

## NIGERIAN MINING CORPORATION DECREE 1972



## ARRANGEMENT OF SECTIONS

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## SCHEDULES

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## Decree No. 39

[24th October 1972]

Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) There shall be established a body by the name of the Nigerian Mining Corporation which shall be a body corporate with perpetual succession and a common seal.

(2) The Corporation shall consist of the members mentioned in section 2 of this Decree and the provisions of Schedule 1 to this Decree shall have effect with respect to the powers and procedure of the Corporation and the other matters there mentioned.

Establishment of the Nigerian Mining Corporation.

## Membership.

2.—(1) The Corporation shall consist of a Chairman who shall be appointed by the Commissioner and the following other members, that is—

(a) the Permanent Secretary, Federal Ministry of Finance, or his deputy,

(b) the Permanent Secretary, Federal Ministry of Economic Development and Reconstruction, or his deputy,

(c) the Director of Mineral Resources, Federal Ministry of Mines and Power, or his deputy,

(d) the Director of Geological Surveys, Federal Ministry of Mines and Power, or his deputy,

(e) the General Manager of the Corporation, and

(f) three persons appointed by the Commissioner who in his opinion have, by reason of any necessary ability, experience, specialised knowledge of the mining industry or their business or professional attainments, a special contribution to make to the work of the Corporation.

(2) For the purposes of this section, the reference to deputy in relation to a public officer is a reference to any other public officer authorised in writing by such public officer in his Ministry or, as the case may require, Division of the Ministry to exercise (either generally or specially) his powers as a member of the Corporation under this Decree.

(3) The Federal Executive Council may by order published in the Federal Gazette increase or reduce or otherwise vary the composition of membership of the Corporation.

## Tenure of office, etc.

3.—(1) Subject to this Decree, a member of the Corporation who is not a public officer shall, unless he previously vacates his office—

(a) hold office for a period of three years on such terms as may be specified in his instrument of appointment, and

(b) be eligible for re-appointment;

and such member shall be paid out of the moneys at the disposal of the Corporation such remuneration and allowances as the Commissioner, with the approval of the Federal Executive Council, may determine.

## 1964 No. 1.

(2) Without prejudice to section 11 of the Interpretation Act 1964 (which provides, among other things, for the removal of appointees by the person who appointed them), any member of the Corporation not being a public officer—

(a) shall cease to hold office if he resigns his office by a notice in writing signed by him and served on the Commissioner;

(b) may be removed from office by notice in writing served on him by the Commissioner for reasons stated in that notice.

Functions of the Corporation.  
1971 No 19.

4. Subject to the provisions of this Decree and without prejudice to the operation of section 2 of the Nigerian Steel Development Authority Decree 1971, the Corporation shall be charged with the general duty of—

(a) exploring and prospecting for, working, mining or otherwise acquiring, processing and disposing of minerals of various kinds occurring in Nigeria other than petroleum or coal ;

(b) smelting, roasting, assaying, amalgamating, refining, or otherwise treating the minerals aforesaid in any manner calculated to render the products and by-products of any such mineral marketable ;

(c) purchasing the ores or the products and by-products of any of the minerals aforesaid from any source outside Nigeria in any case where they are not available in Nigeria ;

(d) marketing the ores, products and by-products of any or all of the minerals aforesaid ;

(e) performing the other functions conferred on it by or pursuant to this Decree.

5. Subject to the other provisions of this Decree, the Corporation shall have power to do anything which in its opinion is calculated to facilitate the carrying on of its activities including, without prejudice to the generality of the foregoing, the power—

Powers of  
the  
Corporation.

(a) to sue and be sued in its corporate name ;

(b) to hold and manage movable and immovable property ;

(c) to construct and maintain such roads, railways, sidings, tramways, bridges, reservoirs, watercourses, buildings, plant and machinery and such other works as may be necessary for, or conducive to, the discharge of the functions conferred on it by or under this Decree ;

(d) to purchase or otherwise acquire or take over any asset, business, property, privilege, contract, right, obligation and liability of any company, firm or person in furtherance of the business engaged in by the Corporation ;

(e) to enter into contracts or partnerships with any company, firm or person which in the opinion of the Corporation will facilitate the discharge of its functions under this Decree ;

(f) to train managerial and technical staff for the purpose of the running of its operations ;

(g) to undertake such research as may be necessary for the performance of its functions under this Decree, and for that purpose it may establish such number of research laboratories including mineralogical, chemical, mineral dressing and assay laboratories either independently or in partnership with any company, firm or person, as it may determine in each case ;

(h) to exercise such other powers as are necessary or expedient for giving full effect to the provisions of this Decree.

6.—(1) There shall be an officer of the Corporation to be known as the General Manager of the Corporation who shall be appointed by the Federal Executive Council on the recommendation of the Commissioner.

General  
Manager and  
Secretary  
of the  
Corporation.

(2) The General Manager shall be the chief executive officer of the Corporation and shall be responsible for the general administration of the Corporation, the execution of the policy of the Corporation and the transaction of its day to day business.

(3) There shall be appointed by the Corporation a Secretary to the Corporation who shall be an officer but not a member of the Corporation and shall keep the Corporation's records and conduct its correspondence and perform such other duties as the Corporation may from time to time direct or require.

Staff  
generally.

7.—(1) Subject to this Decree, the Corporation may appoint such persons as members of its staff as it considers necessary and may approve conditions of service, including provision for the payment of pensions :

Provided that no pensions scheme shall be put into operation without the prior approval in writing of the Federal Commissioner charged with responsibility for pensions.

(2) If the Commissioner thinks it expedient that any vacancy in the staff of the Corporation should be filled by a person holding office in any of the public services of the Federation, he shall inform the Federal Commissioner charged with responsibility for establishments to that effect, and thereafter the Public Service Commission of the Federation may fill the vacancy by way of secondment or transfer.

(3) Where a person is seconded pursuant to subsection (2) above, he shall be notified of the terms and conditions of the secondment ; and the secondment shall be without prejudice to any pension right which, but for the secondment, would still accrue to him.

(4) A person seconded under subsection (2) above may elect to be transferred to the staff of the Corporation, in which case any previous service in any of the public services as aforesaid shall count as service for the purposes of any pension subsequently payable by the Corporation.

(5) Where a person who is a member of any of the public services of the Federation is transferred to the service of the Corporation, then, if the Federal Commissioner charged with responsibility for pensions so directs—

Cap. 147.

(a) that person's former service in that public service shall be taken into account in applying the provisions of the Pensions Act, and

(b) that Act shall have effect as if that person's service with the Corporation were service in the said public service.

Borrowing  
powers.

8.—(1) Subject to subsection (2) below, the Corporation may from time to time borrow such sums as it may require in the exercise of its functions under this Decree.

(2) Subject to the following provisions of this section, the Corporation shall not, without the approval of the Federal Executive Council, borrow any sum of money whereby the amount in the aggregate outstanding on any loan or on all loans at any time exceeds £200,000.

(3) Nothing in this section shall prevent the Corporation from borrowing in excess of the limit imposed under subsection (2) above for the purpose of paying off any loan.

(4) A person lending to the Corporation shall not be bound to enquire whether the borrowing is within the power of the Corporation.

9.—(1) The Corporation shall establish and maintain a fund from which there shall be defrayed all expenditure by the Corporation.

Establishment of fund by the Corporation.

(2) There shall be paid and credited to the fund established in pursuance of subsection (1) above—

(a) such sums as may from time to time be lent or granted to the Corporation by the Government of the Federation or a State,

(b) such sums as may from time to time be lent to the Corporation by any person,

(c) all property and investments acquired by or vested in the Corporation and all moneys earned or arising therefrom, and

(d) such sums as may be received by the Corporation in the course of its operations or in relation to the exercise of any or all of its functions under this Decree.

10.—(1) The Corporation may from time to time apply the proceeds of the fund established in pursuance of section 9 above—

Expenditure of the Corporation, etc.

(a) to the cost of administration of the Corporation or of any subsidiary it might acquire pursuant to this Decree,

(b) to the repayment of any money borrowed pursuant to this Decree,

(c) to grant loans to its officers and servants for such purposes and on such terms and conditions as it may approve, and

(d) for and in connection with all or any of its functions under this Decree or any other written law.

(2) With the approval of the Federal Executive Council the Commissioner may issue to the Corporation directives as to the disposal of surplus funds, and subject to such directives the Corporation may invest its funds and maintain a general financial reserve.

11.—(1) The Corporation shall keep proper accounts and proper records in relation thereto and shall prepare in respect of each financial year a statement of accounts in such form as the Commissioner may direct, being a form which shall conform with the best commercial standards.

Accounts and audit.

(2) The Corporation shall as soon as may be after the end of the financial year to which the accounts relate cause its accounts to be audited by auditors approved by the Commissioner.

(3) The auditors shall on the completion of the audit of the accounts of the Corporation for each financial year prepare and submit to the Corporation the following two reports, that is to say—

(a) a general report setting out the observations and recommendations of the auditors on the financial affairs of the Corporation generally for that year and on any important matters which the auditors may consider necessary to bring to the notice of the Corporation; and

(b) a detailed report containing the observations and recommendations of the auditors in detail on all aspects of the operations of the Corporation for that year.

12.—(1) The Corporation shall prepare and submit to the Commissioner not later than 30th June in each financial year a report in such form as the Commissioner may direct on the activities of the Corporation during the

Annual reports.

immediately preceding financial year, and shall include in the report a copy of the audited accounts of the Corporation for that year and of the reports mentioned in section 11 (3) above.

(2) The Commissioner shall cause a copy of each report made to him under this section to be laid before the Federal Executive Council.

Compulsory  
acquisition  
of land.

13.—(1) Whenever there is any hindrance to the acquisition by the Corporation of any land required for any purpose of the Corporation under this Decree (including any failure by the Corporation to reach agreement with the party concerned as to the amount to be paid in respect of the acquisition), the Commissioner, on the application of the Corporation and after such inquiry as he may think fit, may declare that the land is required for the service of the Corporation.

Cap. 167.

(2) Where a declaration is made under subsection (1) above, the land to which the declaration relates shall be deemed to be land required for a public purpose within the meaning of the Public Lands Acquisition Act, and the Head of the Federal Military Government—

(a) may cause action to be taken under that Act for acquiring the land for the Federal Military Government, or

(b) if the land is native land, may issue a requisition under the appropriate law for the revocation of any rights relating to the land.

(3) Where a declaration has been made under subsection (1) above in respect of any land other than native land and—

(a) the land has been acquired pursuant to subsection (2) (a) above, or

(b) the Head of the Federal Military Government is satisfied that there are no rights subsisting in respect of the land,

the Head of the Federal Military Government may vest the land in the Corporation by means of a certificate under the hand and seal of the Chief Federal Lands Officer.

(4) Where a declaration has been made under subsection (1) above in respect of any native land and—

(a) the rights relating thereto have been revoked pursuant to subsection (2) (b) above, or

(b) the Military Governor or Administrator of the State in which the land is situated is satisfied that there are no rights subsisting in respect of the land,

the Military Governor or Administrator in question may grant to the Corporation a right of occupancy of the land on such terms and conditions as he thinks fit.

(5) The compensation (if any) payable under the Public Lands Acquisition Act for the acquisition of any land under this section or payable under the appropriate law for the revocation of any rights relating to the land, as the case may be, shall in the first instance be paid by the Federal Military Government but the Corporation shall refund to that Government any compensation so paid and all incidental expenses incurred by the Government.

(6) A plan of the land referred to in subsection (1) above—

(a) containing measurements of the boundaries of the land,

(b) showing the relationship of the land to any sufficient identifying mark, and

(c) signed by the General Manager of the Corporation,

shall be a sufficient description of the land for the purposes of an application under that subsection.

(7) In this section, "the appropriate law" in relation to a State means any law in force in the State defining native lands and providing for the revocation of rights relating thereto if any such land is required for public purposes of the Federation.

14. Land vested in the Corporation shall not be liable to be acquired compulsorily under any enactment; and notwithstanding anything in any other enactment, no mining operations shall be carried on, in or under any land vested in the Corporation or any land over which the Corporation is entitled to rights of support for the benefit of lands so vested except with the prior consent in writing of the Commissioner or the Corporation.

Protection  
of Corpora-  
tion's land.

15.—(1) For the purposes of this Decree, the Corporation shall be subject to all rights, powers, obligations and duties to which—

Application,  
etc. of certain  
enactments.

(a) the holder of a prospecting right, an exclusive prospecting licence, a mining right or water licence or a lessee of a mining lease is subject under the Minerals Act;

Cap. 121.

(b) the holder of a quarrying lease or a quarrying licence is subject under the Quarries Decree 1969.

1969 No. 26.

(2) Accordingly, the provisions of the enactments mentioned in subsection (1) above shall apply in relation to the Corporation as they apply in relation to any person under those enactments, so however that in the application thereof—

(a) the provisions of the said enactments specified in Part A of Schedule 2 to this Decree shall be excluded, and

(b) the Forms specified in Part B of the said Schedule shall for the purposes of this Decree only be consequentially modified;

and subsidiary instruments made pursuant to the enactments shall be construed accordingly.

(3) Save as hereinabove provided, nothing in this section shall be construed as authorising the disregard by the Corporation of any enactment or rule of law.

16. Where in the exercise of any function under this Decree certain rights are affected, the provisions of this Decree shall not be construed so as to exclude—

Protection  
of certain  
rights.

(a) the payment of compensation in respect of any loss or damage that may have been suffered in consequence of the operation of the provisions of this Decree;

(b) the determination of any right or interest in any property acquired or possessed by the Corporation, and the amount of compensation payable pursuant to this section, by any court of competent jurisdiction.

Power to  
make by-  
laws.

17.—(1) The Corporation may, with the approval of the Commissioner, make by-laws, not inconsistent with this Decree, for the general and efficient conduct of the functions conferred on it under this Decree.

(2) By-laws made under subsection (1) above need not be published in the Federal Gazette but the Corporation shall bring them to the notice of such affected or interested persons (including officers and servants of the Corporation) in such manner as it may from time to time determine.

Interpreta-  
tion.

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

“the Commissioner” means the Federal Commissioner for Mines and Power;

“the Corporation” means the Nigerian Mining Corporation established pursuant to section 1 of this Decree;

“functions” includes powers and duties;

“prospecting” has the meaning assigned thereto by section 2 of the Minerals Act;

Cap. 121.

1967 No. 14.

“State” means any state created in pursuance of the States (Creation and Transitional Provisions) Decree 1967.

(2) In this Decree the reference to minerals includes all the minerals as defined under section 2 of the Minerals Act but for the avoidance of doubt does not include—

Cap. 134.

1969 No. 51.

(a) coal as defined under section 2 of the Nigerian Coal Corporation Act;

(b) petroleum as defined under section 14 (1) of the Petroleum Decree 1969.

Citation.

19. This Decree may be cited as the Nigerian Mining Corporation Decree 1972.

## SCHEDULES

### SCHEDULE 1

Section 1 (2)

#### SUPPLEMENTARY PROVISIONS RELATING TO THE CORPORATION, ETC.

##### *Proceedings*

1964 No. 1.

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

2. Every meeting of the Corporation shall be presided over by the Chairman or, if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of their number to preside at the meeting.

3. The quorum at a meeting of the Corporation shall consist of the Chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 above) and four other members.



SCHEDULE 1—*continued*

4. Except as provided in section 2 (1) (a) to (d), no member of the Corporation shall be entitled to appoint an alternate or a deputy to represent him at a meeting.

5. Where standing orders made pursuant to paragraph 1 above provide for a committee of the Corporation to consist of or co-opt persons who are not members of the Corporation, the committee may advise the Corporation on any matter referred to it by the Corporation, but members of the committee who are not members of the Corporation shall not be entitled to vote at a meeting of the committee.

*Miscellaneous*

6. The fixing of the seal of the Corporation shall be authenticated by the signature of the Chairman or of the General Manager of the Corporation.

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

8. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Corporation shall be received in evidence and, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.

9. The validity of any proceedings of the Corporation or a committee thereof shall not be affected—

(a) by any vacancy in the membership of the Corporation, or

(b) by any defect in the appointment of a member of the Corporation or committee.

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

## SCHEDULE 2

## Section 15 (2)

## MODIFICATION OF CERTAIN ENACTMENTS

## PART A

*The Minerals Act (Cap. 121)*

Section 18 (5) (which relates to the duration of a prospecting right)

Section 20 (6) and (7) (which relates to the duration of a prospecting licence)

Section 28 (4) and (6) (which relates to the duration and consequential renewal of a mining right)

Section 37 (1) and (2) (which relates to the duration and consequential renewal of a mining lease)

SCHEDULE 2—*continued**The Quarries Decree 1969 (1969 No. 26)*

Section 3 (5) and (6) (which relates to the extent of area of land of, and duration of, a quarrying lease)

Section 5 (4) (which relates to the duration of a quarrying licence)

Section 6 (which relates to consequential renewal of quarrying licences and leases)

## PART B

*First Schedule to the Minerals Act*

- Form A (Prospecting Right)
- Form B (Exclusive Prospecting Licence)
- Form E (Mining Right)
- Form F (Mining Lease)

*Schedule 1 to the Quarries Decree 1969*

- Form A (Quarrying Lease)
- Form C (Quarrying Licence)

MADE at Lagos this 24th day of October 1972.

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 purport)*

The Decree sets up the Nigerian Mining Corporation as a statutory corporation. The Corporation is empowered to engage in prospecting for, mining and refining minerals of various kinds occurring in Nigeria apart from coal and petroleum.

**DEFENCE INDUSTRIES CORPORATION OF NIGERIA  
(AMENDMENT) DECREE 1972**



**Decree No. 40**

[24th October 1972]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. In paragraph 1 of the Schedule to the Defence Industries Corporation of Nigeria Act 1964 and—

Amendment  
of 1964  
No. 14.

(a) in sub-paragraph (2) (b) (ii), for the words "Commerce and Industry" there shall be substituted the word "Industries"; and

(b) for the existing sub-paragraph (2) (b) (vii) there shall be substituted the following new sub-paragraph—

"(vii) the Permanent Secretary, Federal Ministry of Finance."

2. This Decree may be cited as the Defence Industries Corporation of Nigeria (Amendment) Decree 1972.

Citation.

MADE at Lagos this 24th day of October 1972

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 purport)*

The Decree amends the Defence Industries Corporation of Nigeria Act 1964 to replace, in the membership of the Corporation, the chief accountant in the Ministry of Defence with the Permanent Secretary, Ministry of Finance and to insert the correct title of the Ministry now responsible for industries.