

TRADE DISPUTES DECREE 1976



ARRANGEMENT OF SECTIONS

PART I

PROCEDURE FOR SETTLING TRADE DISPUTES

Section

1. Preliminary.
2. Obligation to deposit collective agreements with the Commissioner.
3. Procedure before dispute is reported.
4. Reporting of dispute if not amicably settled.
5. Notice requiring compliance with sections 3 and 4.
6. Appointment of conciliator on acceptance of report.
7. Reference of dispute to arbitration tribunal if conciliation fails.
8. Provisions supplementary to section 7.
9. Issue of tribunal's award, and procedure thereon.
10. Reference of dispute to National Industrial Court if tribunal's award is objected to.
11. Interpretation of award of arbitration tribunal or National Industrial Court.
12. Direct reference to the National Industrial Court in certain special cases.
13. Prohibition of lock-outs and strikes before issue of award of National Industrial Court.

PART II

THE NATIONAL INDUSTRIAL COURT

14. Establishment of National Industrial Court.
15. Jurisdiction of Court.
16. Appointment of members of Court.
17. Appointment of assessors.
18. Power to continue with proceedings notwithstanding incapacity of member of Court or assessor.

19. Tenure of office of members of Court.
20. Salaries and allowances of members of Court.
21. Application of certain provisions of 1960 No. 12.
22. Amendments of Constitution of the Federation.

PART III

BOARDS OF INQUIRY

23. Power to appoint board of inquiry.
24. Reports of board of inquiry.

PART IV

SUPPLEMENTARY PROVISIONS:

THE NATIONAL INDUSTRIAL COURT, ARBITRATION TRIBUNALS AND BOARDS OF INQUIRY

25. Bodies to which Part IV applies.
26. Powers of such bodies.
27. Practice and procedure.
28. Appearance by legal practitioner.
29. Restriction on publication of reports of proceedings.

PART V

SUPPLEMENTARY PROVISIONS:

APPLICATION OF DECREE TO STATE TRADE DISPUTES

30. Application of Decree to State trade disputes.

PART VI

MISCELLANEOUS AND GENERAL

31. Fifteen days' notice to be given by workers in essential services before ceasing work.
32. Fifteen days' notice to be given by workers before ceasing work in circumstances involving danger to persons or property.
33. Panels of employers' and workers' representatives.
34. Appointment of officers and servants for purposes of Decree.

ARRANGEMENT OF SECTIONS—*continued**Section*

- 35. Expenses.
- 36. Offences by bodies corporate.
- 37. Interpretation.
- 38. Application of Decree to workers employed by or under the State, other than armed forces, police, etc.

39. Savings.

40. Citation, commencement and repeal.

SCHEDULES

Schedule 1 : Essential services.

Schedule 2 : Enactments repealed.

Decree No. 7

[1st January 1976]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

PART I

PROCEDURE FOR SETTLING TRADE DISPUTES

1.—(1) Where a trade dispute exists or is apprehended, the provisions of this Part of this Decree shall apply in relation to the dispute. Preliminary.

(2) In those provisions, unless the context otherwise requires—

(a) "the dispute" means the trade dispute in question ;

(b) "party" means a party to the dispute.

2.—(1) Where there exists any collective agreement for the settlement of a trade dispute, at least three copies of the said agreement shall be deposited by the parties thereto with the Commissioner—

Obligation
to deposit
collective
agreements
with the
Commis-
sioner.

(a) in the case of a collective agreement entered into before the date of commencement of this Decree, within thirty days of that date ; and

(b) in the case of a collective agreement entered into on or after the date of commencement of this Decree, within thirty days of the execution thereof,

and any person who fails to deposit copies of the said agreement within the period prescribed in the foregoing provisions of this subsection, shall be guilty of an offence under this Decree.

(2) Where before the commencement of this Decree a collective agreement has been deposited with the Commissioner pursuant to the provisions of any enactment repealed by this Decree, that agreement shall be deemed to have been deposited in accordance with subsection (1) of this section.

(3) Subject to the provisions of this Decree, the Commissioner may, upon receipt of copies of a collective agreement deposited in accordance with subsection (1) above, make an order the terms of which may in respect of that agreement specify that the provisions of the agreement or any part thereof as may be stated in the order shall be binding on the employers and workers to whom they relate.

(4) If any person fails to comply with the terms of the said order he shall be guilty of an offence and be liable on conviction to a fine of ₦100 or to imprisonment for six months.

3.—(1) If there exist agreed means for settlement of the dispute apart from this Decree, whether by virtue of the provisions of any agreement between organisations representing the interest of employers and organisations of workers or any other agreement, the parties to the dispute shall first attempt to settle it by that means.

Procedure
before
dispute is
reported.

(2) If the attempt to settle the dispute as provided in subsection (1) above fails, or if no such agreed means of settlement as are mentioned in that subsection exist, the parties shall within seven days of the failure (or, if no such means exist, within seven days of the date on which the dispute arises or is first apprehended) meet together by themselves or their representatives, under the presidency of a mediator mutually agreed upon and appointed by or on behalf of the parties, with a view to the amicable settlement of the dispute.

Reporting of dispute if not amicably settled.

4.—(1) If within fourteen days of the date on which a mediator is appointed in accordance with section 3 (2) of this Decree the dispute is not settled, the dispute shall be reported to the Commissioner by or on behalf of either of the parties within fourteen days of the end of the fourteen days.

(2) A report under this section shall be in writing and shall record the points on which the parties disagree and describe the steps already taken by the parties to reach a settlement.

Notice requiring compliance with sections 3 and 4.

5.—(1) The Commissioner shall, if not satisfied that the requirements of sections 3 and 4 have been substantially complied with, issue to the parties a notice in writing specifying the steps which must be taken to satisfy those requirements and may specify in the notice the time within which any particular step must be taken.

(2) Where after the expiration of the period specified in the notice issued under subsection (1) above or, if no period is specified, after the expiration of fourteen days following the date the notice is issued, the dispute remains unsettled and the Commissioner is satisfied—

(a) that the steps specified in the notice have been taken, or

(b) that either party is, for its part, refusing to take those steps or any of them,

the Commissioner may proceed to exercise such of his powers under section 6, 7, 12 or 23 as may appear to him appropriate.

Appointment of conciliator, etc.

6.—(1) The Commissioner may for the purposes of section 5 above appoint a fit person to act as conciliator for the purpose of effecting a settlement of the dispute.

(2) The person appointed as conciliator under this section shall inquire into the causes and circumstances of the dispute and by negotiation with the parties endeavour to bring about a settlement.

(3) If a settlement of the dispute is reached within fourteen days of his appointment, the person appointed as conciliator shall report the fact to the Commissioner and shall forward to him a memorandum of the terms of the settlement signed by the representatives of the parties, and as from the date on which the memorandum is signed (or such earlier or later date as may be specified therein), the terms recorded therein shall be binding on the employers and workers to whom those terms relate.

(4) If a settlement of the dispute is not reached within fourteen days of his appointment, or if, after attempting negotiation with the parties, he is satisfied that he will not be able to bring about a settlement by means thereof, the person appointed as conciliator shall forthwith report the fact to the Commissioner.

7.—(1) Within 14 days of the receipt by him of a report under section 6 (4) of this Decree, the Commissioner shall refer the dispute for settlement to the Industrial Arbitration Panel established under this section.

Reference of dispute to arbitration tribunal if conciliation fails.

(2) The Industrial Arbitration Panel (in this section referred to as "the Panel") shall consist of a chairman, a vice-chairman and not less than ten other members all of whom shall be appointed by the Commissioner so however that of the ten other members—

(a) two shall be persons nominated by organisations appearing to the Commissioner as representing the interests of employers ; and

(b) two shall be persons nominated by organisations appearing to the Commissioner as representing the interests of workers.

(3) For the purpose of the settlement of any dispute referred to the Panel by the Commissioner the chairman of the Panel shall constitute an arbitration tribunal in accordance with whichever of paragraphs (a), (b) and (c) of subsection (4) below appears to him to be appropriate having regard to the subject-matter of the dispute and the means by which an attempt to settle the dispute was made in pursuance of the foregoing provisions of this Decree.

(4) An arbitration tribunal may consist of—

(a) a sole arbitrator selected from among the members of the Panel by the chairman ; or

(b) a single arbitrator selected from among the members of the Panel by the chairman and assisted by assessors appointed in accordance with subsection (5) below ; or

(c) one or more arbitrators nominated by or on behalf of the employers concerned and an equal number of arbitrators nominated by or on behalf of the workers concerned, all nominations being made from among the members of the Panel, and presided over by the chairman or vice-chairman.

(5) The assessors for an arbitration tribunal which is to consist of a single arbitrator assisted by assessors shall be appointed by the chairman as follows :—

(a) one or more shall be persons nominated by or on behalf of the employers concerned from the panel of employers' representatives drawn up under section 33 of this Decree ; and

(b) an equal number shall be persons nominated by or on behalf of the workers concerned from the panel of workers' representatives drawn up under the said section 33 :

Provided that if after 7 days of being required to do so by the chairman the employers or workers concerned or their representatives fail to make a nomination for the purposes of any appointment falling to be made in accordance with this subsection, the chairman may appoint from the appropriate panel such person as he thinks fit.

(6) The award of an arbitration tribunal consisting of a single arbitrator assisted by assessors shall be made and issued by the arbitrator only ; and if, in the case of an arbitration tribunal consisting of more than one arbitrator, all the members of the tribunal are unable to agree as to their award, the matter shall be decided by a majority of them.

(7) In this section "chairman" means the chairman of the Industrial Arbitration Panel appointed pursuant to subsection (2) of this section ; and functions conferred on the chairman may in the absence of the chairman be exercised by the vice-chairman.

Provisions
supplement-
ary to s. 7.
Cap. 13.

8.—(1) The Arbitration Act shall not apply to any proceedings of an arbitration tribunal appointed under section 7 of this Decree or to any award made by such a tribunal.

(2) Where an arbitration tribunal appointed under section 7 of this Decree consists of a single arbitrator assisted by assessors and any vacancy occurs in the number of assessors, the chairman of the Industrial Arbitration Panel may either—

(a) direct the tribunal to act notwithstanding the vacancy, or

(b) fill the vacancy by appointing another assessor in accordance with section 7 (3) of this Decree.

(3) Where an arbitration tribunal appointed under section 7 of this Decree consists of more than one arbitrator and any vacancy occurs in their number the tribunal may, with the consent of the nominating party, act notwithstanding the vacancy.

(4) An act, proceeding or determination of an arbitration tribunal appointed under section 7 of this Decree shall not be questioned on the ground that a member or assessor was not validly appointed or on the ground of any unfilled vacancy authorised by subsection (2) or (3) above.

(5) Where a trade dispute referred to an arbitration tribunal under section 7 of this Decree involves questions as to wages, hours of work or any other terms or conditions of or affecting employment which are regulated by any statutory provisions, the tribunal shall not make any award that are less favourable to the workers concerned than those provisions.

In this subsection "statutory provisions" means provision contained in any written law in force in Nigeria or any part thereof, or in any instrument made in the exercise of any power conferred by any such law.

(6) The Commissioner may, with the approval of the Federal Commissioner for Finance, pay to any arbitrator or assessor appointed under section 7 of this Decree such remuneration as he thinks fit :

Provided that no remuneration, fees or allowances shall be paid to any public officer other than such allowances for expenses as may be expressly authorised for the purposes of this section by the Public Service Commission of the Federation or the State in question, as the case may be.

9.—(1) An arbitration tribunal constituted under section 7 of this Decree—

(a) shall make its award within forty-two days of its constitution or such longer period as the Commissioner may in any particular case allow ; and

(b) on making its award shall forthwith send a copy thereof to the Commissioner.

Issue of
tribunal's
award, and
procedure
thereon.

(2) On receipt of a copy of the award of the tribunal the Commissioner shall immediately cause to be given to the parties or their representatives, and to be published in such other manner (if any) as he thinks fit, a notice—

(a) setting out the award ;

(b) specifying the time (not being more than twenty-one days from the publication of the notice) within which and the manner in which notice of objection to the award may be given to the Commissioner by or on behalf of either party to the dispute ; and

(c) stating that, except where notice of objection to the award is given within the time and in the manner so specified by one or both of the parties, the award will be confirmed by the Commissioner.

(3) If no notice of objection to the award of the tribunal is given to the Commissioner within the time and in the manner specified in the notice under subsection (2) above, the Commissioner shall publish in the *Gazette* a notice confirming the award and the award shall be binding on the employers and workers to whom it relates as from the date of the award (or such earlier or later date as may be specified in the award).

10.—(1) If notice of objection to the award of an arbitration tribunal appointed under section 7 of this Decree is given to the Commissioner within the time and in the manner specified in the notice under section 9 (2) of this Decree, the Commissioner shall forthwith refer the dispute to the National Industrial Court established by this Decree.

Reference of dispute to National Industrial Court if tribunal's award is objected to.

(2) The award of the National Industrial Court shall be final and shall be binding on the employers and workers to whom it relates as from the date of the award (or such earlier or later date as may be specified therein).

(3) In so far as the terms and conditions of employment to be observed by an employer in accordance with any award made by the National Industrial Court under this section are more favourable than any statutory provisions affecting the terms and conditions of employment of the workers concerned, the award shall prevail.

In this subsection "statutory provisions" means provisions contained in any written law in force in Nigeria or any part thereof, or in any instrument made in the exercise of any power conferred by any such law.

11.—(1) If after an award of—

- (a) an arbitration tribunal appointed under section 7 of this Decree ; or
- (b) the National Industrial Court,

has become binding on the employers and workers to whom it relates, any question arises as to the interpretation of the award, the Commissioner or any party to the award may make an application to the National Industrial Court for a decision on that question.

Interpretation of award of arbitration tribunal or National Industrial Court.

(2) On an application under this section the National Industrial Court shall decide the matter after hearing the parties to the award or, with the prior consent of the parties, without hearing them ; and the decision of the Court, which shall be final, shall be deemed to form part of the original award and shall have effect accordingly.

Direct
reference to
National
Industrial
Court in
Certain
special cases.

12. If in the case of any trade dispute of which he has received a report under section 4 of this Decree it appears to the Commissioner—

(a) that the dispute is one to which workers employed in any essential service are a party, or

(b) that in the circumstances of the case reference of the dispute to an arbitration tribunal would not be appropriate,

then, within seven days of the receipt by him of a report under section 6 (4) of this Decree, the Commissioner shall refer the dispute directly to the National Industrial Court.

Prohibition
of lock-outs
and strikes
before issue
of award of
National
Industrial
Court.

13.—(1) An employer shall not declare or take part in a lock-out and a worker shall not take part in a strike in connection with any trade dispute where—

(a) the procedure specified in section 3 or 4 of this Decree has not been complied with in relation to the dispute; or

(b) an award by an arbitration tribunal has become binding under section 9 (3) of this Decree; or

(c) the dispute has subsequently been referred to the National Industrial Court under section 10 (1) or 12 of this Decree; or

(d) the National Industrial Court has issued an award on the reference.

(2) Any person who contravenes subsection (1) above shall be guilty of an offence and be liable on conviction—

(a) in the case of an individual, to a fine of ₦100 or to imprisonment for six months;

(b) in the case of a body corporate, to a fine of ₦1,000.

(3) It is hereby declared that where a dispute is settled under the foregoing provisions of this Decree either by agreement or by the acceptance of an award made by an arbitration tribunal under section 9 of this Decree, that dispute shall be deemed for the purposes of this Decree to have ended; and accordingly, any further trade dispute involving the same matters (including a trade dispute as to the interpretation of an award made as aforesaid by which the original dispute was settled) shall be treated for the purposes of this section as a different trade dispute.

PART II

THE NATIONAL INDUSTRIAL COURT

Establish-
ment of
National
Industrial
Court.

14.—(1) There shall be a National Industrial Court for Nigeria (in this Part of this Decree referred to as "the Court") which shall have such jurisdiction and powers as are conferred on it by this or any other Decree with respect to the settlement of trade disputes, the interpretation of collective agreements and matters connected therewith.

(2) The members of the Court shall be—

(a) the President; and

(b) four other members (in this Decree referred to as "ordinary members" of the Court) all of whom shall be persons of good standing being, to the knowledge of the Commissioner, well acquainted with employment conditions in Nigeria, and at least one of whom shall, to his satisfaction, have a competent knowledge of economics, industry or trade.

(3) For the purpose of dealing with any matter which may be referred to it the Court shall, at the discretion of the President, be constituted of either—

- (a) all five members ; or
- (b) the President and two ordinary members.

(4) For the purpose of dealing with any matter as aforesaid, the Court may, at the discretion of the President, be assisted by assessors appointed in accordance with section 17 of this Decree.

(5) Any decision of the Court in the exercise of its functions shall be taken, in the event of a difference between the members dealing with the case, by the votes of the majority of those members.

(6) The Court shall normally sit in the city of Lagos, but for the purpose of dealing with any particular trade dispute referred to it under Part I of this Decree may sit elsewhere in Nigeria.

15.—(1) The Court shall, to the exclusion of any other court, have jurisdiction—

Jurisdiction
of Court.

(a) to make awards for the purpose of settling trade disputes ; and

(b) to determine questions as to the interpretation of—

(i) any collective agreement ;

(ii) any award made by an arbitration tribunal or by the Court under Part I of this Decree ;

(iii) the terms of settlement of any trade dispute as recorded in any memorandum under section 6 of this Decree.

(2) No appeal shall lie to any other body or person from any determination of the Court.

(3) Nothing in subsection (1) or (2) above shall prejudice any jurisdiction of the Supreme Court of Nigeria under section 115 or 117 (2) (d) of the Constitution of the Federation or any jurisdiction of a High Court under section 32 of that Constitution.

1963 No. 20.

16.—(1) The members of the Court shall be appointed by the Supreme Military Council acting, in the case of the President of the Court, after consultation with the Advisory Judicial Committee.

Appointment
of members
of Court.

(2) A person shall not be qualified to hold the office of President of the Court unless—

(a) he has been a judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court ; or

(b) he is qualified for admission as an advocate in Nigeria and has been so qualified for not less than ten years :

Provided that, in computing the period during which any person has been qualified for admission as advocate, any period during which he has been in office as judge or magistrate after becoming so qualified shall be included.

(3) If the office of President or an ordinary member of the Court is vacant or if the person holding any such office is for any reason unable to perform the functions of his office, the Supreme Military Council, acting, in the case of the office of President, after consultation with the Advisory

Judicial Committee, may appoint a person qualified to hold that office to act therein ; 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, in the case of the President, after consultation with the Advisory Judicial Committee.

Appointment
of assessors.

17.—(1) The assessors to assist the Court in dealing with any matter referred to it shall be appointed by the President of the Court as follows—

(a) two shall be persons nominated by or on behalf of the employers concerned from the panel of employers' representatives drawn up under section 33 of this Decree ; and

(b) two shall be persons nominated by or on behalf of the workers concerned from the panel of workers' representatives drawn up under the said section 33 :

Provided that if after seven days of being required to do so by the Commissioner the employers or workers concerned or their representatives fail to make a nomination for the purposes of any appointment falling to be made in accordance with this subsection, the Commissioner may appoint from the appropriate panel such person as he thinks fit.

(2) The remuneration, if any, to be paid to persons for acting as assessors in relation to any proceedings before the Court shall be determined by the Court :

Provided that no remuneration, fees or allowances shall be paid to any public officer other than such allowances for expenses as may be expressly authorised for the purposes of this section by the Public Service Commission of the Federation or the State in question, as the case may be.

Power to
continue
with
proceedings
notwith-
standing
incapacity of
member of
Court or
assessor.

18.—(1) If, after the Court has begun to consider any matter referred to it, the President becomes incapable of continuing to take part in the proceedings on account of sickness or for any other reason, the Head of the Federal Military Government, acting after consultation with the Chief Justice of Nigeria, shall as soon as possible appoint a person qualified to hold the relevant office to act therein for the purposes of those proceedings, and any person so appointed shall be deemed to have been so appointed under and in accordance with section 16 (3) of this Decree.

(2) If, after the Court has begun to consider any matter referred to it, an ordinary member becomes incapable as aforesaid, then—

(a) if the Court as constituted for the purpose of the proceedings includes all four ordinary members, the President shall re-constitute the Court by removing therefrom the ordinary member in question and one other ordinary member ;

(b) if the Court as constituted for the purposes of the proceedings includes two ordinary members, the President shall re-constitute the Court by substituting for him another ordinary member.

(3) If, after the Court has begun to consider any matter referred to it any assessor appointed to assist the Court in relation to that matter becomes incapable as aforesaid, the President of the Court shall appoint from the same panel, to act as assessor in his place for the purposes of the proceedings, another person nominated by or on behalf of the employers or workers who nominated the assessor in whose place he is to act.

(4) Where any appointment or substitution has been made under this section in the course of any proceedings before the Court, the proceedings may, with the consent of all parties thereto, be continued before the Court as reconstituted by virtue of that appointment or substitution and be determined accordingly, but in default of that consent shall be re-heard and determined by the Court as so reconstituted :

Provided that where the court is reconstituted in pursuance of subsection (2) (a) above by the removal of two ordinary members, the proceedings shall, if the chairman so directs, be continued before the Court as so reconstituted irrespective of whether the parties thereto or any of them has consented to the continuance.

19.—(1) Subject to the provisions of this section, a person holding or appointed to act in the office of President of the Court shall vacate that office when he attains the age of sixty-two years :

Tenure of
office of
members of
Court.

Provided that the Head of the Federal Military Government may permit such a person to continue in his office or appointment for such period after attaining that age as may be necessary to enable him to make an award, deliver a decision or do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) An ordinary member of the Court shall hold office for such term as may be fixed by the Supreme Military Council, but shall not continue to hold office after attaining the age of sixty-two years :

Provided that the Head of the Federal Military Government may permit such a person to continue in office for such period after the end of his term of office or the attainment by him of the said age as may be necessary to enable him to make an award, or do any other thing in relation to proceedings which were commenced before him before the end of his term of office or his attainment of that age.

(3) Any person who has vacated the office of a member of the Court may, if qualified, again be appointed to hold that office in accordance with the provisions of section 16 of this Decree.

(4) A person—

(a) holding or appointed to act in the office of President of the Court ; or

(b) holding or appointed to act in the office of an ordinary member of the Court,

may be removed from his office or appointment by the Supreme Military Council acting, in the case of a person falling within paragraph (a) above, after consultation with the Advisory Judicial Committee..

(5) A member of the Court may resign from his office by notice in writing addressed to the Head of the Federal Military Government, and any such resignation shall take effect when notice is received by the Head of the Federal Military Government or by any person authorised by him to receive it.

20.—(1) The President and the ordinary members of the Court shall be paid such salaries as may be approved by the Federal Executive Council.

(2) There shall also be paid to each member of the Court on account

Salaries and
allowances of
members of
Court.

of expenses incurred in connection with his office or otherwise such allowances as may be approved by the Federal Executive Council.

(3) All sums payable by virtue of this section shall be charged on and paid out of the Consolidated Revenue Fund of the Federation.

Application
of certain
provisions of
1960 No. 12.

21.—(1) The provisions of the Supreme Court Act 1960 specified in subsection (2) below shall, with such modifications as may be necessary, apply in relation to the Court as they apply in relation to the Supreme Court.

- (2) The said provisions are the following—
 section 5 (officers)
 section 6 (seal)
 section 7 (1) (process)
 section 11 (reserved judgments).

Amendments
of Constitu-
tion of the
Federation.
1963 No. 20.

22. The Constitution of the Federation is hereby amended as follows—

(a) in section 133 (which relates to the remuneration of the members of the Supreme Court and certain other officers), in subsection (4), after the word "Lagos" there shall be inserted the words "member of the National Industrial Court";

(b) in section 147 (which relates to the appointment, etc. of officers in the public service) in subsection (2) (a), after the word "Lagos" there shall be inserted the words "or of any member of the National Industrial Court";

(c) in section 153 (which relates to the powers of Commissions in relation to grant of pensions, etc.), in subsection (2) after the word "Lagos" there shall be inserted the words "or of a member of the National Industrial Court";

(d) in section 165 (which relates to interpretation), in subsection (2) (b), after the word "Lagos" there shall be inserted the words "and of the members of the National Industrial Court".

PART III

BOARDS OF INQUIRY

Power to
appoint
board of
inquiry.

23.—(1) Where any trade dispute exists or is apprehended, the Commissioner may cause inquiry to be made into the causes and circumstances of the dispute and, if he thinks fit, may refer any matter appearing to him to be connected with or relevant to the dispute to a board of inquiry appointed for the purpose by the Commissioner; and the board shall inquire into the matter referred to it and report thereon to the Commissioner.

(2) The Commissioner may refer any other matter connected with industrial conditions in Nigeria to a board of inquiry appointed for the purpose by the Commissioner; and the board shall inquire into the matter referred to it and report thereon to the Commissioner.

(3) A board of inquiry appointed under this section shall consist of a chairman and such other persons as the Commissioner thinks fit to appoint or may, if the Commissioner thinks fit, consist of one person only.

(4) A board of inquiry consisting of two or more persons may act notwithstanding any vacancy in the number of members.

(5) The Commissioner may, with the approval of the Federal Commissioner for Finance, pay to any member of a board of inquiry appointed under this section such remuneration as he thinks fit :

Provided that no remuneration, fees or allowances shall be paid to any public officer other than such allowances for expenses as may be expressly authorised for the purposes of this section by the Public Service Commission of the Federation or the State in question, as the case may be.

24.—(1) A board of inquiry appointed under section 23 of this Decree may, if it thinks fit, make interim reports.

Reports of
board of
inquiry.

(2) Every report of such a board of inquiry, including any interim report and any minority report, shall be submitted to the Commissioner.

(3) Subject to subsection (4) below, the Commissioner may cause to be published, at such time or times and in such manner as he thinks fit, any information obtained or conclusions reached by any such board of inquiry in the course of or as a result of its inquiry.

(4) Except with the consent required by this subsection there shall not be included in any report made by such a board of inquiry, or in any publication authorised by the Commissioner under this section, any information obtained by the board in the course of its inquiry—

(a) with respect to any trade union ; or

(b) with respect to any particular business or undertaking, whether carried on by a particular individual, a firm or a company or other body corporate,

being in either case information which is not available otherwise than through evidence given at the inquiry.

The consent required by this subsection is, in the case of information with respect to a trade union, consent given on behalf of the union by an official thereof authorised by the union to give that consent and, in the case of information with respect to any business or undertaking, consent given by or on behalf of the individual, firm, company or other body corporate carrying on the business or undertaking.

(5) If any individual member of a board of inquiry appointed under section 23 of this Decree, or any other person concerned in the inquiry, discloses any such information as is mentioned in subsection (4) above without the consent required by that subsection, he shall be guilty of an offence and be liable on conviction to a fine of ₦200.

PART IV

SUPPLEMENTARY PROVISIONS : THE NATIONAL INDUSTRIAL COURT, ARBITRATION TRIBUNALS AND BOARDS OF INQUIRY

25. This Part of this Decree applies to the following bodies, that is to say—

(a) the National Industrial Court ;

(b) any arbitration tribunal constituted under Part I of this Decree ; and

(c) any board of inquiry appointed under Part III of this Decree.

Bodies to
which Part
IV applies.

Powers of
such bodies.

26.—(1) For the purpose of dealing with any trade dispute or other matter referred to it under this Decree, a body to which this Part of this Decree applies may—

(a) require any person to furnish, in writing or otherwise, such particulars relating to the matter referred to it as the body may require ;

(b) require any person to attend before the body and give evidence, on oath or affirmation or otherwise, with respect to any matter relevant to the matter referred to it ;

(c) compel the production before it of books, papers, documents and other things for the purpose of enabling them to be examined or referred to so far as may be necessary in order to obtain information relevant to the matter referred to the body ;

(d) consider and deal with the matter referred to it in the absence of any party who has been duly summoned or served with a notice to appear ;

(e) admit or exclude the public or the press, or both, from any of its sittings ;

(f) adjourn from time to time ; and

(g) generally give all such directions and do all such things as are necessary or expedient for dealing speedily and justly with the matter referred to it.

(2) For the purpose of enforcing any summons, direction or order issued, given or made by virtue of subsection (1) above, a body to which this Part of this Decree applies shall have the like powers as are exercisable by the Supreme Court of Nigeria.

(3) If any person, on being required by virtue of this section to furnish any particulars, answer any question or produce any book, paper, document or other thing, objects to doing so on the ground that to do so would tend to incriminate him or on any other lawful ground, he shall not be bound to comply with the requirement and shall not be liable to any punishment for refusing to do so.

(4) Any person who commits an act of contempt, whether the act is or is not committed in the presence of the members of any such body as aforesaid sitting in the exercise of its functions under this Decree, shall be liable on summary conviction before a High Court to a fine of ₦200 or to imprisonment for three months.

Practice and
procedure.

27.—(1) Subject to the provisions of this Decree, the Chief Justice of Nigeria may make rules as to the practice and procedure to be followed by the National Industrial Court.

(2) The Commissioner may make regulations regulating the exercise of the functions of any arbitration tribunal constituted under Part I of this Decree and any board of inquiry appointed under Part III of this Decree.

(3) Subject to the provisions of this Decree and of any rules or regulations made under this section, a body to which this section applies—

(a) may regulate its procedure and proceedings as it thinks fit, and shall not be bound to act in any formal manner ; and

(b) shall not be bound by any rules of evidence but may inform itself on any matter in such manner as it thinks just.

28. In any proceedings before the National Industrial Court or an arbitration tribunal constituted under Part I of this Decree, either party may appear by a legal practitioner; and in any proceedings before a board of inquiry appointed under Part III of this Decree, the board may, at its discretion, permit any interested person to appear before it by a legal practitioner.

Appearance
by legal
practitioner.

29.—(1) Where, in the case of any sitting or part of a sitting of a body to which this Part of this Decree applies, the press have been admitted thereto, but not otherwise, a fair and accurate report or summary of the proceedings during that sitting or part (including any evidence heard in the course thereof) may be published, but until the award of the Court or tribunal, or the result of the enquiry, has been officially published, no comment shall be published in respect of the proceedings or the evidence.

Restriction
on publica-
tion of report
of proceed-
ings.

(2) Any person who contravenes subsection (1) above shall be guilty of an offence and be liable on conviction to a fine of ₦200.

PART V

SUPPLEMENTARY PROVISIONS : APPLICATION OF DECREE TO STATE TRADE DISPUTES

30.—(1) In this section "State trade dispute" means a trade dispute between any one of the following authorities and workers employed by it, that is to say,

Application
of Decree to
state trade
disputes.

- (a) the Military Governor of a State;
- (b) a local authority in a State;
- (c) any corporation, council, board or committee established by or under any law (including an edict of the Military Governor of a State); and
- (d) the proprietor of any school who receives grants in respect of the school out of the public revenue of the State.

(2) This Decree applies to a State trade dispute as it applies to other trade disputes with the modifications mentioned in the following subsections of this section.

(3) The Commissioner may, with the consent of the Military Governor of a State and in respect of State trade disputes arising in that State, by order published in the *Gazette* delegate either generally or in respect of any particular State trade dispute, his powers under this Decree to the appropriate State Commissioner.

(4) While an order made under subsection (3) of this section is in force—

(a) the functions of the Commissioner under this Decree shall in the case of a State trade dispute be discharged by the appropriate State Commissioner;

(b) the appropriate State Commissioner may with the approval of the Commissioner for Finance in the Government of that State, pay to an arbitrator or assessor appointed in any arbitration held under this Decree in a State trade dispute such remuneration, if any, as he thinks fit;

(c) the remuneration, if any, to be paid to persons for acting as assessors in relation to any proceedings before the Court in a State trade dispute shall be determined by the Court and paid out of the Consolidated Revenue Fund of the State concerned;

(d) a board of enquiry for the purpose of a State trade dispute may be appointed by the Military Governor of the State concerned and shall be constituted in the same manner as a board of enquiry appointed under section 23 of this Decree and shall enquire into the matter or matters referred to it and report thereon to the Military Governor of the State ;

(e) the said Military Governor may pay out of the Consolidated Revenue Fund of the State to any member of such board such remuneration as he thinks fit ;

(f) no remuneration, fees or allowances shall be paid to any public officer under sub-paragraphs (b), (c) or (d) of this subsection other than such allowances for expenses as are approved for the grade of the officer concerned in the public service to which he belongs ;

(g) the Public Service Commission of a State may appoint at such remuneration and on such terms and conditions as it may determine such officers and servants as may be necessary for carrying this Decree into effect in so far as it relates to State trade disputes ;

(h) any expenses in addition to those mentioned in the preceding sub-paragraphs of this subsection in carrying this Decree into effect in relation to State trade disputes shall, in so far as they are approved by the Commissioner for Finance in the government of that State be paid out of the Consolidated Revenue Fund of the State ;

(i) in the case of State trade disputes the panel of employers' and the panel of workers' representatives to be drawn up from time to time and revised under section 33 for the purposes of sections 7 (3), 17 and 18 shall be drawn up and revised by the appropriate State Commissioner.

(5) While an order under subsection (3) of this section is in force, the appropriate State Commissioner shall, in respect of every State trade dispute, send to the Commissioner not later than fourteen days after the dispute is settled or finally disposed of in accordance with this Decree, a report setting out the circumstances of the dispute and the manner in which it was finally settled or disposed of.

(6) Nothing in this section shall be construed as preventing the Commissioner from exercising any power delegated under subsection (3), but before exercising any such power the Commissioner shall consult the appropriate State Commissioner.

(7) In this section—

"the appropriate State Commissioner" in respect of any State means the Commissioner in the government of that State charged with responsibility for matters relating to the welfare of labour.

PART VI

MISCELLANEOUS AND GENERAL

31.—(1) Without prejudice to section 13 of this Decree, if any worker employed in any essential service ceases, whether alone or in combination with others, to perform the work which he is employed to perform without giving to his employer at least fifteen days' notice of his intention to do so, he shall, unless he proves that at the time when he ceased to perform that work he did not know, or had no cause to believe, that the probable consequence of his or their doing so would be to deprive the community or

Fifteen days' notice to be given by workers in essential services before ceasing work.

any part of the community either wholly or to a substantial extent of that or any other essential service, be guilty of an offence and be liable on conviction to a fine of ₦100 or to imprisonment for six months.

(2) If a worker to whom subsection (1) above applies is entitled to terminate his contract of employment by giving to his employer less than fifteen days' notice, and does in fact give to his employer less than fifteen days notice for that purpose, then—

(a) he shall be deemed to have given to his employer at the same time in pursuance of subsection (1) above, notice that he intends to cease work at the end of the period of fifteen days beginning with the day following that on which he gave the notice; and

(b) for any period for which he is by virtue of that subsection required to go on working after the termination of his contract of employment he shall be entitled to be paid as if his contract of employment had remained in force until the end of that period.

(3) No proceedings for an offence under this section shall be instituted except by or with the consent of the Attorney-General of the Federation or the Attorney-General of the State in which the offence is alleged to have been committed.

32.—(1) Without prejudice to section 13 of this Decree, if—

(a) any worker ceases, whether alone or in combination with others, to perform the work which he is employed to perform without giving to his employer at least fifteen days' notice of his intention to do so; and

(b) at the time when he ceases to perform that work he knows or has reasonable cause to believe that the probable consequence of his or their so doing will be—

(i) to endanger human life; or

(ii) seriously to endanger public health or the health of the inmates of any hospital or similar institution; or

(iii) to cause serious bodily injury to any person or persons; or

(iv) to expose any valuable property, whether real or personal, to destruction or serious injury,

he shall be guilty of an offence and be liable on conviction to a fine of ₦100 or to imprisonment for six months, or both.

(2) If a worker is entitled to terminate his contract of employment by giving to his employer less than fifteen days' notice, and does in fact give to his employer less than fifteen days' notice for that purpose, then—

(a) he shall be deemed to have given to his employer at the same time, in pursuance of subsection (1) above, notice that he intends to cease work at the end of the period of fifteen days beginning with the day following that on which he gave the notice; and

(b) for any period for which he is by virtue of that subsection required to go on working after the termination of his contract of employment he shall be entitled to be paid as if his contract of employment had remained in force until the end of that period.

(3) A worker who ceases to perform his work in circumstances such that in doing so he does not contravene subsection (1) above shall not by reason only of his so ceasing be guilty of an offence under section 196 of the Penal Code of Northern Nigeria.

Fifteen days' notice to be given by workers before ceasing work in circumstances involving danger to persons or property.

(4) No proceedings for an offence under this section shall be instituted except by or with the consent of the Attorney-General of the Federation or the Attorney-General of the State in which the offence is alleged to have been committed.

Panels of employers' and workers' representatives.

33. For the purposes of sections 7 (3), 17 and 18 of this Decree the Commissioner shall draw up and from time to time revise—

(a) a panel of employers' representatives consisting of persons recommended for the purpose by employers or organisations representing the interests of employers; and

(b) a panel of workers' representatives consisting of persons recommended for the purpose by organisations representing the interests of workers.

Appointment of officers and servants for purposes of Decree.

34. Without prejudice to section 30 of this Decree, the Public Service Commission of the Federation may appoint at such remuneration and on such terms and conditions as it may determine such officers and servants as may be necessary for carrying this Decree into effect.

Expenses.

35. Without prejudice to section 30 of this Decree, any expenses incurred in carrying this Decree into effect shall, so far as they are approved by the Federal Commissioner for Finance, be paid out of the Consolidated Revenue Fund of the Federation.

Offences by bodies corporate.

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

Interpretation.

37.—(1) In this Decree, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“collective agreement” means any agreement in writing relating to terms of employment and physical conditions of work concluded between—

(a) an employer, a group of employers or one or more organisations representative of employers, on the one hand, and

(b) one or more organisations representative of workers, or the lawfully appointed representatives of any body of workers, on the other hand;

“the Commissioner” means the Federal Commissioner charged with responsibility for matters relating to the welfare of labour;

“essential service” means any service mentioned in Schedule 1 of this Decree;

“lock-out” means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to accept terms of employment and physical conditions of work;

“public officer” means a member of the public service of the Federation or of the public service of a State;

"State" means a state created under the States (Creation and Transitional Provisions) Decree 1967;

1967 No. 14.

"strike" means the cessation of work by a body of persons employed acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any person or body of persons employed, or to aid other workers in compelling their employer or any person or body of persons employed, to accept or not to accept terms of employment and physical conditions of work; and in this definition—

(a) "cessation of work" includes deliberately working at less than usual speed or with less than usual efficiency; and

(b) "refusal to continue to work" includes a refusal to work at usual speed or with usual efficiency;

"trade dispute" means any dispute between employers and workers or between workers and workers, which is connected with the employment or non-employment, or the terms of employment and physical conditions of work of any person;

"trade union" has the same meaning as in the Trade Unions Decree 1973; 1973 No. 31.

"worker" means any employee, that is to say any public officer or any individual (other than a public officer) who has entered into or works under a contract with an employer, whether the contract is for manual labour, clerical work or otherwise, express or implied, oral or in writing, and whether it is a contract of service or of apprenticeship.

(2) Where it is provided by this Decree that an award or the terms of a settlement shall be binding on the employers and workers to whom the award or terms relate, then, as from the date of the award or settlement (or such earlier or later date, if any, as is specified therein), the contract between the employers and workers in question shall be deemed to include a provision that the rate of wages to be paid and the conditions of employment to be observed under the contract shall be in accordance with the award or terms of settlement until varied by a subsequent agreement, settlement or award; and accordingly the provisions of that contract shall be read subject to the award or terms of settlement, and any failure to give effect to the award or terms of settlement shall constitute a breach of contract.

38.—(1) Subject to subsection (2) below, this Decree shall apply to workers employed by or under the Government of the Federation or a State as it applies to persons employed by a private person.

Application of Decree to workers employed by or under the State other than armed forces, police, etc.

(2) This Decree shall not apply to—

(a) any member of the Nigerian Army, Navy or Air Force;

(b) any member of the Nigeria Police Force;

(c) any officer of whatever rank appointed to carry out duties in relation to any prison within the meaning of the Prisons Decree 1972;

1972 No. 9

(d) any member of the Customs Preventive Service;

(e) any member of any other service of the Federal or State Government authorised to bear arms.

Saving
1969 No. 53.

39.—(1) Notwithstanding anything in section 8 (2) of the Trade Disputes (Emergency Provisions) (Amendment) (No. 2) Decree 1969 but subject to subsection (2) of this section, the Trade Disputes (Emergency Provisions) Decree 1968 and the Trade Disputes (Emergency Provisions) (Amendment) (No. 2) Decree 1969 shall be deemed to have remained in force up to the date of publication of this Decree in the *Gazette* and, accordingly, anything done by the Commissioner or by any other person or authority under or pursuant to the aforementioned Decrees before the date of publication of this Decree in the *Gazette* shall be deemed to have been validly done and, where uncompleted, may be proceeded with and finally disposed of after the commencement of this Decree as if this Decree had not come into force.

(2) Any award made, whether before or after the commencement of this Decree, by an arbitration tribunal established under the Trade Disputes (Emergency Provisions) (Amendment) (No. 2) Decree 1969 shall be treated as having been made by an arbitration tribunal constituted under section 7 of this Decree and sections 11 and 15 (1) of this Decree shall apply in relation thereto accordingly.

Citation,
commence-
ment and
repeal.

40.—(1) This Decree may be cited as the Trade Disputes Decree 1976 and shall be deemed to have come into force on 1st January 1976.

(2) The enactments mentioned in Schedule 2 to this Decree are hereby repealed to the extent specified in the third column of that Schedule with effect from the date of publication of this Decree in the *Gazette*.

SCHEDULES

SCHEDULE 1

Section 37.

ESSENTIAL SERVICES

1. The Public Service of the Federation or of a State which shall for the purposes of this Decree include service, in a civil capacity, of persons employed in the armed forces of the Federation or any part thereof, and also, of persons employed in an industry or undertaking (corporate or incorporate) which deals or is connected with the manufacture or production of materials for use in the armed forces of the Federation or any part thereof.

2. Any service established, provided or maintained by the Government of the Federation or of a State, by a local government council, a town council or any municipal or statutory authority, or by private enterprise—

(a) for, or in connection with, the supply of electricity, power or water, or of fuel of any kind;

(b) for, or in connection with, sound broadcasting or postal, telegraphic, cable, wireless or telephonic communications;

(c) for maintaining ports, harbours, docks or aerodromes, or for, or in connection with, transportation of persons, goods or livestock by road, rail, sea, river or air;

(d) for, or in connection with, the burial of the dead, hospitals, the treatment of the sick, the prevention of disease, or any of the following public health matters, namely sanitation, road-cleansing and the disposal of night-soil and rubbish;

(e) for dealing with outbreaks of fire.

SCHEDULE 1—*continued*

3. Service in any capacity in any of the following organisations—
- (a) the Central Bank of Nigeria,
 - (b) the Nigerian Security Printing and Minting Company Limited ;
 - (c) any body corporate licensed to carry on banking business under the Banking Decree 1969.

Section 40

SCHEDULE 2

ENACTMENTS REPEALED

<i>Chapter or number</i>	<i>Short title or other description</i>	<i>Extent of repeal</i>
Cap. 201	The Trades Disputes (Arbitration and Inquiry) Act.	The whole Act.
Cap. 202	The Trades Disputes (Arbitration and Inquiry) (Federal Application) Act.	The whole Act.
No. 31 of 1958	The Civil Aviation (Fire and Security Measures) Act 1958.	Section 24 (2).
1968 No. 21	Trade Disputes (Emergency Provisions) Decree 1968.	The whole Decree.
1969 No. 53	Trade Disputes (Emergency Provisions) (Amendment) (No. 2) Decree 1969.	The whole Decree.
L.N. 50 of 1961	The Transfer of Functions (Labour) Order 1961.	So much of Schedule 1 as relates to the Trade Disputes (Arbitration and Inquiry) Act (Cap. 201). So much of Schedule 2 as relates to the Trades Disputes (Arbitration and Inquiry) (Federal Application) Act (Cap. 202).
L.N. 112 of 1964	The Adaptation of Laws (Miscellaneous Provisions) Order 1964.	So much of Schedule 1 as relates to the Trade Disputes (Arbitration and Inquiry) (Federal Application) Act (Cap. 202). So much of Schedule 2 as relates to the Trade Disputes (Arbitration and Inquiry) Act (Cap. 201.)

SCHEDULE 2—*continued*ENACTMENTS REPEALED—*continued*

<i>Chapter or number</i>	<i>Short title or other description</i>	<i>Extent of repeal</i>
Cap. 42	The Criminal Code	Section 305A.
E.N. Cap. 30	The Criminal Code of Eastern Nigeria	Section 305A.
W.N. Cap. 28	The Criminal Code of Western Nigeria, as it applies in any part of Nigeria	Section 243.
N.N. Cap. 89	The Penal Code of Northern Nigeria	Section 195.

MADE at Lagos this 7th day of February 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 with respect to the settlement of trade disputes and repeals the Trade Disputes (Emergency Provisions) Decree 1968 and the Trade Disputes (Emergency Provisions) (Amendment) (No. 2) Decree 1969.

Under the Decree where a trade dispute arises between employers and workers effort must first be made to resolve it at a meeting. If there is failure to reach an agreement the matter should be reported to the Commissioner for Labour who, in certain specified cases, may appoint a conciliator. The conciliator is to endeavour by negotiation to seek to bring about a settlement. If conciliation fails the Commissioner is empowered to refer the matter to arbitration and, ultimately, to a National Industrial Court established under the Decree. It is an offence under the Decree for any party to a dispute to take part in a strike or a lock-out whilst any of the steps enumerated above remains to be taken.