

CONSTITUTION (SUSPENSION AND MODIFICATION)
DECREE 1984



ARRANGEMENT OF SECTIONS

Section

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SCHEDULES

Schedule 1—Suspended Provisions of the Constitution of the Federal Republic of Nigeria 1979.

Schedule 2—Modifications of Provisions of the Constitution of the Federal Republic of Nigeria 1979 not Suspended by Section 1.

Decree No. 1

[31st December 1983]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The provisions of the Constitution of the Federal Republic of Nigeria 1979 mentioned in Schedule 1 to this Decree are hereby suspended.

Suspension
of some and
modifica-
tion of other
provisions
of the 1979
Constitution.

(2) Subject to this and any other Decree, the provisions of the said Constitution which are not suspended by subsection (1) above shall have effect subject to the modifications specified in Schedule 2 to this Decree.

2.—(1) The Federal Military Government shall have power to make laws for the peace, order and good government of Nigeria or any part thereof with respect to any matter whatsoever.

Powers of
Federal
Military
Government
and Military
Governors
of States to
make laws.

(2) The Military Governor of a State—

(a) shall not have power to make laws with respect to any matter included in the Exclusive Legislative List ; and

(b) except with the prior consent of the Federal Military Government, shall not make any law with respect to any matter in the Concurrent Legislative List relating to Federal Legislative Powers set out in the second column of Part II of the Second Schedule to the Constitution.

(3) Subject to subsection (2) above and to the Constitution of the Federal Republic of Nigeria 1979, the Military Governor of a State shall have power to make laws for the peace, order and good government of that State.

(4) If any law—

(a) enacted before 31st December 1983 by the House of Assembly of a State or having effect as if so enacted ; or

(b) made after that date by the Military Governor of a State, is inconsistent with any law—

(i) validly made by the National Assembly before that date, or having effect as if so made, or

(ii) made by the Federal Military Government on or after that date, the law made as mentioned in sub-paragraph (i) or (ii) above shall prevail and the State law shall, to the extent of the inconsistency, be void.

(5) Nothing in subsection (2) of this section shall—

(a) preclude the Military Governor of a State from making provision for grants or loans from or the imposition of charges upon any of the public funds of that State or the imposition of charges upon the revenues and assets of that State for any purpose, notwithstanding that it relates to a matter included in the Exclusive Legislative List ; or

(b) require the Military Governor of a State to obtain the consent of the Federal Military Government to his making such provision as aforesaid for any purpose, notwithstanding that it concerns a matter included in the Concurrent Legislative List relating to Federal Legislative Powers.

(6) The question whether a law made by the Military Governor of a State with respect to a matter included in the Concurrent Legislative List relating to Federal Legislative Powers was made with the consent required by subsection (2) (b) above shall not be enquired into in any court of law.

(7) In this section "the Exclusive Legislative List" and "the Concurrent Legislative List" have the same meanings as in the Constitution of the Federal Republic of Nigeria 1979.

Mode of
exercising
legislative
powers.

3.—(1) The power of the Federal Military Government to make laws shall be exercised by means of Decrees signed by the Head of the Federal Military Government.

(2) The power of the Military Governor of a State to make laws shall be exercised by means of Edicts signed by him.

(3) A Decree or Edict may be made known to the public by means of a sound or television broadcast, or by publication in writing, or in any other manner.

(4) In so far as a Decree published on any date in the *Federal Gazette* makes provision with respect to the same matters as a Decree which—

(a) was made known to the public on or before that date ; but

(b) has not been published in the *Federal Gazette*,

the Decree published in the *Federal Gazette* shall prevail.

(5) In so far as an Edict published on any date in the *Gazette* of the State to which it applies makes provision with respect to the same matters as an Edict which—

(a) was made known to the public on or before that date ; but

(b) has not been published in that *Gazette*,

the Edict published in the *Gazette* shall prevail.

Making and
commence-
ment of
Decrees,
Edicts, etc.

4.—(1) A Decree is made when it is signed by the Head of the Federal Military Government, whether or not it then comes into force.

(2) An Edict is made when it is signed by the Military Governor of the State to which it applies, whether or not it then comes into force.

(3) Where no other provision is made as to the time when a particular provision contained in a Decree, Edict or subsidiary instrument is to come into force, it shall, subject to subsection (4) below, come into force on the day when the Decree, Edict or subsidiary instrument, as the case may be, is made.

(4) Where a provision contained in a Decree, Edict or subsidiary instrument is expressed to come into force on a particular day, it shall be construed as coming into force immediately on the expiration of the previous day.

(5) In this section "subsidiary instrument" includes any order, rules, regulations, rules of court or by-laws made in the exercise of powers conferred by a Decree or Edict.

Validity of
Decrees and
Edicts not to
be enquired
into,

5. No question as to the validity of this or any other Decree or of any Edict shall be entertained by any court of law in Nigeria.

6.—(1) The executive authority of the Federal Republic of Nigeria shall be vested in the Head of the Federal Military Government and shall be exercised by him in consultation with the Supreme Military Council.

Executive
authority of
the Federal
Republic of
Nigeria.

(2) The question whether there has been any consultation with the Supreme Military Council with respect to any exercise of the executive authority of the Federal Republic of Nigeria shall not be enquired into in any court of law.

(3) The executive authority of the Federal Republic of Nigeria may be exercised by the Head of the Federal Military Government whether directly or through persons or authorities subordinate to him.

(4) Nothing in the foregoing provisions of this section shall prevent any authority having power to make laws from conferring functions on persons or authorities other than the Head of the Federal Military Government.

(5) The executive authority of the Federal Republic of Nigeria shall extend to the execution and maintenance of the Constitution of the Federal Republic of Nigeria 1979 as modified and supplemented by this or any other Decree, and to all other matters whatsoever throughout Nigeria.

(6) Without prejudice to subsection (1) above, the Head of the Federal Military Government may either conditionally or unconditionally delegate to the Military Governor of a State executive functions falling to be performed within that State in relation to any matter.

(7) Subject to subsection (8) below, all executive functions which immediately before 31st December 1983 were vested in or exercisable by the Governor or any officer or authority of a State by virtue of section 5 (2) of the Constitution of the Federal Republic of Nigeria 1979 shall be treated as having been delegated under subsection (6) above to the Military Governor of each State.

(8) Any delegation effected under subsection (6) above (including any delegation which in accordance with subsection (7) above is to be treated as having been effected under subsection (6) above) may be varied or revoked by the Head of the Federal Military Government at any time.

(9) Any executive function which by virtue of any such delegation as is mentioned in subsection (8) above is exercisable by the Military Governor of a State may, subject to any conditions imposed under subsection (6) above, be exercised by him either directly or through persons or authorities subordinate to him.

7.—(1) There shall be for Nigeria a Supreme Military Council, a National Council of State and a Federal Executive Council.

Establish-
ment of
Supreme
Military
Council,
National
Council of
State and
Federal
Executive
Council.

(2) The Supreme Military Council shall consist of—

(a) the Head of the Federal Military Government, who shall be the President of the Supreme Military Council ;

(b) the Chief of Staff, Supreme Headquarters ;

(c) the Minister charged with responsibility for defence ;

(d) the Chief of Army Staff ;

(e) the Chief of Naval Staff ;

(f) the Chief of Air Staff ;

(g) the General Officer Commanding 1st Mechanised Infantry Division, Nigerian Army ;

(h) the General Officer Commanding 2nd Mechanised Infantry Division, Nigerian Army ;

- (i) the General Officer Commanding the 3rd Armoured Division, Nigerian Army ;
 - (j) the General Officer Commanding 82 Division, Nigerian Army ;
 - (k) the Commander, the Corps of Artillery ;
 - (l) the Attorney-General of the Federation and Minister of Justice ;
 - (m) the Inspector-General of Police ;
 - (n) the Director-General of the Nigerian Security Organisation ;
 - (o) six designated members who shall be senior officers of the Armed Forces ; and
 - (p) such other members as the Council may from time to time appoint.
- (3) A member of the Supreme Military Council shall, unless the Council otherwise directs, vacate his office as a member if he ceases to be the holder of any office by virtue of which he was appointed a member.
- (4) The National Council of State shall consist of—
- (a) the Head of the Federal Military Government who shall be the President of the National Council of State ;
 - (b) the Chief of Staff, Supreme Headquarters ;
 - (c) the Minister charged with responsibility for defence ;
 - (d) the Chief of Army Staff ;
 - (e) the Chief of Naval Staff ;
 - (f) the Chief of Air Staff ;
 - (g) the Attorney-General of the Federation and Minister of Justice ;
 - (h) the Inspector-General of the Nigeria Police ;
 - (i) the Military Governors of the States ; and
 - (j) such other members as the Supreme Military Council may from time to time appoint.
- (5) The Federal Executive Council shall consist of—
- (a) the Head of the Federal Military Government who shall be the President of the Federal Executive Council ;
 - (b) the Chief of Staff, Supreme Headquarters ;
 - (c) the Attorney-General of the Federation and Minister of Justice ; and
 - (d) such other members to be known as Ministers as the Supreme Military Council may from time to time appoint.
- (6) Each of the Councils established by this section—
- (a) shall be presided over by the Head of the Federal Military Government or in his absence by the Chief of Staff, Supreme Headquarters ; and
 - (b) subject to paragraph (a) of this subsection, may regulate its own procedure and, subject to its rules of procedure, may act notwithstanding any vacancy in its membership or the absence of any member.
- (7) Without prejudice to paragraph (b) of subsection (6) of this section, the Supreme Military Council shall meet at least once every three months, the National Council of State shall meet at least thrice every year and the Federal Executive Council shall meet normally once every week.

8.—(1) There shall be for each State an Executive Council which shall consist of—

Establishment of State Executive Councils.

- (a) the Military Governor as chairman ;
- (b) one senior officer each from the Nigerian Army, the Navy and the Air Force in the State ;
- (c) the most senior officer of the Nigeria Police Force in the State ; and
- (d) such other members to be known as Commissioners as the Military Governor, in his discretion, may from time to time appoint.

(2) Each State Executive Council may regulate its own procedure and, subject to its rules of procedure, may act notwithstanding any vacancy in its membership.

9. The functions of the Supreme Military Council include—

Functions of the Supreme Military Council.

- (a) the determination from time to time of national policy on major issues affecting the Federal Republic of Nigeria ;
- (b) constitutional matters, including amendments of the Constitution of the Federal Republic of Nigeria 1979 ;
- (c) all national security matters, including the authority to declare war or proclaim a state of emergency or martial law;
- (d) exclusive responsibility for the appointment of the Head of the Federal Military Government, the Chief of Staff, Supreme Headquarters, the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff, the General Officers Commanding, the Inspector-General of the Nigeria Police, the Director-General of the Nigerian Security Organisation, Military Governors, members of the National Council of State and of the Federal Executive Council ;
- (e) the ratification of the appointment of such senior public officers as the Council may from time to time specify ; and
- (f) general supervision of the work of the National Council of State and the Federal Executive Council.

10. Subject to the control of the Supreme Military Council, the National Council of State is charged with the responsibility for—

Functions of the National Council of State.

- (a) policy guidelines on financial and economic matters and social affairs in so far as they affect the States ;
- (b) the formulation and general implementation of National Development Plans including State programmes ;
- (c) constitutional matters especially in so far as they affect the States ; and
- (d) such other matters as the Supreme Military Council may from time to time determine.

11. The Federal Executive Council is charged with the responsibility for determining and executing the general policy of the Federal Military Government within such framework as may from time to time be determined by the Supreme Military Council.

Functions of the Federal Executive Council.

Power of Head of Federal Military Government, Supreme Military Council, National Council of State, Federal Executive Council and Military Governors to delegate functions conferred on them by laws.

12.—(1) The Head of the Federal Military Government may, subject to such conditions as he may think fit, delegate any function conferred on him by any law (including the Constitution of the Federal Republic of Nigeria 1979) to the Federal Executive Council or to any other authority in Nigeria :

Provided that this subsection shall not apply to the function of signing Decrees.

(2) The Supreme Military Council may, subject to such conditions as it may think fit, delegate any function conferred on it by any law (including the Constitution of the Federal Republic of Nigeria 1979) to any of its members.

(3) The National Council of State may, subject to such conditions as it may think fit, delegate any function conferred on it by any law (including the Constitution of the Federal Republic of Nigeria 1979) to any of its members.

(4) The Federal Executive Council may, subject to such conditions as it may think fit, delegate any function conferred on it by any law (including the Constitution of the Federal Republic of Nigeria 1979) to any of its members or to any officer in the public service of the Federation.

(5) The Military Governor of a State may, subject to such conditions as he may think fit, delegate any function conferred on him by any law in force in the State (including the Constitution of the Federal Republic of Nigeria 1979) to any member of the public service of the State :

Provided that this subsection shall not apply to the function of making and signing Edicts.

(6) Any function of the Head of the Federal Military Government or of the Supreme Military Council or of the National Council of State or of the Federal Executive Council or of the Military Governor of a State may be exercised, respectively, by the Head of the Federal Military Government or the Council or Governor concerned notwithstanding any delegation of that function for the time being in force under the foregoing provisions of this section.

(7) References in this section to functions conferred by a law do not include references to executive functions conferred by section 6 of this Decree.

Execution of instruments made by certain authorities.

13.—(1) Where a power to make an instrument is conferred on the Head of the Federal Military Government or the Supreme Military Council or the National Council of State by any law, then, without prejudice to the exercise of the power by the Head of the Federal Military Government in person or by the Supreme Military Council or the National Council of State itself, as the case may be, any instrument made in exercise of that power may be executed under the hand of the Secretary to the Federal Military Government.

(2) Where a power to make an instrument is conferred on the Federal Executive Council by any law, then, without prejudice to the exercise of the power by the Council itself, any instrument made in the exercise of the power may be executed under the hand of the Minister or permanent secretary to the department of government of the Federation responsible for the matter to which the instrument relates or under the hand of the Secretary to the Federal Military Government.

(3) Where a power to make an instrument is conferred on the Military Governor of a State by any law, then, without prejudice to the exercise of the power by the Military Governor in person, any instrument made in the exercise of that power may be executed under the hand of the Commissioner or permanent secretary to the department of government of that State responsible for the matter to which the instrument relates, or under the hand of the Secretary to the Military Government of that State.

14.—(1) There shall be for Nigeria an Advisory Judicial Committee which shall consist of—

Establishment and functions of Advisory Judicial Committee.

- (a) the Chief Justice of Nigeria who shall be Chairman ;
- (b) the Attorney-General of the Federation and Minister of Justice ;
- (c) the President of the Court of Appeal ;
- (d) the Chief Judge of the Federal High Court ;
- (e) the Chief Judge of each of the States of Nigeria and of the Federal Capital Territory ;
- (f) one Grand Kadi of the Sharia Court of Appeal appointed annually in rotation by the Supreme Military Council from the States having a Sharia Court of Appeal ; and
- (g) one President of the Customary Court of Appeal appointed annually in rotation by the Supreme Military Council from the States having a Customary Court of Appeal.

(2) The Advisory Judicial Committee may, with the consent of the Head of the Federal Military Government, by regulation or otherwise regulate its own procedure and, subject to its rules of procedure, may function notwithstanding any vacancy in its membership or the absence of any member.

(3) It shall be the duty of the Advisory Judicial Committee to advise the Supreme Military Council on—

- (a) the appointment of the Justices of the Court of Appeal ;
- (b) the appointment of the Chief Judge and Judges of the Federal High Court, the Chief Judges and Judges of the High Courts of the States and of the Federal Capital Territory, the Grand Kadi and other Kadis of the Sharia Courts of Appeal of the States and the President and other Judges of Customary Courts of Appeal of the States ; and
- (c) any matter pertaining to the judiciary that may be referred to the Committee by the Supreme Military Council.

15.—(1) Subject to this or any other Decree all existing law, that is to say, all law (other than the Constitution of the Federal Republic of Nigeria 1979) which, whether being a rule of law or a provision of an Act of the National Assembly or of a Law made by a State House of Assembly or any other enactment or instrument whatsoever, shall, until that law is altered by an authority having power to do so, continue to have effect with such modifications (whether by way of addition, alteration or omission) as may be necessary to bring that law into conformity with the Constitution of the Federal Republic of Nigeria 1979 as amended, suspended, modified or otherwise affected by this or any other Decree, and with the provisions of any Decree or Edict relating to the performance of any functions which are conferred by law on any person or authority.

Modification of existing laws.

(2) It is hereby declared that the continued suspension by this or any other Decree of any provision of the Constitution of the Federal Republic of Nigeria 1979 shall be without prejudice to the continued operation in accordance with subsection (1) of this section of any law which immediately before the commencement of this Decree was in force by virtue of that provision.

(3) In so far as no provision to the contrary has been made in that behalf by or pursuant to this or any other Decree or enactment, any function which is conferred by any existing law within the meaning of subsection (1) of this section—

(a) on the President shall vest in the Head of the Federal Military Government ;

(b) on the National Assembly shall vest in the Federal Executive Council ;

(c) on any Minister in the Government of the Federation shall vest in the appropriate Minister, and where there is no Minister the function shall vest in the Head of the Federal Military Government.

(4) In so far as no provision to the contrary has been made in that behalf by or pursuant to this or any other Decree or enactment, any function which is conferred by any existing law within the meaning of subsection (1) of this section—

(a) on the Governor shall vest in the Military Governor of the State ;

(b) on the State House of Assembly shall vest in the Executive Council of the State ; and

(c) on any Commissioner of the Government shall vest in the appropriate State Commissioner and where there is no State Commissioner shall vest in the Military Governor of the State.

(5) Save as aforesaid, in the application of this section to the functions of Commissioners, the provisions of the Ministers Statutory Powers and Duties (Miscellaneous Provisions) Act shall apply to the same extent as if the reference therein to "Minister" were a reference to a Commissioner under this section and the functions were so exercisable accordingly.

Cap. 122.

Continued
operation
of certain
existing laws.

16. All law (other than any law to which section 15 of this Decree applies) which, whether being a rule of law or a provision of a Decree or of an Edict or of any other enactment or instrument whatsoever, was in force immediately before the commencement of this Decree or made before that date but comes into force on or after the commencement of this Decree, shall until that law is altered by an authority having power to do so, continue to have effect as if made in exercise of the powers conferred by or derived under this Decree.

Savings
for
existing
offices,
appoint-
ments,
etc.

17. Subject to this and any other Decree, any court of law, authority or office which was established, any appointment which was made, and any other thing whatsoever which was done before 31st December 1983 in pursuance of any provision of the Constitution of the Federal Republic of Nigeria 1979, being a provision that is continued in operation by this Decree or which was deemed by virtue of any such provision to be so established, made or done before that date, shall be deemed to have been duly established, made or done in pursuance of that provision as modified by this Decree.

18.—(1) All property held on behalf of or in trust for the Government of the Federation before the commencement of this Decree by the President by virtue of section 276 (1) (a) of the Constitution of the Federal Republic of Nigeria 1979 shall by virtue of this subsection, and without further assurance, vest in the Head of the Federal Military Government and be held by him on behalf of, or as the case may be on the like trust for the benefit of, the Federal Military Government.

Succession to property, etc.

(2) All property held by the Governor of a State on behalf of or in trust for the Government of that State before the commencement of this Decree by virtue of section 276 (1) (b) of the Constitution of the Federal Republic of Nigeria 1979 shall by virtue of this section, and without further assurance, vest in the Military Governor of that State and shall be held by him on behalf of, or as the case may be on the like trust for the benefit of, the Government of that State.

(3) Any contract or other arrangement entered into by any person or authority on behalf of the Government of the Federation or the Government of a State before the commencement of this Decree shall have effect as if the contract or arrangement was entered into on behalf of the Federal Military Government or, as the case may be, the Military Government of the State concerned by the appropriate person or authority having power to do so under or pursuant to this Decree.

(4) All promissory notes, stock, bonds and debentures issued under the General Loan and Stock Act, the Local Loans (Registered Stock and Securities) Act or the Government Promissory Notes Act 1960 at any time before the commencement of this Decree by or on behalf of the Minister of Finance shall, so far as any liability of the Government of the Federation in respect thereof remained undischarged immediately before the commencement of this Decree, be deemed—

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Cap. 111.
1960 No. 6

(a) to have been duly issued under the Act in question by the Federal Executive Council ; and

(b) to have been so issued on the date on which (and with the date of redemption with which) they were actually issued ;

and the principal sums and interest represented or secured thereby shall accordingly continue to be charged on the Consolidated Revenue Fund of the Federation.

(5) Subsections (1) and (2) of this section shall with all necessary modifications apply in relation to rights, liabilities and obligations arising out of a contract or other arrangement as they apply in relation to property.

19. Without prejudice to the generality of section 13 of this Decree, the Interpretation Act 1964 (except section 2 thereof) shall apply in relation to a Decree as it applies in relation to an Act of the National Assembly and accordingly any reference in that Act (except in section 2 thereof) to an enactment shall include a reference to any provision of a Decree.

Application of Interpretation Act 1964 to Decrees.
1964 No. 1.

20. In this Decree, and in any other law—

“Decree” means an instrument made by the Federal Military Government and expressed to be, or to be made as, a Decree ;

“Edict” means an instrument made by the Military Governor of a State and expressed to be, or to be made as, an Edict ;

Meaning of certain expressions in Decrees and other laws.

"enactment", unless the contrary intention appears, includes any provision of a Decree or an Edict or of any subsidiary instrument issued thereunder ;

"the Head of the Federal Military Government" means the Head of the Federal Military Government, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria ;

"Military Governor" in relation to a State means the Military Governor of that State.

Citation,
commence-
ment, etc.

21.—(1) This Decree may be cited as the Constitution (Suspension and Modification) Decree 1984 and shall be deemed to have come into force on 31st December 1983.

(2) Where a power to delegate a function is conferred by this Decree, that power includes—

(a) power to delegate the function to a limited extent only ; and

(b) power to delegate the function to different persons or authorities for different purposes, or in respect of different matters or different parts of Nigeria.

(3) In this Decree "functions" includes powers and duties.

(4) For the avoidance of doubt, it is hereby declared that any power to make laws conferred by this Decree includes power to make laws having extra-territorial operation.

SCHEDULES

SCHEDULE 1

(Section 1 (1))

SUSPENDED PROVISIONS OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1979

Section 1 (2) and (3)
Sections 4 and 5
Section 7 (4) and (5)
Sections 8 and 9
Section 11 (2), (4) and (5)
Section 12 (3)
Section 32 (3) to (7)
Section 41 (3)
Sections 43 to 73
Section 75 (2)
Sections 76 77 and 78 (5)
Section 80 (2) and (3)
Sections 82 to 111
Section 113 (2)
Sections 114, 115 and 116 (5)
Section 118 (3)
Sections 120 to 136
Section 139
Section 141 (2) and (3)
Section 144 (3)
Section 157 (4)
Section 161 (2)
Sections 162 to 174

Section 177
 Section 183
 Section 193
 Sections 201 to 206
 Section 208
 Section 211 (5)
 Section 218 (5)
 Section 235 (5)
 Section 237
 Section 241 (5)
 Section 246 (5)
 Section 260
 Section 265
 Section 266 (3) to (7)
 Section 267
 Sections 269 to 272

SCHEDULE 2

(Section 1 (2))

MODIFICATIONS OF PROVISIONS OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1979 NOT SUSPENDED BY SECTION 1

A—General Modifications

1. Any reference to the Government of the Federation shall be construed as a reference to the Federal Military Government and any reference to the Government of a State shall be construed as a reference to the Military Government of that State.
2. Any reference to the President or Vice-President of the Federal Republic of Nigeria or to the President acting in accordance with the advice or consent of any person or body, shall be construed as a reference to the Head of the Federal Military Government.
3. Any reference to the Governor or Deputy Governor of a State or of the Governor acting in accordance with the advice or consent of any person or body shall be construed as a reference to the Military Governor of that State.
4. Any reference to any matter or thing as being provided, prescribed or established (but not to any law as being made) by the National Assembly shall be construed as a reference to its being provided, prescribed or established by law.
5. Any reference to any matter as being provided, prescribed or established by the House of Assembly of a State shall be construed as its being provided, prescribed or established by the Military Governor of that State.
6. Any reference to the Secretary to the Government of the Federation or Head of Civil Service of the Federation shall be construed as a reference to the Secretary to the Federal Military Government and Head of Service.
7. Any reference to the Secretary to the Government of a State or the Head of State Civil Service shall be construed as a reference to the Secretary to the Military Government and Head of Service of that State.
8. Paragraphs 1-7 above are without prejudice to the following provisions of this Schedule.

*B—Additional Modifications of Particular Provisions***Section 1**

In subsection (1), after the words "This Constitution", there shall be inserted the words "as amended by this or any other Decree".

Section 3

Immediately after the words "that Schedule" there shall be inserted the words "and each unit specified in such area shall be the only unit in respect of which the Military Governor of a State is empowered to establish an authority for the purposes of local government".

Section 7

In subsection (3), the words "enacted by the House of Assembly of the State" shall be omitted.

Sections 24 to 29

In these sections, for the word "President" wherever it occurs there shall be substituted the words "Supreme Military Council".

Section 32

In subsection (2), immediately after the words "of his own choice" there shall be added the words "in Nigeria."

Section 33

In subsection (12), for the words "an Act of the National Assembly or the law of a State" there shall be substituted the words "an Act of the National Assembly or a Decree or the Law of a State or an Edict".

Section 36

In the proviso to subsection (2), for the word "President" there shall be substituted the words "Supreme Military Council".

Section 37

The words "political party" shall be omitted and the proviso thereto shall be omitted.

Section 40

In subsection (1), for all the words after "except in the manner", there shall be substituted the words "prescribed by law".

Immediately after subsection (1) as so amended, there shall be inserted the following new subsection (1A), that is—

"(1A) Notwithstanding the foregoing provision, the Federal Military Government may by Decree provide for the forfeiture of any property, right or interest described therein which has been illegally acquired by any officer in the public service of the Federation or a State or any other person."

Section 41

In subsection (1), after the words "sections 34, 35, 36" there shall be inserted the words "as amended".

In subsection (2), after the words "National Assembly" there shall be inserted the words "or a Decree" and after the words "such Act" there shall be inserted the words "or Decree".

In subsection (3), immediately after the words "House of Assembly of the State" there shall be added the words "or Edict".

In subsection (4), for the words "the House of Assembly" there shall be substituted the words "a Law or Edict".

Section 113

In subsection (1), for all the words from "Governor" to "Assembly" there shall be substituted the words "Military Governor shall cause to be prepared".

In subsection (3), after the words "Appropriation Law" and "Law" in paragraphs (a) and (b) thereof there shall be inserted in each case the words "or Edict" and for all the words from "House of Assembly" there shall be substituted the words "State Executive Council".

Section 116

In subsection (4), the words "Governor, Deputy Governor" and "the State Electoral Commission" shall be omitted and for the words "State Judicial Service Commission" there shall be substituted the words "State Judicial Service Committee".

Section 117

In subsection (3), for all the words after "reports to" there shall be substituted the words "the State Executive Council".

Section 118 (1)

For all the words after "appointed by" there shall be substituted the words "the Military Governor of the State on the recommendation of the State Civil Service Commission".

Section 119

In subsection (1), for all the words from "the Governor" to "be so removed" there shall be substituted the words "the Military Governor of the State".

Section 140

In subsection (1), paragraphs (a), (c), (f), (g) and (h) shall be omitted and for paragraph (e) there shall be substituted the following new paragraph, that is—

"(e) National Defence and Security Council."

Section 141 (1)

For all the words after "appointed by" there shall be substituted the words "the Supreme Military Council".

Section 142

In subsection (1), paragraph (b) shall be omitted.

Section 143

In subsection (1), paragraph (a) shall be omitted.

Section 144

In subsection (1), for all the words from "the President" to "so removed" there shall be substituted the words "the Supreme Military Council".

In subsection (2), the words "Council of State, Federal Electoral Commission" and "National Population Commission" shall be omitted.

Section 145

In subsection (1), for the comma after the words "Federal Civil Service Commission" there shall be substituted the word "and" and the words "and the Federal Electoral Commission" shall be omitted.

Sections 140 to 145

In these sections, for the words "Federal Judicial Service Commission" wherever they occur there shall be substituted the words "Advisory Judicial Committee".

Section 147

In subsection (1), for the word "President" there shall be substituted the words "Supreme Military Council".

Section 149

In subsections (2), (3), (4) and (6), immediately after the words "National Assembly" there shall be added in each case the words "or by Decree".

In subsection (7), immediately after the words "House of Assembly of the State" there shall be added the words "or by Edict".

Section 150

After the words "Act of the National Assembly" there shall be inserted the words "or a Decree" and for the words "as the National Assembly may prescribe" there shall be substituted the words "as may be prescribed by an Act of the National Assembly or a Decree".

Section 151

Immediately after the words "National Assembly" there shall be added the words "or a Decree".

Section 152

After the words "National Assembly" there shall be inserted the words "or a Decree".

Section 155

In subsection (2), for the words "National Assembly" there shall be substituted the words "Federal Military Government".

Section 156

For the word "President" there shall be substituted the words "Supreme Military Council".

Section 157

For the marginal note thereto, there shall be substituted a new marginal note reading "Appointments by the Supreme Military Council".

In subsections (1) and (5), for the word "President" there shall be substituted in each case the words "Supreme Military Council".

Section 160

In paragraph (a) of subsection (1), immediately after the words "National Assembly" there shall be added the words "or a Decree".

Section 161

In subsection (1), for the word "President" there shall be substituted the words "Head of the Federal Military Government" and in paragraph (a) thereof for the words "of the National Assembly" there shall be inserted the words "or a Decree".

Section 218

In subsection (1), for all the words after "made by" there shall be substituted the words "Supreme Military Council on the advice of the Advisory Judicial Committee".

In subsection (2), for all the words from "President" there shall be substituted the words "Supreme Military Council on the advice of the Advisory Judicial Committee".

In subsection (4), for the words "President of the Federal Republic of Nigeria acting in his discretion" there shall be substituted the words "Supreme Military Council".

Section 220

In subsection (1), paragraph (f) shall be omitted.

Sections 222 to 224

In the above sections, wherever the words "National Assembly" occur there shall be inserted or added in each case the words "or Decree".

Section 225

In subsection (2), for the words "National Assembly may" there shall be substituted the words "Federal Military Government may" and for the words "by the National Assembly" there shall be substituted the words "by an Act of the National Assembly or a Decree".

Section 227

After the words "National Assembly" there shall be inserted the words "or Decree".

Sections 217 to 227

In these sections, for the words "Federal Court of Appeal" wherever they occur there shall be substituted the words "Court of Appeal".

In paragraph (b) of subsection (2), immediately after the words "National Assembly" there shall be added the words "or a Decree".

Section 229

In subsection (1), for the words after "President" there shall be substituted the words "Supreme Military Council on the advice of the Advisory Judicial Committee".

In subsection (3), for the words "President, acting in his discretion," there shall be substituted the words "Supreme Military Council".

Section 230

In subsection (1), after the words "National Assembly" there shall be inserted the words "or a Decree" and in paragraph (a) thereof immediately after the words "National Assembly" there shall be added the words "or by Decree".

Section 231

In subsection (1), after the words "National Assembly" there shall be inserted the words "or a Decree".

In subsection (2), for the words "National Assembly" there shall be substituted the words "Federal Military Government".

Section 233

For the words "National Assembly may" there shall be substituted the words "Federal Military Government may" and for the words "by the National Assembly" there shall be substituted the words "in that behalf".

Section 234

In paragraph (b) of subsection (2), immediately after the words "House of Assembly of the State" there shall be added the words "or a Decree".

Section 235

In subsections (1) and (2), for all the words after "made by" there shall be substituted in each case the words "Supreme Military Council on the advice of the Advisory Judicial Committee".

In subsection (4), for all the words after "that behalf by" there shall be substituted the words "Supreme Military Council on the advice of the Advisory Judicial Committee".

Section 239

Immediately after the words "House of Assembly of the State" there shall be added the words "or a Decree".

Section 240

In subsection (2), immediately after the words "House of Assembly of the State" there shall be added the words "or by a Decree".

Section 241

In subsections (1) and (2), for all the words after "made by" there shall be substituted in each case the words "Supreme Military Council on the advice of the Advisory Judicial Committee".

In subsection (4), for all the words after "that behalf by" there shall be substituted the words "Supreme Military Council on the advice of the Advisory Judicial Committee".

Section 242

In subsection (1), after the words "Law of a State" there shall be inserted the words "or Edict".

Sections 244 and 245

In both sections immediately after the words "House of Assembly of the State" there shall be added respectively the words "or by the Advisory Judicial Committee" and "or by Edict".

Section 246

In subsections (1) and (2), for all the words after "made by" there shall be substituted in each case the words "Supreme Military Council on the advice of the Advisory Judicial Committee".

In subsection (3), for the words "National Assembly" and "Judicial Service Commission" there shall be substituted respectively the words "Federal Military Government" and "Advisory Judicial Committee".

In subsection (4), for all the words after "that behalf by" there shall be substituted the words "Supreme Military Council acting on the advice of the Advisory Judicial Committee".

In paragraph 10 after the words "House of Assembly" and "Law" there shall in each case be inserted the words "or Edict".

Paragraphs 11 and 12 shall be omitted.

In paragraphs 14 and 18, for the words "House of Assembly may make Laws" there shall in each case be substituted the words "Military Governor may make Edicts".

In paragraph 19, for the word "Laws" there shall be substituted the word "Edicts".

In paragraph 23, all the words after "statistics" shall be omitted.

In paragraph 24, for the words "paragraph 23 (a)" there shall be substituted the words "paragraph 23".

In paragraphs 29 and 30, for the word "Laws" there shall in each case be substituted the word "Edicts".

PART III

Paragraph 1 shall be omitted.

THIRD SCHEDULE

PART I

Paragraphs 1 and 2, 5 and 6, and 11 to 16 shall be omitted.

For the heading and paragraphs 9 and 10, there shall be substituted the following new heading and paragraphs, that is—

"E—National Defence and Security Council

9. The National Defence and Security Council shall comprise the following members, namely—

- (a) the Head of the Federal Military Government who shall be the Chairman of the Council ;
- (b) the Chief of Staff, Supreme Headquarters ;
- (c) the Minister charged with responsibility for defence ;
- (d) the Minister charged with responsibility for external affairs ;
- (e) the Minister charged with responsibility for internal affairs ;
- (f) the Chief of Army Staff ;
- (g) the Chief of Naval Staff ;
- (h) the Chief of Air Staff ;
- (i) the Director-General of the Nigerian Security Organisation ;
- (j) the Inspector-General of Police ; and
- (k) such other persons as the Head of the Federal Military Government may appoint.

10. The National Defence and Security Council shall have such responsibility in respect of the following matters as the Supreme Military Council may direct, either generally or from time to time, that is to say—

- (a) the defence of the sovereignty and territorial integrity of Nigeria ;
- and

(b) public security including matters relating to any organisation or agency established by law for ensuring the security of Nigeria.”

For paragraphs 17 and 18, there shall be substituted the following new paragraphs that is—

“17. The Police Service Commission shall comprise the Chief of Staff, Supreme Headquarters, as the Chairman thereof and the following other members—

- (a) the Minister charged with responsibility for internal affairs ;
- (b) the Inspector-General of Police ; and
- (c) a retired High Court Judge to be appointed by the Supreme Military Council.

18. The Permanent Secretary of the Police Service Commission shall be the secretary to the Commission.

19. The Commission shall have power—

(a) to appoint persons to offices in the Nigeria Police Force, other than the office of the Inspector-General of Police or such other offices in that Force as may be specified pursuant to section 9 of the Constitution (Suspension and Modification) Decree 1984 ; and

(b) to dismiss and exercise disciplinary control over persons holding any office referred to in sub-paragraph (a) of this paragraph to which appointments could be made by the Commission.”

PART II

Paragraphs 6 and 7 shall be omitted.

In paragraph 8, and in the heading and side note thereto, for the word “Commission” there shall be substituted in each case the word “Committee”.

For paragraph 9 there shall be substituted the following new paragraph, that is—

“9. The Committee shall have power, subject to such conditions as may be prescribed, to appoint, dismiss and exercise disciplinary control over the Chief Registrar and Deputy Chief Registrar of the High Court, the Chief Registrars of the Sharia Court of Appeal and Customary Court of Appeal, magistrates, district courts judges, Area Courts judges and members and Customary Courts judges and members.”

FOURTH SCHEDULE

For the words “the House of Assembly of a State” in paragraph 1 (f) and (j) and the words “the House of Assembly of the State” in paragraph 2 (d) there shall be substituted in each case the word “law”.

FIFTH SCHEDULE

PART I

In paragraph 3, after the words “as the National Assembly” there shall be inserted the words “or the Federal Military Government”.

In paragraph 14 (b), for the words “National Assembly” there shall be substituted the words “Federal Military Government”.

Paragraphs 15 to 20 shall be omitted.

Exclusion of proceedings.

4.—(1) No suit or other legal proceedings shall lie against any person for anything done or intended to be done in pursuance of this Decree.

(2) Chapter IV of the Constitution of the Federal Republic of Nigeria 1979 is hereby suspended for the purposes of this Decree and any 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 not be inquired into in any court of law, and accordingly sections 219 and 259 of that Constitution shall not apply in relation to any such question.

Citation.

5.—(1) This Decree may be cited as the State Security (Detention of Persons) Decree 1984 and shall be deemed to have come into force on 31st December 1983.

MADE at Lagos this 9th day of February 1984.

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