

NIGERIA REINSURANCE CORPORATION DECREE 1977



Decree No. 49

[1st July 1976]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Constitution and Functions of the Corporation, etc.

1.—(1) There shall be established a corporation to be known as the Nigeria Reinsurance Corporation (hereinafter in this Decree referred to as “the Corporation”) which shall be constituted in accordance with and shall have such powers and duties as are conferred on it by the following provisions of this Decree.

Establish-
ment of the
Nigeria Re-
insurance
Corporation.

(2) The corporation shall be a body corporate with perpetual succession and a common seal.

(3) The corporation may sue or be sued in its corporate name and may hold, acquire, and dispose of any property movable or immovable.

2.—(1) Subject to the provisions of this Decree, the Corporation shall have power, within or outside Nigeria, to carry on reinsurance of any class of insurance business, including life insurance business, and to reinsure against loss of any kind arising from any risk or contingency in respect of any matter whatsoever.

Functions of
the Corpora-
tion.

(2) Without prejudice to the generality of section (1) of this section the Corporation shall have power to do any of the following things, that is—

(a) to reinsure with any insurer carrying on insurance or reinsurance business, any risk undertaken by the Corporation and for that purpose to enter into reinsurance contracts ; and

(b) to accept the reinsurance of any part of risks undertaken by any other person (being risks such that the corporation has power to reinsure against) and to retrocede any part of such risk.

(3) Save as may be expressly provided for by an order made under Sub-section (5) below, the Corporation shall have power to do anything or to enter into any transaction which in the opinion of the Board is calculated to facilitate the due performance of the functions of the Corporation under this Decree, and in particular the Corporation may—

(a) acquire any undertaking of any registered insurer or acquire, hold or have any shares or stock in, or any financial interest in any such undertaking ;

- (b) acquire and invest in any other profitable business ;
- (c) assist in organising training schemes for employees of any registered insurer.

(4) The Corporation shall serve as the channel of ceding compulsory cessions from the Federation of Nigeria to the African Reinsurance Corporation.

(5) Where the Commissioner is of the opinion that it is in the public interest so to do, he may, with the prior approval of the Federal Executive Council, by Order published in the *Gazette* abridge or restrict the powers of the Corporation to any extent necessary ; and when so abridged or restricted the powers of the Corporation shall be exercisable subject to and in accordance with the provisions of the order, and not otherwise.

(6) For the avoidance of doubt, it is hereby declared that the foregoing provisions of this Decree relate only to the capacity of the Corporation as a statutory corporation, and nothing in the said provisions shall be construed as authorising the disregard by the Corporation of any rule of law.

Board of
Directors.

3.—(1) There shall be a Board of Directors of the Corporation (hereinafter referred to as "the Board") which shall, subject to the general direction of the Commissioner, be responsible for the overall policy and general management of the Corporation.

(2) The Board shall comprise the following, that is to say—

(a) a Chairman, who shall be a person of integrity and of good standing with wide experience in industry, commerce, finance or administration as well as specialised knowledge of the working of insurance ;

(b) the Permanent Secretary, Federal Ministry of Finance or his representative ;

(c) the Permanent Secretary, Federal Ministry of Economic Development or his representative ;

(d) the Permanent Secretary, Federal Ministry of Trade or his representative ;

(e) the Managing Director of the Corporation ;

(f) a number of directors, not being more than six, being persons who by their character and experience in matters relating to accountancy, law, finance, insurance or economics are, in the opinion of the Commissioner, suitable for appointment as members of the Board.

(3) The Chairman and the members of the Board under paragraph (f) of subsection (2) above shall be appointed by the Federal Executive Council on the recommendation of the Commissioner and shall, subject to this section, hold office on such terms and conditions as the Federal Executive Council may, from time to time, determine.

(4) The Chairman and members of the Board under paragraph (f) of subsection (2) above shall hold office for three years and shall be eligible for reappointment.

(5) The Chairman or any member of the Board under paragraph (f) of subsection (2) above may resign his appointment by a letter addressed to the Commissioner and the resignation shall take effect from the date on which the letter is received by the Commissioner.

(6) The supplementary provisions of Schedule 1. to this Decree shall have effect in relation to the procedure at meetings of the Board and such other matters as are specified therein.

(7) The reference in subsection (2) of this section to the representative of a Permanent Secretary is a reference to such officer of the Ministry of which that Permanent Secretary has responsibility as may be appointed by the Permanent Secretary to represent him.

4.—(1) Subject to subsection (2) below, the Corporation shall be liable to taxation under any applicable law (including liability for any duty, rate, levy or other charge whatsoever whether general or local properly levied and payable).

Corporation
not to be
exempted
from
taxation, etc.

(2) Nothing in this section shall be construed as imposing liability for company income tax upon the Corporation until such time as the amount in the general reserve fund of the Corporation is for the first time equal to twice the amount of the paid-up capital of the Corporation.

5.—(1) The Commissioner may give to the Board directions of a general or of a special nature with regard to the exercise of the functions of the Corporation ; and, as the case may require, it shall be the duty of the Chairman, the Board and the Managing Director to comply with the directions unless matters of policy are in dispute.

Directions
by the Com-
missioner.

(2) In the application of subsection (1) above, where the Commissioner intends to initiate a policy affecting the exercise of the functions of the Corporation, he shall consult with the Board and in the event of disagreement between the Commissioner and the Board over the implementation of that policy, the policy and any directive issued in that respect, shall stand suspended, so however that if any part of the policy so in dispute is severable from any other aspects of the policy not in dispute, the policy or the directive issued shall be suspended only in respect of the part in dispute ; and thereafter the policy, or the part in dispute, so suspended shall, upon its being referred by the Commissioner to the Federal Executive Council, be affirmed, modified, or rejected by that Council, and the Council may give such directions thereon as it thinks fit.

6.—(1) The Insurance Decree 1976 shall apply to the Corporation to the same extent as it applies to insurers under that Decree ; and accordingly, and in so far as the provisions of the Insurance Decree 1976 are not inconsistent with those of this Decree, the Corporation shall, where applicable, comply with the requirements of that Decree as if the Corporation were an insurer registered pursuant to that Decree and the Insurance Decree 1976 shall in relation to the Corporation have effect and be construed accordingly.

Extended
application
of Insurance
Decree 1976.
1976 No. 59.

(2) The provisions of subsection (1) of this section shall apply *mutatis mutandis* to the National Insurance Corporation of Nigeria established pursuant to the National Insurance Corporation of Nigeria Decree 1969.

1969 No. 22.

7.—(1) Subject to subsection (2) below, a registered insurer shall, in respect of every insurance policy issued or renewed by it on or after 1st January 1978 reinsure with the Corporation an amount equal to 20 per cent of the sum insured in the policy, upon and subject to the provisions of Schedule 2 to this Decree ; and the registered insurer shall forthwith pay over to the Corporation an amount equal to 20 per cent of the premium received by the registered insurer on the issue or, as the case may be, renewal of the policy.

Compulsory
reinsurance
with the
Corporation
by registered
insurers ;
Schedule 2,
etc.

(2) The Corporation shall, in respect of any reinsurance ceded to it pursuant to section (1) above by a registered insurer, pay to such registered insurer commission at such rate as the Corporation may determine after taking into account any applicable commercial consideration ; but no profit commission shall be payable on such cessions.

(3) In respect of reinsurance business above the legal cession, that is the percentage of cession specified in subsection (1) of this section, the Corporation shall have the right of first refusal of any reinsurance business from Nigeria before such business is placed in the international reinsurance market.

(4) Where the Corporation exercises the right of first refusal conferred upon the Corporation under subsection (3) of this section, the Corporation shall issue a certificate to this effect to the insurer before such reinsurance is placed abroad.

1969 No. 22.

(5) Sections 4 (2) (c), 8 and 9 and Schedule 2 of the National Insurance Corporation of Nigeria Decree 1969 (which deal with reinsurance) are, hereby, accordingly repealed.

Recovery of unpaid premiums from registered insurer.

8.—(1) Without prejudice to the provisions of section 7 (2) of this Decree, where any registered insurer contravenes or fails to comply with any requirement of that section and thereby evades or fails to pay any amount of premium which is due from and payable by it under section 7 (1) of this Decree, the amount of the premium so unpaid shall—

(a) notwithstanding any other enactment, be a first charge on the property of the registered insurer ; and

(b) be a debt due to the Corporation, and the Corporation may sue for and recover that amount in any court of competent jurisdiction from the registered insurer.

(2) In any action brought under subsection (1) above, the production by the Corporation of a certificate signed by the Director of Insurance setting out the name of the defendant and the amount of premium due shall be sufficient evidence of the amount so due, and sufficient authority for the court to give judgment for the said amount.

Duty of registered insurer to furnish information.

9. It shall be the duty of every registered insurer to produce to any person authorised by the Managing Director of the Corporation, upon the production by that person of a duly authenticated document showing his authority, such books of accounts, records, documents and to supply copies and extracts from such books, records, documents and to furnish such other information as may reasonably be required for the purposes of sections 7 and 8 or any other provision of this Decree.

General Financial Provisions

Share capital of the Corporation etc.

10.—(1) The authorised capital of the Corporation shall be ten million naira divided into 10,000 shares of ₦1,000 each out of which there shall be issued such proportion as may be resolved by the Board and approved by the Commissioner and all the issued share capital shall be subscribed by and paid up at par by the Federal Government upon the establishment of the Corporation.

(2) Any further portion of the authorised capital of the Corporation may be called up as the Board may, with the approval of the Commissioner, from time to time resolve and the Federal Government shall subscribe and pay up at par the amount so called up.

(3) The Commissioner may, from time to time, with the approval of the Federal Executive Council, increase the share capital of the Corporation, by order published in the *Gazette* and, as soon as may be after any such increase, the Board may make calls for the additional shares on such terms and conditions as the Board may determine.

11.—(1) The Corporation shall establish a general reserve fund to which shall be allocated from the net profits of the Corporation at the end of each financial year of the Corporation—

General
reserve fund.

(a) 50 per cent of the net profits of the Corporation for the year, when at the end of the year the fund is less than the authorised capital of the Corporation ;

(b) 25 per cent of the net profits of the Corporation for the year, when the fund is equal to or exceeds the authorised capital of the Corporation.

(2) After any allocation has been made in terms of subsection (1) above the balance of the net profits shall be paid to the Federal Government.

12. The liability of any holder of shares in the Corporation shall be limited to the amount, if any, unpaid on the shares held by the holder.

Liability of
share-holder
limited.

Managing Director, Secretary, etc.

13.—(1) There shall be an employee of the Corporation who shall be called the Managing Director and who shall be the chief executive officer of the Corporation and shall be responsible for the day to day management of the affairs of the Corporation.

Managing
Director of
the Corpora-
tion.

(2) The Managing Director shall be appointed by the Federal Executive Council on the recommendation of the Commissioner.

(3) Any person appointed as the Managing Director shall not, while he is the holder of that office, be the holder of the office of a director in any bank, corporation, company or any other concern except with the approval of the Commissioner.

14.—(1) There shall be appointed by the Corporation a Secretary to the Corporation who shall not be a member of the Board.

Secretary
to the Cor-
poration.

(2) The Secretary shall be responsible to the Chairman and the Managing Director and be under their direction and control.

(3) The Secretary shall keep the records and conduct the correspondence of the Corporation and perform such other duties as the Chairman or Managing Director may from time to time direct and without prejudice to the generality of the foregoing the Secretary shall be responsible for the following matters, that is to say—

(a) making arrangements for meetings of the Board ;

(b) preparing the agenda and the minutes of such meetings ;

(c) conveying decisions of the Board to members of the Board ; and

(d) arranging for payments of fees and allowances and all other matters affecting members of the Board.

Retirement
benefit fund
for employ-
ees of the
Corporation.

15.—(1) The Board shall make rules for the establishment and maintenance of a fund to be known as the Nigeria Reinsurance Corporation Pension and Welfare Fund for providing pensions to employees of the Corporation, and in the case of injuries to such employees or of their death while engaged on the Corporation's business, for providing benefits to them or their dependants.

(2) Provision shall be made by the rules for the payment of contributions to the said fund by the Corporation or the employees of the Corporation or by both, as the Commissioner may direct or require.

(3) Rules made for the purposes of this section shall not have effect until approved by the Commissioner.

Accounts, Returns and Information

Accounts
and audit.

1976 No. 59.

16.—(1) The Corporation shall keep proper accounts and proper records in relation thereto and shall, in respect of each financial year, prepare a balance sheet, a profit and loss account, revenue accounts and other statements and abstracts, in accordance with the requirements of the Insurance Decree 1976.

(2) The accounts of the Corporation shall be audited by auditors in Nigeria appointed annually and on such remuneration as may be fixed by the Board with the approval of the Federal Executive Council.

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

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

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

Miscellaneous and Supplementary

False infor-
mation.

17. If any person in giving information for the purposes of this Decree or any regulation thereunder, makes any statement which he knows to be false in any material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable on conviction to imprisonment for a term of twelve months or to a fine of ₦500 or to both such imprisonment and fine.

Winding up
the Corpo-
ration.

18. The Corporation shall not be wound up except by or under the authority of an enactment.

19. Without prejudice to any other power of the Commissioner under this Decree to make regulations for any special purposes, regulations may be made by the Commissioner generally for the purposes of this Decree.

Regulations.

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

Interpretation.

"the Board" has the meaning assigned to it in section 3 of this Decree ;

"the Chairman" means the Chairman of the Board ;

"the Commissioner" means the Federal Commissioner charged with responsibility for insurance ;

"the Corporation" means the Nigeria Reinsurance Corporation established under section 1 of this Decree ;

"Director of Insurance" means the Director appointed pursuant to the Insurance Decree 1976 ;

1976 No. 59.

"the Managing Director" means the Managing Director of the Corporation appointed pursuant to section 13 of this Decree ;

"policy" in relation to insurance includes every writing whereby any contract of insurance is made or agreed to be made ;

"registered insurer" means, without prejudice to section 6 of this Decree, any person (other than the Corporation) registered as an insurer under the Insurance Decree 1976.

21.—(1) This Decree may be cited as the Nigeria Reinsurance Corporation Decree 1977.

Citation and commencement.

(2) This Decree shall be deemed to have come into operation on 1st July 1976.

SCHEDULES

SCHEDULE 1

Section 3 (6)

SUPPLEMENTARY PROVISIONS WITH RESPECT TO PROCEDURE AT MEETINGS, ETC. OF THE BOARD

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

1964 No. 1.

- (a) the holding of meetings ;
- (b) notices to be given of such meetings and proceedings thereat ;
- (c) the keeping of minutes, and the custody, production and inspection of such minutes ; and
- (d) the opening, keeping, closing and auditing of accounts.

2. Every meeting of the Board shall be presided over by the Chairman or, if the Chairman is unable to attend any particular meeting, by another member appointed by the members present at the meeting to act as chairman for that particular meeting.

3. The quorum for meetings of the Board shall be six and the quorum for meetings of any committee of the Board shall be determined by the Board.

4. Where standing orders made under paragraph 1 above provide for the Board to co-opt persons who are not members of the Board such persons may advise the Board on any matter referred to them by the Board but shall not be entitled to vote at a meeting of the Board.

5. The affixing of the seal of the Corporation shall be authenticated by the signatures of the Chairman and another member of the Board authorised either generally or specifically by the Board to act for the purpose, and of the Managing Director or some other employee of the Corporation authorised either generally or specifically to act for the purpose.

6. Any document purporting to be a document executed under the seal of the Corporation authenticated as provided for in paragraph 5 above shall be received in evidence and shall, unless the contrary is proved, be presumed to be executed.

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

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

9. The validity of any proceedings of the Board shall not be affected—

- (a) by any vacancy in the membership of the Board ; or
- (b) by any defect in the appointment of a member of the Board ; or
- (c) by reason that a person not entitled to do so took part in the proceedings of the Board.

SCHEDULE 2

Section 7 (1)

1. The liability of the Corporation shall commence simultaneously with that of the registered insurer.

2. All loss settlements properly made by the registered insurer shall be binding on the Corporation.

3. The registered insurer shall furnish the Corporation on such forms and at such times as the Board may specify, particulars of the cessions to be made and shall advise the Corporation of any material alteration affecting such cessions.

4. Accounts shall be rendered by the registered insurer to the Corporation at times to be prescribed by the Board and shall also contain matters likewise to be so prescribed.

MADE at Lagos this 14th day of June 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 purport)

The Decree sets up the Nigeria Reinsurance Corporation to undertake reinsurance business within and outside Nigeria. The minimum legal cession is 20 per cent of all sums assured under life and non-life insurance business.

Accordingly, certain of the functions of the National Insurance Corporation of Nigeria relating to reinsurance have been transferred to this new body.

CONSTITUENT ASSEMBLY DECREE 1977



Decree No. 50

[1st June 1977]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. There shall be established a Constituent Assembly which shall, subject to this Decree, have full powers to deliberate upon the draft Constitution of the Federal Republic of Nigeria drawn up by the Constitution Drafting Committee appointed by the Federal Military Government.

Establish-
ment of
Constituent
Assembly.

2.—(1) The Constituent Assembly shall consist of the following members, that is—

Composi-
tion of the
Constituent
Assembly.

(a) a Chairman and a Deputy Chairman both of whom shall be appointed by the Supreme Military Council ;

(b) two hundred and three members elected in the manner provided by this Decree of whom there shall be elected from each State in the Federation the number of members specified in respect of that State in the second column of Schedule 1 to this Decree ;

(c) 20 members nominated by the Supreme Military Council ; and

(d) the Chairman of the Constitution Drafting Committee constituted by the Federal Military Government and the chairmen of the various sub-committees of that Committee :

Provided that where the chairman of a sub-committee is unwilling or unable to serve as a member, the Supreme Military Council shall appoint another person from the sub-committee as it may think fit.

(2) The provisions set out in Schedule 2 to this Decree shall have effect with respect to the election of the elected members of the Constituent Assembly and the other matters therein contained.

3.—(1) Subject to subsection (2) below, a person shall be qualified for election as a member of the Constituent Assembly if he is a citizen of Nigeria and is not less than eighteen years old and if—

Qualifica-
tion for
election as
member of
Constituent
Assembly.

(a) he is an indigene of the State where he proposes to be elected or has been resident in that State for a period of five years ;

(b) he has paid in respect of each of the three financial years preceding the date of the election income tax anywhere in the Federation ; and

(c) he is nominated by ten persons entitled to vote at any Local Government election conducted in the Local Government area he proposes to represent, none of whom shall be members of the Local Government for the area concerned.

(2) A person shall not be qualified for election as a member of the Constituent Assembly if—

(a) he is a member of the Armed Forces or the Nigeria Police Force or a member of the public service of the Federation or of a State within the meaning of the Constitution, of the Federation or of a State, or a member of the staff of any Local Government, unless before the date mentioned in paragraph 7 of Schedule 2 to this Decree he satisfies the Electoral Commissioner concerned that he has resigned his office ;

(b) he is, under any Edict, Law or Regulations applicable to the conduct of Local Government elections, disqualified for election as a member of the Local Government concerned on any grounds apart from those relating to the place of origin or residence of a candidate and non-paramount chieftaincy titles and offices ;

(c) without prejudice to paragraph (b) above, he has held any office in the public service of the Federation or of any State, any statutory corporation or body, or any company owned or controlled by the Government of the Federation or of a State and—

(i) has been removed from that office on any ground involving dishonesty, or

(ii) has been dismissed from office on any ground.

(3) For the purposes of subsection (2) above, if any question arises as to whether or not a person is a holder of a non-paramount chieftaincy title or office the question shall be determined by the Military Governor of the State concerned whose decision thereon shall be final and shall not be enquired into in any court of law.

Procedure.

4. Subject to this Decree, the proceedings of the Constituent Assembly shall be conducted in accordance with the Standing Orders of the House of Representatives as in force on 12th January 1966 with such modifications as may be approved by the Supreme Military Council and, subject to such modifications, the Standing Orders shall be deemed to be the Standing Orders of the Constituent Assembly.

Language.

5. The business of the Constituent Assembly shall be conducted in English.

Voting.

6.—(1) Every member of the Constituent Assembly other than the Chairman and the Deputy Chairman shall have one vote.

(2) Any question proposed for decision in the Constituent Assembly shall be regarded as the decision of the Assembly if it is supported by the votes of a simple majority of the members present and voting.

(3) The person presiding shall have neither a deliberative nor a casting vote and if upon any question before the Assembly the votes are equally divided the motion shall be regarded as having been rejected by the Assembly.

Quorum.

7. The quorum of the Constituent Assembly for the purpose of transacting any business other than adjournment shall comprise the Chairman or Deputy Chairman and not less than one hundred and fifteen members of the Constituent Assembly :

Provided that no proceedings of the Constituent Assembly shall be rendered invalid under this section unless objection is taken by a member present other than the person presiding that there are fewer members present at the meeting than the prescribed quorum.

8. Every member of the Constituent Assembly shall before taking his seat in the Assembly take and subscribe before the Assembly the oath of allegiance which for the purposes of this section may be modified in such manner as may be approved by the Head of the Federal Military Government so however that any member may instead of the oath make the appropriate affirmation as provided by law.

Oath by
members.

9.—(1) There shall be a Secretary to the Constituent Assembly whose office shall be an office in the public service of the Federation.

Secretary to
the Constitu-
ent
Assembly.

(2) There shall also be appointed such number of supporting staff as may be required to assist the Secretary in the performance of his duties.

10. The venue for all meetings of the Constituent Assembly and of any of its committees shall be the Parliament Buildings, Lagos.

Venue for
meetings of
the Constitu-
ent
Assembly.

11. There shall be paid to the Chairman, Deputy Chairman and members of the Constituent Assembly such allowances as the Federal Military Government may approve.

Allowances.

12. Where a person, being—

(a) a person to whom section 3 (2) (a) of this Decree applies ; or

(b) a person employed in any statutory corporation or body, or any company owned or controlled by the Government of the Federation or of a State,

Special
provision
with
respect to
public
officers.

resigns his appointment for the purpose of seeking election as a member of the Constituent Assembly and at the time of his resignation indicates in writing a desire to return to his office on his failing to secure election or on ceasing to be a member of the Constituent Assembly, the person shall on the occurrence on either of the two events mentioned be entitled to be re-employed in the service concerned in a grade analogous to that which he held at the date of his resignation, and his service in the office concerned shall for all purposes be deemed to have been continuous.

13.—(1) This Decree may be cited as the Constituent Assembly Decree 1977 and shall be deemed to have come into force on 1st June 1977.

Citation,
commence-
ment and
expiry.

(2) This Decree shall remain in force until the expiration of a period of one year commencing on the date of the first meeting of the Constituent Assembly as constituted under this Decree.

SCHEDULE 1

Section 2 (1)

<i>States</i>							<i>Number of members to be elected</i>
(a) ANAMBRA .. .. .	..	..	..	..	..	..	11
(b) BAUCHI .. .. .	..	..	..	..	..	..	10
(c) BENDEL .. .. .	..	..	..	..	..	..	10
(d) BENUE .. .. .	..	..	..	..	..	..	10
(e) BORNO .. .. .	..	..	..	..	..	..	11
(f) CROSS RIVER .. .. .	..	..	..	..	..	..	12
(g) GONGOLA .. .. .	..	..	..	..	..	..	10
(h) IMO .. .. .	..	..	..	..	..	..	13
(i) KADUNA .. .. .	..	..	..	..	..	..	13
(j) KANO .. .. .	..	..	..	..	..	..	16
(k) KWARA .. .. .	..	..	..	..	..	..	8
(l) LAGOS .. .. .	..	..	..	..	..	..	8
(m) NIGER .. .. .	..	..	..	..	..	..	7
(n) OGUN .. .. .	..	..	..	..	..	..	8
(o) ONDO .. .. .	..	..	..	..	..	..	10
(p) OYO .. .. .	..	..	..	..	..	..	15
(q) PLATEAU .. .. .	..	..	..	..	..	..	9
(r) RIVERS .. .. .	..	..	..	..	..	..	8
(s) SOKOTO .. .. .	..	..	..	..	..	..	14

SCHEDULE 2

Section 2 (2)

PROVISIONS APPLICABLE TO ELECTION OF MEMBERS
OF THE CONSTITUENT ASSEMBLY

General

1. Election of members of the Constituent Assembly shall be conducted by the Federal Electoral Commission (hereinafter referred to as "the Commission") in accordance with the provisions of this Schedule.

2. The Commission shall for the purpose of the supervision of the election in each State appoint one of its members to be the Electoral Commissioner for that State.

3. The Commission shall, on the recommendation of the Military Governor of the State concerned, and in such manner as it may deem appropriate prescribe the number of members of the Constituent Assembly to be elected by each Local Government in that State so however that the total number of members to be elected shall not exceed the number specified for that State under Schedule 1 to this Decree.

4. In determining the number of members to be elected by each Local Government, the Commission shall have regard to the population of the Local Government area (as determined by the 1963 census) and may if circumstances so require, direct that two or more Local Governments shall jointly elect one or more members.

5. For the purpose of the election of the members of the Constituent Assembly by each Local Government or a combination of Local Governments all the members of the Local Government or, as the case may be, of a combination of Local Governments, shall constitute an electoral college.

6. Each electoral college shall meet at such place and on such date as may be fixed by the Commission for the purpose of the election which shall be the same date for all parts of the Federation.

7.—(1) Every person seeking to be elected in any Local Government area shall, not later than 30th June 1977, submit in person to the Electoral Commissioner appointed for the State concerned a duly completed prescribed registration form which shall be accompanied by a treasury receipt evidencing the payment of a non-refundable registration fee of ₦50, and by such other particulars as that Commissioner may require being particulars that would assist the Commissioner in determining the candidate's eligibility for the election.

(2) The Electoral Commissioner shall if satisfied as to the candidate's eligibility for the election register him for the election and, if not so satisfied, decline to register the candidate and shall communicate to him the ground or grounds on which he is disqualified.

8.—(1) The Electoral Commissioner shall from 7th July to 21st July 1977 cause to be displayed in such public places in each Local Government area as the Commissioner may determine a notice of the names and particulars of the candidates who have been duly registered in respect of the election to be conducted in that area.

(2) If not later than 21st July 1977 any person communicates to the Electoral Commissioner an objection to the registration of any candidate and the Commissioner, after affording the candidate an opportunity to answer the objection, is satisfied that the candidate is not qualified for the election, he shall cause the candidate's name to be removed from the list of persons registered for the election.

(3) The decision of the Electoral Commissioner as to the eligibility of any candidate or on any objection made under this paragraph shall be final and shall not be enquired into in any court of law.

(4) The Commission shall not later than 31st July 1977 publish in such manner as it may determine the final list of candidates duly registered for the election.

9. The Returning Officer for election by each electoral college shall be appointed by the Commission and shall be an officer of the Commission or an officer in the public service of the Federation or of a State of such rank as the Commission may determine.

Elections

10. For the purpose of the election by an electoral college the following rules shall apply—

(a) the Returning Officer shall preside ;

(b) voting shall be by secret ballot and shall be effected by each member of the electoral college marking a cross against the photograph and name of the candidate of his choice on a ballot paper ;

(c) voting shall commence by 10 a.m. and shall continue until all votes have been taken but on no account shall voting continue after 4 p.m. ;

(d) ballot papers shall be provided by the Commission and shall bear the names and photographs of the duly nominated candidates for the electoral college concerned. The names of the candidates shall be inscribed in Roman letters and, if the Commission so directs, in AJAMI letters ;

(e) only one ballot box shall be used by each college and ballot papers shall be placed therein in full view of all the other members of the college ;

(f) the candidate who secures the highest number of the votes cast shall be deemed to be duly elected ;

(g) if no single candidate secures the highest number of votes but two candidates get an equal number of votes, then—

(i) where there were more than two candidates in the election, the electoral college shall conduct another ballot in respect of the two candidates who secured the highest number of votes and if such further ballot also results in an equality of the votes cast for each of the two candidates the Returning Officer shall forthwith decide between those two candidates by lot ;

(ii) if only two candidates took part in the election then there shall be a further ballot and if the second ballot results in a further equality of votes between the two candidates the Returning Officer shall forthwith decide between those two candidates by lot ;

(h) where the number of members to be elected by an electoral college exceeds one, the foregoing provisions of this paragraph shall have effect subject to the following modifications, that is to say—

(i) every member of the electoral college shall be entitled to vote for the number of candidates to be elected by the electoral college ;

(ii) the candidates who secure the highest number of votes up to the number of candidates to be elected by that electoral college shall be deemed to be duly elected ;

(iii) where an equality of votes is found to exist between any candidates and the election of those candidates in addition to the candidates securing higher votes would make the total number of candidates elected to exceed the prescribed number of candidates in respect of that electoral college, then the candidates who secured votes higher than those of the candidates with an equality of votes shall be deemed to be duly elected and a further ballot shall be held in respect of the candidates with an equality of votes. If the second ballot results in a further equality of votes between candidates who but for the equality of votes would have been elected, the Returning Officer shall forthwith decide between those candidates by lot.

(iv) the Returning Officer shall as soon as voting is terminated arrange to have the votes counted and shall announce the result thereof to the electoral college and take custody of the ballot papers used.

11. The Returning Officer shall immediately after the election communicate the names and particulars of the candidates elected by the electoral college to the Electoral Commissioner appointed by the Commission for the State concerned and shall also issue to the elected person a certificate signed by the Returning Officer certifying that the person has been duly elected.

12. Where by 31st July 1977 and in respect of any Local Government area the number of candidates validly nominated does not exceed the number of members prescribed for election in that area the member or members so validly nominated shall be deemed to have been elected for that area and no poll shall be conducted.

13.—(1) Any question as to whether a person has been validly elected in any State as a member of the Constituent Assembly shall be referred to and determined by a Tribunal comprising the Chief Judge of the State or such other judge or legally qualified person as he may appoint as Chairman and two other members to be appointed by the Chief Judge.

(2) The Tribunal shall only entertain a question relating to the validity of an election on a petition from any one or more of the candidates who contested the election.

(3) A petition in accordance with subsection (2) of this section shall be filed, not later than 48 hours after the date of the election, in the High Court having jurisdiction in the capital of the State and the petitioner shall deposit in that court a sum of ₦250 as security for costs of the petition.

(4) The petition shall state the facts and grounds on which the petitioner relies for invalidating the election and shall also state the name and address of any other person or persons affected by the petition.

(5) The petition shall be served on the successful candidate and any other person or persons cited as respondent and the respondent or such other person or persons shall file an answer to the petition admitting or denying (as the case may be), the facts and grounds stated in the petition together with any other facts and grounds on which he intends to rely at the trial of the petition.

(6) Proceedings at the hearing of the petition shall be dealt with in the same manner as a claim in the civil action in which the petitioner is the plaintiff and the respondent is the defendant and the petition and answer shall be treated as statement of claim and statement of defence respectively, and such proceedings shall be completed within 28 days of the date of the filing of the petition.

(7) The rules of civil procedure in force in the High Court of the State shall apply to the trial of the petition.

(8) The decision of the Tribunal shall be final and shall not be questioned in any court of law.

14.—(1) Where any Tribunal has declared an election invalid it shall be the duty of the Electoral Commissioner concerned to arrange for the holding of another election for the purpose of filling the vacancy.

(2) The provisions of this Schedule shall apply with any necessary modifications to any further election held pursuant to this paragraph.

MADE at Lagos this 22nd day of June 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 for the constitution, membership and proceedings of the Constituent Assembly which is to have full powers to deliberate upon and enact the draft Constitution of Nigeria drawn up by the Constitution Drafting Committee appointed by the Federal Military Government.