

INDUSTRIAL INSPECTORATE DECREE 1970



ARRANGEMENT OF SECTIONS

Section

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Decree No. 53

[9th October 1970]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) There shall be established as an integral part of the Federal Ministry of Industries a division to be known as the Industrial Inspectorate Division (hereafter in this Decree referred to as “the division”) which shall, subject to the overall control and direction of the Commissioner, have the powers and exercise the functions conferred by or under this Decree.

Establish-
ment and
composition
of Industrial
Inspectorate
Division.

(2) The division shall consist of a Director and such number of inspectors as may from time to time be required to assist the Director.

(3) The Director and inspectors shall be members of the public service of the Federation (within the meaning of the Constitution of the Federation 1963).

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(4) Any person who may be appointed as a Director or inspector shall have such qualifications and experience as are appropriate for a person required to perform the functions conferred by or under this Decree.

Duties of the division.

2.—(1) It shall be the duty of the division generally to carry out investigations into any proposed, new and existing undertaking involving any proposed capital expenditure, and in particular, for the purposes of determining the investment valuation of the undertaking, that is—

(a) the actual capital (whether foreign or local) employed or proposed to be employed in the undertaking ;

(b) the actual valuation of buildings, plants and other machinery employed or proposed to be employed in the undertaking and any addition thereto.

(2) The division shall also obtain necessary information on economic trends in the country and for this purpose the division shall—

(a) prepare and keep detailed records of matters relating to any undertaking investigated by it ;

(b) as far as possible prepare and keep records of all industrial plants and equipment in the country, their value and the value of similar plants and equipment in other countries.

Notice of intention to incur capital expenditure etc.

3.—(1) As from the commencement of this Decree, any person proposing—

(a) to start a new undertaking involving the expenditure of not less than ten thousand pounds ; or

(b) to incur additional capital expenditure of not less than ten thousand pounds in respect of an existing undertaking,—

shall give to the Director notice of his intention in the form specified in Schedule 1 to this Decree.

(2) The Director shall on receipt of the notice sent pursuant to subsection (1) above verify the information contained therein and may—

(a) demand and make use of any document relating to the purchase (whether locally or abroad) of any plant or machinery or parts thereof ;

(b) in the case of second-hand equipment demand and make use of information relating to the history of the equipment ;

(c) carry out physical checks on the site of any undertaking and inspect any building, plant or machinery.

(3) On being satisfied with the investment valuation as determined pursuant to the foregoing provisions of this Decree, the Director shall prepare and forward to the person carrying on the undertaking a certificate of acceptance which shall be in the form specified in Schedule 1 to this Decree.

(4) Any person who fails to comply with subsection (1) above shall, unless he proves that he had reasonable excuse for the failure, be guilty of an offence and liable on conviction to a fine of five hundred pounds.

Arbitration.

4.—(1) Any person disputing a finding of the Director relative to the investment valuation of any matter concerning his undertaking may require the matter to be submitted to arbitration and the dispute shall be resolved in the following manner, that is to say—

(a) there shall be a sole arbitrator who shall be a person agreed to by the Director and the party disputing the valuation (both of whom are hereafter in this section referred to as "the affected parties") and who shall be appointed by the Commissioner ;

(b) the sole arbitrator shall as soon as possible after his appointment view the building, plant or machinery which is the subject matter of the dispute and consider all documents and other information relating to them ;

(c) the sole arbitrator shall decide on the investment valuation and make his award within one month after entering on the reference or any longer period allowed in writing by the Commissioner ; and

(d) if there shall arise any question of law in the course of determining the dispute the sole arbitrator may submit the question for the determination of a High Court of a State where the undertaking is situated or in which the subject matter of the dispute arises (whichever is in the opinion of the arbitrator convenient to the affected parties) and the arbitrator shall be guided by the decision and direction of the court.

(2) The investment valuation as determined by the sole arbitrator and any award made thereby shall be binding and final as between the affected parties.

(3) Each of the affected parties shall bear his costs incurred in respect of any submission under this section to arbitration, for the determination of a point of law, or both as the case may be.

(4) The Arbitration Act (which, in its application, is restricted by the operation of law to Lagos State) shall extend to a submission to arbitration under subsection (1) above, and the reference shall be construed accordingly within the context of that Act as if sections 3, 5, 7, 10, 11, 12 and 15 thereof were omitted and that Act shall be so construed and with such other modifications as may be necessary.

Cap. 13.

5.—(1) Where, in exercise of any of the functions conferred by or under any law, any of the bodies mentioned in subsection (2) below has to take account of any fact and—

Certificate of acceptance or decision of arbitration to be binding.

(a) there is included in a certificate of acceptance issued by the Director pursuant to section 3 (3) of this Decree a finding regarding that fact ; or

(b) there is, following any reference under section 4 of this Decree, an arbitration decision in relation to that fact,—

that finding, or as the case may be, the decision, shall for the purposes of the exercise of those functions be final and binding as between any of those bodies and the parties concerned.

(2) The bodies referred to in subsection (1) above are—

(a) the Federal Board of Inland Revenue ;

(b) the Board of Customs and Excise ; and

(c) any department of the Government of the Federation or of a State.

6.—(1) The Director may by notice in writing served on any person carrying on an undertaking require that person to furnish in such form as may be prescribed information on such of the matters set out in Schedule 2 to this Decree (hereinafter in this Decree referred to as "the returns") as the Director may specify.

Returns.

(2) A person required to furnish returns pursuant to subsection (1) above shall within two months of the date of the notice from the Director comply with the notice.

Offences relating to returns.

7.—(1) If any person required to furnish returns pursuant to section 6 of this Decree fails to furnish those returns as required under this Decree, he shall be guilty of an offence and liable on conviction to a fine of one hundred pounds or in the case of a second or subsequent offence to a fine of two hundred pounds.

(2) If a person, in purported compliance with a requirement to furnish returns as aforesaid, knowingly or recklessly makes any statement in the returns which is false in any material particular, he shall be guilty of an offence and liable on conviction to a fine of two hundred pounds or imprisonment for a term of two years or to both such fine and imprisonment.

Power to enter business premises and obtain information etc.

8. For the purpose of carrying out any of his functions under this Decree the Director or any inspector authorised by the Director in writing—

(a) shall have a right of access at all times to any building where an undertaking is being carried on ; and

(b) shall be entitled to require from the directors or other officers of the undertaking such information and explanation as may be required for the performance of any duty conferred under this Decree.

Offences by bodies corporate.

9. Where an offence under this Decree which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other official of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Regulations.

10. The Commissioner may make such regulations as may be required from time to time for carrying into effect the object of this Decree and, without prejudice to the foregoing, he may by regulations—

(a) prescribe anything requiring to be prescribed under this Decree ; and

(b) amend, alter or vary any of the forms contained in Schedule 1 to this Decree.

Interpretation.

11. In this Decree, except where the context otherwise requires,—

“Commissioner” means the Federal Commissioner for Industries ;

“Director” means the director appointed pursuant to section 1 (3) of this Decree ;

“inspector” means the inspector appointed pursuant to section 1 (3) of this Decree ;

“investment valuation” in relation to any capital investment means any valuation determined pursuant to section 2 of this Decree ;

“returns” has the meaning assigned thereto in section 6 of this Decree ;

“undertaking” means any undertaking carried on by way of trade or business for the production of goods or services for sale and requiring the use of industrial machinery and other equipment, plants, buildings and other permanent or temporary fixtures on land.

Citation and extent.

12. This Decree may be cited as the Industrial Inspectorate Decree 1970 and shall apply throughout the Federation.

SCHEDULES

SCHEDULE 1

Section 3

FORM I

Industrial Inspectorate Decree 1970

NOTIFICATION OF INTENTION TO INCUR CAPITAL EXPENDITURE

In accordance with the Industrial Inspectorate Decree 1970, I hereby supply the following particulars :

1. Name of Business/Company.....

2. Address and Location.....

3. Postal Address.....

4. Description of Business.....

5. Cause for Capital Expenditure :

(is it a new business about to be established or an existing business expanding :)

6. Total new/additional investment envisaged :

7. Programme :

(a) Date building to commence.....

(b) Date building to end.....

(c) Date of importation of machinery.....

(d) Date machine installation to commence.....

(e) Date machine installation to end.....

(f) Date production to start.....

8. Person to be contacted at every stage :

(a) Name.....

(b)

(c) Telephone No.

Signature

FORM II

INDUSTRIAL INSPECTORATE DIVISION
FEDERAL MINISTRY OF INDUSTRIES*Industrial Inspectorate Decree 1970*CERTIFICATE OF ACCEPTANCE
OF NEW*/ADDITIONAL INVESTMENT VALUE

No. of Certificate :

Date of Issue :

I hereby certify that the value of new*/additional capital expenditure on fixed assets incurred by :

Name of Business/Company.....

Address and Location.....

is as follows :

	<i>Value of Local Content</i>	<i>Value of Foreign Content</i>	<i>Total</i>
Building and Site development ..			
Production Machines and Equip- ment			
Installation			
Vehicles, etc.			
TOTAL			

and that the contribution for financing the above are

Nigerian Equity.....

Foreign Equity.....

Local Loans.....

Foreign Loans.....

† *Previous Investment* up to.....

Acceptance Reference.....

was

Total Investments to date.....

.....
Signature.....
Name.....
*Director, Industrial
Inspectorate*

* Cancel whichever is not applicable.

† In cases of Expansion only (Cancel if not applicable).

SCHEDULE 2

MATTERS ABOUT WHICH A PERSON MAY BE REQUIRED
TO SUBMIT RETURNS UNDER SECTION 6

1. The nature of the undertaking (including its association with other undertakings), the date of its establishment or acquisition, the output, sales, deliveries and services provided.

2. The articles acquired or used, orders, stocks and work in progress.

3. The persons employed or normally employed (including working proprietors), the nature of their employment, their remuneration and the hours worked.

4. The outgoings and costs (including work given out to contractors, depreciation, rent, rates and taxes, other than taxes on profits) and capital expenditure.

5. The receipts of and debts owed to the undertaking.
6. The power used or generated.
7. The fixed capital assets, the plant, including the acquisition and disposal of those assets and that plant, and the premises occupied.

MADE at Lagos this 9th day of October 1970.

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