

MILITARY PENSIONS (DISABILITY PROVISIONS) DECREE 1976



Decree No. 2

[1st September 1975]

**Commence-
ment.**

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Pensions and gratuities to be awarded to a serviceman in respect of disablement of the serviceman due to war service in the armed forces shall be computed on the final pay of such serviceman in accordance with the provisions of the Schedule to this Decree.

**Awards for
disablement.**

(2) A serviceman shall not be eligible for an award under the Military Pensions Act in respect of a disablement if he is eligible in respect of the same disablement for an award under this Decree.

Cap. 119.

(3) A serviceman shall be regarded as disabled for the purposes of this section if the termination of his service is necessitated or accelerated by an injury due to war service.

2. In the computation of pensionable service and qualifying service for the purposes of this Decree—

**War service
to count
extra for
pension
purposes.**

(a) each completed year of war service shall count as two years ;

(b) a period of war service exceeding four months and not included in a completed year shall count as one year ; and

(c) a period of war service not exceeding four months and not included in a completed year or in a period of the kind mentioned in paragraph **(b)** above shall count as six months.

3. Any awards under this Decree to a disabled serviceman with war service may be made retrospectively, so however that no such award shall be made to take effect before the termination of his service.

**Retrospec-
tion.**

4. No pension or gratuity awarded under this Decree shall be assignable or transferrable, or liable to be attached, sequestrated or levied upon for or in respect of any debt or claim whatsoever, except a debt due to the Federal Military Government.

**Pensions and
gratuities
not to be
assignable.**

Payment of public claims out of pensions and gratuities.

5. Where the Commissioner is satisfied that—

(a) a sum is due to the Federal Military Government from a person to whom a pension or gratuity may be or has been awarded under this Decree; or

(b) an overpayment on account of any such pension or gratuity has been made to any such person by the Federal Military Government, the Commissioner may authorise the deduction from the pension or gratuity, in respect of that sum or overpayment, of such amounts at such times as he may think fit; and the amounts so deducted shall be applied in or towards paying or repaying that sum or overpayment.

Power to delegate.

6.—(1) The Commissioner may by order published in the *Gazette* delegate to another person or authority all or any of his powers under this Decree.

(2) The delegation of a power under subsection (1) above shall not prevent the Commissioner from continuing to exercise the power if he thinks fit.

Interpretation.

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

“the armed forces” means the Nigerian Army, the Nigerian Navy and the Nigerian Air Force;

“the Commissioner” means the Commissioner for Defence;

“disablement” means physical or mental injury or damage, or loss of physical or mental capacity;

“final pay”, in relation to a serviceman whose service has terminated, means the amount payable to him for a month (or if he was on a daily rate of pay, for thirty-one days) in respect of the substantive rank held by him immediately before the termination of his service, together with, in the case of a serviceman who is not an officer, service and rank increments and the free services element within the meaning of the Military Pensions Act and the Military Pensions Regulations;

“medical board” means any medical board appointed by the Commissioner, or by any other person pursuant to a delegation under section 6 (1) of this Decree, to assess the degree of disability of a serviceman;

“pensionable service” means service in the armed forces which may be taken into account in computing a serviceman’s pension under this Decree;

“qualifying service” means service in the armed forces which may be taken into account in determining whether a serviceman is eligible by length of service for a pension or gratuity;

“serviceman” means a past or present member of the armed forces;

“termination”, in relation to a serviceman’s service, means termination of fully-pay service by retirement, release, discharge, demobilisation, transfer to the reserve or otherwise howsoever;

“war service” means any or all of the following, that is—

(a) service in the armed forces after 27th May, 1967 and ending immediately before 16th January, 1970;

(b) service in connection with internal security operations, that is all operations in aid of civil authority in the maintenance of law and order;

(c) any other service as may be so declared from time to time by the Head of the Federal Military Government.

Cap. 119.

8. For section 3 of the Pensions and Gratuities (War Service) Decree 1969, there shall be substituted the following, that is—

Amendment
of 1969
No. 49.

“Gratuities for war service where no eligibility under Military Pensions Act. 3. Where a serviceman with war service is not, on the termination of his service, eligible for a pension or gratuity under the Military Pensions Act, the appropriate authority may grant to the serviceman on the termination of his service either a gratuity calculated by multiplying one tenth of the serviceman's final pay by the number of completed months of his service or a gratuity equivalent to the serviceman's salary for one year, whichever is greater.”

9.—(1) This Decree may be cited as the Military Pensions (Disability Provisions) Decree 1976 and shall be deemed to have come into operation on 1st September 1975.

Citation, etc.

(2) Sections 4, 5, 6 and 9 and the Schedule of the Pensions and Gratuities (War Service) Decree 1969 are hereby repealed.

1969 No. 64.

SCHEDULE

Section 1

PENSIONS AND GRATUITIES FOR DISABLEMENT

Awards : general

1.—(1) The authorities of the service concerned shall refer to the medical board all servicemen who in their opinion may be eligible for an award under this Decree.

(2) Each such reference shall be accompanied by all documents material to the consideration of the particular case, and the medical board may call for such further information as it requires.

2. The disablement of a serviceman shall be accepted as being due to war service for the purposes of this Decree if the relevant service authority is satisfied that the disablement is due to a wound, injury or disease which—

(a) is attributable to war service, or

(b) existed before or arose during war service and has been or remains aggravated thereby.

3. Where an injury or disease which has led to the retirement or discharge of a serviceman during war service was not noted in the medical report made on the serviceman on the commencement of his service the injury or disease shall be accepted as due to war service unless the evidence shows that the conditions set out in paragraph 2 above are not fulfilled.

4. Where there is no note in contemporary official records of a material fact on which a claim for an award under this Decree is based, other reliable corroborative evidence of that fact may be accepted.

5. Any person aggrieved by a decision of the medical board may appeal to the Commissioner, whose decision in the matter shall be final.

Disablement awards

6. An award under this Decree in respect of the disablement of a serviceman shall, unless his condition permits a final settlement of the degree of the disablement, be made on a temporary basis until a final settlement of the degree of the disablement can be made.

7. The category of disablement and the corresponding pension payable shall be in accordance with Table A below.

8. The degree of disablement shall be assessed by making a comparison between the condition of the disabled serviceman and the condition of a normal healthy person of the same age, without taking into account—

(a) the earning capacity of the serviceman in his disabled condition in his own or any other specific trade or occupation, or

(b) the effect of any individual factors or extraneous circumstances.

9. Notwithstanding paragraph 8 above—

(a) where a disablement has reached a settled condition and either is due to an injury specified in Table B below or is itself a disablement so specified, the degree of disablement shall, in the absence of any special features, be certified for the purposes of this Decree by reference to the percentage specified in the said Table B as appropriate to that injury or that disablement ;

(b) where a disablement is due to more than one wound, injury or disease, a composite assessment of the degree of disablement shall be made by reference to the combined effect of all such causes of the disablement.

10. The medical board shall itself assess the degree of disablement having due regard to the provisions of paragraphs 8 and 9 above, and for this purpose may cause the applicant to be further medically examined.

11. In case where the nature of the disablement makes surgical appliances necessary, the appliances shall be supplied free of cost to the serviceman concerned.

Application of certain existing regulations

12. The following provisions of the War Pensions (African Military and Air Force Personnel) Regulations, that is to say, regulation 16 (power of review), regulation 17 (administration of pensions and gratuities), regulation 18 (serious neglect or misconduct), regulation 19 (refusal of treatment), regulation 20 (unclaimed pension to lapse), regulation 21 (arrears) and regulation 22 (award of temporary treatment allowance), shall apply in relation to pensions and gratuities awarded in accordance with this Schedule as they apply in relation to pensions and gratuities awarded in accordance with those regulations, subject to the modifications that—

(a) references to the Governor-General shall be construed as references to the Commissioner or, in the case of regulations 20 and 21, a medical board ;

(b) references to the Board shall be construed as references to any medical board established under this Decree ; and

(c) in regulation 17, the references to section 11 of the War Pensions Act and to regulation 14 shall be disregarded.

TABLE A

Category	Degree of Disablement	Disability pension payable
A	Not less than 66 $\frac{2}{3}$ per cent	100 per cent of final pay
B	Less than 66 $\frac{2}{3}$ per cent but not less than 20 per cent	60 per cent of final pay
C	Less than 20 per cent	20 per cent of final pay subject to a minimum of ₹30 per month.

TABLE B

ASSESSMENT OF DISABLEMENT DUE TO SPECIFIED INJURY
AND CERTAIN OTHER DISABILITIES

Description of Injury	Assessment
AMPUTATION CASES—UPPER LIMBS	
Loss of both hands or amputation at higher sites ..	per cent 100
Amputation at shoulder or below shoulder with stump less than 8 inches from tip of acromion	Right Arm Left Arm per cent per cent 80 70
Amputation from 8 inches from tip of acromion to less than 4 $\frac{1}{2}$ inches from tip of olecranon	70 60
From 4 $\frac{1}{2}$ inches below tip of olecranon	60 50
Loss of thumb	30 20
Loss of four fingers	40 30
Loss of three fingers	30 20
Loss of two fingers	20 20
Loss of terminal phalange right thumb	20 —

In the case of a left-handed person certified to be such, the degree of disablement appropriate to an injury specified above affecting the left arm, hand, etc. shall be that indicated above as appropriate to an injury affecting the right arm, and, etc. and *vice versa*.

The loss of a thumb and four fingers of a hand has the same assessment at the loss of that hand.

AMPUTATION CASES—LOWER LIMBS

Double amputation, through thigh or through thigh on one side and loss of other foot, or double amputation below thigh to 4 inches below knee	per cent 100
Double amputation through leg lower than 4 inches below knee ..	100
Amputation of one leg lower than 4 inches below knee and loss of other foot	100

TABLE B—*continued**per cent*

Modified Syme amputation, both feet	80
Amputation at hip or below hip with stump not exceeding 5 inches in length measured from tip of great trochanter	80
Amputation of leg below hip with stump exceeding 5 inches in length, measured from tip of great trochanter but not beyond middle thigh	70
Below middle thigh 4 inches below knee	60
Below knee with stump exceeding 4 inches	40
Modified Syme amputation, one foot	30
Loss of all toes of both feet proximal to the proximal interphalangeal joint	30
Loss of all toes of both feet distal to the proximal interphalangeal joint	20
Loss of all toes of one foot proximal to the interphalangeal joint	20

OTHER SPECIFIC INJURIES

Loss of one eye, the other being normal	40
Loss of vision of one eye, the other being normal	30
Loss of sight	100
Loss of hand and a foot	100

OTHER DISABLEMENTS

Very severe facial disfigurement	100
Absolute deafness	100

MADE at Lagos this 16th day of January 1976.

GENERAL M. R. MUHAMMED,
*Head of the Federal Military Government,
 Commander-in-Chief of the Armed Forces,
 Federal Republic of Nigeria*

EXPLANATORY NOTE

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

The Decree makes fresh provisions for the payment of disability pensions and gratuities to servicemen suffering from total or lesser degree of disablement due to war service and repeals certain provisions relating to the same subject-matter in the Pensions and Gratuities (War Service) Decree 1969.

**PUBLIC SERVICE COMMISSION (DISCIPLINARY
PROCEEDINGS) (SPECIAL PROVISIONS) DECREE 1976**



Decree No. 3

[29th July 1975]

**Commence-
ment.**

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. Notwithstanding anything to the contrary in any law, the Public Service Commission of the Federation (hereinafter in this Decree referred to as "the Commission") may institute, and where instituted may continue, disciplinary proceedings against any person in the public service of the Federation (hereinafter referred to as a "public officer") whether or not—

**Power of the
Public
Service
Commission
to hold
disciplinary
proceedings
concurrently
with
criminal
proceedings
in court on
same matter.**

(a) criminal proceedings have been instituted with respect to such a person in any court of law in Nigeria or elsewhere or are about to be instituted or are contemplated ; or

(b) the grounds upon which any criminal charge is based or is to be based is substantially the same as that upon which the disciplinary proceedings were or are to be instituted.

2. A public officer acquitted on a criminal charge for an offence or given a discharge, whether amounting to an acquittal or not, in any court of law may be dismissed or otherwise punished in accordance with any disciplinary provisions on any other charge arising out of his conduct in the matter if the Commission is satisfied—

**Power of
Commission
to punish
following an
acquittal.**

(a) that his conduct in the matter has been in any respect blameworthy ; or

(b) that it is in the interest of the ministry or department where he is employed and generally in the interest of the public service as a whole that he be so punished.

3. It is hereby declared that where disciplinary proceedings are instituted or continued as permitted by this Decree no court of law shall have power to charge or commit any person for any act relating to or pertaining to the proceeding which would, but for this section, have amounted to a contempt of any such court and, accordingly, the provisions of this Decree shall have effect notwithstanding any law relating to contempt of court to the contrary.

**No proceed-
ings against
Commission,
etc. for
contempt of
court.**

4. As from the commencement of this Decree, the provisions contained in any regulations or rules relating to discipline of public officers or contained in any contract or arrangement or in any other instrument whatsoever shall be construed with such modifications, omissions or alterations as may be necessary to give effect to this Decree.

**Repeal of
certain
provisions.**

Interpre-
tation.

1963 No. 20.

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

“the Commission” means the Public Service Commission of the Federation constituted pursuant to section 146 of the Constitution of the Federation ;

“criminal proceedings” means proceedings instituted in any court of law relating to a criminal charge brought against any person where such a person has committed an offence against any law and includes proceedings upon appeal to any higher court ;

“disciplinary proceedings” means any disciplinary proceedings brought against any public officer pursuant to the powers conferred on the Commission under section 147 of the Constitution of the Federation or under any other law or under any rules or regulations made under any of the foregoing or under any contract or arrangement or other instrument whatsoever and includes any punishment imposed as a result of such proceedings ;

“law” includes any rule of law ;

“public officer” means any person in the public service of the Federation ;

“public service of the Federation” has the meaning assigned thereto by section 165 of the Constitution of the Federation.

(2) References in this Decree to the Commission shall be construed, where appropriate, as including references to any person to whom the Commission may have delegated its powers pursuant to section 147 (1) of the Constitution of the Federation or under any other law.

6. This Decree may be cited as the Public Service Commission (Disciplinary Proceedings) (Special Provisions) Decree 1976 and shall be deemed to have come into force on 29th July 1975.

MADE at Lagos this 16th day of January 1976.

GENERAL M. R. MUHAMMED,
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 enables the Public Service Commission of the Federation to take disciplinary proceedings against any public officer irrespective of the institution or contemplation of criminal proceedings against him in any court on substantially the same grounds as that on which he is to be disciplined.

CONSTITUTION (AMENDMENT) DECREE 1976



Decree No. 4

[1st April 1974]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. Section 146 of the Constitution of the Federation is hereby amended as follows, that is—

Amend-
ment of
section 146
of the
Constitution
of the
Federation.

(a) by the substitution for subsection (1) thereof of the following—

“(1) There shall be a Public Service Commission for the Federation which shall consist of a chairman and not less than nine other members.”; and

1963 No. 20.

(b) by the substitution for subsection (4) thereof of the following—

“(4) Subject to the provisions of this section, a member of the Public Service Commission of the Federation shall vacate his office—

(a) at the expiration of five years from the date of his appointment, so however that he shall be eligible for re-appointment for a second term of five years but shall vacate his office at the expiration of a period of ten years ; or

(b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.”

Citation
and
commence-
ment.

2. This Decree may be cited as the Constitution (Amendment) Decree 1976 and shall be deemed to have come into force on the 1st day of April 1974.

MADE at Lagos this 16th day of January 1976.

GENERAL M. R. MUHAMMED,
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 relevant provisions of the Constitution of the Federation to reflect the increase in membership of the Public Service Commission of the Federation and to limit the period of service of any member of the Commission to a maximum of ten years.

SUPPLEMENTARY APPROPRIATION (1975-76)
DECREE 1976



Decree No. 5

[17th January 1976]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The aggregate amount mentioned in section 1 of the Appropriation Decree 1975 shall be increased by three hundred and eighteen million, two hundred and forty-one thousand, three hundred and fifty-one naira and this additional amount shall be appropriated to the heads of expenditure specified in the Schedule to this Decree.

Issue and
appropria-
tion of
₦318,241,
351 from the
Consoli-
dated
Revenue
Fund
for services
of 1975-76.
1975 No. 17.

2. This Decree may be cited as Supplementary Appropriation (1975-76) Decree 1976.

Citation.

SCHEDULE

Section 1

<i>Head</i>	<i>Amount</i>
	₦
21. State House/Dodan Barracks	161,000
22. Cabinet Office	3,677,910
23. Police	12,418,000
24. Ministry of Agriculture and Rural Development	5,120,730
25. Ministry of Communications	95,800
26. Ministry of Defence	118,424,970
27. Ministry of Economic Development	1,635,680
28. Ministry of Education	83,126,430
29. Ministry of Establishments	972,800
30. Ministry of External Affairs	5,599,120
31. Ministry of Finance	7,744,970
32. Ministry of Health	29,799,745
33. Ministry of Industries	544,000
34. Ministry of Information	6,401,323
35. Ministry of Internal Affairs	3,167,740
36. Ministry of Justice	54,400
37. Ministry of Labour	907,809

<i>Head</i>	<i>Amount</i>
	₦
38. Ministry of Mines and Power	8,000
39. Ministry of Trade	2,726,991
40. Ministry of Transport	2,917,592
41. Ministry of Works	23,784,000
42. Ministry of Civil Aviation	—
43. Ministry of Social Development, Youth and Sports	835,000
44. Ministry of Urban Development, Housing and Environment	2,770,000
45. Ministry of Petroleum and Energy	2,600,000
46. Ministry of Co-operatives and Supply	1,517,520
47. Ministry of Water Resources	370,000
48. Audit	88,500
49. Judicial	223,900
50. Parliament Buildings	22,081
51. Federal Public Service Commission	390,000
52. Police Service Commission	28,340
55. Consolidated Revenue Fund Charges	
Parts I-VI	107,000
TOTAL	₦ 318,241,351

MADE at Lagos this 17th day of January 1976.

GENERAL M. R. MUHAMMED,
*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 increases the amount mentioned in section 1 of the Appropriation Decree 1975 by ₦318,241,351 and provides that the additional amount shall be appropriated as specified in the Schedule to the Decree.