

**CONSTITUTION (SUSPENSION AND MODIFICATION)
(AMENDMENT) DECREE 1989**



Decree No. 4

[6th February 1989]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) The Constitution (Suspension and Modification) Decree 1984, as amended by the Constitution (Suspension and Modification) (Amendment) Decree 1986, is hereby further amended in section 7 by substituting for subsection (2) thereof the following new subsections, that is—

Amendment
of 1984 No. 1.
1986 No. 26.

“(2) (a) President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, who shall be the Chairman of the Armed Forces Ruling Council ;

- (b) Chief of General Staff ;
- (c) Chairman, Joint Chiefs of Staff ;
- (d) Chief of Army Staff ;
- (e) Chief of Naval Staff ;
- (f) Chief of Air Staff ;
- (g) Inspector-General of Police ;
- (h) General Officer Commanding 1 Mechanised Division ;
- (i) General Officer Commanding 2 Mechanised Division ;
- (j) General Officer Commanding 3 Armoured Division ;
- (k) General Officer Commanding 82 Division ;
- (l) Commandant, Command and Staff College ;
- (m) Commandant, Nigerian Defence Academy ;
- (n) Flag Officer Commanding Western Naval Command ;
- (o) Air Officer Commanding Tactical Air Command ;
- (p) Two Members from the Nigerian Army ;
- (q) One Member from the Nigerian Navy ;
- (r) One Member from the Nigerian Air Force.

(3) The members specified in paragraphs (p), (q) and (r) of subsection (2) of this section shall be appointed by the President, Commander-in-Chief of the Armed Forces."

Citation.

2. This Decree may be cited as the Constitution (Suspension and Modification) (Amendment) Decree 1989.

MADE at Lagos this 6th day of February 1989.

GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

POLICE (MISCELLANEOUS PROVISIONS) DECREE 1989



Decree No. 5

[6th February 1989]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Police Act is hereby amended—

Amendment
of Cap. 154.

(a) immediately after section 6 thereof, there shall be inserted the following new sections 6A and 6B, that is—

“6A.—(1) Notwithstanding the Provisions of the Constitution of the Federal Republic of Nigeria 1979, as amended, there is hereby established a body to be known as the Nigeria Police Council (hereafter in this Act referred to as “the Council” which shall consist of—

Establish-
ment of the
Nigeria
Police
Council.

(a) the President, Commander-in-Chief of the Armed Forces as Chairman ;

(b) the Chief of General Staff ;

(c) the Minister of Internal Affairs ;

(d) the Inspector-General of Police.

(2) The Council shall be charged with the following functions—

(a) policy formulation and administration of the Force ;

(b) matters relating to the appointment, promotion and discipline of members of the Force.

(3) The Director-General in the Police Affairs Department, Office of the Presidency, shall be the Secretary to the Council.

6B.—(1) The President, Commander-in-Chief of the Armed Forces shall be charged with operational control of the Force.

Powers of
the President
and Inspec-
tor-General.

(2) The Inspector-General shall be charged with the command of the Force subject to the directive of the President, Commander-in-Chief of the Armed Forces.”

(b) by substituting for section 19 thereof the following new section, that is—

“Conduct of prosecutions.

19. Subject to the provisions of sections 160 and 191 of the Constitution of the Federal Republic of Nigeria 1979 (which relate to the power of the Attorney-General of the Federation and of a State to institute and undertake, take over and continue or discontinue criminal proceedings against any person before any court of law in Nigeria), any police officer may conduct in person all prosecutions before any court whether or not the information or complaint is laid in his name.”

Repeals, etc.

2.—(1) Paragraph (i) of section 140 of the Constitution of the Federal Republic of Nigeria (which relates to the Police Service Commission) is hereby repealed.

(2) Accordingly paragraph 17 of Part 1 of the Third Schedule to the Constitution of the Federal Republic of Nigeria 1979, (which relates to the Police Service Commission) is hereby consequentially deleted.

(3) Any reference to the Police Service Commission in any enactment, including the Constitution of the Federal Republic of Nigeria 1979, as amended, shall hereafter be construed as a reference to the Nigeria Police Council established by this Decree.

1987 No. 14.

(4) The Police (Amendment) Decree 1987 is hereby repealed.

Citation and commencement.

3.—(1) This Decree may be cited as Police (Miscellaneous Provisions) Decree 1989.

(2) This Decree shall be deemed to have come into force on 27th August 1985.

MADE at Lagos this 6th day of February 1989.

GENERAL I. B. BABANGIDA,
*President, 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, amongst other things, vests in the Nigeria Police Council appointment, promotion and disciplinary powers hitherto exercised by the Police Service Commission set up by the Constitution of the Federal Republic of Nigeria 1979, as amended and repeals the Police (Amendment) Decree 1987.

NIGERIAN PILGRIMS COMMISSION DECREE 1989



Decree No. 6

[6th February 1989]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) There is hereby established a body to be known as the Nigerian Pilgrims Commission (in this Decree hereafter referred to as “the Commission”) which shall be charged with responsibility for the general welfare of Nigerians undertaking a pilgrimage to *el-Hajj* or *el-Umra* or to both pilgrimages and perform such other duties incidental thereto as may be prescribed by this Decree.

Establish-
ment of
the Nigerian
Pilgrims
Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and, subject to the need of or prior approval where prescribed in this Decree or the Land Use Act, the Commission may hold, acquire and dispose of any property, moveable or immovable.

1978 No. 6.

2.—(1) The Commission shall consist of—

(a) a full-time Chairman to be appointed by the President, Commander-in-Chief of the Armed Forces ;

Composition
of the
Commission.

(b) one representative from each of the following, that is—

(i) the Federal Ministry of Internal Affairs ;

(ii) the Ministry of External Affairs ;

(iii) the Central Bank of Nigeria ; and

(iv) the Federal Ministry of Health ;

(c) five part-time members and four full-time members to be appointed by the President, Commander-in-Chief of the Armed Forces.

(2) The Chairman and full-time members of the Commission shall be paid salaries and allowances whilst the part-time members shall be paid allowances only as the Minister may recommend.

(3) The supplementary provisions contained in the Schedule to this Decree shall have effect with respect to the tenure of office of members and proceedings of the Commission and the other matters mentioned therein.

Special
duties of the
Commission.

3.—(1) It shall be the duty of the Commission to arrange suitable transport and accommodation for Nigerians undertaking a pilgrimage (such persons being hereafter in this Decree referred to as "pilgrims") and generally to safeguard the interests of pilgrims at all stages of the pilgrimage.

(2) In the application of subsection (1) of this section, pilgrims shall be transported by air as far as practicable, and to such end the Commission shall (subject to the enactments regulating civil aviation) make suitable arrangements with the airline of its choice.

General
duties of the
Commission.

4.—(1) The Commission shall, in the course of a pilgrimage render all reasonable assistance which pilgrims may require in matters touching or concerning—

(a) health, immigration, foreign exchange ; and

(b) the importation into Nigeria thereafter of items for the time being exempted from payment of duty but not otherwise.

(2) It shall be the duty of the Commission—

(a) to seek and obtain advice on standards (religious or of health) and other matters appropriate to pilgrimages as the Commission considers necessary ;

(b) to establish or set up, and maintain—

(i) a library of books and other relevant publications as well as cinematograph and other facilities of use to persons interested in or desirous of undertaking a pilgrimage, so however that the library shall open to the public upon and subject to any condition as to the user which the Commission may think fit to impose ;

(ii) a continuing campaign, educative as well as religious, in all the States of the Federation, and the Federal Capital Territory, Abuja the educative function being as well relative to the functions of the Commission as to pilgrimages generally ;

(iii) pilgrims camps in Nigeria at such place or places approved by the Minister ;

(c) in respect of every pilgrimage, to appoint—

(i) such number of medical practitioners and medical staff as it thinks fit ;

(ii) welfare officers to carry out in Nigeria and elsewhere as directed by the Commission the pilgrim welfare policy of the Commission in respect of the pilgrimage for which they are appointed ;

(iii) a sufficient number from a list of persons known as *Mutawwifs* and *Muzawwirs* as guides during a pilgrimage.

(3) For the purposes of this section, the course of a pilgrimage shall be the period of time fixed by the Commission after taking such advice in any particular case as it thinks fit.

Power of the
Commission.

5.—(1) The Commission shall have power to initiate and establish a Hajj Savings Scheme to be managed under a fund established for this purpose in an interest-free bank to be owned or sponsored by the Commission.

(2) Subject to this Decree, the Commission shall have power to do such acts which in its opinion shall facilitate the performance of its duties under this Decree.

6.—(1) The Commission shall have a permanent secretariat with a Secretary who shall be appointed by the President, Commander-in-Chief of the Armed Forces and shall have such qualifications and experience as are appropriate for a person requested to perform the functions of his office.

Secretariat
and staff
of the
Commission.

(2) The Commission shall appoint other members of staff on such terms and conditions as it may authorise or approve from time to time.

(3) The Secretary and other members of staff of the Commission shall be paid remunerations, allowances and expenses on such scale as the Commission, shall, with the approval of the Federal Civil Service Commission, determine.

(4) Notwithstanding the provisions of subsection (1) of this section, the Commission may appoint any of the members of staff of the Commission by way of transfer or secondment from any of the public services of the Federation or approved establishment.

7.—(1) The funds of the Commission shall consist of—

Financial
provisions.

(a) all such sums as may be charged by the Commission as fees, dues and other amounts payable to the Commission pursuant to subsection (3) of section 8 of this Decree ;

(b) all revenue accruing to or vested in the Commission by way of grants-in-aid or otherwise howsoever ; and

(c) any other monies saved by the Commission such as proceeds from the operation of interest-free scheme or borrowed pursuant to the provisions of this Decree or any other enactment.

(2) In respect of the revenue of each financial year, the Commission shall, except in the case of the first pilgrimage after the commencement of this Decree, prepare and submit to the Minister not later than three months before every pilgrimage, an estimate of its expenditure and income during the next succeeding financial year, provided that the Commission shall submit an advance estimate whenever it is requested to do so by the Minister.

(3) Subject to the prescribed rules, the Commission shall keep proper accounts and records in relation to its fund and shall cause its accounts to be audited not later than six months after the end of the financial year to which the accounts relate by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

(4) For the purposes of this section, the prescribed rules shall—

(a) provide a system of accounting whereby the Commission shall establish and maintain under its control sufficient amount on an account—

(i) with an interest-free scheme account in Nigeria ; or

(ii) as the circumstances may require and with the approval of the Federal Minister of Finance and Economic Development and subject to such conditions as he may impose, with banks outside Nigeria, into which shall be paid moneys received by the Commission in the first instance, and

(b) contain provisions—

(i) specifying the manner in which the properties of the Commission and assets of the funds are to be held ;

(ii) regulating the making of payment into and out of the funds ;

(iii) regulating the keeping of proper accounts and records ;

(iv) requiring copies of the accounts and of the auditor's report thereon to be furnished to the National Council of Ministers through the Minister from time to time.

(5) The Commission may, pursuant to the provisions of this Decree, from time to time, borrow moneys, for purposes of carrying out its duties as provided in this Decree.

Fees, etc.,
for pilgrim-
ages
to be fixed
by
the Com-
mission.

8.—(1) The Commission shall consult with all persons likely in the opinion of the Chairman to be of assistance, and without prejudice to the requirement for consultation, the Commission shall be the sole authority to arrange transport from camps established by it in Nigeria to the place of arrival in the country of the pilgrimage outside Nigeria and thereafter from the place of departure in that country for the purpose of return to Nigeria after a pilgrimage.

(2) For the purposes of subsection (1) of this section, the Commission shall fix the cost of the return fare for any individual undertaking a pilgrimage and when so fixed the Commission shall give public notice of the overall charge to agencies and other persons as it thinks expedient or necessary.

(3) Any cost fixed pursuant to subsection (2) of this section shall include—

(a) return fares as respects transport to and from the place of arrival in the country of the pilgrimage outside Nigeria referred to in subsection

(1) of this section which shall be fixed by the carrier ;

(b) taxes in the country of the pilgrimage ;

(c) where applicable, pilgrims agency commission ; and

(d) *mutawwif* and *muzawwir* fees and other fees and charges incidental thereto.

(4) Where the Commission fixes fees under subsection (2) of this section and money is thereafter paid to a pilgrims agency by an intending pilgrim, the agency shall forthwith remit the amount received to the Commission less any commission which the Commission may authorise the agency to deduct (and which the Commission is hereby authorised so to do) as a deduction to be retained by the appropriate agency.

(5) As soon as the Commission has received all pilgrimage fees paid by individuals as prescribed under subsection (2) of this section, the Commission shall pay to persons entitled, all the fees and other disbursements.

(6) Failure to pay any money due to the Commission under subsection (4) of this section shall be an offence under this Decree.

(7) Any manager or person in control of any agency which failed to pay any money due to the Commission shall be guilty of an offence under this Decree and upon conviction by the competent court shall pay a fine equal to double the amount by which an agency is in default or in the alternative shall be sentenced to a term not exceeding three years of imprisonment.

9.—(1) The Commission may in respect of a pilgrimage delegate any of its functions under this Decree to the Authority charged with the responsibility for the general care and welfare of pilgrims in that State, instead of authorising licensing agencies in a State, if satisfied that it is in the interest of the pilgrims so to do.

Delegation
of functions.

(2) Where a delegation is made under subsection (1) of this section, it shall be subject to any conditions which the Commission may reasonably impose, and the agency shall be deemed to have applied for and been granted a licence under this Decree and the provisions as to registration shall have effect accordingly.

10.—(1) The Commission shall not later than three months after the completion of a pilgrimage, prepare and submit to the Minister a report on the pilgrimage.

Report of
pilgrimage
by the
Commission.

(2) The Minister shall on receipt of a report submitted under subsection (1) of this section—

(a) forward a copy thereof with the comments and recommendations (if any) of his Ministry to the National Council of Ministers ;

(b) transmit a copy thereof to the Military Governor of each State of the Federation.

11. Where the Commission is satisfied that a person has committed any offence or misconduct specified by the Commission in the regulations made pursuant to section 13 of this Decree, the Commission may, with the prior approval of the Minister disqualify that person from undertaking any pilgrimage organised or supervised by the Commission pursuant to this Decree and the disqualification shall have effect for such period as the Commission may specify.

Power to
defer
pilgrimage in
certain cases.

12. If a State at any time defaults in the payment to the Commission of any amount due from the State to the Commission under this Decree, the Commission shall notify the President, Commander-in-Chief of the Armed Forces of the default, and thereafter the Federal Military Government may set off the amount in respect of which default is made in or towards the payment of any sum due from the Federal Military Government to such State, and the Federal Military Government shall pay any sum so set off to the Commission.

Set off.

13.—(1) Subject to the provisions of this section, the Commission may make regulations generally for the purposes of this Decree and without prejudice to the generality thereof, such regulations may contain provisions specifying offences and types of misconduct, whether committed in Nigeria or elsewhere, that would disqualify any person from undertaking any pilgrimage organised or supervised by the Commission.

Regulations

(2) Regulations when made shall be published in the *Gazette* and in such other manner as the Commission may direct.

14. Subject to section 6 of the Interpretation Act 1964, the Nigerian Pilgrims Board Act 1975, as amended by the Nigerian Pilgrims Board (Amendment) Decree 1986, is hereby repealed and the assets and liabilities of the Board established by the said Act are hereby transferred to the Commission.

Repeals.

Interpreta-
tion.

15.—(1) In this Decree, unless the context otherwise requires—

“carrier” means an airline ;

“Commission” means the Nigerian Pilgrims Commission established by section 1 of this Decree ;

“member” means a member of the Commission and includes the Chairman ;

“Minister” means the Minister charged with responsibility for matters relating to external affairs ;

“Scheme” means interest-free scheme established by the Commission pursuant to this Decree.

(2) In the application of this Decree, *el Hajj* has reference to the pilgrimage to Mecca, including in any such pilgrimage to the following places, that is, Medina, Arafat, and Muna.

Citation.

16. This Decree may be cited as the Nigerian Pilgrims Commission Decree 1989.

SCHEDULE

Section 2 (3)

SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION

Tenure of Office

1.—(1) A member other than one appointed by office shall hold office for a period of five years beginning with the date of his appointment as a member, but shall be eligible for reappointment at the expiration of that period.

(2) A member other than one appointed by office may at anytime resign his appointment by notice in writing under his hand ; and the resignation shall have effect upon signification by any means of its acceptance by the President, Commander-in-Chief of the Armed Forces so however that if the vacancy is in respect of a member within section 2 (1) (c) of this Decree it shall be filled from the same State as that of the member resigning.

(3) Members appointed by office shall cease to be members upon ceasing to hold the office entitling them to be appointed to the Commission.

(4) Any member may be removed from office by the President, Commander-in-Chief of the Armed Forces on the recommendation of the Minister for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

Proceedings of the Commission

2.—(1) Subject to the provisions of this Decree, the Commission may make standing orders regulating the proceedings of the Commission or of any committee thereof.

(2) The quorum at any meeting of the Commission shall be seven members.

(3) The Chairman shall preside at all meetings at which he is present and in his absence the members present may elect one of their number in attendance to be Chairman at the meeting.

(4) Questions for determination shall be decided by majority of the votes of members present and voting and every member other than a co-opted member shall have a deliberative vote for the purpose ; so however that in the event that the votes are equal the Chairman shall have, in addition to his deliberative vote, a casting vote.

(5) The Commission shall meet not less than twice in any year and subject to the provisions of any standing orders of the Commission, it shall meet at other times according as it is summoned by the Chairman, and if the Chairman is required to do so by notice in writing given to him by no less than five other members, he shall summon a meeting of the Commission to be held within fourteen days from the date on which the notice is given.

(6) Where the Commission desires to obtain the advice of any person on a particular matter, the Commission may co-opt that person as a member for such period as it thinks fit ; but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Commission, and shall not count towards a quorum.

(7) The first meeting of the Commission shall, notwithstanding the provisions of this paragraph, be summoned by the Minister who may give such directions as he thinks fit as to the procedure to be followed at the meetings ; and any other meeting may be convened by the Minister if the Chairman fails or refuses to do so.

Committees

3.—(1) The Commission may appoint one or more committees either standing or *ad hoc* to carry out, on its behalf such functions as the Commission may determine.

(2) A committee appointed under this paragraph shall consist of the number of persons to be determined by the Commission and any committee so appointed may co-opt any person whose advice is desired as a member but the co-opted member shall not be entitled to vote at any meeting of the committee and shall not count towards a quorum.

(3) A decision of a committee of the Commission shall be of no effect until it is confirmed by the Commission.

Miscellaneous

4. The fixing of the seal of the Commission shall be authenticated by the signature of the Chairman or of some other member authorised generally or specially by the Commission to act for that purpose.

5. Any document purporting to be a document duly executed under the seal of the Commission shall be signed by the Chairman and the Secretary and shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

6. The validity of any proceedings of the Commission or a committee thereof shall not be adversely affected by any vacancy in the membership of the Commission or committee, or by any defect in the appointment of a member of the Commission or of a person to serve on the committee, or by reason that a person not entitled to do so took part in the proceedings.

7. A member of the Commission who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Commission or a committee thereof shall forthwith disclose his interest to the Commission and shall not vote on any questions relating to the contract or arrangement.

8. A person shall not, by reason only of his membership of the Commission, be treated as holding an office in the public service of the Federation or of a State.

9. No member of the Commission shall be personally liable for any act or default of the Commission done or omitted to be done in good faith in the course of the operations of the Commission.

MADE at Lagos this 6th day of February 1989.

GENERAL I. B. BABANGIDA,
*President, 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 repeals the Nigerian Pilgrims Board Act 1975 and establishes the Nigerian Pilgrims Commission with the responsibility for the general welfare of moslems who undertake pilgrimages.