

## ANTIQUITIES (AMENDMENT) DECREE 1978



## Decree No. 4

[13th March 1978]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. Section 5 (1) of the Antiquities Act is hereby amended by substituting the word "three" for the word "two" where it occurs in the second line thereof.

Amendment  
of Cap. 12.

2. This Decree may be cited as the Antiquities (Amendment) Decree 1978.

Citation.

MADE at Lagos this 13th day of March 1978.

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 amends the Antiquities Act to extend the tenure of office of members of the Antiquities Commission from two to three years.

# REGULATED AND OTHER PROFESSIONS (MISCELLANEOUS PROVISIONS) DECREE 1978



## Decree No. 5

[23rd March 1978]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

### PART I—LIABILITY OF NEWLY QUALIFIED PROFESSIONALS TO SERVE IN RECOGNISED ORGANISATIONS

1.—(1) As from the commencement of this Decree and subject as hereinafter provided, no citizen of Nigeria shall, after being qualified to practise any scheduled profession under this Decree, be entitled to enter into the practice of such profession on his own or to practise in partnership or in any other form of association with any other person until after service by such professional as an employee in a recognised organisation for a period of not less than five years after his being so qualified as aforementioned :

Liability of newly qualified professionals to serve in recognised organisations, etc.

Provided that—

(a) if at the time when that term would otherwise be completed he has become liable to be proceeded against for an offence against any enactment, that term shall not be completed until he has been tried or otherwise dealt with for that offence and has undergone any punishment awarded therefor or, if at that time punishment for such an offence as aforesaid has already been awarded, until he has undergone that punishment ;

(b) in determining the end of the said period of five years no account shall be taken—

(i) of any continuous period exceeding fourteen days during which he was absent without leave ;

(ii) of any continuous period exceeding fourteen days during which he was serving, or would if he had not been unlawfully at large have been serving, a term of imprisonment in pursuance of a sentence of a court or in default of payment of any sum of money or for doing or failing to do or abstaining from doing anything required to be done or left undone.

(2) Where a professional serves for a part of the service prescribed in this section in more than one recognised organisation each such term of service shall be taken into account in computing the period of service and shall cumulatively count as continuous service.

1973 No. 24.

(3) For the purposes of this section and notwithstanding subsection (1) of this section, any period of service in the National Youth Service Corps shall be taken fully into account in computing the period of service prescribed by this section but, for the avoidance of doubt, any exemption or deferment granted under section 15 of the National Youth Service Corps Decree 1973 shall not affect the obligation of a professional benefiting therefrom from complying with the provisions of this Part.

(4) In this section, "recognised organisation" means—

(a) the public service of the Federation within the meaning of the Constitution of the Federation ;

(b) the public service of a State within the meaning of the corresponding provisions of the Constitution of that State ;

(c) any Local Government ;

(d) the armed forces of the Federation ;

(e) the service of any statutory corporation or any company wholly-owned or controlled by any Government in the Federation or any other statutory body (whether corporate or unincorporate) which, for the avoidance of doubt, includes any university or any other educational institution of which any Government aforesaid is proprietor thereof ;

(f) any partnership or firm of professionals at least one of whom at the commencement of this Decree is of not less than five years' standing in the practice of such profession.

Power to  
grant  
exemptions.

2. Notwithstanding any other provision of this Part, the Federal Executive Council may by order published in the *Gazette* exempt any professional or class of professionals from all or any of the provisions of this Part and may, subject thereto, impose in relation to any exemption such conditions as it may think fit.

Compliance  
certificate.

3. The National Youth Service Corps Directorate shall on completion by a professional of the period of service prescribed by this Part, unless such professional is exempted under section 2, issue him with a compliance certificate in such form as may be prescribed.

General  
administra-  
tion of Part I.

4.—(1) The Directorate of the National Youth Service Corps shall be charged generally with the responsibility of administration of the provisions of this Part and, for the purpose of facilitating the carrying out the aforesaid functions—

(a) every professional concerned shall, immediately after securing employment with any recognised organisation, inform the Director in writing of the name and address of such organisation and such other particulars as may be specified by the Director ; and

(b) the Director may, by notice in writing served on any person in charge of any undertaking (including a recognised organisation or of any department or other unit thereof) in which the professional is employed require that person to furnish in such form as he may direct information on such matters as may be specified by him.

(2) It shall be the duty of any person required to furnish information pursuant to subsection (1) (b) above to comply with such requirement not later than thirty days from receipt thereof.

5.—(1) Any professional who practises his profession or attempts so to do otherwise than in compliance with the provisions of this Part shall be guilty of an offence and liable—

Offences.

(a) upon conviction for the first offence to a fine of ₹2,000 or imprisonment for one year ;

(b) upon conviction for the second offence to a fine of ₹5,000 or imprisonment for three years ; and

(c) upon conviction for the third offence to imprisonment for three years without the option of a fine.

(2) Any professional convicted for a third offence under this Part shall have his name and particulars removed from the register or struck off the roll by the appropriate disciplinary tribunal or, where there is no such tribunal, by the relevant professional association ; and accordingly, a certified copy of the proceedings relating thereto shall be forwarded by the registrar of the court which has awarded or, as the case may be, which has confirmed the conviction to such tribunal or association not later than 30 days after delivery of the judgment for further action as provided herein.

(3) If any person required to furnish returns pursuant to the foregoing section fails to furnish such returns as required under this Part or furnishes false returns he shall be guilty of an offence and liable on conviction to a fine of ₹500 or imprisonment for six months.

(4) If a person in purported compliance with the requirement to furnish returns as aforesaid knowingly or recklessly makes any statement in the return which is false in a material particular he shall be guilty of an offence and liable on conviction to a fine of ₹200 or imprisonment for three months.

6. Where an offence under this Part has been committed by a body corporate or firm or other association of individuals—

Offences by  
bodies  
corporate  
and unin-  
corporate.

(a) every director, manager, secretary or other similar officer of the body corporate ;

(b) every partner or officer of the firm ;

(c) every person concerned in the management of the affairs of the association ; or

(d) every person who has purported to act in any such capacity as aforesaid,

shall severally be guilty of that offence and liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

7. Notwithstanding any provision of the Registration of Business Names Act 1961 or of the Companies Decree 1968, no professional shall be entitled to register a business name or, as the case may be, a company for the practice of his profession unless he produces to the appropriate registrar a compliance certificate issued by the Director.

Restriction on  
registration  
of enterprises  
by pro-  
fessionals.  
1961 No. 17.  
1968 No. 51.

Certain professionals in private practice granted exemption.

8. Notwithstanding section 1 of this Decree but without prejudice to section 2 above, the provisions of this Part shall not apply in relation to any professional of less than five years standing who, at the commencement of this Part, was already in private practice on his own or in partnership or any other form of association with any other person, the onus of proof of which shall be on the professional claiming such exemption.

## PART II—PROHIBITION OF PRIVATE PRACTICE BY PUBLIC OFFICERS

Prohibition of private practice by professionals employed in the public services, etc.

9.—(1) Subject to this Part and notwithstanding anything to the contrary in any other enactment or instrument, no public officer shall, as from the commencement of this Part, engage in or continue to engage in private practice in or in connection with any scheduled profession.

(2) For the purposes of this Part but subject as hereinafter provided, private practice in relation to any scheduled profession includes the rendering of or offer to render to any other person (not being the employer or any other person normally entitled in the course of his official duties to receive such services) of any service relative to the profession concerned, whether or not after his normal hours of work or on work-free days, for money or money's worth or for any other valuable consideration and, without prejudice to the generality of the foregoing, includes in particular—

(a) the performance of services of all descriptions relating to the profession concerned including the tendering of advice or provision of consultancy services connected with or relating to the profession concerned ; or

(b) the issue of certificates, the certification of documents or any other matter concerned with the issue or certification of documents connected with or relating to any of the aforementioned services ; or

(c) the establishment of any undertaking either by the professional concerned or in partnership, or in any other form of association with, any other person (whether or not himself a public officer) for the provision of any of the services or matters referred to in this subsection.

(3) Notwithstanding any provision of this section, it shall be lawful for the professional concerned, apart from during the course of his normal official duties, to render any of the services referred to in subsection (2) of this section—

(a) to himself ;

(b) to any person in an emergency ;

(c) to any person (whether corporate or unincorporate) authorised either generally or specially by the Government to receive the services of that professional for the time being or, where a period is specified for that specified period ;

(d) where such services are rendered free of charge, to any of the following, that is—

(i) any member of the family of that professional,

(ii) any charitable organisation or any other person on purely humanitarian grounds, and

(iii) any professional association to which he belongs.

(4) For the purposes only of this Part—

“public officer” means any person who holds office in—

(a) the public service of the Federation within the meaning of the Constitution of the Federation ;



(b) the public service of a State within the meaning of the corresponding provisions of the Constitution of that State ;

(c) any Local Government ;

(d) the armed forces of the Federation ;

(e) the service of any statutory corporation or any company wholly-owned or controlled by any Government in the Federation or any other statutory body (whether corporate or unincorporate) which, for the avoidance of doubt, includes any university or any other educational institution of which any Government aforesaid is proprietor thereof; but for the avoidance of doubt, does not include any person appointed on a part-time basis as chairman or member of the board or any other governing body of any of the aforementioned bodies ;

"scheduled profession" means any profession or calling specified in column (A) of the Schedule to this Decree and professions allied thereto being, where so specified, a profession or calling for the time being regulated by or pursuant to the corresponding enactment (as amended from time to time) specified in column (B) thereof.

(5) The Head of the Federal Military Government may by order published in the *Gazette* amend the Schedule to this Decree either by way of deletion therefrom, addition thereto or otherwise howsoever.

10.—(1) Any public officer who engages or continues to engage in private practice otherwise than in compliance with the provisions of this Part shall be guilty of an offence.

Penalties for  
breach of  
this Part.

(2) Any public officer found guilty of an offence under this Part shall be liable—

(a) upon conviction for the first offence to a fine of ₦2,000 or imprisonment for one year ;

(b) upon conviction for the second offence to a fine of ₦5,000 or imprisonment for three years ; and

(c) upon conviction for the third offence to imprisonment for three years without the option of a fine.

(3) Any public officer convicted for a third offence under this Part shall have his name and particulars removed from the register or struck off the roll by the appropriate disciplinary tribunal or, where there is no such tribunal, by the relevant professional association ; and accordingly, a certified copy of the proceedings relating thereto shall be forwarded by the registrar of the court which has awarded or, as the case may be, which has confirmed the conviction to such tribunal or association not later than 30 days after delivery of the judgment for further action as provided herein.

11. Notwithstanding section 9 of this Decree but subject as herein provided, in any case where immediately before the commencement of this Part a public officer had not been expressly or impliedly prohibited by any enactment (including any instrument) from engaging in private practice in relation to his profession, then it shall be lawful for such public officer to continue in private practice but only to the extent necessary to enable him wind up such private practice and in no case shall such public officer continue his private practice for a period exceeding three months after the commencement of this Decree.

Transi-  
tional pro-  
visions.

## PART III— SUPPLEMENTARY

Exclusion  
of rights, etc.  
1963 No. 20.

12.—(1) The question whether any provision of Chapter III of the Constitution of the Federation has been, is being or would be contravened by anything done or proposed to be done in pursuance of the foregoing provisions of this Decree shall not be enquired into in any court of law and accordingly, sections 32 and 117 (2) (b) of the Constitution shall not apply in relation to any such question.

(2) Notwithstanding subsection (1) above but subject to any other enactment or any instrument, nothing in this Decree shall be construed as—

(a) derogating from the right of, or so as to fetter the exercise of discretion by, any recognised organisation as to whether or not to employ any professional ;

(b) precluding the making of appointment of professionals by a recognised organisation on promotion and transfer or on an acting basis or to confirm appointments ;

(c) preventing the dismissal by a recognised organisation of any professional or the exercise of disciplinary control over any professional holding or acting in any office in any such organisation ; or

(d) subject to section 1 of this Decree, preventing any professional employed in any recognised organisation from resigning his appointment or otherwise terminating his contract of service.

Interpre-  
tation.

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

“enactment” includes any Act, Decree, Law, Edict and any subsidiary instrument made under any such enactment ;

“instrument” includes any contract of service or any document whatsoever relating to the conditions of service of the staff of any recognised organisation ;

“professional” means any practitioner of or any person entitled to practise any scheduled profession under this Decree and “professional concerned” shall be construed accordingly ;

“public officer” has the meaning assigned thereto by section 9 (4) of this Decree ;

“recognised organisation” has the meaning assigned thereto by section 1 (4) of this Decree ;

“scheduled profession” has the meaning assigned thereto by section 9 (4) of this Decree.

Citation.

14. This Decree may be cited as the Regulated and Other Professions (Miscellaneous Provisions) Decree 1978.

## SCHEDULE

Section 9 (5)

(A)	SCHEDULED PROFESSIONS	(B)	Section 9 (5)
PROFESSION	CORRESPONDING ENACTMENT	Title	Cap. or No.
Architecture	.. Architects (Registration, etc.) Decree 1969	..	1969 No. 10
Accountancy	.. Institute of Chartered Accountants Act 1965	..	1965 No. 15
Dental Hygiene	..	..	..
Dental Technology	..	..	..
Engineering	.. Engineers (Registration, etc.) Decree 1970	..	1970 No. 55
Estate Management	Estate Surveyors and Valuers (Regis- tration, etc.) Decree 1975	..	1975 No. 24
Law	.. Legal Practitioners Decree 1975	..	1975 No. 15
Medical Technology	Institute of Medical Laboratory Technologists Decree 1968	..	1968 No. 56
Medicine and Dentistry	.. Medical and Dental Practitioners Decree 1969	..	1969 No. 44
Midwifery	.. Midwives Decree 1966	..	1966 No. 79
Nursing	.. Nurses Decree 1970	..	1970 No. 2
Pharmacy	.. Pharmacists Act 1964	..	1964 No. 26
Physiotherapy	..	..	..
Quantity Surveying	..	..	..
Radiography	..	..	..
Surveying	.. Survey Act and Survey Decree 1970	..	Cap. 194 1970 No. 32
Teaching	..	..	..
Veterinary Medicine	Veterinary Surgeons Decree 1969	..	1969 No. 37

MADE at Lagos this 23rd day of March 1978.

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 prohibits freshly qualified professionals from entering into private practice on their own and stipulates that such professionals can only practise on their own after having served for a period of five years in professional partnerships or in the public services.

It also prohibits those professionals employed as such in the public services and institutions from engaging in the private practice of their professions.

Under the Decree, the governing body of each profession is empowered to impose proscriptive measures on any professional found guilty of contravening its provisions.