

REQUISITION AND OTHER POWERS DECREE 1967



ARRANGEMENT OF SECTIONS

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Decree No. 39

[9th July, 1967]

Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Appointment and powers of requisitioning authorities

1. The Head of the Federal Military Government may, during any period of emergency, by notice in the Gazette designate any person as a requisitioning authority (in this Decree hereafter referred to as "authority") for the purposes of this Decree, and subject thereto and until persons are so

Appointment of requisitioning authorities.

designated under this section, the members of the armed forces of or above the rank of major or its equivalent rank, and police officers of or above the rank of superintendent, and administrative officers of or above the rank of class I, shall be requisitioning authorities.

2.—(1) An authority may requisition land or any vehicle, vessel or article relating to a vehicle or vessel.

(2) Where any person having in his possession, custody or control a vehicle, vessel or article relating to any vehicle or vessel, fails to comply with any requisition lawfully made in accordance with the provisions of this Decree, the authority may seize, take possession of and appropriate the vehicle, vessel, or article.

(3) The provisions of subsection (2) above shall apply whether the authority requires the land, vehicle, vessel or article, as the case may be, for a definite or for an indefinite period of time.

(4) For the avoidance of doubt, where used in this section and elsewhere in this Decree, the expression "vehicle" includes aircraft of any description.

3.—(1) If land is to be requisitioned, a notice giving information sufficient to identify the land and stipulating the date when possession is required shall be served upon the occupier; and where any vehicle, vessel, or article relating to a vehicle or vessel is requisitioned, a voucher shall be given to the person from whom it is requisitioned describing the vehicle, vessel or other article requisitioned with sufficient accuracy for the purpose of identifying the vehicle, vessel or article and for ascertaining the value thereof.

(2) Where it is impossible by reason of urgency for the authority to deliver a notice or voucher as the case may be, an authority in person shall give his name; and any other relevant information including in proper case his rank and number, to the person in apparent possession of the land, vehicle, vessel or article to be requisitioned; and at the expiry of a reasonable time in the case of land, the authority may, in the name of the Federal Military Government, thereafter take possession of the land, vehicle, vessel or article and subsequently obtain the particulars thereof from the person from whom it was requisitioned.

4.—(1) An authority may require a person to remove any quantity of petrol, kerosene, oil or lubricant which is in the possession, or custody or under the apparent control of that person to any specified place, and no compensation shall be payable for the cost of removing it except by order of the Head of the Federal Military Government.

(2) Where any person required to remove any quantity of petrol, kerosene, oil or lubricant under this section fails to remove it, the authority may do all things necessary to have it seized, taken possession of and removed to such a place as aforesaid.

5.—(1) If an authority has, pursuant to this Decree, requisitioned any land, vehicle, vessel, or article relating to a vehicle or vessel the authority may acquire the ownership thereof on behalf of the Federal Military Government by serving upon the person from whom the land, vehicle or article was requisitioned, a notice stating that the authority has acquired the ownership thereof under this section.

Power to
requisition
land or
means of
transport.

Requisition
voucher.

Power to
compel
removal of
petrol, etc.

Power to
acquire
land,
vehicles, etc.
requisi-
tioned.

(2) Where a notice of acquisition is served under the provisions of subsection (1) above, the land, vehicle, vessel or article relating to a vehicle or vessel so acquired shall vest in the Federal Military Government and, subject to payment of compensation thereafter in proper case, be held free from any mortgage, pledge, lien or other obligation whatsoever; and thereupon the period of requisition shall be at an end.

6. Articles not relating to vehicles or vessels may be requisitioned by the authority in manner following that is to say,—

(a) by notice directed to any person having possession, custody or control of the article, or

(b) by notice in the Gazette specifying the article requisitioned; and in either case the authority may in the requisition relate it—

(i) to specified articles, or

(ii) to articles of specified classes, or

(iii) to articles containing specified matter or material.

Power to requisition articles other than vehicles etc. by notice.

7.—(1) Where a notice under section 6 above requisitioning an article is directed by the authority to any person or, as the case may be, is published in the Gazette, the person having possession, custody or control thereof shall not dispose of the article otherwise than by delivery to, or as directed by, the authority.

Effect of notice and power to acquire ownership after requisition.

(2) Where the notice directs delivery to the authority or to his agent of an article requisitioned pursuant to section 6 above, the authority or the agent, as the case may be, shall upon delivery of the article give a receipt therefor, and the receipt shall describe the article with sufficient certainty to enable payment to be made therefor, unless payment was made at the time the article was requisitioned.

(3) Any authority desirous of acquiring ownership of an article requisitioned pursuant to this section may give the like notice as is prescribed for cases within section 5 of this Decree, and thereafter the provisions of that section shall have effect with any necessary modification.

8.—(1) Where an authority has requisitioned any article pursuant to section 6 above, the Federal Military Government shall, for all purposes, be deemed the owner, and no court or person shall be concerned to inquire whether the article is subject to any mortgage, pledge, lien or other obligation whatsoever.

Control of requisitioned articles by an authority.

(2) The authority may use any article requisitioned or deal with it or authorise its use as may be expedient for securing the public safety or for maintaining supplies and services, as the case may be, essential to the life of the community.

Compensation

9. Compensation shall be assessed as hereinafter provided, and where the power to requisition or acquire is exercised under this Decree, the amount of compensation paid shall be final.

Compensation.

Compensation in respect of land and disposal.
Cap. 167.

10.—(1) Where land is requisitioned or acquired as the case may be under this Decree, the purpose shall in either event be deemed a public purpose within the meaning of the Public Lands Acquisition Act (in this section referred to as "the Act") and compensation shall, subject to the following provisions of this section, be assessed by the Chief Federal Land Officer on behalf of the Federal Military Government as the government under the Act as if all preliminary steps as prescribed had been taken under the Act; and compensation shall be payable accordingly, so however that land so requisitioned or acquired shall not in any case be deemed to be unoccupied land for the purpose of the Act and, whether or not the land is occupied, no allowance shall be made on account of the requisition or acquisition being compulsory.

(2) Where, but for requisition under this Decree ownership or occupation as the case may be of land is otherwise unaffected, compensation under this Decree shall not exceed the ground rent (if any) for the period of occupation by an authority, and the rent (if any) for buildings thereon paid by an occupier evicted at the commencement of that period; and if immediately before the commencement of the period of occupation by an authority the owner was the occupier, compensation for use and occupation during the period of the requisition shall be assessed by the Chief Federal Land Officer.

(3) Where compensation is payable in respect of acquisition of land, the amount payable or paid as the case may be as compensation for requisition under subsection (2) above shall be taken into account; and compensation for the acquisition as so inclusive of compensation for the requisition shall thereafter be payable under this section.

(4) In the event of failure or refusal to accept compensation for the requisition or acquisition, as the case may be, as so assessed, the Chief Federal Land Officer shall pay the amount into the High Court of the state where the land is situate; and that High Court shall receive the amount and hold it for credit of the person entitled, as if it were a judgment debt recovered by due process.

(5) Public notice of the payment shall be given in such manner as the Commissioner for Works and Housing may direct; and moneys paid into court pursuant to subsection (3) above shall, if unclaimed for a period of five years from the date of payment into court, be thereafter paid into the Consolidated Revenue Fund.

Compensation in respect of vehicles, etc.

11.—(1) Compensation payable in respect of the requisition of any vehicle or vessel shall be the aggregate of the following sums, that is to say—

(a) a sum equal to the amount which might reasonably be expected to be payable by a person for the use of the vehicle or vessel during the period of the requisition under a charter or contract of hiring whereby he undertook to bear the cost of insuring, maintaining and running the vehicle or vessel; and

(b) if an agreement is made on behalf of the authority for the running of the vehicle or vessel during the said period by the person who, but for the requisition, would be entitled to possession of the vehicle or vessel, or who is the owner thereof, a sum equal to the amount of any expenses reasonably incurred by that person in connection with the maintenance and running of the vehicle or vessel during that period, not being expenses taken into account for the purposes of paragraph (a) above; and

(c) a sum equal to the cost of making good any damage to the vehicle or vessel not resulting in a total loss thereof, which may have occurred during the said period (except in so far as the damage has been made good during that period by the authority), no account being taken of fair wear and tear; and

(d) in a case where, during the period of the requisition, a total loss of the vehicle or vessel occurs, a sum equal to the value of the vehicle or vessel immediately before the occurrence of the damage which caused the loss; and

(e) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of the authority, for the purpose of compliance with any directions given on behalf of the authority in connection with the requisition.

(2) In computing for the purposes of subsection (1) (a) above the amount which might reasonably be expected to be payable for the use of any vehicle or vessel, no account shall be taken of any appreciation in the value thereof due to its requisitioning in a period of emergency; and no compensation shall by virtue of subsection (1) (c) above be payable in respect of any damage, if compensation in respect of expenses incurred for the purpose of making good that damage has accrued by virtue of subsection (1) (b) above.

(3) Compensation under subsection (1) (a) above shall be considered as accruing due from day to day during the period for which the vehicle or vessel is requisitioned, and shall be apportioned in respect of time accordingly; but this subsection shall not operate so as to require the making of payments at intervals of less than one month.

(4) Where, on the day on which any compensation accrues due by virtue of subsection (1) (a) above, a person other than the owner of the vehicle or vessel is, by virtue of a subsisting contract of hiring, the person who would be entitled to possession of, or to the use of, the vehicle or vessel but for the requisition, the person to whom the compensation is paid shall be deemed to receive it as a trustee for the person beneficially entitled.

(5) Any compensation under subsection (1) (b) or (1) (e) above shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred; but this subsection shall not operate so as to require the making of payments at intervals of less than one month.

(6) Any compensation under subsection (1) (c) or (1) (d) above shall accrue due at the end of the period of the requisition, and shall, subject as hereinafter provided, be paid to the person who is the owner of the vehicle or vessel.

(7) Where used in this section the expression "total loss" shall have the same meaning as it has for the purposes of the law relating to insurance, and accordingly it shall be construed as including constructive total loss; and upon the payment to any person of any compensation which has become payable by virtue of subsection (1) (d) in respect of any loss, the authority shall have the same right to take over an interest in whatever remains of the vehicle or vessel, and the same rights and remedies in and in respect of the vehicle, or vessel, as he would have if the payment had been made by the authority as the insurer under a contract insuring that person against the loss.

(8) The compensation payable in respect of the acquisition of any vehicle or vessel shall be a sum equal to the value of the vehicle or vessel immediately before the acquisition, no account being taken of any appreciation due to its requisitioning and shall, subject to the provisions of this Decree, be paid to the person then in possession of the vehicle or vessel.

For the purpose of assessing any compensation under this subsection in respect of the acquisition of any vehicle or vessel, account shall be taken of any compensation under subsection (1) (a) or (1) (d) above which may have become payable in respect of the requisition of that vehicle or vessel.

(9) Where, at any time during the period for which a vehicle or vessel is requisitioned by an authority in the exercise of the powers conferred by this Decree—

(a) a written notice stating that the vehicle or vessel is to be treated as acquired by the authority, or

(b) the vehicle or vessel is sold by the authority,

then, for the purposes of this section the vehicle or vessel shall be deemed to have been acquired by the authority in the exercise of the powers conferred by this Decree immediately before the day on which the said notice was served or, as the case may be, the day on which the vehicle or vessel was so sold, and the period of requisition shall be deemed to have ended at the time when the acquisition of the vehicle, or vessel as aforesaid is deemed by virtue of this subsection to have been effected.

(10) Where there is effected such a sale of any vehicle or vessel as is referred to in subsection (9) (b) above, the person by whom the sale was effected shall, as soon as may be thereafter, serve a written notice of the sale on the person who, but for the sale thereof, would be the owner of the vehicle or vessel.

12.—(1) Compensation payable in respect of—

(a) the requisitioning of an article shall be a reasonable amount as for hire,

(b) the acquisition of an article shall be a sum equal to the price which the person who, immediately before the requisition or acquisition, whilst the owner of the article, might reasonably have been expected to obtain upon a sale of the article in the open market, regard being had to the condition of the article at the time ;

and where an article having been requisitioned is thereafter acquired under this Decree, account shall be taken of any amount paid as for hire, but no account shall in either case be taken of appreciation in the value of the article by reason of the existence at the time of a period of emergency.

(2) Compensation payable in respect of the requisition or acquisition of any article shall include a sum equal to the amount of any expenses reasonably incurred, otherwise than by the authority, for the purpose of compliance with any directions given by the authority in connection with its requisition or acquisition.

(3) Compensation under subsection (1) above shall accrue due at the time of the requisition or acquisition of the article.

(4) Compensation under subsection (2) above shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred.

13.—(1) In the event of failure or refusal to accept compensation assessed otherwise than in respect of land, the authority shall cause the amount to be paid into the High Court of the state where the vehicle, vessel or article was requisitioned or acquired, as the case may be, under this Decree; and that High Court shall receive the amount and hold it for credit of the person entitled, as if it were a judgment debt recovered by due process.

Disposal of certain compensation not relating to land.

(2) Public notice of the payment shall be given in such manner as the Commissioner for Works and Housing may direct; and moneys paid into court pursuant to subsection (1) above shall, if unclaimed for a period of five years from the date of payment into court, be thereafter paid into the Consolidated Revenue Fund.

14. No claim for compensation under this Decree shall be entertained unless written notice of the claim is served on the Attorney-General of the Federation within the period of three months, or such longer period as the Head of the Federal Military Government may, either generally or in relation to any particular claim or class of claims, allow, beginning in either case with the date on which the compensation accrues due.

Limitation of time for claiming compensation.

15. No compensation shall be payable to any person in respect of any loss of, or damage to, any land, vehicle, vessel, or article if and so far as that person has become entitled, apart from the provisions of this Decree to recover any sum by way of damages or indemnity in respect of that loss or damage or is, at the time of the occurrence of the loss or damage, required under any contract with the Government of the Federation or of any state concerned, to be insured in respect thereof.

Exclusion of compensation in certain cases.

16.—(1) Where compensation for the requisition or acquisition of any land, vehicle, vessel or article is payable under this Decree, and the land, vehicle, vessel or article was used or held under agreement of any nature whatsoever affecting its ownership, the person deprived of its use or possession (whether or not as lessee, tenant, hirer or charterer) shall notify the owner by the most convenient means of the requisition or acquisition; and compensation moneys if paid in respect of any land, vehicle, vessel or article to the person in possession at the time of the requisition or acquisition, as the case may be, shall be held by the person to whom they are paid as trustee for the person beneficially entitled.

Liability of hirer to notify owner of requisition, etc., and payment of compensation.

(2) Accordingly, and as the case may require, the person to whom compensation is paid shall notify the owner or other beneficiary; and no further or other claim to compensation shall in any event lie at the suit of any person against the Federal Military Government or an authority in respect of any land, vehicle, vessel or article requisitioned or acquired and so compensated under this section.

17. Where compensation is paid to the owner, or as the case may be to any person under section 16 above, and at the time when the compensation accrued due the land, vehicle, vessel or article in respect of which compensation was payable was subject to any mortgage, pledge, lien or other obligation whatsoever, the amount of compensation shall be deemed to include any amount due, owing or payable thereunder, and no claim in respect thereof shall thereafter lie against the Federal Military Government or any authority under this Decree.

Compensation for vehicles and articles subject to encumbrances.

Compensation payable apart from this Decree.

18. The provisions of this Decree as to payment shall not operate to the prejudice of any agreement for the making of payments (whether by way of compensation or otherwise) in respect of the doing of anything in the exercise of powers conferred by this Decree; but where compensation in respect of the doing of anything as aforesaid would, apart from this Decree, be payable both under this Decree and under some other enactment then subject to any agreement as aforesaid, compensation shall be payable in accordance only with this Decree.

Miscellaneous

Limitation on liability for compensation.

19. Payment of compensation shall be a sufficient acquittance and discharge of the Federal Military Government and of any authority acting on its behalf under this Decree, in respect of anything requisitioned or, as the case may be, acquired under the provisions of this Decree; and no court or person shall thereafter be concerned to inquire as to the necessity for the payment, or as to its adequacy.

Regulations.

20. The Federal Executive Council may make regulations generally for the purposes of this Decree.

Penalties.

21.—(1) Any person being an individual contravening or failing to comply with the requirements of this Decree, or with any order, direction, notice, or requirement given or made thereunder, shall be guilty of an offence and liable—

(a) on conviction otherwise than in a High Court or a superior court, to a fine of £500 or to imprisonment for a term of not less than 12 months or more than 3 years, or to both; or

(b) on conviction by a High Court or any superior court, to a fine of £1,000 or to imprisonment for a term of not less than 2 years or more than 5 years, or to both.

(2) Any person not being an individual likewise so contravening or failing and thereby guilty of an offence shall be liable—

(a) on conviction otherwise than in a High Court or a superior court, to a fine of £1,000; or

(b) on conviction by a High Court or any superior court, to a fine of such amount as the court may order, being not less than £5,000.

Interpretation.

22.—In this Decree unless the context otherwise requires,—

“article” means personal property of any description whether or not relating to or used with a vehicle or vessel, but does not include a vehicle or vessel;

“authority” means any person appointed as, or deemed under section 1 to be, a requisitioning authority for the purposes of this Decree;

“fair wear and tear” in relation to anything requisitioned or, as the case may be, acquired under this Decree, means such change in its condition as might be expected to occur by normal usage but for the requisition or acquisition;

“Gazette” means the official gazette of the Federal Republic of Nigeria;

"land" includes fixtures of any description (other than minerals) however attached or annexed to the soil ;

"owner" in relation to anything requisitioned or, as the case may be, acquired under this Decree means the person entitled to sell the vehicle, vessel, or article thereby affected, it being assumed for the purpose of this Decree that the vehicle, vessel or article sold is not subject to any mortgage, pledge, lien or other obligation whatsoever ;

"vehicle" includes any means of conveyance of any description provided with wheels, runners or wings and used for the carriage by land or air, as the case may be, of persons or goods, or capable of being adapted to any such use ;

"vessel" includes any ship and a hovercraft of any description.

23.—(1) This Decree may be cited as the Requisition and Other Powers Decree 1967 and shall apply throughout the Federation.

Citation,
application,
etc.
1961 No. 1.

(2) The Emergency Powers Act 1961 where inconsistent with this Decree shall be read and construed subject to the provisions of this Decree.

(3) This Decree shall have effect during any period of emergency, and be deemed to have come into operation on 9th July 1967.

MADE at Lagos this 12th day of September 1967.

MAJOR-GENERAL Y. GOWON,
*Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria*