

PORTS (NULLIFICATION OF CERTAIN TRANSACTIONS) DECREE 1971



ARRANGEMENT OF SECTIONS

Section

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Nullification of purported contract. 2. Duty to repay relevant sum. 3. Recovery from currency conversion and insurance policies. | <ol style="list-style-type: none"> 4. Recovery from bank accounts. 5. Recovery from other assets. 6. Supplemental provisions. 7. Interpretation. 8. Citation and extent. |
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Decree No. 29

[10th June 1971]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

1. It is hereby declared that—

(a) the contract dated 1st October 1970 between Port and Marine Services Limited (hereinafter in this Decree referred to as "the purported vendors") and the Nigerian Ports Authority (hereinafter in this Decree referred to as "the Authority"), being a contract for the sale of tug boats by the purported vendors to the Authority for the use of the Authority, is null and void,

Nullification
of purported
contract.

(b) the sum of £203,330 (hereinafter in this Decree referred to as "the relevant sum") which purports to have been paid under the said contract to the purported vendors shall be dealt with in accordance with this Decree, and

(c) no other amounts shall be payable under the said contract.

2. It shall be the duty of the purported vendors to repay the relevant sum to the Authority before 30th June 1972.

Duty to repay
relevant sum

3. In accordance with such arrangements as may be approved by the Federal Commissioner for Finance, any sums—

(a) accruing to the purported vendors in respect of currency conversion,
or

(b) accruing to any person in respect of any policy of insurance on the life of one Lawrence Etim deceased,

Recovery
from
currency
conversion
and insurance
policies.

may be paid at any time to the Authority on account of the repayment due under section 2 of this Decree.

Recovery
from bank
accounts.

4.—(1) At any time after the commencement of this Decree, the Federal Commissioner for Finance may direct the Governor of the Central Bank of Nigeria to instruct a bank examiner to issue orders addressed to the manager or other person in charge of the head office or any branch of a bank requiring the bank to prepare or cause to be prepared a record of—

(a) any account maintained at any time after 30th September 1970 by or for—

(i) the purported vendors, or

(ii) the said Lawrence Etim deceased, or

(iii) any individual or company having an interest in the purported vendors, or

(iv) any company in which the purported vendors have a controlling interest or in which the said Lawrence Etim deceased had a controlling interest, or

(b) any account in which moneys are or were held in trust for the purported vendors or for the said Lawrence Etim deceased,

and it shall be the duty of the manager or other person to whom any such order is issued to prepare and certify the record for delivery to the bank examiner on or before a date to be prescribed in the order.

(2) Where a record is delivered under subsection (1) above, the bank examiner may at any time after the commencement of this Decree by written requisition call upon the person who prepared the record to pay any credit balance shown in the record to the Authority on account of the repayment due under section 2 of this Decree.

(3) Failure by or on behalf of a bank to comply with an order under subsection (1) above or a requisition under subsection (2) above shall be an offence by the bank punishable on conviction by a fine of not less than £5,000 for each day during which the failure continues.

Recovery
from other
assets.

5.—(1) At any time after the commencement of this Decree, the Federal Commissioner for Finance may, in addition to or instead of taking action under section 4 of this Decree—

(a) direct public officers under his control to seize and sell any assets which he knows or has reason to believe to be assets of any of the persons specified in section 4 (1) (a) (i) to (iv) of this Decree, and

(b) cause the proceeds of any such sale to be paid to the Authority.

(2) It shall be the duty of the Nigeria Police, if requested to do so by the Federal Commissioner for Finance, to give such assistance as may be reasonably necessary for the effective implementation of this section.

(3) Any person who obstructs a public officer or police officer in the execution of his duty under this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding £1,000 or to imprisonment for a period not exceeding six months, or to both.

(4) Where—

(a) a person's assets are seized under subsection (1) above, and

(b) that person claims that he is not one of the persons specified in section 4 (1) (a) (i) to (iv) of this Decree,

the person whose assets have been seized may make representations against the seizure to the Head of the Federal Military Government, whose decision on the matter shall be final.

6.—(1) Sections 4 and 5 of this Decree shall take effect notwithstanding that any account or asset to which they relate is in the name or under the control of any liquidator, executor, administrator or trustee or any other person exercising a similar function; and, notwithstanding the provisions of any law to the contrary, the obligation to comply with the requisition shall take precedence and have priority over the obligation to pay any debt payable under the law relating to the winding up of companies, bankruptcy or the administration of the estates of deceased persons.

Supple-
mental
provisions.

(2) All persons making payments or otherwise acting under this Decree shall stand indemnified in respect thereof, and no suit, prosecution or other legal proceedings shall lie at the instance of any person aggrieved for anything done in good faith in intended pursuance of this Decree.

(3) Notwithstanding any other provision of this Decree, the total amount paid to the Authority by virtue of this Decree shall not exceed the relevant sum.

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

“bank” has the same meaning as in the Banking Decree 1969;

“bank examiner” means an Examiner, a Deputy Examiner or an Assistant Examiner appointed under the Banking Decree 1969;

“branch”, in relation to a bank, includes any office or agency in Nigeria other than the head office;

“manager” includes any person apparently in charge of a bank or branch of a bank.

Interpreta-
tion.

1969 No. 1.

8. This Decree may be cited as the Ports (Nullification of Certain Transactions) Decree 1971 and shall apply throughout the Federation.

Citation
and extent.

MADE at Lagos this 10th day of June 1971.

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

EXPLANATORY NOTE

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

The Decree makes provision for the repayment to the Nigerian Ports Authority of a sum of £203,330 advanced in respect of an abortive contract.

SEA FISHERIES DECREE 1971



ARRANGEMENT OF SECTIONS

Section

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|---|--|
| <ol style="list-style-type: none"> 1. Licensing of motor fishing boats. 2. Application for a licence. 3. Grounds for issue of a licence, etc. 4. Renewal of a licence. 5. Appeals. 6. Returns. 7. Enforcement of the Decree. 8. Prohibited method of fishing. 9. Offences. | <ol style="list-style-type: none"> 10. Forfeiture, etc. 11. Regulations. 12. Interpretation. 13. Repeal and transitional provisions 14. Citation and application. |
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SCHEDULE

ENACTMENTS REPEALED.

Decree No. 30

[10th June 1971]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Subject to the provisions of this section, no person shall operate or navigate any motor fishing boat within the territorial waters of Nigeria unless a licence in respect of that vessel has been issued to the owner thereof.

Licensing
of motor
fishing
boats.

(2) Any person operating or navigating or causing to be operated or navigated a motor fishing boat in contravention of subsection (1) of this section shall be guilty of an offence under this Decree and on conviction shall be liable to imprisonment for one year, or to a fine of £500 for each day during which the offence continues, or to both such fine and imprisonment.

(3) The provisions of this section shall not apply to any motor fishing boat entering the territorial waters of Nigeria not for fishing or the disposal of fish, but solely for re-fuelling at any port or for shelter, or solely because the motor fishing boat is in distress or there is any other emergency.

2.—(1) Any person, being the owner of a motor fishing boat, may apply to a licensing officer for a licence in respect of the motor fishing boat.

Application
for a
licence.

(2) An application for a licence shall be in such form and manner as may be prescribed and shall—

(a) contain the particulars and descriptions of the motor fishing boat in respect of which the application is made ; and

(b) a statement in detail as to—

(i) the methods of taking fish that are to be employed,

(ii) the area within which it is proposed that the motor fishing boat shall operate, and

(iii) the arrangements that are to be made for the preservation and marketing of the catch in Nigeria.

Grounds for
issue of a
licence, etc.

3.—(1) On being satisfied that—

(a) an application for a licence has been made in the prescribed manner and contains all the information that is required under section 2 of this Decree ;

(b) the prescribed fees have been paid ;

(c) the applicant is the lawful owner of the motor fishing boat in respect of which the application is made, and that he is a fit and proper person to be granted a licence ; and

(d) the operation of the motor fishing boat in the territorial waters of Nigeria is not likely to be prejudicial to the interests of sea fishing industry in Nigeria,

the licensing officer shall issue a licence in respect of the motor fishing boat.

(2) Subject to the provisions of this Decree, a licence shall be in the prescribed form and may be issued subject to such conditions as the licensing officer may think fit to impose, and any conditions so imposed shall be endorsed on the licence.

(3) A licence shall be a yearly licence or a quarterly licence, and—

(a) if the licence is a yearly licence, it shall expire on the 31st day of December in the year in which it is issued ; and

(b) if the licence is a quarterly licence, it shall expire on the 31st day of March, the 30th day of June, the 30th day of September or the 31st day of December, whichever day falls next after the date of the issue of the licence.

(4) Where the ownership of a motor fishing boat in respect of which a licence has been issued is transferred from one person to another person, the licence shall not be valid in respect of the new owner of the vessel until such time as a licensing officer has approved the transfer of the ownership of the motor fishing boat and has endorsed the licence to that effect.

(5) A licensing officer may, without assigning any reason—

(a) cancel a licence, or

(b) suspend a licence for such period as he thinks fit.

Renewal of
a licence.

4. The provisions of this Decree relating to application for a licence and the issue of a licence shall apply in relation to an application for the renewal of the licence and to such renewal.

Appeals.

5.—(1) Any person aggrieved by any refusal by a licensing officer to issue or renew a licence or by the cancellation or suspension of a licence or by any condition endorsed on a licence may, within fourteen days of receiving notice of the refusal, cancellation, suspension or endorsement, appeal to the Commissioner in respect thereof.

(2) After considering any appeal made under subsection (1) of this section the Commissioner shall take such decision thereon as he deems fit and the licensing officer shall give effect thereto, as may be necessary.

(3) The decision of the Commissioner on any appeal under this section shall be final.

6. The owner of a motor fishing boat in respect of which a licence has been issued shall—

Returns.

(a) render to a licensing officer such periodical returns concerning the operation of the motor fishing boat as may be prescribed; and

(b) permit a licensing officer or any person authorised in writing by a licensing officer to inspect the catch of the motor fishing boat either before or after the catch has been landed and shall give the licensing officer or that person all reasonable facilities for the inspection of the catch.

7.—(1) An authorised person may, within the territorial waters of Nigeria, for the purpose of enforcing any provision of this Decree—

Enforcement of the Decree.

(a) require the owner or the person in charge of a motor fishing boat in respect of which a licence has been issued, to exhibit his licence, fishing apparatus and catch;

(b) require the owner or the person in charge of any other motor fishing boat or any person engaged in fishing to exhibit his fishing apparatus and catch;

(c) go on board of any fishing boat and search and examine the fishing boat and any fishing apparatus that may be therein;

(d) where there is reasonable suspicion that an offence under this Decree has been committed, take the alleged offender and the motor fishing boat, fishing apparatus and catch to the most convenient port or police station.

(2) The powers vested in an authorised person under subsection (1) of this section may be exercised by him without warrant, summons or other process.

(3) Any fishing boat or apparatus taken from an alleged offender under the provisions of paragraph (d) of subsection (1) above may be detained pending the trial of the alleged offender, and the catch may be sold and the proceeds of the sale detained pending such trial.

(4) Any vessel, apparatus or money detained under subsection (2) of this section shall, unless forfeited under the provisions of section 10 of this Decree, be returned to the person from whom the same was taken or to the lawful owner thereof.

(5) If a vessel, after detention under subsection (2) of this section, proceeds to sea before it is released by an authorised person or a court, the master of the vessel and also the owner and any person who sends the vessel to sea, if the owner or person is privy to the master's offence, shall be guilty of an offence under this Decree.

(6) In this section "an authorised person" means—

(a) a licensing officer;

(b) any commissioned officer in the Nigerian Army, Navy or Air Force;

(c) a police officer not below the rank of assistant superintendent of police;

(d) a customs officer not below the rank of assistant preventive superintendent;

- 1962 No. 30. (e) a surveyor or examiner appointed under the provisions of the Merchant Shipping Act 1962; and
(f) any other person authorised in writing by the Commissioner in that behalf.

Prohibited
method of
fishing.

8. No person may take or destroy or attempt to take or destroy any fish within the territorial waters of Nigeria by any of the following methods, that is,—

- (a) by the use of any explosive substance; or
- (b) by the use of any noxious or poisonous matter.

Offences.

9.—(1) Any person who—

- (a) contravenes or fails to comply with any of the provisions of this Decree;
- (b) contravenes or fails to comply with any requirement made under this Decree; or
- (c) contravenes or fails to comply with any condition endorsed on a licence,

shall be guilty of an offence under this Decree.

(2) Any person who is guilty of an offence under this Decree for which no other penalty is specifically provided shall on conviction be liable to a fine of £100 or to imprisonment for six months or to both such fine and imprisonment; and where the offence is a continuing offence the person shall be liable to a further sum of £50 for each and every day during which such failure continues, the liability to such further sum to commence from the day following the last conviction, or from such day thereafter as the court may order.

Forfeiture,
etc.

10. A court before which any person is convicted of an offence under this Decree may—

- (a) order the forfeiture to the Government of the Federation of any fishing boat, apparatus or catch employed in the commission of or derived from any act in respect of which that person is so convicted;
- (b) where the fishing boat employed in the commission of the offence is a motor boat in respect of which a licence had been issued, cancel the licence or suspend the licence for such time as the court may think fit.

Regulations.

11.—(1) The Commissioner may make regulations—

- (a) for furthering the interests of sea fishing industry in Nigeria, and
- (b) for giving effect to the provisions of this Decree.

(2) Without prejudice to the generality of the foregoing provisions of this section regulations made under this section may—

- (a) regulate, prohibit or restrict the taking of fish in any specific area within the territorial waters of Nigeria;
- (b) prohibit or restrict the use of any fishing boat, apparatus, or method of taking fish that is considered harmful to the sea fishing industry in Nigeria;
- (c) prescribe limits to the size of nets or the mesh of nets that may be employed in the taking of fish within the territorial waters of Nigeria, or in any specified area therein;
- (d) prescribe the form of a licence and the amount of fee to be paid in respect of a licence;
- (e) provide for the inspection of buildings and premises used for the curing, preservation, storage or sale of fresh, cured or preserved fish;
- (f) provide for the seizure and destruction of any fresh, cured or preserved fish that is unfit for human or animal consumption;

(g) provide for the exemption of specified persons from any provision of this Decree where such exemption is considered necessary for scientific or experimental purposes in connection with the development of the sea fishing industry in Nigeria or otherwise for the furtherance of the national interest of the Federation ;

(h) regulate any other matter relating to the conservation and protection of the stocks of sea fish.

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

“Commissioner” means Federal Commissioner charged with responsibility for fisheries ;

“fish” means any aquatic creature whether fish or not, and includes shell-fish, crustaceans, turtles and aquatic mammals ;

“fishing boat” means any ship, boat, canoe or other craft used for the taking of fish for sale or barter ;

“licence”, in relation to a motor fishing boat, means a licence issued under section 2 of this Decree ;

“licensing officer” means the Director of the Federal Department of Fisheries or any person appointed by him to carry out any of the provisions of this Decree ;

“motor fishing boat” means any fishing boat propelled by means of steam, internal combustion or other machinery except one or more portable outboard engines ;

“port” includes place and harbour ;

“prescribed” means prescribed by regulations under this Decree ;

“taking fish” includes any method of catching fish ;

“territorial waters of Nigeria” has the same meaning as in section 1 of the Territorial Waters Decree 1967.

Interpretation.

1967 No. 5.

13.—(1) Subject to the provisions of this section, the enactments set out in the Schedule to this Decree are hereby repealed.

(2) Any licence issued under any enactment mentioned in the Schedule to this Decree, being a licence that was in force immediately before the date of the commencement of this Decree, shall from that date have effect as if it were a licence issued under this Decree.

(3) Any licence, which under subsection (2) of this section has effect as if it were a licence issued under this Decree, shall from the date of commencement of this Decree be read and construed with such adaptations and modifications as may be necessary for the purposes of this Decree ; and subject to section 5 of this Decree, the licence may on or after that date be cancelled or suspended or be made subject to new conditions, by a licensing officer.

Repeal and transitional provisions.

14.—(1) This Decree may be cited as the Sea Fisheries Decree 1971.

(2) This Decree shall apply throughout the Federation.

Citation and application.

SCHEDULE

(section 13)

ENACTMENTS REPEALED

PART A—ACTS AND LAWS

1961 No. 30 Sea Fisheries (Lagos) Act 1961.

WRL. No. 12 of 1965 Sea Fisheries Law 1965.

PART B—SUBSIDIARY INSTRUMENTS

W.S.L.N. 120 of 1967 Sea Fisheries (Motor Fishing Boats
Licensing) Regulations 1967.L.S.L.N. 15 of 1969 Sea Fisheries (Licensing) Regulations
1969.

MADE at Lagos this 10th day of June 1971.

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

EXPLANATORY NOTE

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

The Decree makes provisions for controlling, regulating and protecting sea fisheries in the territorial waters of Nigeria.

2. It provides that no person shall operate or navigate any motor fishing boat within the territorial waters of Nigeria unless a licence is issued under the Decree.

3. The Decree empowers the Commissioner to make regulations for the purposes of the Decree and such regulations may prescribe the fee payable in respect of a licence.

4. The Decree repeals the existing state laws on sea fisheries.

**EXPORT OF NIGERIAN PRODUCE (SPECIAL PROVISIONS)
(AMENDMENT) DECREE 1971**



Decree No. 31

[10th June 1971]

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Commence-
ment.

1.—(1) Immediately after the words “and the third by the Commissioner” in section 1 (3) of the Export of Nigerian Produce (Special Provisions) Decree 1968 there shall be inserted the words “, and a fourth additional director (who may, but need not, be a member of the public service of the Federation) nominated and appointed by the Commissioner”.

Amend-
ment of
1968
No. 14.

(2) Section 1 (5) of the said Decree of 1968 shall apply to the amendment made by subsection (1) above; and accordingly the reference in the said section 1 (5) to the publication and production of a copy of the said Decree of 1968 shall be construed as including, in relation to that amendment, a reference to the publication and production of a copy of this Decree.

2. This Decree may be cited as the Export of Nigerian Produce (Special Provisions) (Amendment) Decree 1971 and shall apply throughout the Federation.

Citation
and extent.

MADE at Lagos this 10th day of June 1971.

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

EXPLANATORY NOTE

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

The Export of Nigerian Produce (Special Provisions) Decree 1968 empowers the Commissioner for Trade and Industries to appoint three additional directors of the Nigerian Produce Marketing Company Limited. The additional directors in question must be members of the public service of the Federation. This amending Decree empowers the Commissioner to appoint a fourth additional director, who may, but need not, be a member of the public service of the Federation.

**STATUTORY CORPORATIONS SERVICE COMMISSION
(AMENDMENT) DECREE 1971**



Decree No. 32

[10th June 1971]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. To subsection (1A) of the Statutory Corporations Service Commission Decree 1968 there shall be added the following proviso—

Amendment
of 1968
No. 53.

“Provided that, where—

(a) it is desired to appoint a person to act in such an office, and

(b) the person to be appointed is the person next in rank below the holder of the office,

subsection (1) above shall be sufficient authority for the making of the appointment and this subsection shall not apply.”

2. This Decree may be cited as the Statutory Corporations Service Commission (Amendment) Decree 1971 and shall apply throughout the Federation.

Citation and
extent.

MADE at Lagos this 10th day of June 1971.

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

EXPLANATORY NOTE

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

Subsection (1A) of section 4 of the Statutory Corporations Service Commission Decree 1968 (which was inserted by the Statutory Corporations Service Commission (Amendment) Decree 1969) provides that, where it is necessary to appoint the Chief Executive of a Statutory Corporation, the Commission shall not make the appointment until a recommendation has been made by the appropriate Commissioner and approved by the Federal

Executive Council. The above Decree modifies that subsection so as to provide that, where only an acting appointment is to be made and where the person to be appointed is the next senior in rank to the substantive holder of the office, the appointment may be made by the Commission itself without the need for a recommendation from the Commissioner and approval from the Federal Executive Council. If the person to be appointed is not the next senior, the recommendation and approval will still be necessary.