date or dates as the Federal Executive Council may by order published in the Federal Gazette appoint; and different dates may be appointed for different provisions.

(3) The Midwives Act is hereby repealed.

Citation,
extent,
commence-
ment and
repeal.

Cap. 118.

SCHEDULE

Section 12 (3)

SUPPLEMENTARY PROVISIONS RELATING TO THE DISCIPLINARY TRIBUNAL AND TO THE CONDUCT OF PRELIMINARY INVESTIGATIONS

The Tribunal

1. The quorum of the tribunal shall be four.

2.—(1) The Chief Justice of Nigeria shall make rules as to the selection of members of the tribunal for the purposes of any proceedings and as to the procedure to be followed and the rules of evidence to be observed in proceedings before the tribunal.

(2) The rules shall in particular provide—

(a) for securing that notice of the proceedings shall be given, at such time and in such manner as may be specified by the rules, to the person who is the subject of the proceedings;

(b) for determining who, in addition to the person aforesaid, shall be a party to the proceedings;

(c) for securing that any party to the proceedings shall, if she so requires, be entitled to be heard by the tribunal;

(d) for enabling any party to the proceedings to be represented by a legal practitioner;

(e) subject to the provisions of subsection (5) of section 14 of this Decree, as to the costs of proceedings before the tribunal;

(f) for giving effect by notice in the Gazette of any direction of the tribunal that the name of a person shall be struck off a register.

3. For the purposes of any proceedings before the tribunal, any member of the tribunal may administer oaths and any party to the proceedings may sue out of the registry of the Supreme Court writs of *subpoena ad testificandum* and *duces tecum*; but no person appearing before the tribunal shall be compelled—

(a) to make any statement before the tribunal tending to incriminate herself; or

(b) to produce any document under such a writ which she could not be compelled to produce at the trial of an action.

4.—(1) For the purpose of advising the tribunal on questions of law arising in proceedings before it, there shall in all such proceedings be an assessor to the tribunal who shall be appointed by the board on the nomination of the Chief Justice of Nigeria and he shall be a legal practitioner of not less than five years standing.

(2) The Chief Justice of Nigeria shall make rules as to the functions of assessors appointed under this paragraph, and in particular such rules shall contain provisions for securing--

(a) that where an assessor advises the tribunal on any question of law as to evidence, procedure or any other matters specified by the rules, he shall do so in the presence of every party or person representing a party to the proceedings who appears thereat or, if the advice is tendered while the tribunal is deliberating in private, that every such party or person as aforesaid shall be informed what advice the assessor has tendered ;

(b) that every such party or person as aforesaid shall be informed if in any case the tribunal does not accept the advice of the assessor on such a question as aforesaid.

(3) An assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument by which he is appointed.

5. A committee conducting a preliminary investigation, unless otherwise directed in writing by the board, may regulate its own procedure.

Miscellaneous

6.---(1) A person ceasing to be a member of a tribunal, shall be eligible for re-appointment as a member.

(2) No person who carried out a preliminary investigation as a supervising authority or member of a district committee, as the case may be, with respect to any case shall act as a member of the tribunal with respect to that case.

7. The tribunal may act notwithstanding any vacancy in its membership ; and the proceedings shall not be invalidated by any irregularity in the appointment of a member of that body, or (subject to sub-paragraph (2) of the immediately preceding paragraph) by reason of the fact that any person who was not entitled to do so took part in the proceedings of that body.

8. The tribunal may sit in two or more divisions.

9. Any document authorised or required by virtue of this Decree to be served on the tribunal shall be served on the registrar.

10. Any expenses of the tribunal, or of a supervising authority acting with or without a district committee and conducting a preliminary investigation, shall be defrayed by the board.

11. A person shall not, by reason only of his appointment as a legal assessor to the tribunal be treated as holding an office of emolument under the State.

DATED at Lagos this 31st day of December 1966.

LIEUTENANT-COLONEL Y. GOWON,
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

(This note is not part of the Decree but explains its purpose)

The profession of midwifery in Nigeria is being modernised and will be supervised and controlled in respect of training and practice by a board responsible to the Federal Military Government for the conduct of matters of general policy.

Membership of this board will be drawn from the profession at large with representatives from the Regional ministries of health, and divers associated specialised field and voluntary agencies.

Provision is also made for post-basic training and for the setting up of experimental schemes, all with the general object of enhancing the status of the profession and of the members thereof."

THE SUPPLEMENTARY APPROPRIATION (1964-65) DECREE 1966



Decree No. 80

[29th December 1966]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The total of the amounts mentioned in section 1 of the Appropriation Act 1964, section 1 of the Supplementary Appropriation (1964-65) Act 1964 and section 1 of the Supplementary Appropriation (1964-65) Act 1965 (which together provide for the issue out of the Consolidated Revenue Fund in respect of the year which ended on 31st March 1965 of sums not exceeding in aggregate £64,066,050) shall be increased by three hundred and ninety-five thousand, six hundred and eighty-five pounds; and the additional amount shall be appropriated to heads of expenditure as indicated in the Schedule of this Decree.

Issue and
appropriation
of
£395,685
from
Consolidated
Revenue
Fund for
the service
of 1964-65.
1964 Nos.
23 and 27.
1965 No. 2.

(2) The function of issuing warrants for the purposes of any appropriation Act, supplementary appropriation Act, appropriation Decree or supplementary appropriation Decree shall be deemed to have been delegated to the Permanent Secretary, Federal Ministry of Finance—

(a) in the case of any such Act, with effect from 17th January 1966; and

(b) in the case of any such Decree, whenever made, with effect from the commencement thereof.

2. This Decree may be cited as the Supplementary Appropriation (1964-65) Decree 1966 and shall apply throughout Nigeria.

Citation
and extent.

Section 1
Head

SCHEDULE

	Amount
	£
23 Police	163,330
25 Ministry of Communications	16,103
28 Nigerian Navy	5,605
45 Ministry of Health	21,051
48 Prisons	94,380
65 Non-Statutory Appropriations of Revenue	95,216
TOTAL	£395,685

DATED at Lagos this 29th day of December 1966.

LIEUTENANT-COLONEL Y. GOWON,
Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria

THE POST OFFICE (AMENDMENT) DECREE 1966



Decree No. 81

[29th December 1966]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. In section 27 (1) of the Post Office Act, after the words "fictitious postage stamp," there shall be added the following words—

"or bearing any postage stamp the surface of which is smeared or coated with mucilage or any other substance,".

Amendment
of s. 27(1) of
the Post
Office Act.
Cap: 156.

2. This Decree may be cited as the Post Office (Amendment) Decree 1966 and shall apply throughout Nigeria.

Citation and
extent.

DATED at Lagos this 29th day of December 1966.

LIEUTENANT-COLONEL Y. GOWON,
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*

THE POOL BETTING TAX (INCREASE OF RATE) DECREE 1966



Decree No. 82

[29th December 1966 ; but see s. 1(2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The rate at which tax is to be levied under the Pool Betting Tax Act 1962 on moneys placed as stakes as mentioned in section 1 (1) of that Act is hereby fixed at twenty per cent.

(2) Subsection (1) above shall be deemed to have come into force on 1st April 1966 ; and accordingly the rate of tax fixed thereby shall apply as regards all moneys which were on or after that date placed as stakes as aforesaid.

(3) In section 1 (2) of the Pool Betting Tax Act 1962, the words from “and until” to the end of the subsection (which are rendered unnecessary by the foregoing provisions of this section) are hereby repealed.

(4) The foregoing provisions of this section are without prejudice to the power to fix the rate of tax from time to time which is conferred by section 1 (2) of the said Act of 1962.

2. This Decree may be cited as the Pool Betting Tax (Increase of Rate) Decree 1966 and shall apply to the Federal territory and Northern Nigeria only.

Alteration
of rate of
Pool Betting
Tax.
1962 No. III.

Citation and
extent.

DATED at Lagos this 29th day of December 1966.

LIEUTENANT-COLONEL Y. GOWON,
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*

THE NIGERIAN COUNCIL FOR SCIENTIFIC AND INDUSTRIAL RESEARCH DECREE 1966



ARRANGEMENT OF SECTIONS

Section

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. The Nigerian Council for Scientific and Industrial Research. 2. Functions of the Council. 3. Membership of the Council. 4. Composition of membership of the Council. 5. Appointment to be on part-time basis only. 6. Terms of appointment, allowances, etc. 7. Tenure of office. 8. Resignation of member of the Council. 9. Removal of a member of the Council. 10. Temporary appointments. 11. Proceedings of the Council, etc. 12. Technical Committees. | <ol style="list-style-type: none"> 13. Secretary and other officers of the Council. 14. Application of Pensions Act to employment in the service of the Council. 15. Scholarships and grants for research. 16. Researches, etc., undertaken by Council on behalf of others. 17. Subscriptions from industrial firms, etc. 18. Power to accept gifts. 19. Establishment and operation of fund by Council. 20. The seal of the Council. 21. Offices and premises. 22. Annual report. 23. Regulations. 24. Citation, extent, commencement and interpretation. |
|--|--|

Decree No. 83

[See section 24(2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees
as follows :—

1.—(1) There shall be a body to be known as the Nigerian Council for Scientific and Industrial Research (in this Decree referred to as the Council) to exercise the functions assigned to the Council by this Decree.

The
Nigerian
Council for
Scientific
and
Industrial
Research.

(2) The Council shall be a body corporate with perpetual succession and a common seal which shall be kept in the custody of the secretary of the Council.

2.—(1) The functions of the Council shall be to—

Functions
of the
Council.

(a) encourage, support and co-ordinate scientific and industrial research of all kinds in Nigeria ;

(b) advise the government of the Federation and through it the various Regions on national policy relating to the application of science and technology and to the development of the national economy ;

(c) encourage and co-ordinate the survey and appraisal of the natural resources of the nation and develop such resources through applied research designed to promote the development of the national economy.

(d) encourage the study of all sciences and technology.

(2) The Council shall be specifically charged with the responsibility for—

(a) advising the Government of the Federation and through it the various Regions on, and co-ordinating, the research programme of the research institutes, research departments and the universities in Nigeria and relating such research activities to national development planning priorities ;

(b) assessing the financial requirements of the research institutes and research departments of the Government of the Federation and of the Regions and of appropriate research activities carried on in the universities in Nigeria ;

(c) advising the Government of the Federation and through it the various Regions on the allocation of all external aid for research and maintaining a close liaison with international organisations, other Government and private foundations interested in the promotion and financing of research activities in Nigeria ;

(d) preparing and maintaining a register of the research projects relevant to Nigerian problems, completed or being carried on, in and outside Nigeria ;

(e) sponsoring scientific education and post-graduate training in research ;

(f) publishing or encouraging or promoting publications on the results of scientific research on Nigerian problems ;

(g) commissioning studies of and investigations into scientific problems relevant to the development of Nigeria ;

(h) recommending the establishment of new research institutes in areas not covered by existing institutes and taking over existing national research institutes at such times as may be decided by the Government of the Federation and the Regions ; and

(i) carrying on such other activities as will further the cause of scientific and industrial research and the application of science and technology to the problems of Nigeria.

Membership
of the
Council.

3.—(1) The Council shall consist of not more than twenty-four members of whom one shall be the chairman and the others shall be ordinary members.

(2) All the members of the Council shall be appointed by the appropriate authority subject to and in accordance with the provisions of this Decree.

(3) The appropriate authority shall appoint the chairman of the Council and the person so appointed shall be a person of eminence in the field of science or technology.

Composition
of member-
ship of the
Council.

4.—(1) The membership of the Council shall be composed as follows :—

(a) five members nominated by institutions of higher learning representing different scientific disciplines ;

(b) three representatives of institutes or departments of research ;

(c) five members nominated by professional and scientific societies ;

(d) four representatives of the four Regions ;

(e) the permanent secretaries of—

(i) Federal Ministry of Industry ;

(ii) Federal Ministry of Agriculture and Natural Resources, and

(iii) Federal Ministry of Economic Development ;

(f) the Economic Adviser to the Federal Military Government ;

(g) three other persons appearing to the appropriate authority to be suitable on account of their qualifications for and their practical experience in the exercise of functions of the kind assigned to the Council by this Decree.

(2) Each member of the Council who in accordance with subsection (1) of this section is to be nominated by, or to be a representative of any of the bodies referred to in the said subsection shall be appointed by the appropriate authority.

(3) The members of the first Council shall be appointed as soon as conveniently may be after the date of commencement of this Decree.

(4) A member of the Council who has ceased to be a member shall be eligible for reappointment.

5. All members of the Council shall be appointed to serve on a part-time basis only.

Appointment to be on part-time basis only.

6.—(1) Subject to the provisions of this Decree, every member of the Council shall hold office on such terms as the appropriate authority may determine.

Terms of appointment, allowances, etc.

(2) There shall be paid to every member of the Council, out of moneys at the disposal of the Council, such travelling and subsistence allowances in respect of any periods of time spent on the business of the Council as the appropriate authority may determine and, subject to the provisions of section 12 (4), no other remuneration shall be paid to any member of the Council.

7. A member of the Council, unless he previously resigns or is removed from office, shall hold office for a period of three years from the date of appointment.

Tenure of office.

8.—(1) A member of the Council may resign his membership by a letter addressed to the appropriate authority tendering his resignation.

Resignation of member of the Council.

(2) The resignation of a member shall have effect as from the date of the receipt by the appropriate authority of the letter of resignation.

9.—(1) The appropriate authority may on the advice of the Council by a notification in writing addressed to any member of the Council remove such member from his office for reasons stated in the notification.

Removal of a member of the Council.

(2) The removal of any member of the Council from his office under this section shall take effect as from the date on which such member receives the notification of his removal by the appropriate authority or any later date specified by the appropriate authority in such notification.

10.—(1) The appropriate authority may appoint a person to act in the place of the chairman during a long absence or during the temporary incapacity from illness of the chairman.

Temporary appointments.

(2) A person appointed to be a chairman in accordance with this section shall, while the appointment subsists, be deemed for all purposes of this Decree to be the chairman.

(3) The appropriate authority may appoint any person to be a temporary member of the Council during a long absence or during the temporary incapacity from illness of any member of the Council.

(4) A person appointed to be a temporary member of the Council may, while the appointment subsists, exercise and perform all the functions of a member of the Council under this Decree.

(5) The appropriate authority may at any time, by notice in writing terminate any appointment made under this section.

11.—(1) Subject to the provisions of section 26 of the Interpretation Act 1964 (which provides for decisions of a statutory body to be taken by a majority of its members and for the chairman to have a second or casting vote), the Council may make standing orders regulating the proceedings of the Council or any committee thereof.

Proceedings of the Council, etc.
1964 No. 1.

(2) The quorum of the Council shall be twelve and the quorum of any committee of the Council shall be determined by the Council.

(3) The validity of any proceedings of the Council or of any committee thereof shall not be affected—

(a) by any vacancy in the membership of the Council or of any such committee, or

(b) by any defect in the appointment of any such member, or

(c) by reason of the fact that a person not entitled to do so took part in the proceedings.

(4) Any member of the Council or of any committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council or any committee thereof shall forthwith declare his interest to the Council and shall not vote on any question relating to the contract or arrangement.

Technical
Committees.

12.—(1) The Council may from time to time appoint such technical committees as it thinks fit in respect of the various branches of scientific research with which the Council is concerned to consider and report to it.

(2) A committee appointed under this section may include persons who are not members of the Council.

(3) The Council may appoint any member of a committee appointed under this section to be the chairman thereof.

(4) The members of any such committee shall be paid out of moneys at the disposal of the Council—

(a) such remuneration in respect of their services as the Council, with the consent of the appropriate authority, may determine, and

(b) such sums in respect of travelling and subsistence allowances as the Council may determine.

(5) The Council may at any time terminate the membership of all or any of the members of any such committee.

Secretary
and other
officers of
the Council.

13.—(1) The Council shall, with the approval of the appropriate authority, appoint a secretary to manage the affairs of the Council under its direction.

(2) The Council shall appoint such and so many persons to be officers and servants of the Council as the Council may determine to assist the secretary in the exercise of his functions.

(3) The remuneration, tenure of office and conditions of service of the secretary and the other officers and servants of the Council shall be determined by the Council with the approval of the appropriate authority.

Application
of Pensions
Act to
employment
in the service
of the
Council.
Cap. 147.

14.—(1) The appropriate authority may by order declare that the office of the secretary of the Council or of any person employed by the Council shall be a pensionable office for the purposes of the Pensions Act.

(2) Subject to subsections (3) and (4) below, the Pensions Act shall, in its application by virtue of the foregoing subsection to any office, have effect as if the office were an office in the public service of the Federation within the meaning of the Constitution of the Federation.

1963 No. 20.

(3) For the purposes of the application of the provisions of the Pensions Act in accordance with subsection (2) above—

(a) paragraph (1) of section 7 of that Act (which, as modified by the Constitution (Suspension and Modification) Decree 1966, confers on the Federal Executive Council power to waive the requirement to give notice of desire to retire at the age of forty-five) shall have effect as if for the references to the Minister there were substituted references to the Council; and

(b) the power under section 9 (1) of that Act to require an officer to retire at any time after attaining the age of forty-five, subject to his being given six months notice in writing, shall be exercisable by the Council and not by any other authority.

(4) Nothing in the foregoing provisions of this section shall prevent the appointment of a person to any office on terms which preclude the grant of a pension or gratuity in respect of service in that office.

15.—(1) The Council may, provide scholarships and other awards for the training of persons in scientific and industrial research.

Scholarships and grants for research.

(2) The Council may, with the approval of the appropriate authority, render such assistance, financial or otherwise, as it thinks proper to persons or institutions undertaking scientific or industrial research in Nigeria.

16. The Council may charge, receive and recover fees for researches, tests, investigations and analyses undertaken by the Council on behalf of any person.

Researches, etc., undertaken by Council on behalf of others.

17. The Council may accept subscriptions of money from industrial or other concerns or bodies in return for the use by such concerns or bodies of such services and facilities of the Council or any committee thereof as the Council may determine.

Subscriptions from industrial firms, etc.

18.—(1) The Council may accept gifts of money, land or other property, upon such trusts and conditions, if any, as may be specified by the person making the gift.

Power to accept gifts.

(2) The Council shall not accept any gift if the conditions attached by the person making the gift to the acceptance thereof are inconsistent with the functions of the Council.

19.—(1) The Council shall establish and maintain a fund from which shall be defrayed all the expenses of the Council.

Establishment and operation of fund by Council.

(2) There shall be paid or credited to the fund—

(a) such sums out of moneys provided by the Government of the Federation or as that Government may from time to time determine;

(b) such sums of money as may be provided by the various Regions or the appropriate agencies thereof;

(c) subject to the provisions of section 17 of this Decree, gifts of money made to the Council;

(d) moneys borrowed by the Council with the approval of the appropriate authority; and

(e) all other assets from time to time accruing to the Council.

(3) The fund shall be managed in accordance with rules made by the appropriate authority; and without prejudice to the generality of the power to make rules conferred by this subsection, the rules shall in particular contain provision—

(a) specifying the manner in which the assets of the fund are to be held and regulating the making of payments to and from the fund;

(b) requiring the keeping of proper accounts and records for the purposes of the fund in such form as may be specified by the rules;

(c) securing that the accounts are audited periodically by an auditor appointed by the appropriate authority aforesaid;

(d) requiring copies of the accounts and of the auditor's report on them to be furnished to the appropriate authority as soon as may be after the end of the period to which the accounts relate; and

(e) requiring the appropriate authority to forward to the Government of the Federation copies of all accounts and reports received in pursuance of the last foregoing paragraph and to send copies thereof to the various Regions.

The seal
of the
Council.

20. (1) The fixing of the seal of the Council shall be authenticated by the signature of the chairman of the Council, or by that of the secretary if authorised in that behalf by the Council.

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

(3) The seal of the Council shall be judicially noticed and any document purporting to be a document duly executed under the seal shall be received in evidence and, unless the contrary is proved, be deemed to have been so executed.

Offices and
premises.

21. (1) For the purpose of providing offices and premises necessary for the performance of its functions, the Council may—

(a) purchase or take on lease any land, and

(b) build, equip and maintain offices and premises.

(2) The Council may sell or lease any land, offices or premises held by it and no longer required for the performance of its functions.

Annual
report.

22. The Council shall furnish to the appropriate authority as soon as may be after the end of each year a report on the activities of the Council during that year, and the appropriate authority shall—

(a) forward to the Government of the Federation a copy of each report received by him in pursuance of this section; and

(b) forward a copy of each report to each Region.

23.—(1) The Council may make regulations generally for its purposes under this Decree ; and, without prejudice to the generality of the foregoing, regulations may provide for—

Regulations.

(a) the functions and responsibilities of the secretary, and

(b) the disciplinary control of all officers and servants of the Council.

(2) Regulations made under the foregoing subsection of this section shall not have effect until they are approved by the appropriate authority and have thereafter been published in the Federal Gazette.

24.—(1) This Decree may be cited as the Nigerian Council for Scientific and Industrial Research Decree 1966, and shall apply throughout the Federation.

Citation,
extent,
commence-
ment and
interpreta-
tion.

(2) This Decree shall come into force on such date as the appropriate authority may by order published in the Federal Gazette appoint.

(3) In this Decree, "the appropriate authority" in relation to a power or function conferred by or under this Decree, means the Federal Executive Council or such other authority or public officer upon whom such power or function, or as the case may be the responsibility for such matter, is vested or delegated according to law.

DATED at Lagos this 29th day of December 1966.

LIEUTENANT-COLONEL Y. GOWON,
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note is not part of the above Decree, but is intended
to explain its purpose)*

The purpose of this Decree is to establish a Council which will co-ordinate and encourage scientific activities, including scientific research at all levels. The Council will be the highest national body on scientific policy and for the purpose of contacts with foreign organisations, including Foundations interested in research. The Decree makes provision for the exercise of advisory and, later, executive functions by the Council. The Council will keep a register of all scientific organisations and agencies in the country, all of which are expected to support the Council and carry out its advice.

THE CRIMINAL JUSTICE (MISCELLANEOUS PROVISIONS) DECREE 1966



ARRANGEMENT OF SECTIONS

Section

1. Amendment of Criminal Code as regards official corruption.
2. Amendment of Criminal Code as regards obtaining property or credit by fraud.
3. Amendment of Criminal Code as regards things capable of being stolen.
4. Amendment of Criminal Code as regards killing on provocation.
5. Amendment of provisions relating to persons under 17.
6. Amendments consequential on Post Office (Miscellaneous Provisions) Decree 1966.

7. Miscellaneous amendments of criminal procedure.
8. Interpretation.
9. Citation, extent and saving.

SCHEDULES :

Schedule 1—Amendments of Criminal Code in its application to Lagos.

Schedule 2—Amendments consequential on Post Office (Miscellaneous Provisions) Decree 1966.

Schedule 3—Amendments of Criminal Procedure Act in its application to Lagos.

Decree No. 84

[31st December 1966 ; but see s. 6 (3)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) For section 98 of the Criminal Code in its application to Lagos there shall be substituted the new sections set out in Part I of Schedule 1 of this Decree ; and sections 100 and 114 to 116 of that Code (which are superseded by the said new sections) are hereby repealed.

Amendment
of Criminal
Code as
regards
official
corruption.
Cap. 42.

(2) In section 19 of the Criminal Code in its application to Lagos, for the figures "98, 99, 100, 112, 114, 115, 116" there shall be substituted the figures "98, 98A, 98B, 99, 112."

(3) In section 96 of the Nigerian Railway Corporation Act, for the words "sections 98, 99, 100 and 404 of the Criminal Code" there shall be substituted the words "sections 98, 98A, 98B, 99 and 404 of the Criminal Code and any corresponding provisions in force in any part of Nigeria".

Cap. 139.

(4) In section 114 of the Ports Act, for the words "sections 98, 99 and 100 of the Criminal Code" there shall be substituted the words "sections 98, 98A, 98B and 99 of the Criminal Code and any corresponding provisions in force in any part of Nigeria".

Cap. 155.

2. The Criminal Code in its application to Lagos, shall be amended by inserting after section 419 the new sections set out in Part II of Schedule 1 of this Decree.

Amendment
of Criminal
Code as
regards
obtaining
property or
credit by
fraud.

3. In section 382 of the Criminal Code in its application to Lagos, between the paragraph beginning "Every tame animal" and the preceding paragraph there shall be inserted the following new paragraph—

"A thing in action is capable of being stolen".

Amendment
of Criminal
Code as
regards
things
capable of
being stolen.

4. In section 318 of the Criminal Code in its application to Lagos (which relates to killing on provocation), after the word "by" there shall be inserted the words "grave and".

Amendment
of Criminal
Code as
regards
killing on
provoca-
tion.

5.—(1) In the enactments mentioned in subsection (2) below, for the words "has not attained the age of seventeen years" there shall be substituted the words "had not attained the age of seventeen years at the time the offence was committed".

Amendment
of provisions
relating to
persons
under 17.

(2) The said enactments are the following—

Cap. 43.

(a) sections 368 (3) and 420 of the Criminal Procedure Act in its application to Lagos ;

Cap. 42.

(b) sections 39 (1) and 319 (2) of the Criminal Code in its application to Lagos ;

Cap. 32.

(c) section 12 of the Children and Young Persons Act.

Amend-
ments
conse-
quential on
Post Office
(Miscel-
laneous
Provisions)
Decree
1966.
N.N. Cap. 89.
1960 No. 25.

6.—(1) The Criminal Code in its application to any part of Nigeria shall have effect subject to the amendments specified in Part I of Schedule 2 of this Decree.

(2) The Penal Code contained in the Schedule of the Penal Code Law of Northern Nigeria, as supplemented by the Penal Code (Northern Region) Federal Provisions Act 1960, shall have effect subject to the amendments specified in Part II of Schedule 2 of this Decree.

(3) This section shall be deemed to have come into force on 4th April 1966.

Miscella-
neous
amendments
of criminal
procedure.
Cap 43.

7. The Criminal Procedure Act in its application to Lagos shall have effect subject to the amendments specified in Schedule 3 of this Decree.

Interpreta-
tion.
Cap. 42.

8.—(1) In this Decree "the Criminal Code" means the Criminal Code contained in the Schedule of the Criminal Code Act.

1964 No. 1.

(2) Without prejudice to section 4 (1) of the Interpretation Act 1964, references in this Decree to any enactment are references to that enactment as amended by or under any other law.

Citation,
extent and
saving.

9.—(1) This Decree may be cited as the Criminal Justice (Miscellaneous Provisions) Decree 1966.

(2) The following provisions of this Decree, namely section 1 (3) and (4), section 6, this section and Schedule 2, shall apply throughout Nigeria ; and the other provisions of this Decree shall apply to Lagos only.

(3) Nothing in this Decree shall be construed as enabling any person to be held guilty of a criminal offence on account of any act or omission which took place before the commencement of this Decree and which did not, at the time when it took place, constitute a criminal offence.

SCHEDULES

SCHEDULE 1

Section 1.

AMENDMENTS OF CRIMINAL CODE (CAP. 42)
IN ITS APPLICATION TO LAGOS

PART I

NEW SECTIONS RELATING TO OFFICIAL CORRUPTION

98.—(1) Any public official (as defined in section 98D) who—

(a) corruptly asks for, receives or obtains any property or benefit of any kind for himself or any other person; or

(b) corruptly agrees or attempts to receive or obtain any property or benefit of any kind for himself or any other person,

on account of—

(i) anything already done or omitted, or any favour or disfavour already shown to any person, by himself in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a government department, public body or other organisation or institution in which he is serving as a public official, or

(ii) anything to be afterwards done or omitted, or any favour or disfavour to be afterwards shown to any person, by himself in the discharge of his official duties or in relation to any such matter as aforesaid,

is guilty of the felony of official corruption and is liable to imprisonment for seven years.

(2) If in any proceedings for an offence under this section it is proved that any property or benefit of any kind, or any promise thereof, was received by a public official, or by some other person at the instance of a public official, from a person—

(i) holding, or seeking to obtain, a contract, licence or permit from a government department, public body or other organisation or institution in which that public official is serving as such; or

(ii) concerned, or likely to be concerned, in any proceeding or business transacted, pending or likely to be transacted before or by that public official or a government department, public body or other organisation or institution in which that public official is serving as such,

or by or from any person acting on behalf of or related to such a person, the property, benefit or promise shall, unless the contrary is proved, be deemed to have been received corruptly on account of such a past or future act, omission, favour or disfavour as is mentioned in subsection (1) (i) or (ii).

(3) In any proceedings for an offence under this section to which subsection (1) (ii) is relevant it shall not be a defence to show that the accused—

(a) did not subsequently do, make or show the act, omission, favour or disfavour in question; or

(b) never intended to do, make or show it.

(4) Without prejudice to subsection (3), where a police officer or other public official whose official duties include the prosecution, detention or punishment of offenders is charged with an offence under this section in connection with—

(a) the arrest, detention or prosecution of any person for an alleged offence; or

(b) an omission to arrest, detain or prosecute any person for an alleged offence; or

Official
corruption :
public
official
inviting
bribes etc.
on account
of own
actions.

SCH. 1

Official
corruption :
person giving
bribes etc.,
on account
of actions
of public
official.

(c) the investigation of an alleged offence,
it shall not be necessary to prove that the accused believed that the offence
mentioned in paragraph (a), (b) or (c), or any other offence, had been com-
mitted.

98A. (1) Any person who —

(a) corruptly gives, confers or procures any property or benefit of any
kind to, on or for a public official (as defined in section 98D) or to, on or
for any other person ; or

(b) corruptly promises or offers to give or confer or to procure or attempt
to procure any property or benefit of any kind to, on or for a public official
or to, on or for any other person,

on account of any such act, omission, favour or disfavour on the part of the
public official as is mentioned in section 98 (1) (i) or (ii), is guilty of the
felony of official corruption and is liable to imprisonment for seven years.

(2) If in any proceedings for an offence under this section it is proved
that any property or benefit of any kind, or any promise thereof, was given
to a public official, or to some other person at the instance of a public official,
by a person—

(i) holding, or seeking to obtain, a contract, licence or permit from a
government department, public body or other organisation or institution
in which that public official is serving as such ; or

(ii) concerned, or likely to be concerned, in any proceeding or business
transacted, pending or likely to be transacted before or by that public
official or a government department, public body or other organisation or
institution in which that public official is serving as such,

or by or from any person acting on behalf of or related to such a person, the
property, benefit or promise shall unless the contrary is proved be deemed to
have been given corruptly on account of such a past or future act, omission,
favour or disfavour as is mentioned in section 98 (1) (i) or (ii).

Official
corruption :
person in-
viting bribes
etc. on
account of
actions of
public
official.

98B. (1) Any person who —

(a) corruptly asks for, receives or obtains any property or benefit of
any kind for himself or any other person ; or

(b) corruptly agrees or attempts to receive or obtain any property or
benefit of any kind for himself or any other person,

on account of—

(i) anything already done or omitted, or any favour or disfavour already
shown to any person, by a public official (as defined in section 98D) in the
discharge of his official duties or in relation to any matter connected with
the functions, affairs or business of a government department, public body
or other organisation or institution in which the public official is serving
as such ; or

(ii) anything to be afterwards done or omitted, or any favour or disfavour
to be afterwards shown to any person, by a public official in the discharge
of his official duties or in relation to any such matter as aforesaid,
is guilty of the felony of official corruption and is liable to imprisonment for
seven years.

(2) In any proceedings for an offence under this section it shall not be necessary to prove—

(a) that any public official counselled the commission of the offence ; or
(b) that in the course of committing the offence the accused mentioned any particular public official ; or

(c) that (in a case to which subsection (1) (ii) is relevant) the accused believed that any public official would do, make or show the act, omission, favour or disfavour in question ; or

(d) that the accused intended to give the property or benefit in question, or any part thereof, to a public official.

98c. (1) A judicial officer cannot be arrested without warrant for an offence under section 98, 98A or 98B.

(2) No proceedings for an offence under section 98, 98A or 98B shall be instituted against a judicial officer except on a complaint or information signed by or on behalf of the Attorney-General of the Federation or by or on behalf of the Attorney-General of the Region in which the offence is alleged to have been committed.

(3) In this section "judicial officer" means, in addition to the officers mentioned in the definition of that expression contained in section 1 (1)—

(a) a member of a native or customary court ;

(b) a member of a juvenile court ;

(c) an arbitrator, umpire or referee ;

(d) a person called upon to serve as an assessor in any civil or criminal proceedings ;

(e) a member of a jury ;

(f) a member of a tribunal of inquiry constituted under the Tribunal of Inquiry Decree 1966 ; and

(g) any person before whom, under any law in force in Nigeria or any part thereof, there may be held proceedings in which evidence may be taken on oath.

98D. In sections 98 to 98C "public official" means any person employed in the public service (within the meaning of that expression as defined in section 1 (1)) or any judicial officer within the meaning of section 98c.

PART II

NEW SECTIONS RELATING TO OBTAINING PROPERTY BY FALSE PRETENCES, ETC.

419A.—(1) Any person who by any false pretence or by means of any other fraud obtains credit for himself or any other person—

(a) in incurring any debt or liability ; or

(b) by means of an entry in a debtor and creditor account between the person giving and the person receiving credit,
is guilty of a felony and is liable to imprisonment for three years.

(2) The offender cannot be arrested without warrant unless found committing the offence.

419B. Where in any proceedings for an offence under section 419 or 419A it is proved that the accused—

(a) obtained or induced the delivery of anything capable of being stolen ;
or

SCH. 1.

Restrictions on arrest and prosecution of judicial officers for offences under ss. 98 to 98B.

1966 No. 41.

Meaning of "public official" in sections 98 to 98B.

Obtaining credit by false pretences or other fraud.

Presumption as to false pretences in certain circumstances.

SCH. 1.

(b) obtained credit for himself or any other person, by means of a cheque that, when presented for payment within a reasonable time, was dishonoured on the ground that no funds or insufficient funds were standing to the credit of the drawer of the cheque in the bank on which the cheque was drawn, the thing or its delivery shall be deemed to have been obtained or induced, or the credit shall be deemed to have been obtained, by a false pretence unless the court is satisfied by evidence that when the accused issued the cheque he had reasonable grounds for believing, and did in fact believe, that it would be honoured if presented for payment within a reasonable time after its issue by him.

Section 6.

SCHEDULE 2

AMENDMENTS CONSEQUENTIAL ON
POST OFFICE (MISCELLANEOUS PROVISIONS)
DECREE 1966

PART I

AMENDMENTS OF CRIMINAL CODE (CAP. 42)
IN ITS APPLICATION TO ANY PART OF NIGERIA

Section 1 (1)

For the definition of "Director of Posts and Telegraphs" there shall be substituted the following definitions—

"the Department of Posts and Telecommunications" means the Department of that name forming part of the Ministry of Communications ;

"the Director-General of Posts and Telecommunications" has the same meaning as in the Post Office (Miscellaneous Provisions) Decree 1966 ;

In the definitions of "mail", "packet boat" and "telegraph official", for the words "Posts and Telegraphs Department", wherever they occur, there shall be substituted the words "Department of Posts and Telecommunications".

In the definition of "officer of the Posts and Telegraph Department", for the words from the beginning to "directors" there shall be substituted the words "officer of the Department of Posts and Telecommunications" includes the director of posts, the Director of Telecommunications".

For the two definitions of "persons employed by or under the Posts and Telegraphs Department" there shall be substituted the following single definition—

"person employed by or under the Department of Posts and Telecommunications" includes an officer of the said Department and a telegraph official ;

So much of the definition of "Posts and Telegraphs Department" (including those words) as precedes the words "A thing is deemed" shall be omitted.

In the definitions of "post office" and "telegraph office", for the words "by authority of the Director of Posts and Telegraphs" there shall be substituted the words "in pursuance of the Post Office Act or, as the case may be, of the Telegraphs Act".

Sections 58 (9) and 481 (1)

For the words "Posts and Telegraphs Department" there shall be substituted the words "Department of Posts and Telecommunications".

Chapter XVII

In the heading, for the word "Telegraphs" there shall be substituted the word "Telecommunications".

In sections 163, 165, 167, 168, 173, 176, 182 and 188, for the words "Posts and Telegraphs Department" there shall be substituted the words "Department of Posts and Telecommunications".

In sections 173, 176, 177, 178, 179, 180 and 189, for the words "Director of Posts and Telegraphs" there shall be substituted the words "Director-General of Posts and Telecommunications".

SCH. 2.

PART II

AMENDMENTS OF THE PENAL CODE OF NORTHERN
NIGERIA, AS SUPPLEMENTED BY THE PENAL CODE
(NORTHERN REGION) FEDERAL PROVISIONS
ACT 1960 (No. 25)

Chapter XXXIV

In the heading, for the word "Telegraphs" there shall be substituted the word "Telecommunications".

In section 453, for the words "Posts and Telegraphs Department" there shall be substituted the words "Department of Posts and Telecommunications".

In sections 453, 464 and 465, for the words "Director of Posts and Telegraphs" there shall be substituted the words "Director-General of Posts and Telecommunications".

SCHEDULE 3

Section 7.

AMENDMENTS OF CRIMINAL PROCEDURE ACT
(CAP. 43) IN ITS APPLICATION TO LAGOS

New section to follow section 171

After section 171 there shall be inserted the following section—

'On charge of an offence, conviction as accessory after the fact to that or connected offence may follow. 171A. Where a person is charged with an offence and the evidence establishes that he became an accessory after the fact to that offence or to some other offence of which a person charged with the first-mentioned offence may be convicted by virtue of any of sections 169, 170 and 172 to 179, he may be convicted as an accessory after the fact to that offence or that other offence, as the case may be, and be punished accordingly.'

Section 173

For section 173 there shall be substituted the following section—

'Conviction of kindred offences relating to property. 173. Where a person is charged with any of the following offences, that is to say—

(a) stealing any property, contrary to section 390 of the Criminal Code;

(b) obtaining or inducing the delivery of any property by a false pretence, and with intent to defraud, contrary to section 419 of the Criminal Code;

(c) obtaining or inducing the delivery or payment of any property or money by means of a fraudulent trick or device, contrary to section 421 of the Criminal Code;

(d) receiving any property obtained by means of an act constituting a felony or misdemeanour, contrary to section 427 of the Criminal Code,

and the evidence establishes the commission by him with respect to the same property of any other of those offences, he may be convicted of that other offence although he was not charged therewith.'

SCH. 3.

Section 174

Subsections (2) and (3) shall be omitted.

Section 178

For subsection (2) there shall be substituted the following subsection—
 ‘(2) Nothing in subsection (1) shall prevent a woman who is tried for the murder of her newly born child from—

(a) being convicted of manslaughter; or

(b) being found guilty of concealment of birth in pursuance of section 177; or

(c) being acquitted upon the ground that by virtue of section 28 or 29 of the Criminal Code she was not criminally responsible, and being dealt with under section 230.’

Section 181

For section 181 there shall be substituted the following section—

‘Person convicted or acquitted not to be tried again for same or kindred offence.

181.—(1) Without prejudice to section 171, a person charged with an offence (in this section referred to as “the offence charged”) shall not be liable to be tried therefor if it is shown—

(a) that he has previously been convicted or acquitted of the same offence by a competent court or;

(b) that he has previously been convicted or acquitted by a competent court on a charge on which he might have been convicted of the offence charged; or

(c) that he has previously been convicted or acquitted by a competent court of an offence other than the offence charged, being an offence of which, apart from this section, he might be convicted by virtue of being charged with the offence charged.

(2) Nothing in subsection (1) above shall prejudice the operation of any law giving power to any court, on an appeal, to set aside a verdict or finding of any other court and order a re-trial.’

Section 185

The whole section shall be omitted.

Section 221

In subsection (1), for paragraph (a) there shall be substituted the following paragraph—

‘(a) that by virtue of section 181 he is not liable to be tried for the offence with which he is charged; or’.

After subsection (3), there shall be added the following subsection—

‘(4) Nothing in this section shall prevent a person from pleading that by virtue of some other provision of law he is not liable to be prosecuted or tried for any offence with which he is charged.’

Section 228

For the words from “and that he was” onwards there shall be substituted the words “but is further satisfied from that evidence—

(a) that by virtue of section 28 of the Criminal Code (which relates to insanity) the accused was not criminally responsible for that act; or

(b) that the case falls under section 29 (2) of the Criminal Code (which relates to intoxication as a defence) by virtue of paragraph (b) thereof (which relates to insanity resulting from intoxication), the magistrate shall proceed with the case and, if the accused ought otherwise to be committed to the High Court, shall send him for trial." Sch. 3.

Section 229

For section 229 there shall be substituted the following section—

'Acquittal on ground of insanity (including insanity resulting from intoxi- cation).	229. Whenever any person is acquitted by virtue of the said section 28 or 29 (2) (b) of the Criminal Code the verdict of the court before which the trial has been held or, in the case of a trial with a jury, of the jury shall state specifically whether he committed the act alleged or not.
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Section 243A (as amended by L.N. 112 of 1964).

For the words "that court" there shall be substituted the words "the court before which the question arose".

Section 263 (5)

Subsection (5) of section 263 shall become a separate section and shall apply to the whole of Part XXX, and accordingly—

(a) for the words "(5) In this section" there shall be substituted the words "263A. In this Part of this Act"; and

(b) at the end of the marginal note there shall be added the words "in Part XXX".

Section 327

The whole section shall be omitted.

Section 339

The words from "save" onwards shall be omitted.

Section 353

After the figure "353" there shall be inserted the symbol "(1)", and at the end of the resulting subsection (1) there shall be added the following subsection—

(2) After the plea of the accused to the information or any count thereof has been recorded, it shall no longer be open to the accused to raise with respect to his case any objection relating to the validity of any of the following matters, that is to say—

(a) the preliminary inquiry;

(b) the committal for trial;

(c) any direction or consent given in the case by a judge in pursuance of section 340 (2) (b);

(d) any order made in the case under Part XXXI for the prosecution of the accused for perjury.

Schedule 2

Paragraph 1 shall be omitted.

DATED at Lagos this 31st day of December 1966.

LIEUTENANT-COLONEL Y. GOWON,
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*

THE CUSTOMS AND EXCISE MANAGEMENT ACT
(AMENDMENT) (No. 2) DECREE 1966

A 371



Decree No. 85

[31st December 1966]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. For section 161 (2) of the Customs and Excise Management Act 1958 (which relates to jurisdiction in respect of offences under the customs or excise laws) there shall be substituted the following subsection—

Amendment
of s. 161 of
Customs and
Excise
Manage-
ment
Act 1958.
1958
No. 55.

“(2) Notwithstanding anything in any enactment, every magistrate in any part of Nigeria shall have jurisdiction for the summary trial of any offence under the customs or excise laws, and may impose any fine or term of imprisonment provided by the customs or excise laws for that offence.”

2. This Decree may be cited as the Customs and Excise Management Act (Amendment) (No. 2) Decree 1966 and shall apply throughout Nigeria.

Citation and
extent.

DATED at Lagos this 31st day of December 1966.

LIEUTENANT-COLONEL Y. GOWON,
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This Note is not part of the above Decree, but is
intended to explain its purposes)*

Section 1 of this Decree re-enacts section 161 (2) of the Customs and Excise Management Act 1958 in a form (similar to section 20 (6) of the Dangerous Drugs Act, for which see Act No. 4 of 1965) which fits the new section 4 (3) of the Criminal Procedure (Northern Region) Act 1960, for which see the Criminal Procedure (Northern Region) Decree 1966 (No. 86).

THE CRIMINAL PROCEDURE (NORTHERN REGION) DECREE 1966



Decree No. 86

[31st December 1966]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) For section 4 (3) of the Criminal Procedure (Northern Region) Act 1960 (which relates to the jurisdiction of courts in Northern Nigeria as regards offences against Federal Acts other than the Penal Code (Northern Region) Federal Provisions Act 1960) there shall be substituted the following subsections—

Amendment
of s. 4 of
Criminal
Procedure
(Northern
Region) Act
1960.

“(3) An offence which is contrary to the provisions of a Federal Act other than the Penal Code (Northern Region) Federal Provisions Act 1960 may be tried by any court on which jurisdiction in that behalf is conferred by any Federal Act (whether that jurisdiction is conferred on the court in question expressly or by reference to a class of courts in which that court is comprised) or by any court with greater powers; and if the jurisdiction exercisable by any court or magistrate is increased in relation to any such offence by any Federal Act, the increased jurisdiction may be exercised by that court or magistrate notwithstanding anything contained in the Criminal Procedure Code Law of Northern Nigeria.

1960 Nos. 20
and 25.

N.N.
Cap. 30.

(4) Where, in the case of any such offence as is mentioned in subsection (3) of this section, no provision is made in any Federal Act as to which court or class of courts has jurisdiction to try it, the offence may, as regards the Northern Region, be tried by the High Court or any court constituted under the Criminal Procedure Code Law of Northern Nigeria, subject to the limitations imposed by section 13 (2) proviso and sections 15 to 25 of that Law.”

(2) Section 12 of the Constitution (Suspension and Modification) Decree 1966 and section 8 of the Constitution (Suspension and Modification) (No. 9) Decree 1966 (both of which provide for the modification of existing law) shall apply to the subsections substituted by the foregoing subsection in like manner as if those subsections had been in force immediately before 16th January 1966.

1966 Nos.
1 and 59.

Caption and
extent

2. This Decree may be cited as the Criminal Procedure (Northern Region) Decree 1966 and shall apply throughout Nigeria.

Dated at Lagos this 31st day of December 1966.

LIEUTENANT-COLONEL Y. GOWON,
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This Note is not part of the above Decree, but is
intended to explain its purposes)*

Section 1 of this Decree amends section 4 of the Criminal Procedure (Northern Region) Act 1960 so as to make it clear that, where a Federal Act or Decree gives jurisdiction to any court for the trial or punishment of an offence against a Federal enactment, that jurisdiction can be exercised in Northern Nigeria notwithstanding anything in the Criminal Procedure Code Law of Northern Nigeria. This will mean, in particular, that magistrates there will have power to try all offences against the customs or excise laws, and to impose the full punishments provided for such offences.

THE EXTRADITION DECREE 1966



ARRANGEMENT OF SECTIONS

Section

Application of Decree

1. Power to apply Decree by order.
2. Application of Decree to Commonwealth countries.

Restrictions on surrender of fugitives

3. Restrictions on surrender of fugitives.

Surrender of fugitives

4. Liability of fugitives to surrender.
5. Request for surrender, and powers of Attorney-General thereon.
6. Power of magistrate to issue warrant on receipt of order under s. 5.
7. Power of magistrate to issue provisional warrant.
8. Hearing of case by magistrate and committal or discharge of prisoner.
9. Surrender of fugitive in due course after committal.
10. Discharge of fugitive if not removed from Nigeria within limited time.
11. Seizure and surrender of property.
12. General power of Attorney-General to order release of fugitive.

Fugitive surrendered to Nigeria not triable for previous crimes

13. Fugitive surrendered to Nigeria not triable for previous crimes.

Transit of surrendered fugitives through Nigeria

14. Transit of surrendered fugitives through Nigeria.

Evidence

15. Duly authenticated documents to be received in evidence.
16. Taking of evidence in Nigeria for use abroad.

General

17. Forms.
18. What constitutes an extradition offence.
19. Interpretation.
20. Saving for proceedings begun before commencement of Decree.
21. Citation, commencement and repeals.

SCHEDULES—

Schedule 1. Countries in respect of which orders under s.1 are in force.

Schedule 2. Extradition offences.

Schedule 3. Forms for use for purposes of this Decree.

Schedule 4. Repeals.

Decree No. 87

[See s. 21 (2)]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Application of Decree

1.—(1) Where a treaty or other agreement (in this Decree referred to as an extradition agreement) has been made by Nigeria with any other country for the surrender by each country to the other of persons wanted for prosecution or punishment, the Federal Executive Council may by order published in the Federal Gazette apply this Decree to that country.

Power to
apply Decree
by order.

(2) An order under the foregoing subsection shall recite or embody the terms of the extradition agreement, and may apply this Decree to the country in question subject to such conditions, exceptions and qualifications as may be specified in the order.

(3) While an order under subsection (1) above is in force in respect of any country, this Decree shall apply to that country subject to the provisions of the order and to the terms of the extradition agreement as recited or embodied therein.

(4) The power to vary an order made under subsection (1) above shall include power, where the terms of the relevant extradition agreement have been varied, to amend so much of the order as recites or embodies those terms; and if an extradition agreement to which such an order relates is determined or otherwise ceases to have effect, the Federal Executive Council shall forthwith revoke the order.

(5) Every order made under subsection (1) above which applies this Decree to any country shall include a provision inserting in Schedule 1 of this Decree an entry consisting of the name of that country and the year and number of the Legal Notice containing the order; and where any such order is varied or revoked, the varying or revoking order shall include a provision amplifying or deleting the relevant entry in that Schedule, as the case may require.

(6) An order under this section applying this Decree to a country with which an extradition agreement is in force on the date on which this Decree is made may be made at any time after that date, but shall not come into force before the commencement of this Decree.

2.—(1) Subject to the provisions of this section, this Decree shall apply to every separate country within the Commonwealth.

Application
of Decree to
Common-
wealth
countries.

(2) For the purposes of this Decree each of the following areas shall be treated as constituting a separate country within the Commonwealth, that is to say—

(a) each sovereign and independent country within the Commonwealth together with such (if any) of that country's dependent territories as the Federal Executive Council may by order published in the Federal Gazette designate as forming part of that country for the purposes of this Decree; and

(b) each country within the Commonwealth which, not being sovereign and independent, is not a territory for the time being designated under paragraph (a) above as forming part of some other country for the purposes of this Decree.

(3) An order under subsection (2) (a) above designating a dependent territory as forming part of a sovereign and independent country shall be made if, but only if, that country has signified to the Government of the Federation that it desires that territory to be so designated for the purposes of this Decree.

(4) If it appears to the Federal Executive Council that the law of a country to which this Decree applies by virtue of subsection (1) above no longer contains provisions substantially equivalent to the provisions of this Decree, as it applies to countries within the Commonwealth, the Council may by order published in the Federal Gazette direct that this Decree shall apply in relation to that country with such modifications (whether by way of addition, alteration or omission) as may be specified in the order; and where an order under this subsection is in force with respect to any country, this Decree shall have effect in relation to that country with the modifications specified in the order.

(5) In the case of a country to which this Decree applies by virtue of subsection (1) above, that fact shall not prevent an order from being made under section 1 (1) of this Decree in respect of that country if an extradition agreement is made with that country, and on the coming into force of an order under section 1 (1) of this Decree in respect of such a country, this section shall cease to apply to that country and any order made under subsection (4) above in respect of that country shall cease to have effect.

Restrictions on surrender of fugitives

Restrictions
on surrender
of fugitives.

3.—(1) A fugitive criminal shall not be surrendered if the Attorney-General or a court dealing with the case is satisfied that the offence in respect of which his surrender is sought is an offence of a political character.

(2) A fugitive criminal shall not be surrendered if it appears to the Attorney-General or a court dealing with the case—

(a) that the request for his surrender, although purporting to be made in respect of an extradition crime, was in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions or was otherwise not made in good faith or in the interests of justice; or

(b) that, if surrendered, he is likely to be prejudiced at his trial, or to be punished, detained or restricted in his personal liberty, by reason of his race, religion, nationality or political opinions.

(3) A fugitive criminal shall not be surrendered if the Attorney-General or a court dealing with the case is satisfied that, by reason of—

(a) the trivial nature of the offence for which his surrender is sought; or

(b) the passage of time since the commission of the offence, it would, having regard to all the circumstances in which the offence was committed, be unjust or oppressive, or be too severe a punishment, to surrender the offender.

(4) A fugitive criminal shall not be surrendered if the Attorney-General or a court dealing with the case is satisfied that, whether in Nigeria or elsewhere, he—

(a) has been convicted of the offence for which his surrender is sought; or

(b) has been acquitted thereof,
and that, in a case falling within paragraph (a) above, he is not unlawfully at large.

(5) A fugitive criminal shall not be surrendered if criminal proceedings are pending against him in Nigeria for the offence for which his surrender is sought.

(6) A fugitive criminal—

(a) who has been charged with an offence under the law of Nigeria or any part thereof, not being the offence for which his surrender is sought; or

(b) who is serving a sentence imposed in respect of any such offence by a court in Nigeria,

shall not be surrendered until such time as he has been discharged, whether by acquittal or on the expiration of his sentence or otherwise.

(7) A fugitive criminal shall not be surrendered to any country unless the Attorney-General is satisfied that provision is made by the law of that country, or that special arrangements have been made, such that, so long as the fugitive has not had a reasonable opportunity of returning to Nigeria, he will not be detained or tried in that country for any offence committed before his surrender other than any extradition offence which may be proved by the facts on which his surrender is granted.

(8) A fugitive criminal shall not be surrendered until the expiration of the period of fifteen days beginning with the day on which he is committed to prison to await his surrender.

(9) In this section "a court dealing with the case", in relation to a fugitive criminal, means any magistrate dealing with the fugitive's case in pursuance of section 8 of this Decree or any court before which the fugitive is brought on or by virtue of an application made by him or on his behalf for a writ of habeas corpus.

Surrender of fugitives

4. Every fugitive criminal of a country to which this Decree applies shall, subject to the provisions of this Decree, be liable to be arrested and surrendered in the manner provided by this Decree, whether the offence in respect of which his surrender is sought was committed before or after the commencement of this Decree or the application of this Decree to that country, and whether or not there is concurrent jurisdiction in any court in Nigeria over that offence.

Liability of
fugitives to
surrender.

5.—(1) A request for the surrender of a fugitive criminal of any country shall be made in writing to the Attorney-General by a diplomatic representative or consular officer of that country and shall be accompanied by a duly authenticated warrant of arrest or certificate of conviction issued in that country.

Request for
surrender,
and powers
of Attorney-
General
thereon.

(2) Where such a request is made to him, the Attorney-General may by an order under his hand signify to a magistrate that such a request has been made and require the magistrate to deal with the case in accordance with the provisions of this Decree, but shall not make such an order if he decides on the basis of information then available to him that the surrender of the fugitive criminal is precluded by any of subsections (1) to (7) of section 3 of this Decree.

(3) Except in so far as an extradition agreement in force between Nigeria and the requesting country otherwise provides, the Attorney-General may refuse to make an order under this section in respect of any fugitive criminal who is a citizen of Nigeria.

(4) If the surrender of the same fugitive criminal is requested in accordance with this section by more than one country, whether for the same offence or different offences, the Attorney-General shall determine which request is to be accorded priority, and accordingly may refuse the other request or requests; and in determining which request is to be accorded priority the Attorney-General shall have regard to all the circumstances of the case, and in particular—

- (a) the relative seriousness of the offences, if different;
- (b) the relative dates on which the requests were made; and
- (c) the nationality of the fugitive and the place where he is ordinarily resident.

Power of
magistrate
to issue
warrant
on receipt
of order
under s.5.

6.—(1) A warrant for the arrest of a fugitive criminal, whether accused of or unlawfully at large after conviction of an extradition offence, may be issued by a magistrate on receipt of an order of the Attorney-General under section 5 of this Decree relating to the fugitive, if such evidence is produced as would in the opinion of the magistrate justify the issue of the warrant if the offence in question had been committed in Nigeria or the fugitive had been convicted of it in Nigeria.

(2) A warrant issued under this section may be executed anywhere in Nigeria.

(3) A fugitive criminal arrested on a warrant issued under this section shall be brought before a magistrate as soon as is practicable after he is so arrested.

Power of
magistrate
to issue
provisional
warrant.

7.—(1) A provisional warrant for the arrest of a fugitive criminal, whether accused of or unlawfully at large after conviction of an extradition offence, may be issued by a magistrate without any order of the Attorney-General under section 5 of this Decree, if such information and evidence is produced as would in the opinion of the magistrate justify the issue of a warrant for the arrest of the fugitive if the offence in question had been committed in the district or division in which he has jurisdiction or the fugitive had been convicted of the offence there.

(2) A provisional warrant may be issued under this section in respect of a person who is, or is suspected of being, on his way to Nigeria, in any case where such a warrant could be issued if he were, or were suspected to be, in Nigeria; and references in this section to a fugitive criminal shall be construed accordingly.

(3) A magistrate issuing a provisional warrant under this section shall forthwith send to the Attorney-General a report of the fact, together with the information and evidence on which he acted or certified copies thereof, and on receipt of the report the Attorney-General may, if he thinks fit, order the warrant to be cancelled and the fugitive criminal, if already arrested, to be released.

(4) A provisional warrant issued under this section may be executed anywhere in Nigeria.

(5) A fugitive criminal arrested on a provisional warrant issued under this section shall be brought before a magistrate as soon as is practicable after he is so arrested, and the magistrate—

(a) shall remand him, either in custody or on bail, pending receipt from the Attorney-General of an order under section 5 of this Decree signifying that a request for his surrender has been received or an order under subsection (3) above for the cancellation of the warrant and the release of the fugitive; and

(b) shall forthwith inform the Attorney-General of the fact that the fugitive has been arrested and remanded as aforesaid;

and for the purposes of paragraph (a) above the magistrate shall have the same powers of remand as if the fugitive were brought before him charged with an offence committed within his jurisdiction.

(6) Without prejudice to section 12 of this Decree, if within the period of thirty days beginning with the day on which he was arrested no such order as is mentioned in subsection (5)(a) above is received from the Attorney-General, the fugitive criminal shall be released at the end of that period.

(7) The release of any person under subsection (3) or (6) above shall not prejudice his subsequent arrest and surrender if a request for his surrender is afterwards made.

8.—(1) When a fugitive criminal is brought before a magistrate on a warrant under section 6 of this Decree, or when, in the case of a fugitive criminal brought before a magistrate on a provisional warrant under section 7 of this Decree and remanded in pursuance of subsection (5) of the said section 7, an order of the Attorney-General under section 5 of this Decree relating to that fugitive is received, the magistrate shall proceed with the case in the same manner, as near as may be, and shall have the same jurisdiction and powers, as if the fugitive were brought before him charged with an offence committed within his jurisdiction.

Hearing of
case by
magistrate
and commit-
tal or dis-
charge of
prisoner.

(2) The magistrate shall receive any evidence which may be tendered to show that the offence of which the fugitive criminal is accused or alleged to have been convicted is not an extradition offence or that the surrender of the fugitive is for some other reason precluded by this Decree or by the extradition agreement (if any) in force between Nigeria and the country seeking his surrender.

(3) In the case of a fugitive criminal accused of an offence claimed to be an extradition offence, if there is produced to the magistrate a warrant issued outside Nigeria authorising the arrest of the fugitive, and the magistrate is satisfied—

(a) that the warrant was issued in a country to which this Decree applies, is duly authenticated, and relates to the prisoner;

(b) that the offence of which the fugitive is accused is an extradition offence in relation to that country;

(c) that the evidence produced would, according to the law of Nigeria, justify the committal of the prisoner for trial if the offence of which he is accused had been committed in Nigeria; and

(d) that the surrender of the fugitive is not precluded by this Decree (and in particular by any of subsections (1) to (6) of section 3 thereof) and, where the country requesting the surrender of the

fugitive is one to which this Decree applies by virtue of an order under section 1 of this Decree, is also not prohibited by the terms of the extradition agreement as recited or embodied in the order, the magistrate shall, subject to subsection (5) below, commit the fugitive to prison to await the order of the Attorney-General for his surrender.

(4) In the case of a fugitive criminal alleged to be unlawfully at large after conviction of an offence claimed to be an extradition offence, if there is produced to the magistrate a certificate of the fugitive's conviction of that offence, and the magistrate is satisfied—

(a) that the certificate of conviction records a conviction in a country to which this Decree applies, is duly authenticated and relates to the prisoner ;

(b) that the offence of which the fugitive is stated to have been convicted is an extradition offence in relation to that country ; and

(c) that the surrender of the fugitive is not precluded by this Decree (and in particular by any of subsections (1) to (6) of section 3 thereof) and, where the country requesting the surrender of the fugitive is one to which this Decree applies by virtue of an order under section 1 of this Decree, is also not prohibited by the terms of the extradition agreement as recited or embodied in the order,

the magistrate shall, subject to subsection (5) below, commit the fugitive to prison to await the order of the Attorney-General for his surrender.

(5) If, on committing a fugitive criminal to prison under subsection (3) or (4) above, the magistrate is of the opinion that it would be dangerous to the life or prejudicial to the health of the fugitive to remove him to prison, he may order him to be detained in custody in any place named in the order instead of in prison, and while so detained the fugitive shall be deemed to be in legal custody.

(6) On committing a fugitive criminal to prison under this section the magistrate—

(a) shall inform the fugitive that he will not be surrendered until after the expiration of fifteen days beginning with the day on which he is so committed, and that he has a right to apply for a writ of habeas corpus ; and

(b) shall forthwith send to the Attorney-General a certificate of the committal and such report on the case as the magistrate thinks fit.

(7) Where the circumstances are not such as to require the magistrate to commit the prisoner to prison under the foregoing provisions of this section, the magistrate shall order the prisoner to be discharged.

9. —(1) A fugitive criminal committed to prison under section 8 of this Decree shall not be surrendered before the expiration of fifteen days beginning with the day on which he is so committed or, if a writ of habeas corpus has been issued, until the court has given its decision on the return to the writ, whichever is the later.

Surrender
of fugitive
in due
course after
committal.

(2) Subject to the foregoing subsection and, where a writ of habeas corpus has been issued, if the fugitive criminal is not discharged by the decision of the court on the return to the writ, the Attorney-General, unless it appears to him that the surrender of the fugitive is precluded by law, may by order direct the fugitive to be surrendered to any person authorised by the country requesting the surrender to receive him, and the criminal shall be surrendered accordingly.

(3) Any person to whom an order under subsection (2) above directs a fugitive criminal to be surrendered may receive, hold in custody and convey out of Nigeria the person surrendered to him in pursuance of the order, and if the person so surrendered escapes from any custody to which he has been delivered in pursuance of the order he shall be liable to be retaken in the same manner as any person who escapes from lawful custody.

10. If a fugitive criminal who has been committed to prison under section 8 of this Decree is not surrendered and conveyed out of Nigeria within two months beginning with the day on which he is so committed or, if a writ of habeas corpus has been issued, within two months beginning with the day on which the court gives its decision on the return to the writ, whichever is the later, the High Court of the territory in which he is may, on application made by or on behalf of the fugitive, and upon proof that reasonable notice of the intention to make the application has been given to the Attorney-General, order the fugitive to be discharged from custody.

Discharge of fugitive if not removed from Nigeria within limited time.

11.—(1) A police officer who on a warrant under section 6 of this Decree or a provisional warrant under section 7 of this Decree arrests a fugitive criminal accused of an extradition offence may seize and detain any property found in the possession of the fugitive at the time of the arrest which appears to him to be reasonably required as evidence for the purpose of proving that the fugitive committed the offence of which he is accused.

Seizure and surrender of property.

(2) Any property seized under the foregoing subsection shall, if an order for the surrender of the fugitive is made under section 9 (2) of this Decree, be handed over to such person as the Attorney-General may direct, being a person who in his opinion is duly authorised by the country obtaining the surrender to receive it.

(3) Nothing in this section shall prejudice any rights which any person may have in any property which falls to be handed over under this section; and where any such rights exist, the property shall not be handed over under this section except on condition that the country obtaining the surrender of the fugitive criminal in question shall return it as soon as may be after the trial of the fugitive.

12. If it appears to the Attorney-General at any time, in the case of any fugitive criminal who is on remand or awaiting his surrender under this Decree—

General power of Attorney-General to order release of fugitive.

(a) that his surrender is precluded by this Decree or by the extradition agreement (if any) in force between Nigeria and the country seeking his surrender; or

(b) that a request for his surrender is not forthcoming or, where such a request has been made, that it is not being proceeded with, the Attorney-General may order all proceedings for the surrender of that fugitive to the country in question to be discontinued and the fugitive, if in custody, to be released.

Fugitive
surrendered
to Nigeria
not triable
for previous
crimes.

Fugitive surrendered to Nigeria not triable for previous crimes

13. Where, in accordance with the law of any country within the Commonwealth or in pursuance of an extradition agreement between Nigeria and another country (whether within the Commonwealth or not), any person accused of or unlawfully at large after conviction of an offence committed within the jurisdiction of Nigeria is surrendered to Nigeria by the country in question, then, so long as he has not had a reasonable opportunity of returning to that country, that person shall not be detained (whether under this Decree or otherwise) or tried in Nigeria for any offence committed by him within the jurisdiction of Nigeria before his surrender to Nigeria other than—

(a) the offence for which he was surrendered or any lesser offence which may be proved by the facts on which his surrender was granted ; or

(b) any other offence (being one corresponding to an offence described in Schedule 2 of this Decree) of the same nature as the offence for which he was surrendered :

Provided that a person falling within this section shall not be detained or tried for an offence by virtue of paragraph (b) above without the prior consent of the country surrendering him.

Transit of surrendered fugitives through Nigeria

Transit of
surrendered
fugitives
through
Nigeria.

14.—(1) Transit through Nigeria of a person being or about to be conveyed from one country to another on his surrender pursuant to

(a) a treaty or other agreement in the nature of an extradition agreement, whether or not Nigeria is a party thereto ; or

(b) the law of any country within the Commonwealth relating to the surrender of persons wanted for prosecution or punishment, may, subject to the provisions of any relevant extradition agreement and to such conditions, if any, as the Attorney-General thinks fit, be granted by the Attorney-General upon a request to that effect made by the country to which he is being or is about to be conveyed.

(2) The Attorney-General on granting transit of any person under this section may make arrangements for his transit to be supervised by the Nigeria Police Force ; and where such arrangements have been made, the person in transit shall be treated as being in lawful custody so long as he is accompanied by a member of that Force, and if he escapes shall be liable to be retaken accordingly.

Evidence

Duly
authenti-
cated
documents
to be recei-
ved in
evidence.

15.—(1) In any proceedings under this Decree, any of the following documents, if duly authenticated, shall be received in evidence without further proof, namely—

(a) any warrant issued in a country other than Nigeria ;

(b) any deposition or statement on oath or affirmation taken in any such country, or a copy of any such deposition or statement ;

(c) any certificate of conviction issued in any such country.

(2) For the purposes of this Decree, any such document as is mentioned in the foregoing subsection shall be taken to be duly authenticated—

(a) if, apart from this section, it is authenticated in any manner for the time being provided by law ; or

(b) if it complies with the requirements of subsection (3) below and is authenticated by the oath or affirmation of some witness or by being sealed with the official seal of a minister of state of the country in which it was issued or taken.

(3) The requirements of this subsection are as follows—

(a) a warrant must purport to be signed by a judge, magistrate or officer of the country in which it was issued;

(b) a document such as is mentioned in subsection (1) (b) above must purport to be certified under the hand of a judge, magistrate or officer of the country in which it was taken to be the original or a copy, as the case may be, of the document in question;

(c) a certificate of conviction must purport to be certified by a judge, magistrate or officer of the country in which the conviction is stated to have taken place.

(4) For the purposes of this Decree judicial notice shall be taken of the official seals of ministers of state of countries other than Nigeria.

16. The testimony of any witness in Nigeria may be obtained in relation to any criminal matter pending in any court or tribunal in another country in like manner as it may be obtained in relation to any civil matter under any law for the time being in force in any part of Nigeria as regards the taking of evidence there in relation to civil or commercial matters pending before tribunals in other countries:

Taking of
evidence in
Nigeria for
use abroad.

Provided that this section shall not apply in the case of any criminal matter of a political character.

General

17.—(1) The forms set out in Schedule 3 of this Decree may, with such variations as the circumstances of the particular case may require, be used in the circumstances to which they relate, and when so used shall be good and sufficient in law.

Forms.

(2) The Attorney-General may by order published in the Federal Gazette amend the said Schedule 3.

18.—(1) In this Decree “extradition offence”, in relation to a country seeking the surrender of a fugitive criminal, means any act or omission which, if committed at the material time in any part of Nigeria—

What con-
stitutes an
extradition
offence.

(a) would, under the law then in force in that part, have constituted an offence corresponding to one of the offences described in Schedule 2 of this Decree, as that Schedule had effect (or would, if in force, have had effect) in relation to that country at the material time; and

(b) would, under that law, have been punishable by imprisonment for a term of twelve months or more, or by some greater penalty.

In this subsection “the material time”, in relation to any alleged or proved act or omission, means the time when the act or omission is alleged or proved to have been committed.

(2) For the purposes of this Decree an offence under the law of Nigeria or any part thereof may be taken to correspond with an offence described in Schedule 2 of this Decree whatever the name of the offence under that law and whether or not it is described in that law by reference to some special intent or any special circumstances of aggravation.

(3) The Attorney-General may by order published in the Federal Gazette amend the said Schedule 2 by inserting further offences, deleting any offence, or altering the description of any offence.

Interpretation.

19.—(1) In this Decree, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say

“the Attorney-General” means the Attorney-General of the Federation ;

“certificate of conviction” includes any judicial document stating the fact of conviction ;

“extradition agreement” has the meaning assigned by section 1 of this Decree ;

“fugitive criminal” or “fugitive” means (without prejudice to section 7 (2) of this Decree)—

(a) any person accused of an extradition offence committed within the jurisdiction of a country other than Nigeria ; or

(b) any person, who, having been convicted of an extradition offence in a country other than Nigeria, is unlawfully at large before the expiration of a sentence imposed on him for that offence,

being in either case a person who is, or is suspected of being, in Nigeria ;

“magistrate” means a chief magistrate, a senior magistrate or a magistrate grade I or grade II ;

“territory” means a Region or the Federal territory ;

“warrant” includes any judicial document authorising the arrest of a person accused or convicted of an offence.

(2) References in this Decree to a person being unlawfully at large include references to a person being at large in breach of a condition of a licence to be at large.

(3) For the purposes of this Decree—

(a) every colony, dependent territory and constituent part of any country to which this Decree applies by virtue of section 1 thereof ; and

(b) every vessel and aircraft of any country, whether within the Commonwealth or not,

shall be treated as being within the jurisdiction of, and as forming part of, that country.

20. Where, before the commencement of this Decree —

(a) a requisition for the surrender of any person has been made to any authority in Nigeria under the Extradition Acts 1870 to 1935 or the Fugitive Criminals Surrender Act ; or

(b) a warrant for the apprehension of any person has been endorsed in Nigeria under section 3 of the Fugitive Offenders Act 1881,

the Acts or Act in question shall, for the purposes of any proceedings arising out of that requisition or warrant, continue to apply as if this Decree had not been made, and the person in question shall be liable to be apprehended and surrendered accordingly.

21.—(1) This Decree may be cited as the Extradition Decree 1966.

(2) This Decree shall come into force on such date as the Attorney-General may by order published in the Federal Gazette appoint.

(3) The enactments mentioned in Schedule 4 of this Decree are hereby repealed.

Saving for proceedings begun before commencement of Decree. Cap. 73, 44 & 45 Vict. c. 69.

Citation, commencement and repeals.

Sections 13 and 18

SCHEDULE 2

EXTRADITION OFFENCES

- A.
1. Murder of any degree.
 2. Manslaughter.
 3. An offence against the law relating to abortion.
 4. Maliciously or wilfully wounding or inflicting grievous bodily harm.
 5. Assault occasioning actual bodily harm.
 6. Rape.
 7. Unlawful sexual intercourse with a female.
 8. Indecent assault.
 9. Procuring, or trafficking in, women or young persons for immoral purposes.
 10. Bigamy.
 11. Kidnapping, abduction or false imprisonment, or dealing in slaves.
 12. Stealing, abandoning, exposing or unlawfully detaining a child.
 13. Bribery.
 14. Perjury or subornation of perjury or conspiring to defeat the course of justice.
 15. Arson.
 16. An offence concerning counterfeit currency.
 17. An offence against the law relating to forgery.
 18. Stealing, embezzlement, fraudulent conversion, fraudulent false accounting, obtaining property or credit by false pretences, receiving stolen property, or any other offence in respect of property involving fraud.
 19. Burglary, housebreaking or any similar offence.
 20. Robbery.
 21. Blackmail or extortion by means of threats or by abuse of authority.
 22. An offence against bankruptcy law or company law.
 23. Malicious or wilful damage to property.
 24. Acts done with the intention of endangering vehicles, vessels or aircraft.
 25. An offence against the law relating to dangerous drugs or narcotics.
 26. Piracy.
 27. Revolt against the authority of the master of a ship or the commander of an aircraft.
 28. Contravention of import or export prohibitions relating to precious stones, gold and other precious metals.
- B. Aiding and abetting, or counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, any of the offences listed in paragraph A above.

Section 17

SCHEDULE 3

FORMS FOR USE FOR PURPOSES OF THIS DECREE

FORM I

Form of order of Attorney-General to a magistrate

(See s. 5(2))

To the Chief/Senior/Grade I/Grade II magistrate at.....

WHEREAS, in pursuance of the Extradition Decree 1966 a request has been made to me by a diplomatic representative/consular officer of..... for the surrender of..... accused of/ unlawfully at large after conviction of the offence of.....

within the jurisdiction of..... :

Now I,

Attorney-General of the Federation, by this order under my hand, signify to you that this request has been made, and require you to deal with the case in accordance with the provisions of the Extradition Decree 1966.

GIVEN under my hand this..... day of..... 19.....

.....
Attorney-General of the Federation

FORM II

Form of warrant of arrest for issue after receipt of order of Attorney-General

(See s. 6)

To each and all police officers.

WHEREAS the Attorney-General of the Federation has by order under his hand signified to me that a request had been made to him for the surrender of..... accused of/ unlawfully at large after conviction of the offence of.....

within the jurisdiction of..... :

You are therefore hereby commanded to arrest the said.....

..... wherever he may be found in Nigeria and bring him before me or some other magistrate, to show cause why he should not be surrendered in pursuance of the Extradition Decree 1966.

DATED this..... day of..... 19.....

.....
Magistrate

FORM III

Form of provisional warrant of arrest

(See s.7)

To each and all police officers.

WHEREAS it has been shown to me that..... is accused of/ unlawfully at large after conviction of the offence of..... within the jurisdiction of..... :

You are therefore hereby commanded to arrest the said
 wherever he may be found in
 Nigeria and bring him before me or some other magistrate, to be further
 dealt with in accordance with the provisions of the Extradition Decree
 1966.

DATED this day of 19.....

.....
Magistrate

FORM IV

Form of warrant of committal

(See s. 8)

To , a police officer,
 and to the superintendent of prison.

.....
 having been brought before me this day of
 19..... to show cause why he should not be
 surrendered in pursuance of the Extradition Decree 1966 on the ground
 of his being accused of /unlawfully at large after conviction of the offence
 of within the
 jurisdiction of , and no sufficient
 cause having been shown to me why he should not be surrendered in
 pursuance of the said Decree :

You the said police officer are hereby commanded to convey the
 said safely to the
 said prison and there deliver him to the superintendent thereof, together
 with this warrant ; and you, the superintendent of the said prison, are
 hereby commanded to receive the said
 into your custody, and to keep him there until
 he is delivered thence pursuant to the provisions of the said Decree.

DATED this day of 19.....

.....
Magistrate

FORM V

Form of order by Attorney-General for surrender of fugitive criminal (See s. 9)

To the Superintendent of Prison
 and to , a police officer.

WHEREAS being
 accused of /unlawfully at large after conviction of the offence of
 within the jurisdiction of
 was delivered into the custody of you, the superintendent
 of prison, by warrant dated
 19..... pursuant to the
 Extradition Decree 1966 :

Now in pursuance of the said Decree I hereby order you the said
 superintendent to deliver the said
 into the custody of the said , a police

officer ; and I hereby order you, the said police officer to receive the saidinto your custody, and to convey him to and there place him in the custody of any person or persons authorised by to receive him.

DATED this day of 19

Attorney-General of the Federation

Section 21

SCHEDULE 4

REPEALS

United Kingdom Acts and Orders in Council

<i>Chapter or number</i>	<i>Short Title</i>
33 & 34 Vict. c. 52	The Extradition Act 1870.
36 & 37 Vict. c. 60	The Extradition Act 1873.
44 & 45 Vict. c. 69	The Fugitive Offenders Act 1881.
58 & 59 Vict. c. 33	The Extradition Act 1895.
6 Edw. 7. c. 15	The Extradition Act 1906.
22 & 23 Geo. 5. c. 39	The Extradition Act 1932.
1918 No. 468 (1958 Laws Vol. XI, p. 265).	Order in Council dated 13th April 1918, directing that the Extradition Act 1917 shall have effect in the colony of Nigeria as if it were part of the Extradition Act 1870.
1924 No. 596 (1958 Laws Vol. XI, p. 308).	The West African (Fugitive Offenders) Order in Council 1923.

Nigerian Acts

Cap. 65	The Extradition Act.
Cap. 73	The Fugitive Criminals Surrender Act.

DATED at Lagos this 31st day of December 1966.

LIEUTENANT-COLONEL Y. GOWON
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*

THE LIMITATION DECREE 1966



ARRANGEMENT OF SECTIONS

Section 1

PART I—PRELIMINARY AND GENERAL

1. Application to the State.
2. Acquiescence.
3. Set-off and counterclaim.
4. Saving for other limitation enactments.
5. Actions barred and pending at commencement of Decree.

PART II—PERIOD OF LIMITATION
FOR DIFFERENT CLASSES OF ACTION

6. Part II to be subject to provisions of Part III.
7. Actions barred after certain periods of six years.
8. Actions claiming damages for negligence etc. where damages claimed consist of or include personal-injuries.
9. Actions claiming damages for slander.
10. Actions barred after two years from date of accrual of cause.
11. Actions barred after certain periods of twelve years.
12. Exemption for claims for equitable relief.
13. Limitation of action in case of successive conversions.
14. Extinction of title to ownership of converted goods.
15. Limitation of actions to recover land.
16. Accrual of right of action on dispossession.
17. Accrual of right of action on death of owner in possession.
18. Right of action not to accrue unless there is adverse possession.
19. No right of action to be preserved by formal entry or adverse possession.
20. Extinction of title.
21. Actions to recover settled chattels.

22. Actions to recover arrears of a conventional rent, etc.
23. Actions to recover certain arrears of annuity.
24. Actions by encumbrancers claiming sale of land.
25. Extinction of title of mortgagee.
26. Extinction of title of mortgagor.
27. Limitation of redemption actions.
28. Actions to recover principal money secured by mortgage or charge.
29. Actions to recover arrears of interest on a mortgage or charge.
30. Extinction of right of mortgagee or chargee.
31. Actions against trustees.
32. Actions to recover the personal estate of deceased persons.

PART III—EXTENSION OF LIMITATION
PERIODS IN CASE OF DISABILITY,
ACKNOWLEDGEMENT, PART PAYMENT,
FRAUD AND MISTAKE

33. Interpretation of Part III.
34. Person under a disability.
35. Extension of limitation period in case of disability.
36. Meaning of acknowledgement.
37. Action to recover debt.
38. Action to recover claim to personal estate of deceased person.
39. Action to recover land.
40. Action by mortgagee to recover land.
41. Action by encumbrancer claiming sale of land.
42. Action to redeem mortgaged land in mortgagee's possession.
43. Action in respect of personal right in and over land.
44. Formal provisions as to acknowledgment.
45. Effect of acknowledgment on persons other than the maker or recipient.

46. Exemption from stamp duty.
47. Meaning of "payment".
48. Action to recover debt.
49. Action claiming personal estate of deceased.
50. Action by mortgagee to recover land.
51. Action by encumbrancer claiming sale of land.
52. Effect of payment on right of action to redeem certain mortgaged land.
53. Formal provisions as to payment.
54. Effect of payment on other persons.
55. Appropriation of payment in respect of debts.
56. Endorsement of payment by creditor not to be evidence of payment.
57. Postponement of limitation period in case of fraud.
58. Postponement of limitation period in case of mistake.

PART IV—APPLICATION OF THIS DECREE
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Decree No. 88

[31st December 1966]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

PART I—PRELIMINARY AND GENERAL

1.—(1) Save as in this Decree otherwise expressly provided and without prejudice to section 4, this Decree shall apply to proceedings by or against a State authority in like manner as if that State authority were a private individual.

Application
to the
State.

(2) This Decree shall not apply to—

(a) any proceedings for the recovery of any sum due—

(i) in respect of a tax which is for the time being under the care and management of the Federal Board of Inland Revenue, or

(ii) in respect of a duty which is for the time being under the control and management of the Board of Customs and Excise, or interest thereon, or

(b) any proceedings for the recovery of any fine or penalty incurred in connection with any such tax or duty, or

(c) any forfeiture proceedings under the customs laws or the excise laws as defined in the Customs and Excise Management Act 1958, or

1958,
No. 55.

(d) any proceedings in respect of the forfeiture of a ship or of an interest in a ship under the Merchant Shipping Acts 1962 and 1963.

1962,
No. 30.
1963,
No. 11.

2. Nothing in this Decree shall affect any equitable jurisdiction to refuse relief on the ground of acquiescence or otherwise.

Acquie-
scence.

3. For the purposes of this Decree, any claim by way of set-off or counter-claim shall be deemed to be a separate action and to have been commenced on the same date as the action in which the set-off or counter-claim is pleaded.

Set-off and
counter-
claim.

Saving for
other
limitation
enactments.

Actions
barred and
pending at
commence-
ment of
Decree.

Part II to
be subject
to provi-
sions of
Part III.

Actions
barred after
certain
periods of
six years.

Cap. 13.

4. This Decree shall not apply to -

(a) an action for which a period of limitation is fixed by any other enactment, or

(b) an action to which a State authority is a party and for which, if that State authority were a private individual, a period of limitation would be fixed by any other enactment.

5. Nothing in this Decree shall

(a) enable any action to be brought which was barred before the commencement of this Decree by any enactment ceasing to apply by virtue of this Decree which was in force in the Republic immediately before such commencement except in so far as the cause of action or right of action may be revived by an acknowledgment or part payment made in accordance with Part III of this Decree, or

(b) affect any action commenced before the commencement of this Decree or the title to any property which is the subject of any such action.

PART II - PERIODS OF LIMITATION FOR DIFFERENT CLASSES OF ACTION

6. This Part of this Decree shall have effect subject to the provisions of Part III (which provide for the extension of the periods of limitation in the case of disability, acknowledgment, part payment, fraud and mistake) of this Decree.

Actions in contract and tort and certain other actions

7.—(1) The following actions shall not be brought after the expiration of six years from the date on which the cause of action accrued—

(a) actions founded on simple contract;

(b) actions founded on quasi-contract;

(c) actions to enforce a recognizance;

(d) actions to enforce an arbitration award, where the arbitration agreement is not under seal or where the arbitration is under any enactment other than the Arbitration Act;

(e) actions to recover any sum recoverable by virtue of any enactment other than—

(i) a penalty or forfeiture or sum by way of penalty or forfeiture,

(ii) a sum due to a registered company by any member thereof under its articles of association.

(iii) an amount recoverable against concurrent wrong doers under any civil liability enactment for the time being in force relating to concurrent wrong doers.

(2) Subsection (1) of this section shall apply to an action to recover a seaman's wages.

(3) Save as provided in subsection (2) of this section, this section shall not apply to any cause of action within the Admiralty jurisdiction which is enforceable in rem.

(4) Subject to the provisions of section 8 of this Decree, an action founded on tort shall not be brought after the expiration of six years from the date on which the cause of action accrued.

(5) An action for an account shall not be brought in respect of any matter which arose more than six years from the commencement of the action.

(6) No arrears of interest in respect of any debt shall be recovered after the expiration of six years from the date on which the interest became due.

8.—(1) This section applies to actions claiming damages for negligence, nuisance, or breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under an enactment or independently of any contract or of any such provision), where the damages claimed by the plaintiff for the negligence, nuisance, or breach of duty consist of or include damages in respect of personal injuries to any person.

Actions claiming damages for negligence etc. where damages claimed consist of or include personal injuries.

(2) Subject to the provisions of this section, no action to which this section applies shall be brought after the expiration of three years from the date on which the cause of action accrued.

(3) Subsection (2) of this section shall not afford any defence to an action to which this section applies in so far as the action relates to any cause of action in respect of which—

(a) the court has, whether before or after the commencement of the action granted leave for the purposes of this section, and

(b) the requirements of subsection (4) of this section are fulfilled.

(4) The requirements of this subsection are fulfilled in relation to a cause of action if it is proved that the material facts relating to that cause of action were at all times outside the knowledge (actual or constructive) of the plaintiff until a date which—

(a) either was after the end of the three-year period relating to that cause of action or was not earlier than twelve months before the end of that period, and

(b) in either case, was a date not earlier than twelve months before the date on which the action was brought.

(5) Nothing in this section shall be construed as excluding or otherwise affecting—

(a) any defence which, in any action to which this section applies, may be available by virtue of any enactment other than subsection (2) of this section (whether it is an enactment imposing a period of limitation or not), or by virtue of any rule of law or equity, or

(b) the operation of any enactment or rule of law or equity which, apart from this section, would enable such an action to be brought after the end of the period of three years from the date on which the cause of action accrued.

(6) Any application for the leave of the court for the purposes of subsection (3) of this section shall be made in accordance with rules of court and such rules may define the facts to be taken into consideration by the court in granting or refusing to grant the application.

(7) In this section "the court" in relation to an action means the court in which the action has been, or is intended to be, brought.

9. An action claiming damages for slander shall not be brought after the expiration of three years from the date on which the cause of action accrued.

Actions claiming damages for slander.

Actions
barred
after two
years from
date of
accrual of
cause.

10.—(1) An action to recover an amount recoverable against concurrent wrong doers under any civil liability enactment relating to concurrent wrong doers shall not be brought after the expiration of two years from the date on which the cause of action accrued.

(2) An action to recover a penalty or forfeiture, or a sum by way of penalty or forfeiture, recoverable by virtue of any enactment shall not be brought after the expiration of two years from the date on which the cause of action accrued.

(3) In subsection (2) of this section "penalty" does not include a fine to which a person is liable on conviction of a criminal offence.

Actions
barred
after
certain
periods of
twelve
years.

11.—(1) The following actions shall not be brought after the expiration of twelve years from the date on which the cause of action accrued—

(a) an action upon an instrument under seal, other than an action upon an instrument to recover—

(i) any principal sum of money secured by a mortgage or other charge, or

(ii) arrears of interest in respect of any sum of money secured by a mortgage or other charge, or

(iii) arrears of an annuity charged on movable property.

(b) an action to enforce an arbitration award where the arbitration agreement is under seal;

(c) an action to recover a sum due to a registered company by any member thereof under its articles of association.

(2) An action shall not be brought upon a judgment after the expiration of twelve years from the date on which the judgment became enforceable.

Exemption
for claims
for
equitable
relief.

12.—(1) Sections 7, 8 and 10 shall not apply to any claim for specific performance of a contract or for an injunction or other equitable relief.

(2) Subsection (1) of this section shall not be construed as preventing a court from applying by analogy any provision of sections 7, 8 and 10 in like manner as any corresponding enactment which ceases to have effect by virtue of this Decree has heretofore been applied.

Limitation
of action
in case of
successive
conversions.

13. Where—

(a) any cause of action in respect of the conversion or wrongful detention of a chattel has accrued to any person, and

(b) before he recovers possession of the chattel, a further conversion or wrongful detention takes place,

then, subject to section 21 (relating to actions to recover settled chattels) of this Decree, no action shall be brought in respect of the further conversion or wrongful detention after the expiration of six years from the accrual of the cause of action in respect of the original conversion or wrongful detention.

Extinction
of title to
ownership
of converted
goods.

14. Where—

(a) any cause of action in respect of the conversion or wrongful detention of a chattel has accrued to any person, and

(b) the period fixed for bringing that action or for bringing any action in respect of such a further conversion or unlawful detention as is mentioned in section 13 of this Decree has expired, and

(c) the person to whom the right of action accrued has not during that period recovered possession of the chattel, then, subject to section 21 of this Decree, the title of that person to the ownership of the chattel shall be extinguished.

Actions to recover land

15.—(1) Subject to the provisions of subsections (2) and (3) of this section, no action shall be brought by a State authority to recover any land after the expiration of twenty years from the date on which the right of action accrued to the State authority, or if it first accrued to some person through whom the State authority claims, to that person.

Limitation of actions to recover land.

(2) The following provisions shall apply to an action by a person to recover land—

(a) subject to paragraph (b) of this subsection, no such action shall be brought after the expiration of twelve years from the date on which the right of action accrued to the person bringing it or, if it first accrued to some person through whom he claims, to that person ;

(b) if the right of action first accrued to a State authority, the action may be brought at any time before the expiration of the period during which the action could have been brought by the State authority, or of twelve years from the date on which the right of action accrued to some person other than the State authority, whichever period first expires.

(3) For the purposes of this Decree, a right of action to recover any land which accrued to the Republic before the commencement of this Decree shall be deemed to have become exercisable by an appropriate State authority on the date on which it first accrued to the Republic.

16. Where the person bringing an action to recover land, or some person through whom he claims, has been in possession thereof and has while entitled thereto been dispossessed or has discontinued his possession, the right of action shall be deemed to have accrued on the date of the dispossession or discontinuance.

Accrual of right of action on dispossession.

17. Where—

(a) any person brings an action to recover any land of a deceased person, whether under a will or an intestacy, and

(b) the deceased person—

(i) was on the date of his death in possession of the land or, in the case of a rent-charge created by will or taking effect upon his death, in possession of the land charged, and

Accrual of right of action on death of owner in possession.

(ii) was the last person entitled to the land to be in possession thereof, the right of action shall be deemed to have accrued on the date of his death.

18. (1) No right of action to recover land shall be deemed to accrue unless the land is in the possession (in this section referred to as adverse possession) of some person in whose favour the period of limitation can run.

Right of action not to accrue unless there is adverse possession.

(2) Where—

(a) under the provisions of this Decree a right of action to recover land is deemed to accrue on a certain date, and

(b) no person is in adverse possession of the land on that date, the right of action shall not be deemed to accrue unless and until adverse possession is taken of the land.

(3) Where a right of action to recover land has accrued, and thereafter, before the right of action is barred, the land ceases to be in adverse possession, the right of action shall no longer be deemed to have accrued and no fresh right of action shall be deemed to accrue unless and until the land is again taken into adverse possession.

No right of action to be preserved by formal entry or adverse possession.

19. For the purposes of this Decree—

(a) no person shall be deemed to be in possession of any land by reason only of having made a formal entry thereon,

(b) no continual or other claim upon or near any land shall preserve any right of action to recover the land.

Extinction of title.

20. On the expiration of the period fixed by this Decree for any person to bring an action to recover land, the title of that person to the land shall be extinguished.

Actions to recover settled chattels.

Actions to recover settled chattels.

21.—(1) Where any chattels are held upon trust, including a trust for sale, and the period fixed by this Decree has expired for bringing an action to recover the chattels by the trustees, the title of the trustees shall not be extinguished if and so long as the right of action of any person beneficially entitled to the chattels either has not accrued or has not been barred by this Decree, but if and when such right of action has been so barred, the title of the trustees shall be extinguished.

(2) Where any chattels are held upon trust, including a trust for sale, an action to recover the chattels may be brought by the trustees on behalf of any person beneficially entitled in possession to the chattels or in the proceeds of sale whose right of action has not been barred by this Decree, notwithstanding that the right of action of the trustees would, apart from this provision, have been barred by this Decree.

(3) Where any chattels held upon trust, including a trust for sale, are in the possession of a person entitled to a beneficial interest in the chattels or in the proceeds of sale, not being a person solely and absolutely entitled thereto, no right of action to recover the chattels shall be deemed for the purposes of this Decree to accrue during such possession to any person in whom the chattels are vested as trustee or to any other person entitled to a beneficial interest in the chattels or the proceeds of sale.

Actions to recover arrears of conventional rents, rent charges, and annuities charged on movable property.

Actions to recover arrears of a conventional rent, etc.

22. No action shall be brought or distress made to recover arrears of a conventional rent or a rent-charge; or damages in respect thereof, after the expiration of six years from the date on which the arrears became due.

Actions to recover certain arrears of annuity.

23. No action shall be brought to recover arrears of an annuity charged on movable property, or damages in respect thereof, after the expiration of six years from the date on which the arrears became due.

Actions in respect of mortgages and charges.

Actions by encumbrancers claiming sale of land.

24.—(1) No action shall be brought by a State authority claiming the right to exercise its power of sale of land which is subject to a mortgage or charge after the expiration of thirty years from the date on which the right of action accrued to a State authority or, if it first accrued to some person through whom a State authority claims, to that person.

(2) The following provisions shall apply to an action by a person (other than a State authority) claiming the sale of land which is the subject of a mortgage or charge—

(a) subject to paragraph (b) of this subsection, no such action shall be brought after the expiration of twelve years from the date on which the right of action accrued to the person bringing it, or if it first accrued to some other person through whom he claims, to that person;

(b) if the right of action first accrued to a State authority, the action may be brought at any time before the expiration of the period during which the action could have been brought by a State authority, or of twelve years from the date on which the right of action accrued to some person other than a State authority, whichever period first expires.

25. At the expiration of the period fixed by this Decree for a mortgagee to bring an action claiming sale of the mortgaged land, the title of the mortgagee to the land shall be extinguished.

Extinction
of title of
mortgagee.

26. At the expiration of the period fixed by this Decree for a mortgagor to bring an action to redeem land subject to a mortgage, the title of the mortgagor to the land shall be extinguished.

Extinction
of title of
mortgagor.

27. Where a mortgagee of land has been in possession of any of the mortgaged land for a period of sixteen years, no action to redeem the land of which the mortgagee has been so in possession shall thereafter be brought by the mortgagor or any person claiming through him.

Limitation
of redemp-
tion
action.

28. —(1) Where any principal sum of money is secured by a mortgage or charge on land, or on movable property (other than a ship), no action shall be brought to recover such sum after the expiration of twelve years from the date when the right to recover the money accrued.

Actions to
recover
principal
money
secured by
mortgage
or charge.

(2) The right to recover any principal sum of money secured by a mortgage or other charge shall, for the purposes of this section, be deemed not to accrue so long as the property subject to the mortgage or charge comprises any future interest or any life insurance policy which has not matured or been determined.

29. —(1) No action shall be brought to recover arrears of interest payable in respect of any principal sum of money secured by a mortgage or charge on land, or on movable property (other than a ship), or to recover damages in respect of such arrears after the expiration of six years from the date on which the interest became due.

Actions to
recover
arrears of
interest on
a mortgage
or charge.

(2) Where—

(a) a prior mortgagee or other encumbrancer has been in possession of the property charged, and

(b) an action is brought within one year of the discontinuance of such possession by a subsequent encumbrancer,
he may recover by that action all the arrears of interest which fell due during the period of possession of the prior encumbrancer or damages in respect thereof, notwithstanding that the period exceeded six years.

(3) Where—

(a) the property subject to a mortgage or charge comprises any future interest or life insurance policy, and

(b) it is a term of the mortgage or charge that arrears of interest shall be treated as part of the principal sum secured by the mortgage or charge, interest shall not be deemed to become due before the right to receive the principal sum of money has accrued or is deemed to have accrued.

Extinction
of right of
mortgagee
or chargee.

30.—(1) At the expiration of the period fixed by this Decree for a mortgagee of land to bring an action to recover the land or for a person claiming as mortgagee or chargee to bring an action claiming sale of the land, the right of the mortgagee or such person to the principal sum and interest secured by the mortgage or charge shall be extinguished.

(2) At the expiration of the period fixed by this Decree for a mortgagee or chargee to bring an action to recover a principal sum of money and interest secured by a mortgage or charge on movable property (other than a ship), the right of the mortgagee or chargee to the principal sum and interest shall be extinguished.

Actions in respect of trust property

Actions
against
trustees.

31.—(1) Subject to subsection (4) of this section an action to recover money or other property or in respect of any breach of trust, not being an action for which a period of limitation is fixed by any other provision of this Decree, shall not be brought against a trustee or any person claiming through him after the expiration of six years from the date on which the right of action accrued.

(2) For the purposes of subsection (1) of this section, a right of action shall be deemed not to have accrued to a beneficiary entitled to a future interest in trust property until the interest falls into possession.

(3) No beneficiary, as against whom there would be a good defence by virtue of this section, shall derive any greater or other benefit for a judgment or order obtained by another beneficiary than he could have obtained if he brought the action and this Decree had been pleaded in defence.

(4) No period of limitation fixed by this Decree shall apply to an action against a trustee or any person claiming through him where—

(a) the claim is founded on any fraud or fraudulent breach of trust to which the trustee was party or privy, or

(b) the claim is to recover trust property or the proceeds thereof still retained by the trustee and converted to his own use.

Actions in respect of the personal estate of deceased persons

Actions to
recover the
personal
estate of
deceased
persons.

32.—(1) Subject to subsection (3) of this section, no action in respect of any claim to the personal estate of a deceased person or to any share or interest in such estate, whether under a will or on intestacy, shall be brought after the expiration of twelve years from the date when the right to receive the share or interest accrued.

(2) Subject to subsection (3) of this section, no action to recover arrears of interest in respect of any legacy or damages in respect of such arrears shall be brought after the expiration of six years from the date on which the interest became due.

(3) No period of limitation fixed by this Decree shall apply to an action against a personal representative or any person claiming through him where the claim is founded on any fraud to which the personal representative was party or privy.

PART III

EXTENSION OF LIMITATION PERIODS IN CASE OF DISABILITY, ACKNOWLEDGMENT, PART PAYMENT, FRAUD AND MISTAKE

33. In this Part of this Decree—

Interpretation of Part III.

(a) "debt" includes any liquidated pecuniary claim; "statute-barred debt" means a debt in respect of which the period fixed by this Decree for the bringing of an action to recover it has expired;

"successor" means—

(i) in relation to a mortgagee—his personal representatives and any other person on whom the rights under the mortgage devolve, whether on death or bankruptcy or the disposition of the property or the determination of a limited estate or interest in settled property or otherwise,

(ii) in relation to a person liable in respect of a debt—his personal representatives and any other person on whom the liability in respect of the debt devolves, whether on death or bankruptcy or the disposition of the property or the determination of a limited estate or interest in settled property or otherwise;

(b) references to a right of action shall include references to—

(i) a cause of action,

(ii) a right to receive money secured by a mortgage or charge on any property or to recover proceeds of the sale of land,

(iii) a right to receive a share or interest in the personal estate of a deceased person;

(c) references to the date of the accrual of a right of action shall—

(i) in the case of an action for an account—be construed as references to the date on which the matter arose in respect of which an account is claimed,

(ii) in the case of an action on a judgment—be construed as references to the date on which the judgment became enforceable,

(iii) in the case of an action to recover arrears of a rent charge or a conventional rent—be construed as references to the date on which the arrears became due;

(d) references to a person in possession of land—

(i) shall in the case of a rent charge be construed as references to a person who is in possession of the land charged but does not pay the rent charge, and

(ii) shall, in case of land (including a rent charge) held under a lease in writing reserving a yearly conventional rent of not less than twenty shillings, be construed as including references to a person who wrongfully claiming to be entitled to the land in reversion immediately expectant on the termination of the lease, is in receipt of the conventional rent;

(e) references to a debt—

(i) shall, in the case of a rent charge or a conventional rent be construed as references to a gale of the rent charge or of the conventional rent,

(ii) shall, in the case of interest, be construed as references to an instalment of the interest;

(f) references to a mortgagee who is by virtue of the mortgage in possession of any mortgaged land shall include references to a mortgagee who has obtained possession of the mortgaged land by virtue of an order of the court.

Disability

Person
under a
disability.

34.—(1) For the purposes of this Decree, a person shall be under a disability while he is an infant or of unsound mind.

(2) For the purposes of subsection (1) of this section but without prejudice to the generality thereof, a person shall be conclusively assumed to be of unsound mind while he is detained in pursuance of any enactment authorising the detention of persons of unsound mind or criminal lunatics.

Extension
of limita-
tion period
in case of
disability.

35.—(1) (a) If on the date when any right of action accrued for which a period of limitation is fixed by this Decree, the person to whom it accrued was under a disability, the action may subject to the subsequent provisions of this section, be brought at any time before the expiration of six years from the date when the person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation has expired ;

(b) paragraph (a) of this subsection shall not affect any case where the right of action first accrued to some person (not under a disability) through whom the person under a disability claims ;

(c) where a right of action which has accrued to a person under a disability accrues, on the death of that person while still under a disability, to another person under a disability, no further extension of time shall be allowed by reason of the disability of the second person.

(2) (a) In the case of actions for damages for negligence, nuisance or breach of duty (whether the duty exists by virtue of a contract or of a provision made by or under any enactment or independently of any contract or any such provision) where the damages claimed by the plaintiff for negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to any person—

(i) subsection (1) of this section shall have effect as if for the words "six years" there were substituted the words "three years" ; and

(ii) this section shall not apply unless the plaintiff proves that the person under the disability was not at the time the right of action accrued to him, in the custody of a parent.

(b) For the purposes of paragraph (a) of this subsection, "parent" in relation to a person under disability means his father, mother, grandfather, grandmother, stepfather or stepmother, or any other person who by reason of adoption or otherwise is obliged to maintain him.

(3) In the case of actions for damages for slander subsection (1) of this section shall have effect as if for the words "six years" there were substituted the words "three years".

(4) (a) This section shall not apply to an action to recover a penalty or forfeiture, or a sum by way of penalty or forfeiture, recoverable by virtue of any enactment, except where the action is brought by the party grieved.

(b) In the case of an action brought by the party grieved to recover a penalty or forfeiture, or a sum by way of penalty or forfeiture, recoverable as aforesaid, subsection (1) of this section shall have effect as if for the words "six years" there were substituted the words "two years".

(5) In the case of an action to recover an amount recoverable against concurrent wrong-doers under any civil liability enactment for the time being in force relating to concurrent wrong-doers, subsection (1) of this section shall have effect as if for the words "six years" there were substituted the words "two years".

36. In this Part of this Decree "acknowledgment" means an acknowledgment under section 37, 38, 39, 40, 41, 42 or 43 made in accordance with section 44 of this Decree.

Meaning
of acknow-
ledgment.

Fresh accrual of right of action on acknowledgment

37.—(1) Where—

(a) any right of action has accrued to recover any debt, and

Action to
recover
debt.

(b) the person liable therefor has acknowledged the debt,
the right of action shall be deemed to have accrued on and not before the date of the acknowledgment.

(2) Where—

(a) the right of action of a mortgagee of land to recover the mortgage debt has accrued, and

(b) the person in possession of the land acknowledges the mortgagee's title to the land,
the right of action shall be deemed to have accrued on and not before the date of the acknowledgment.

38. Where—

(a) any right of action has accrued to recover any claim to the personal estate of a deceased person or to any share or interest therein, and

(b) the person accountable therefor acknowledges the claim, the right of action shall be deemed to have accrued on and not before the date of the acknowledgment.

Action to
recover
claim to
personal
estate of
deceased
person.

39.—(1) Where—

(a) there has accrued to any person (other than a mortgagee) any right of action to recover land, and,

Action to
recover
land.

(b) the person in possession of the land acknowledges the title of the person to whom the right of action has accrued,
the right of action shall be deemed to have accrued on and not before the date of the acknowledgment.

40. Where—

(a) the right of a mortgagee of land to bring an action to recover the land has accrued, and

Action by
mortgagee
to recover
land.

(b) (i) the person in possession of land acknowledges the mortgagee's title to the land, or

(ii) the person in possession of the land or the person liable for the mortgage debt acknowledges the debt,
the right of action shall be deemed to have accrued on and not before the date of the acknowledgment.

41. Where—

(a) the right of an encumbrancer of land to bring an action claiming sale of the land has accrued, and

Action by
encumb-
rancer
claiming
sale of land.

(b) the person in possession of the land or the person liable for the debt secured by the encumbrance acknowledges the debt,
the right of action shall be deemed to have accrued on and not before the date of the acknowledgment.

Action to redeem mortgaged land in mortgagee's possession.

42. Where—

(a) a mortgagee is by virtue of the mortgage in possession of any mortgaged land and,

(b) the mortgagee acknowledges the title of the mortgagor or his equity of redemption,

an action to redeem the land in the mortgagee's possession may be brought at any time before the expiration of sixteen years from the date of the acknowledgment.

Action in respect of personal right in and over land.

43. Where—

(a) there has accrued a right of action in respect of a right in the nature of a lien for money's worth in or over land for a limited period not exceeding life, such as a right of support or a right of residence, not being an exclusive right or residence in or on a specified part of the land, and

(b) the person in possession of the land acknowledges the said right in the nature of a lien,

the right of action shall be deemed to have accrued on and not before the date of the acknowledgment.

General

Formal provisions as to acknowledgment.

44.—(1) Every acknowledgment shall be in writing and signed by the person making the acknowledgment.

(2) An acknowledgment under section 37, 38, 39, 40, 41, 42 or 43 of this Decree—

(a) may be made by the agent of the person by whom it is required to be made under whichever of these sections is applicable, and

(b) shall be made to the person or the agent of the person whose right or claim is being acknowledged.

Effect of acknowledgment on persons other than the maker or recipient.

45.—(1) An acknowledgment of a debt shall bind the acknowledgor and his successors but not any other person.

(2) An acknowledgment of a statute-barred debt shall not bind any successor of the acknowledgor on whom the liability devolves on the determination of any person's interest in property under a settlement taking effect before the date of the acknowledgment.

(3) An acknowledgment of title to any land by any person in possession thereof shall bind all other persons in possession during the ensuing period of limitation.

(4) An acknowledgment by one of several personal representatives of any claim to the personal estate of a deceased person or to any share or interest therein shall bind the estate of the deceased person.

Exemption from stamp duty. Cap. 191.

46. No acknowledgment shall be deemed to be an agreement within the meaning of the Stamp Duties Act.

Part Payment

Meaning of "payment".

47. In this Part of this Decree "payment" means a payment made under section 48, 49, 50, 51 or 52 of this Decree in accordance with section 53 of this Decree.

Fresh accrual of right of action on part payment

48.—(1) Where—

(a) any right of action has accrued to recover any debt, and

(b) the person liable therefor makes any payment in respect thereof,
the right of action shall be deemed to have accrued on and not before the date of such payment.

Action to
recover
debt.

(2) Payment of interest in whole or in part shall, for the purposes of this section, be treated as a payment in respect of the principal debt.

49. Where—

(a) any right of action has accrued to recover any claim to the personal estate of a deceased person or to any share or interest therein, and

(b) the person accountable therefor makes any payment in respect thereof,

the right of action shall be deemed to have accrued on and not before the date of such payment.

Action
claiming
personal
estate of
deceased.

50. Where—

(a) the right of a mortgagee of land to bring an action to recover the land has accrued, and

(b) the person in possession of the land or the person liable for the mortgage debt makes any payment in respect thereof, whether of principal or interest,

the right of action shall be deemed to have accrued on and not before the date of such payment.

Action by
mortgagee
to recover
land.

51. Where—

(a) the right of an encumbrancer of land to bring an action claiming sale of the land has accrued, and

(b) the person in possession of the land or the person liable for the mortgage debt makes any payment in respect thereof, whether of principal or interest,

the right of action shall be deemed to have accrued on and not before the date of such payment.

Action by
encumbran-
cer claim-
ing sale of
land.

52. Where—

(a) a mortgagee is by virtue of the mortgage in possession of any mortgaged land, and

(b) the mortgagee receives any payment from the mortgagor in respect of the principal of the mortgage debt or the interest thereon,

an action to redeem the land in the mortgagee's possession may be brought at any time before the expiration of sixteen years from the date of such payment.

Effect of
payment on
right of
action to
redeem
certain
mortgaged
land.

General

53. A payment under section 48, 49, 50, 51 or 52 of this Decree—

(a) may be made by the agent of the person by whom it is required to be made under whichever of those sections is applicable, and

(b) shall be made to the person or the agent of the person in respect of whose claim the payment is being made.

Formal
provisions
as to
payment.

Effect of
payment
on other
persons.

54.—(1) (a) A payment made in respect of any debt shall, subject to paragraph (b) of this subsection, bind all persons in respect thereof.

(b) A payment made in respect of a statute-barred debt shall not bind—

(i) any person other than the person making the payment and his successors, or

(ii) any successor on whom the liability devolves on the determination of a preceding estate or interest in property under a settlement taking effect before the date of payment.

(2) A payment by one of several personal representatives in respect of any claim to the personal estate of a deceased person shall bind the estate of the deceased person.

(3) A payment in respect of a mortgage debt by the mortgagor or any person in possession of the mortgaged property shall, so far as any right of the mortgagee to recover the property is concerned, bind all persons in possession of the mortgaged property during the ensuing period of limitation.

(4) Where—

(a) two or more mortgagees of land are by virtue of the mortgage in possession of the land, and

(b) only one of the mortgagees receives any payment in respect of the principal of the mortgage debt or the interest thereon, the payment shall bind only the recipient thereof and his successors.

(5) Where there are two or more mortgagors of land, and the mortgagee, being in possession of the land, is paid any sum in respect of the mortgage debt or the interest thereon by one of the mortgagors, the payment shall be deemed to have been made by all the mortgagors.

Appropriation of
payment in
respect of
debts.

55.—(1) Where—

(a) there exists a number of debts, and

(b) the person liable therefor (in this section referred to as the debtor) makes any payment, whether on account or generally, to the person to whom he is liable (in this section referred to as the creditor), and

(c) neither the debtor nor the creditor appropriates the sum paid to any particular debt or debts,

the following provisions shall have effect :—

(i) if some of or all the debts are not statute-barred debts, the payment shall, for the purposes of this Part of this Decree, unless the circumstances in which it was made indicate otherwise, be deemed to be appropriated *pari passu* in respect of each of the debts which are not statute-barred debts ;

(ii) if all the debts are statute-barred, the payment shall, for the purposes of this Part of this Decree unless the circumstances in which it was made indicate otherwise, be deemed to be appropriated *pari passu* in respect of all the debts.

(2) Nothing in subsection (1) of this section shall, where the debtor does not appropriate, operate to prevent the creditor from appropriating a payment on account or generally to a particular debt or to particular debts or to all the debts (whether statute-barred debts or not), but such appropriation shall not by reason only of its being made by the creditor operate to make the payment a payment for the purposes of this Part of this Decree in respect of such debt or debts, unless the circumstances in which the payment was made by the debtor so indicate.

56. No endorsement or memorandum of any payment written upon any bill of exchange or promissory note by or on behalf of the party to whom such payment is made shall be deemed to be evidence of such payment for the purposes of this Part of this Decree.

Endorsement of payment by creditor not to be evidence of payment.

Fraud and mistake

57.—(1) Where, in the case of an action for which a period of limitation is fixed by this Decree, either—

Postponement of limitation period in case of fraud.

(a) the action is based on the fraud of the defendant or his agent or of any person through whom he claims or his agent, or

(b) the right of action is concealed by the fraud of any such person, the period of limitation shall not begin to run until the plaintiff has discovered the fraud or could with reasonable diligence have discovered it.

(2) Nothing in subsection (1) of this section shall enable an action to be brought to recover, or enforce any charge against, or set aside any transaction affecting, any property which has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know or have reason to believe that any fraud had been committed.

58.—(1) Where in the case of any action for which a period of limitation is fixed by this Decree, the action is for relief from the consequences of mistake, the period of limitation shall not begin to run until the plaintiff has discovered the mistake or could with reasonable diligence have discovered it.

Postponement of limitation period in case of mistake.

(2) Nothing in subsection (1) of this section shall enable any action to be brought to recover, or enforce any charge against, or set aside any transaction affecting, any property which has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know or have reason to believe that the mistake was made.

PART IV—APPLICATION OF THIS DECREE AND OTHER LIMITATION ENACTMENTS TO ARBITRATIONS

59. In this Part of this Decree—

“arbitration” means an arbitration to which the Arbitration Act applies ;

“award” means an award to which the Arbitration Act applies ;

“Court” includes the High Court of Lagos and the High Court of Northern, Eastern, Western, or Mid-Western Nigeria ;

“submission” means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

Interpretation of Part IV.

Cap. 13.

60.—(1) For the purposes of this Decree and any other limitation enactment, an arbitration shall be deemed to have commenced when one party to the submission serves on the other party or parties a written notice requiring him or them to appoint or concur in appointing an arbitrator, or where the submission provides that the reference be to a person named or designated therein, requiring him or them to submit the dispute to the person so named or designated.

Commencement of arbitration.

(2) A notice under subsection (1) of this section may be served—

(a) by delivering it to the person on whom it is to be served,

(b) by leaving it at the place in Nigeria at which that person ordinarily resides or carries on business,

	<p>(c) by sending it by registered post in an envelope addressed to that person at the place in Nigeria at which he ordinarily resides or carries on business,</p> <p>(d) in any other manner provided for in the submission.</p> <p>(3) For the purposes of this section a company registered under the law for the time being in force relating to registered companies shall be deemed to carry on business at its registered office in Nigeria and every other body corporate and every unincorporated body shall be deemed to carry on business at its principal office or place of business in Nigeria.</p>
Cap. 37.	
Application of Decree, etc., to arbitrations.	<p>61. This Decree and any other limitation enactment shall apply to arbitrations as they apply to actions in the Court.</p>
Accrual of cause of action notwithstanding term in submission.	<p>62. Notwithstanding any term in a submission to the effect that no cause of action shall accrue in respect of any matter required by the submission to be referred until an award is made under the submission, the cause of action shall, for the purposes of this Decree and of any other limitation enactment (whether in their application to arbitrations or to other proceedings) be deemed to have accrued in respect of any such matter at the time when it would have accrued but for that term in the submission.</p>
Power of Court to extend time.	<p>63. Where the Court orders that an award be set aside or orders, after the commencement of an arbitration, that the arbitration shall cease to have effect with respect to the dispute referred, the Court may further order that the period between the commencement of the arbitration and the date of the order of the Court shall be excluded in computing the time fixed by this Decree or any other limitation enactment for the commencement of proceedings (including arbitration) with respect to the dispute referred.</p>
Application of Part IV to arbitration under other enactments.	<p>64. This Part of this Decree shall apply to an arbitration under an enactment as well as to an arbitration pursuant to a submission, and section 60 of this Decree shall have effect, in relation to an arbitration under an enactment as if, for the references to a submission, there were substituted references to such of the provisions of the enactment or of any order, scheme, rules, regulations or bye-laws made thereunder as relate to the arbitration.</p>
Saving for other enactments.	<p>65. This Decree shall not apply to any arbitration—</p> <p>(a) for which a period of limitation is fixed by any other enactment, or</p> <p>(b) to which a State authority is a party and for which if that State authority were a private individual, a period of limitation would be fixed by any other enactment.</p>
Arbitrations pending.	<p>66. Nothing in this Decree shall affect an arbitration commenced before the commencement of this Decree or the title to any property which is the subject of such arbitration.</p>
Application of Decree to actions in respect of matters regulated by customary law.	<p style="text-align: center;">PART V.—MISCELLANEOUS</p> <p>67.—(1) Subject to the provisions of subsection (2) of this section, this Decree shall not apply to actions in respect of any matter which, immediately before the commencement of this Decree, was regulated by customary law.</p> <p>(2) The Federal Executive Council may by order published in the Gazette, apply this Decree or any provision thereof to actions in respect of any such matter as aforesaid or to any particular class or classes of such actions specified in the order.</p>

68. In this Decree unless the context otherwise requires—

“action” includes any proceeding (other than a criminal proceeding) in a court established by law;

“action to recover land” includes—

(a) an action claiming a declaration of title to land,

(b) proceedings by a mortgagee for the delivery of possession of land by a mortgagor;

“conventional rent” means a rent payable under a lease or other contract of tenancy (whether in writing or not and whether express or implied) and includes a rent payable under any enactment;

“mortgage” includes an equitable mortgage;

“other limitation enactment” means any enactment (other than this Decree) relating to the limitation of actions;

“personal injuries” includes any disease and any impairment of a person’s physical or mental condition;

“personal representative” means the executor, original or by representation, or the administrator of the estate of a deceased person;

“rent-charge” means any annuity or periodical sum of money charged on or payable out of land but not including a conventional rent or interest on a mortgage or charge on land;

“Republic” means the Federal Republic of Nigeria;

“ship” includes every description of floating craft used in navigation not propelled by oars;

“State authority” includes any authority by which the executive power of the Republic is duly exercised in a particular case.

69. For the purposes of this Decree, a cause of action to recover, in respect of the liability of a tort-feasor to an injured person an amount recoverable by the tort-feasor under paragraph (c) of subsection (1) of section 8 of the Civil Liability (Miscellaneous Provisions) Act 1961, shall be deemed to accrue on the date on which judgment was obtained by the injured person against the tort-feasor.

70. Any English statutes of general application relating to the limitation of actions which were in force in Nigeria immediately before the commencement of this Decree shall cease to apply.

71.—This Decree may be cited as the Limitation Decree 1966 and shall apply to the Federal territory only.

Interpre-
tation.

Date of
accrual of
right of
action by
joint tort-
feasor.
1961,
No. 33.

Enactments
ceasing to
apply.

Citation and
extent.

DATED at Lagos this 31st day of December 1966.

LIEUTENANT-COLONEL Y. GOWON,
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

(This note does not form part of the above Decree but is intended to explain its purposes).

The limitation of actions is a rule of public policy which holds it impolitic that persons should be vexed with stalemate claims; hence, after a statutory period, a right of legal action is barred. The overriding purpose of the policy is the automatic termination of litigation after a fixed period of time irrespective (for the most part) of the merits of the case.

2. This Decree constitutes a comprehensive code of rules for the limitation of actions over the whole field of civil law. It follows the modern tendency to gather virtually all the limitation rules into one statute and to standardise the limitation periods for particular groups of actions *e.g.* a period of six years generally in the case of actions founded on simple contract, tort, actions to enforce a recognisance, or an arbitration award not under seal, and other actions.

3. There are elaborate provisions relating to the limitation of actions for the recovery of land, settled chattels, arrears of rent and annuities charged on movable property, actions in respect of trust property, etc.

4. There are the usual provisions for the extension of the period of time in which an action can be brought in certain contingences. Where *e.g.* the person against whom the right of action accrued is under a disability (*i.e.* is an infant or of unsound mind) at the time of such accrual, the action may be brought at any time before the expiration of six years from the date when the person ceased to be under a disability or died, whichever event first occurred, notwithstanding that the period of limitation has expired. Similarly, the limitation period fixed by the Decree is extended in the case of the acknowledgment or part payment of a debt; the right of action is deemed to have accrued on and not before the date of the acknowledgment, and on and not before the date of the part payment. Again, where the action is based on the fraud of the defendant or his agent or any person through whom he claims or the right of action is concealed by any such person, the period of limitation shall not begin to run until the plaintiff has discovered the fraud or could with reasonable diligence have done so. And where the action is for relief from the consequences of mistake, the period of limitation shall not begin to run until the plaintiff has discovered the mistake or could with reasonable diligence have done so.

5. The Decree follows the prevailing practice of making the rules relating to disability, acknowledgment, part payment, fraud and mistake apply equally to all types of proceedings.

6. The Decree and any other limitation enactment apply to arbitrations as they apply to actions in the Court.