

## FEDERAL REVENUE COURT DECREE 1973



### ARRANGEMENT OF SECTIONS

#### Section

#### PART I—THE CONSTITUTION OF THE FEDERAL REVENUE COURT

1. Establishment of the Federal Revenue Court.
2. Appointment of Judges.
3. Tenure of office of Judges.
4. Precedence.
5. Salaries and allowances of Judges.
6. Seal of the Court.

#### PART II—JURISDICTION AND LAW

7. Jurisdiction, etc.
8. Cesser of jurisdiction, etc.
9. Practice and procedure.
10. Administration of law and equity.
11. Determination of matter completely and finally.
12. Rules of equity to prevail.
13. Injunctions and receivers.
14. Orders of mandamus, prohibition and certiorari.
15. Injunction in lieu of quo warranto.
16. Execution of instruments by order of court.
17. Reconciliation in civil and criminal cases.
18. Reservation of point of law for Supreme Court.

#### PART III—SITTING AND DISTRIBUTION OF BUSINESS

19. Divisions of the court.
20. Sittings.
21. Judge's absence.
22. Power of transfer.
23. Proceedings to be disposed of by single Judge.

24. Powers of single Judge in court and in chambers.
25. Discharge of orders made in chambers.
26. Power to transfer causes or matters to Magistrates' courts.
27. Appellate jurisdiction.
28. Powers of court in civil appeals.
29. Powers of court in criminal appeals.
30. Power of court on appeal against acquittal or dismissal.
31. Appeals to the Supreme Court.

#### PART IV—GENERAL PROVISIONS AS TO TRIAL AND PROCEDURE

32. Criminal procedure.
33. Trial of revenue causes or matters in priority to any other business.
34. Trial with assessors.
35. Reference for report.
36. Reference for trial.
37. Powers and remuneration of referees and arbitrators.
38. Court to have powers as in submissions.
39. Power to order habeas corpus to issue.
40. Statement of case pending arbitration.
41. Power of court to impose terms as to costs.
42. Meaning of "reference".

#### PART V—RULES OF COURT

43. Power to make rules of court.

#### PART VI—VENUE

44. Places where offence may be tried.

ARRANGEMENT OF SECTIONS—*continued**Section*

## PART VII—MISCELLANEOUS

- |   |  |
|---|--|
| <p>45. Chief Registrar and other officers of court.</p> <p>46. Negligence or misconduct of officers.</p> <p>47. Restriction on officers of court buying property sold at execution.</p> <p>48. Costs.</p> <p>49. Allowances to witnesses.</p> <p>50. How allowances are to be defrayed.</p> <p>51. Person in court may be required to give evidence though not summoned.</p> <p>52. In what cases prisoners may be brought by warrant to give evidence.</p> <p>53. Production and custody of prisoners required to give evidence.</p> | <p>54. Law not to affect rules of evidence or jurisdiction.</p> <p>55. Representation of the Government, etc.</p> <p>56. Right to practise.</p> <p>57. Provisions pending appeal.</p> <p>58. Notes of evidence and minutes of proceedings to be kept by presiding Judge.</p> <p>59. Inspection.</p> <p>60. President may appoint commissioners for affidavits or for taking evidence.</p> <p>61. Protection of commissioner from action.</p> <p>62. Judicial officers not liable to be sued if they acted in good faith.</p> <p>63. Interpretation.</p> <p>64. Savings.</p> <p>65. Citation.</p> |
|---|--|

## Decree No. 13

[13th April 1973]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

## PART I—THE CONSTITUTION OF THE FEDERAL REVENUE COURT

1.—(1) There is hereby established a High Court of Justice which shall be styled "The Federal Revenue Court".

Establish-  
ment of the  
Federal  
Revenue  
Court.

(2) The Federal Revenue Court shall consist of the following :—

(a) the President, who shall have overall control and supervision of the administration of the Federal Revenue Court ; and

(b) such number of Judges (not being less than 4) as the Head of the Federal Military Government may by order prescribe.

(3) The Federal Revenue Court shall be a superior court of record and, save as otherwise provided by law, shall have all the powers of the High Court of Justice of any of the States in the Federation.

(4) The court shall assume its functions on such date as may be appointed by an order made by the Head of the Federal Military Government.

2.—(1) The President of the Federal Revenue Court and the other Judges of that court shall be appointed by the Supreme Military Council acting after consultation with the Advisory Judicial Committee.

Appoint-  
ment of  
Judges.

(2) A person shall not be qualified to hold the office of a Judge of the Federal Revenue Court unless—

(a) he is or has been a Judge of a court having unlimited jurisdiction in civil and criminal matters in Nigeria or a court having jurisdiction in appeals from any such court ; or

(b) he is qualified for admission as a legal practitioner in Nigeria and has been so qualified for not less than 10 years :

Provided that in computing the period during which any person has been qualified for admission as a legal practitioner 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 the President is vacant or if the person holding the office is for any reason unable to perform the functions of his 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 other Judges of the Federal Revenue Court as may from time to time be designated in that behalf by the Supreme Military Council, acting after consultation with the Advisory Judicial Committee.

(4) If the office of any Judge of the Federal Revenue Court other than the President's is vacant or if the person holding the office is acting as President or is for any reason unable to perform the functions of his office, the Supreme Military Council, acting after consultation with the Advisory

Judicial Committee, may appoint a person with such qualifications as prescribed above to act in the office of a Judge of the Federal Revenue 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, acting after consultation with the Advisory Judicial Committee.

(5) A person holding office under this section shall, unless the Supreme Military Council acting after consultation with the Advisory Judicial Committee otherwise permits or allows, vacate his office on attaining such age as may be prescribed by law.

Tenure of  
office of  
Judges.

3.—(1) Notwithstanding section 2 (5) above, the Head of the Federal Military Government may permit the President of the Federal Revenue Court or a Judge of that court to continue in his office or appointment for such period after attaining the prescribed age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that he has commenced before he attained that age.

(2) Any person holding or appointed to act in the office of the President or a Judge of the Federal Revenue Court may be removed from his office or appointment by the Supreme Military Council acting after consultation with the Advisory Judicial Committee.

Precedence.

4.—(1) The President shall take precedence of the other Judges of the court, and the other Judges shall take precedence after the President in accordance with such directions as may be given by the Head of the Federal Military Government.

(2) The President shall rank equal with the Chief Justices of the States of the Federation in precedence and the Judges of the Federal Revenue Court shall, in like manner, rank with the Judges of the High Courts of the States.

Salaries and  
allowances  
of Judges.

5.—(1) There shall be paid to the President and to each of the other Judges of the Federal Revenue Court such salaries and remunerations as are payable, respectively, to the Chief Justices of the States of the Federation and the Judges of the High Courts of the States.

(2) There shall also be paid to each Judge on account of expenses incurred in connection with his office or otherwise such allowances as are considered reasonable by the Federal Military Government.

(3) The amounts payable under the provisions of this section shall be charged upon and paid out of the Consolidated Revenue Fund of the Federation.

Seal of the  
Court.

6.—(1) The Federal Revenue Court shall have and may use a seal bearing a device or impression approved by the President with the inscription "The Federal Revenue Court".

(2) The seal shall be kept by the President and the duplicate thereof shall be kept by each of the other Judges, and the President and other Judges may entrust the seal or duplicate to such officers of court as they may think fit.

(3) Such seal shall be a seal of the Federal Revenue Court for all purposes for which it may be required under the provisions of any enactment or rule of court.

## PART II—JURISDICTION AND LAW

7.—(1) The Federal Revenue Court shall have and exercise jurisdiction in civil causes and matters—

Jurisdiction,  
etc.

(a) relating to the revenue of the Government of the Federation in which the said Government or any organ thereof or a person suing or being sued on behalf of the said Government is a party ;

(b) connected with or pertaining to—

(i) the taxation of companies and of other bodies established or carrying on business in Nigeria and all other persons subject to Federal taxation,

(ii) customs and excise duties,

(iii) banking, foreign exchange, currency or other fiscal measures ;

(c) arising from—

(i) the operation of the Companies Decree 1968 or any other enactment regulating the operation of companies incorporated under the Companies Decree 1968,

1968 No. 51.

(ii) any enactment relating to copyright, patents, designs, trade marks and merchandise marks ;

(d) of Admiralty jurisdiction.

(2) The Federal Revenue Court shall also have and exercise jurisdiction and powers in respect of criminal causes and matters arising out of or connected with any of the matters in respect of which jurisdiction is conferred by subsection (1) of this section.

(3) The jurisdiction conferred under the foregoing subsection in respect of criminal causes and matters shall without prejudice to the generality of that subsection and subject to section 63 (3) below include original jurisdiction in respect of offences under the provisions of the Criminal Code being offences in relation to which proceedings may be initiated at the instance of the Attorney-General of the Federation.

Cap. 42.

(4) The Head of the Federal Military Government may by order published in the *Gazette* confer jurisdiction on the Federal Revenue Court in respect of such other causes and matters of like nature as those set out in the foregoing subsections as he may from time to time at his discretion specify.

8.—(1) In so far as jurisdiction is conferred upon the Federal Revenue Court in respect of the causes or matters mentioned in the foregoing provisions of this Part the High Court or any other court of a State shall, to the extent that jurisdiction is so conferred upon the Federal Revenue Court, cease to have jurisdiction in relation to such causes or matters.

Cesser of  
jurisdiction,  
etc.

(2) Notwithstanding subsection (1) above, the Head of the Federal Military Government may by order and to the extent set out in the said order vest in the High Court or any other court of a State Federal jurisdiction either generally in relation to the causes and matters set out in the preceding section or specially in relation to any particular cause or matter which may be specified in the said order.

(3) Nothing in the foregoing provisions shall affect the jurisdiction and all other powers of the High Court or any other court of a State to continue to hear and determine causes and matters which are pending before such court at the date of the assumption of the functions of the Federal Revenue



Court or at the date when jurisdiction is otherwise conferred on the Federal Revenue Court by the Head of the Federal Military Government, and any proceedings in any such causes and matters, which are still pending at the expiration of the period of six months beginning with the date of assumption of the functions of the Federal Revenue Court or at the date when jurisdiction is otherwise conferred on the Federal Revenue Court, shall abate on the expiration of that period.

Practice and  
procedure.

9. The jurisdiction vested in the Federal Revenue Court shall, so far as practice and procedure are concerned, be exercised in the manner provided by this Decree or any other enactment or by such rules and orders of court as may be made pursuant to this Decree or, in the absence of any such provisions, in substantial conformity with the practice and procedure for the time being in force in the High Court of Lagos State.

Administra-  
tion of law  
and equity.

10. Subject to the provisions of this Decree, in every civil cause or matter commenced in the Federal Revenue Court law and equity shall be administered by the court concurrently.

Determina-  
tion of  
matter  
completely  
and finally.

11. The Federal Revenue Court in the exercise of the jurisdiction vested in it by or under this Decree shall, in every cause or matter have power to grant, either absolutely or on such terms and conditions as the court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter so that, as far as possible, all matters in controversy between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any of those matters avoided.

Rules of  
equity to  
prevail.

12. Subject to the express provisions of any other enactment, and in all matters not particularly mentioned in this Decree in which there was formerly or there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail in the Federal Revenue Court so far as the matters to which those rules relate are cognizable by the court.

Injunctions  
and receivers.

13.—(1) The Federal Revenue Court may grant an injunction or appoint a receiver by an interlocutory order in all cases in which it appears to the court to be just or convenient so to do.

(2) Any such order may be made either unconditionally or on such terms and conditions as the court thinks just.

(3) If, whether before, or at, or after the hearing of any civil cause or matter, an application is made for an injunction to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the court thinks fit, whether the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.

(4) The power conferred by this section to grant an injunction by an interlocutory order may be exercised notwithstanding that the same is granted against an officer or authority of the Federation as such.

Orders of  
mandamus,  
prohibition  
and  
certiorari.

14.—(1) The Federal Revenue Court shall have the power to make an order of mandamus requiring any act to be done or an order of prohibition prohibiting any proceedings, cause or matter, or an order of certiorari removing any proceedings, cause or matter into the Federal Revenue Court for any purpose.

(2) The power conferred by this section to make an order of mandamus or prohibition or certiorari may be exercised notwithstanding that the order is made against an officer or authority of the Federation as such.

(3) Subject to the foregoing provision of this section the references in any written law to any writ of mandamus, prohibition or certiorari shall be construed as references to an order corresponding thereto and the references to the issue or award of any such order shall in like manner be so construed.

15. In any case where any person acts in an office in which he is not entitled to act, the Federal Revenue Court may grant an injunction restraining him from so acting and may (if the case so requires) declare the office to be vacant.

Injunction  
in lieu of quo  
warranto.

16. Where any person neglects or refuses to comply with a judgment or order of the Federal Revenue Court directing him to execute any conveyance, contract or other document, or to endorse any negotiable instrument, the Federal Revenue Court may, on such terms and conditions, if any, as may be just order that the conveyance, contract or other document shall be executed, or that the negotiable instrument shall be endorsed, by such person as the court may nominate for that purpose, and a conveyance, contract, document or instrument so executed or endorsed shall operate and be for all purposes as valid as if it had been executed or endorsed by the person originally directed to execute or endorse it.

Execution  
of instru-  
ments by  
order of  
court.

17. In any proceedings in the Federal Revenue Court the court may promote reconciliation among the parties thereto and encourage and facilitate the amicable settlement thereof.

Reconcilia-  
tion in civil  
and criminal  
cases.

18. At any time during the hearing of a criminal cause and before the decision of the Federal Revenue Court has been announced, the court may, and if so required by the Attorney-General of the Federation shall, state a case on a point of law for the opinion of the Supreme Court.

Reservation  
of point of  
law for  
Supreme  
Court.

### PART III—SITTING AND DISTRIBUTION OF BUSINESS

19.—(1) The Federal Revenue Court shall have and exercise jurisdiction throughout the Federation, and for that purpose the whole area of the Federation shall be divided by the President into such number of Judicial Divisions (not less than four) as he may from time to time specify, and he may designate any such Judicial Division or part thereof by such name as he may think fit.

Divisions  
of the court.

(2) For the more convenient despatch of business the court may sit in any one or more Judicial Divisions as the President may direct, and he may also direct one or more Judges to sit in any one or more of the Judicial Divisions.

(3) The President shall determine the distribution of the business before the court amongst the Judges thereof and may assign any judicial function to any Judge or Judges or in respect of a particular cause or matter in a Judicial Division.

(4) Subject to the directions of the President every Judge of the court shall sit for the trial of civil and criminal causes or matters and for the disposal of other legal business pending at such places in the Federation and at such times as the President may think fit.

## Sittings.

20.—(1) Subject to rules of court and to any provisions pertaining to vacations as may be prescribed the court shall open throughout the year for the transaction of any pending general legal business.

(2) Provisions shall be made for the hearing of all such applications as may be required to be expeditiously or immediately heard.

## Judge's absence.

21. Where the Judge who shall preside over the sitting of the court is from any cause unable or fails to attend the same on the day appointed, and no other Judge is able to attend in his stead, the court shall stand adjourned from day to day until a Judge shall attend or until the court shall be adjourned or closed by order under the hand of a Judge.

## Power of transfer.

22.—(1) A Judge of the Federal Revenue Court may at any time or at any stage of the proceedings in any cause or matter before final judgment, either with or without application from any of the parties thereto, transfer such cause or matter before him to any other Judge of the Federal Revenue Court.

(2) No cause or matter shall be struck out by the Federal Revenue Court merely on the ground that such cause or matter was taken in the Federal Revenue Court instead of the High Court of a State in which it ought to have been brought, and the Judge of the Federal Revenue Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate High Court of a State in accordance with rules of court to be made under section 43 of this Decree.

(3) Every order of transfer made pursuant to subsection (2) above shall operate as a stay of proceedings before the President or the Judge before whom such proceedings are brought or instituted.

(4) Any order made pursuant to this section shall not be subject to appeal.

## Proceedings to be disposed of by single Judge.

23. Every proceeding in the Federal Revenue Court and all business arising thereout shall, so far as is practicable and convenient and subject to the provisions of any enactment or law, be heard and disposed of by a single Judge, and all proceedings in an action subsequent to the hearing or trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be taken before the Judge before whom the trial or hearing took place.

## Powers of single Judge in court and in chambers.

24. A Judge may, subject to rules of court, exercise in court or in chambers all or any part of the jurisdiction vested in the Federal Revenue Court in all such causes and matters and in all such proceedings in any causes or matters as may be heard in court or in chambers respectively by a single Judge of a High Court of Justice in England.

## Discharge of orders made in chambers.

25. Subject to the provisions of this Decree with respect to appeals in matters of practice and procedure, every order made by a Judge in chambers, except orders as to costs only, may upon notice be set aside or discharged by the Judge sitting in court.

## Power to transfer causes or matters to Magistrates' courts.

26. Where in the opinion of a Judge of the Federal Revenue Court any cause or matter before him is such as will be heard and determined or disposed of more expeditiously by a Magistrate's court the Judge of the Federal Revenue Court may, subject to the provisions of this Decree, at his discretion order that such cause or matter be heard and determined by a Magistrate's court exercising jurisdiction in the State in which the cause of action pertaining



thereto arose, in accordance with rules of court made under section 43 below, and the Magistrate's court shall have jurisdiction for the hearing and determination of such cause or matter and may exercise powers in relation thereto (within the limits of its general powers) as if original jurisdiction had been conferred upon it by virtue of this Decree.

**27.** The Federal Revenue Court shall have appellate jurisdiction to hear and determine appeals from—

**Appellate  
Jurisdiction.**

(a) the decisions of Appeal Commissioners established under the Companies Income Tax Act 1961 and the Personal Income Tax Act 1961 in so far as applicable as Federal law ;

1961 No. 22  
and 1961  
No. 23.

(b) the decisions of the Board of Customs and Excise established under the Customs and Excise Management Act 1958 ;

No. 55 of  
1958.

(c) the decisions of Magistrates' courts in respect of civil or criminal causes or matters transferred to such courts pursuant to this Decree ; and

(d) the decisions of any other body established by or under any other Federal enactment or law in respect of matters concerning which jurisdiction is conferred by this Decree.

**28.** On the hearing of an appeal under section 27 the Federal Revenue Court may draw any inference of fact and either—

**Powers of  
court in  
civil  
appeals.**

(a) confirm, vary or set aside the judgment or order of the court or body mentioned therein ; or

(b) order a rehearing and determination on such terms as the Federal Revenue Court may think just ; or

(c) order judgment to be entered for any party ; or

(d) make a final or other order on such terms as the Federal Revenue Court may think proper to ensure the determination on the merits of the real questions in controversy between the parties.

**29.** On an appeal from a conviction in a Magistrate's court the Federal Revenue Court may—

**Powers of  
court in  
criminal  
appeals.**

(a) maintain the conviction and dismiss the appeal ; or

(b) allow the appeal and set the conviction aside if it appears to the Federal Revenue Court that the conviction should be set aside on the ground that it was, having regard to the evidence adduced, unreasonable, or that the conviction should be set aside on the ground of a wrong decision on any question of law, or on the ground that there was a substantial miscarriage of justice :

Provided that the Federal Revenue Court, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, may dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred ; or

(c) set aside the conviction and convict the appellant of any offence of which he might lawfully have been convicted by the magistrate upon the evidence and sentence him accordingly ; or

(d) set aside the conviction and order that the appellant be re-tried in a court of competent jurisdiction ; or

(e) substitute for the conviction a special finding that the appellant was insane at the time that he did the act or made the omission constituting the offence with which he was charged before the magistrate.

Power of  
court on  
appeal  
against  
acquittal or  
dismissal.

30.—(1) Subject to the provisions of this Decree, the Federal Revenue Court may, on an appeal against an acquittal or dismissal—

(a) affirm the decision of the trial court and dismiss the appeal, or

(b) remit the case, together with the judgment of the Federal Revenue Court on the case, to the trial court for determination, whether or not by way of rehearing, with such directions as the Federal Revenue Court may think necessary.

(2) Subject as aforesaid, on an appeal against an acquittal or dismissal, the Federal Revenue Court shall make any amendment or any consequential or incidental order that may appear just and proper.

Appeals to  
the Supreme  
Court.

1963 No. 20.  
1960 No. 12.  
L.N. 96. of  
1961.

31. Subject to the provisions of the Constitution, the Supreme Court Act and the Rules of the Supreme Court, appeals shall lie from the decisions of the Federal Revenue Court in its original or appellate jurisdictions to the Supreme Court.

#### PART IV—GENERAL PROVISIONS AS TO TRIAL AND PROCEDURE

Criminal  
procedure.

Cap. 43.

32.—(1) Subject to the provisions of this section, criminal proceedings before the Federal Revenue Court shall be conducted substantially in accordance with the provisions of the Criminal Procedure Act, and the provisions of that Act shall, with such modifications as may be necessary to bring it into conformity with the provisions of this Decree, have effect in respect of all matters falling within the jurisdiction of the Federal Revenue Court.

(2) Notwithstanding the generality of subsection (1) above all criminal causes or matters before the Federal Revenue Court shall be tried summarily.

(3) For the purposes of this section, except the contrary intention appears from the context, any reference in the Criminal Procedure Act to the Attorney-General of a State shall be construed as a reference to the Attorney-General of the Federation.

Trial of  
revenue  
causes or  
matters in  
priority to  
any other  
business.

33.—(1) As far as practicable all revenue causes or matters shall, notwithstanding anything to the contrary in any enactment or law be tried, determined or disposed of in priority to any other business of the Federal Revenue Court.

(2) In this section "revenue causes or matters" means causes or matters concerned with, involving or pertaining to the revenue of the Government of the Federation in respect of which jurisdiction is conferred upon the Federal Revenue Court by or under the provisions of this Decree.

Trial with  
assessors.

34.—(1) In any civil cause or matter the Federal Revenue Court may, if it thinks it expedient so to do or in a manner prescribed under any enactment or law, call in the aid of one or more assessors specially qualified and try and hear the cause or matter wholly or partially with the assistance of such assessors.

(2) The remuneration, if any, to be paid to an assessor shall be as determined by the court or otherwise as so prescribed.

Reference  
for report.

35.—(1) Subject to rules of court, the Federal Revenue Court may refer to an official or special referee for inquiry or report any question arising in any cause or matter other than a criminal proceeding.

(2) The report of an official or special referee may be adopted wholly or partially by the court or a Judge and, if so adopted, may be endorsed as a judgment or order to the same effect.

36. In any cause or matter other than a criminal proceeding—

(a) if all the parties interested who are not under disability consent, or

(b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the court conveniently be conducted by the court through its ordinary officers, or

(c) if the question in dispute consists wholly or in part of accounts,

the court or a Judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee or an official referee or officer of the court or arbitrator respectively agreed on by the parties.

37.—(1) In all cases of reference to an official or special referee or arbitrator, the official or special referee or arbitrator shall be deemed to be an officer of the court, and subject to rules of court shall have such authority, and conduct the reference in such manner, as the court or a Judge may direct.

(2) The report of an official or special referee on any reference shall, if adopted and not set aside by the court or a Judge, be equivalent to a finding of the court or of the Judge.

(3) An award of an arbitrator on any reference, shall unless remitted pursuant to section 11 or set aside on the ground mentioned in section 12 of the Arbitration Act, be binding on the court or a Judge and equivalent to its finding.

(4) The remuneration to be paid to a special referee or arbitrator to whom any matter is referred under an order of the court or a Judge shall be determined by the court or a Judge.

38. The court or a Judge shall, in relation to references, have all such powers as are conferred by the Arbitration Act on the court or a Judge in relation to submission.

39. The court or a Judge may order that a writ of habeas corpus ad testificandum shall issue to bring up a prisoner for examination before an official or special referee or arbitrator.

40. A referee or arbitrator may at any stage of the proceedings under a reference, and shall, if so directed by the court or a Judge, state in the form of a special case for the opinion of the court any question of law arising in the course of the reference.

41. An order made under the provisions of this Decree relating to inquiries and trials by referees may be made on such terms as to costs or otherwise as the court or a Judge thinks fit.

42. In the provisions of this Decree relating to inquiries and trials by referees, unless the context otherwise requires, the expression "reference" relates to a reference under an order made by the court or a Judge under the said provisions.

#### PART V—RULES OF COURT

43.—(1) The President may, with the approval of the Federal Executive Council, make rules of court for carrying this Decree into effect, and in particular and without prejudice to the generality of the foregoing, for all or any of the following purposes and matters—

Reference  
for trial,

Powers and  
remunera-  
tion of  
referees and  
arbitrators.

Cap. 13.

Court to  
have powers  
as in sub-  
missions.

Power to  
order habeas  
corpus to  
issue.

Statement  
of case  
pending  
arbitration.

Power of  
court to  
impose terms  
as to costs.

Meaning of  
"reference".

Power to  
make rules  
of court.

(a) regulating the practice and procedure of the Federal Revenue Court, including all matters connected with the forms to be used and the fees to be paid ;

(b) prescribing the practice and procedure upon an appeal or an application to the Federal Revenue Court where provision is made in any enactment or law for such an appeal or such an application ;

(c) regulating the practice and procedure in cases where an order of mandamus, prohibition or certiorari is sought or proceedings are taken for an injunction ;

(d) regulating, subject to the provisions of this Decree, trials by the court with assessors ;

(e) regulating—

(i) the fees to be paid ; and

(ii) the taxation and recovery of fees and disbursements ;

(f) defining, so far as may be conveniently defined by general rules, the duties of the several officers of court ;

(g) regulating, subject to the provisions of this Decree, the sittings of the court and of the Judges thereof whether sitting in court or chambers, the business and hours of the court and of the offices connected therewith, and the conduct of the business of the court during vacation ;

(h) prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by Judges of the court in chambers may be transacted or exercised by registrars or other officers of the court ;

(i) regulating any matters relating to the costs of proceedings in the court ;

(j) regulating the means by which any judgment or decree of any court outside Nigeria or of the Supreme Court or the former Supreme Court, a Court of Appeal, High Court or any other superior court established or to be established elsewhere in Nigeria which it is necessary to prove or lawful to enforce shall be proved or enforced ;

(k) regulating the arrest of absconding defendants and the giving of security for their release ;

(l) regulating the payment of allowances and travelling expenses of witnesses ;

(m) imposing penalties on any person who fails to take any action required by a rule of court or who disobeys any rule of court ;

(n) for requiring and regulating the filing of accounts ;

(o) for regulating the procedure in respect of any matter in which the court has and may exercise original or appellate jurisdiction under this Decree and for fixing the fees payable or providing that no fees be paid or that certain fees need not be paid ;

(p) for ascertaining the value of anything that requires to be ascertained ;

(q) for regulating and prescribing the duties and procedure of assessors, referees and arbitrators ;

(r) for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or on any application in connection with or at any stage of any proceedings ;



(s) for providing for the service or execution of any writ, warrant, order or other process issuing out of the Federal Revenue Court, the payment of mileage before or after service or execution, the conditions precedent before any such process or process of certain classes will be served or executed and the procedure to be followed after the service or execution of such process ;

(t) for providing for the taking of shorthand notes of evidence and proceedings in the court and for the payment of fees for the taking of notes out of public funds, and for fixing the charges for the making and supply of transcripts of the notes, and for the payment of such charges either by the parties to the proceedings or out of public funds ;

(u) prescribing the procedure for the transfer of proceedings from the Federal Revenue Court to the High Court of a State and to a Magistrate's court ; and

(v) for prescribing vacations.

(2) Rules of court made under this section shall apply to all proceedings by or against the Government of the Federation.

#### PART VI—VENUE

44. Subject to the powers of transfers contained in this Decree, the place for the trial of offences shall be as follows :

Places where  
offence may  
be tried.

(a) an offence shall be tried by a court exercising jurisdiction in the area or place where the offence was committed ; or

(b) when a person is accused of the commission of any offence by reason of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be tried by a court exercising jurisdiction in the area or place in which any such thing has been done or omitted to be done, or any such consequence has ensued ; or

(c) when an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first mentioned offence may be tried by a court exercising jurisdiction in the area or place either in which it happened, or in which the offence with which it was so connected happened ; or

(d) when—

(i) it is uncertain in which of several areas or places an offence was committed ; or

(ii) an offence is committed partly in one area or place and partly in another ; or

(iii) an offence is a continuing one and continues to be committed in more areas or places than one ; or

(iv) an offence consists of several acts committed in different areas or places,

such offence may be tried by a court exercising jurisdiction in any of such areas or places ; or



(e) an offence committed while the offender is in the course of performing a journey or voyage may be tried by a court in or into the area or place of whose jurisdiction the offender or person against whom or the thing in respect of which the offence was committed resides, is or passed in the course of that journey or voyage.

#### PART VII—MISCELLANEOUS

Chief Registrar and other officers of court.

45.—(1) The Public Service Commission of the Federation may from time to time appoint a fit and proper person to be the Chief Registrar of the Federal Revenue Court who shall perform such duties in execution of the powers and authorities of the court as may from time to time be assigned to him by the rules of court and, subject thereto, by any special order of the President.

(2) The Public Service Commission of the Federation may from time to time appoint registrars, deputy registrars and such other officers as may be deemed necessary who shall perform all such duties with respect to business before the court as may be directed by rules of court and any order of the President.

(3) The Chief Registrar, registrars and deputy registrars shall have power to administer oaths and perform such other duties with respect to any proceedings in the Federal Revenue Court as may be prescribed by the rules or by any special order of the President.

Negligence or misconduct of officers.

46. If an officer of the court, employed to execute an order, wilfully or by neglect or omission loses the opportunity of executing it, then on complaint of the person aggrieved, and proof of the fact alleged, the court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of money.

Restriction on officers of court buying property sold at execution.

47. No person in permanent employment as an officer of the court shall or may directly or indirectly or by the intervention of a trustee or otherwise purchase any property sold at execution, and in the event of any such person purchasing or being interested in the purchase of any property at an execution sale, such purchase shall be entirely void:

Provided that nothing herein contained shall prevent any such person from purchasing by leave of the court at an execution sale any property which it may be necessary for him to purchase in order to protect the interest of himself, his wife or child.

Costs.

48. Subject to the provisions of this Decree or any other enactment, rules of court or law, the costs of and incidental to all proceedings in the Federal Revenue Court shall be in the discretion of the court or Judge, and the court or Judge shall have full power to determine by whom and to what extent the costs are to be paid.

Allowances to witnesses.

49.—(1) The presiding Judge may in any matter order and allow to all persons required to attend, or examined as witnesses, such sum or sums of money as may be specified by rules of court as well as for defraying the reasonable expenses of such witnesses as for allowing them a reasonable compensation for their trouble and loss of time.

(2) No person may refuse to attend as a witness, or to give evidence when so required by process of the court, on the ground that his expenses have not been first paid or provided for.

50. All sums of money so allowed shall be paid in civil proceedings by the party on whose behalf the witness is called and shall be recoverable as ordinary costs of suit if the court shall so order, and in criminal proceedings they shall, unless ordered by the court to be paid by the party convicted or the prosecutor, be paid out of the general revenue.

How allowances are to be defrayed.

51. Any person present in court, whether a party or not in a cause or matter, may be compelled by the court to give evidence or produce any document in his possession or in his power in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or produce such document and may be punished for any refusal to obey the order of the court.

Person in court may be required to give evidence though not summoned.

52. A Judge may issue a warrant under his hand for bringing up any person confined as a prisoner under any sentence or order of commitment for trial, or otherwise, or under civil process to be examined as a witness in any cause or matter pending or to be inquired of in the court :

In what cases prisoners may be brought by warrant to give evidence.

Provided that such warrant shall not be granted as of course, unless the Judge shall have probable grounds for believing that the evidence of the prisoner is likely to prove material.

53. The Superintendent of Prisons or person in whose custody such prisoner may be shall forthwith obey such warrant by bringing the prisoner to the court in his custody, or by delivering him to an officer of the court as the warrant may order, and if the prisoner shall under the terms of the warrant be delivered to any officer of the court, the Superintendent of Prisons or other person shall not be liable for the escape of such prisoner.

Production and custody of prisoners required to give evidence.

54. Nothing in this Decree and nothing in the rules of court made under or applied by this Decree shall affect the mode of giving evidence in accordance with the provisions of the Evidence Act and other rules of evidence :

Law not to affect rules of evidence or jurisdiction.

Provided that nothing in this section shall—

(a) prejudice the operation of any rules of court made in pursuance of the express power conferred by this Decree to make rules of court for regulating the means by which particular facts may be proved and the mode in which evidence thereof may be given ; or

Cap. 62.

(b) affect the power of the court for special reasons to allow depositions or affidavits to be read.

55.—(1) In the case of a prosecution by or on behalf of the Government of the Federation or by any public officer in his official capacity the Government of the Federation or that officer may be represented by a law officer, state counsel, or by any legal practitioner duly authorised in that behalf by or on behalf of the Attorney-General of the Federation.

Representation of the Government, etc.

(2) In any civil cause or matter in which the Government of the Federation or any public officer in his official capacity is a party or in any civil cause or matter affecting the revenue of the Government of the Federation, that Government or that officer may be represented by a law officer, state counsel, or any legal practitioner or other person duly authorised in that behalf by or on behalf of the Attorney-General of the Federation.

Right to  
practise  
1962 No. 33.

56. All persons admitted as legal practitioners to practise in Nigeria shall subject to the provisions of the Constitution and the Legal Practitioners Act 1962 have the right to practise in the Federal Revenue Court.

Provisions  
pending  
appeal.

57.—(1) The operation of any order made on conviction by the court for the payment of compensation or of any of the expenses of the prosecution or for the restoration of any property to any person or for forfeiture shall (unless the Judge before whom the conviction takes place directs to the contrary in any case in which, in his opinion, the title to the property is not in dispute) be suspended until the expiration of fifteen days after the date of the conviction.

(2) Subject to the provisions of subsections (1) of this section, an appeal to the Supreme Court shall not operate as a stay of execution but the Federal Revenue Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with rules of court.

Notes of  
evidence and  
minutes of  
proceedings  
to be kept by  
presiding  
Judge.

58.—(1) In every cause or matter the presiding Judge shall take down in writing the substance of all oral evidence given before the court and minutes of the proceedings, and shall sign the same at any adjournment of the case and at the conclusion thereof :

Provided that the presiding Judge may cause the whole or any part of the proceedings to be recorded in shorthand by an official shorthand writer in accordance with such conditions as may be imposed by rules of court.

(2) No person shall be entitled, as of right, to the inspection of or to a copy of the records so kept as aforesaid save as may be expressly provided for by rules of court.

(3) The record so kept as aforesaid or a copy thereof purporting to be signed and certified as a true copy by the registrar shall at all times, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses.

Inspection.

59. In any case the Federal Revenue Court may on the application of either party, or of its own motion, make such order for the inspection by the court, the parties or witnesses of any movable or immovable property, the inspection of which may be material to the proper determination of the question in dispute, and give such direction respecting such inspection as to the court may seem fit.

President  
may appoint  
commissioners for  
affidavits or  
for taking  
evidence.

60. The President may appoint under his hand and the seal of the court, from time to time, such and so many persons as may be requisite to be commissioners for taking affidavits and declarations and receiving production of documents, or for taking the examination of witnesses on interrogatories or otherwise which may be necessary to be taken in respect of any proceedings in the court, and any order of the court for the attendance and examination of witnesses or production of documents before any such commissioner shall be enforced in the same manner as an order to attend and be examined or produce documents before the court.

Protection  
of commis-  
sioner from  
action.

61. No action shall be brought against any commissioner in respect of any act or order bona fide performed or made by him in the execution, or supposed execution, of the powers or jurisdiction vested in him, but every such act or order if in excess of such powers and jurisdiction shall be liable to be revised, altered, amended or set aside upon summary application to the court.

62.—(1) No Judge or other person acting judicially shall be liable to be sued in any court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction.

Judicial officers not liable to be sued if they acted in good faith.

(2) No officer of any court or other person bound to execute the lawful warrants or orders of any such Judge or other person acting judicially shall be liable to be sued in any court, for the execution of any warrant or order which he would be bound to execute, if within the jurisdiction of the person issuing the same.

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

Interpretation.

“action” means a civil proceeding commenced by writ or in such other manner as may be prescribed by rules of court but does not include a criminal proceeding;

“cause” includes any action, suit or other original proceeding between a plaintiff and a defendant, and any criminal proceedings;

“Constitution” means the Constitution of the Federation 1963;

1963 No. 20.

“court” means the Federal Revenue Court and includes the Judges of the Federal Revenue Court sitting together or separately;

“defendant” includes every person served with any writ of summons or process, or served with notice of, or entitled to attend as a person to be affected by the decision in, any civil proceedings, and also every person charged under any process of the court with any crime or offence;

“enactment” means any Act of Parliament, Decree (including this Decree) or law having effect with respect to the Federation or applicable or having effect as Federal law;

“Federal Revenue Court” means the Federal Revenue Court established by section 1 of this Decree;

“former Supreme Court” means the Supreme Court of Justice established under the Supreme Court Act 1943;

No. 33 of 1943  
(Cap. 211)  
1948 Edition  
of the Laws.

“Judge” except where the reference is to the Judge of a High Court of a State, means the President or other Judge of the Federal Revenue Court;

“judgment” includes a decision, decree or order of a court of record;

“matter” includes every proceeding in court not in a cause;

“party” includes every person served with notice of, or attending, any proceeding who, although not named on the record of the proceeding, has the like interest in the subject-matter of the proceeding as a person named on the record of the proceedings;

“plaintiff” includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise;

“President” means the President of the Federal Revenue Court appointed under section 2 above;

“registrar” includes the Chief Registrar and all other registrars of the court;



"suit" includes action ; and

"Supreme Court" means the Supreme Court of Nigeria as established under section 111 of the Constitution.

(2) For enabling full effect to be given to the provisions of this Decree—

(a) any reference (whether express or by necessary implication) in the Constitution of the Federation to a "High Court of a territory", "High Court", "court of law" or a "court of record"—

(i) in so far as the reference relates to or is connected with the jurisdiction, powers, practice and procedure of a High Court ; and

(ii) except in so far as it is inconsistent with the provisions of this Decree,

shall include a reference to the Federal Revenue Court established by this Decree ; and

(b) all references (whether express or by necessary implication) in any enactment (other than the Constitution of the Federation) to the High Court of a State in so far as the enactment—

(i) is of general application throughout the Federation ; and

(ii) relates to a matter as respects which jurisdiction is conferred upon the Federal Revenue Court by or under this Decree,

shall be construed as references to the Federal Revenue Court, notwithstanding that in an appropriate case the enactment is, or has become, by operation of law, a law of a State.

(3) The powers conferred upon the Attorney-General of the Federation and exercisable by him or the Attorney-General of a State under section 104 of the Constitution or anything made thereunder shall, to the extent that jurisdiction is conferred upon the Federal Revenue Court or the High Court of a State by or pursuant to this Decree, be exercisable subject as in this Decree otherwise provided, and that section and any other enactment or law pertaining thereto shall be so construed.

(4) For the avoidance of doubt the following enactments—

(a) the Regional Courts (Federal Jurisdiction) Act,

(b) the Criminal Procedure (Northern Region) Act 1960,

(c) the Penal Code (Northern Region) Federal Provisions Act 1960,

(d) section 44 of the Law (Miscellaneous Provisions) Act,

(e) the Admiralty Jurisdiction Act 1962, and

(f) such other Federal enactment as the Head of the Federal Military Government may by order specify,

shall be construed with such modifications as may be necessary to bring them into conformity with the provisions of this Decree.

64. Nothing in this Decree shall be construed as affecting the constitution, powers and functions of any tribunal established by or under any other Federal enactment in so far as the jurisdiction conferred thereby (whether civil or criminal) is expressly laid down thereunder.

Cap. 177

No. 20 of  
1960.

No. 25 of  
1960.

Cap. 89.

1962 No. 34.

Savings.



65. This Decree may be cited as the Federal Revenue Court Decree 1973. Citation.

MADE at Lagos this 13th day of April 1973.

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 effect)*

The Decree establishes the Federal Revenue Court as a High Court of Justice with certain special powers.

2. The court shall consist of a President and such other Judges, not being less than four, as the Head of the Federal Military Government may prescribe by an order. As in the case of a High Court of a State, the President and the other Judges shall be appointed by the Supreme Military Council acting after consultation with the Advisory Judicial Committee.

3. The Federal Revenue Court shall have original jurisdiction in certain specified matters including taxation of companies, customs and excise duties, banking, foreign exchange, currency and fiscal measures of the Government of the Federation, and priority is to be given to all such revenue cases. The Head of the Federal Military Government is empowered under the Decree to increase the jurisdiction to include other matters which he may specify and to confer jurisdiction on the High Court of a State in respect of causes and matters which he may specify generally or specially.

4. For the purposes of the Decree the area of the Federation will be divided into Judicial Divisions, not being less than four, and the court may sit in any one or more of the Judicial Divisions as the President of the Federal Revenue Court may direct, and the court may exercise appellate jurisdiction in the circumstances mentioned in the Decree. There is a right of appeal from the decisions of a Federal Revenue Court by any aggrieved person to the Supreme Court.

## CAPITAL ISSUES DECREE 1973



## Decree No. 14

[13th April 1973]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) There shall be established, as from the prescribed date, a body to be known as the Capital Issues Commission (hereinafter called “the Commission”).

Establish-  
ment of  
Capital  
Issues  
Commission.  
1968 No.51.

(2) The Commission shall, notwithstanding anything to the contrary in the Companies Decree 1968, be charged with the duty of determining—

(a) the price at which shares or debentures of a company are to be sold to the public either through offer for sale or by direct issue ;

(b) the timing and amount of any subsequent public issues of shares or debentures by that company ; and

(c) such other matters incidental or supplementary to the foregoing as the Commission may at its discretion determine.

2.—(1) The Commission shall consist of the following persons, that is to say—

Composition  
of the  
Commission.

(a) the Chairman, who shall be a representative of the Central Bank of Nigeria established under the Central Bank of Nigeria Act ;

Cap. 30

(b) one representative of each of the following Federal Ministries, that is to say—

(i) Finance,

(ii) Economic Development and Reconstruction,

(iii) Trade, and

(iv) Industries,

(c) one representative of the Lagos Stock Exchange, and

(d) three other persons.

(2) All appointments under subsection (1) above shall be made by the Commissioner and the members appointed pursuant to paragraphs (a), (c) and (d) of that subsection shall hold office for such period as the Commissioner may specify.

Proceeding  
of the  
Commission.

1964 No. 1.

Approval of  
Commission :  
before offer  
of shares and  
debentures  
for sale by  
public  
companies.  
1968 No. 51.

3.—(1) Subject to this section 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 Commission may make standing orders regulating its proceedings.

(2) The Chairman shall preside at every meeting of the Commission but in his absence the members present at the meeting shall elect one of their number to preside at the meeting.

(3) The quorum for meetings of the Commission shall be 5.

4.—(1) No company which is by its articles of association not precluded, among other things, from issuing invitations to members of the public to subscribe for shares or debentures of the company shall as from the prescribed date—

(a) issue or cause to be issued a prospectus inviting members of the public for the sale of shares or debentures in the company, whether or not any application has been made for the shares or debentures to be dealt in on any recognised stock exchange ;

(b) in any other manner, offer shares or debentures for sale, either to the public or with the intention that the shares or debentures will ultimately be offered for sale to the public;

unless prior to the issue of the prospectus or making of the offer for sale, as the case may be, and following an application therefor by the company to the Commission in accordance with rules made in that behalf by the Commission, the approval of the Commission has been obtained with respect to—

(i) the price at which the shares or debentures are to be sold ;

(ii) the timing and amount of sale ; and

(iii) in the case of a company whose shares or debentures have been granted a quotation on any recognised stock exchange, the timing and amount of any subsequent issue or supplementary offers for sale, and the price at which the shares or debentures shall be sold.

(2) If a company acts in contravention of this section, then, subject to section 5 below—

(a) the company shall be guilty of an offence and liable on conviction to a fine of ten thousand *naira* ; and

(b) every officer of the company who knowingly and wilfully authorises the contravention shall also be guilty of an offence and liable on conviction to a fine of ten thousand *naira* or to imprisonment for not less than three years.

5. Where approval has not been obtained pursuant to section 4 above, or if application in relation thereto has been refused by the Commission—

(a) any sale or offer for sale pursuant to section 4 (1) above shall be void and shall be of no effect ; and

(b) any moneys received in relation to or connected with any of the transactions mentioned in the said section 4 above shall forthwith be repaid without interest by the company, and if any such money is not repaid within 14 days after the company becomes liable to repay it the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of 5 per cent per annum from the expiration of the 14th day :

Provided that a director shall not be liable if he proves that the default in the repayment of the money is not due to misconduct or negligence on

Supplemen-  
tary provi-  
sions : as to  
requirements  
of section 4.

his part, and the company had kept all such moneys in a separate bank account to facilitate its repayment.

6.—(1) Any company aggrieved by any decision of the Commission relative to an application made by that company pursuant to section 4 may appeal to the Commissioner who may, after considering the appeal, confirm or modify any decision of the Commission.

Right of appeal.

(2) The decision of the Commissioner on any appeal shall be final.

7.—(1) Any act, matter or thing done or purported to be done by the body mentioned in paragraph (a) of subsection (2) below or of any member of the body in relation to the timing and fixing of the price and amount of public issues of capital, whether quoted or unquoted, shall be and be deemed always as valid as if made under or pursuant to the provisions of this Decree.

Validation of acts, etc. and exclusion and abatement of certain proceedings.

(2) No action or proceeding shall lie or be instituted in any court for or on account of any act, matter or thing done or purported to be done—

(a) by the former Capital Issues Committee established in July 1962 or any member thereof, before the commencement of this Decree;

(b) pursuant to the provisions of this Decree, by the Capital Issues Commission established by this Decree or any member thereof, on or after the commencement of this Decree,

and any action or proceeding which has been, or is instituted against any such body or any member thereof or the Government of the Federation before, on or after the commencement of this Decree shall abate and be discharged and be void.

8. The Commission shall have power to make rules generally for the purposes of the discharge of its functions under this Decree and, without prejudice to the generality of the foregoing, the rules may prescribe the manner in which applications for approval are to be made and the documents to accompany such applications.

Power of the Commission to make rules.

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

“the Commission” means the Capital Issues Commission established by section 1 of this Decree;

“the Commissioner” means the Federal Commissioner for Finance;

“the prescribed date” means 16th March 1973.

Interpretation.

(2) Notwithstanding the foregoing provisions of this section the words and other expressions used in this Decree shall bear the same meanings, respectively, as in the Companies Decree 1968.

10. This Decree may be cited as the Capital Issues Decree 1973.

Citation.

MADE at Lagos this 13th day of April 1973.

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 establishes a Capital Issues Commission with powers, among other things, of determining the price at which shares and stocks are offered for sale to the public and of approving such acquisition, sale or transfer.



# PETROLEUM PROFITS TAX (AMENDMENT) DECREE 1973



## Decree No. 15

[20th March 1971]

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Commence-  
ment.

1. Section 2 of the Petroleum Profits Tax Act 1959 (hereinafter referred to as "the principal Act") is amended as follows :

Amendment  
of section 2  
of Petroleum  
Profits Tax  
Act 1959.

(a) for the definition of "accounting period" there shall be substituted the following new definition :

1959 No. 15.

"accounting period", in relation to a company engaged in petroleum operations, means—

(a) a period of one year commencing on 1st January and ending on 31st December of the same year ; or

(b) any shorter period commencing on the day the company first makes a sale or bulk disposal of chargeable oil under a programme of continuous production and sales, domestic, export or both, and ending on 31st December of the same year ; or

(c) any period of less than a year being a period commencing on 1st January of any year and ending on the date in the same year when the company ceases to be engaged in petroleum operations,

and in the event of any dispute with respect to the date of the first sale of chargeable oil above or with respect to the date on which the company ceases to be engaged in petroleum operations, the Director of Petroleum Resources shall determine the same and no appeal shall lie therefrom ;

(b) immediately after the definition of the expression "High Court" there shall be inserted the following new definition :

"intangible drilling costs" means all expenditure for labour, fuel, repairs, maintenance, hauling, and supplies and materials (not being supplies and materials for well cement, casing or other well fixtures) which are for or incidental to drilling, cleaning, deepening or completing wells or the preparation thereof incurred in respect of—

(a) determination of well locations, geological studies and topographical and geographical surveys preparatory to drilling,

- (b) drilling, shooting, testing and cleaning wells,
- (c) cleaning, draining and levelling land, road-building and the laying of foundations,
- (d) erection of rigs and tankage assembly and installation of pipelines and other plant and equipment required in the preparation or drilling of wells producing petroleum ;”.

Amendment of section 9.

2. In section 9 (2) of the principal Act, for paragraph (a) (including the proviso) there shall be substituted the following new paragraph—

“(a) the value of that oil as determined, for the purpose of royalty, in accordance with the provisions of any enactment applicable thereto and any financial agreement or arrangement between the Federal Government of Nigeria and the company.”

Amendment of section 10.

3. Section 10 (1) of the principal Act is amended as follows :

(a) for the words “wholly and exclusively” where they occur in the third line of that subsection there shall be substituted the words “wholly, exclusively and necessarily” ;

(b) in paragraph (e) (i) for the words “any expenditure directly incurred in connection with drilling an appraisal or development well” there shall be substituted the words “any expenditure including intangible drilling costs directly incurred in connection with drilling an exploration appraisal or development well” ;

(c) sub-paragraph (ii) of paragraph (e) shall be deleted ;

(d) by re-numbering the existing sub-paragraph (g) as (h) and by inserting a new sub-paragraph (g) as follows—

“(g) all sums the liability for which was incurred by the company during that period to the Federal Government of Nigeria or to any State or local authority in Nigeria by way of duty (other than customs and excise duties deductible in ascertaining the tax under the provision of section 17) stamp duty, tax (other than the tax imposed by this Act) or any rate, impost, fee or other like charge ;”.

Amendment of section 11.

4. In section 11 (1) of the principal Act, immediately after sub-paragraph (i) there shall be inserted the following new sub-paragraph—

“(j) any expenditure for the purchase of information relating to the existence and extent of petroleum deposits.”

Amendment of section 16.

5. In section 16 of the principal Act for the word “fifty” there shall be substituted the word “fifty-five”.

Amendment of section 17.

6. In section 17 (2) of the principal Act—

(a) in paragraph (a), immediately after the word “won” there shall be inserted the words “and locally disposed of” ; and

(b) in paragraph (b), for all the words in that paragraph up to (and including) the words “or other like charge” there shall be substituted the words “all sums the liability for which was incurred by the company during that period to the Federal Government of Nigeria by way of custom or excise duty or other like charges levied in respect of plant, storage tanks, pipelines, tools, machinery and equipment essential for use in the company’s petroleum operations, and in the event of a dispute as to whether any item is essential the Director of Petroleum Resources shall determine the matter and no appeal shall lie therefrom :”.

7. In section 24 (1) (d) of the principal Act the words "all royalties and" shall be deleted.

Amendment  
of section 24.

8. Section 27 of the principal Act is amended by the substitution for subsection (1), of the following new subsection—

Amendment  
of section 27.

"(1) Not later than two months after the commencement of each accounting period of any company engaged in petroleum operations, the company shall submit to the Board a return, the form of which the Board may prescribe, of its estimated tax for such accounting period."

9. For section 38 of the principal Act there shall be substituted a new section as follows:

Insertion of  
a new  
section 38.

"Time with- 38.—(1) Subject to the provisions of section 37, tax for any  
in which accounting period shall be payable in equal monthly instalments  
payment is together with a final instalment as provided in subsection (4)  
to be made. below.

(2) The first monthly payment shall be due and payable not later than the third month of the accounting period and shall be in an amount equal to one-twelfth or, where the accounting period is less than a year, in an amount equal to equal monthly proportion, of the amount of tax estimated to be chargeable for such accounting period in accordance with section 27 (1).

(3) Each of the remainder of monthly payments to be made subsequent to the payment under subsection (2) above shall be due and payable not later than the last day of the month in question and shall be in an amount equal to the amount of tax estimated to be chargeable for such period by reference to the latest returns submitted by the company in accordance with section 27 (2) less so much as has already been paid for such accounting period divided by the number of such of the monthly payments remaining to be made in respect of such accounting period.

(4) A final instalment of tax shall be due and payable within twenty-one days after the service of the notice of assessment of tax for such accounting period, and shall be the amount of the tax assessed for that accounting period less so much thereof as has already been paid under subsection (2) and (3) above or is the subject of proceedings.

(5) Any instalments on account of tax estimated to be chargeable shall be treated as tax charged and assessed for the purposes of sections 39 and 41.

(6) For the purposes of subsection (1) above the conversion of the timing of payments of tax to provide for the making of monthly payments shall be given effect to as set out in the Third Schedule."

10. In section 39 (1) (a) of the principal Act for the words "may, if the Board thinks fit," there shall be substituted the word "shall".

Amendment  
of section 39.

11. In section 44 (1) of the principal Act, for the words "five hundred" where they occur in the third line there shall be substituted the words "five thousand" and for the word "twenty" where it occurs in the sixth line there shall be substituted the word "one thousand".

Amendment  
of section 44.

Miscellaneous.

12. In the following provisions of the principal Act, that is to say, section 10 (1) (e) (iii) and paragraphs 1, 2 (1), 2 (2), 3 (3) and 11 (c) of the Second Schedule, for the words "qualifying petroleum expenditure" there shall be substituted the words "qualifying drilling expenditure".

Amendment of Second Schedule.

13. In the Second Schedule to the principal Act—

(a) in the definition of "qualifying expenditure" for the words from the beginning of the definition up to the words "provisions of section 17 of the Act" there shall be substituted the following—

"qualifying expenditure" means, subject to the express provisions of this Schedule, expenditure incurred in an accounting period which is—

(a) capital expenditure (hereinafter called "qualifying plant expenditure") incurred on plant, machinery or fixtures ;

(b) capital expenditure (hereinafter called "qualifying pipeline and storage expenditure") incurred on pipelines and storage tanks ;

(c) capital expenditure (hereinafter called "qualifying building expenditure"), other than expenditure which is included in paragraphs (a), (b) or (d) of this definition, incurred on the construction of buildings, structures or works of a permanent nature ; or

(d) capital expenditure (hereinafter called "qualifying drilling expenditure") other than expenditure which is included in paragraph (a) or (b) of this definition, incurred in connection with, or with petroleum operations in view on—

(i) the acquisition of, or of rights in or over, petroleum deposits ;

(ii) searching for or discovering and testing petroleum deposits, or winning access thereto ; or

(iii) the construction of any works or buildings which are likely to be of little or no value when the petroleum operations for which they were constructed cease to be carried on :

Provided that, for the purposes of this definition qualifying expenditure shall not include any sum which may be deducted under the provisions of section 10 of this Act.

(b) for the Table at the end of the Schedule there shall be substituted the following two Tables—

"TABLE I (Paragraph 5)

| <i>Qualifying Expenditure in respect of</i>       | <i>Rate Per Centum</i> |
|---|------------------------|
| Qualifying Plant Expenditure .. ..                | 10                     |
| Qualifying Building Expenditure .. ..             | —                      |
| Qualifying Pipeline and Storage Expenditure .. .. | 10                     |
| Qualifying Drilling Expenditure.. ..              | 10"                    |

"TABLE II (Paragraph 6)

| <i>Qualifying Expenditure in respect of</i>         | <i>Rate Per Centum</i> |
|---|------------------------|
| Qualifying Plant Expenditure .. .. .                | 10                     |
| Qualifying Building Expenditure .. .. .             | 5                      |
| Qualifying Pipeline and Storage Expenditure .. .. . | 10                     |
| Qualifying Drilling Expenditure.. .. .              | 5"                     |

(c) paragraph 2 (1) (a) (i) shall be deleted ;

(d) in paragraph 5 for the word "Table" there shall be substituted the words "Table I" ;

(e) in paragraph 6—

(i) in sub-paragraph (1), for the words "specified in sub-paragraph (2), of the residue of such expenditure at the end of the accounting period" there shall be substituted the words "specified in Table II to this Schedule." ;

(ii) sub-paragraph (2) shall be deleted.

14. Immediately after the Second Schedule there shall be inserted a new schedule as follows—

Insertion  
of new Third  
Schedule.

### "THIRD SCHEDULE

### Section 38

(i) In respect of the company's petroleum operations for the 1971 accounting period 50 per cent of the tax shall continue to be payable in instalments on the basis set out in section 38 ; the remaining 50 per cent of the tax shall be payable in six consecutive monthly instalments on the basis set out in section 38 (6) (b), the first of such instalments being due not later than 30th September, 1971 ;

(ii) In respect of the company's petroleum operations for the 1972 accounting period 25 per cent of the tax shall continue to be payable in instalments on the basis set out in section 38 ; the remaining 75 per cent of the tax shall be payable in monthly instalments ;

(iii) In respect of the company's petroleum operations for the 1973 accounting period and of each subsequent accounting period, the tax due for each such year shall be payable in monthly instalments."

15.—(1) This Decree may be cited as the Petroleum Profits Tax (Amendment) Decree 1973.

Citation and  
commence-  
ment.

(2) This Decree shall be deemed to have come into operation on 20th March 1971.

MADE at Lagos this 13th day of April 1973.

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 amends the Petroleum Profits Tax Act 1959 to give effect to the agreement entered into with companies carrying on petroleum operations in the country.

# PETROLEUM (AMENDMENT) DECREE 1973



## Decree No. 16

[1st April 1971]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Petroleum Decree 1969 is hereby amended as follows—

Amendment  
of Petroleum  
Decree 1969.  
1969 No. 51.

(a) in the following provisions of the Decree, that is to say, sections 7 (1), 8 (1) (g) (ii), 11 (2), 14 (2), and paragraph 24 (1) (d) of Schedule 1, for the words "Chief Petroleum Engineer" there shall be substituted the words "Director of Petroleum Resources";

(b) in paragraph 34 (b) of Schedule 1 to the Decree, immediately after the word "discovered" there shall be inserted the following—

"which provisions shall include—

(i) the right of the Federal Military Government to take natural gas produced with crude oil by the licensee or lessee free of cost at the flare or at an agreed cost and without payment of royalty;

(ii) the obligation of the licensee or lessee to obtain the approval of the Federal Military Government as to the price at which natural gas produced by the licensee or lessee (and not taken by the Federal Military Government) is sold; and

(iii) a requirement for the payment by the licensee or lessee of royalty on natural gas produced and sold.";

(c) in Schedule 4 to the Decree—

(i) in paragraph 2 (c) thereof, for "12 (1) (d)" there shall be substituted "12 (2)", and

(ii) in paragraph 3 thereof, for "12 (1) (e)" there shall be substituted "12 (2)".

Citation and  
commence-  
ment.

2. This Decree may be cited as the Petroleum (Amendment) Decree 1973 and shall be deemed to have come into operation on 1st April 1971.

MADE at Lagos this 13th April 1973.

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 amends the Petroleum Decree 1969 to enable the Federal Military Government to take natural gas produced along with crude oil (and presently being flared) on terms agreed upon between the Government and the producer.