

## THE CONSTITUTION (SUSPENSION AND MODIFICATION) DECREE 1967



### ARRANGEMENT OF SECTIONS

#### Section

1. Suspension of some, and modification of other, provisions of Constitution of Federation.
2. Suspension of some, and modification of other, provisions of constitutions of Regions.
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4. Making and commencement of Decrees, Edicts, etc.
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7. Powers of Head of the Federal Military Government, etc., to delegate functions conferred on them by laws.
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#### SCHEDULES

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## Decree No. 8

[See sections 12 (6) and 16 (3)]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

1.—(1) The provisions of the Constitution of the Federation mentioned in Schedule 1 of this Decree are hereby suspended.

Suspension  
of some, and  
modification  
of other,  
provisions  
of Constitu-  
tion of  
Federation.  
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(2) Subject to this and any other Decree, the provisions of the Constitution of the Federation which are not suspended by subsection (1) above shall have effect subject to the modifications specified in Schedule 2 of this Decree.

(3) Accordingly, any provision of the Constitution of the Federation which was suspended immediately before the appointed day but is not suspended by subsection (1) above shall, subject to subsection (2) above, come into force again on the appointed day.

2.—(1) The provisions of the constitution of each Region which are mentioned in Schedule 3 of this Decree are hereby suspended.

Suspension  
of some,  
and  
modifica-  
tion of  
other,  
provisions of  
constitu-  
tions of  
Regions.

(2) Subject to this and any other Decree, the provisions of the constitution of a Region which are not suspended by subsection (1) above shall have effect subject to the modifications specified in relation to that constitution in Schedule 4 of this Decree.

(3) Accordingly, any provision of the constitution of a Region which was suspended immediately before the appointed day but is not suspended by subsection (1) above shall, subject to subsection (2) above, come into force again on the appointed day.

3.—(1) The legislative and executive powers of the Federal Military Government shall vest in the Supreme Military Council; and the legislative power shall be exercised by means of Decrees signed by the Head of the Federal Military Government.

Mode of  
exercising  
legislative  
powers, etc.

(2) The power of the Military Governor of a Region to make laws shall be exercised by means of Edicts signed by him.

(3) A Decree or Edict may be made known to the public by means of a sound or television broadcast, or by publication in writing, or in any other manner.

(4) In so far as a Decree published on any date in the Federal Gazette makes provision with respect to the same matters as a Decree which—

(a) was made known to the public on or before that date; but

(b) has not been published in the Federal Gazette,

the Decree published in the Federal Gazette shall prevail.

(5) In so far as an Edict published on any date in the Gazette of the Region to which it applies makes provision with respect to the same matters as an Edict which—

(a) was made known to the public on or before that date; but

(b) has not been published in that Gazette,

the Edict published in the Gazette shall prevail.

(6) Any decree made by the Military Governor of a Region before 16th February, 1966, shall, notwithstanding anything in this section, be deemed to be, and to have taken effect as, an Edict; and references to an Edict shall be construed accordingly.

4.—(1) A Decree is made when it is signed by the Head of the Federal Military Government, whether or not it then comes into force.

(2) An Edict is made when it is signed by the Military Governor of the Region to which it applies, whether or not it then comes into force.

(3) Where no other provision is made as to the time when a particular provision contained in a Decree, Edict or subsidiary instrument is to come into force, it shall, subject to subsection (4) below, come into force on the day when the Decree, Edict or subsidiary instrument, as the case may be, is made.

(4) Where a provision contained in a Decree, Edict or subsidiary instrument is expressed to come into force on a particular day, it shall be construed as coming into force immediately on the expiration of the previous day.

(5) In this section "subsidiary instrument" means any order, rules, regulations, rules of court or byelaws made in the exercise of powers conferred by a Decree or Edict.

5. No question as to the validity of this or any other Decree or of any Edict shall be entertained by any court of law in Nigeria.

6.—(1) There shall be for the Federal Republic of Nigeria a Supreme Military Council, and a Federal Executive Council which shall exercise such functions as may be delegated to it by the Supreme Military Council.

(2) The Supreme Military Council shall consist of—

(a) the Head of the Federal Military Government, who shall be Chairman of the Supreme Military Council;

(b) the Military Governors of Western Nigeria, Eastern Nigeria, Northern Nigeria, Mid-Western Nigeria, and the Military Administrator of the Federal territory;

(c) the Head of the Nigerian Army;

(d) the Head of the Nigerian Navy;

(e) the Head of the Nigerian Air Force;

(f) the Chief of Staff of the Armed Forces;

(g) the Chief of Staff of the Nigerian Army;

(h) the Inspector-General of the Nigeria Police or, in his absence, the Deputy Inspector-General.

(3) The Federal Executive Council shall consist of—

(a) the Head of the Federal Military Government, who shall be President of the Federal Executive Council;

Making and  
commence-  
ment of  
Decrees,  
Edicts, etc.

Validity of  
Decrees and  
Edicts not  
to be  
enquired  
into.

Establish-  
ment of  
Supreme  
Military  
Council and  
Federal  
Executive  
Council.

(b) the Military Governors of Western Nigeria, Eastern Nigeria, Northern Nigeria, Mid-Western Nigeria and the Military Administrator of the Federal territory, or in their absence their duly accredited representatives;

(c) the Head of the Nigerian Army;

(d) the Head of the Nigerian Navy;

(e) the Head of the Nigerian Air Force;

(f) the Chief of Staff of the Armed Forces;

(g) the Chief of Staff of the Nigerian Army;

(h) the Inspector-General and the Deputy Inspector-General of the Nigeria Police.

(4) The Attorney-General of the Federation, the Secretary to the Federal Military Government and other appropriate officials of that Government, the Secretaries, the Law Officers and other appropriate officials of each of the Regional Governments, may attend the meetings of the Supreme Military Council, and of the Federal Executive Council, in an advisory capacity.

(5) Subject to the provisions of section 69 (6) of the Constitution of the Federation, to section 10 (6) of this Decree and to the proviso to section 85 of the Constitution of the Federation, each of the Councils established by this section may regulate its own procedure and, subject to its rules of procedure, may act notwithstanding any vacancy in its membership or the absence of any member.

7.—(1) The Head of the Federal Military Government may, subject to such conditions (if any) as he may think fit, delegate any function conferred on him by any law (including the Constitution of the Federation or the constitution of a Region) to any other person or authority in Nigeria:

Provided that this subsection shall not apply to the function of signing Decrees.

(2) The Supreme Military Council may, subject to such conditions (if any) as it may think fit, delegate any function conferred on it by any law (including the Constitution of the Federation or the constitution of a Region) to any other person or authority in Nigeria:

Provided that this subsection shall not apply to the function of making of Decrees; and where the concurrence of the Head of the Federal Military Government and of all the Military Governors is required in respect of any function, a delegation shall not have effect without such concurrence.

(3) The Federal Executive Council may, subject to such conditions (if any) as it may think fit, delegate any function delegated to it, to any other person or authority in Nigeria.

(4) The Military Governor of a Region may, subject to such conditions (if any) as he may think fit, delegate any functions conferred on him by any law in force in the Region (including the Constitution of the Federation and the constitution of the Region) to any other person or authority in the Region:

Provided that this subsection shall not apply to the function of making and signing Edicts,

Powers of Head of the Federal Military Government etc., to delegate functions conferred on them by laws.

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(5) Any function of the Head of the Federal Military Government or of the Supreme Military Council or of the Federal Executive Council or of the Military Governor of a Region may be exercised respectively by the Head of the Federal Military Government or those Councils or Governor notwithstanding any delegation of that function for the time being in force under the foregoing provisions of this section.

(6) Delegations by the Federal Executive Council in force immediately before the appointed day and made under any existing law within the meaning of section 10 of this Decree shall on the appointed day continue in force until revoked or varied by the Supreme Military Council.

Execution  
of instru-  
ments made  
by certain  
authorities.

8.—(1) Where a power to make an instrument is conferred on the Head of the Federal Military Government or the Supreme Military Council by any law, then, without prejudice to the exercise of the power by the Head of the Federal Military Government in person or by the Supreme Military Council itself, as the case may be, any instrument, other than a Decree, made in exercise of that power, may be executed under the hand of the Secretary to the Federal Military Government.

(2) Where a power to make an instrument is delegated to the Federal Executive Council, then, without prejudice to the exercise of the power by the delegating authority or by the Federal Executive Council itself, any instrument made in the exercise of that power may be executed under the hand of the permanent secretary to the department of government of the Federation responsible for the matter to which the instrument relates, or under the hand of the Secretary to the Federal Military Government.

(3) Where a power to make an instrument is delegated to the Head of the Federal Military Government, then, without prejudice to the exercise of the power by the delegating authority, any instrument made in the exercise of that power may be executed under the hand of the permanent secretary to the department of government of the Federation responsible for the matter to which the instrument relates, or under the hand of the Secretary to the Federal Military Government, as the case may require.

(4) Where a power to make an instrument is conferred on the Military Governor of a Region by any law, then without prejudice to the exercise of the power by the Military Governor in person, any instrument, other than an Edict, made in the exercise of that power may be executed under the hand of the permanent secretary to the department of government of that Region responsible for the matter to which the instrument relates, or under the hand of the Secretary to the Military Government of that Region, as the case may require.

Appointment  
etc., of  
justices of  
the peace  
in Lagos.

9.—Power to appoint persons to hold or act in the office of justice of the peace in Lagos and to dismiss and exercise disciplinary control over any person holding or acting in that office shall vest in the Attorney-General of the Federation.

Modification  
of existing  
law.  
1963 No. 20.

10.—(1) Subject to this and any other Decree, all existing law, that is to say, all law (other than the Constitution of the Federation or the constitution of a Region) which, whether being a rule of law or a provision of an Act of Parliament or of a Law made by the legislature of a Region or of a Decree or Edict or of any other enactment or instrument whatsoever, was in force immediately before the appointed day or having been passed or made before that day comes into force on or after that day, shall, until that law is altered by an authority having power to do so, have effect with

such modifications (whether by way of addition, alteration or omission) as may be necessary to bring that law into conformity with the Constitution of the Federation and the constitution of each Region, as affected by this or any other Decree, and with the provisions of any Decree or Edict relating to the performance of any functions which are conferred by law on any person or authority.

(2) It is hereby declared that the suspension by this or any other Decree of any provision of the Constitution of the Federation or of the constitution of a Region shall be without prejudice to the continued operation in accordance with subsection (1) above of any law which immediately before 16th January 1966 and immediately before the appointed day was in force by virtue of that provision.

(3) Any function which was conferred by any existing law within the meaning of subsection (1) above, as in force immediately before 16th January 1966, on the President or on the Prime Minister or any other Minister of the Government of the Federation or on the Council of Ministers, the House of Representatives or the Senate shall, except in so far as other provision in respect of that function has been or is made by an authority having power to do so, vest in the Supreme Military Council.

(4) Any function which was conferred by any existing law within the meaning of subsection (1) above, as in force immediately before 16th January 1966, on the Governor of a Region or on the Governor in Council of a Region or on the Premier or any other Minister of the Government of a Region or on the Executive Council, the House of Assembly or the House of Chiefs of a Region shall, except in so far as other provision in respect of that function has been or is made by an authority having power to do so, vest in the Military Governor of that Region.

(5) Any function which was conferred by any existing law within the meaning of subsection (1) above, as in force immediately before 16th January 1966, or by the constitution of a Region, on the Provincial Commissioner or Provincial Administrator of a province shall, except in so far as other provision in respect of that function has been or is made by an authority having power to do so, vest in the Provincial Secretary of that province.

(6) It is hereby further declared that any functions relating to those matters referred to in section 69 (6) of the Constitution of the Federation shall not, save with the concurrence of the Head of the Federal Military Government and of all the Military Governors, be exercised by the Supreme Military Council, or by any person or authority exercising delegated powers.

11.—(1) Subject to this and any other Decree, any court of law, authority or office which was established, any appointment which was made, and any other thing whatsoever which was done before the appointed day (whether before or after 16th January 1966) in pursuance of any provision of the Constitution of the Federation or of the constitution of a Region not being a provision suspended by this Decree, shall be deemed to have been duly established, made or done in pursuance of the appropriate provision of the Constitution of the Federation or of the constitution of the relevant Region (as the case may require) as affected by this or any other Decree :

Provided that nothing in this subsection shall revive any court of law, authority or office which was not in existence, or any appointment which was not in force, immediately before the appointed day.

Saving for existing offices, appointments, etc.

(2) The suspension by this Decree of section 98 of the Constitution of the Federation (which relates to the constitution of offices and the making of appointments thereto) and of the corresponding sections of the constitutions of the Regions, shall not affect any office which was constituted under any of those sections before 16th January 1966 or any appointment to any such office which was made before that date.

(3) All executive functions which immediately before 16th January 1966 were vested in or exercisable by the Governor or any officer or authority of a Region by virtue of section 99 of the Constitution of the Federation and continued to be so vested or exercisable immediately before the appointed day shall continue to be so vested or exercisable on and after the appointed day except so far as may be otherwise provided by the Supreme Military Council.

(4) All executive functions of a Region which immediately before 16th January 1966 were vested in or exercisable by the President or any officer or authority of the Federation by virtue of section 100 of the Constitution of the Federation and continued to be so vested or exercisable immediately before the appointed day shall continue to be so vested or exercisable on and after the appointed day except so far as may be otherwise provided by the Military Governor of the Region.

12.—(1) Without prejudice to the generality of section 10 of this Decree, all property which, immediately before 16th January 1966, was held by the President or any Minister of the Government of the Federation on behalf of or in trust for the Federation shall on 17th January 1966, by virtue of this subsection and without further assurance, vest in the Head of the Federal Military Government and be held by him on behalf of, or as the case may be on the like trusts for the benefit of, the Federal Military Government.

(2) Without prejudice as aforesaid, all property which, immediately before 16th January 1966, was held by the Governor or a Minister of the Government of a Region on behalf of or in trust for the Government of that Region shall on 17th January 1966, by virtue of this subsection and without further assurance, vest in the Military Governor of that Region and be held by him on behalf of, or as the case may be on the like trusts for the benefit of that Region.

(3) Without prejudice to the generality of section 10 of this Decree or of the other provisions of this section, any contract or other arrangement entered into before 16th January 1966 by any person or authority on behalf of the Government of the Federation or the Government of a Region shall as from 17th January 1966 be deemed to have been entered into on behalf of the Federal Military Government or the Government of that Region, as the case may be.

(4) Without prejudice to the generality of section 10 of this Decree or of the other provisions of this section, all promissory notes, stock, bonds and debentures issued under the General Loan and Stock Act, the Local Loans (Registered Stock and Securities) Act or the Government Promissory Notes Act 1960 before 17th January 1966 by the Minister of the Government of the Federation responsible for finance, or by any person acting on his behalf, shall, so far as any liability of the Government of the Federation in respect thereof remained undischarged immediately before that date, be deemed—

(a) to have been duly issued under the Act in question by the Supreme Military Council; and

Succession  
to property,  
etc.

Caps. 74  
and 111.  
1960 No. 6.

(b) to have been so issued on the date on which (and with the date of redemption with which) they were actually issued ;

and the principal sums and interest represented or secured thereby shall accordingly continue to be charged on the Consolidated Revenue Fund.

(5) Subsections (1) and (2) above shall, with the necessary modifications, apply in relation to rights, liabilities and obligations arising out of a contract or other arrangement as they apply in relation to property.

(6) This section shall be deemed to have come into force on 17th January 1966.

13. Without prejudice to the generality of section 10 of this Decree, the Interpretation Act 1964 (except section 2 thereof) shall apply in relation to a Decree as it applies in relation to an Act of Parliament ; and accordingly any reference in that Act (except in section 2 thereof) to an enactment shall include a reference to any provision of a Decree.

Application of Interpretation Act 1964 to Decrees. 1964 No. 1.

14. In this Decree, and in any other law—

“Decree” means an instrument made by the Supreme Military Council, signed by the Head of the Federal Military Government, and expressed to be, or to be made as, a decree ;

“Edict” means an instrument made by the Military Governor of a Region and expressed to be, or to be made as, an edict ;

“enactment”, unless the contrary intention appears, includes any provision of a Decree or Edict ;

“Head of the Federal Military Government” means the Chairman of the Supreme Military Council, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria ;

“Military Governor”, in relation to a Region, means the Military Governor of that Region.

Meaning of certain expressions in Decrees and other laws.

15.—(1) The Constitution (Suspension and Modification) Decrees (Nos. 1 to 10) are hereby repealed.

Repeals and saving.

(2) Nothing in this Decree shall affect the validity of anything done before the appointed day.

16.—(1) This Decree may be cited as the Constitution (Suspension and Modification) Decree 1967 and shall apply throughout Nigeria.

Citation, extent, etc.

(2) Where a power to delegate a function is conferred by this Decree, that power includes—

(a) power to delegate the function to a limited extent only ; and

(b) power to delegate the function to different persons or authorities for different purposes, or in respect of different matters or different parts of Nigeria.

(3) In this Decree—

(a) “the appointed day” means 17th March 1967 ;

and

(b) “functions” includes powers and duties.

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(Federation)

## SCHEDULES

### Section 1 (1)

### SCHEDULE 1

#### SUSPENDED PROVISIONS OF CONSTITUTION OF FEDERATION

Section 4 (2) to (12)

Section 5 (3) to (6)

Section 6 (b)

Sections 34 to 68

Section 72

Section 87

Section 88 (2)

Sections 89 to 96

Section 98

Section 101 (2) and (3)

Sections 102 and 103

Section 109 (3)

Section 110 (2)

Section 114

Sections 116 and 117 (3)

Sections 131, 132 (1) and 133 (5)

Section 147 (4)

Section 148 (2)

Section 151

Section 155 (2)

Sections 157 and 158 (1) and (2)

Section 162 (3)

Section 165 (4) and (6) (b) and (c)

### Section 1 (2)

### SCHEDULE 2

#### MODIFICATIONS OF PROVISIONS OF CONSTITUTION OF FEDERATION NOT SUSPENDED BY S.1 (1)

##### *General modifications*

1. Any reference to the Government of the Federation shall be construed as a reference to the Supreme Military Council, and any reference to the Government of a Region shall be construed as a reference to the Military Governor of that Region.

2. Any reference to the President or the Prime Minister, or to the President or the Prime Minister, acting in accordance with the advice of any person or body, shall be construed as a reference to the Supreme Military Council.

3. Any reference to a Minister of the Government of the Federation shall be construed as a reference to the Supreme Military Council and any reference to a Minister of the Government of a Region shall be construed as a reference to the Military Governor of that Region.

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(Federation)

4. Any reference to the Governor or Premier of a Region shall be construed as a reference to the Military Governor of that Region.

5. Any reference to any matter or thing as being provided, prescribed or established (but not to any law as being made) by Parliament shall be construed as a reference to its being provided, prescribed or established by law.

6. Any reference to any matter or thing as being provided, prescribed or established by the Legislature of the Region shall be construed as a reference to its being provided, prescribed or established by the Military Governor.

7. Paragraphs 1 to 6 above are without prejudice to the following provisions of this Schedule.

*Additional modifications of particular provisions*

**Section 1**

At the end of the section there shall be inserted the following proviso—

"Provided that this Constitution shall not prevail over a Decree, and nothing in this Constitution shall render any provision of a Decree void to any extent whatsoever."

**Section 4**

In subsection (1) for the word "Parliament" at the beginning of the subsection there shall be substituted the words "The Supreme Military Council" and for the proviso there shall be substituted the words "Provided that in so far as it alters any of the provisions of this section, sections 1, 2, 3, 5, 6, 18 to 33, 69 to 71, 73 to 86, 88 (except subsection (2)), 104, 105 to 108, 109 (except subsection (3)), 110 to 113, 115, 117 (except subsection (3)), 119, 120, 122 to 125, 127, 129, 130, 133 (except subsection (5)), 134 to 146, 147 (except subsection (4)), 150, 152, 154, 155 (except subsection (2)), 156, 158 (except subsections (1) and (2)), 159 to 161, 166 and the Schedule to this Constitution or (in so far as it applies to any of those provisions) section 165 of this Constitution, a Decree shall come into operation only with the concurrence of the Head of the Federal Military Government and of all the Military Governors."

**Section 5**

At the end of subsection (1) there shall be inserted the following proviso—

"Provided that the constitution of a Region shall not prevail over an Edict, and nothing in this subsection or in the constitution of a Region shall render any provision of an Edict void to any extent whatsoever."

In subsection (2), for the words "a law enacted by the legislature of that Region", there shall be substituted the words "an Edict made by the Military Governor of that Region":

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Provided that any Edict so made shall come into operation only with the concurrence of the Supreme Military Council in so far as any such Edict alters any provision of the constitution of the Region relating to—

(a) the establishment of a High Court of the Region, a court having jurisdiction on appeal from a High Court, a Public Service Commission, and the office of Director of Audit,

(b) the appointment, tenure of office and terms of service of judges of the High Court, or of a court having jurisdiction on appeal from a High Court, the members of a Public Service Commission, and the Director of Audit,

(c) the functions of the Public Service Commission, and the Director of Audit,

(d) the establishment of a Consolidated Revenue Fund and other public funds of the Region, the authorisation of expenditure therefrom, and the imposition of charges upon any public fund, or upon the revenue and assets of the Region,

(e) appeals to the High Court of the Region from subordinate courts, and appeals from the High Court,

(f) the procedure of the Public Service Commission."

**Section 16**

For the word "Parliament" there shall be substituted the words "The Supreme Military Council".

**Section 32**

In subsection (3), for the words "Parliament may" there shall be substituted the words "The Chief Justice of Nigeria may, with the consent of the Supreme Military Council, by order".

**Section 69**

In subsection (1), for the word "Parliament" there shall be substituted the words "The Supreme Military Council".

In subsection (2), for the word "Parliament" there shall be substituted the words "the Supreme Military Council", for the word "legislatures" there shall be substituted the words "Military Governors", and for the word "legislature" there shall be substituted the words "Military Governor".

For subsection (3) there shall be substituted the following subsection—

"(3) The Supreme Military Council shall in addition, have the power to make laws conferred by sections 70, 71, 73, 74, 80 to 83 and 126 of this Constitution (being matters not included in the Legislative Lists)."

After subsection (3) there shall be inserted the following new subsection (3A)—

"(3A) Decrees made after 16th January 1966 to the extent to which they are enacted on any subject not included in any of the Legislative Lists (but excluding matters in subsection (3) of this section) shall, save as herein provided, have effect as Edicts made by a Military Governor, and may be amended or repealed accordingly :

Provided that nothing in this subsection shall apply to any such Decree in so far as it relates to the Federal territory."

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(Federation)

For subsection (4) there shall be substituted the following subsection—

"(4) Subject to subsection (3A) of this section, if any law—

(a) enacted before 16th January 1966 by the legislature of a Region ;

or

(b) made after that date by the Military Governor of a Region, is inconsistent with any law—

(i) validly made by Parliament before that date, or

(ii) validly made by the Federal Military Government or, as the case may be, the Supreme Military Council, on or after that date,

the law made as mentioned in paragraph (i) or (ii) above shall prevail and the Regional law shall to the extent of the inconsistency, be void."

In subsection (5), for the word "legislature" there shall be substituted the words "Military Governor".

After subsection (5) there shall be inserted the following new subsection—

"(6) Where in intended exercise of the power conferred by this section Decrees are made—

(a) affecting or relating to the territorial integrity of a Region, or

(b) altering any of the provisions of the sections listed in the proviso to section 4(1) of this Constitution, or

(c) affecting or relating to the Federation in so far as respects trade, commerce, industry, transport, communications, labour, the public service or public finance (other than appropriation but including approval of new capital projects in Federal estimates), or

(d) affecting or relating to external affairs, defence, the naval, military and air forces, the Nigeria Police, arms and ammunition, the administration of the affairs of a Region (other than in cases to which section 70 or 71 of this Constitution apply), and maintaining and securing public safety and public order and essential supplies and services, or

(e) affecting or relating to the professions as defined in Item 13 of the Concurrent Legislative List or to higher educational institutions as mentioned in Item 17 of the Exclusive Legislative List, or to higher education as defined in Item 10 of the Concurrent Legislative List, the Decree shall come into operation only with the concurrence of the Head of the Federal Military Government and of all the Military Governors."

## Section 70

For section 70 there shall be substituted the following—

"70.—(1) The Supreme Military Council may at any time make such laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists as may appear to be necessary or expedient for the purpose of maintaining or securing peace, order and good government during any period of emergency.

(2) Any provision of law enacted in pursuance of this section shall have effect only during a period of emergency :

Provided that the termination of a period of emergency shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

Special powers of Supreme Military Council in relation to emergencies.

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(Federation)

(3) In this section—

(a) "period of emergency" means any period during which—

(i) the Federation is at war ;

(ii) there is in force a declaration by the Supreme Military Council that a state of public emergency exists ; or

(iii) there is in force a declaration by the Supreme Military Council that democratic institutions in Nigeria are threatened by subversion :

(b) "Supreme Military Council" means that Council acting with the concurrence of the Head of the Federal Military Government and of at least three of the Military Governors.

(4) A declaration made under this section shall be published in the Federal Gazette and shall remain in force for twelve months or such shorter period as may be specified therein :

Provided that any such declaration may be revoked at any time or may be extended from time to time for a further period not exceeding twelve months by declaration made in like manner."

### Section 71

For section 71 there shall be substituted the following—

"71.—(1) During any period in which there is in force a declaration by the Supreme Military Council that the executive authority of a Region is being exercised in contravention of section 86 of this Constitution, the Supreme Military Council may make laws for that Region with respect to matters not included in the Legislative Lists to such extent as may appear to be necessary for securing compliance with the provisions of that section.

(2) A declaration made under this section shall be published in the Federal Gazette and shall remain in force for twelve months or such shorter period as may be specified therein :

Provided that any such declaration may be revoked at any time or may be extended from time to time for a further period not exceeding twelve months by declaration made in like manner.

(3) Upon the expiration of any period during which there was in force a declaration made for the purposes of this section, any provision of law enacted in pursuance of this section shall cease to have effect :

Provided that the termination of any such period shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

(4) For the purpose of this section, "Supreme Military Council" means that Council acting with the concurrence of the Head of the Federal Military Government and of at least three of the Military Governors."

### Section 73

For the word "Parliament" there shall be substituted the words "The Supreme Military Council".

Special powers of Supreme Military Council when s. 86 of this Constitution has been contravened.

**Section 74**SCH. 2  
(Federation)

For the word "Parliament" there shall be substituted the words "The Supreme Military Council".

**Section 75**

In subsection (1) for the word "Parliament" there shall be substituted the words "The Supreme Military Council".

In subsection (2)—

(a) after the word "title" there shall be inserted the words "of honour",

(b) paragraph (b) shall be deleted.

In subsection (3) for the word "Parliament" there shall be substituted the words "The Supreme Military Council".

**Section 76**

In subsection (1), (2), (3) and (4), for the word "Parliament" there shall be substituted the words "The Supreme Military Council" (the word "The" to begin with a small letter in the substitution in subsection (4)).

In subsection (5), for the word "legislature" there shall be substituted the words "Military Governor".

In subsection (6) (b) and (c) after the words "legislature of a Region" there shall be inserted the words "or by an Edict made by the Military Governor of a Region".

**Section 77**

In subsection (1), for the word "Parliament" there shall be substituted the words "The Supreme Military Council".

In subsections (2) and (3), for the word "Parliament", except where it occurs in subsection (3) (e), there shall be substituted the words "the Supreme Military Council", and after the words "legislature of that Region" or "legislature of a Region", wherever they occur, there shall be inserted the words "or by an Edict made by the Military Governor of that Region".

In subsection (4), for the word "legislature" there shall be substituted the word "Military Governor".

**Section 78**

In subsection (1), for the word "Parliament" there shall be substituted the words "The Supreme Military Council".

In subsection (2), for the word "legislature" there shall be substituted the words "Military Governor", after the words "Act of Parliament", in both places where they occur, there shall be inserted the words "or Decree", and before the word "relating" there shall be inserted the words "or Decree".

**Section 79**

In subsection (1), for the word "Parliament" there shall be substituted the words "The Supreme Military Council", and for the word "legislature" there shall be substituted the words "Military Governor".

In subsection (2), for the word "Parliament" there shall be substituted the words "the Supreme Military Council".

Sch. 2  
(Federation)

### Section 80

For the word "Parliament" there shall be substituted the words "The Supreme Military Council", and for the word "legislature" there shall be substituted the words "Military Governor".

### Section 81

For the word "Parliament" there shall be substituted the words "The Supreme Military Council", and for the word "Legislature" there shall be substituted the words "Military Governor".

### Section 82

For the word "Parliament" there shall be substituted the words "The Supreme Military Council", and after the word "legislature" there shall be inserted the words "or Military Governor".

### Section 83

For the word "Parliament" there shall be substituted the words "The Supreme Military Council", after the word "enacted" there shall be inserted the words "or Decree made", and after the word "legislature" there shall be inserted the words "or Military Governor".

### Section 84

In subsection (1) for the words "the President" there shall be substituted the words "the Supreme Military Council" and all words thereafter shall be deleted.

In subsection (2) for the word "Parliament" there shall be substituted the words "the Supreme Military Council", and the words "other than the President" shall be deleted.

### Section 85

For the word "Parliament" there shall be substituted the words "the Supreme Military Council", and at the end of this section there shall be added the following proviso—

"Provided that such executive authority shall not be exercised with respect to matters referred to in section 69 (6) of this Constitution without the concurrence of the Head of the Federal Military Government and of all the Military Governors."

### Section 86

For the word "legislature" there shall be substituted the words "Military Governor".

### Section 88

For subsection (1) there shall be substituted the following subsections—

"(1) The Supreme Military Council may appoint a fit person to be Attorney-General of the Federation.

(1A) The functions of the Attorney-General of the Federation shall include the exercise, subject to the authority of the Supreme Military Council, of general direction and control over the Federal Ministry of Justice.

(1B) Whenever and so long as no person holds the office of Attorney-General of the Federation, any function which is conferred by this Constitution or any other law upon the Attorney-General of the Federation shall vest in the Solicitor-General of the Federation and may be performed by him notwithstanding anything in subsection (4) of this section."

SCH. 2  
(Federation)

For subsection (3) there shall be substituted the following subsection—

"(3) If the person holding office as Attorney-General of the Federation is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions may be performed by such other person as may be designated in that behalf by the Supreme Military Council."

#### Section 97

For the words from the beginning of the section to "over that department" there shall be substituted the words "Without prejudice to section 88 (1A) of this Constitution, the Supreme Military Council shall exercise general direction and control over every department of government of the Federation", and for the words "the department" there shall be substituted the words "or, in the case of the Federal Ministry of Justice, to the general direction and control of the Attorney-General of the Federation as provided in the said section 88 (1A), each such government department".

#### Section 99

In subsection (1) for the word "President" there shall be substituted the words "Supreme Military Council".

In subsection (2) after the word "Parliament" there shall be inserted the words "or Decree".

#### Section 100

In subsection (2), after the word "Region" there shall be inserted the words "or an Edict".

#### Section 101

In subsection (1), for the word "President", there shall be substituted the words "Head of the Federal Military Government" and after the word "Parliament" there shall be inserted the words "or Decree".

In subsection (4), after the word "Parliament", wherever it occurs, there shall be inserted the words "or a Decree"; and in paragraph (b), after the words "that Region" there shall be inserted the words "or by the Military Governor of that Region".

#### Section 104

In subsection (1), for the words from "department" to the end of the subsection there shall be substituted the words "Federal Ministry of Justice".

In subsection (2) (a), after the word "Parliament" there shall be inserted the words "or Decree".

In subsection (8), after the word "Parliament", wherever it occurs, there shall be inserted the words "or a Decree"; and in paragraph (b), after the words "that Region" there shall be inserted the words "or by the Military Governor of that Region".

Sch. 2  
(Federation)**Section 105**

In subsections (5) and (6) for the word "Parliament" there shall be substituted the words "Supreme Military Council".

For subsection (7) there shall be substituted the following subsection—

'(7) Nothing in this section shall prevent the Military Governor of a Region from making provision for the maintenance by any native authority or local government authority established for a province or any part of a province of a police force for employment within that province.

In this subsection "province" means any area that was a province on the thirtieth day of September 1954.'

**Section 106**

For subsections (3) and (4) there shall be substituted the following subsections—

"(3) The Supreme Military Council may give to the Inspector-General of the Nigeria Police such directions with respect to the maintaining and securing of public safety and public order as it may consider necessary, and the Inspector-General shall comply with those directions, or cause them to be complied with.

(4) Subject to the provisions of subsection (3) of this section, the Commissioner of Police of a Region shall comply with the directions of the Military Governor of the Region with respect to the maintaining and securing of public safety and public order within the Region, or cause them to be complied with."

**Section 107**

In subsection (1), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

"(a) the Head of the Federal Military Government, who shall be chairman;

(b) the Military Governor of each Region or in their absence their duly accredited representatives; and".

**Section 108**

In subsection (3), the words from "and if" to the end of the subsection shall be omitted.

**Section 109**

In subsection (2), for the words from "President" to the end of the subsection there shall be substituted the words "Supreme Military Council".

In subsection (4), the symbol "(a)" and the words from "or" to the end of the subsection shall be omitted.

In subsection (5), for the words from "President" to the end of the subsection there shall be substituted the words "Supreme Military Council".

**Section 110**SCH. 2  
(Federation)

In subsection (1) for the words "vest in the Police Service Commission of the Federation" there shall be substituted the words—

"(a) in the case of appointments to the office of deputy commissioner of police and above, vest in the Supreme Military Council, so however that the Police Service Commission of the Federation shall for the purpose of this paragraph have an advisory function, and

(b) in the case of any other appointments, vest in the Police Service Commission aforesaid."

**Section 112**

For section 112 there shall be substituted the following—

"112.—(1) The Chief Justice of Nigeria and the Justices of the Supreme Court shall be appointed by the Supreme Military Council, so however that four of the Justices of the Supreme Court shall be appointed by the Supreme Military Council, as respects each of those Justices severally, on the advice of the Military Governor of a different Region.

Appointment  
of Judges of  
Supreme  
Court.

(2) A person shall not be qualified to hold the office of Chief Justice of Nigeria or a Justice of the Supreme Court unless—

(a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years;

Provided that in computing the period during which any person has been qualified for admission as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(3) If the office of Chief Justice of Nigeria is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the Justices of the Supreme Court as may from time to time be designated in that behalf by the Supreme Military Council.

(4) If the office of any Justice of the Supreme Court is vacant or if the person holding the office is acting as Chief Justice of Nigeria or is for any reason unable to perform the functions of his office, the Supreme Military Council may appoint a person qualified to hold the office of a Justice of the Supreme Court to act in the office of a Justice of the Supreme Court, and any person so appointed shall continue to act for the period of the appointment or if no period is specified until his appointment is revoked by the Supreme Military Council:

Provided that a person may act as a Justice of the Supreme Court notwithstanding that he has attained the age prescribed for the purposes of subsection (1) of section 113 of this Constitution."

**Section 113**

In subsection (1) proviso for the words "President" to "Prime Minister" there shall be substituted the words "Supreme Military Council".

For subsection (2) there shall be substituted the following—

"(2) A person holding or appointed to act in the office of Chief Justice of Nigeria or a Justice of the Supreme Court may be removed from his office or appointment by the Supreme Military Council."

SCH. 2  
(Federation)**Section 118**

For the word "Parliament", where it first occurs, there shall be substituted the words "The Supreme Military Council".

**Section 121**

In subsection (3), for the words "Parliament may" there shall be substituted the words "The Chief Justice of Nigeria may, with the consent of the Supreme Military Council by order".

**Section 123**

In subsections (1) and (3), for the respective words from "President" to the end of the subsection there shall be substituted the words "Supreme Military Council."

In subsection (4), for the words "President, acting in accordance with the advice of the Prime Minister", in both places where they occur, there shall be substituted the words "Supreme Military Council".

**Section 124**

In subsection (1) proviso for the words from "President" to "Prime Minister" there shall be substituted the words "Supreme Military Council".

In subsection (2), for the words from "shall be" to the end of the subsection there shall be substituted the words "may be removed from his office or appointment by the Supreme Military Council."

**Section 125**

In subsection (1) proviso and subsection (2) proviso, after the word "enacted" there shall be inserted the words "or Decree made".

**Section 126**

For the word "Parliament", in both places where it occurs, there shall be substituted the words "the Supreme Military Council" (the word "the" to begin with a capital letter in the first substitution); and for the word "legislature" there shall be substituted the words "Military Governor".

**Section 127**

In subsection (1), for the words "or the legislature" there shall be substituted the words "of a Region or by an Edict made by the Military Governor".

In subsection (2), for the word "President" there shall be substituted the words "Supreme Military Council", and the words from "but" to the end of the subsection shall be omitted.

**Section 129**

In subsections (1), (2) and (3), after the words "Act of Parliament" there shall be inserted the words "or Decree", and in subsection (2), after the words "Appropriation Act" there shall be inserted the words "or Appropriation Decree".

**Section 130**

In subsection (1), for the words "The Minister of the Government of the Federation responsible for finance" there shall be substituted the words "The Head of the Federal Military Government", and for the words "both Houses of Parliament" there shall be substituted the words "the Supreme Military Council".

In subsection (2), after the words "Act of Parliament" there shall be inserted the words "or Decree", and for the words "a bill, to be known as an appropriation bill" there shall be substituted the words "a Decree, to be known as an appropriation Decree".

SCH. 2  
(Federation)

In subsection (3), after the word "Act", wherever it occurs, there shall be inserted the words "or appropriation Decree", for the words "both Houses of Parliament" there shall be substituted the words "the Supreme Military Council", and for the word "bill" there shall be substituted the word "Decree".

### Section 132

In subsection (2), for the words "in accordance with subsection (1) of this section" there shall be substituted the words "according to law from the Contingencies Fund of the Federation", and for the word "bill" there shall be substituted the word "Decree".

### Section 133

In subsection (4), the word "President" and the words "member of the Electoral Commission of the Federation", where they occur, shall be omitted.

### Section 134

In subsection (3), for the words from "Minister" to the end of the subsection there shall be substituted the words "Supreme Military Council".

### Sections 136 to 138

In sections 136 to 138, after the words "Act of Parliament", wherever they occur, there shall be inserted the words "or Decree".

### Section 139

In subsection (1), after the word "Parliament" there shall be inserted the words "or Decree".

In subsection (3), for the words from "Parliament" to "designating", there shall be substituted the words "The Supreme Military Council may designate".

### Section 140

In subsection (4), for the words "Parliament may prescribe" there shall be substituted the words "The Supreme Military Council may fix".

### Section 145

In subsection (2), for the word "Parliament" there shall be substituted the words "The Supreme Military Council".

### Section 146

In subsections (2) and (5), for the words from "President" to the end of the subsection there shall be substituted the words "Supreme Military Government".

In subsection (3), the words from "a member of either" to "Region or" shall be omitted.

SCH. 2  
(Federation)**Section 147**

In subsection (1), for the words "vest in the Public Service Commission of the Federation" there shall be substituted the words—

"(a) in the case of appointment to all posts graded in salary scale Group 6 or above, vest in the Supreme Military Council, so however that the Public Service Commission of the Federation shall for the purpose of this paragraph have an advisory function; and

(b) in the case of any other appointment vest in the Commission aforesaid."

In subsection (2), after paragraph (d) there shall be inserted the following paragraph—

"(e) the office of justice of the peace.", and the word "or" in paragraph (c) shall be omitted.

**Section 148**

In subsection (1) for the words "President" up to the end of the subsection there shall be substituted the words "Supreme Military Council".

**Section 149**

In subsection (1) for all words after "vest in" up to the end of the subsection there shall be substituted the words "the Supreme Military Council".

Subsection (2) shall be deleted.

**Section 150**

For subsection (1) there shall be substituted the following new subsection—

"(1) The Supreme Military Council shall appoint a fit person to be Director of Audit of the Federation; and where any person to be appointed under this section is a member of the Public Service of the Federation the function of the Public Service Commission of the Federation shall be advisory."

In subsection (3), for the words from "shall" to the end of the subsection there shall be substituted the words "may be removed from office by the Supreme Military Council."

In subsection (5) for all words after "office" where it thirdly occurs up to the end of the subsection there shall be substituted the words "the Supreme Military Council may appoint a person to act in the office; and any person so appointed shall continue to act until his appointment is revoked."

**Section 153**

In subsections (1) and (3), after the words "Act of Parliament" there shall be inserted the words "or Decree".

**Section 155**

In subsection (1), for the words "sections 157 and" there shall be substituted the word "section".

**Section 159**

In subsection (5), for the word "Parliament" there shall be substituted the words "The Supreme Military Council".

**Section 160**SCH. 2  
(Federation)

In subsection (1), for the words from "of the Prime Minister" to "by the Prime Minister" there shall be substituted the words "of the Supreme Military Council".

**Section 161**

In subsection (3), for the words "sections 32 and 53" there shall be substituted the words "section 32".

**Section 162**

In subsection (1), the proviso shall be omitted.

**Section 165**

In subsection (1), the definitions of "the Advisory Council" and "the President" shall be omitted, and in the definition of "office of emolument under the state", the words "or as a member of the Government of the Federation or a Region" shall be omitted.

In subsection (3), for the words from "the President" to "Advisory Council" there shall be substituted the words "the Attorney-General of the Federation or a member of the Nigeria Police Council or any Commission established by this Constitution".

**The Schedule, Part I**

In item 19, after the word "Region" there shall be inserted the words "or by an Edict".

In item 22, for the word "Parliament" in paragraphs (b) and (d) there shall be substituted the words "the Supreme Military Council".

Item 33 shall be omitted.

In items 40 and 41, for the word "Parliament" there shall be substituted the words "the Supreme Military Council".

In item 44, for the words "Parliament is" there shall be substituted the words ", immediately before 16th January 1966, Parliament was".

**The Schedule, Part II**

In item 22, after the words "legislature of that Region" there shall be inserted the words "or by any Edict made by the Military Governor of that Region".

In item 28, for the words "Parliament is" there shall be substituted the words ", immediately before 16th January 1966, Parliament was".

**The Schedule, Part III**

Paragraph 2 shall be omitted.

## Section 2 (1)

## SCHEDULE 3

## SUSPENDED PROVISIONS OF REGIONAL CONSTITUTIONS

<i>Constitution of Northern Nigeria</i>	<i>Constitution of Eastern Nigeria</i>	<i>Constitution of Western Nigeria</i>	<i>Constitution of Mid-Western Nigeria</i>
Sections 1 to 3	Sections 1 to 3	Sections 1 to 3	Sections 1 to 3
Sections 5 to 32	Sections 5 to 31	Sections 5 to 31	Sections 5 to 31
Sections 33 (2) and 34	Sections 32 (2) and 33 Section 34 (2) and (3)	Section 32 (2)	Section 32 (2)
Section 35 (2)	Sections 35 to 43	Section 33 (1) to (11) and (13)	Section 33 (1) to (11) and (13)
Sections 36 to 43 Section 45	Section 45	Sections 34 to 41	Sections 34 to 41
Sections 46 (2), 47 and 48	Sections 46 (2), 47 and 48		
Sections 61 and 62 (1) Section 67 (4)	Sections 58 and 59 (1) Sections 64 (4) and 65	Section 43 Sections 44 (2), 45 and 46 Section 53 (2)	Section 43 Sections 44 (2), 45 and 46
Section 71	Section 70 Section 73 (2)	Sections 57 and 58 (1)	Sections 56 and 57 (1)
Section 74 (3)	Sections 74 and 75	Sections 63 (4) and 64	Sections 62 (4) and 63
Sections 80 (2), 81 and 82	Section 77 (3)	Section 69 Sections 73 (3) and 74 (3) Sections 77 (2), 78 and 79	Section 68 Sections 72 (3) and 73 (3)
			Paragraphs 1, 2, 4 and 8 of Schedule 2

Section 2 (2)

SCHEDULE 4

MODIFICATIONS OF PROVISIONS OF REGIONAL  
CONSTITUTIONS NOT SUSPENDED BY S.2 (1)

PART I

GENERAL MODIFICATIONS APPLYING TO THE  
CONSTITUTION OF EACH REGION

1. Any reference to the Government of the Region shall be construed as a reference to the Military Governor of the Region.

2. Any reference to the Governor or Premier of the Region, or to the Governor or Premier of the Region acting in accordance with the advice of any person or body, shall be construed as a reference to the Military Governor of the Region.

3. Any reference to any matter or thing as being provided, prescribed or established (but not to any law as being made) by the Legislature of the Region shall be construed as a reference to its being provided, prescribed or established by law.

4. Paragraphs 1 to 3 above are without prejudice to the following provisions of this Schedule.

PART II

ADDITIONAL MODIFICATIONS OF PARTICULAR  
PROVISIONS OF CONSTITUTION OF NORTHERN NIGERIA

Section 4

For the words from "There" to "and which" there shall be substituted the words "The Military Governor of the Region".

Section 35

For subsection (1) there shall be substituted the following subsections—

"(1) The Military Governor of the Region may, if he thinks fit, appoint a person to be Attorney-General of the Region.

(1A) The functions of the Attorney-General of the Region shall include the exercise, subject to the authority of the Military Governor of the Region, of general direction and control over the Ministry of Justice of the Region.

SCH. 4,  
PT. II  
(*Northern  
Nigeria*)

(1b) Whenever and so long as no person holds the office of Attorney-General of the Region, any function which is conferred by this Constitution or any other law on the Attorney-General of the Region shall vest in the Solicitor-General of the Region and may be performed by him notwithstanding anything in subsection (5) of this section."

In subsection (3), both sets of words in brackets shall be omitted.

In subsection (4), after the word "years" there shall be inserted the words "or such lesser period as the Military Governor of the Region may in any particular case allow".

#### **Section 44**

For the words from the beginning of the section to "over that department" there shall be substituted the words "Without prejudice to section 35 (1A) of this Constitution, the Military Governor of the Region shall exercise general direction and control over every department of government of the Region", and for the words "the department" there shall be substituted the words "or, in the case of the Ministry of Justice of the Region, to the general direction and control of the Attorney-General of the Region as provided in the said section 35 (1A), each such government department".

#### **Section 46**

In subsection (3), after the word "Parliament" there shall be inserted the words "or a Decree".

#### **Section 49**

In subsection (1), for the words from "department" to the end of the subsection there shall be substituted the words "Ministry of Justice of the Region".

In subsection (8), after the word "Parliament" there shall be inserted the words "or a Decree".

#### **Section 51**

In subsection (3), for the words "enacted by the Legislature of" there shall be substituted the words "in force in".

#### **Section 52**

In subsection (2), for the words from "shall be" to the end of the subsection there shall be substituted the words "may be removed from his office or appointment by the Military Governor of the Region."

#### **Section 53**

In subsections (1) and (3), in the provisos, after the word "enacted" there shall be inserted the words "or Decree made".

#### **Section 55**

In subsection (2), for the words from "shall be" to the end of the subsection there shall be substituted the words "may be removed from his office or appointment by the Military Governor of the Region".

**Section 56**

In subsection (1), for the words "Legislature of" there shall be substituted the words "Military Governor of", and for the words "the Legislature may provide" there shall be substituted the words "may be provided by Edict".

In subsection (2), for the word "Legislature" there shall be substituted the words "Military Governor".

**Section 58**

For the words from "both" to "Peace", in the second place where it occurs, there shall be substituted the words "the Attorney-General of the Region who", and for the words "such person" there shall be substituted the words "any person so appointed".

**Section 59**

In subsection (2), after the words "appropriation law" there shall be inserted the words "or appropriation Edict".

**Section 60**

In subsection (1), for the words from "Minister" to "finance" there shall be substituted the words "Military Governor of the Region", and for the words "both Legislative Houses of the Region" there shall be substituted the word "him".

In subsection (2), for the words "a bill, to be known as an appropriation bill" there shall be substituted the words "an Edict, to be known as an appropriation Edict".

In subsection (3), after the word "law", wherever it occurs, there shall be inserted the words "or appropriation Edict", for the words "both Legislative Houses" there shall be substituted the words "the Military Governor", and for the word "bill" there shall be substituted the word "Edict".

**Section 62 (2)**

In section 62 (2), for the words "in accordance with subsection (1) of this section" there shall be substituted the words "according to law from the Contingencies Fund of the Region", and for the word "bill" there shall be substituted the word "Edict".

**Section 63**

In subsection (4), the word "Governor" and the words "member of the Electoral Commission of the Region" shall be omitted.

**Section 64**

In subsection (3), for the words from "Minister" to the end of the subsection there shall be substituted the words "Military Governor of the Region".

**Section 66**

In subsection (3), for the words from "if he is" to "Region or" there shall be substituted the words "if he is".

SCH. 4,  
PT. II  
(Northern  
Nigeria)

### Section 68

In subsection (2), for the words from "tendering" to "section" there shall be substituted the words "exercising any of the said powers".

### Section 69

In subsection (2), for the words from "Before" to "purposes of" there shall be substituted the words "Before appointing any person by virtue of".

### Section 70

In subsection (3), for the words from "shall" to the end of the subsection there shall be substituted the words "may be removed from office by the Military Governor of the Region".

### Section 73

In subsection (1), the words from "or such" to "by the Premier" shall be omitted.

### Section 75

In subsection (1), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

"(a) a chairman, who shall be appointed by the Military Governor of the Region from among the Chiefs of the Region ;

(b) such number of other members as the Military Governor of the Region may appoint from among the Chiefs of the Region ;".

In subsection (2), for the words from "Premier" to "House of Chiefs" there shall be substituted the words "chairman of the Council may co-opt four persons from among the Chiefs of the Region".

In subsection (3), for the words from "Governor" to "powers" there shall be substituted the words "Military Governor of the Region shall consult the Council of Chiefs of the Region before exercising any power".

### Section 76

In subsection (1), the proviso shall be omitted.

### Section 78

In subsection (1), the definitions of "the Advisory Council" and "the President" and, in the definition of "office of emolument under the state", the words "or as a member of the Government of the Federation or a Region" shall be omitted, and in the definition of "Regional law", after the word "Region" there shall be inserted the words "or by the Military Governor of the Region".

In subsection (3), for the words from "the President" to "Advisory Council" there shall be substituted the words "a member of the Public Service Commission of the Region".

In subsection (6), the words in brackets shall be omitted.

## PART III

ADDITIONAL MODIFICATIONS OF PARTICULAR  
PROVISIONS OF CONSTITUTION OF EASTERN NIGERIASCH. 4,  
PT. III  
(Eastern  
Nigeria)**Section 4**

For the words from "There" to "and which" there shall be substituted the words "The Military Governor of the Region".

**Section 34**

For subsection (1) there shall be substituted the following subsections—

"(1) The Military Governor of the Region may, if he thinks fit, appoint a person to be Attorney-General of the Region.

(1A) Whenever and so long as no person holds the office of Attorney-General of the Region any function which is conferred by this Constitution or any other law on the Attorney-General of the Region shall vest in the Solicitor-General of the Region and may be performed by him notwithstanding anything in subsection (5) of this section."

In subsection (4), the words in brackets and the words "whether or not that person is a Minister" shall be omitted.

**Section 44**

For the words from the beginning of the section to "over that department" there shall be substituted the words "The Military Governor of the Region shall exercise general direction and control over every department of government of the Region", and for the words "the department" there shall be substituted the words "each such government department".

**Section 46**

In subsection (3), after the word "Parliament" there shall be inserted the words "or a Decree".

**Section 49**

In subsection (1), for the words from "department" to the end of the subsection there shall be substituted the words "Ministry of Justice of the Region".

In subsection (8), after the word "Parliament" there shall be inserted the words "or a Decree".

**Section 52**

In subsection (2), for the words from "shall be" to the end of the subsection there shall be substituted the words "may be removed from his office or appointment by the Military Governor of the Region".

**Section 53**

In subsections (1) and (2), in the provisos, after the word "enacted" there shall be inserted the words "or Decree made".

SCH. 4.  
PT. III  
(*Eastern  
Nigeria*)

#### Section 54

In subsection (1), for the words "Legislature of" there shall be substituted the words "Military Governor of", and for the words "the Legislature may provide" there shall be substituted the words "may be provided by Edict".

In subsection (2), for the word "Legislature" there shall be substituted the words "Military Governor".

#### Section 56

In subsection (2), after the words "appropriation law" there shall be inserted the words "or appropriation Edict".

#### Section 57

In subsection (1), for the words from "Minister" to "finance" there shall be substituted the words "Military Governor of the Region", and for the words "both Legislative Houses of the Region" there shall be substituted the word "him".

In subsection (2), for the words "a bill, to be known as an appropriation bill" there shall be substituted the words "an Edict, to be known as an appropriation Edict".

In subsection (3), after the word "law", wherever it occurs, there shall be inserted the words "or appropriation Edict", for the words "both Legislative Houses" there shall be substituted the words "the Military Governor", and for the word "bill" there shall be substituted the word "Edict".

#### Section 59 (2)

In section 59 (2), for the words "in accordance with subsection (1) of this section" there shall be substituted the words "according to law from the Contingencies Fund of the Region", and for the word "bill" there shall be substituted the word "Edict".

#### Section 60

In subsection (4), the word "Governor" and the words "member of the Electoral Commission of the Region" shall be omitted.

#### Section 61

In subsection (3), for the words from "Minister" to the end of the subsection there shall be substituted the words "Military Governor of the Region".

#### Section 63

In subsection (3), for the words from "if he is" to "Region or" there shall be substituted the words "if he is".

#### Section 64

In subsection (2), the words "the Deputy Governor of the Region or" shall be omitted.

#### Section 66

In subsection (2), for the words from "tendering" to "section" there shall be substituted the words "exercising any of the said powers".

**Section 67**

In subsection (2), for the words from "Before" to "purposes of" there shall be substituted the words "Before appointing any person by virtue of".

SCH. 4,  
PT. III  
(Eastern  
Nigeria)

**Section 69**

In subsection (3), for the words from "shall" to the end of the subsection there shall be substituted the words "may be removed from office by the Military Governor of the Region":

**Section 76**

In subsection (1), the words from "or such" to "by the Premier" shall be omitted.

**Section 78**

In subsection (1), the proviso shall be omitted.

**Section 80**

The words "including in particular section 16 of this Constitution" shall be omitted.

**Section 81**

In subsection (1), the definitions of "the Advisory Council" and "the President" and, in the paragraph beginning with the words "office under the state", the words "or as a member of the Government of the Federation or of a Region" shall be omitted, and in the definition of "Regional law", after the word "Region" there shall be inserted the words "or by the Military Governor of the Region".

In subsection (3), for the words from "the President" to "Advisory Council" there shall be substituted the words "the Attorney-General of the Region or a member of the Public Service Commission of the Region".

**PART IV****ADDITIONAL MODIFICATIONS OF PARTICULAR PROVISIONS OF CONSTITUTION OF WESTERN NIGERIA****Section 4**

For the words from "There" to "and which" there shall be substituted the words "The Military Governor of the Region".

**Section 33 (12) and (14)**

For section 33 (12) there shall be substituted the following subsections—

"(12) The Military Governor of the Region may, if he thinks fit, appoint a person to be Attorney-General of the Region.

(12A) Whenever and so long as no person holds the office of Attorney-General of the Region, any function which is conferred by this Constitution or any other law on the Attorney-General of the Region, shall vest in the Solicitor-General of the Region and may be performed by him notwithstanding anything in subsection (15) of this section."

In section 33 (14), the words in brackets and the words "whether or not that person is a Minister" shall be omitted.

SCH. 4,  
PT. IV  
(*Western  
Nigeria*)

## Section 42

For the words from the beginning of the section to "over that department" there shall be substituted the words "The Military Governor of the Region shall exercise general direction and control over every department of government of the Region", and for the words "the department" there shall be substituted the words "each such government department".

## Section 44

In subsection (3), after the word "Parliament" there shall be inserted the words "or a Decree".

## Section 47

In subsection (1), for the words from "department" to the end of the subsection there shall be substituted the words "Ministry of Justice of the Region".

In subsection (8), after the word "Parliament" there shall be inserted the words "or a Decree".

## Section 50

In subsection (2), for the words from "shall be" to the end of the subsection there shall be substituted the words "may be removed from his office or appointment by the Military Governor of the Region".

## Section 51

In subsections (1) and (2), in the provisos, after the word "enacted" there shall be inserted the words "or Decree made".

## Section 52

In subsection (9), for the words from "shall be" to the end of the subsection there shall be substituted the words "may be removed from his office or appointment by the Military Governor of the Region".

## Section 55

In subsection (2), after the words "appropriation law" there shall be inserted the words "or appropriation Edict".

## Section 56

In subsection (1), for the words from "Minister" to "finance" there shall be substituted the words "Military Governor of the Region", and for the words "both Legislative Houses of the Region" there shall be substituted the word "him".

In subsection (2), for the words "a bill, to be known as an appropriation bill" there shall be substituted the words "an Edict, to be known as an appropriation Edict".

In subsection (3), after the word "law", wherever it occurs, there shall be inserted the words "or appropriation Edict", for the words "both Legislative Houses" there shall be substituted the words "the Military Governor", and for the word "bill" there shall be substituted the word "Edict".

## Section 58 (2)

In section 58 (2), for the words "in accordance with subsection (1) of this section" there shall be substituted the words "according to law from the Contingencies Fund of the Region", and for the word "bill" there shall be substituted the word "Edict".

**Section 59**

In subsection (4), the word "Governor" and the words "member of the Electoral Commission of the Region" shall be omitted.

SCH. 4,  
PT. IV  
(Western  
Nigeria)

**Section 60**

In subsection (3), for the words from "Minister" to the end of the subsection, there shall be substituted the words "Military Governor of the Region".

**Section 62**

In subsection (3), for the words from "if he is" to "Region or" there shall be substituted the words "if he is".

**Section 63**

In subsection (2), paragraph (a) shall be omitted.

**Section 65**

In subsection (2), for the words from "tendering" to "section" there shall be substituted the words "exercising any of the said powers".

**Section 66**

In subsection (2), for the words from "Before" to "purposes of" there shall be substituted the words "Before appointing any person by virtue of".

**Section 68**

In subsection (3), for the words from "shall" to the end of the subsection there shall be substituted the words "may be removed from office by the Military Governor of the Region".

**Section 72**

In subsection (1), the words from "or such" to "by the Premier" shall be omitted.

**Section 74**

In subsection (1), the proviso shall be omitted.

**Section 80**

In subsection (1), the definitions of "the Advisory Council" and "the President" and, in the paragraph beginning with the words "the state", the words "or as a member of the Government of the Federation or a Region" shall be omitted, and in the definition of "Regional law", after the word "Region" there shall be inserted the words "or by the Military Governor of the Region".

In subsection (3), for the words from "the President" to "Advisory Council" there shall be substituted the words "the Attorney-General of the Region or a member of the Public Service Commission of the Region".

In subsection (6), for the words "section 16 or any other" there shall be substituted the word "any".

## PART V

ADDITIONAL MODIFICATIONS OF PARTICULAR  
PROVISIONS OF CONSTITUTION OF MID-WESTERN  
NIGERIA**Section 4**

For the words from "There" to "and which" there shall be substituted the words "The Military Governor of the Region".

**Section 33 (12) and (14)**

For section 33 (12) there shall be substituted the following subsections—

"(12) The Military Governor of the Region may, if he thinks fit, appoint a person to be Attorney-General of the Region.

(12A) Whenever and so long as no person holds the office of Attorney-General of the Region, any function which is conferred by this Constitution or any other law on the Attorney-General of the Region shall vest in the Solicitor-General of the Region and may be performed by him notwithstanding anything in subsection (15) of this section."

In section 33 (14), the words in brackets and the words "whether or not that person is a Minister" shall be omitted.

**Section 42**

For the words from the beginning of the section to "over that department" there shall be substituted the words "The Military Governor of the Region shall exercise general direction and control over every department of government of the Region", and for the words "the department" there shall be substituted the words "each such government department".

**Section 44**

In subsection (3), after the word "Parliament" there shall be inserted the words "or a Decree".

**Section 47**

In subsection (1), for the words from "department" to the end of the subsection there shall be substituted the words "Ministry of Justice of the Region".

In subsection (8), after the word "Parliament" there shall be inserted the words "or a Decree".

**Section 50**

In subsection (2), for the words from "shall be" to the end of the subsection there shall be substituted the words "may be removed from his office or appointment by the Military Governor of the Region".

**Section 51**

In subsections (1) and (2), in the provisos, after the word "enacted" there shall be inserted the words "or Decree made".

**Section 52**

In subsection (1), for the word "Legislature", where it first occurs, there shall be substituted the words "Military Governor", and for the words "the Legislature of the Region may prescribe" there shall be substituted the words "may be prescribed by Edict".

SCH. 4,  
PT. V  
(Mid-  
Western  
Nigeria)

In subsection (2), the words "(other than sections 2 and 18)" shall be omitted, for the word "Legislature", where it first occurs, there shall be substituted the words "Military Governor", and for the words "the Legislature may prescribe" there shall be substituted the words "may be prescribed by Edict".

**Section 54**

In subsection (2), after the words "appropriation law" there shall be inserted the words "or appropriation Edict".

**Section 55**

In subsection (1), for the words from "Minister" to "finance" there shall be substituted the words "Military Governor of the Region", and for the words "both Legislative Houses of the Region" there shall be substituted the word "him".

In subsection (2), for the words "a bill, to be known as an appropriation bill" there shall be substituted the words "an Edict, to be known as an appropriation Edict".

In subsection (3), after the word "law", wherever it occurs, there shall be inserted the words "or appropriation Edict", for the words "both Legislative Houses" there shall be substituted the words "the Military Governor", and for the word "bill" there shall be substituted the word "Edict".

**Section 57 (2)**

In section 57 (2), for the words "in accordance with subsection (1) of this section" there shall be substituted the words "according to law from the Contingencies Fund of the Region", and for the word "bill" there shall be substituted the word "Edict".

**Section 58**

In subsection (4) the word "Governor", in the first place where it occurs, and the words from "Member of the Electoral" to "the Governor" shall be omitted.

**Section 59**

In subsection (3), for the words from "Minister" to the end of the subsection there shall be substituted the words "Military Governor of the Region".

**Section 61**

In subsection (3), for the words from "if he is" to "Region or" there shall be substituted the words "if he is".

SCH. 4  
PT. V  
(Mid-  
Western  
Nigeria)

## Section 62

In subsection (2), paragraph (a) shall be omitted.

## Section 64

In subsection (2), for the words from "tendering" to "section" there shall be substituted the words "exercising any of the said powers".

## Section 65

In subsection (2), for the words from "Before" to "purposes of" there shall be substituted the words "Before appointing any person by virtue of".

## Section 67

In subsection (3), for the words from "shall" to the end of the subsection there shall be substituted the words "may be removed from office by the Military Governor of the Region."

## Section 71

In subsection (1), the words from "or such" to "by the Premier" shall be omitted.

## Section 73

In subsection (1), the proviso shall be omitted.

## Section 75

In subsection (1), the definitions of "the Advisory Council" and "the President" and, in the paragraph beginning with the words "the state", the words "or as a member of the Government of the Federation or of a Region" shall be omitted, and in the definition of "Regional law", after the word "Region" there shall be inserted the words "or by the Military Governor of the Region".

In subsection (3), for the words from "the President" to "Advisory Council" there shall be substituted the words "the Attorney-General of the Region or a member of the Public Service Commission of the Region".

In subsection (5), for the words "section 16 or any other" there shall be substituted the word "any".

MADE by the Supreme Military Council at Benin this 10th day of March, 1967.

LIEUTENANT-COLONEL Y. GOWON,  
Head of the Federal Military Government,  
Federal Republic of Nigeria

## EXPLANATORY NOTE

*This note does not form part of the Constitution (Suspension and Modification) Decree 1967 (above), but is intended to explain its purpose)*

The main feature of this Decree is the vesting in the Supreme Military Council of both the legislative and executive powers of the Government of the Federation. The Federal Executive Council which has hitherto exercised these powers has now been divested of them and it is henceforth to discharge those functions that are specifically delegated to it by the Supreme Military Council.

2. In the exercise of these legislative and executive powers, the concurrence of the Head of the Federal Military Government and of all the Military Governors is, for the first time, made essential in respect of certain matters which are set out in section 69 (6) of the Constitution. These are, to mention a few, matters affecting or relating to trade, commerce, industry, transport, the Armed Forces, the Nigeria Police, Higher Education, and the territorial integrity of a Region and the provisions of the sections listed in the proviso to section 4 (1) of the Constitution.

3. On the other hand, the legislative and executive powers of the Regions have been fully restored and vested in their respective Military Governors. But the provisions of section 86 of the Constitution of the Federation ensure that no Region shall exercise its executive authority so as to impede or prejudice the exercise of the executive authority of the Federation or to endanger the continuance of federal government in Nigeria.

4. The provisions of section 70 of the Constitution of the Federation give powers to the Supreme Military Council to take over the executive and legislative functions of a Regional Government during any period of emergency which might be declared in respect of that Region by the Supreme Military Council, while those of section 71 give the Supreme Military Council power to take appropriate measures against a Region which attempts to secede from the rest of the Federation, or where the executive authority of the Region is being exercised in contravention of section 86 of the Constitution.

5. On the question of amendment to a Regional Constitution, section 5 of the Constitution of the Federation has been suitably modified to the effect that in respect of certain matters mentioned in the section like, the appointment, tenure of office and terms of service of High Court judges, the functions of the Public Service Commission, the establishment of a Consolidated Revenue Fund, etc., any Edict made shall come into operation only with the concurrence of the Supreme Military Council.

6. The Advisory Judicial Committee established under Decree No. 1 of 1966 and which before now tendered advice to the Supreme Military Council regarding appointment of judges all over the Federation has been abolished. Each Military Governor now controls appointment of judges of the High Court of his Region. But the appointment of the judges of both the Supreme Court of Nigeria and the High Court of Lagos is made the sole responsibility of the Supreme Military Council.

7. All appointments to posts in the superscale Group 6 and above in the Public Service of the Federation and appointments to posts of Deputy Commissioner of Police and above in the Nigeria Police Force are now to be made by the Supreme Military Council. The functions formerly discharged under sections 110 and 146 of the Constitution of the Federation by the Federal Public Service Commission and the Police Service Commission respectively are now to that extent limited.

8. Appointments to the offices of Ambassador, High Commissioner and other principal representatives of the Republic in countries other than Nigeria are now, under the Decree, to be made by the Supreme Military Council.