

MERCHANT SHIPPING (AMENDMENT) DECREE 1977



Decree No. 16

[1st March 1977]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The following provisions of the Merchant Shipping Act 1962 (hereafter in this Decree referred to as “the principal Act”), that is to say, sections 112-114, 116, 120-124, 126, 128-130 (which provide penalties in respect of desertion from ships by sailors and failure to rejoin ships) are hereby repealed.

Sundry
amendments
to the Mer-
chant Ship-
ping Act
1962, 1962
No. 30.

(2) The following sections of the principal Act (which relate to discipline and power of court in relation thereto) are hereby amended as follows, that is to say—

(a) in section 115—

(i) subsection (1) thereof shall be deleted ;

(ii) the existing subsection (2) shall be renumbered section 115 and the words “this section” occurring in the sixth line shall be deleted and the words “paragraph (a) of section 117 below” substituted therefor ;

(b) in section 117—

(i) in sub-paragraph (b) the words from “and also” occurring in the third line to the end shall be deleted ;

(ii) in sub-paragraph (c) all the words after “twelve weeks” occurring in the third line to the end shall be deleted ; the semi-colon at the end of the paragraph shall be deleted and a fullstop substituted therefor ;

(c) in section 118, the words “or in the sections relating to the offence of desertion or absence without leave” occurring in the first and second lines shall be deleted ;

(d) in section 119, in sub-section (2) thereof, the words from “subject to any” occurring in the second line to “the engagement” occurring in the fourth line shall be deleted.

Citation.

2. This Decree may be cited as the Merchant Shipping (Amendment) Decree 1977.

MADE at Lagos this 1st day of March 1977.

LT.-GENERAL O. OBASANJO,
*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 Merchant Shipping Act 1962 to give effect to the provisions of the International Labour Organisation Convention No. 105 relating to the Abolition of Forced Labour.

STATES (CREATION AND TRANSITIONAL PROVISIONS) DECREE 1977



Decree No. 17

[3rd February 1976]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Subject to subsection (2) of this section, any immovable property and any chattel which immediately before the commencement of the States (Creation and Transitional Provisions) Decree 1976 (hereinafter referred to as "the principal Decree") was situated in the area comprised in a State under that Decree and was held—

Transfer of
public
property.
1976 No. 12.

(a) by the Military Governor of a former State, or

(b) by a body corporate directly established by a Law or an Edict of that State or any law or instrument having effect as such a Law or Edict, shall on the commencement of this Decree and by virtue of this section and without any further assurance apart from this section vest in the Military Governor of the respective States created under the said Decree and shall be held for the benefit of the respective States.

(2) Notwithstanding subsection (1) of this section, if at any time after the commencement of this Decree the relevant Military Governors jointly execute an instrument—

(a) setting out the manner in which any property (being property to which subsection (1) of this section would, but for this subsection, apply) named or described in the instrument is to vest or, as the case may be, has been or is to be shared among the relevant States, or

(b) in the case of any corporate body which is to be held in common by the relevant States, setting out the percentage of the proprietary or other interest that is to be vested in or held by each of the relevant States, the property or, as the case may be, rights or proprietary interests in any corporate body to which the instrument relates shall by virtue of this subsection without any further assurance vest in each of the relevant States in accordance with the terms of the instrument.

1967 No. 14.

Validation
of certain
Edicts,
subsidiary
legislation
and of
executive
acts.

(3) In this Decree the reference to "the relevant Military Governors" is a reference to the Military Governors of the States the territories of which (or parts of the territories of which) immediately before the commencement of the principal Decree formed part of a State created under the States (Creation and Transitional Provisions) Decree 1967 and the reference to the relevant States shall be construed accordingly.

2.—(1) Notwithstanding anything to the contrary in the Constitution (Basic Provisions) Decree 1975 or any other enactment—

(a) all Edicts and subsidiary legislation made at any time between the commencement of the principal Decree and 30th April 1976 on behalf of or in the name of any State created under that Decree by the Military Governor, Executive Council, Commissioner or public officer of a former State; and

(b) all contracts and all executive and judicial acts, including acts pertaining to the appointment, transfer and the exercise of disciplinary control over public officers of a State created under the principal Decree as aforesaid entered into or done by the appropriate authority of the former State between the commencement of the principal Decree and 30th April 1976,

shall be deemed to have been validly made or done and shall have effect as if they had been duly made or done by the Military Governor, Executive Council, Commissioner or public officer of the appropriate State created under the principal Decree; and no question as to the validity of any such Edict, subsidiary instrument, contract, executive or judicial act, or as to the competence of the appropriate authority or public officer to exercise the power concerned or in respect of the act done with the period aforesaid, shall be inquired into any court of law.

(2) The reference in subsection (1) above to the appropriate authority is a reference to the Military Governor of a former State or any person or authority acting under his direction, or any commission or any body, whether corporate or unincorporate, or any public or judicial officer empowered by law to exercise the power concerned.

Transitional
provisions
in relation
to proceed-
ings
pending for
or against a
former
State.

3.—(1) All actions and other proceedings in which the government of a former State was a party and which on the commencement of the principal Decree were pending in any court shall on the commencement of that Decree be deemed for all purposes to have been instituted by or against the government of the State, created under the principal Decree, the territory of which includes the place where the actions or other proceedings were originally filed.

(2) If after consideration of the facts of any particular case the Military Governor of the State on which any action or proceeding devolved under subsection (1) above is satisfied that the action is one in respect of which the proper party ought to be the Military Government of another State, being a relevant State, the Military Governor shall by instrument under his hand direct the devolution of the action to the government of that other State and the action shall on the production of the instrument in the appropriate court be transferred by or, as the case may require, accepted by that court and all records pertaining to the action shall be amended by the appropriate court accordingly.

(3) No question as to the validity of an instrument made by a Military Governor under subsection (2) of this section or as to the competence of the Military Governor to make the instrument shall be enquired into in any court of law.

(4) In this section the reference to the government of a State or of a former State includes a reference to any person or authority or Department in the State of a former State, by whom or in whose name actions by or against the Government of the State or former State could be instituted.

4.—(1) All actions and other proceedings which on the commencement of the principal Decree were pending in any court, not being actions or proceedings in which the government of a State was a party, shall on the commencement of that Decree for all purposes be deemed to have been pending in the appropriate court of the State, created under the principal Decree, the territory of which includes the place where the action or other proceedings were originally filed.

Transitional provisions in relation to other pending proceedings.

(2) Where at any time before the date of the making of this Decree any action or proceeding to which subsection (1) of this section relates had been struck out by any court on the ground that such action, although pending in a court of a former State, was not pending before it, any party may without the payment of any court fees apply to have the case relisted in the appropriate court and the court shall proceed to hear and determine the case as if it had not been struck off as aforesaid.

5.—(1) Where immediately before the commencement of the principal Decree any cause or matter was pending in any court in a former State and by 30th April 1976 hearing of the cause or matter had begun but could not or had not been completed by reason that the magistrate or judge presiding in the court concerned had pursuant to section 5 of the principal Decree been transferred to another State, being a State created under the principal Decree, the Chief Judge of the High Court of the State where the cause or matter is pending may, after consultation with the Chief Judge of the High Court of the State to which the magistrate or judge was transferred as aforesaid and if satisfied that the interests of justice so demand, issue a warrant under his hand permitting the magistrate or judge concerned to proceed to the State where the cause or matter is pending and at such location as may, in the opinion of the judge or magistrate be convenient, complete the hearing of the cause or matter.

Transitional provisions in relation to uncompleted proceedings.

(2) No question as to the validity of any warrant issued by the Chief Judge of a State under subsection (1) above shall be inquired into in any court of law and the warrant shall, notwithstanding anything to the contrary in any law or rule of court be deemed to be sufficient authority for the purposes of the subsection and every thing done (including any decision given) by the judge or magistrate concerned shall have full effect as if it had been done (or the decision had been given) by a judge or magistrate empowered to do so under the applicable law having effect in the State where the cause or matter is pending.

(3) In this section—

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

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

Interpreta-
tion.

6. In this Decree—

1967 No. 14.

“former State” means any State created under the States (Creation and Transitional Provisions) Decree 1967 ;

1976 No. 12.

“the principal Decree” means the States (Creation and Transitional Provisions) Decree 1976.

Citation and
commence-
ment.

7.—(1) This Decree may be cited as the States (Creation and Transitional Provisions) Decree 1977.

(2) This Decree shall be deemed to have come into operation on 3rd February 1976 immediately after the coming into force of the principal Decree.

MADE at Lagos this 8th day of March 1977.

LT.-GENERAL O. OBASANJO,
*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 in relation to the creation of States in February 1976—

(a) provides for the devolution of public property as between successor States ;

(b) makes provision for proper venues and procedures to be followed with respect to pending civil and criminal matters ;

(c) enables certain cases which were struck off to be relisted and for uncompleted proceedings to be resuscitated and continued to a final determination.

**TRIBUNALS OR INQUIRIES (VALIDATION, ETC.)
DECREE 1977**



Decree No. 18

[29th July 1975]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Where on or after the commencement of this Decree (but before 30th September 1977) the appropriate authority in a State has instituted any tribunal or inquiry (however described or constituted)—

Validation of
Tribunals
and Inqui-
ries, etc.

(a) to inquire into any matter concerning the administration of the affairs of any person or of any body, whether corporate or unincorporate, in the State ; or

(b) to inquire into any aspect of the exercise of his official duties by a public officer of the State ; or

(c) to inquire into the conduct of any person whether or not a public officer of the State in so far as it concerned any of the matters mentioned in paragraph (a) or (b) above ; or

(d) to inquire into any matter whatsoever in the State,

the tribunal or inquiry as aforesaid shall notwithstanding anything to the contrary in any enactment, law or rule of law, be deemed to have been validly instituted or constituted.

(2) The question whether any tribunal or inquiry to which subsection (1) of this section relates was or has been validly instituted or constituted, or whether any Law, Edict or subsidiary instrument under which the tribunal or inquiry was instituted (or purported to have been instituted) had been validly made shall not be inquired into in any court ; and if any action or other proceeding whatsoever has been or is instituted in any court in respect of any such question the action or other proceeding shall be void.

2.—(1) Any Edict or subsidiary instrument made by the appropriate authority in a State and any act or thing done by the appropriate authority in respect of the implementation of the report of any tribunal or inquiry to which section 1 of this Decree applies respecting—

Validation of
forfeiture
orders, etc.

(a) the forfeiture or other disposal of the property of any person ; or

(b) the dismissal, retirement or any other exercise of disciplinary control over any public officer of the State or any member of any body, whether corporate or unincorporate, in the State,

shall be deemed to have been validly made or done and shall have full effect in accordance with its tenor.

(2) The question whether any Edict or subsidiary instrument or any act or thing to which subsection (1) of this section relates was validly made or done shall not be inquired into in any court; and if any action or other proceeding whatsoever has been or is instituted in any court in respect of any such Edict or subsidiary instrument or act or thing the action shall be void.

Supple-
mental.

3.—(1) For the purposes of section 1 or 2 of this Decree it shall be immaterial—

(a) that the Edict or instrument concerned was expressed as having been made in exercise of any particular law or power, or that any act or thing done was expressed as having been done in exercise of any power conferred under any particular law;

1968 No. 37.

(b) that, where applicable, the procedure set out in the Investigation of Assets (Public officers and other Persons) Decree 1968 or the Public officers (Special Provisions) Decree 1976 or in any other Decree or enactment has or has not been followed or that the requisite consent under any of those enactments was or was not obtained;

(c) that the law or power under which an act or thing was done was not stated.

(2) Without prejudice to the foregoing provisions of this Decree, Chapter III of the Constitution of the Federation is hereby suspended for the purposes of this Decree, and no question whether any provision thereof has been or is being or would be contravened by anything done or proposed to be done in pursuance of this Decree shall be inquired into in any court of law; and accordingly sections 115 and 117 (2) (d) of that Constitution shall not apply in relation to any such question.

Interpreta-
tion.

4.—(1) In this Decree—

“appropriate authority” means the Military Governor of a State and any person or authority acting under the direction of the Military Governor of the State.

(2) The reference in this Decree—

(a) to a State shall be construed as including a reference to a State created under the States (Creation and Transitional Provisions) Decree 1967; and

1967 No. 14.

(b) to a tribunal or inquiry shall be construed as including a reference to any committee, commission, panel or any other person or body, however described or constituted, appointed to inquire into any matter to which section 1 of this Decree relates.

5. This Decree may be cited as the Tribunals or Inquiries (Validation, etc.) Decree 1977 and shall be deemed to have come into effect on 29th July 1975.

Citation and commencement.

DATED at Lagos this 8th day of March 1977.

LT.-GENERAL O. OBASANJO,
*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 provides a general validation in respect of all inquiries instituted by the Military Governor of a State and all actions taken in execution of the policy of the Government of that State on the matter in respect of which the inquiry in question was instituted.

CRIMINAL JUSTICE (RELEASE FROM CUSTODY) (SPECIAL PROVISIONS) DECREE 1977



Decree No. 19

[8th March 1977]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Where in respect of any person detained in any prison in Nigeria, not being a person detained in execution of a sentence of a court or tribunal duly constituted by law, the Chief Justice of Nigeria or the Chief Judge of a State is satisfied—

Power of
Chief Justice
and Chief
Judges to
order release
of persons
detained in
certain
cases.

(a) that the detention of that person is manifestly unlawful ; or

(b) that the person detained has been in custody, whether on remand or otherwise, for a period longer than the maximum period of imprisonment which the person detained could have served had he been convicted of the offence in respect of which he was detained,

the Chief Justice or the Chief Judge may issue an order of release to the officer in charge of the prison and such officer shall on receipt of the order release the person named therein.

(2) In this section "prison" has the same meaning as in the Prisons Decree 1972.

1972 No. 9.

2. This Decree may be cited as the Criminal Justice (Release from Custody) (Special Provisions) Decree 1977.

Citation.

MADE at Lagos this 8th day of March 1977.

LT.-GENERAL O. OBASANJO,
*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 empowers the Chief Justice of Nigeria and the Chief Judges of the States to order the release of persons detained in prisons in the circumstances specified in the Decree.