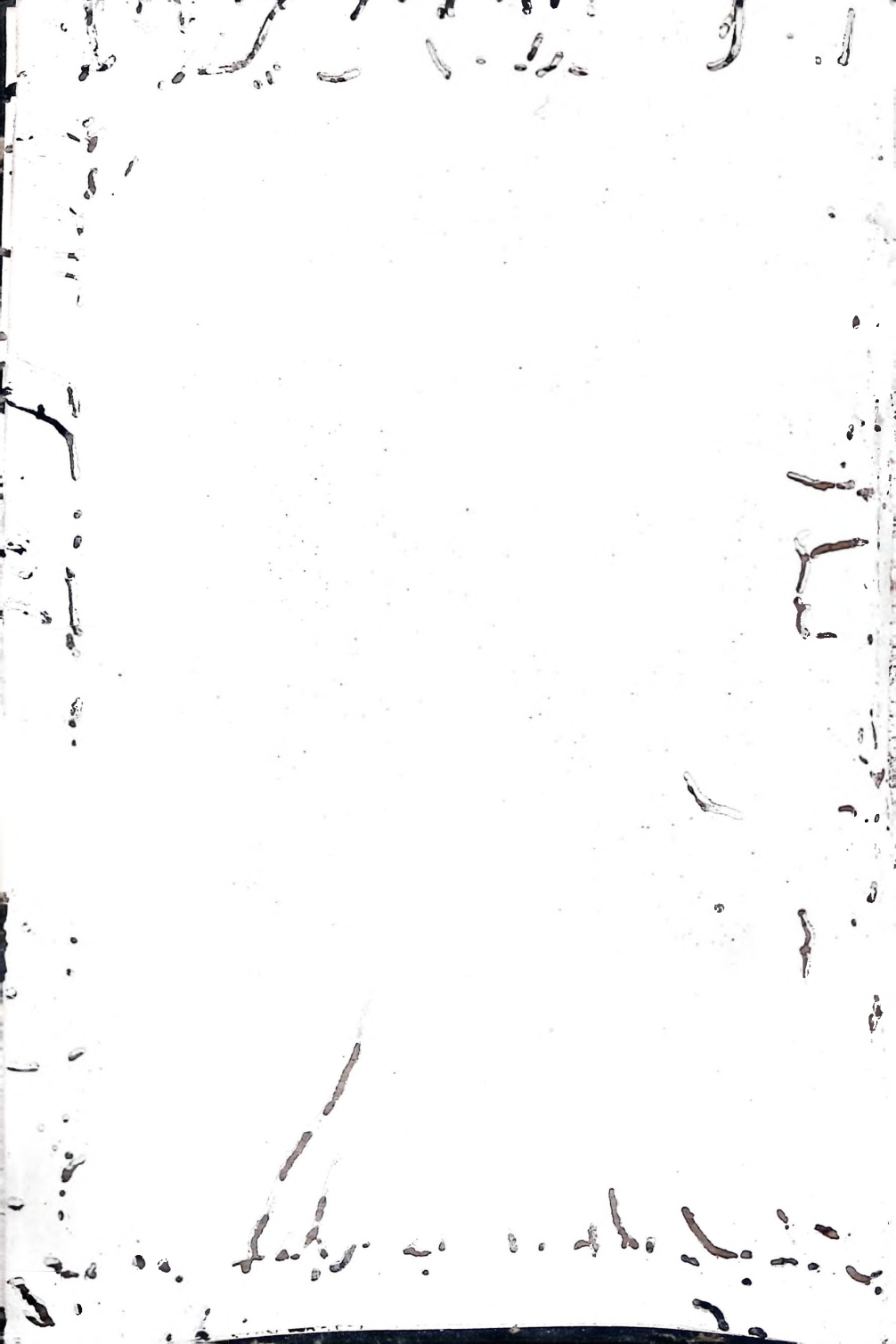


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THE LAWS  
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# THE LAWS OF THE WESTERN REGION OF NIGERIA

*containing*

## THE LAWS OF THE REGION

*Enacted or deemed to have been enacted by the Legislature of  
the Western Region on or before the 31st January, 1959  
and certain other Laws enacted after that date*

*together with certain*

## SUBSIDIARY LEGISLATION MADE THEREUNDER

*and certain*

ORDERS OF HER MAJESTY IN COUNCIL, LETTERS PATENT  
ROYAL INSTRUCTIONS AND IMPERIAL STATUTES RELATING TO  
THE REGION OR APPLICABLE THERETO

---

### REVISED EDITION

*Prepared under the Authority of*

THE REVISED EDITION OF THE LAWS LAW, 1959

*by*

**SIR JOHN VERITY, KT. BACH.,**

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW  
COMMISSIONER FOR LAW REVISION, FORMERLY  
CHIEF JUSTICE OF NIGERIA

*assisted by*

**FATAYI A. WILLIAMS, Esq., M.A., LL.B. (CANTAB.)**

OF THE MIDDLE TEMPLE, BARRISTER-AT-LAW  
CHIEF REGISTRAR OF THE HIGH COURT OF JUSTICE OF THE WESTERN REGION  
FORMERLY DEPUTY COMMISSIONER FOR LAW REVISION

*and*

**DR. F. A. AJAYI, LL.M., PH.D. (LOND.)**

OF LINCOLN'S INN, BARRISTER-AT-LAW  
DEPUTY COMMISSIONER FOR LAW REVISION

### VOLUME VII

*containing*

ORDERS OF HER MAJESTY IN COUNCIL AND IMPERIAL STATUTES  
APPLICABLE TO THE WESTERN REGION OF NIGERIA TOGETHER WITH  
SUBSIDIARY LEGISLATION MADE THEREUNDER

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**PART I**

**THE NIGERIA INDEPENDENCE ACT, 1960**

**AND**

**THE NIGERIA (CONSTITUTION)**

**ORDER IN COUNCIL, 1960**

NIGERIA INDEPENDENCE ACT, 1960

8 & 9 ELIZ. 2 CH. 55

ARRANGEMENT OF SECTIONS

**SECTION**

1. Provision for the fully responsible status of Nigeria.
2. Consequential modifications of British Nationality Acts.
3. Consequential modification of other enactments.
4. Modification of Overseas Service Act, 1958.
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**SCHEDULES:**

First Schedule—Legislative powers in Nigeria.

Second Schedule—Amendments not affecting law of Nigeria.



## CHAPTER 55

AN ACT TO MAKE PROVISION FOR, AND IN CONNECTION WITH, THE ATTAINMENT BY NIGERIA OF FULLY RESPONSIBLE STATUS WITHIN THE COMMONWEALTH.

[29th July, 1960.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) On the first day of October, nineteen hundred and sixty (in this Act referred to as "the appointed day"), the Colony and the Protectorate as respectively defined by the Nigeria (Constitution) Orders in Council, 1954 to 1960, shall together constitute part of Her Majesty's dominions under the name of Nigeria.

Provision for the fully responsible status of Nigeria.

(2) No Act of the Parliament of the United Kingdom passed on or after the appointed day shall extend, or be deemed to extend, to Nigeria or any part thereof as part of the law thereof, and as from that day—

(a) Her Majesty's Government in the United Kingdom shall have no responsibility for the government of Nigeria or any part thereof; and

(b) the provisions of the First Schedule to this Act shall have effect with respect to legislative powers in Nigeria.

(3) Without prejudice to sub-section (2) of this section, nothing in sub-section (1) thereof shall affect the operation in Nigeria or any part thereof on and after the appointed day of any enactment, or any other instrument having the effect of law, passed or made with respect thereto before that day.

2.—(1) As from the appointed day, the British Nationality Acts, 1948 and 1958, shall have effect as if—

Consequential modifications of British Nationality Acts.

(a) in sub-section (3) of section one of the said Act of 1948 (which provides for persons to be British subjects or Commonwealth citizens by virtue of citizenship of certain countries) the word "and" in the last place where it occurs were omitted, and at the end there were added the words "and Nigeria";

- (b) in the First Schedule to the British Protectorates, Protected States and Protected Persons Order in Council, 1949, the words "Nigeria Protectorate" were omitted:

Provided that a person who immediately before the appointed day is for the purposes of the said Acts and Order in Council a British protected person by virtue of his connection with the Nigeria Protectorate shall not cease to be such a British protected person for any of those purposes by reason of anything contained in the foregoing provisions of this Act, but shall so cease upon his becoming a citizen of Nigeria under the law thereof.

(2) Subject to the subsequent provisions of this section, any person who immediately before the appointed day is a citizen of the United Kingdom and Colonies shall on that day cease to be such a citizen if—

(a) under the law of Nigeria he becomes on that day a citizen of Nigeria; and

(b) he, his father or his father's father was born in any of the territories comprised in Nigeria.

(3) Subject to sub-section (8) of this section, a person shall not cease to be a citizen of the United Kingdom and Colonies under the last foregoing sub-section if he, his father or his father's father—

(a) was born in the United Kingdom or in a colony; or

(b) is or was a person naturalised in the United Kingdom and Colonies; or

(c) was registered as a citizen of the United Kingdom and Colonies; or

(d) became a British subject by reason of the annexation of any territory included in a colony.

(4) A person shall not cease to be a citizen of the United Kingdom and Colonies under sub-section (2) of this section if he was born in a protectorate, protected state or United Kingdom trust territory, or if his father or his father's father was so born and is or at any time was a British subject.

(5) A woman who is the wife of a citizen of the United Kingdom and Colonies shall not cease to be such a citizen under sub-section (2) of this section unless her husband does so.

(6) Sub-section (2) of section six of the British Nationality Act, 1948 (which provides for the registration as a citizen of the United Kingdom and Colonies of a woman who has been married to such a citizen) shall not apply to a woman by virtue of her marriage to a person who ceases to be such a citizen under sub-section (2) of this section, or who would have done so if living on the appointed day.

(7) Subject to the next following sub-section, the reference in paragraph (b) of sub-section (3) of this section to a person naturalised in the United Kingdom and Colonies shall include a person who would, if living immediately before the commencement of the British Nationality Act, 1948, have become a person naturalised in the United Kingdom and Colonies by virtue of sub-section (6) of section thirty-two of that Act (which relates to persons given local naturalisation before that commencement in a colony or protectorate).

(8) Any reference in sub-section (3) or (4) of this section to a territory of any of the following descriptions, that is to say, a colony, protectorate, protected state or United Kingdom trust territory, shall, subject to the next following sub-section, be construed as a reference to a territory which is of that description on the appointed day; and the said sub-section (3) shall not apply to a person by virtue of any certificate of naturalisation granted or registration effected by the governor or government of a territory outside the United Kingdom which is not on that day of one of those descriptions.

(9) The protectorates of Northern Rhodesia and Nyasaland shall be excepted from the operation of any reference in sub-section (4) or (8) of this section to a protectorate.

(10) Part III of the British Nationality Act, 1948 (which contains supplemental provisions) shall have effect for the purposes of sub-sections (2) to (9) of this section as if those sub-sections were included in that Act.

3.—(1) Notwithstanding anything in the Interpretation Act, 1889, the expression "colony" in any Act of the Parliament of the United Kingdom passed on or after the appointed day shall not include Nigeria or any part thereof.

Consequen-  
tial  
modification  
of other  
enactments.

(2) As from the appointed day—

(a) the expression “colony” in the Army Act, 1955, the Air Force Act, 1955, and the Naval Discipline Act, 1957, shall not include Nigeria or any part thereof; and

(b) in the definitions of “Commonwealth force” in sub-section (1) of section two hundred and twenty-five and sub-section (1) of section two hundred and twenty-three respectively of the said Acts of 1955, and in the definition of “Commonwealth country” in sub-section (1) of section one hundred and thirty-five of the said Act of 1957—

(i) the word “or” (being, in the said Acts of 1955, that word in the last place where it occurs in those definitions) shall be omitted; and

(ii) at the end there shall be added the words “or Nigeria”.

(3) Any Order in Council made on or after the appointed day under either of the said Acts of 1955 providing for that Act to continue in force beyond the date on which it would otherwise expire shall not operate to continue that Act in force beyond that date as part of the law of Nigeria or any part thereof.

(4) As from the appointed day, the provisions specified in the Second Schedule to this Act shall have effect subject to the amendments respectively specified in that Schedule, and Her Majesty may by Order in Council, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, make such further adaptations in any Act of the Parliament of the United Kingdom passed before this Act, or in any instrument having effect under any such Act, as appear to Her necessary in consequence of section one of this Act; and any Order in Council made under this sub-section may be varied or revoked by a subsequent Order in Council so made and, though made after the appointed day, may be made so as to have effect from that day:

Provided that this sub-section shall not extend to Nigeria or any part thereof as part of the law thereof.

Modification  
of Overseas  
Service Act,  
1958.

4.—(1) In relation to any person who at the date of the passing of this Act is serving in the naval forces of the Federation of Nigeria established by section three of the Nigeria (Constitution)

Order in Council, 1954, the Overseas Service Act, 1958 (which authorises the Secretary of State to appoint officers to be available for civilian employment in the public service of an overseas territory in accordance with arrangements made by the Secretary of State with the government of that territory and to make provision as to superannuation in respect of officers so appointed) shall have effect as if service in those forces and service on or after the appointed day in the naval forces of Nigeria were civilian employment in the public service of that Federation or, as the case may be, of Nigeria.

(2) In relation to any person who, having served in the naval forces of the said Federation in accordance with arrangements made by the Secretary of State with the government of that Federation, has by reason of death or retirement ceased so to serve before the date of the passing of this Act, sub-section (2) of section four of the said Act of 1958 (which authorises the Secretary of State to pay pensions to or in respect of persons who have served as officers to whom that Act applies) shall have effect as if that person were a person who has served as such an officer and as if those arrangements were such arrangements as are mentioned in sub-section (1) of section one of that Act.

5.—(1) This Act may be cited as the Nigeria Independence Act, 1960.

Short title  
and  
interpretation.

(2) References in this Act to any enactment are references to that enactment as amended or extended by or under any other enactment.

## SCHEDULES

Section 1.

## FIRST SCHEDULE

## LEGISLATIVE POWERS IN NIGERIA

1. The Colonial Laws Validity Act, 1865, shall not apply to any law made on or after the appointed day by any legislature established for Nigeria or any part thereof.

2. No law and no provision of any law made on or after the appointed day by any such legislature as aforesaid shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any Act of the Parliament of the United Kingdom, including this Act, or to any order, rule or regulation made under any such Act, and, subject to paragraph 6 of this Schedule, the powers of any such legislature shall include the power to repeal or amend any such Act, order, rule or regulation in so far as it is part of the law of Nigeria or any part thereof and in so far as it relates to matters within the legislative powers of that legislature.

3. Any such legislature as aforesaid shall have full power to make laws having extra-territorial operation, so far as those laws relate to matters within the legislative powers of that legislature.

4. Without prejudice to the generality of the foregoing provisions of this Schedule, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the legislature of a British possession did not include reference to any such legislature as aforesaid.

5. Without prejudice to the generality of the foregoing provisions of this Schedule, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of Her Majesty's pleasure or to contain a suspending clause) and so much of section seven of that Act as requires the approval of Her Majesty in Council to any rules of court for regulating the practice and procedure of a Colonial Court of Admiralty shall cease to have effect in Nigeria.

6. Nothing in this Act shall confer on any such legislature as aforesaid any power to repeal, amend or modify the constitutional provisions otherwise than in such manner as may be provided for in those provisions.

In this paragraph, the expression "the constitutional provisions" means this Act, any Order in Council made before the appointed day which revokes the Nigeria (Constitution) Orders in Council, 1954 to 1960, and any law, or instrument made under a law, of any such legislature as aforesaid made on or after that day which amends, modifies, re-enacts with or without amendment or modification, or makes different provision in lieu of, any of the provisions of this Act, that Order in Council or any such law or instrument previously made.

## SECOND SCHEDULE

Section 3.

## AMENDMENTS NOT AFFECTING LAW OF NIGERIA.

*Diplomatic Immunities*

1. In section four hundred and sixty-one of the Income Tax Act, 1952 (which relates to exemption from income tax in the case of certain Commonwealth representatives and their staffs)—

- (a) in sub-section (2), the word "or" (in the last place where it occurs before the words "for any state") shall be omitted, and immediately before the words "for any state" there shall be inserted the words "or Nigeria";
- (b) in sub-section (3), immediately before the words "and 'Agent-General'" there shall be inserted the words "or for Nigeria".

2. In sub-section (6) of section one of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act, 1952, immediately before the word "and" in the last place where it occurs there shall be inserted the word "Nigeria".

*Financial*

3. In section two of the Import Duties Act, 1958, in sub-section (4), after the words "New Zealand" there shall be inserted the word "Nigeria".

4. In the Colonial Stock Act, 1934 (which extends the stocks which may be treated as trustee securities), the expression "Dominion" shall include Nigeria; and, during any period falling on or after the appointed day during which there is in force as part of the law of Nigeria any instrument passed or made before that day which makes provision corresponding to the undertaking required to be given by the Government of a Dominion under paragraph (a) of sub-section (1) of section one of that Act, paragraphs (a) and (b) of the said sub-section (1) shall be deemed to have been complied with in the case of Nigeria.

*Visiting forces*

5. In the Visiting Forces (British Commonwealth) Act, 1933, section four (which deals with attachment and mutual powers of command) and the definition of "visiting force" for the purposes of that Act which is contained in section eight thereof shall apply in relation to forces raised in Nigeria as they apply in relation to forces raised in Dominions within the meaning of the Statute of Westminster, 1931.

6. In the Visiting Forces Act, 1952—

- (a) in paragraph (a) of sub-section (1) of section one (which specifies the countries to which that Act Applies) the word "or" in the first place where it occurs shall be omitted, and at the end there shall be added the words "Nigeria or";

2ND SCH.

(b) in paragraph (a) of sub-section (1) of section ten the expression "colony" shall not include Nigeria or any part thereof;

and, until express provision with respect to Nigeria is made by an Order in Council under section eight of that Act (which relates to the application to visiting forces of law relating to home forces), any such Order for the time being in force shall be deemed to apply to visiting forces of Nigeria.

#### *Ships and Aircraft*

7. In sub-section (2) of section four hundred and twenty-seven of the Merchant Shipping Act, 1894, as substituted by section two of the Merchant Shipping (Safety Convention) Act, 1949, the word "or" (in the last place where it occurs before the words "or in any") shall be omitted, and immediately before the words "or in any" there shall be inserted the words "or Nigeria".

8. In the proviso to sub-section (2) of section six of the Merchant Shipping Act, 1948, the word "or" in the last place where it occurs shall be omitted and at the end there shall be added the words "or Nigeria".

9. In the definition of "excepted ship or aircraft" in paragraph 3 of the Third Schedule to the Emergency Laws (Repeal) Act, 1959, the word "or" (in the last place where it occurs before the words "or in any") shall be omitted, and immediately before the words "or in any" there shall be inserted the words "or Nigeria".

10. The Ships and Aircraft (Transfer Restriction) Act, 1939, shall not apply to any ship by reason only of its being registered in, or licensed under the law of, Nigeria or any part thereof; and the penal provisions of that Act shall not apply to persons in Nigeria (but without prejudice to the operation with respect to any ship to which that Act does apply of the provisions thereof relating to the forfeiture of ships).

11. In the Whaling Industry (Regulation) Act, 1934, the expression "British ship to which this Act applies" shall not include a British ship registered in Nigeria.

#### *Copyright*

12. The references in section thirty-one of the Copyright Act, 1956, to a colony shall not include Nigeria or any part thereof.

13. If the Copyright Act, 1911, so far as in force in the law of Nigeria or any part thereof is repealed or amended by that law at a time when sub-paragraph (2) of paragraph 39 of the Seventh Schedule to the Copyright Act, 1956 (which applies certain provisions of that Act in relation to countries to which the said Act of 1911 extended) is in force in relation to Nigeria or that part thereof, the said sub-paragraph (2) shall thereupon cease to have effect in relation thereto.

*Divorce Jurisdiction*

2ND SCH.

14. In sub-section (2) of section two of the Indian and Colonial Divorce Jurisdiction Act, 1926 (which enables section one of that Act to be extended to certain countries, but not to any of the countries named in the said sub-section (2)), the word "and" shall be omitted in all places where it occurs except the first such place and except in the expression "Rhodesia and Nyasaland", and at the end there shall be added the words "and Nigeria".

*Commonwealth Institute*

15. In sub-section (2) of section eight of the Imperial Institute Act, 1925, as amended by the Commonwealth Institute Act, 1958 (which relates to the power to vary the provisions of the said Act of 1925 if an agreement for the purpose is made with the governments of certain territories which for the time being are contributing towards the expenses of the Commonwealth Institute) the word "and" shall be omitted and at the end there shall be added the words "and Nigeria".

*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Colonial Laws Validity Act, 1865 ... ..	28 & 29 Vict. c. 63.
Interpretation Act, 1889 ... ..	52 & 53 Vict. c. 63.
Colonial Courts of Admiralty Act, 1890 ... ..	53 & 54 Vict. c. 27.
Merchant Shipping Act, 1894 ... ..	57 & 58 Vict. c. 60.
Copyright Act, 1911 ... ..	1 & 2 Geo. 5. c. 46.
Imperial Institute Act, 1925 ... ..	15 & 16 Geo. 5. c. xvii.
Indian and Colonial Divorce Jurisdiction Act, 1926.	16 & 17 Geo. 5. c. 40.
Statute of Westminster, 1931 ... ..	22 & 23 Geo. 5. c. 4.
Visiting Forces (British Commonwealth) Act, 1933.	23 & 24 Geo. 5. c. 6.
Colonial Stock Act, 1934 ... ..	24 & 25 Geo. 5. c. 47.
Whaling Industry (Regulation) Act, 1934 ... ..	24 & 25 Geo. 5. c. 49.
Ships and Aircraft (Transfer Restriction) Act, 1939.	2 & 3 Geo. 6. c. 70.
Merchant Shipping Act, 1948 ... ..	11 & 12 Geo. 6. c. 44.
British Nationality Act, 1948 ... ..	11 & 12 Geo. 6. c. 56.
Merchant Shipping (Safety Convention) Act, 1949.	12, 13 & 14 Geo. 6. c. 43.
Income Tax Act, 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.
Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act, 1952.	15 & 16 Geo. 6. & 1 Eliz. 2. c. 18.
Visiting Forces Act, 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 67.
Army Act, 1955 ... ..	3 & 4 Eliz. 2. c. 18.
Air Force Act, 1955 ... ..	3 & 4 Eliz. 2. c. 19.
Copyright Act, 1956 ... ..	4 & 5 Eliz. 2. c. 74.
Naval Discipline Act, 1957 ... ..	5 & 6 Eliz. 2. c. 53.
Import Duties Act, 1958 ... ..	6 & 7 Eliz. 2. c. 6.
Overseas Service Act, 1958 ... ..	6 & 7 Eliz. 2. c. 14.
Commonwealth Institute Act, 1958 ... ..	6 & 7 Eliz. 2. c. 16.
Emergency Laws (Repeal) Act, 1959 ... ..	7 & 8 Eliz. 2. c. 19.

*Nigeria (Constitution) Order in Council*

THE NIGERIA (CONSTITUTION) ORDER IN COUNCIL, 1960  
ARRANGEMENT OF ORDER

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3. Existing laws.
4. Existing offices, courts and authorities.
5. Pending legal proceedings.
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7. Cyprus.
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THE FIRST SCHEDULE

ORDERS IN COUNCIL REVOKED BY THIS ORDER.

THE SECOND SCHEDULE

THE CONSTITUTION OF THE FEDERATION OF NIGERIA.

THE THIRD SCHEDULE

THE CONSTITUTION OF NORTHERN NIGERIA.

THE FOURTH SCHEDULE

THE CONSTITUTION OF WESTERN NIGERIA.

THE FIFTH SCHEDULE

THE CONSTITUTION OF EASTERN NIGERIA.



STATUTORY INSTRUMENTS

1960 No. 1652

WEST AFRICA

THE NIGERIA (CONSTITUTION) ORDER IN COUNCIL, 1960

MADE ... ..	12th September, 1960
LAI D BEFORE PARLIAMENT ...	16th September, 1960
COMING INTO OPERATION ...	1st October, 1960

At the Court at Balmoral, the 12th day of September, 1960

PRESENT,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890 (a) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Nigeria (Constitution) Order in Council, 1960.

(2) This Order shall come into operation on the first day of October, 1960:

Citation, commencement, interpretation and revocations.

Provided that where by or under this Order the Governor-General of the Federation of Nigeria or the Governor of a Region of the Federation has power to make any appointment, to make any order or to do any other thing for the purposes of this Order that power may be exercised by the Governor-General of the Federation of Nigeria established by the Orders revoked by this Order or the Governor of a Region so established, as the case may be, at any time after the sixteenth day of September, 1960, to such extent as may, in his opinion, be necessary or expedient to enable the constitutions established by this Order to function as from the first day of October, 1960.

(3) The Interpretation Act, 1889(b), shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of Parliament of the United Kingdom.

(a) 53 and 54 Vict. c. 37.

(b) 52 and 53 Vict. c. 63.

(4) The Orders in Council specified in the First Schedule to this Order are revoked in so far as they apply to Nigeria.

(5) Sections 3 and 4 of the Nigeria (Appeals to Privy Council) Order in Council, 1955(c), are revoked in so far as they apply to Nigeria.

Establishment of constitutions.

2. Subject to the provisions of this Order, the Constitution of the Federation of Nigeria set out in the Second Schedule to this Order and the Constitutions of Northern Nigeria, Western Nigeria and Eastern Nigeria respectively set out in the Third, Fourth and Fifth Schedules to this Order shall come into effect in Nigeria at the commencement of this Order.

Existing laws.

3.—(1) Subject to the provisions of this section, the existing laws shall, notwithstanding the revocation of the Orders specified in the First Schedule to this Order, have effect after the commencement of this Order as if they had been made in pursuance of this Order and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(2) The Governor-General of the Federation of Nigeria may by order at any time within six months after the commencement of this Order make such amendments to any existing law, to the extent that it relates to any matter with respect to which the Parliament of the Federation has power to make laws, as may appear to the Governor-General to be necessary or expedient—

- (a) for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions; or
- (b) for giving effect or enabling effect to be given to the provisions of any agreement between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation of Nigeria made for the purpose of facilitating the administration of the Southern Cameroons or the Northern Cameroons after the commencement of this Order.

(3) The Governor of a Region of the Federation of Nigeria may by order at any time within six months after the commencement of this Order make such amendments to any existing law, to the extent to which it relates to any matter with respect to which the legislature of that Region has power to make laws, as may appear to the Governor to be necessary or expedient—

- (a) for bringing that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions; or
- (b) for giving effect or enabling effect to be given to the provisions of any agreement between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation of Nigeria made for the purpose of facilitating the administration of the Southern Cameroons or the Northern Cameroons after the commencement of this Order.

(4) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

(5) Where any matter falls to be prescribed under this Order by the Parliament of the Federation of Nigeria, the legislature of a Region of the Federation or any other person or authority that matter shall be regarded as being so prescribed if it is prescribed by any existing law, as amended under this section or otherwise of such extent, if any, as may be necessary or expedient to meet the circumstances of the case.

(6) Any existing law enacted before the first day of October, 1954, that relates to a matter with respect to which both the Parliament of the Federation of Nigeria and the legislatures of the Regions of the Federation have power to make laws and that immediately before the commencement of this Order had effect by virtue of the Orders revoked by this Order as if it had been enacted by the Legislature of the Federation of Nigeria shall have effect after the commencement of this Order as if it were an Act of Parliament.

(7) For the purposes of this section "the existing laws" mean all Ordinances, Laws, rules, regulations, orders and other instruments having the effect of law made or having effect as if they had been made in pursuance of the Orders in Council revoked by this Order and having effect as part of the law of the Colony and Protectorate of Nigeria or any part thereof immediately before the commencement of this Order.

Existing  
offices,  
courts and  
authorities.

4.—(1) Subject to the provisions of this section, all offices, courts of law and authorities established under the Orders in Council revoked by this Order for the Colony and Protectorate of Nigeria and existing immediately before the commencement of this Order shall, so far as is consistent with the provisions of this Order, continue after the commencement of this Order as if they were offices, courts and authorities established under this Order for Nigeria; and all persons who immediately before the commencement of this Order are holding or acting in offices established by or under the Orders revoked by this Order for the Colony and Protectorate or are members of the courts and authorities established by or under those Orders for the Colony and Protectorate shall, so far as is consistent with the provisions of this Order, continue in office as if they had been appointed, elected or otherwise selected thereto under this Order in the manner prescribed by this Order and had taken any necessary oaths under this Order:

Provided that—

- (a) any member of a legislative house who has been appointed, elected or otherwise selected to represent any area that after the commencement of this Order is wholly outside Nigeria shall vacate his seat in that house at the commencement of this Order;
- (b) any member of any authority who would have been required to vacate his office at the expiration of any period or upon his attainment of any age prescribed by or under the Orders revoked by this Order shall vacate his office accordingly;
- (c) no person who was a member of any legislative house or President, Deputy President, Speaker or Deputy Speaker thereof immediately before the commencement of this Order shall be regarded as disqualified by this Order from continuing as a member of that house or as President, Deputy President, Speaker or Deputy Speaker, as the

case may be, until the next dissolution of that house by reason only that he also continues to hold any other office by virtue of any appointment made before the commencement of this Order; and

- (d) the legislative houses shall, unless sooner dissolved, stand dissolved on the respective dates on which they would have been required to be dissolved by the Orders revoked by this Order.

(2) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make provision for any matter, including the establishment and abolition of offices, courts of law and authorities and the appointment, election or selection of persons to hold or act in any office or to be members of any court or authority and their removal from office.

5.—(1) Any proceedings pending immediately before the commencement of this Order before any court of law established by the Orders revoked by this Order for the Colony and Protectorate of Nigeria may be continued before the courts established by this Order for Nigeria having jurisdiction in relation to the matter to which those proceedings relate as if they had been initiated before those courts after the commencement of this Order.

Pending  
legal  
proceedings.

(2) Any proceedings pending immediately before the commencement of this Order before Her Majesty in Council or any court of law established by or under the Orders revoked by this Order for the Colony and Protectorate of Nigeria may be continued after the commencement of this Order notwithstanding that, by reason of the terms of this Order, no such proceedings could be initiated after the commencement of this Order.

6. The Emergency Powers Orders in Council, 1939 to 1959 (a), shall cease to have effect as part of the law of Nigeria on the thirtieth day of March, 1961, or such earlier date as may be prescribed by the Parliament of the Federation of Nigeria.

Emergency  
Powers  
Orders in  
Council,  
1939 to 1959.

7. Unless the Governor-General by order otherwise directs, section 13 of the Constitution of the Federation of Nigeria set out in the Second Schedule to this Order shall have effect as if a reference to the Republic of Cyprus were inserted in sub-section (3).

Cyprus.

(a) S.I. 1952/2031, 1956/731 and 1959/1310 (1952 I, p. 620; 1956 I, p. 512; 1959 II, p. 1996).

Determina-  
tion of  
rights.

8.—(1) Section 21 of the Constitution of the Federation of Nigeria set out in the Second Schedule to this Order shall have effect in its application to Northern Nigeria as if sub-section (10) were omitted.

(2) This section shall cease to have effect on the thirtieth day of September, 1961, or such earlier date as may be prescribed by the Governor of Northern Nigeria by order.

Special  
powers  
relating to  
membership  
of legislative  
houses and  
functions  
of Commis-  
sions.

9.—(1) The Governor-General of the Federation of Nigeria may by order at any time within six months after the commencement of this Order make provision—

(a) for any of the matters for which the Parliament of the Federation may make provision under sections 40 and 44 of the Constitution of the Federation set out in the Second Schedule to this Order; or

(b) for the definition and trial of offences connected with the functions of any Commission established by the Constitution of the Federation and the imposition of penalties for such offences.

(2) The Governor of a Region of the Federation of Nigeria may by order at any time within six months after the commencement of this Order—

(a) make provision for any of the matters for which the Legislature of that Region may make provision under section 9 or 13 of the Constitution of Northern Nigeria set out in the Third Schedule to this Order, section 8 or 12 of the Constitution of Western Nigeria set out in the Fourth Schedule to this Order or section 8 or 12 of the Constitution of Eastern Nigeria set out in the Fifth Schedule to this Order, as the case may be; and

(b) for the definition and trial of offences connected with the functions of any Commission established by the Constitution of Northern Nigeria, Western Nigeria or Eastern Nigeria, as the case may be, and the imposition of penalties for such offences.

(3) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make provision for any matter.

10.—(1) The Parliament of the Federation of Nigeria may make laws for the peace, order and good government of any Region of the Federation with respect to taxes on income and profits, not being taxes on the income or profits accruing in, or derived from, that Region, of Africans resident in that Region and African communities in that Region. Income tax.

(2) The powers conferred upon the Parliament of the Federation of Nigeria by this section shall be without prejudice to the powers conferred thereon by the Constitution of the Federation set out in the Second Schedule to this Order.

(3) The provisions of this section shall cease to have effect in relation to each Region of the Federation on the thirty-first day of March, 1961, or such later date as may with the consent of the Government of that Region be prescribed by the Governor-General by order.

11. Until the next dissolution of the legislative houses of Northern Nigeria after the commencement of this Order, section 7 of the Constitution of Northern Nigeria set out in the Third Schedule to this Order shall have effect as if paragraph (a) were omitted and the following paragraph were substituted:— Composition of House of Assembly of Northern Nigeria.

“(a) one hundred and sixty-seven elected members; and”.

12.—(1) A person holding the office of Attorney-General of Northern Nigeria who is not a member of the House of Chiefs or the House of Assembly of Northern Nigeria may vote in the House of Assembly and in any committee of that House of which he is a member. Voting in House of Assembly of Northern Nigeria.

(2) This section shall cease to have effect on such date as may be fixed by the Governor of Northern Nigeria by order.

13.—(1) The office of Deputy Governor of Eastern Nigeria shall be deemed to have been established at the commencement of this Order under section 43 of the Constitution of Eastern Nigeria set out in the Fifth Schedule to this Order and the person holding the office of Deputy Governor of the Eastern Region of the Federation of Nigeria immediately before the commencement of this Order shall be deemed to have been appointed to the office of Deputy Governor of Eastern Nigeria at the commencement of this Order under section 64 of that Constitution. Deputy Governor of Eastern Nigeria.

(2) The person for the time being discharging the functions of the office of Deputy Governor of Eastern Nigeria shall be deemed to have been appointed by Her Majesty at the commencement of this Order to perform the functions conferred upon the Governor by the Constitution of Eastern Nigeria set out in the Fifth Schedule to this Order under section 3 of that Constitution.

(3) The provisions of this section shall be without prejudice to the provisions of section 4 of this Order or to any powers conferred by this Order upon any person or authority to make provision for any matter, including the establishment and abolition of the office of Deputy Governor of Eastern Nigeria, the appointment of persons to hold or act in that office and their removal from office and the appointment of persons to discharge the functions of the office of Governor of Eastern Nigeria.

Niger Delta  
Develop-  
ment Board.

14.—(1) There shall be for the Niger Delta a board, which shall be styled the Niger Delta Development Board.

(2) The members of the Niger Delta Development Board shall be—

- (a) a person appointed by the Governor-General of the Federation of Nigeria, who shall be chairman;
- (b) a person appointed by the Governor of Western Nigeria;
- (c) a person appointed by the Governor of Eastern Nigeria; and
- (d) such other persons as may be appointed in such manner as may be prescribed by the Parliament of the Federation of Nigeria to represent the inhabitants of the Niger Delta.

(3) A member of the Niger Delta Development Board shall vacate his office in such circumstances as may be prescribed by the Parliament of the Federation of Nigeria.

(4) The Niger Delta Development Board shall be responsible for advising the Government of the Federation of Nigeria and the Governments of Western Nigeria and Eastern Nigeria with respect to the physical development of the Niger Delta and in order to discharge that responsibility the Board shall—

- (a) cause the Niger Delta to be surveyed in order to ascertain what measures are required to promote its physical development;

- (b) prepare schemes designed to promote the physical development of the Niger Delta, together with estimates of the costs of putting such schemes into effect;
- (c) submit to the Government of the Federation and the Governments of Western Nigeria and Eastern Nigeria an initial report describing the survey of the Niger Delta and the measures that appear to the Board to be desirable in order to promote the physical development thereof, having regard to the information derived from the survey, and subsequent annual reports describing the work of the Board and the measures taken in pursuance of its advice.

(5) The Parliament of the Federation of Nigeria may make such provision as may appear to be necessary or desirable for enabling the Niger Delta Development Board to discharge its functions under this section.

(6) In this section "the Niger Delta" means such parts of Nigeria as on the thirtieth day of September, 1960, were comprised in the Niger Delta as defined for the purposes of section 243 of the Nigeria (Constitution) Order in Council, 1954(a), as set out in section 29 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959(b).

(7) This section shall cease to have effect on the first day of July, 1969, or such later date as may be prescribed by the Parliament of the Federation of Nigeria.

15. The Federal Supreme Court of Nigeria shall have such jurisdiction in respect of the Southern Cameroons and the Northern Cameroons as may be conferred upon it by any Order of Her Majesty in Council and may for the purposes of exercising that jurisdiction sit either in Nigeria or the Southern Cameroons or the Northern Cameroons, as the case may be.

Jurisdiction of Federal Supreme Court in respect of Southern and Northern Cameroons.

16.—(1) The Parliament of the Federation of Nigeria may alter any of the provisions of the Constitution of the Federation set out in the Second Schedule to this Order for the purpose of giving effect to any agreement between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation providing for the admission of the Southern Cameroons or the Northern Cameroons to the Federation.

Special power to alter constitutions.

(a) S.I. 1954/1146 (1954 II, p. 2829). (b) S.I. 1959/1049.

(2) The legislature of Northern Nigeria may alter any of the provisions of the Constitution of Northern Nigeria set out in the Third Schedule to this Order for the purpose of giving effect to any agreement between Her Majesty's Government in the United Kingdom and Her Majesty's Government of the Federation of Nigeria providing for the incorporation of the Northern Cameroons in Northern Nigeria.

(3) Any law enacted under this section shall be valid notwithstanding that the provisions of section 4 or section 5, as the case may be, of the Constitution of the Federation of Nigeria set out in the Second Schedule to this Order have not been complied with.

Outstanding  
debts.

17. Any debt of the Federation that immediately before the commencement of this Order was by the Orders revoked by this Order charged on the Consolidated Revenue Funds of the Regions of the Federation of Nigeria as well as on the Consolidated Revenue Fund of the Federation shall after the commencement of this Order be secured on the revenues and assets of the Regions as well as the revenues and assets of the Federation.

Alteration  
of this Order.

18. The Parliament of the Federation of Nigeria may alter any of the foregoing provisions of this Order or any of the provisions of this section or the First Schedule to this Order but no Act of Parliament providing for any such alteration shall come into operation unless the Governor of each Region has signified consent to its having effect.

W. G. AGNEW

THE FIRST SCHEDULE

Section 1.

ORDERS IN COUNCIL REVOKED BY THIS ORDER

- The Nigeria (Constitution) Order in Council, 1954(a).  
 The Nigeria (Offices of Governor-General and Governors) Order in Council, 1954(b).  
 The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1955(c).  
 The Nigeria (Constitution) (Amendment) Order in Council, 1955(d).  
 The Nigeria (Constitution) (Amendment) Order in Council, 1956(e).  
 The Nigeria (Tribunals of Inquiry) Order in Council, 1956(f).  
 The Nigeria (Constitution) (Amendment) Order in Council, 1957(g).  
 The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957(h).  
 The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1957(i).  
 The Nigeria (Constitution) (Amendment) Order in Council, 1958(j).  
 The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1958(k).  
 The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958(l).  
 The Nigeria (Offices of Governor-General and Governors) (Amendment No. 2) Order in Council, 1958(m).  
 The Nigeria (Constitution) (Amendment No. 3) Order in Council, 1958(n).  
 The Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958(o).  
 The Nigeria (Constitution) (Amendment) Order in Council, 1959(p).  
 The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1959(q).  
 The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1959(r).  
 The Nigeria (Offices of Governor-General and Governors) (Amendment No. 2) Order in Council, 1959(s).  
 The Nigeria (Constitution) (Amendment No. 3) Order in Council, 1959(t).  
 The Nigeria (Constitution) (Amendment No. 4) Order in Council, 1959(u).  
 The Nigeria (Offices of Governor-General and Governors) (Amendment No. 3) Order in Council, 1959(a).  
 The Nigeria (Constitution) (Amendment) Order in Council, 1960(b).  
 The Nigeria (Offices of Governor-General and Governors) (Amendment) Order in Council, 1960(c).  
 The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1960(d).

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| (a) S.I. 1954/1146 (1954 II, p. 2829). | (k) S.I. 1958/430 (1958 II, p. 2749).  |
| (b) S.I. 1954/1147 (1954 II, p. 2939). | (l) S.I. 1958/1257 (1958 II, p. 2811). |
| (c) S.I. 1955/431 (1955 II, p. 3167).  | (m) S.I. 1958/1258 (1958 II, p. 2755). |
| (d) S.I. 1955/432 (1955 II, p. 3163).  | (n) S.I. 1958/1522 (1958 II, p. 2822). |
| (e) S.I. 1956/836 (1956 II, p. 2953).  | (o) S.I. 1958/1958 (1958 II, p. 2825). |
| (f) S.I. 1956/1210 (1956 II, p. 2958). | (p) S.I. 1959/368.                     |
| (g) S.I. 1957/1363 (1957 II, p. 3028). | (q) S.I. 1959/369.                     |
| (h) S.I. 1957/1530 (1957 II, p. 3030). | (r) S.I. 1959/1049.                    |
| (i) S.I. 1957/1531 (1957 II, p. 3053). | (s) S.I. 1959/1050.                    |
| (j) S.I. 1958/429 (1958 II, p. 2757).  | (t) S.I. 1959/1772.                    |
|  | (u) S.I. 1959/1981.                    |
| (a) S.I. 1959/1982.                    | (c) S.I. 1960/704.                     |
| (b) S.I. 1960/203.                     | (d) S.I. 1960/1290.                    |

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THE SECOND SCHEDULE  
THE CONSTITUTION OF THE FEDERATION OF  
NIGERIA

Section 2.

ARRANGEMENT OF SECTIONS

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THE FEDERATION AND ITS TERRITORIES

SECTION

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2. Establishment of the Federation.
3. Territories of the Federation.
4. Alteration of this Constitution.
5. Provisions relating to Regional constitutions.
6. Interpretation.

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7. Persons who become citizens on 1st October, 1960.
8. Persons entitled to be registered as citizens.
9. Persons naturalized or registered before 1st October, 1960.
10. Persons born in Nigeria after 30th September, 1960.
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12. Dual citizenship.
13. Commonwealth citizens.
14. Criminal liability of Commonwealth citizens.
15. Powers of Parliament.
16. Interpretation.

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FUNDAMENTAL RIGHTS

17. Deprivation of life.
18. Inhuman treatment.
19. Slavery, and forced labour.
20. Deprivation of personal liberty.
21. Determination of rights.
22. Private and family life.
23. Freedom of conscience.
24. Freedom of expression.
25. Peaceful assembly and association.
26. Freedom of movement.
27. Freedom from discrimination.
28. Derogations from fundamental rights.
29. Reference to tribunal in certain cases.
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31. Special jurisdiction of High Courts in relation to this Chapter.
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*Composition of Parliament*

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37. Composition of Senate.
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39. Qualifications for membership of Parliament.
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41. President of Senate.
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43. Right of attendance of Ministers.
44. Tenure of seats of members of Parliament.
45. Establishment of Electoral Commission.
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48. Determination of questions respecting membership of Parliament.
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50. Oaths to be taken by members of Parliament.
51. Presiding in Senate.
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53. Quorum in Houses of Parliament.
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55. Voting in Parliament.
56. Unqualified persons sitting or voting.
57. Mode of exercising legislative power.
58. Restrictions with regard to certain financial measures.
59. Limitation of powers of Senate.
60. Regulation of procedure in Houses of Parliament.
61. Interpretation.

## PART 3

*Summoning, prorogation and dissolution*

62. Sessions of Parliament.
63. Prorogation and dissolution of Parliament.

PART 4

*Legislative powers*

SECTION

64. Powers of Parliament to make laws.
65. Special powers of Parliament in relation to emergencies.
66. Special powers of Parliament when s. 80 of this Constitution has been contravened.
67. Powers of Parliament conferred by Regional law.
68. Powers to make grants of money, etc., for any purpose.
69. Implementation of treaties, etc.
70. Income tax and estate duty.
71. Trade and commerce.
72. Banks and banking.
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74. Authorities empowered to administer trusts and estates.
75. Exhibition of cinematograph films.
76. Exemption from Regional taxes with respect to mining.
77. Evidence.

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EXECUTIVE POWERS

78. Exercise of executive authority of Federation.
79. Extent of executive authority of Federation.
80. Executive authority of Regions.
81. Ministers of Government of Federation.
82. Establishment of Council of Ministers.
83. Collective responsibility.
84. Allocation of portfolios to Ministers.
85. Performance of functions of Prime Minister during absence or illness.
86. Exercise of Governor-General's powers.
87. Governor-General to be informed concerning matters of government.
88. Parliamentary Secretaries.
89. Oaths to be taken by Ministers, etc.
90. Permanent Secretaries.
91. Constitution of offices for Federation, etc.
92. Delegation of executive authority of Federation.
93. Delegation of executive authority of Region.
94. Prerogative of mercy.
95. Establishment of Advisory Council on Prerogative of Mercy.
96. Functions of Advisory Council.
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99. Control of Nigeria Police Force.
100. Establishment of Nigeria Police Council.
101. Functions of Nigeria Police Council.
102. Establishment of Police Service Commission.
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104. Establishment of Federal Supreme Court.
105. Appointment of Chief Justice of Federation and Federal Justices.
106. Tenure of office of Chief Justice of Federation and Federal Justices.
107. Original jurisdiction of Federal Supreme Court.
108. Questions as to interpretation of this Constitution.
109. Advisory jurisdiction of Federal Supreme Court.
110. Appeals to Federal Supreme Court from High Courts.
111. Appeals to Federal Supreme Court from other Federal courts, etc.
112. Appeals to Federal Supreme Court from Sharia Court of Appeal and Court of Resolution.
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114. Appeals from Federal Supreme Court to Her Majesty in Council.

## PART 3

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116. Appointment of judges of High Court of Lagos.
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119. Establishment of courts.
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SECTION

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141. Appointment, etc., of officers in public service.
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143. Appointment, etc., of permanent secretaries.
144. Qualifications of Director of Public Prosecutions.
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149. Powers of Public Service Commission in relation to grant of pensions, etc.

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THE SCHEDULE

THE LEGISLATIVE LISTS

PART I

*The Exclusive Legislative List*

PART II

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PART III

*Interpretation*



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CHAPTER I

THE FEDERATION AND ITS TERRITORIES

1. This Constitution shall have the force of law throughout Nigeria and, subject to the provisions of section 4 of this Constitution, if any other law (including the constitution of a Region) is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

Effect of this Constitution.

2. The Federation of Nigeria shall consist of Regions and a Federal territory.

Establishment of the Federation.

3.—(1) There shall be three Regions, that is to say, Northern Nigeria, Western Nigeria and Eastern Nigeria.

Territories of the Federation.

(2) Northern Nigeria shall comprise those parts of the former Protectorate of Nigeria that on the thirtieth day of September, 1960, were comprised in the Northern Region of Nigeria.

(3) Western Nigeria shall comprise those parts of the former Colony and Protectorate of Nigeria that on the thirtieth day of September, 1960, were comprised in the Western Region of Nigeria.

(4) Eastern Nigeria shall comprise those parts of the former Protectorate of Nigeria that on the thirtieth day of September, 1960, were comprised in the Eastern Region of Nigeria.

(5) The Federal territory shall comprise those parts of the former Colony of Nigeria that on the thirtieth day of September, 1960, were comprised in the Federal Territory of Lagos.

4.—(1) Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Nigeria) any of the provisions of the Nigeria Independence Act, 1960:

Alteration of this Constitution.

Provided that, in so far as it alters any of the provisions of this section, sections 1, 2, 5, 6, 17 to 33 inclusive, 36, 37, 38, 45, 46, 47, 57, 62 to 87 inclusive, 97 to 106 inclusive, 108, 110, 112, 114 to 118 inclusive, 120, 121, 123, 124, 127 to 141 inclusive, 145, 146, 148, 150 and the Schedule to this Constitution or (in so far as they apply to any of those provisions) sections 61 and 154 of this Constitution or any of the provisions of the Nigeria Independence Act, 1960, an Act of Parliament shall not come into operation unless each legislative house of at least two Regions has passed a resolution signifying consent to its having effect.

(2) A bill for an Act of Parliament under this section, not being an Act to which sub-section (3) of this section applies, shall not be passed in either House of Parliament unless it has been supported on second and third readings by the votes of not less than two-thirds of all the members of that House.

(3) Alterations to section 3 of this Constitution for the purpose of establishing new Regions out of other territories shall be effected only in accordance with the following procedure:—

(a) a proposal for the alteration shall be submitted to each House of Parliament and, if that proposal is approved by a resolution of each of those Houses supported by the votes of at least two-thirds of all the members of that House, the proposal shall then be submitted to the legislative houses of all the Regions; and

(b) if the proposal is approved—

(i) by a resolution of each legislative house of a majority of all the Regions; or

(ii) by a resolution of each legislative house of at least two Regions, including any Region comprising any part of Nigeria that would be transferred to the new Region under the proposal,

Parliament may provide for the alteration.

(4) Alterations to section 3 of this Constitution for the purpose of altering the boundaries of territories by the transfer of any part of one territory to another territory shall be effected only in accordance with the following procedure:—

(a) a proposal for the alteration shall be submitted to each House of Parliament and, if that proposal is approved by a resolution of each of those Houses supported by the votes of at least two-thirds of all the members of that House, the proposal shall then be submitted to the legislative houses of all the Regions; and

(b) if the proposal is approved—

(i) by a resolution of each legislative house of a majority of all the Regions, including any Region to which any part of Nigeria comprised in another territory would be transferred under the proposal; or

(ii) by a resolution of each legislative house of each Region comprising any part of Nigeria that would be transferred either to or from that Region under the proposal,

Parliament may provide for the alteration:

Provided that the procedure described in paragraphs (a) and (b) of this sub-section need not be followed if the alteration is for the purpose of transferring an area of not more than one thousand square miles inhabited by not more than one hundred thousand persons from one Region to another Region or Regions.

(5) An Act of Parliament passed for the purposes of sub-section (3) of this section or an Act of Parliament passed for the purposes of sub-section (4) of this section, being an Act to effect an alteration in respect of which the procedure described in paragraphs (a) and (b) thereof is required to be followed, shall not come into operation unless—

(a) a resolution has been passed by each legislative house of at least two Regions signifying consent to its having effect; and

(b) a referendum upon the question whether the Act should have effect has been held in pursuance of provision made in that behalf by Parliament in every part of Nigeria that would be comprised in a new Region or transferred from one territory to another, as the case may be, at which the persons entitled to vote were the persons who at the date of the referendum were entitled to vote in any constituency in that part of Nigeria established under section 46 of this Constitution and at which at least three-fifths of all the persons who were entitled to vote at the referendum voted in favour of the Act.

(6) An Act of Parliament passed for the purposes of sub-section (4) of this section, being an Act to effect an alteration in respect of which the procedure described in paragraphs (a) and (b) thereof is not required to be followed, shall not come into operation unless a resolution has been passed by each legislative house of each Region whose boundaries are affected by the Act signifying consent to its having effect.

(7) An Act of Parliament altering section 37 of this Constitution in relation to any Region in such a manner that that Region would be represented in the Senate by less than the appropriate proportion of Senators shall not come into operation unless a resolution has been passed by each legislative house of that Region signifying consent to its having effect.

(8) An Act of Parliament altering section 38, 46 or 47 of this Constitution in relation to any Region in such a manner that the number of members of the House of Representatives to be elected in that Region would be less than the appropriate proportion for that Region shall not come into operation unless a resolution has been passed by each legislative house of that Region signifying consent to its having effect.

(9) An Act of Parliament altering section 38, 46 or 47 of this Constitution in relation to the Federal territory in such a manner that the number of members of the House of Representatives to be elected in that territory would be less than the appropriate proportion for that territory shall not come into operation unless a resolution supported by a majority of the members of that House who represent that territory has been passed by each House of Parliament signifying consent to its having effect.

(10) The provisions of this Constitution or (in so far as it forms part of the law of Nigeria) the Nigeria Independence Act, 1960, shall not be altered except in accordance with the provisions of this section.

(11) "The appropriate proportion"—

(a) for the purposes of sub-section (7) of this section, means the number obtained by dividing the total number of Senators representing the Regions by the total number of Regions; and

(b) for the purposes of sub-sections (8) and (9) of this section, means, in relation to a territory, such proportion of the total number of members of the House of Representatives as corresponds most nearly to the proportion borne by the number of inhabitants of that territory to the total number of inhabitants of Nigeria.

(12) For the purposes of this section the number of inhabitants of Nigeria or a territory shall be ascertained by reference to the latest census of the population of Nigeria held in pursuance of an Act of Parliament.

5.—(1) Subject to the provisions of this Constitution and the Nigeria Independence Act, 1960, the constitution of each Region shall have the force of law throughout that Region and if any other law is inconsistent with that constitution, the provisions of that constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

Provisions relating to Regional constitutions.

(2) Subject to the provisions of this Constitution, the constitution of a Region may be altered only by a law enacted by the legislature of that Region.

(3) A bill for a law to be enacted by the legislature of a Region altering any of the provisions of the constitution of that Region shall not be passed in any legislative house of that Region unless it has been supported on second and third readings by the votes of not less than two-thirds of all the members of that legislative house and shall not be presented to the Governor of the Region for assent unless it has been passed by each legislative house of the Region.

(4) No law enacted by the legislature of a Region, to the extent that it alters any provision of the constitution of that Region to which this sub-section applies, shall have effect unless a resolution supported by the votes of at least two-thirds of all the members of that House is passed by each House of Parliament signifying consent to its having effect.

(5) Where a new Region is established out of other territories or parts of other territories, Parliament may make laws for the peace, order and good government of that Region with respect to matters not included in the Legislative Lists (including provision for the constitution of that Region) for a period of six months after the establishment of that Region but thereafter Parliament shall have only such powers to make laws for that Region as it has in relation to the other Regions:

Provided that nothing in this section shall preclude the legislature of that Region from making laws in accordance with the provisions of this Constitution and the constitution of the Region.

(6) Sub-section (4) of this section applies to any provision of the constitution of a Region relating to—

- (a) the establishment of any of the following, that is to say, the office of Governor, a legislative house, a legislature, an executive council, the office of any Minister of the

Government, a High Court, an electoral commission, a public service commission, a judicial service commission, the office of a Director of Audit and the office of a Director of Public Prosecutions;

- (b) the manner in which the Governor's functions are to be exercised;
- (c) the appointment, tenure of office and the terms of service of any of the following, that is to say, the Governor, the judges of the High Court, the members of the commissions referred to in paragraph (a) of this sub-section, the Director of Audit and the Director of Public Prosecutions;
- (d) the functions of any of the following, that is to say, the executive council, the commissions referred to in paragraph (a) of this sub-section, the Director of Audit and the Director of Public Prosecutions;
- (e) the appointment and tenure of office of Ministers of the Government and the allocation of portfolios;
- (f) the summoning, sessions, prorogation and dissolution of the legislative houses;
- (g) the establishment of a Consolidated Revenue Fund and other public funds, the authorization of expenditure therefrom and the imposition of charges upon any public fund or upon the revenues and assets of the Region;
- (h) appeals to the High Court from subordinate courts; and
- (i) the procedure of the commissions referred to in paragraph (a) of this sub-section.

Interpretation.

6. In this Chapter—

- (a) references to any of the provisions of this Constitution, the Nigeria Independence Act, 1960, or the constitution of a Region include references to any law, or instrument made under a law, that amends, modifies, re-enacts with or without amendment or modification or makes different provision in lieu of, that provision; and
- (b) references to the alteration of any of the provisions of this Constitution, the Nigeria Independence Act, 1960, or the constitution of a Region include references to the

amendment, modification or re-enactment, with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of different provision in lieu of that provision.

## CHAPTER II

### CITIZENSHIP

7.—(1) Every person who, having been born in the former Colony or Protectorate of Nigeria, was on the thirtieth day of September, 1960, a citizen of the United Kingdom and Colonies or a British protected person shall become a citizen of Nigeria on the first day of October, 1960:

Persons who become citizens on 1st October, 1960.

Provided that a person shall not become a citizen of Nigeria by virtue of this sub-section if neither of his parents nor any of his grandparents was born in the former Colony or Protectorate of Nigeria.

(2) Every person who, having been born outside the former Colony and Protectorate of Nigeria, was on the thirtieth day of September, 1960, a citizen of the United Kingdom and Colonies or a British protected person shall, if his father was born in the former Colony or Protectorate and was a citizen of the United Kingdom and Colonies or a British protected person on the thirtieth day of September, 1960, (or, if he died before that date, was such a citizen or person at the date of his death or would have become such a citizen or person but for his death) become a citizen of Nigeria on the first day of October, 1960.

8.—(1) Any person who, but for the proviso to sub-section (1) of section 7 of this Constitution, would be a citizen of Nigeria by virtue of that sub-section shall be entitled, upon making application before the first day of October, 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria:

Persons entitled to be registered as citizens.

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make an application under this sub-section himself but an application may be made on his behalf by his parent or guardian.

(2) Any woman, who on the thirtieth day of September, 1960, was a citizen of the United Kingdom and Colonies or a British protected person and who is or has been married to a person—

- (a) who becomes a citizen of Nigeria by virtue of section 7 of this Constitution; or
- (b) who, having died before the first day of October, 1960, would, but for his death, have become a citizen of Nigeria by virtue of that section,

shall be entitled, upon making application in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

(3) Any woman who is or has been married to a person who becomes a citizen of Nigeria by registration under sub-section (1) of this section and is at the date of such registration a citizen of the United Kingdom and Colonies or a British protected person shall be entitled, upon making application within such time and in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

(4) Any woman who on the thirtieth day of September, 1960, was a citizen of the United Kingdom and Colonies or a British protected person and who has been married to a person who, having died before the first day of October, 1960, would, but for his death, be entitled to be registered as a citizen of Nigeria under sub-section (1) of this section, shall be entitled, upon making application before the first day of October, 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

(5) The provisions of sub-sections (2), (3) and (4) of this section shall be without prejudice to the provisions of section 7 of this Constitution.

9. Any person who on the thirtieth day of September, 1960, was a citizen of the United Kingdom and Colonies—

- (a) having become such a citizen under the British Nationality Act, 1948(a), by virtue of his having been naturalized in the former Colony or Protectorate of Nigeria as a British subject before that Act came into force; or

Persons  
naturalized  
or registered  
before  
1st October,  
1960.

(a) 11 and 12 Geo. 6. c. 56.

- (b) having become such a citizen by virtue of his having been naturalized or registered in the former Colony or Protectorate of Nigeria under that Act,

shall be entitled, upon making application before the first day of October, 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make an application under this sub-section himself but an application may be made on his behalf by his parent or guardian.

10. Every person born in Nigeria after the thirtieth day of September, 1960, shall become a citizen of Nigeria at the date of his birth:

Persons born in Nigeria after 30th September, 1960.

Provided that a person shall not become a citizen of Nigeria by virtue of this section if at the time of his birth—

- (a) neither of his parents was a citizen of Nigeria and his father possessed such immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power accredited to the Federation; or
- (b) his father was an enemy alien and the birth occurred in a place then under occupation by the enemy.

11. A person born outside Nigeria after the thirtieth day of September, 1960, shall become a citizen of Nigeria at the date of his birth if at that date his father is a citizen of Nigeria otherwise than by virtue of this section or sub-section (2) of section 7 of this Constitution.

Persons born outside Nigeria after 30th September, 1960.

12. Any person who, upon his attainment of the age of twenty-one years, was a citizen of Nigeria and also a citizen of some country other than Nigeria shall cease to be a citizen of Nigeria upon his attainment of the age of twenty-two years (or, in the case of a person of unsound mind, at such later date as may be prescribed by Parliament) unless he has renounced his citizenship of that other country, taken the oath of allegiance and, in the case

Dual citizenship.

of a person who is a citizen of Nigeria by virtue of sub-section (2) of section 7 of this Constitution, has made such declaration of his intentions concerning residence or employment as may be prescribed by Parliament:

Provided that where a person cannot renounce his citizenship of the other country under the law of that country he may instead make such declaration concerning that citizenship as may be prescribed by Parliament.

Common-  
wealth  
citizens.

13.—(1) Every person who under this Constitution or any Act of Parliament is a citizen of Nigeria or under any enactment for the time being in force in any country to which this section applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.

(2) Every person who is a British subject without citizenship under the British Nationality Act, 1948, or who continues to be a British subject under section 2 of that Act shall by virtue of that status have the status of a Commonwealth citizen.

(3) The countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan, the Federation of Rhodesia and Nyasaland, Ceylon, Ghana, the Federation of Malaya, the State of Singapore and such other countries as may be prescribed by Parliament.

Criminal  
liability of  
Common-  
wealth  
citizens.

14.—(1) A Commonwealth citizen who is not a citizen of Nigeria or a citizen of the Republic of Ireland who is not a citizen of Nigeria shall not be guilty of an offence against any law in force in Nigeria by reason of anything done or omitted in any part of the Commonwealth other than Nigeria or in the Republic of Ireland or in any foreign country unless—

(a) the act or omission would be an offence if he were an alien; and

(b) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done or the omission made were a foreign country.

(2) In this section "foreign country" means a country (other than the Republic of Ireland) that is not part of the Commonwealth.

15. Parliament may make provision—

Powers of  
Parliament.

- (a) for the acquisition of citizenship of Nigeria by persons who do not become citizens of Nigeria by virtue of the provisions of this Chapter;
- (b) for depriving of his citizenship of Nigeria any person who is a citizen of Nigeria otherwise than by virtue of subsection (1) of section 7 or section 10 of this Constitution; or
- (c) for the renunciation by any person of his citizenship of Nigeria.

16.—(1) In this Chapter—

Interpreta-  
tion.

“alien” means a person who is not a citizen of Nigeria, a Commonwealth citizen other than a citizen of Nigeria, a British protected person or a citizen of the Republic of Ireland;

“British protected person” means a person who is a British protected person for the purposes of the British Nationality Act, 1948.

(2) For the purposes of this Chapter a person born in a ship or aircraft registered in Nigeria or belonging to the Government of the Federation shall be deemed to have been born in Nigeria.

(3) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of his father's death; and where that death occurred before the first day of October, 1960, and the birth occurred after the thirtieth day of September, 1960, the national status that the father would have had if he had died on the first day of October, 1960, shall be deemed to be his national status at the time of his death.

### CHAPTER III

#### FUNDAMENTAL RIGHTS

17.—(1) No person shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty.

Deprivation  
of life.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable—

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect an arrest or to prevent the escape of a person detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission by that person of a criminal offence.

(3) The use of force in any part of Nigeria in circumstances in which and to the extent to which it would have been authorized in that part on the first day of November, 1959, by the Code of Criminal Law established by the Criminal Code Ordinance<sup>(a)</sup>, as amended, shall be regarded as reasonably justifiable for the purposes of this section.

Inhuman  
treatment.

18.—(1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing in this section shall invalidate any law by reason only that it authorizes the infliction in any part of Nigeria of any punishment that was lawful and customary in that part on the first day of November, 1959.

Slavery and  
forced  
labour.

19.—(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section "forced labour" does not include—

- (a) any labour required in consequence of the sentence or order of a court;
- (b) any labour required of members of the armed forces of the Crown in pursuance of their duties as such or, in the case of persons who have conscientious objections to service in the armed forces, any labour required instead of such service;

(a) Laws of Nigeria, Rev. 1948, Chapter 42.

- (c) any labour required in the event of an emergency or calamity threatening the life or well-being of the community; or
- (d) any labour that forms part of normal communal or other civil obligations.

20.—(1) No person shall be deprived of his personal liberty save in the following cases and in accordance with a procedure permitted by law:—

Deprivation  
of personal  
liberty.

- (a) in consequence of his unfitness to plead to a criminal charge, in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty or in the execution of the order of a court of record punishing him for contempt of itself;
- (b) by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;
- (c) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence or to such extent as may be reasonably necessary to prevent his committing a criminal offence;
- (d) in the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare;
- (e) in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or
- (f) for the purpose of preventing the unlawful entry of any person into Nigeria or for the purpose of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto.

(2) Any person who is arrested or detained shall be promptly informed, in language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained in accordance with paragraph (c) of sub-section (1) of this section shall be brought before a court without undue delay and if he is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.

(4) Any person who is unlawfully arrested or detained shall be entitled to compensation.

(5) Nothing in this section shall invalidate any law by reason only that it authorizes the detention for a period not exceeding three months of a member of the armed forces of the Crown or a member of a police force in execution of a sentence imposed by an officer of the armed forces of the Crown or a police force, as the case may be, in respect of an offence punishable by such detention of which he has been found guilty.

Determina-  
tion of  
rights.

21.—(1) In the determination of his civil rights and obligations a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality:

Provided that nothing in this sub-section shall invalidate any law by reason only that it confers on any person or authority power to determine questions arising in the administration of a law that affect or may affect the civil rights and obligations of any person.

(2) Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing within a reasonable time by a court.

(3) The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in sub-section (1) of this section (including the announcement of the decisions of the court or tribunal) shall be held in public:

Provided that—

(a) a court or such a tribunal may exclude from its proceedings persons other than the parties thereto in the interests of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of

twenty-one years, the protection of the private lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interests of justice; and

- (b) if in any proceedings before a court or such a tribunal a Minister of the Government of the Federation or a Minister of the Government of a Region certifies that it would not be in the public interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard *in camera* and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.

(4) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty:

Provided that nothing in this section shall invalidate any law by reason only that the law imposes upon any such person the burden of proving particular facts.

(5) Every person who is charged with a criminal offence shall be entitled—

- (a) to be informed promptly, in language that he understands and in detail, of the nature of the offence;
- (b) to be given adequate time and facilities for the preparation of his defence;
- (c) to defend himself in person or by legal representatives of his own choice;
- (d) to examine in person or by his legal representatives the witnesses called by the prosecution before any court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to the witnesses called by the prosecution; and
- (e) to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence:

Provided that nothing in this sub-section shall invalidate any law by reason only that the law prohibits legal representation in a court established by or under the Native Courts Law, 1956, the

Sharia Court of Appeal Law, 1960, or the Court of Resolution Law, 1960, of Northern Nigeria(a), the Customary Courts Law, 1957, of Western Nigeria(b), or the Customary Courts Law, 1956, of Eastern Nigeria(c), as amended, or any law replacing any of those laws.

(6) When any person is tried for any criminal offence, the court shall keep a record of the proceedings and the accused person or any person authorized by him in that behalf shall be entitled to obtain copies of the record within a reasonable time upon payment of such fee as may be prescribed by law.

(7) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.

(8) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for a criminal offence having the same ingredients as that offence save upon the order of a superior court; and no person who shows that he has been pardoned for a criminal offence shall again be tried for that offence.

(9) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(10) No person shall be convicted of a criminal offence unless that offence is defined and the penalty therefor is prescribed in a written law:

Provided that nothing in this sub-section shall prevent a court of record from punishing any person for contempt of itself notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty therefor is not so prescribed.

Private and family life.

22.—(1) Every person shall be entitled to respect for his private and family life, his home and his correspondence.

(a) Laws No. 6 of 1956 and Nos. 16 and 17 of 1960.

(b) Law No. 26 of 1957.

(c) Law No. 21 of 1956.

(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society—

- (a) in the interest of defence, public safety, public order, public morality, public health or the economic well-being of the community; or
- (b) for the purpose of protecting the rights and freedom of other persons.

23.—(1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief and freedom, either alone or in community with others, and in public or in private to manifest and propagate his religion or belief in worship, teaching, practice and observance. Freedom of conscience.

(2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observances if such instruction, ceremony or observances relate to a religion other than his own.

(3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.

(4) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society—

- (a) in the interest of defence, public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights and freedom of other persons, including their rights and freedom to observe and practise their religions without the unsolicited intervention of members of other religions.

24.—(1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference. Freedom of expression.

(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society—

- (a) in the interest of defence, public safety, public order, public morality or public health;

- (b) for the purpose of protecting the rights, reputations and freedom of other persons preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating telephony, wireless broadcasting, television, or the exhibition of cinematograph films; or
- (c) imposing restrictions upon persons holding office under the Crown, members of the armed forces of the Crown or members of a police force.

Peaceful  
assembly and  
association.

25.—(1) Every person shall be entitled to assemble freely and associate with other persons and in particular he may form or belong to trade unions and other associations for the protection of his interests.

(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society—

- (a) in the interest of defence, public safety, public order, public morality or public health;
- (b) for the purpose of protecting the rights and freedoms of other persons; or
- (c) imposing restrictions upon persons holding office under the Crown, members of the armed forces of the Crown or members of a police force.

Freedom of  
movement.

26.—(1) Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof; and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto.

(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society—

- (a) restricting the movement or residence of any person within Nigeria in the interest of defence, public safety, public order, public morality or public health;
- (b) for the removal of persons from Nigeria to be tried outside Nigeria for criminal offences or to undergo imprisonment outside Nigeria in execution of the sentences of courts in respect of criminal offences of which they have been found guilty;

(c) imposing restrictions upon the movement or residence within Nigeria of members of the public service of the Federation or the public service of a Region, members of the armed forces of the Crown or members of a police force.

(3) Nothing in this section shall invalidate any law by reason only that the law imposes restrictions with respect to the acquisition or use by any person of land or other property in Nigeria or any part thereof.

27.—(1) A citizen of Nigeria of a particular community, tribe, place of origin, religion or political opinion shall not, by reason only that he is such a person—

Freedom  
from dis-  
crimination.

(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the Government of the Federation or the Government of a Region to disabilities or restrictions to which citizens of Nigeria of other communities, tribes, places of origin, religions or political opinions are not made subject; or

(b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action any privilege or advantage that is not conferred on citizens of Nigeria of other communities, tribes, places of origin, religions or political opinions.

(2) Nothing in this section shall invalidate any law by reason only that the law—

(a) prescribes qualifications for service in an office under the Crown or as a member of the armed forces of the Crown or a member of a police force or for the service of a body corporate established directly by any law in force in Nigeria;

(b) imposes restrictions with respect to the appointment of any person to an office under the Crown or as a member of the armed forces of the Crown or a member of a police force or to an office in the service of a body corporate established directly by any law in force in Nigeria;

- (c) imposes restrictions with respect to the acquisition or use by any person of land or other property; or
- (d) imposes any disability or restriction or accords any privilege or advantage that, having regard to its nature and to special circumstances pertaining to the persons to whom it applies, is reasonably justifiable in a democratic society.

Derogations  
from  
fundamental  
rights.

28.—(1) An Act of Parliament shall not be invalid by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 17, 20, 21 or 27 of this Constitution but no such measures shall be taken in pursuance of any such Act during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency:

Provided that nothing in this section shall authorize any derogation from the provisions of section 17 of this Constitution except in respect of deaths resulting from acts of war or any derogation from the provisions of sub-section (7) of section 21 of this Constitution.

(2) In this section "period of emergency" means a period of emergency for the purposes of section 65 of this Constitution.

Reference to  
tribunal in  
certain cases.

29.—(1) Where—

- (a) any person is detained in pursuance of an Act of Parliament derogating from the provisions of section 20 of this Constitution; or
- (b) the movement or residence of any person within Nigeria who is a citizen of Nigeria is lawfully restricted (otherwise than by order of a court) in the interest of defence, public safety, public order, public morality or public health,

that person shall be entitled to require that his case should be referred within one month of the beginning of the period of detention or restriction and thereafter during that period at intervals of not more than six months to a tribunal established by law and

that tribunal may make recommendations concerning the necessity or expediency of continuing the detention or restriction to the authority that has ordered it:

Provided that such authority, unless it is otherwise provided by law, shall not be obliged to act in accordance with any such recommendation.

(2) A tribunal established for the purposes of this section shall be constituted in such manner as to ensure its independence and impartiality and its chairman shall be appointed by the Chief Justice of the Federation from among the persons qualified to practise in Nigeria as advocates or solicitors.

30.—(1) No property, movable or immovable, shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except by or under the provisions of a law that—

Compulsory acquisition of property.

- (a) requires the payment of adequate compensation therefor; and
- (b) gives to any person claiming such compensation a right of access, for the determination of his interest in the property and the amount of compensation, to the High Court having jurisdiction in that part of Nigeria.

(2) Nothing in this section shall affect the operation of any law in force on the thirty-first day of March, 1958, or any law made after that date that amends or replaces any such law and does not—

- (a) add to the kinds of property that may be taken possession of or the rights over and interests in property that may be acquired;
- (b) add to the purposes for which or circumstances in which such property may be taken possession of or acquired;
- (c) make the conditions governing entitlement to any compensation or the amount thereof less favourable to any person owning or interested in the property; or
- (d) deprive any person of any such right as is mentioned in paragraph (b) of sub-section (1) of this section.

- (3) Nothing in this section shall be construed as affecting any general law—
- (a) for the imposition or enforcement of any tax, rate or due;
  - (b) for the imposition of penalties or forfeitures for breach of the law, whether under civil process or after conviction of an offence;
  - (c) relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising out of contracts;
  - (d) relating to the vesting and administration of the property of persons adjudged or otherwise declared bankrupt or insolvent, of persons of unsound mind, of deceased persons and of companies, other bodies corporate and unincorporate societies in the course of being wound up;
  - (e) relating to the execution of judgments or orders of courts;
  - (f) providing for the taking of possession of property that is in a dangerous state or is injurious to the health of human beings, plants or animals;
  - (g) relating to enemy property;
  - (h) relating to trusts and trustees;
  - (i) relating to the limitation of actions;
  - (j) relating to property vested in bodies corporate directly established by any law in force in Nigeria;
  - (k) relating to the temporary taking of possession of property for the purposes of any examination, investigation or enquiry; or
  - (l) providing for the carrying out of work on land for the purpose of soil-conservation.

(4) The provisions of this section shall apply in relation to the compulsory taking of possession of property, movable or immovable, and the compulsory acquisition of rights over and interests in such property by or on behalf of the Crown.

Special  
jurisdiction  
of High  
Courts in  
relation to  
this  
Chapter.

31.—(1) Any person who alleges that any of the provisions of this Chapter has been contravened in any territory in relation to him may apply to the High Court of that territory for redress.

(2) Subject to the provisions of section 108 of this Constitution, the High Court of a territory shall have original jurisdiction to hear and determine any application made to it in pursuance of

this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement, within that territory of any rights to which the person who makes the application may be entitled under this Chapter.

(3) Parliament may make provision with respect to the practice and procedure of the High Courts of the territories for the purposes of this section and may confer upon those courts such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling those courts more effectively to exercise the jurisdiction conferred upon them by this section.

° 32. In this Chapter, unless it is otherwise expressly provided or required by the context— Inter-pretation.

“court” means any court of law in Nigeria (other than a court-martial) and includes Her Majesty in Council:

Provided that, in relation to a member of the armed forces of the Crown, it also includes a court-martial;

“law” includes an unwritten rule of law;

“member of the armed forces of the Crown” includes any person who is subject to naval, military or air-force law;

“member of a police force” includes a person who is subject to any law relating to the discipline of a police force.

## CHAPTER IV

### THE GOVERNOR-GENERAL

33.—(1) There shall be a Governor-General and Commander-in-Chief of the Federation, who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in the Federation. Establishment of office of Governor-General.

(2) The Prime Minister shall consult the Premier of each Region before tendering any advice to Her Majesty for the purposes of this section.

34. A person appointed to the office of Governor-General shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament. Oaths to be taken by Governor-General.

Discharge of  
Governor-  
General's  
functions  
during  
vacancy,  
etc.

35. Whenever the office of Governor-General is vacant or the holder of the office is absent from Nigeria or is for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as Her Majesty may appoint or, if there is no person in Nigeria so appointed and able to perform those functions, by the Chief Justice of the Federation:

Provided that nothing in this section shall preclude the Governor-General from performing any of those functions at any time when he is absent from Nigeria.

## CHAPTER V

### PARLIAMENT

#### PART I

#### *Composition of Parliament*

Establish-  
ment of  
Parliament.

36. There shall be a Parliament of the Federation, which shall consist of Her Majesty, a Senate and a House of Representatives.

Composition  
of Senate.

37.—(1) The Senate shall consist of—

- (a) twelve Senators representing each Region, who shall be selected at a joint sitting of the legislative houses of that Region from among persons nominated by the Governor;
- (b) four Senators representing the Federal territory; and
- (c) four Senators selected by the Governor-General, acting in accordance with the advice of the Prime Minister.

(2) The Senators representing the Federal territory shall be—

- (a) the Oba of Lagos, who shall be an *ex officio* member of the Senate;
- (b) a Chief selected in such manner as may be prescribed by Parliament by the White-Cap Chiefs and War Chiefs of Lagos from among their own number; and
- (c) two other persons selected for that purpose in such manner as may be prescribed by Parliament.

(3) A joint sitting of the legislative houses of a Region may regulate its own procedure for the purposes of this section.

38. The House of Representatives shall consist of three hundred and five members.

Composition of House of Representatives.

39. Subject to the provisions of section 40 of this Constitution—

Qualifications for membership of Parliament.

- (a) a person shall be qualified for selection as a Senator representing a territory if he is a citizen of Nigeria and has attained the age of forty years;
- (b) a person shall be qualified for selection as a Senator by the Governor-General (whether or not he is a citizen of Nigeria) if he has attained the age of twenty-one years; and
- (c) a person shall be qualified for election as a member of the House of Representatives if he is a citizen of Nigeria and has attained the age of twenty-one years and, in the case of a person who stands for election in Northern Nigeria, is a male person.

40.—(1) No person shall be qualified for selection as a Senator or election to the House of Representatives—

Disqualifications for membership of Parliament, etc.

- (a) save for the purposes of selection as a Senator by the Governor-General, if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country;
- (b) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;
- (c) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
- (d) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria;
- (e) save as otherwise provided by Parliament, if he is a member of the public service of the Federation or the public service of a Region, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown; or

(f) if he is an *ex officio* member of the Senate or a legislative house of a Region.

(2) Parliament may provide that a person shall not be qualified for selection as a Senator or election to the House of Representatives for such period (not exceeding five years) as may be prescribed if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a House of Parliament or a legislative house of a Region as may be prescribed.

(3) Parliament may provide that a person disqualified under paragraph (c) of sub-section (1) of this section by reason of his being under a sentence of imprisonment exceeding six months for any such offence (being an offence that appears to Parliament to involve dishonesty) as may be prescribed or by reason of his being under sentences of imprisonment that include such a sentence for any such offence shall not be qualified for selection as a Senator or election to the House of Representatives for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be prescribed.

(4) Parliament may provide that a person who is the holder of any office the functions of which involve responsibility for, or in connection with, the conduct of any election to the House of Representatives or the compilation of any register of voters for the purposes of such an election shall not be qualified for election to that House.

(5) Parliament may, in order to permit any person who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of sub-section (1) of this section until such time as may be prescribed.

(6) For the purposes of paragraph (c) of sub-section (1) of this section two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(7) For the purposes of paragraph (e) of sub-section (1) of this section—

- (a) a person shall not be regarded as holding an office of emolument under the Crown by reason only that he is in receipt of a pension or other like benefit in respect of service in an office under the Crown; and
- (b) the office of the President or the Deputy President of the Senate, a Senator, the Speaker or the Deputy Speaker of the House of Representatives, a member of the House of Representatives, a Minister of the Government of the Federation, a Parliamentary Secretary to such a Minister, a member of the Council of Ministers, the President, the Speaker, the Deputy President or the Deputy Speaker of a legislative house of a Region, a member of such a legislative house, a Minister of the Government of a Region, a Parliamentary Secretary to such a Minister, a member of the Executive Council of a Region, a member of the Council of Chiefs of Northern Nigeria, a member of the Minority Council of a Minority Area in Western Nigeria or Eastern Nigeria or a member of any such body corporate as is referred to in the proviso to sub-section (10) of this section shall not be regarded as an office of emolument under the Crown.

(8) Save as otherwise provided by Parliament, a person shall not be regarded as disqualified for selection as a Senator or election as a member of the House of Representatives under paragraph (e) of sub-section (1) of this section by reason only that he holds office as a member of a statutory corporation.

(9) If any person who holds the office of a member of any statutory corporation is selected as a Senator or elected as a member of the House of Representatives he shall, unless it is otherwise provided by Parliament, thereupon cease to hold office as a member of that corporation.

(10) In this section "statutory corporation" means any body corporate established directly by any law in force in Nigeria:

Provided that it does not include any body corporate established by or under the Native Authority Law, 1954, of Northern Nigeria(a), the Western Region Local Government Law, 1952,

(a) Law No. 4 of 1954.

or the Local Government Law, 1957, of Western Nigeria(b) or the Eastern Region Local Government Law, 1960, of Eastern Nigeria(c), as amended, or any law replacing any of those laws.

President  
of Senate.

41.—(1) There shall be a President of the Senate, who shall be elected by the members of the Senate.

(2) No person shall be elected as President of the Senate unless he is a Senator or a person who is qualified for selection as a Senator.

(3) The President of the Senate shall vacate his office—

(a) if, having been elected from among the Senators, he ceases to be a Senator otherwise than by reason of a dissolution of Parliament;

(b) if, having been elected from outside the Senate, any circumstances arise (other than a dissolution of Parliament) that if he were a Senator would cause him to vacate his seat as such;

(c) when the Senate first sits after any dissolution of Parliament;

(d) if he becomes a Minister of the Government of the Federation or a Parliamentary Secretary to such a Minister; or

(e) if he is removed from office by a resolution of the Senate supported by the votes of two-thirds of all the members of that House.

(4) No business shall be transacted in the Senate (other than an election to the office of President) at any time when the office of President is vacant.

Speaker of  
House of  
Representatives.

42.—(1) There shall be a Speaker of the House of Representatives, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Representatives unless he is a member of the House or a person who is qualified for election in some part of Nigeria as a member of the House.

(b) Laws No. 1 of 1953 and 12 of 1957. (c) Law No. 17 of 1960.

(3) The Speaker of the House of Representatives shall vacate his office—

- (a) if, having been elected from among the members of the House, he ceases to be a member otherwise than by reason of a dissolution of Parliament;
- (b) if, having been elected from outside the House, any circumstances arise (other than a dissolution of Parliament) that if he were a member of the House would cause him to vacate his seat as such;
- (c) when the House first sits after any dissolution of Parliament;
- (d) if he becomes a Minister of the Government of the Federation or a Parliamentary Secretary to such a Minister; or
- (e) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Representatives (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.

43.—(1) A Minister of the Government of the Federation may attend and take part in the proceedings of either House of Parliament notwithstanding that he is not a member of that House.

Right of attendance of Ministers.

(2) Nothing in this section shall entitle any person who is not a member of a House of Parliament to vote in that House or any of its committees.

44.—(1) A Senator (other than the Oba of Lagos) or a member of the House of Representatives shall vacate his seat in the House of which he is a member—

Tenure of seats of members of Parliament.

- (a) if he becomes a member of the other House of Parliament or a legislative house of a Region;
- (b) if any other circumstances arise that, if he were not a member of that House, would cause him to be disqualified for selection or election as such under sub-section (1) or (2) of section 40 of this Constitution;

- (c) if he ceases to be a citizen of Nigeria;
- (d) if he becomes a Minister of the Government of a Region;
- (e) save as otherwise provided by Parliament, if he becomes a member of any statutory corporation; or
- (f) if he is absent from two consecutive meetings of the House and the President or Speaker of the House does not, by writing under his hand, excuse his absence within one month after the end of the second meeting.

(2) Parliament may, in order to permit any Senator or member of the House of Representatives who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of this section until such time as may be prescribed.

(3) In this section the expression "statutory corporation" has the meaning assigned to it for the purposes of section 40 of this Constitution.

Establishment of Electoral Commission.

45.—(1) There shall be an Electoral Commission for the Federation.

(2) The members of the Electoral Commission of the Federation shall be—

(a) a Chief Electoral Commissioner, who shall be chairman; and

(b) a member representing each territory.

(3) The members of the Electoral Commission of the Federation shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(4) Before tendering any advice for the purposes of this section in relation to the appointment of the member of the Electoral Commission of the Federation representing a Region, the Prime Minister shall consult the Premier of that Region.

(5) A person shall not be qualified to hold the office of a member of the Electoral Commission of the Federation if he is a member of either House of Parliament, a member of a legislative

house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or a member of the public service of the Federation or the public service of a Region.

(6) Subject to the provisions of this section, a member of the Electoral Commission of the Federation shall vacate his office—

- (a) at the expiration of five years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(7) A member of the Electoral Commission of the Federation may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(8) A member of the Electoral Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

(9) In the exercise of its functions under this Constitution the Electoral Commission of the Federation shall not be subject to the direction or control of any other person or authority.

46.—(1) Nigeria shall be divided into as many constituencies as there are members of the House of Representatives in such manner as the competent authority, acting with the approval of each House of Parliament signified by resolution, may prescribe.

Constituencies.

(2) No constituency shall form part of more than one territory and the boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, the distribution of different communities and the boundaries of the territories.

(3) The competent authority shall review the division of Nigeria into constituencies at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review:

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any amendment to section 3 or 38 of this Constitution or any provision replacing either of those sections or by reason of the holding of a census of the population of Nigeria in pursuance of an Act of Parliament.

(4) Where the boundaries of any constituency established under this section are altered in accordance with the provisions of this section, that alteration shall come into effect upon the next dissolution of Parliament after the alteration has been approved by both Houses of Parliament.

(5) In this section "population quota" means the number obtained by dividing the number of the inhabitants of Nigeria by the number of constituencies into which Nigeria is divided under this section.

(6) For the purposes of this section the number of inhabitants of Nigeria or any part thereof shall be ascertained by reference to the latest census of the population of Nigeria held in pursuance of an Act of Parliament.

(7) In this section "the competent authority" means the Electoral Commission of the Federation or such other authority consisting of a chairman appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, and of members appointed in like manner to represent the territories (each territory being equally represented) as may be established in that behalf by Parliament.

#### Elections.

47.—(1) Every constituency established under section 46 of this Constitution shall return to the House of Representatives one member who shall be directly elected in such manner as may be prescribed by Parliament.

(2) The registration of voters and the conduct of elections shall be subject to the direction and supervision of the Electoral Commission of the Federation.

#### Determination of questions respecting membership of Parliament.

48.—(1) Subject to the provisions of section 108 of this Constitution, the competent High Court shall have original jurisdiction to hear and determine any question whether—

- (a) any person has been validly selected as a Senator or elected as a member of the House of Representatives; or

(b) the seat in the Senate of a Senator or the seat in the House of Representatives of a member of that House has become vacant.

(2) Parliament may make provision with respect to—

(a) the persons who may apply to the competent High Court for the determination of any question under this section;

(b) the circumstances and manner in which, and the conditions upon which, any such application may be made; and

(c) the powers, practice and procedure of the competent High Court in relation to any such application.

(3) In this section "the competent High Court" means, in relation to a person who has been selected as a Senator to represent a Region or elected a member of the House of Representatives in a Region, the High Court of that Region and, in relation to any other person, the High Court of the Federal territory.

49.—(1) There shall be a Clerk to the Senate and a Clerk to the House of Representatives:

Clerks to Houses of Parliament and their staffs.

Provided that the offices of Clerk to the Senate and Clerk to the House of Representatives may be held by the same person.

(2) Subject to the provisions of any Act of Parliament, the office of the Clerk of each House of Parliament and the members of his staff shall be offices in the public service of the Federation.

## PART 2

### *Procedure in Parliament*

50.—(1) Every member of either House of Parliament shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance but a member may before taking that oath take part in the election of a President of the Senate or a Speaker of the House of Representatives, as the case may be:

Oaths to be taken by members of Parliament.

Provided that if a House of Parliament is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of a territory.

(2) Any person elected to the office of President of the Senate who is not a Senator and any person elected to the office of Speaker of the House of Representatives who is not a member of that House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the Senate or the House of Representatives, as the case may be.

Presiding in  
Senate.

51.—(1) There shall preside at any sitting of the Senate—

- (a) the President; or
- (b) in the absence of the President, the Deputy President; or
- (c) in the absence of the President and the Deputy President, such Senator as the Senate may elect for that purpose.

(2) The Senate may from time to time elect a Senator to be Deputy President and any person so elected shall hold office as such until he ceases to be a Senator or is removed from office by the Senate.

Presiding in  
House of  
Representatives.

52.—(1) There shall preside at any sitting of the House of Representatives—

- (a) the Speaker; or
- (b) in the absence of the Speaker, the Deputy Speaker; or
- (c) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Representatives may from time to time elect a member of the House to be Deputy Speaker and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

Quorum in  
Houses of  
Parliament.

53. If objection is taken by any member of a House of Parliament present that there are present in that House (besides the person presiding) fewer than one-sixth of all the members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

Use of  
English in  
Parliament.

54. The business of Parliament shall be conducted in English.

55.—(1) Any question proposed for decision in a House of Parliament shall be determined by the required majority of the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

Voting in  
Parliament.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a House of Parliament may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

56. Any person who sits or votes in either House of Parliament knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by Parliament for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of Lagos at the suit of the Attorney-General of the Federation.

Unqualified  
persons  
sitting or  
voting.

57.—(1) The power of Parliament to make laws shall be exercised by bills passed by both Houses (or in the cases mentioned in section 59 of this Constitution the House of Representatives) and assented to by the Governor-General on behalf of Her Majesty.

Mode of  
exercising  
legislative  
power.

(2) A bill other than a money bill may originate in either House of Parliament but a money bill may originate only in the House of Representatives.

(3) When a bill has been passed by the House of Parliament in which it originated, it shall be sent to the other House; and it shall be presented to the Governor-General for assent—

(a) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it; or

(b) when it is required to be so presented under section 59 of this Constitution.

(4) When a bill is presented to the Governor-General for assent, he shall signify that he assents or that he withholds assent.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

Restrictions  
with regard  
to certain  
financial  
measures.

58.—(1) The Senate shall not—

(a) proceed upon any bill, other than a bill sent from the House of Representatives, that, in the opinion of the person presiding, makes provision for any of the following purposes:—

(i) for the imposition, repeal or alteration of taxation;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Federation;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Federation of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Federation;

(b) proceed upon any amendment to any bill that in the opinion of the person presiding makes provision for any of those purposes;

(c) proceed upon any motion (including any amendment to a motion), the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(d) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

(2) Except upon the recommendation of the Governor-General signified by a Minister of the Government of the Federation, the House of Representatives shall not—

(a) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes:—

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Federation or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Federation of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Federation;

- (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or
- (c) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

59.—(1) Where a money bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is so sent, the bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor-General for his assent.

Limitation  
of powers  
of Senate.

(2) Where—

- (a) a bill that is not a money bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate before the end of the session or is passed by the Senate with amendments to which the House of Representatives does not before the end of the session agree; and
- (b) in the following session (whether of the same Parliament or not) but not earlier than six months after it was first passed by the House of Representatives the same bill, with no other alterations than those mentioned in subsection (4) of this section, is passed again by the House of Representatives and sent to the Senate at least one month

before the end of the session and is not passed by the Senate before the end of the session or is passed by the Senate with amendments to which the House of Representatives does not before the end of the session agree,

the bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor-General for his assent with such amendments, if any, as may have been agreed to by both Houses.

(3) The House of Representatives may, on the passage of a bill for the purposes of paragraph (b) of sub-section (2) of this section, suggest any amendments without inserting the amendments in the bill and any such suggested amendments shall be considered by the Senate and, if agreed to by the Senate, shall be treated as amendments agreed to by both Houses; but the exercise of this power by the House of Representatives shall not affect the operation of this section if the bill is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree.

(4) The alterations referred to in sub-section (2) of this section are alterations certified by the Speaker of the House of Representatives to be necessary owing to the time that has elapsed since the bill was passed in the earlier session or to represent amendments made in that session by the Senate.

(5) When a money bill is sent to the Senate from the House of Representatives it shall bear a certificate of the Speaker of the House of Representatives that it is a money bill.

(6) When a bill is presented to the Governor-General in pursuance of this section it shall bear a certificate of the Speaker of the House of Representatives that this section has been complied with and that certificate shall be conclusive for all purposes and shall not be questioned in any court of law.

(7) This section does not apply to any bill for the purposes of section 4 of this Constitution.

Regulation  
of procedure  
in Houses of  
Parliament.

60.—(1) Subject to the provisions of this Constitution, each House of Parliament may regulate its own procedure.

(2) Each House of Parliament may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any dissolution of Parliament) and the

presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

61. In this Part of this Chapter "money bill" means a bill that in the opinion of the Speaker of the House of Representatives contains only provisions dealing with—

Interpretation.

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
- (b) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Federation or the variation or repeal of any such charges;
- (c) the grant of money to the Crown or to any other person or authority or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the raising or guarantee of any loan or the repayment thereof; or
- (f) subordinate matters incidental to any of those matters:

Provided that the expressions "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

### PART 3

#### *Summoning, Prorogation and Dissolution*

62. Each session of Parliament shall be held at such place within Nigeria and shall begin at such time (not being later than twelve months from the end of the preceding session if Parliament has been prorogued or three months from the end of that session if Parliament has been dissolved) as the Governor-General shall appoint.

Sessions of Parliament.

63.—(1) The Governor-General may at any time prorogue or dissolve Parliament.

Prorogation and dissolution of Parliament.

(2) Subject to the provisions of sub-section (3) of this section, Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution and shall then stand dissolved.

(3) At any time when the Federation is at war, Parliament may from time to time extend the period of five years specified in sub-section (2) of this section for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this sub-section for more than five years.

(4) In the exercise of his powers to dissolve Parliament, the Governor-General shall act in accordance with the advice of the Prime Minister:

Provided that—

- (a) if the Prime Minister recommends a dissolution and the Governor-General considers that the government of the Federation can be carried on without a dissolution and that a dissolution would not be in the interests of the Federation he may refuse to dissolve Parliament;
- (b) if the House of Representatives passes a resolution that it has no confidence in the Government of the Federation and the Prime Minister does not within three days either resign or advise a dissolution, the Governor-General may dissolve Parliament; and
- (c) if the office of Prime Minister is vacant and the Governor-General considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the members of the House of Representatives to that office within a reasonable time, the Governor-General may dissolve Parliament.

#### PART 4

##### *Legislative Powers*

64.—(1) Parliament shall have power to make laws—

- (a) for the peace, order and good government of Nigeria (other than the Federal territory) or any part thereof with respect to any matter included in the Legislative Lists; and

(b) for the peace, order and good government of the Federal territory with respect to any matter, whether or not it is included in the Legislative Lists.

(2) The power of Parliament to make laws for the peace, order and good government of the Regions with respect to any matter included in the Exclusive Legislative List shall (save as provided in section 72 of this Constitution) be to the exclusion of the legislatures of the Regions:

Provided that nothing in this sub-section shall preclude the legislature of a Region from making provision for grants or loans from or the imposition of charges upon any of the public funds of that Region or the imposition of charges upon the revenues and assets of that Region for any purpose notwithstanding that it relates to a matter included in the Exclusive Legislative List.

(3) In addition and without prejudice to the powers conferred by sub-section (1) of this section, Parliament shall have the powers to make laws conferred by sections 5, 65 to 69, 74 to 77 and 119 of this Constitution (which relate to matters not included in the Legislative Lists).

(4) If any law enacted by the legislature of a Region is inconsistent with any law validly made by Parliament, the law made by Parliament shall prevail and the Regional law shall, to the extent of the inconsistency, be void.

(5) Subject to the provisions of sub-section (4) of this section, nothing in this section shall preclude the legislature of a Region from making laws with respect to any matter that is not included in the Exclusive Legislative List.

65.—(1) Parliament may at any time make such laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists as may appear to Parliament to be necessary or expedient for the purpose of maintaining or securing peace, order and good government during any period of emergency.

Special powers of Parliament in relation to emergencies.

(2) Any provision of law enacted in pursuance of this section shall have effect only during a period of emergency;

Provided that the termination of a period of emergency shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any

contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

(3) In this section "period of emergency" means any period during which—

- (a) the Federation is at war;
- (b) there is in force a resolution passed by each House of Parliament declaring that a state of public emergency exists; or
- (c) there is in force a resolution of each House of Parliament supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Nigeria are threatened by subversion.

(4) A resolution passed by a House of Parliament for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be revoked at any time or may be extended from time to time for a further period not exceeding twelve months by resolution passed in like manner.

Special powers of Parliament when s. 80 of this Constitution has been contravened.

66.—(1) During any period in which there is in force a resolution of each House of Parliament supported by the votes of not less than two-thirds of all the members of that House declaring that the executive authority of a Region is being exercised in contravention of section 80 of this Constitution, Parliament may make laws for that Region with respect to matters not included in the Legislative Lists to such extent as may appear to Parliament to be necessary for securing compliance with the provisions of that section.

(2) A resolution passed by a House of Parliament for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be revoked at any time or may be extended from time to time for a further period not exceeding twelve months by resolution passed in like manner.

(3) Upon the expiration of any period during which there were in force resolutions of both Houses of Parliament passed for the purposes of this section, any provision of law enacted in pursuance of this section shall cease to have effect:

Provided that the termination of any such period shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

67.—(1) Parliament may at any time when there is in force a law enacted by the legislature of a Region conferring authority upon Parliament to do so make laws for that Region with respect to a matter not included in the Legislative Lists. Powers of Parliament conferred by Regional law.

(2) If any law enacted by the legislature of a Region conferring authority upon Parliament for the purposes of this section ceases to have effect, then any provision of law enacted by Parliament, to the extent to which it was enacted in pursuance of that authority, shall thereafter have effect as if it had been enacted by the legislature of that Region and may be amended or repealed accordingly.

68. Parliament may make provision for grants and loans from and the imposition of charges upon the Consolidated Revenue Fund or any other public fund of the Federation or for the imposition of charges upon the revenues and assets of the Federation for any purpose, notwithstanding that it relates to a matter not included in the Legislative Lists. Power to make grants of money, etc., for any purpose.

69. Parliament may make laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists for the purpose of implementing any treaty, convention or agreement between the Federation and any other country or any arrangement with or decision of an international organization of which the Federation is a member: Implementation of treaties, etc.

Provided that any provision of law enacted in pursuance of this section shall not come into operation in a Region unless the Governor of that Region has consented to its having effect.

70.—(1) Parliament may make laws for Nigeria or any part thereof with respect to taxes on the income and profits of companies. Income tax and estate duty.

(2) Parliament may make laws for Nigeria or any part thereof with respect to taxes on income and profits other than the income and profits of companies for the purpose of—

- (a) implementing any treaty, convention or agreement between the Federation and any other country or any arrangement with or decision of an international organization of which the Federation is a member with respect to taxes on income and profits;
  - (b) securing uniform principles for the taxation of income and profits accruing to persons in Nigeria from countries other than Nigeria and of income and profits derived from Nigeria by persons outside Nigeria;
  - (c) securing uniform principles for the computation of income and profits of all persons (including members of partnerships) for purposes of assessment of tax and for the treatment of losses, depreciation of assets and contributions to pension or provident funds or schemes;
  - (d) regulating the liability to tax of persons within Nigeria by reference to their places of residence or otherwise for the purpose of ensuring that any income or profit does not bear tax under the laws of more than one territory;
  - (e) providing, in pursuance of any arrangement in that behalf subsisting between the Government of the Federation and the Government of a Region, for the exemption from liability to tax in respect of all or part of the income or profits of any person or class of persons;
  - (f) obtaining information with respect to income or profits from any source and providing for the exchange of information between different tax authorities; and
  - (g) providing, in pursuance of any arrangement in that behalf subsisting between the Government of the Federation and the Government of a Region, for the establishment and regulation of authorities empowered to promote uniformity of taxation and to discharge such other functions relating to the taxation of income and profits as may be conferred upon them in pursuance of any such agreement.
- (3) Parliament may make laws for Nigeria or any part thereof with respect to taxes on the estates of deceased persons and the succession to their property for the purpose of ensuring that any estate or part thereof does not bear tax under the laws of more than one territory.

(4) The powers conferred upon Parliament by sub-sections (2) and (3) of this section shall not extend to the imposition of any tax or penalty or the prescribing of rates of tax or personal allowances and reliefs.

(5) Nothing in sub-sections (2) and (3) of this section shall preclude the legislature of a Region from making laws with respect to the matters referred to in those sub-sections.

(6) In this section references to the income and profits of companies are references to the income and profits of any company or other corporation (other than a corporation sole) established by or under any law in force in Nigeria or elsewhere but do not include references—

- ▷ (a) to the income and profits of any body corporate established by or under the Native Authority Law, 1954, of Northern Nigeria, the Western Regional Local Government Law, 1952, or the Local Government Law, 1957, of Western Nigeria or the Eastern Region Local Government Law, 1960, of Eastern Nigeria, as amended, or any law replacing any of those laws;
- (b) to the income and profits of any purchasing authority established by the legislature of a Region and empowered to acquire any commodity in that Region for export from Nigeria derived from the purchase and sale (whether for purposes of export or otherwise) of that commodity; or
- (c) to the income or profits of any corporation established by the legislature of a Region for the purpose of fostering the economic development of that Region, not being income or profits derived from a trade or business carried on by that corporation or from any share or other interest possessed by that corporation in a trade or business in Nigeria carried on by some other person or authority.

71.—(1) Parliament may make laws for Nigeria or any part thereof with respect to trade and commerce between Nigeria and other countries and trade and commerce among the territories, including (without prejudice to the generality of the foregoing power) the export of commodities from Nigeria, the import of commodities into Nigeria, the establishment and enforcement of grades and standards of quality for commodities to be exported from Nigeria and the preservation of freedom of trade and commerce among the territories.

Trade and  
commerce.

- (2) For the purposes of this section, Parliament may—
- (a) confer on any person or authority exclusive power to acquire from a purchasing authority established for a Region by the legislature of that Region any commodity for export from Nigeria, to export any commodity from Nigeria or to sell any commodity outside Nigeria; or
  - (b) make provision for the inspection of commodities to be exported from Nigeria at the port of shipment from Nigeria and for the enforcement of grades and standards of quality in respect of commodities so inspected.
- (3) The powers conferred upon Parliament by this section shall not include powers—
- (a) to establish a purchasing authority for a Region;
  - (b) to confer on any person or authority power to acquire in a Region any commodity for export from Nigeria from any person or authority in that Region other than a purchasing authority established for that Region by the legislature of a Region;
  - (c) to regulate the prices to be paid by a purchasing authority established by the legislature of a Region for commodities for export;
  - (d) to regulate or prohibit in a Region any processing of a commodity to be exported or any dealing with such a commodity other than its export from Nigeria; or
  - (e) to make provision for the enforcement in a Region of any grades or standards of quality for commodities to be exported from Nigeria that may be established by Parliament.
- (4) Nothing in this section shall be construed as precluding the legislature of a Region—
- (a) from making provision for any of the matters referred to in sub-section (3) of this section; or
  - (b) from conferring upon any purchasing authority of the Region power to acquire any commodity in the Region for purposes other than export from Nigeria.
- (5) In this section “purchasing authority” means, in relation to a Region, any person or authority empowered to purchase commodities for export in that Region.

72.—(1) Parliament may make laws for Nigeria or any part thereof with respect to banks and banking. Banks and banking.

(2) Nothing in this section shall preclude the legislature of a Region from establishing an authority for the purpose of carrying on (subject to and in compliance with any Act of Parliament for the time being in force and in particular any Act relating to banks and banking) the business of banking in Nigeria or elsewhere or from making such provision for the constitution of that authority and regulating the performance by that authority of its functions as is consistent with any Act of Parliament.

73.—(1) Parliament may make laws for Nigeria or any part thereof with respect to electricity or gas: Electricity and gas.

Provided that nothing in this sub-section shall preclude the legislature of a Region from making laws for that Region with respect to those matters.

(2) The powers conferred on Parliament by this section shall not include powers—

- (a) to prohibit or restrict the establishment by or on behalf of the Government of a Region of an agency for the manufacture, distribution or supply of electricity or gas in that Region; or
- (b) to regulate the production, distribution or supply of electricity or gas by the Government of a Region or any such agency.

(3) In this section "gas" does not include natural gas.

74. Parliament may make laws for Nigeria or any part thereof establishing and regulating authorities for the Federation with power— Authorities empowered to administer trusts and estates.

- (a) to administer trusts; or
- (b) to apply for grants of representation in respect of the estates of deceased persons and to administer such estates:

Provided that nothing in this section shall preclude the legislature of a Region from making provision for similar authorities for that Region.

Exhibition of  
cinemato-  
graph films.

75. Parliament may make laws for Nigeria or any part thereof establishing and regulating authorities for the Federation with power to carry out censorship of cinematograph films and to prohibit or restrict the exhibition of such films:

Provided that nothing in this section shall preclude the legislature of a Region from making provision for similar authorities for that Region.

Exemption  
from  
Regional  
taxes with  
respect to  
mining.

76. Parliament may, for the purpose of implementing any agreement between the Government of the Federation and any person relating to mining or matters connected therewith, provide for exempting that person in whole or in part from liability for any tax or rate imposed by or under a law enacted by the legislature of a Region with respect to any matter not included in the Legislative Lists:

Provided that no person shall be granted any exemption in pursuance of this section without prior consultation between the Government of the Federation and the Government of the Region concerned.

Evidence.

77. Parliament may make laws for Nigeria or any part thereof with respect to evidence in regard to matters not included in the Legislative Lists:

Provided that an Act of Parliament enacted in pursuance of this section shall have effect in relation to any Region only to the extent that provision in that behalf is not made by the legislature of that Region.

## CHAPTER VI

### EXECUTIVE POWERS

Exercise of  
executive  
authority of  
Federation.

78.—(1) The executive authority of the Federation shall be vested in Her Majesty.

(2) Subject to the provisions of this Constitution, the executive authority of the Federation may be exercised on behalf of Her Majesty by the Governor-General, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the Governor-General.

79. The executive authority of the Federation shall extend to the execution and maintenance of this Constitution and to all matters with respect to which Parliament has for the time being power to make laws.

Extent of executive authority of Federation.

80. The executive authority of a Region shall extend to the execution and maintenance of the constitution of the Region and to all matters with respect to which the legislature of the Region has for the time being power to make laws but shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation or to endanger the continuance of federal government in Nigeria.

Executive authority of Regions.

<sup>o</sup> 81.—(1) There shall be a Prime Minister of the Federation, who shall be appointed by the Governor-General.

Ministers of Government of Federation.

(2) Whenever the Governor-General has occasion to appoint a Prime Minister he shall appoint a member of the House of Representatives who appears to him likely to command the support of the majority of the members of the House.

(3) There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government of the Federation as may be established by Parliament or, subject to the provisions of any Act of Parliament, by the Governor-General, acting in accordance with the advice of the Prime Minister.

(4) Appointments to the office of Minister of the Government of the Federation other than the office of Prime Minister shall be made by the Governor-General, acting in accordance with the advice of the Prime Minister.

(5) A person shall not hold office at the same time both as a Minister of the Government of the Federation and as a Minister of the Government of a Region.

(6) Subject to the provisions of sub-section (11) of this section, a person who holds office as a Minister of the Government of the Federation for any period of four consecutive months without also being a Senator or a member of the House of Representatives shall cease to be a Minister at the expiration of that period or, if that period expires at a time when Parliament is dissolved and he does not in the meantime become a Senator or a member of the House of Representatives, at the date on which Parliament first meets after that dissolution.

(7) Subject to the provisions of sub-section (11) of this section, a person who holds office as a Minister of the Government of the Federation and who is at no time while holding that office also a Senator or a member of the House of Representatives shall not be qualified for reappointment as such a Minister before Parliament is next dissolved after he ceases to hold that office, unless in the meantime he has become a Senator or a member of the House of Representatives.

(8) The office of the Prime Minister shall become vacant—

(a) when, after any dissolution of the House of Representatives, the Prime Minister is informed by the Governor-General that the Governor-General is about to re-appoint him as Prime Minister or to appoint another person as Prime Minister; or

(b) if he ceases to be a member of the House Representatives otherwise than by reason of a dissolution of Parliament.

(9) The office of a Minister of the Government of the Federation other than the Prime Minister shall become vacant if the office of Prime Minister becomes vacant.

(10) Subject to the provisions of sub-sections (8) and (9) of this section, the Ministers of the Government of the Federation shall hold office during the Governor-General's pleasure:

Provided that—

(a) the Governor-General shall not remove the Prime Minister from office unless it appears to him that the Prime Minister no longer commands the support of a majority of the members of the House of Representatives; and

(b) the Governor-General shall not remove a Minister other than the Prime Minister from office except in accordance with the advice of the Prime Minister.

(11) The office of the Attorney-General of the Federation shall be that of a Minister of the Government of the Federation:

Provided that—

(a) the provisions of sub-sections (6) and (7) of this section shall not apply in relation to a person holding that office;

- (b) if the person holding that office is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions may be performed by such other person (whether or not that person is a Minister) as may from time to time be designated in that behalf by the Governor-General acting in accordance with the advice of the Prime Minister; and
- (c) a person shall not be qualified to hold that office or to perform the functions conferred upon the person holding that office by this Constitution or any other law unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

<sup>o</sup> 82.—(1) There shall be a Council of Ministers for the Federation, whose function shall be to advise the Governor-General in the government of the Federation and which shall consist of the Prime Minister and such other persons, being Ministers of the Government of the Federation, as the Governor-General, acting in accordance with the advice of the Prime Minister, may from time to time appoint.

Establishment of Council of Ministers.

(2) A person appointed as a member of the Council of Ministers shall vacate his seat in the Council if he ceases to be a Minister of the Government of the Federation or if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs.

83.—(1) The Council of Ministers shall be collectively responsible to Parliament for any advice given to the Governor-General by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Federation in the execution of his office.

Collective responsibility.

(2) The provisions of this section shall not apply in relation to—

- (a) the appointment and removal from office of Ministers of the Government of the Federation, members of the Council of Ministers and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers or the authorization of another member of the Council of Ministers to perform the functions of the Prime Minister during absence or illness;

- (b) the dissolution of Parliament; or
- (c) the matters referred to in section 94 of this Constitution (which relates to the prerogative of mercy).

Allocation of portfolios to Ministers.

84. The Governor-General, acting in accordance with the advice of the Prime Minister, may assign to the Prime Minister or any other Minister of the Government of the Federation responsibility for any business of the Government of the Federation, including the administration of any department of government.

Performance of functions of Prime Minister during absence or illness.

85.—(1) Whenever the Prime Minister is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by this Constitution the Governor-General may authorize some other member of the Council of Ministers of the Federation to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor-General.

(2) The powers of the Governor-General under this section shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the Governor-General considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers without that advice.

Exercise of Governor-General's powers.

86.—(1) In the exercise of his functions under this Constitution or any other law the Governor-General shall act in accordance with the advice of the Council of Ministers or a Minister of the Government of the Federation acting under the general authority of the Council of Ministers except in cases where by this Constitution he is required to act in accordance with the advice of any person or authority other than the Council of Ministers:

Provided that the Governor-General shall act in accordance with his own deliberate judgment in the performance of the following functions—

- (a) in the exercise of the powers relating to the dissolution of Parliament conferred upon him by the proviso to sub-section (4) of section 63 of this Constitution;

- (b) in the exercise of the power to appoint the Prime Minister conferred upon him by sub-section (2) of section 81 of this Constitution;
- (c) in the exercise of the powers conferred upon him by section 85 of this Constitution (which relates to the performance of the functions of the Prime Minister during absence or illness) in the circumstances described in the proviso to sub-section (2) of that section; and
- (d) in signifying his approval for the purposes of section 141 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the Governor-General is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law.

87. The Prime Minister shall keep the Governor-General fully informed concerning the general conduct of the government of the Federation and shall furnish the Governor-General with such information as he may request with respect to any particular matter relating to the government of the Federation.

Governor-General to be informed concerning matters of government.

88.—(1) The Governor-General, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the Senators and the members of the House of Representatives to assist Ministers of the Government of the Federation in the performance of their duties.

Parliamentary Secretaries.

(2) The office of a Parliamentary Secretary shall become vacant—

- (a) if he ceases to be a member of one or other House of Parliament otherwise than by reason of a dissolution of Parliament;
- (b) if the office of Prime Minister becomes vacant; or
- (c) if the Governor-General, acting in accordance with the advice of the Prime Minister, so directs.

89. A member of the Council of Ministers, Minister of the Government of the Federation or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

Oaths to be taken by Ministers, etc.

Permanent  
secretaries.

90. Where any Minister of the Government of the Federation has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Federation:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Constitution  
of offices for  
Federation,  
etc.

91. Subject to the provisions of this Constitution and of any Act of Parliament, the Governor-General, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Federation, make appointments to any such office and terminate any such appointment.

Delegation  
of executive  
authority of  
Federation.

92.—(1) The Governor-General may, with the consent of the Governor of a Region, entrust either conditionally or unconditionally to the Governor or to any officer or authority of that Region functions in relation to any matter to which the executive authority of the Federation extends falling to be performed within that Region:

Provided that the consent of the Governor shall not be required during any such period as is referred to in section 65 or 66 of this Constitution.

(2) An Act of Parliament may include provision conferring powers or imposing duties, or authorizing the conferring of powers or the imposition of duties, upon the Governor of a Region or any officer or authority of a Region:

Provided that, save during any such period as is referred to in section 65 or 66 of this Constitution, no provision made in pursuance of this section shall have effect in relation to any Region unless the Governor has consented to its having effect.

Delegation  
of executive  
authority of  
Region.

93.—(1) The Governor of a Region may, with the consent of the Governor-General, entrust either conditionally or unconditionally to the Governor-General or to any officer or authority of the Federation functions in relation to any matter to which the executive authority of the Region extends.

(2) A law enacted by the legislature of a Region may include provision conferring powers or imposing duties, or authorizing the conferring of powers or the imposition of duties, upon the Governor-General or any officer or authority of the Federation:

Provided that no provision made in pursuance of this sub-section shall have effect unless the Governor-General has consented to its having effect.

94.—(1) The Governor-General may, in Her Majesty's name and on Her Majesty's behalf— Prerogative of mercy.

- (a) grant to any person concerned in or convicted of any offence created by or under an Act of Parliament a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence; or
- (d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the Crown on account of such an offence.

(2) Subject to the provisions of sub-section (3) of this section, the powers of the Governor-General under sub-section (1) of this section shall be exercised by him in accordance with the advice of such member of the Council of Ministers as may from time to time be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) In relation to persons concerned in offences against naval, military or air-force law or convicted or sentenced by courts-martial, the Governor-General, acting in accordance with the advice of the Prime Minister, may designate a member of the Council of Ministers other than the member designated for the purposes of sub-section (2) of this section and at any time when there is another member so designated the powers of the Governor-General under sub-section (1) of this section shall, in relation to such persons, be exercised in accordance with the advice of that other member.

- (4) The provisions of this section shall apply—
- (a) in relation to any offence created by or under any law in force in the Federal territory, not being an offence created by or under an Act of Parliament; and
- (b) in relation to any offence created by or under any law in force in a Region relating to any matter included in the Exclusive Legislative List or the Concurrent Legislative List, not being an offence created by or under an Act of Parliament or a law made by the Legislature of that Region,

as they apply in relation to an offence created by or under an Act of Parliament.

Establishment of Advisory Council on Prerogative of Mercy.

95.—(1) There shall be for the Federation an Advisory Council on the Prerogative of Mercy, which shall consist of—

- (a) such member of the Council of Ministers of the Federation as may for the time being be designated under sub-section (2) of section 94 of this Constitution, who shall be chairman;
- (b) where the chairman is a Minister other than the Attorney-General of the Federation, the Attorney-General; and
- (c) not less than five and not more than seven other members, who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister, of whom at least one shall be a person who is qualified to practice as a medical practitioner in Nigeria.

(2) A person shall not be qualified for appointment by the Governor-General as a member of the Advisory Council if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation or a Minister of the Government of a Region.

(3) A member of the Advisory Council appointed by the Governor-General shall hold office for three years:

Provided that his seat on the Council shall become vacant—

- (a) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such; or
- (b) if he is removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister.

for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

96.—(1) Where any person has been sentenced to death by any court of law in Nigeria other than a court-martial for any offence created by or under an Act of Parliament the member of the Council of Ministers designated under sub-section (2) of section 94 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor-General that he should exercise any of his powers under that section in relation to that person.

Functions of  
Advisory  
Council.

(2) The member of the Council of Ministers designated under sub-section (2) of section 94 of this Constitution may consult with the Advisory Council before making any recommendation to the Governor-General under that sub-section in any case not falling within sub-section (1) of this section but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

97.—(1) There shall be a Director of Public Prosecutions for the Federation, whose office shall be an office in the public service of the Federation.

Public  
prosecutions.

(2) The Director of Public Prosecutions of the Federation shall have power in any case in which he considers it desirable so to do—

- (a) to institute and undertake criminal proceedings against any person before any court of law in Nigeria other than a court-martial in respect of any offence created by or under any Act of Parliament;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(3) The powers of the Director of Public Prosecutions of the Federation under sub-section (2) of this section may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

(4) The Director of Public Prosecutions of the Federation may confer a general or special authority upon the Director of Public Prosecutions of a Region to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by sub-section (2) of this section in relation to prosecutions in that Region and may vary or revoke any such authority.

(5) The powers conferred upon the Director of Public Prosecutions of the Federation by paragraphs (b) and (c) of sub-section (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this sub-section shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions of the Federation shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law or any case stated or question of law reserved for the purposes of any such proceedings to any other court or to Her Majesty in Council shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply—

- (a) in relation to any offence created by or under any law in force in the Federal territory, not being an offence created by or under an Act of Parliament; and
- (b) in relation to any offence created by or under any law in force in a Region relating to any matter included in the Exclusive Legislative List or the Concurrent Legislative List, not being an offence created by or under an Act of Parliament or a law made by the Legislature of that Region,

as they apply in relation to an offence created by or under an Act of Parliament.

## CHAPTER VII

### POLICE

98.—(1) There shall be a police force for Nigeria, which shall be styled the Nigeria Police Force. Establishment of Nigeria Police Force.

(2) Subject to the provisions of this Constitution, the Nigeria Police Force shall be organized and administered in accordance with such provision as may be made in that behalf by Parliament.

(3) Subject to the provisions of this Constitution, the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by any law in force in Nigeria.

(4) Subject to the provisions of this section, no police forces other than the Nigeria Police Force shall be established for Nigeria or any part thereof.

(5) Parliament may make provision for police forces forming part of the armed forces of the Crown or for the protection of harbours, waterways, railways and airfields.

(6) Parliament may make provision for the maintenance by any local authority within the Federal territory of a police force for employment within the Federal territory.

(7) Nothing in this section shall prevent the legislature of a Region from making provision for the maintenance by any native authority or local government authority established for a province or any part of a province of a police force for employment within that province.

(8) In this section "province" means any area that was a province on the thirtieth day of September, 1954.

99.—(1) There shall be an Inspector-General of the Nigeria Police and a Commissioner of Police for each Region, whose offices shall be offices in the public service of the Federation. Control of Nigeria Police Force.

(2) The Nigeria Police Force shall be under the command of the Inspector-General of the Nigeria Police and any contingents of the Nigeria Police Force stationed in a Region shall, subject to the authority of the Inspector-General of the Nigeria Police, be under the command of the Commissioner of Police of that Region.

(3) The Prime Minister or such other Minister of the Government of the Federation as may be authorized in that behalf by the Prime Minister may give to the Inspector-General of the Nigeria Police such directions with respect to the maintaining and securing of public safety and public order as he may consider necessary and the Inspector-General shall comply with those directions or cause them to be complied with.

(4) Subject to the provisions of sub-section (3) of this section, the Commissioner of Police of a Region shall comply with the directions of the Premier of the Region or such other Minister of the Government of the Region as may be authorised in that behalf by the Premier with respect to the maintaining and securing of public safety and public order within the Region or cause them to be complied with:

Provided that before carrying out any such directions the Commissioner may request that the matter should be referred to the Prime Minister or such other Minister of the Government of the Federation as may be authorized in that behalf by the Prime Minister for his directions.

(5) The question whether any, and if so what, directions have been given under sub-section (3) of this section shall not be enquired into in any court.

Establish-  
ment of  
Nigeria  
Police  
Council.

100.—(1) There shall be a Nigeria Police Council, which shall consist of—

- (a) such Minister of the Government of the Federation, who shall be chairman, as may for the time being be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister;
- (b) such Minister of the Government of each Region as may for the time being be designated in that behalf by the Governor of that Region; and
- (c) the chairman of the Police Service Commission of the Federation.

(2) The Inspector-General of the Nigeria Police or such other officer of the Nigeria Police Force as he may designate shall attend the meetings of the Nigeria Police Council and, save for the purpose of voting, may take part in the proceedings of the Council.

101.—(1) The organization and administration of the Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the force or the appointment, disciplinary control and dismissal of members of the force) shall be under the general supervision of the Nigeria Police Council.

Functions of  
Nigeria  
Police  
Council.

(2) The Prime Minister shall cause the Nigeria Police Council to be kept fully informed concerning the matters under its supervision and shall cause the Council to be furnished with such information as the Council may require with respect to any particular matter under its supervision.

(3) The Nigeria Police Council may make recommendations to the Government of the Federation with respect to any matter under its supervision; and if in any case the Government acts otherwise than in accordance with any such recommendation, it shall cause a statement containing that recommendation and its reasons for acting otherwise than in accordance with that recommendation to be laid before both Houses of Parliament.

102.—(1) There shall be a Police Service Commission for the Federation, which shall consist of a chairman and not less than two and not more than four other members.

Establish-  
ment of  
Police  
Service  
Commission.

(2) The members of the Police Service Commission of the Federation shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) A person shall not be qualified to hold the office of a member of the Police Service Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or a member of the public service of the Federation or the public service of a Region:

Provided that a judge of the High Court of a territory may be appointed as a member of the Commission.

(4) Subject to the provisions of this section, a member of the Police Service Commission of the Federation shall vacate his office—

(a) at the expiration of five years from the date of his appointment; or

(b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Police Service Commission of the Federation may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Police Service Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

Appoint-  
ments to  
Nigeria  
Police  
Force, etc.

103.—(1) Power to appoint persons to hold or act in offices in the Nigeria Police Force (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Police Service Commission of the Federation:

Provided that the Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to the Inspector-General of the Nigeria Police or any other member of the Nigeria Police Force.

(2) Before making any appointment to the office of Inspector-General of the Nigeria Police or removing the Inspector-General from office, the Police Service Commission of the Federation shall consult the Prime Minister and before making any appointment to the office of Commissioner of Police of a Region or removing the Commissioner from office the Commission shall consult the Premier of that Region.

## CHAPTER VIII

### COURTS

#### PART 1

#### *The Federal Supreme Court*

Establish-  
ment of  
Federal  
Supreme  
Court.

104.—(1) There shall be a Federal Supreme Court.

(2) The judges of the Federal Supreme Court shall be—

- (a) the Chief Justice of the Federation;
- (b) such number of Federal Justices (not being less than three) as may be prescribed by Parliament; and
- (c) the Chief Justice of each territory.

(3) The Federal Supreme Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

(4) The Federal Supreme Court shall sit in the Federal territory and in such other places in Nigeria as the Chief Justice of the Federation may appoint.

105.—(1) The Chief Justice of the Federation shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

Appointment  
of Chief  
Justice of  
Federation  
and Federal  
Justices.

(2) The Federal Justices shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial Service Commission of the Federation.

(3) A person shall not be qualified to hold the office of Chief Justice of the Federation or a Federal Justice unless—

- (a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or
- (b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(4) If the office of Chief Justice of the Federation is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges

of the Federal Supreme Court as may from time to time be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(5) If the office of any Federal Justice is vacant or if the person holding the office is acting as Chief Justice of the Federation or is for any reason unable to perform the functions of his office, the Governor-General, acting in accordance with the advice of the Judicial Service Commission of the Federation, may appoint a person qualified to hold the office of a Federal Justice to act in the office of a Federal Justice and any person so appointed shall continue to act for the period of the appointment or if no period is specified until his appointment is revoked by the Governor-General, acting in accordance with the advice of the Commission:

Provided that a person may act as a Federal Justice notwithstanding that he has attained the age prescribed for the purposes of sub-section (1) of section 106 of this Constitution.

Tenure of  
office of  
Chief Justice  
of Federation  
and Federal  
Justices.

106.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of the Federation or a Federal Justice shall vacate that office when he attains such age as may be prescribed by Parliament:

Provided that the Governor-General, acting in accordance with the advice of the Prime Minister, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of Chief Justice of the Federation or a Federal Justice may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Chief Justice of the Federation or a Federal Justice shall be removed from office by the Governor-General if the question of the removal of that judge from office has, at the request of the Governor-General made in pursuance of sub-section (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that

behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Prime Minister represents to the Governor-General that the question of removing a judge of the Federal Supreme Court under this section ought to be investigated, then—

- (a) the Governor-General shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor-General, acting in accordance with the advice of the Prime Minister, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;
- (b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and
- (c) if the tribunal so recommends, the Governor-General shall request that the question should be referred accordingly.

(5) If the question of removing a judge of the Federal Supreme Court from office has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend the judge from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect—

- (a) if the tribunal recommends to the Governor-General that he should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee; or
  - (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.
- (6) This section shall apply to any person appointed to act in the office of a Federal Justice as it applies to a person holding the

office of a Federal Justice, but without prejudice to the provisions of section 105 of this Constitution relating to the revocation of his appointment by the Governor-General.

Original jurisdiction of Federal Supreme Court.

107.—(1) The Federal Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a Region or between Regions if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.

(2) In addition to the jurisdiction conferred upon it by sub-section (1) of this section, the Federal Supreme Court shall have such original jurisdiction as may be conferred upon it by any Act of Parliament:

Provided that no original jurisdiction shall be conferred upon the Federal Supreme Court with respect to any criminal matter.

Questions as to interpretation of this Constitution.

108.—(1) Where any question as to the interpretation of this Constitution or the constitution of a Region arises in any proceedings in any court of law in any part of Nigeria (other than the Federal Supreme Court, the High Court of a territory or a court-martial) and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the High Court having jurisdiction in that part of Nigeria and the High Court shall—

- (a) if it is of opinion that the question involves a substantial question of law, refer the question to the Federal Supreme Court; or
- (b) if it is of opinion that the question does not involve a substantial question of law, remit the question to the court that made the reference to be disposed of in accordance with such directions as the High Court may think fit to give.

(2) Where any question as to the interpretation of this Constitution or the constitution of a Region arises in any proceedings in the High Court of a territory and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Federal Supreme Court.

(3) Where any question is referred to the Federal Supreme Court in pursuance of this section, the Federal Supreme Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision.

109. Parliament may confer jurisdiction upon the Federal Surpeme Court—

Advisory  
jurisdiction  
of Federal  
Supreme  
Court.

- (a) to consider and advise upon any question upon which the Governor-General desires the assistance of the court for the purpose of deciding whether or not any of the powers vested in him by section 94 of this Constitution (which relates to the prerogative of mercy) should be exercised; or
- (b) to consider and advise upon any question upon which the Governor of a Region desires the assistance of the court for the purpose of deciding whether or not any of the powers vested in him by the constitution of that Region with respect to the exercise of the prerogative of mercy should be exercised.

110.—(1) The Federal Supreme Court shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the High Court of a territory.

Appeals to  
Federal  
Supreme  
Court from  
High Courts.

(2) An appeal shall lie from decisions of the High Court of a territory to the Federal Supreme Court as of right in the following cases:—

- (a) final decisions in any civil proceedings before the High Court sitting at first instance;
- (b) where the ground of appeal involves questions of law alone, decisions in any criminal proceedings before the High Court sitting at first instance;
- (c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a Region;
- (d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person;

- (e) decisions in any criminal proceedings in which any person has been sentenced to death by the High Court or in which the High Court has affirmed a sentence of death imposed by some other court; and
- (f) such other cases as may be prescribed by any law in force in the territory:

Provided that nothing in paragraph (a) of this sub-section shall confer any right of appeal—

- (i) from any order made *ex parte*;
- (ii) from any order relating only to costs;
- (iii) from any order made with the consent of the parties; or
- (iv) in the case of a party to proceedings for dissolution or nullity of marriage who, having had time and opportunity to appeal from any decree *nisi* in such proceedings, has not so appealed, from any decree absolute founded upon such a decree *nisi*.

(3) An appeal shall lie from decisions of the High Court of a territory to the Federal Supreme Court as of right in the following cases:—

- (a) decisions on any such question as is referred to in section 48 of this Constitution; or
- (b) decisions on any question whether any person has been validly selected or elected as a member of a legislative house of a Region or the seat in a legislative house of a Region of any member of that house has become vacant,

and the decision of the Federal Supreme Court upon any such question shall be final.

(4) Subject to the provisions of sub-sections (2) and (3) of this section, an appeal shall lie from decisions of the High Court of a territory to the Federal Supreme Court with the leave of the High Court or the Federal Supreme Court in the following cases:—

- (a) where the ground of appeal involves questions of fact, mixed law and fact or *quantum* of sentence, decisions in any criminal proceedings before the High Court sitting at first instance;

- (b) any case in which, but for the terms of the proviso to sub-section (2) of this section, an appeal would lie as of right to the Federal Supreme Court by virtue of paragraph (a) of that sub-section;
- (c) decisions in any civil or criminal proceedings in which an appeal has been brought to the High Court from some other court; and
- (d) such other cases as may be prescribed by any law in force in the territory.

(5) The Federal Supreme Court may dispose of any application for leave to appeal from any decision of the High Court of a territory in respect of any civil or criminal proceedings in which an appeal has been brought to the High Court from some other court of the territory upon consideration of the record of the proceedings if the Federal Supreme Court is of opinion that the interests of justice do not require an oral hearing of the application.

(6) Any right of appeal to the Federal Supreme Court from the decisions of the High Court of a territory conferred by this section—

- (a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court or the Federal Supreme Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of an accused person or, subject to the provisions of section 97 of this Constitution or any powers of the Director of Public Prosecutions of a Region to take over and continue or to discontinue such proceedings, at the instance of such other persons or authorities as may be prescribed by any law in force in the territory; and
- (b) shall be exercised in accordance with any Acts of Parliament and rules of court for the time being in force in the territory regulating the powers, practice and procedure of the Federal Supreme Court.

(7) In this section "decision" means, in relation to the High Court of a territory, any determination of that High Court and includes (without prejudice to the generality of the foregoing) a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation.

Appeals to Federal Supreme Court from other Federal courts, etc.

111. Parliament may confer jurisdiction upon the Federal Supreme Court to hear and determine appeals from any decision of any court of law or tribunal established by Parliament.

Appeals to Federal Supreme Court from Sharia Court of Appeal and Court of Resolution.

112.—(1) An appeal shall lie from decisions of the Sharia Court of Appeal to the Federal Supreme Court as of right in the following cases:—

- (a) decisions on questions as to the interpretation of this Constitution or the constitution of a Region;
- (b) decisions on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person; and
- (c) such other cases as may be prescribed by any law in force in Northern Nigeria:

Provided that nothing in paragraph (a) or (b) of this sub-section (in so far as it applies to civil proceedings) shall confer any right of appeal with respect to any question relating to the respective jurisdiction of the High Court of Northern Nigeria and the Sharia Court of Appeal that the Court of Resolution is competent to determine.

(2) Subject to the provisions of sub-section (1) of this section, an appeal shall lie from decisions of the Sharia Court of Appeal or the Court of Resolution to the Federal Supreme Court with the leave of the Federal Supreme Court in such cases as may be prescribed by any law in force in Northern Nigeria.

(3) Any right of appeal to the Federal Supreme Court from the decisions of the Sharia Court of Appeal conferred by this section—

- (a) shall be exercisable at the instance of a party thereto or, with the leave of the Sharia Court of Appeal or the Federal Supreme Court, at the instance of any other person having an interest in the matter; and
- (b) shall be exercised in accordance with any Acts of Parliament and rules of court for the time being in force in Northern Nigeria regulating the powers, practice and procedure of the Federal Supreme Court.

(4) The Federal Supreme Court may dispose of any application for leave to appeal from any decision of the Sharia Court of Appeal or the Court of Resolution upon consideration of the record

of the proceedings if the Federal Supreme Court is of opinion that the interests of justice do not require an oral hearing of the application.

(5) In this section—

“the Court of Resolution” means the Court of Resolution established by the Court of Resolution Law, 1960, of Northern Nigeria, as amended, or any law replacing that law;

“decision” means, in relation to the Sharia Court of Appeal or the Court of Resolution, any determination of that court in any civil proceedings and includes (without prejudice to the generality of the foregoing) a judgment, decree, order or recommendation;

“the Sharia Court of Appeal” means the Sharia Court of Appeal established by the Sharia Court of Appeal Law, 1960, of Northern Nigeria, as amended, or any law replacing that law.

**113.**—(1) The decisions of the Federal Supreme Court shall be enforced in any part of Nigeria by the High Court having jurisdiction in that part of Nigeria and by all persons, authorities and other courts of law in that part as if they were decisions of that High Court.

Powers,  
practice and  
procedure  
of Federal  
Supreme  
Court.

(2) Subject to the provisions of any Act of Parliament, the Federal Supreme Court may make rules for regulating the practice and procedure of the court.

(3) Parliament may make provision with respect to the practice and procedure of the Federal Supreme Court (including the service and execution of all civil and criminal processes of the court) and may confer upon the court such powers additional to those conferred by this section as may appear to be necessary or desirable for enabling the court more effectively to exercise its jurisdiction.

(4) Rules made under this section may fix the minimum number of judges who may sit for any purpose, so however that no matter shall be finally determined by less than three judges:

Provided that nothing in this sub-section shall preclude a judge who does not concur in the opinion of the other judges from delivering a dissenting opinion.

## PART 2

*Appeals to Her Majesty in Council*

Appeals  
from  
Federal  
Supreme  
Court to  
Her Majesty  
in Council.

114.—(1) Subject to the provisions of this Constitution, an appeal shall lie from decisions of the Federal Supreme Court to Her Majesty in Council as of right in the following cases:—

- (a) where the matter in dispute on the appeal to Her Majesty in Council is of the value of five hundred pounds or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of five hundred pounds or upwards, final decisions in any civil proceedings;
- (b) final decisions in proceedings for dissolution or nullity of marriage;
- (c) final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a Region; and
- (d) such other cases as may be prescribed by Parliament.

(2) Subject to the provisions of this Constitution, an appeal shall lie from decisions of the Federal Supreme Court to Her Majesty in Council with the leave of the Federal Supreme Court in the following cases:—

- (a) where in the opinion of the Federal Supreme Court the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council, decisions in any civil proceedings; and
- (b) in such other cases as may be prescribed by Parliament.

(3) Nothing in this section shall affect any right of Her Majesty to grant special leave to appeal from decisions of the Federal Supreme Court to Her Majesty in Council in any civil or criminal matter.

## PART 3

*The High Court of the Federal Territory*

Establish-  
ment of  
High Court  
of Lagos.

115.—(1) There shall be a High Court for the Federal territory, which shall be styled the High Court of Lagos.

(2) The judges of the High Court of Lagos shall be—

(a) the Chief Justice of Lagos; and

(b) such number of other judges (not being less than five) as may be prescribed by Parliament.

(3) The High Court of Lagos shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.

116.—(1) The Chief Justice of Lagos shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

Appointment of judges of High Court of Lagos.

(2) The judges of the High Court of Lagos other than the Chief Justice shall be appointed by the Governor-General, acting in accordance with the advice of the Judicial Service Commission of the Federation.

(3) A person shall not be qualified to hold the office of a judge of the High Court of Lagos unless—

(a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified to practise as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(4) If the office of Chief Justice of Lagos is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of Lagos as may from time to time be designated in that behalf by the Governor-General, acting in accordance with the advice of the Prime Minister.

(5) If the office of any judge of the High Court of Lagos other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to

perform the functions of his office, the Governor-General, acting in accordance with the advice of the Judicial Service Commission of the Federation, may appoint a person with such qualifications as may be prescribed by Parliament to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of the appointment or if no period is specified until his appointment is revoked by the Governor-General, acting in accordance with the advice of the Commission.

Tenure of  
office of  
judges of  
High Court  
of Lagos.

**117.**—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of Lagos or any other judge of the High Court of Lagos shall vacate his office when he attains such age as may be prescribed by Parliament:

Provided that the Governor-General, acting in accordance with the advice of the Prime Minister, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of a judge of the High Court of Lagos may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of a judge of the High Court of Lagos shall be removed from office by the Governor-General if the question of the removal of that judge from office has, at the request of the Governor-General made in pursuance of subsection (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Prime Minister represents to the Governor-General that the question of removing a judge of the High Court of Lagos under this section ought to be investigated, then—

(a) the Governor-General shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor-General, acting in accordance with the advice of the Prime Minister, from among

persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

- (b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and
- (c) if the tribunal so recommends, the Governor-General shall request that the question should be referred accordingly.

(5) If the question of removing a judge of the High Court of Lagos from office has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend the judge from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect—

- (a) if the tribunal recommends to the Governor-General that he should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee; or
- (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(6) This section shall apply to any person appointed to act in the office of a judge of the High Court as it applies to a person holding the office of a judge of the High Court, but without prejudice to the provisions of section 116 of this Constitution relating to the revocation of his appointment by the Governor-General.

118.—(1) An appeal shall lie from decisions of a subordinate court to the High Court of Lagos as of right or, if it is provided by Parliament that an appeal as of right shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court as of right in the following cases:—

- (a) where the matter in dispute on the appeal to the High Court is of the value of fifty pounds or upwards or where

Appeals to High Court of Lagos from subordinate courts.

the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifty pounds or upwards, final decisions in any civil proceedings;

- (b) where the ground of appeal to the High Court involves questions of law alone, decisions in any criminal proceedings in which any person has been sentenced to imprisonment for a term exceeding three months or corporal punishment exceeding six strokes or a fine or forfeiture exceeding twenty-five pounds by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence;
- (c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a Region;
- (d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person;
- (e) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death;
- (f) decisions in any other criminal proceedings before a subordinate court sitting at first instance from which no appeal lies as of right to another subordinate court; and
- (g) such other cases as may be prescribed by Parliament:

Provided that no appeal shall lie from decisions of a subordinate court established under section 119 of this Constitution to the High Court in any case in which an appeal lies as of right to the Federal Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 111 of this Constitution.

(2) An appeal shall lie from decisions of a subordinate court to the High Court of Lagos with the leave of the High Court or, if it is provided by Parliament that an appeal shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court with the leave of the High Court in the following cases:—

- (a) decisions in any criminal proceedings from which no appeal lies as of right to the High Court; and

- (b) such other cases in which no appeal lies as of right to the High Court as may be prescribed by Parliament:

Provided that no appeal shall lie under paragraph (a) of this sub-section from decisions of a subordinate court established under section 119 of this Constitution to the High Court in any case in which an appeal lies to the Federal Supreme Court (whether as of right or with the leave of the Federal Supreme Court) by virtue of an Act of Parliament enacted under section 111 of this Constitution.

(3) Any right of appeal from decisions of a subordinate court of the High Court of Lagos conferred by this section—

(a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject to the provisions of section 97 of this Constitution, at the instance of such other persons or authorities as may be prescribed by Parliament; and

(b) shall be exercised in accordance with any laws and rules of court for the time being in force regulating the powers, practice and procedure of the High Court.

(4) In this section—

“decision” means, in relation to a subordinate court, any determination of that court and includes (without prejudice to the generality of the foregoing) a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation;

“subordinate court” means any court of law in the Federal territory other than the Federal Supreme Court, the High Court of the territory or a court-martial.

#### PART 4

##### *General*

**119.** Parliament may establish courts of law for the Federation in addition to the Federal Supreme Court: Establishment of courts.

Provided that nothing in this section shall—

(a) preclude the legislature of a Region from establishing courts of law for that Region; or

- (b) confer upon Parliament powers to make provision with respect to the jurisdiction of any court established under this section additional to those conferred by the other provisions of this Constitution.

Establishment of  
Judicial  
Service  
Commission.

120.—(1) There shall be a Judicial Service Commission for the Federation.

(2) The members of the Judicial Service Commission of the Federation shall be—

- (a) the Chief Justice of the Federation, who shall be chairman;
- (b) the Chief Justice of each territory;
- (c) the chairman of the Public Service Commission of the Federation; and
- (d) one other member, who shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) The Chief Justices of the Regions shall not take part in the business of the Judicial Service Commission of the Federation relating to the appointment of judges of the High Court of Lagos or members of any other court established for the Federal territory or any office connected with any such court and the member of the Commission appointed by the Governor-General and any person acting in the office of Chief Justice of a territory shall not take part in the business of the Commission relating to the appointment of Federal Justices.

(4) The following provisions shall apply in relation to the member of the Judicial Service Commission of the Federation appointed by the Governor-General—

- (a) a person shall not be qualified for appointment as such unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;
- (b) subject to the provisions of this sub-section, a person appointed as such shall vacate his office at the expiration of five years from the date of his appointment;
- (c) a person appointed as such may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge

- the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour;
- (d) a person appointed as such shall not be removed from office except in accordance with the provisions of this sub-section.

**121.**—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission of the Federation:

Appointment of officers connected with courts of Federation or Federal territory.

Provided that the Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members, to any judge or to the holder of any office to which this section applies.

(2) The offices to which this section applies are the offices of members of any court of law established by Parliament for the Federation or the Federal territory (other than a court-martial) and such offices connected with the Federal Supreme Court, the High Court of Lagos or any court of law established by Parliament for the Federation or the Federal territory as may be prescribed by Parliament.

**122.** A judge of the Federal Supreme Court or the High Court of Lagos shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

Oaths to be taken by judges.

## CHAPTER IX

### FINANCE

#### PART 1

#### *Public Funds of the Federation*

**123.**—(1) All revenues or other moneys raised or received by the Federation (not being revenues or other moneys payable under this Constitution or any Act of Parliament into some other public fund of the Federation established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

Establishment of Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the Fund by this Constitution or any Act of Parliament or where the issue of those moneys has been authorized by an appropriation Act or an Act passed in pursuance of section 125 of this Constitution.

(3) No moneys shall be withdrawn from any public fund of the Federation other than the Consolidated Revenue Fund unless the issue of those moneys has been authorized by an Act of Parliament.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation except in the manner prescribed by Parliament.

Authoriza-  
tion of  
expenditure  
from  
Consolidated  
Revenue  
Fund.

124.—(1) The Minister of the Government of the Federation responsible for finance shall cause to be prepared and laid before both Houses of Parliament in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution or any Act of Parliament) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Federation of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

(a) that the amount appropriated by the appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act; or

(b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation Act or for a purpose for which no amount has been appropriated by the Act,

a supplementary estimate showing the sums required or spent shall be laid before both Houses of Parliament and the heads of any such expenditure shall be included in a supplementary appropriation bill.

125. Parliament may make provision under which, if the appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of the Government of the Federation responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Federation for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.

Authoriza-  
tion of  
expenditure  
in advance  
of appro-  
priation.

126.—(1) Parliament may provide for the establishment of a Contingencies Fund for the Federation and for authorizing the Minister of the Government of the Federation responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

Contin-  
gencies  
Fund.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

127.—(1) There shall be paid to the holders of the offices to which this section applies such salary as may be prescribed by Parliament.

Remunera-  
tion of  
Governor-  
General and  
certain other  
officers.

(2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Federation.

(3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies to the office of Governor-General, Chief Justice of the Federation, Federal Justice, Chief Justice or other judge of the High Court of Lagos, member of the Electoral Commission of the Federation, appointed member of the Judicial Service Commission of the Federation, member of the Public Service Commission of the Federation, member of the Police Service Commission of the Federation, Director of Public Prosecutions of the Federation and Director of Audit of the Federation.

Audit of  
public  
accounts.

128.—(1) There shall be a Director of Audit for the Federation, whose office shall be an office in the public service of the Federation.

(2) The public accounts of the Federation and of all officers, courts and authorities of the Federation shall be audited and reported on by the Director of Audit of the Federation and for that purpose the Director or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Federation shall submit his reports to the Minister of the Government of the Federation responsible for finance, who shall cause them to be laid before both Houses of Parliament.

(4) In the exercise of his functions under this Constitution the Director of Audit of the Federation shall not be subject to the direction or control of any other person or authority.

Public debt.

129.—(1) The public debt of the Federation shall be secured on the revenues and assets of the Federation.

(2) In this section references to the public debt of the Federation include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

## PART 2

### *Allocation of Revenue*

Import  
duties on  
certain  
commodities.

130.—(1) Where under any Act of Parliament a duty is levied in respect of the import into Nigeria of any commodity other than motor spirit, diesel oil, tobacco, wine, potable spirits or beer, the Federation shall, in respect of each quarter, credit to a special account, maintained by the Federation and referred to in this Constitution as "the Distributable Pool Account", a sum equal to thirty *per cent* of the proceeds of that duty for that quarter.

(2) For the purposes of this section the proceeds of a duty for a quarter shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for.

**131.**—(1) (a) Where under any Act of Parliament a duty is levied in respect of the import into Nigeria of motor spirit or diesel oil, or of any particular class, variety or description of motor spirit or diesel oil, there shall be paid by the Federation to the Regions in respect of each quarter a sum equal to the proceeds of that duty for that quarter. Import duties on motor spirit and tobacco.

(b) When under paragraph (a) of this sub-section any sum is payable by the Federation to the Regions in respect of any quarter, payment of the said sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective amounts of motor spirit or diesel oil, or of motor spirit or diesel oil of the particular class, variety or description in question, as the case may be, that have been distributed for consumption in the several Regions in the immediately preceding quarter.

(2) (a) Where under any Act of Parliament a duty is levied in respect of the import into Nigeria of tobacco, or of any particular class, variety or description of tobacco, there shall be paid by the Federation to the Regions in respect of each quarter such sum as is equal to the proceeds of that duty for that quarter.

(b) When under paragraph (a) of this sub-section any sum is payable by the Federation to the Regions in respect of any quarter, payment of the said sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective amounts of tobacco, or of tobacco of the particular class, variety or description in question, as the case may be, that have been distributed for consumption in the several Regions in the immediately preceding quarter.

(3) For the purposes of this section the proceeds of a duty for a quarter levied on any commodity, or any particular class, variety or description of commodity, shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for less the part of that amount that is attributable to quantities of that commodity or that class, variety or description of commodity distributed, or intended to be distributed, in the Federal territory.

**132.**—(1) Where under any Act of Parliament an excise duty is levied on tobacco, or on any particular class, variety or description of tobacco, there shall be paid by the Federation to the Regions in respect of each quarter a sum equal to the proceeds of that duty for that quarter. Excise duties.

(2) Where under sub-section (1) of this section any sum is payable by the Federation to the Regions in respect of any quarter, payment of the said sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective amounts of the commodity in question that have been distributed for consumption in the several Regions in the immediately preceding quarter.

(3) For the purposes of this section the proceeds for a quarter of a duty levied on tobacco or any particular class, variety or description of tobacco, shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for, less the part of that amount that is attributable to quantities of tobacco or that particular class, variety or description of tobacco, distributed, or intended to be distributed, for consumption in the Federal territory.

Export  
duties.

133.—(1) Where under any Act of Parliament duty is levied in respect of the export from Nigeria of produce, hides or skins there shall be paid by the Federation to each Region in respect of each quarter a sum equal to the appropriate percentage of the proceeds of that duty for that quarter.

(2) For the purposes of sub-section (1) of this section—

(a) the proceeds for a quarter of a duty levied on a commodity shall be the amount remaining from such of the receipts from that duty as relate to exports of that commodity during that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for;

(b) the appropriate percentage of the proceeds for a quarter of a duty levied on a commodity shall, in relation to any Region, be whichever of the following percentages is prescribed by Parliament in that behalf, that is to say, either—

(i) the percentage of those proceeds that is attributable to exports of that commodity that were derived from that Region;

(ii) the percentage of those proceeds that is attributable to exports of that commodity that were purchased in that Region;

(iii) the percentage of those proceeds that bears the same proportion to the total amount of those proceeds as the amount of that commodity that was purchased for export in that Region during the quarter immediately preceding that quarter bears to that total amount of that commodity that was so purchased in all the Regions during that immediately preceding quarter; or

(iv) the percentage of proceeds that bears the same proportion to the total amount of those proceeds as the amount of the commodity that was purchased for export in that Region during the period of twelve months commencing three months before the commencement of the financial year in which that quarter falls bears to the total amount of that commodity that was so purchased in all the Regions during the period of twelve months.

(3) Parliament may designate, or make provision for designating, any class, variety or description of any commodity as a separate commodity for the purposes of this section, and any such class, variety or description that is so designated shall be regarded as a separate commodity for those purposes.

(4) For the purposes of this section any amount of a commodity that is derived from the Federal territory shall be deemed to be derived from Western Nigeria and any amount of a commodity that is purchased in the Federal territory shall be deemed to be purchased in Western Nigeria.

**134.**—(1) There shall be paid by the Federation to each Region a sum equal to fifty *per cent* of—

Mining  
royalties  
and rents.

- (a) the proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region; and
- (b) any mining rents derived by the Federation during that year from within that Region.

(2) The Federation shall credit to the Distributable Pool Account a sum equal to thirty *per cent* of—

- (a) the proceeds of any royalty received by the Federation in respect of minerals extracted in any Region; and
- (b) any mining rents derived by the Federation from within any Region.

(3) For the purposes of this section the proceeds of a royalty shall be the amount remaining from the receipts of that royalty after any refunds or other repayments relating to those receipts have been deducted therefrom or allowed for.

(4) Parliament may prescribe the periods in relation to which the proceeds of any royalty or mining rents shall be calculated for the purposes of this section.

(5) In this section "minerals" includes mineral oil.

(6) For the purposes of this section the continental shelf of a Region shall be deemed to be part of that Region.

Distribution of funds in Distributable Pool Account.

**135.** There shall be paid by the Federation to the Regions at the end of each quarter sums equal to the following fractions of the amount standing to the credit of the Distributable Pool Account at that date, that is to say—

(a) to Northern Nigeria, forty-ninety-fifths;

(b) to Western Nigeria, twenty-four-ninety-fifths;

(c) to Eastern Nigeria, thirty-one-ninety-fifths.

Regions to contribute towards costs of administration.

**136.** Each Region shall in respect of each financial year pay to the Federation an amount equal to such part of the expenditure incurred by the Federation during that financial year in respect of the department of customs and excise of the Government of the Federation for the purpose of collecting the duties referred to in sections 130, 131, 132 and 133 of this Constitution as is proportionate to the share of the proceeds of those duties received by that Region under those sections in respect of that financial year.

Set-off.

**137.—**(1) Any sum that is required by this Chapter to be paid by the Federation to a Region may be set off by the Federation in or towards the payment of any sum that is due from that Region to the Federation in respect of any loan made by the Federation to that Region.

(2) The right of set-off conferred by sub-section (1) of this section shall be without prejudice to any other right of the Federation to obtain payment of any sum due to the Federation in respect of any loan.

**138.** Any payments that are required by this Chapter to be made by the Federation to a Region shall be a charge on the Consolidated Revenue Fund of the Federation and any payments that are so required to be made by a Region to the Federation shall be a charge on the Consolidated Revenue Fund of that Region.

Sums charged on Consolidated Revenue Funds.

**139.**—(1) Where any payment falls to be made under this Part of this Chapter, the amount payable shall be certified by the Director of Audit of the Federation:

Provisions with regard to payments.

Provided that a provisional payment may be made before the Director has given his certificate.

(2) Parliament may make provision as to time and manner in which any payment falling to be made under this Part of this Chapter shall be effected and for the making of adjustments and provisional payments.

## CHAPTER X

### THE PUBLIC SERVICE OF THE FEDERATION

**140.**—(1) There shall be a Public Service Commission for the Federation, which shall consist of a chairman and not less than two or more than four other members.

Establishment of Public Service Commission.

(2) The members of the Public Service Commission of the Federation shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or the holder of an office in the public service of the Federation or the public service of a Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Federation shall vacate his office—

- (a) at the expiration of five years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission of the Federation may be removed from office by the Governor-General, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Public Service Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

(7) A person who has been appointed to be a member of the Public Service Commission of the Federation shall not thereafter be eligible for appointment to any office in the public service of the Federation.

Appoint-  
ment, etc., of  
officers in  
public  
service.

**141.**—(1) Power to appoint persons to hold or act in offices in the public service of the Federation (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Federation:

Provided that the Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Federation.

(2) This section shall not apply in relation to any of the following offices:—

- (a) the office of any judge of the Federal Supreme Court or the High Court of Lagos;
- (b) except for the purposes of making appointments thereto, the office of the Director of Audit of the Federation or the Director of Public Prosecutions of the Federation;
- (c) any office in the Nigeria Police Force;
- (d) any office to which section 121 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission of the Federation) applies; or
- (e) any office to which section 142 of this Constitution (which relates to the offices of the principal representatives of the Federation abroad) applies.

(3) The provisions of this section shall be subject to the provisions of section 143 of this Constitution (which relates to permanent secretaries).

(4) No appointment shall be made under this section to any office on the personal staff of the Governor-General unless the Governor-General signifies his approval of the appointment.

**142.—**(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer) and to remove persons so appointed from any such office shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

Appoint-  
ment, etc., of  
principal  
representa-  
tives of  
Federation  
abroad.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Federation other than an office to which this section applies, the Prime Minister shall consult the Public Service Commission of the Federation.

(3) The offices to which this section applies are the offices of any Ambassador, High Commissioner or other principal representative of the Federation in countries other than Nigeria.

**143.—**(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Federation and to remove persons so appointed from that office shall vest in the Governor-General, acting in accordance with the advice of the Prime Minister.

Appoint-  
ment, etc., of  
permanent  
secretaries.

(2) Before tendering any advice for the purposes of this section the Prime Minister shall consult the Public Service Commission of the Federation.

**144.—**A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Federation unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Qualifica-  
tions of  
Director of  
Public Prose-  
cutions.

**145.—**(1) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions of the Federation shall vacate that office when he attains such age as may be prescribed by Parliament.

Tenure  
of office of  
Director of  
Public Prose-  
cutions.

(2) A person holding the office of Director of Public Prosecutions of the Federation may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Director of Public Prosecutions of the Federation shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under sub-section (4) of this section and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability or misbehaviour.

(4) If the Prime Minister represents to the Governor-General that the question of removing the Director of Public Prosecutions of the Federation under this section ought to be investigated then—

(a) the Governor-General, acting in accordance with the advice of the Prime Minister, shall appoint a tribunal, which shall consist of a chairman and not less than two other members, the chairman and half of the other members being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the Director ought to be removed under this section.

(5) If the question of removing the Director of Public Prosecutions of the Federation has been referred to a tribunal under this section, the Governor-General, acting in accordance with the advice of the Prime Minister, may suspend the Director from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in accordance with the advice of the Prime Minister, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Director should not be removed.

Appointment  
and tenure  
of office of  
Director of  
Audit.

146.—(1) Before appointing any person to hold the office of Director of Audit of the Federation the Public Service Commission of the Federation shall consult the Prime Minister.

(2) Subject to the provisions of this section, a person holding the office of Director of Audit of the Federation shall vacate that office when he attains such age as may be prescribed by Parliament.

(3) A person holding the office of Director of Audit of the Federation shall be removed from office by the Governor-General if a resolution is passed by each House of Parliament recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) A person holding the office of Director of Audit of the Federation shall not be removed from office except in accordance with the provisions of this section.

(5) If the office of Director of Audit of the Federation is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Federation, acting after consultation with the Prime Minister, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission acting after consultation with the Prime Minister.

147. Before exercising any of its powers in relation to the Clerk to the Senate the Public Service Commission of the Federation shall consult the President of the Senate and before exercising any of its powers in relation to the Clerk to the House of Representatives the Commission shall consult the Speaker of that House.

Powers relating to Clerks of Houses of Parliament.

148.—(1) The law applicable to any benefits to which this section applies shall, in relation to any person who has been granted, or who is eligible for, such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

Protection of pension rights.

(2) In this section "the relevant date" means—

- (a) in relation to any benefits granted before this Constitution came into operation, the date on which those benefits were granted;
- (b) in relation to any benefits granted after this Constitution came into operation to or in respect of any person who was a member of the public service of the Federation, the former public service of Nigeria, or the public service of a

Region before this Constitution came into operation or any benefits for which any such person may be eligible, the thirtieth day of September, 1960; and

- (c) in relation to any benefits granted to or in respect of any person who first becomes a member of the public service of the Federation or the public service of a Region after this Constitution came into operation or any benefits for which any such person may be eligible, the date on which he first became such a member.

(3) Where a person is entitled to exercise an option whichever one of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this section applies that is payable by the Federation (not being a benefit that is a charge upon some other public fund of the Federation) shall be a charge upon the Consolidated Revenue Fund of the Federation and any such benefit that is payable by a Region (not being a benefit that is a charge upon some other public fund of that Region) shall be a charge upon the Consolidated Revenue Fund of that Region.

(5) This section applies to any benefits payable under any law in force in Nigeria or any part thereof providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Federation, the former public service of Nigeria or the public service of a Region in respect of their service in any of those public services or to the widows, children, dependants or personal representatives of such persons in respect of such service.

Powers of  
Commissions  
in relation  
to grant of  
pensions, etc.

149.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Act of Parliament, those benefits shall not be so withheld, reduced in amount or suspended—

- (a) in the case of benefits that have been granted in respect of the service in the public service of the Federation of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Judicial Service Commission of the Federation or for which any person may be eligible in respect of such service, without the approval of that Commission;

- (b) in the case of benefits that have been granted in respect of the service in the public service of the Federation of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Police Service Commission of the Federation or for which any person may be eligible in respect of such service, without the approval of that Commission; or
- (c) in any other case, without the approval of the Public Service Commission of the Federation.

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of a judge of the Federal Supreme Court or the High Court of Lagos or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

(3) This section applies to any benefits payable under any Act of Parliament providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Federation or the former public service of Nigeria in respect of their service in that public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

## CHAPTER XI

### MISCELLANEOUS

150.—(1) Any Commission established by this Constitution may, with the consent of the Prime Minister or such other Minister of the Government of the Federation as may be authorized in that behalf by the Prime Minister, by regulation or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority of the Federation for the purpose of discharging its functions.

Powers and procedure of Federal Commissions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof or, in the case of the Judicial Service Commission of the Federation, a majority of all the members thereof who are entitled to take part in the business to which the decision relates.

Resignations.

**151.—(1)** Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected:

Provided that in the case of a member of a House of Parliament who holds office as President or Speaker of the House his resignation from the House or that office shall be addressed to the House and in the case of any other member of the House his resignation from the House shall be addressed to the President or Speaker of the House.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

Re-appointments, etc.

**152.—(1)** Where any person has vacated any office constituted by this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any office in the public service of the Federation, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this sub-section, then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.

Review of ss. 134 and 135 of this Constitution.

**153.** The Government of the Federation, acting after consultation with the Governments of the Regions, shall from time to time appoint a Commission to review and make recommendations with respect to the provisions of sections 134 and 135 of this Constitution.

Interpretation.

**154.—(1)** In this Constitution, unless it is otherwise expressly provided or required by the context—

“Act of Parliament” means any law made by Parliament;

- “the Advisory Council” means the Advisory Council on the Prerogative of Mercy of the Federation;
- “the Commonwealth” means Nigeria, any country to which section 13 of this Constitution applies and any dependency of any such country;
- “the Concurrent Legislative List” means the list in Part II of the Schedule to this Constitution;
- “the Exclusive Legislative List” means the list in Part I of the Schedule to this Constitution;
- “financial year” means any period of twelve months beginning on the first day of April in any year or such other date as Parliament may prescribe;
- “the Legislative Lists” means the Exclusive Legislative List and the Concurrent Legislative List;
- “oath” includes affirmation;
- “the oath of allegiance” means such oath of allegiance as may be prescribed by Parliament;
- “Parliament” means the Parliament of the Federation;
- “produce” means such animal or vegetable products, whether processed or in a natural state (other than tobacco, hides or skins) as may with the consent of the Governments of the Regions be designated by the Governor-General by order;
- “the public service of the Federation” means the service of the Crown in a civil capacity in respect of the government of the Federation;
- “territory” means a Region or the Federal territory;
- “quarter” means a quarter of a financial year.

(2) In this Constitution, unless it is otherwise expressly provided or required by the context—

- (a) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices; and
- (b) references to offices in the public service of the Federation include references to the offices of the judges of the Federal Supreme Court and the High Court of Lagos and references to the offices of members of all other courts of

law established by Parliament (other than courts-martial), being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Federation, and references to the offices of members of the Nigeria Police Force.

(3) For the purposes of this Constitution, the office of the President or the Deputy President of the Senate, a Senator, the Speaker or the Deputy Speaker of the House of Representatives, a member of the House of Representatives, a Minister of the Government of the Federation, a Parliamentary Secretary to such a Minister or a member of the Council of Ministers, the Nigeria Police Council, any Commission established by this Constitution or the Advisory Council shall not be regarded as an office in the public service of the Federation.

(4) The Interpretation Act, 1889(a), as in force on the first day of October, 1960, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

(5) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

## Section 154.

## THE SCHEDULE

## THE LEGISLATIVE LISTS

## PART I

*The Exclusive Legislative List**Item*

1. Accounts of the Government of the Federation and officers, courts and authorities thereof, including audit of those accounts.
2. Archives, other than the public records of the Governments of the Regions since the twenty-third day of January, 1952.
3. Aviation, including airports, safety of aircraft and ancillary transport and other services.

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(a) 50 & 53 Vict. c. 63.

*Item*

4. Bills of exchange and promissory notes.
5. Borrowing of moneys outside Nigeria for the purposes of the Federation or of any Region other than borrowing by the Government of a Region for a period not exceeding twelve months on the security of any funds or assets of that government held outside Nigeria.
6. Borrowing of moneys within Nigeria for the purposes of the Federation.
7. Control of capital issues.
8. Copyright.
9. Currency, coinage and legal tender.
10. Customs and excise duties, including export duties.
11. Defence.
12. Deportation; compulsory removal of persons from one territory to another.
13. Designation of securities in which trust funds may be invested.
14. Exchange control.
15. External affairs.
16. Extradition.
17. The following higher educational institutions, that is to say:—
  - The University College at Ibadan.
  - The University College Teaching Hospital.
  - The Nigerian College of Arts, Science and Technology.
  - The West African Institute of Social and Economic Research.
  - The Pharmacy School at Yaba.
  - The Forest School at Ibadan.
  - The Veterinary School at Vom.
18. Immigration into and emigration from Nigeria.
19. Incorporation, regulation and winding-up of bodies corporate, other than co-operative societies, native authorities, local government authorities and bodies corporate established directly by any law enacted by the legislature of a Region.
20. Insurance other than insurance undertaken by the Government of a Region but including any insurance undertaken by the Government of a Region that extends beyond the limits of that Region.
21. Legal proceedings between the Government of the Federation and any other person or authority or between the Governments of Regions.
22. Maritime shipping and navigation, including—
  - (a) shipping and navigation on tidal waters;

## Item

- (b) shipping and navigation on the River Niger and its affluents and on any such other inland waterway as may be declared by Parliament to be an international waterway or to be an inter-Regional waterway;
  - (c) lighthouses, lightships, beacons and other provisions for the safety of shipping and navigation;
  - (d) such ports as may be declared by Parliament to be Federal ports (including the constitution and powers of port authorities for Federal ports).
23. Marriages other than marriages under Moslem law or other customary law; annulment and dissolution of, and other matrimonial causes relating to, marriages other than marriages under Moslem law or other customary law.
  24. Meteorology.
  25. Mines and minerals, including oilfields, oil mining, geological surveys and natural gas.
  26. Museums of the Federation, that is to say—
    - The Jos Museum
    - The Oron Museum
    - The House of Images at Esie
    - Any other museums established by the Government of the Federation.
  27. Naval, military and air forces.
  28. Nuclear energy.
  29. Passports and visas.
  30. Patents, trade marks, designs and merchandise marks.
  31. Pensions, gratuities and other like benefits payable out of the Consolidated Revenue Fund or any other public fund of the Federation.
  32. Posts, telegraphs and telephones, including post office savings banks.
  33. Powers, privileges and immunities of each House of Parliament and its members.
  34. The public debt of the Federation.
  35. Public relations of the Federation.
  36. The public service of the Federation, including the settlement of disputes between the Federation and officers in the public service of the Federation.
  37. Railways, including ancillary transport and other services.
  38. Taxes on amounts paid or payable on the sale or purchase of commodities except—
    - (a) produce;

*Item*

- (b) hides and skins;
  - (c) motor spirit;
  - (d) diesel oil sold or purchased for use in road vehicles;
  - (e) diesel oil sold or purchased for other industrial purposes.
39. Trunk roads, that is to say, the construction, alteration and maintenance of such roads as may be declared by Parliament to be Federal trunk roads.
40. Water from such sources as may be declared by Parliament to be sources affecting more than one territory.
41. Weights and measures.
42. Wireless, broadcasting and television other than broadcasting and television provided by the Government of a Region; allocation of wavelengths for wireless, broadcasting and television transmission.
43. The matters with respect to which Parliament is empowered to make provision by sections 4, 8, 9, 12, 15, 31, 34, 37, 40, 44, 47, 63, sub-section (1) of section 70, sections 71, 72, 81, 89, sub-sections (2) and (5) of section 98 and sections 104, 106, 109, 111, 113, 114, 121, 122, 125, 126, 127, 133, 134, 139, 145, 146 and 154 of this Constitution.
44. Any matter that is incidental or supplementary—
- (a) to any matter referred to elsewhere in this list; or
  - (b) to the discharge by the Government of the Federation or any officer, court or authority of the Federation of any function conferred by this Constitution.

PART II

*The Concurrent Legislative List*

1. Antiquities.
2. Arms and ammunition.
3. Bankruptcy and insolvency.
4. Census.
5. Chemical services, including analytical services.
6. Commercial and industrial monopolies, combines and trusts.
7. Control of the voluntary movement of persons between territories.
8. Such drugs and poisons as may with the consent of the governments of the Regions be designated by the Governor-General by order.
9. Fingerprints, identification and criminal records.

*Item*

10. Higher education, that is to say, institutions and other bodies offering courses or conducting examinations of a university, technological or of a professional character, other than the institutions referred to in Item 17 of Part I of this Schedule.
11. Industrial development.
12. Labour, that is to say, conditions of labour, industrial relations, trade unions and welfare of labour.
13. The legal and medical professions and such other professional occupations as may with the consent of the governments of the Regions be designated by the Governor-General by order.
14. National monuments, that is to say, such monuments in a Region as may with the consent of the Government of that Region be designated by the Governor-General by order as national monuments.
15. National parks, that is to say, the control of such areas in a Region as may with the consent of the Government of that Region be designated by the Governor-General by order as national parks.
16. Prisons and other institutions for the treatment of offenders.
17. Promotion of tourist traffic.
18. The maintaining and securing of public safety and public order; the providing, maintaining and securing of such supplies and services as may be designated by the Governor-General by order as essential supplies and services.
19. Quarantine.
20. Registration of business names.
21. Scientific and industrial research.
22. Service and execution in a Region of the civil and criminal processes, judgments, decrees, orders and other decisions of any court of law outside Nigeria or any court of law in Nigeria other than the Federal Supreme Court, the High Court of that Region or any court of law established by the legislature of that Region.
23. Statistics.
24. Traffic on Federal trunk roads.
25. Trigonometrical, cadastral and topographical surveys.
26. Water-power.
27. The matters with respect to which Parliament is empowered to make provision by sub-sections (2) and (3) of section 70 and section 73 of this Constitution.
28. Any matter that is incidental or supplementary to any matter referred to in this list.

PART III

*Interpretation*

1. In this Schedule references to incidental and supplementary matters include, without prejudice to their generality—
  - (a) offences;
  - (b) the jurisdiction, powers, practice and procedure of courts of law;
  - (c) the compulsory acquisition and tenure of land; and
  - (d) the establishment and regulation of tribunals of enquiry.
2. Where by this Schedule Parliament is empowered to make any declaration that declaration may be made by resolutions passed by both Houses of Parliament instead of by Act of Parliament.



THE THIRD SCHEDULE

Section 2.

THE CONSTITUTION OF NORTHERN NIGERIA

ARRANGEMENT OF SECTIONS

CHAPTER I

THE GOVERNOR

SECTION

1. Establishment of office of Governor.
2. Oaths to be taken by Governor.
3. Discharge of Governor's functions during vacancy, etc.

CHAPTER II

THE LEGISLATURE OF THE REGION

PART 1

*Composition of Legislature*

4. Establishment of Legislature.
5. Composition of House of Chiefs.
6. Adviser on Moslem law.
7. Composition of House of Assembly.
8. Qualifications for membership of House of Assembly.
9. Disqualifications for membership of House of Assembly.
10. President of House of Chiefs.
11. Speaker of House of Assembly.
12. Right of attendance of Ministers.
13. Tenure of seats of members of House of Assembly.
14. Establishment of Electoral Commission.
15. Constituencies.
16. Elections.
17. Determination of questions of membership of Legislative Houses.
18. Clerks to Legislative Houses and their staffs.

PART 2

*Procedure in Legislative Houses*

19. Oaths to be taken by members of Legislative Houses.
20. Presiding in House of Chiefs.
21. Presiding in House of Assembly.
22. Quorum in Legislative Houses.
23. Languages of Legislative Houses.
24. Voting in Legislative Houses.
25. Unqualified persons sitting or voting.
26. Mode of exercising legislative power.
27. Restrictions with regard to certain financial measures.
28. Special procedure where Legislative Houses disagree.
29. Regulation of procedure in Legislative Houses.
30. Interpretation.

## PART 3

*Summoning, prorogation and dissolution*

## SECTION

31. Sessions of Legislative Houses.
32. Prorogation and dissolution of Legislative Houses.

## CHAPTER III

## EXECUTIVE POWERS

33. Exercise of executive authority of Region.
34. Ministers of Government of Region.
35. Establishment of Executive Council.
36. Collective responsibility.
37. Allocation of portfolios to Ministers.
38. Performance of functions of Premier during absence or illness.
39. Exercise of Governor's powers.
40. Governor to be informed concerning matters of government.
41. Parliamentary Secretaries.
42. Oaths to be taken by Ministers, etc.
43. Permanent secretaries.
44. Constitution of offices for Region, etc.
45. Prerogative of mercy.
46. Establishment of Advisory Council on Prerogative of Mercy.
47. Functions of Advisory Council.
48. Public prosecutions.

## CHAPTER IV

## COURTS

49. Establishment of High Court.
50. Appointment of judges of High Court.
51. Tenure of offices of judges of High Court.
52. Appeals to High Court from subordinate Courts.
53. Establishment of Judicial Service Commission.
54. Appointment of officers connected with courts.
55. Oaths to be taken by judges.

## CHAPTER V

## FINANCE

56. Establishment of Consolidated Revenue Fund.
57. Authorization of expenditure from Consolidated Revenue Fund.
58. Authorization of expenditure in advance of appropriation.
59. Contingencies fund.
60. Remuneration of Governor and certain other officers.
61. Audit of public accounts.
62. Public debt.

CHAPTER VI

THE PUBLIC SERVICE OF THE REGION

SECTION

63. Establishment of Public Service Commission.
64. Appointment, etc., of officers in public service.
65. Appointment, etc., of Agent-General in U.K.
66. Appointment, etc., of permanent secretaries.
67. Qualifications of Director of Public Prosecutions.
68. Tenure of office of Director of Public Prosecutions.
69. Appointment and tenure of office of Director of Audit.
70. Powers relating to Clerks of Legislative Houses.
71. Powers of Commissions in relation to grant of pensions, etc.

CHAPTER VII

MISCELLANEOUS

72. Powers and procedure of Commissions.
73. Establishment of Provincial Administrations.
74. Council of Chiefs.
75. Resignations.
76. Re-appointments, etc.
77. Interpretation.



Whereas Northern Nigeria is a Region of the Federation of Nigeria:

And whereas it is expedient to make provision, subject to the provisions of the Constitution of the Federation, for a Constitution for Northern Nigeria (hereinafter referred to as "the Region"):

Now, therefore, the Constitution of the Region shall be as follows:—

## CHAPTER I

### THE GOVERNOR

1.—(1) There shall be a Governor of the Region, who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure, and who shall be Her Majesty's representative in the Region. Establishment of office of Governor.

(2) The Premier shall consult the Prime Minister of the Federation before tendering any advice to Her Majesty for the purposes of this section.

2. A person appointed to the office of Governor shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and such oath for the due execution of the office as may be prescribed by the Legislature of the Region. Oaths to be taken by Governor.

3. Whenever the office of Governor is vacant or the holder of the office is absent from Nigeria or is for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as Her Majesty may appoint or, if there is no person in the Region so appointed and able to perform those functions, by the President of the House of Chiefs: Discharge of Governor's functions during vacancy, etc.

Provided that nothing in this section shall preclude the Governor from performing any of those functions at any time when he is absent from Nigeria.

## CHAPTER II

### THE LEGISLATURE

#### PART I

#### *Composition of Legislature*

4. There shall be a Legislature for the Region, which shall consist of Her Majesty, a House of Chiefs and a House of Assembly and which shall have power to make laws for the peace, order and good government of the Region. Establishment of Legislature.

Composition  
of House  
of Chiefs.

5.—(1) The House of Chiefs shall consist of—

- (a) all first-class Chiefs, who shall be *ex officio* members of House;
- (b) ninety-five Chiefs having such qualifications and selected in such manner as may be prescribed by the Legislature of the Region; and
- (c) an adviser on Moslem law.

(2) The seat in the House of Chiefs of a Chief other than a first-class Chief shall become vacant in such circumstances as may be prescribed by the Legislature of the Region.

(3) In this section—

“Chief” means any person who is for the time being recognized by the Governor as a Chief;

“first-class Chief” means any Chief whose office is for the time being graded as that of a first-class Chief under any law in force in the Region.

Adviser on  
Moslem law.

6.—(1) The adviser on Moslem law shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(2) A person holding the office of adviser on Moslem law may be removed from office by the Governor, acting in accordance with the advice of the Premier.

(3) If the office of the adviser on Moslem law is vacant or if the holder of the office is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Premier, may appoint a person to act in the office, and any person so appointed shall continue to act until his appointment is revoked by the Governor, acting in accordance with the advice of the Premier.

(4) The references in sections 10, 20, 22, 24, 28, 34, 41 and 74 of this Constitution to a member of the House of Chiefs do not include references to the adviser on Moslem law.

Composition  
of House  
of Assembly.

7. The House of Assembly shall consist of—

- (a) one hundred and seventy elected members; and
- (b) such special members (not exceeding five) as may be appointed by the Governor, acting in accordance with the advice of the Premier, to represent interests or communities that in his opinion are not adequately represented in the House.

8. Subject to the provisions of section 9 of this Constitution, a person shall be qualified to be a member of the House of Assembly if he is a citizen of Nigeria who is a male person of the age of twenty-one years or more and—

Qualifications for membership of House of Assembly.

- (a) who was born in the Region; or
- (b) whose father was born in the Region; or
- (c) who has resided in the Region for a continuous period of at least three years immediately before the date of the election:

Provided that a person may be appointed to be a special member of the House whether or not he is a citizen of Nigeria.

9.—(1) No person shall be qualified for election or appointment to the House of Assembly—

Disqualifications for membership of House of Assembly.

- (a) if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country;
- (b) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;
- (c) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed upon him by such a court or substituted by competent authority for some other sentence imposed upon him by such a court;
- (d) if he is an undischarged bankrupt, having been adjudged or otherwise declared to be bankrupt under any law in force in any part of Nigeria;
- (e) save as otherwise provided by the Legislature of the Region, if he is a member of the public service of the Region, the public service of the Federation or the public service of another Region, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown; or
- (f) if he is a member of the House of Chiefs, an *ex officio* member of the Senate or a member of a legislative house of another Region.

(2) The Legislature of the Region may provide that a person shall not be qualified for membership of the House of Assembly for such period (not exceeding five years) as may be prescribed

if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a Legislative House of the Region, a House of Parliament or a legislative house of another Region as may be prescribed.

(3) The Legislature of the Region may prescribe that a person disqualified under paragraph (c) of sub-section (1) of this section by reason of his being under a sentence of imprisonment exceeding six months for any such offence (being an offence that appears to that Legislature to involve dishonesty) as may be prescribed or by reason of his being under sentences of imprisonment that include such a sentence for any such offence shall not be qualified for membership of the House of Assembly for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be prescribed.

(4) The Legislature of the Region may provide that a person who is the holder of any office the functions of which involve responsibility for, on in connection with, the conduct of any election to the House of Assembly or the compilation of any register of voters for the purposes of such an election shall not be qualified for election to that House.

(5) The Legislature of the Region may, in order to permit any person who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of sub-section (1) of this section for such time as may be prescribed.

(6) For the purposes of paragraph (c) of sub-section (1) of this section two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(7) For the purposes of paragraph (e) of sub-section (1) of this section—

- (a) a person shall not be regarded as holding an office of emolument under the Crown by reason only that he is in receipt of a pension or other like benefit in respect of service in an office under the Crown; and

- (b) the office of the Speaker or the Deputy Speaker of the House of Assembly, the President, Deputy President, Speaker or Deputy Speaker or a member of a House of Parliament or a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region, a Parliamentary Secretary to any such Minister, a member of the Executive Council of the Region, a member of the Council of Ministers, a member of the Executive Council of another Region, a member of the Council of Chiefs of the Region, a member of the Minority Council of a Minority Area in Western Nigeria or Eastern Nigeria or a member of any such body corporate as is referred to in the proviso to sub-section (10) of this section shall not be regarded as an office of emolument under the Crown.

(8) Save as otherwise provided by the Legislature of the Region, a person shall not be regarded as disqualified for membership of the House of Assembly by reason only that he holds office as a member of a statutory corporation.

(9) If a person who holds the office of a member of any statutory corporation becomes a member of the House of Assembly, he shall, unless it is otherwise provided by the Legislature of the Region, thereupon cease to hold office as a member of that corporation.

(10) In this section "statutory corporation" means any body corporate established directly by any law in force in Nigeria:

Provided that it does not include any body corporate established by or under the Native Authority Law, 1954, of the Region(a), as amended, or any law replacing that law.

10.—(1) There shall be a President of the House of Chiefs, who shall be elected by the members of that House from among their own number.

President of House of Chiefs.

(2) The President of the House of Chiefs shall vacate his office—

(a) if he ceases to be a member of the House otherwise than by reason of a dissolution of the Legislative Houses of the Region;

(b) when the House first sits after any dissolution;

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(a) Law No. 4 of 1954.

- (c) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region; or
  - (d) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.
- (3) No business shall be transacted in the House of Chiefs (other than an election to the office of President) at any time when the office of President is vacant.

Speaker of  
House of  
Assembly.

11.—(1) There shall be a Speaker of the House of Assembly, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Assembly unless he is a member of the House or a person qualified to be a member of the House.

(3) The Speaker of the House of Assembly shall vacate his office—

- (a) if, having been elected from among the members of the House, he ceases to be a member otherwise than by reason of a dissolution of the Legislative Houses of the Region;
- (b) if, having been elected from outside the House, any circumstances arise (other than a dissolution of the Legislative House) that if he were a member of the House would cause him to vacate his seat as such;
- (c) when the House first sits after any dissolution;
- (d) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region; or
- (e) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Assembly (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.

Right of  
attendance  
of Ministers.

12.—(1) A Minister of the Government of the Region may attend and take part in the proceedings of either Legislative House of the Region notwithstanding that he is not a member of that House.

(2) Nothing in this section shall entitle any person who is not a member of a Legislative House of the Region to vote in that House or any of its committees.

13.—(1) A member of the House of Assembly shall vacate his seat in the House—

Tenure of seats of members of House of Assembly.

- (a) if he becomes a member of the House of Chiefs, a House of Parliament or a legislative house of another Region;
- (b) if any other circumstances arise that, if he were not a member of the House, would cause him to be disqualified for election as such under sub-section (1) or (2) of section 9 of this Constitution;
- (c) if he ceases to be a citizen of Nigeria;
- (d) if he becomes a Minister of the Government of the Federation or a Minister of the Government of another Region;
- (e) save as otherwise provided by the Legislature of the Region, if he becomes a member of any statutory corporation; or
- (f) if he is absent from two consecutive meetings of the House and the Speaker of the House does not, by writing under his hand, excuse his absence within one month after the end of the second meeting.

(2) The Legislature of the Region may, in order to permit any member of the House of Assembly who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of this section until such time as may be prescribed.

(3) In this section the expression "statutory corporation" has the meaning assigned to it for the purposes of section 9 of this Constitution.

14.—(1) There shall be an Electoral Commission for the Region.

Establishment of Electoral Commission.

(2) The members of the Electoral Commission of the Region shall be—

- (a) the chairman of the Electoral Commission of the Federation, who shall be chairman;
- (b) the member of the Electoral Commission of the Federation representing the Region; and
- (c) two other members or such greater number of members as may be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified for appointment as a member of the Electoral Commission of the Region if he is a member of either Legislative House of the Region, a member of either House of Parliament or a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Electoral Commission of the Region appointed by the Governor shall vacate his office—

- (a) at the expiration of five years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Electoral Commission of the Region appointed by the Governor may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Electoral Commission of the Region appointed by the Governor shall not be removed from office except in accordance with the provisions of this section.

(7) In the exercise of its functions under this Constitution the Electoral Commission of the Region shall not be subject to the direction or control of any other person or authority.

15.—(1) The Region shall be divided into as many constituencies as there are elected members of the House of Assembly in such manner as the competent authority, acting with the approval of each Legislative House of the Region signified by resolution, may prescribe.

Constituencies.

(2) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features and the distribution of different communities.

(3) The competent authority shall review the division of the Region into constituencies at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review:

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any alteration of the boundaries of the Region or by reason of the holding of a census of the population of the Region in pursuance of any law in force in the Region.

(4) Where the boundaries of any constituency established under this section are altered in accordance with the provisions of this section, that alteration shall come into effect upon the next dissolution of the Legislative Houses of the Region after the alteration has been approved by those Houses.

(5) In this section "population quota" means the number obtained by dividing the number of the inhabitants of the Region by the number of constituencies into which the Region is divided under this section.

(6) For the purposes of this section the number of inhabitants of the Region shall be ascertained by reference to the latest census of the population of the Region held in pursuance of any law in force in the Region.

(7) In this section "the competent authority" means the Electoral Commission of the Region or such other authority consisting of persons appointed by the Governor, acting in accordance with the advice of the Premier, as may be established in that behalf by the Legislature of the Region.

Elections.

16.—(1) Every constituency established under section 15 of this Constitution shall return to the House of Assembly one member who shall be directly elected in such manner as may be prescribed by the Legislature of the Region.

(2) The registration of voters at elections to the House of Assembly and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission of the Region.

Determina-  
tion of  
questions of  
membership  
of Houses of  
Legislature.

17.—(1) The High Court of the Region shall have original jurisdiction to hear and determine any question whether—

- (a) any person has been validly appointed, selected or elected as a member of a Legislative House of the Region; or
- (b) the seat in a Legislative House of any member of that House has become vacant.

(2) The Legislature of the Region may make provision with respect to—

- (a) the persons who may apply to the High Court of the Region for the determination of any question under this section;
- (b) the circumstances and manner in which, and the conditions upon which, any such application may be made; and
- (c) the powers, practice and procedure of the High Court in relation to any such application.

Clerks to  
Legislative  
Houses and  
their staffs.

18.—(1) There shall be a Clerk to the House of Chiefs and a Clerk to the House of Assembly:

Provided that the offices of Clerk to the House of Chiefs and Clerk to the House of Assembly may be held by the same person.

(2) Subject to the provisions of any Regional law, the office of the Clerk of each Legislative House of the Region and the members of his staff shall be offices in the public service of the Region.

## PART 2

### *Procedure in Legislative Houses*

Oaths to be  
taken by  
members of  
Legislative  
Houses.

19.—(1) Every member of either Legislative House of the Region shall, before taking his seat in that House, take and

subscribe before the House the oath of allegiance, but a member may before taking that oath take part in the election of a President of the House of Chiefs or a Speaker of the House of Assembly, as the case may be:

Provided that if a Legislative House is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of the Region.

(2) Any person elected to the office of Speaker of the House of Assembly who is not a member of that House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the House.

20.—(1) There shall preside at any sitting of the House of Chiefs— Presiding in House of Chiefs.

(a) the President; or

(b) in the absence of the President, the Deputy President; or

(c) in the absence of the President and the Deputy President, such member of the House as the House may elect for that purpose.

(2) The House of Chiefs may from time to time elect a member of the House to be Deputy President and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

21.—(1) There shall preside at any sitting of the House of Assembly— Presiding in House of Assembly.

(a) the Speaker; or

(b) in the absence of the Speaker, the Deputy Speaker; or

(c) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Assembly may from time to time elect a member of the House to be Deputy Speaker and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

22. If objection is taken by any member of a Legislative House of the Region present that there are present in that House (besides the person presiding) fewer than one-sixth of all the Quorum in Legislative Houses.

members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

Languages of  
Legislative  
Houses.

23. The business of the Legislative Houses of the Region shall be conducted in English and Hausa:

Provided that all bills introduced in either House and all laws made by the Legislature of the Region shall be printed in English and, if any such bill or law is also printed in Hausa, the English text shall prevail in the case of a conflict between the two texts.

Voting in  
Legislative  
Houses.

24.—(1) Any question proposed for decision in a Legislative House of the Region shall be determined by the required majority of the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes, but shall not vote in any other case.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a Legislative House of the Region may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

Unqualified  
persons  
sitting or  
voting.

25. Any person who sits or votes in either Legislative House of the Region knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by the Legislature of the Region for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of the Region at the suit of the Attorney-General of the Region.

Mode of  
exercising  
legislative  
power.

26.—(1) The power of the Legislature of the Region to make laws shall be exercised by bills passed by both Legislative Houses of the Region (or in the cases mentioned in section 28 of this Constitution by bills passed in accordance with the special procedure prescribed by that section) and assented to by the Governor on behalf of Her Majesty.

(2) A bill other than a money bill may originate in either Legislative House of the Region but a money bill may originate only in the House of Assembly.

(3) When a bill has been passed by the Legislative House of the Region in which it originated, it shall be sent to the other House; and it shall be presented to the Governor for assent—

- (a) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it; or
- (b) when it is required to be so presented under section 28 of this Constitution.

(4) When a bill is presented to the Governor for assent, he shall signify that he assents or that he withholds assent.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

27.—(1) The House of Chiefs shall not—

(a) proceed upon any bill, other than a bill sent from the House of Assembly, that, in the opinion of the person presiding, makes provision for any of the following purposes:—

Restrictions with regard to certain financial measures.

(i) for the imposition, repeal or alteration of taxation;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(b) proceed upon any amendment to any bill that in the opinion of the person presiding makes provision for any of those purposes;

(c) proceed upon any motion (including any amendment to a motion), the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(d) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

(2) Except upon the recommendation of the Governor signified by a Minister of the Government of the Region, the House of Assembly shall not—

(a) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes:—

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(c) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

Special  
procedure  
where  
Legislative  
Houses  
disagree.

28.—(1) Where a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs without amendment within one month after it is so sent, the bill shall become liable to the special procedure prescribed by this section.

(2) Where a bill that is not a money bill is passed by a Legislative House of the Region and, having been sent to the other Legislative House of the Region at least one month before the end of the session, is not passed by that other House within a

period of six months from the date on which the bill is sent to the other House or is passed by the other House with amendments to which the House in which the bill originated does not before the end of that period agree, the bill shall, unless the Legislative Houses are dissolved, become liable to the special procedure prescribed by this section.

(3) Where a bill has become liable to the special procedure prescribed by this section, the Governor may, at any time before the next dissolution of the Legislative Houses of the Region—

- (a) give notice to both Legislative Houses of his intention to summon a joint sitting of representatives of both Houses for the purpose of deliberating and voting on the bill; and
- (b) require each House to elect representatives for that purpose within such period as may be specified in the notice.

(4) When the Governor has given notice under sub-section (3) of this section with respect to any bill—

- (a) neither Legislative House of the Region shall proceed further with the bill;
- (b) each House may, within the period prescribed in the notice but before the next dissolution of the Legislative Houses, elect not more than twenty of its members as delegates for the purpose of deliberating and voting upon the bill at a joint sitting of representatives of both Legislative Houses:

Provided that the House of Chiefs shall not so elect the President or the Deputy President of the House; and

- (c) the Governor may summon such delegates as may have been elected by each Legislative House to meet together in a joint sitting to deliberate and vote upon the bill at any time after the period specified in the notice but before the next dissolution of the Legislative Houses and, if he does so, the delegates shall meet accordingly.

(5) The following provisions shall apply in relation to a joint sitting under this section:—

- (a) the President of the House of Chiefs or, in his absence, the Deputy President of the House shall preside at the joint session;

- (b) no delegate shall sit or vote at the joint sitting if he has, since his election as a delegate, ceased to be a member of the Legislative House by which he was elected;
  - (c) any question as to the right of any person to sit or vote at the joint sitting shall be determined by the person presiding at the joint sitting;
  - (d) the joint sitting may act notwithstanding that any delegate is absent or that a Legislative House has failed to elect delegates in accordance with the provisions of this section and the presence or participation of a person not entitled to be present at or to participate in the proceedings of the joint sitting shall not invalidate its proceedings;
  - (e) any question proposed for decision at the joint sitting shall be determined by a simple majority of the delegates present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes, but shall not vote in any other case; and
  - (f) subject to the provisions of this section, the joint sitting may regulate its own procedure.
- (6) The delegates present at a joint sitting held under this section in relation to any bill may deliberate and vote together upon the bill as last proposed by the Legislative House in which the bill originated and upon such admissible amendments thereto as may be proposed in the joint sitting; and if the bill, with such admissible amendments, if any, as are agreed by the joint sitting, is passed by the joint sitting, the bill as so passed shall be presented to the Governor for his assent.

(7) For the purposes of sub-section (6) of this section—

- (a) if a bill, having been passed by one Legislative House of the Region, is not passed by the other Legislative House of the Region and returned to the House in which it originated, there shall be admissible only such amendments, if any, as are necessary owing to the time that has elapsed since the bill was so passed; and
- (b) if a bill has been so passed and returned, there shall be admissible only such amendments, if any, as are necessary owing to the time that has elapsed since the bill was so passed and such other amendments as are relevant to the matters with respect to which the Legislative Houses have not agreed,

and the decision of the person presiding as to the amendments that are so admissible shall be final.

(8) When a money bill is sent to the House of Chiefs from the House of Assembly, it shall bear a certificate of the Speaker of the House of Assembly that it is a money bill.

(9) When a bill is presented to the Governor in pursuance of this section it shall bear a certificate of the President of the House of Chiefs that this section has been complied with, and that certificate shall be conclusive for all purposes and shall not be questioned in any court of law.

(10) This section does not apply to any bill for the purposes of section 5 of the Constitution of the Federation.

29.—(1) Subject to the provisions of this Constitution, each Legislative House of the Region may regulate its own procedure.

Regulation of procedure in Legislative Houses.

(2) Each Legislative House of the Region may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any dissolution) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

30. In this Part of this Chapter "money bill" means a bill that in the opinion of the Speaker of the House of Assembly contains only provisions dealing with—

Interpretation.

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
- (b) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Region or the variation or repeal of any such charges;
- (c) the grant of money to the Crown or to any other person or authority or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the raising or guarantee of any loan or the repayment thereof; or
- (f) subordinate matters incidental to any of those matters:

Provided that the expressions "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

## PART 3

*Summoning, Prorogation and Dissolution*

Sessions of  
Legislative  
Houses.

31. Each session of the Legislative Houses of the Region shall be held at such place within the Region and shall begin at such time (not being later than twelve months from the end of the preceding session if those Houses have been prorogued or three months from the end of that session if those Houses have been dissolved) as the Governor shall appoint.

Prorogation  
and  
dissolution  
of Legislative  
Houses.

32.—(1) The Governor may at any time prorogue or dissolve the Legislative Houses of the Region.

(2) Subject to the provisions of sub-section (3) of this section, the Legislative Houses of the Region, unless sooner dissolved, shall continue for five years from the date of their first sitting after any dissolution and shall then stand dissolved.

(3) At any time when the Federation is at war, the Legislature of the Region may from time to time extend the period of five years specified in sub-section (2) of this section for not more than twelve months at a time:

Provided that the life of the Legislative Houses of the Region shall not be extended under this sub-section for more than five years.

(4) In the exercise of his powers to dissolve the Legislative Houses of the Region, the Governor shall act in accordance with the advice of the Premier:

Provided that—

(a) if the Premier recommends a dissolution and the Governor considers that the government of the Region can be carried on without a dissolution and that a dissolution would not be in the interests of the Region he may refuse to dissolve the Legislative Houses;

(b) if the House of Assembly passes a resolution that it has no confidence in the Government of the Region and the Premier does not within three days either resign or advise a dissolution, the Governor may dissolve the Legislative Houses; and

- (c) if the office of Premier is vacant and the Governor considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the members of the House of Assembly to that office within a reasonable time, the Governor may dissolve the Legislative Houses.

### CHAPTER III

#### EXECUTIVE POWERS

33.—(1) The executive authority of the Region shall be vested in Her Majesty. Exercise of executive authority of Region.

(2) Subject to the provisions of this Constitution, the executive authority of the Region may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent the Legislature of the Region from conferring functions on persons or authorities other than the Governor.

34.—(1) There shall be a Premier of the Region, who shall be appointed by the Governor. Ministers of Government of Region.

(2) Whenever the Governor has occasion to appoint a Premier he shall appoint a member of one or other of the Legislative Houses of the Region who appears to him likely to command the support of the majority of the members of the House of Assembly.

(3) There shall be, in addition to the office of Premier, such other offices of Minister of the Government of the Region (not being less than thirteen) as may be established by the Legislature of the Region or, subject to the provisions of any Regional law, by the Governor, acting in accordance with the advice of the Premier.

(4) Appointments to the office of Minister of the Government of the Region other than the office of Premier shall be made by the Governor, acting in accordance with the advice of the Premier:

Provided that at least two Ministers shall be appointed from among the members of the House of Chiefs and at least eleven shall be appointed from among the members of the House of Assembly.

(5) A person shall not hold office at the same time both as a Minister of the Government of the Region and as a Minister of the Government of another Region.

(6) Subject to the provisions of sub-section (11) of this section, a person who holds office as a Minister of the Government of the Region for any period of six consecutive months without also being a member of a Legislative House of the Region shall cease to be a Minister at the expiration of that period or, if that period expires at a time when the Legislative Houses are dissolved and he does not in the meantime become a member of a Legislative House, at the date on which the Legislative Houses first meet after that dissolution.

(7) Subject to the provisions of sub-section (11) of this section, a person who holds office as a Minister of the Government of the Region and who is at no time while holding that office also a Member of a Legislative House of the Region shall not be qualified for reappointment as such a Minister before the Legislative Houses are next dissolved after he ceases to hold that office, unless in the meantime he has become a member of a Legislative House.

(8) The office of the Premier shall become vacant—

(a) when, after any dissolution of the Legislative Houses of the Region, the Premier is informed by the Governor that the Governor is about to re-appoint him as Premier or to appoint another person as Premier; or

(b) if he ceases to be a member of one or other of the Legislative Houses otherwise than by reason of a dissolution of the Legislative Houses.

(9) The office of a Minister of the Government of the Region other than the Premier shall become vacant if the office of Premier becomes vacant.

(10) Subject to the provisions of sub-sections (8) and (9) of this section, the Ministers of the Government of the Region shall hold office during the Governor's pleasure:

Provided that—

(a) the Governor shall not remove the Premier from office unless it appears to him that the Premier no longer commands the support of a majority of the members of the House of Assembly; and

- (b) the Governor shall not remove a Minister other than the Premier from office except in accordance with the advice of the Premier.

(11) The office of the Attorney-General of the Region shall be that of a Minister of the Government of the Region:

Provided that—

- (a) the provisions of sub-sections (6) and (7) of this section shall not apply in relation to a person holding that office;
- (b) if the person holding that office is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions may be performed by such other person (whether or not that person is a Minister) as may from time to time be designated in that behalf by the Governor acting in accordance with the advice of the Premier; and
- (c) a person shall not be qualified to hold that office or to perform the functions conferred upon the person holding that office by this Constitution or any other law unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

35.—(1) There shall be an Executive Council for the Region, whose function shall be to advise the Governor in the government of the Region and which shall consist of the Premier and such other persons, being Ministers of the Government of the Region, as the Governor, acting in accordance with the advice of the Premier, may from time to time appoint.

Establishment of Executive Council.

(2) A person appointed as a member of the Executive Council shall vacate his seat in the Council if he ceases to be a Minister of the Government of the Region or if the Governor, acting in accordance with the advice of the Premier, so directs.

36.—(1) The Executive Council shall be collectively responsible to the Legislative Houses of the Region for any advice given to the Governor by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Region in the execution of his office.

Collective responsibility.

(2) The provisions of this section shall not apply in relation to—

- (a) the appointment and removal from office of Ministers of the Government of the Region, members of the Executive Council and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers or the authorization of another member of the Executive Council to perform the functions of the Premier during absence or illness;
- (b) the dissolution of the Legislative Houses of the Region; or
- (c) the matters referred to in section 45 of this Constitution (which relates to the prerogative of mercy).

Allocation of portfolios to Ministers.

37. The Governor, acting in accordance with the advice of the Premier, may assign to the Premier or any other Minister of the Government of the Region responsibility for any business of the Government of the Region, including the administration of any department of government.

Performance of functions of Premier during absence or illness.

38.—(1) Whenever the Premier is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by this Constitution the Governor may authorize some other member of the Executive Council of the Region to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor.

(2) The powers of the Governor under this section shall be exercised by him in accordance with the advice of the Premier:

Provided that if the Governor considers that it is impracticable to obtain the advice of the Premier owing to his absence or illness he may exercise those powers without that advice.

Exercise of Governor's powers.

39.—(1) In the exercise of his functions under this Constitution, the Constitution of the Federation or any other law the Governor shall act in accordance with the advice of the Executive Council or a Minister of the Government of the Region acting under the general authority of the Executive Council except in cases where by this Constitution he is required to act in accordance with the advice of any person or authority other than the Executive Council:

Provided that the Governor shall act in accordance with his own deliberate judgment in the performance of the following functions:—

- (a) in the exercise of the powers relating to the dissolution of the Legislative Houses of the Region conferred upon him by the proviso to sub-section (4) of section 32 of this Constitution;
- (b) in the exercise of the power to appoint the Premier conferred upon him by sub-section (2) of section 34 of this Constitution;
- (c) in the exercise of the powers conferred upon him by section 38 of this Constitution (which relates to the performance of the functions of the Premier during absence or illness) in the circumstances described in the proviso to sub-section (2) of that section; and
- (d) in signifying his approval for the purposes of section 64 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the Governor is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law.

40. The Premier shall keep the Governor fully informed concerning the general conduct of the government of the Region and shall furnish the Governor with such information as he may request with respect to any particular matter relating to the government of the Region.

Governor to be informed concerning matters of government.

41.—(1) The Governor, acting in accordance with the advice of the Premier, may appoint Parliamentary Secretaries from among the members of the Legislative Houses of the Regions to assist Ministers of the Government of the Region in the performance of their duties.

Parliamentary Secretaries.

(2) The office of a Parliamentary Secretary shall become vacant—

- (a) if he ceases to be a member of one or other of the Legislative Houses of the Region otherwise than by reason of a dissolution of those Houses;

- (b) if the office of Premier becomes vacant; or
- (c) if the Governor, acting in accordance with the advice of the Premier, so directs.

Oaths to be taken by Ministers, etc.

42. A member of the Executive Council, Minister of the Government of the Region or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

Permanent Secretaries.

43. Where any Minister of the Government of the Region has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Region:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Constitution of offices for Region, etc.

44. Subject to the provisions of this Constitution and of any Regional law, the Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Region, make appointments to any such office and terminate any such appointment.

Prerogative of mercy.

45.—(1) The Governor may, in Her Majesty's name and on Her Majesty's behalf—

- (a) grant to any person concerned in or convicted of any offence created by or under a Regional law a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence; or
- (d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the Crown on account of such an offence.

(2) The powers of the Governor under sub-section (1) of this section shall be exercised by him in accordance with the advice of such member of the Executive Council as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(3) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

46.—(1) There shall be for the Region an Advisory Council on the Prerogative of Mercy, which shall consist of—

Establishment of Advisory Council on Prerogative of Mercy.

- (a) such member of the Executive Council as may for the time being be designated under sub-section (2) of section 45 of this Constitution, who shall be chairman;
- (b) where the chairman is a Minister other than the Attorney-General of the Region, the Attorney-General; and
- (c) not less than five and not more than seven other members, who shall be appointed by the Governor, acting in accordance with the advice of the Premier, of whom at least one shall be a person who is qualified to practise as a medical practitioner in Nigeria.

(2) A person shall not be qualified for appointment by the Governor as a member of the Advisory Council if he is a member of a Legislative House of the Region, a member of either House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation or a Minister of the Government of another Region.

(3) A member of the Advisory Council appointed by the Governor shall hold office for three years:

Provided that his seat on the Council shall become vacant—

- (a) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such; or

- (b) if he is removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

Functions  
of Advisory  
Council.

47.—(1) Where any person has been sentenced to death by any court of law in Nigeria for any offence created by or under a Regional law the member of the Executive Council of the Region designated under sub-section (2) of section 45 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor that he should exercise any of his powers under that section in relation to that person.

(2) The member of the Executive Council designated under sub-section (2) of section 45 of this Constitution may consult with the Advisory Council before making any recommendation to the Governor under that sub-section in any case not falling within sub-section (1) of this section, but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

Public  
Prosecu-  
tions.

48.—(1) There shall be a Director of Public Prosecutions for the Region, whose office shall be an office in the public service of the Region.

(2) The Director of Public Prosecutions of the Region shall have power in any case in which he considers it desirable so to do—

- (a) to institute and undertake criminal proceedings against any person before any court of law in the Region in respect of any offence created by or under any Regional law;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(3) The powers of the Director of Public Prosecutions of the Region under sub-section (2) of this section may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

(4) The Director of Public Prosecutions of the Region may confer a general or special authority upon the Director of Public Prosecutions of the Federation to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by sub-section (2) of this section, and may vary or revoke any such authority.

(5) The powers conferred upon the Director of Public Prosecutions of the Region by paragraphs (b) and (c) of sub-section (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this sub-section shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions of the Region shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law in the Region or any case stated or question of law reserved for the purposes of any such proceedings to any other court in Nigeria or to Her Majesty in Council shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

## CHAPTER IV

## COURTS

Establish-  
ment of  
High Court.

49.—(1) There shall be a High Court for the Region.

(2) The judges of the High Court of the Region shall be—

(a) the Chief Justice of the Region; and

(b) such number of other judges (not being less than six) as may be prescribed by the Legislature of the Region.

(3) The High Court of the Region shall be a superior court of record and, save as otherwise provided by any law in force in the Region, shall have all the powers of such a court.

Appoint-  
ment of  
judges of  
High Court.

50.—(1) The Chief Justice of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(2) The judges of the High Court of the Region other than the Chief Justice shall be appointed by the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region.

(3) A person shall not be qualified to hold the office of a judge of the High Court of the Region unless—

(a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified to practise as an advocate any period during which he has held office as a judge or magistrate (including a district judge) after becoming so qualified shall be included.

(4) If the office of Chief Justice of the Region is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of the Region as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(5) If the office of any judge of the High Court of the Region other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region, may appoint a person with such qualifications as may be prescribed by the Legislature of the Region to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of his appointment or if no period is specified until his appointment is revoked by the Governor, acting in accordance with the advice of the Commission.

51.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of the Region or any other judge of the High Court of the Region shall vacate his office when he attains such age as may be prescribed by the Legislature of the Region:

Tenure of  
offices of  
judges of  
High Court.

Provided that the Governor, acting in accordance with the advice of the Premier, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of a judge of the High Court of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of a judge of the High Court of the Region shall be removed from office by the Governor if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of sub-section (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing a judge of the High Court of the Region under this section ought to be investigated, then—

- (a) the Governor shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor, acting in accordance with the advice of the Premier, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;
- (b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and
- (c) if the tribunal so recommends, the Governor shall request that the question should be referred accordingly.

(5) If the question of removing a judge of the High Court of the Region from office has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the judge from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect—

- (a) if the tribunal recommends to the Governor that he should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee; or
- (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(6) This section shall apply to any person appointed to act in the office of a judge of the High Court of the Region as it applies to a person holding the office of a judge of the High Court, but without prejudice to the provisions of section 50 of this Constitution relating to the revocation of his appointment by the Governor.

Appeals to  
High Court  
from  
subordinate  
courts.

52.—(1) An appeal shall lie from decisions of a subordinate court to the High Court of the Region as of right or, if it is provided by any law in force in the Region that an appeal as of right shall lie from that subordinate court to another subordinate court, an

appeal shall thereafter lie to the High Court as of right in the following cases:—

- (a) where the matter in dispute on the appeal to the High Court is of the value of fifty pounds or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifty pounds or upwards, final decisions in any civil proceedings;
- (b) where the ground of appeal to the High Court involves questions of law alone, decisions in any criminal proceedings in which any person has been sentenced to imprisonment for a term exceeding three months or corporal punishment exceeding six strokes or a fine or forfeiture exceeding twenty-five pounds by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence;
- (c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, the Constitution of the Federation or the Constitution of another Region;
- (d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution of the Federation has been contravened in relation to any person;
- (e) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death;
- (f) decisions in any other criminal proceedings before a subordinate court sitting at first instance from which no appeal lies as of right to another subordinate court; and
- (g) such other cases as may be prescribed by any law in force in the Region;

Provided that no appeal shall lie from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies as of right to the Federal Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 111 of that Constitution.

(2) Nothing in paragraph (a) of sub-section (1) of this section shall confer any right of appeal—

- (a) from any decision of a subordinate court on a question relating to Moslem matters in any case in which it is provided by any Regional law that an appeal shall lie as of right to the Sharia Court of Appeal;
- (b) from any decision of the Sharia Court of Appeal on any such question; or
- (c) from any decision of the Court of Resolution on any question relating to the respective jurisdictions of the High Court of the Region and the Sharia Court of Appeal.

(3) An appeal shall lie from decisions of a subordinate court to the High Court of the Region with the leave of the High Court or, if it is provided by any law in force in the Region that an appeal shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court with the leave of the High Court in the following cases:—

- (a) decisions in any criminal proceedings from which no appeal lies as of right to the High Court; and
- (b) such other cases in which no appeal lies as of right to the High Court as may be prescribed by any law in force in the Region:

Provided that no appeal shall lie under paragraph (a) of this sub-section from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies to the Federal Supreme Court (whether as of right or with the leave of the Federal Supreme Court) by virtue of an Act of Parliament enacted under section 111 of that Constitution.

(4) Any right of appeal from decisions of a subordinate court to the High Court of the Region conferred by this section—

- (a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject to the provisions of section 48 of this Constitution, at the instance of such other persons or authorities as may be prescribed by any law in force in the Region; and

(b) shall be exercised in accordance with any laws and rules of court for the time being in force regulating the powers, practice and procedure of the High Court.

(5) In this section—

“the Court of Resolution” means the Court of Resolution established by the Court of Resolution Law, 1960, of the Region(a), as amended, or any law replacing that law;

“decision” means, in relation to a subordinate court, any determination of that court and includes (without prejudice to the generality of the foregoing) a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation;

“Moslem law” means such system of Moslem law as may be prescribed in any Regional law, as applied subject to the provisions of any such law;

“question relating to Moslem matters” means—

- (a) any question of Moslem law regarding a marriage concluded in accordance with that law, including a question relating to the dissolution of such a marriage or a question that depends on such a marriage relating to family relationship or the guardianship of an infant;
- (b) where all the parties to the proceedings are Moslems, any question of Moslem law regarding a marriage, including the dissolution of that marriage, or regarding family relationship, a foundling or the guardianship of an infant;
- (c) any question of Moslem law regarding a wakf, gift, will or succession where the endower, donor, testator or deceased person is a Moslem;
- (d) any question of Moslem law regarding an infant, prodigal or person of unsound mind who is a Moslem or the maintenance or guardianship of a Moslem who is physically or mentally infirm; or
- (e) where all the parties to the proceedings (whether or not they are Moslems) have by writing under their hand requested the court that hears the case in the first instance to determine that case in accordance with Moslem law, any other question;

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(a) Law No. 17 of 1960.

“the Sharia Court of Appeal” means the Sharia Court of Appeal established by the Sharia Court of Appeal Law, 1960, of the Region(b), as amended, or any law replacing that law;

“subordinate court” means any court of law in the Region other than the Federal Supreme Court, the High Court of the Region or a court-martial.

Establish-  
ment of  
Judicial  
Service  
Commission.

53.—(1) There shall be a Judicial Service Commission for the Region.

(2) The members of the Judicial Service Commission of the Region shall be—

- (a) the Chief Justice of the Region, who shall be chairman;
- (b) such other judge of the High Court of the Region as may be designated by the Governor, acting in accordance with the advice of the Premier;
- (c) the Grand Kadi of the Region; and
- (d) the chairman of the Public Service Commission of the Region:

Provided that the Governor, acting in accordance with the advice of the Premier, may appoint one other member.

(3) The following provisions shall apply in relation to a member of the Judicial Service Commission of the Region appointed by the Governor:—

- (a) a person shall not be qualified for appointment as such unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;
- (b) subject to the provisions of this sub-section, a person appointed as such shall vacate his office at the expiration of five years from the date of his appointment;
- (c) a person appointed as such may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour; and

(b) Law No. 16 of 1960.

- (d) a person appointed as such shall not be removed from office except in accordance with the provisions of this sub-section.

54.—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission of the Region:

Appointment of officers connected with courts.

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members, to any judge or to the holder of any office to which this section applies.

(2) The offices to which this section applies are the offices of members of any court of law established by the Legislature of the Region, being offices the emoluments attaching to which are payable out of the Consolidated Revenue Fund or any other public fund of the Region, the office of Chief Registrar or Registrar of the High Court, the office of Registrar of any Magistrate's Court established by the Legislature of the Region, any office of Justice of the Peace established by that Legislature and such other offices connected with the High Court of the Region or any court of law established by that Legislature as may be prescribed by that Legislature.

55. A judge of the High Court of the Region shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

Oaths to be taken by judges.

## CHAPTER V

### FINANCE

56.—(1) All revenues or other moneys raised or received by the Region (not being revenues or other moneys payable under this Constitution or any Regional law into some other public fund of the Region established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

Establishment of Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Region except to meet expenditure that is charged upon the Fund by this Constitution, the Constitution of

the Federation or any Regional law or where the issue of those moneys has been authorized by an appropriation law or a law made in pursuance of section 58 of this Constitution.

(3) No moneys shall be withdrawn from any public fund of the Region other than the Consolidated Revenue Fund unless the issue of those moneys has been authorized by a Regional law.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Region except in the manner prescribed by the Legislature of the Region.

Authoriza-  
tion of  
expenditure  
from  
Consoli-  
dated  
Revenue  
Fund.

57.—(1) The Minister of the Government of the Region responsible for finance shall cause to be prepared and laid before both Legislative Houses of the Region in each financial year estimates of the revenues and expenditure of the Region for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution, the Constitution of the Federation or any Regional law) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Region of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

(a) that the amount appropriated by the appropriation law for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the law; or

(b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation law or for a purpose for which no amount has been appropriated by the law,

a supplementary estimate showing the sums required or spent shall be laid before both Legislative Houses of the Region and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authoriza-  
tion of  
expenditure  
in advance  
of appro-  
priation.

58. The Legislature of the Region may make provision under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the

Minister of the Government of the Region responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Region for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation law, whichever is the earlier.

59.—(1) The Legislature of the Region may provide for the establishment of a Contingencies Fund for the Region and for authorizing the Minister of the Government of the Region responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

Contingencies fund.

(2) Where any advance is made in accordance with sub-section (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

60.—(1) There shall be paid to the holders of the offices to which this section applies such salary as may be prescribed by the Legislature of the Region.

Remuneration of Governor and certain other officers.

(2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Region.

(3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies to the office of Governor, Chief Justice or other judge of the High Court of the Region, member of the Electoral Commission of the Region, appointed member of the Judicial Service Commission of the Region, member of the Public Service Commission of the Region, Director of Public Prosecutions of the Region and Director of Audit of the Region.

61.—(1) There shall be a Director of Audit for the Region whose office shall be an office in the public service of the Region.

Audit of public accounts.

(2) The public accounts of the Region and of all officers, courts and authorities of the Region shall be audited and reported on by the Director of Audit of the Region and for that purpose

the Director or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Region shall submit his reports to the Minister of the Government of the Region responsible for finance, who shall cause them to be laid before both Legislative Houses of the Region.

(4) In the exercise of his functions under this Constitution the Director of Audit of the Region shall not be subject to the direction or control of any other person or authority.

Public debt.

**62.**—(1) The public debt of the Region shall be secured on the revenues and assets of the Region.

(2) In this section references to the public debt of the Region include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

## CHAPTER VI

### THE PUBLIC SERVICE OF THE REGION

Establish-  
ment of  
Public  
Service  
Commission.

**63.**—(1) There shall be a Public Service Commission for the Region, which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Region if he is a member of a Legislative House of the Region, a member of a House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Region shall vacate his office—

(a) at the expiration of five years from the date of his appointment; or

- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission of the Region may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Public Service Commission of the Region shall not be removed from office except in accordance with the provisions of this section.

(7) A person who has been appointed to be a member of the Public Service Commission of the Region shall not thereafter be eligible for appointment to any office in the public service of the Region.

64.—(1) Power to appoint persons to hold or act in offices in the public service of the Region (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Region:

Appointment, etc., of officers in public service.

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Region.

(2) This section shall not apply in relation to any of the following offices:—

- (a) the office of any judge of the High Court of the Region;
- (b) except for the purposes of making appointments thereto, the office of the Director of Audit of the Region or the Director of Public Prosecutions of the Region;
- (c) any office to which section 54 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission of the Region) applies;
- (d) any office to which section 65 of this Constitution (which relates to the office of the principal representative of the Region in the United Kingdom) applies.

(3) The provisions of this section shall be subject to the provisions of section 66 of this Constitution (which relates to permanent secretaries).

(4) No appointment shall be made under this section to any office on the personal staff of the Governor unless the Governor signifies his approval of the appointment.

Appoint-  
ment, etc.,  
of Agent-  
General  
in U.K.

65.—(1) Power to appoint persons to hold or act in the office of the Agent-General of the Region in the United Kingdom (including power to make appointments on promotion and transfer) and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Region other than an office to which this section applies, the Premier shall consult the Public Service Commission of the Region.

Appoint-  
ment, etc., of  
permanent  
secretaries.

66.—(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Region and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section the Premier shall consult the Public Service Commission of the Region.

Qualifica-  
tions of  
Director  
of Public  
Prosecutions.

67. A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Region unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Tenure  
of office of  
Director  
of Public  
Prosecutions.

68.—(1) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(2) A person holding the office of Director of Public Prosecutions of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from

infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Director of Public Prosecutions of the Region shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under sub-section (4) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing the Director of Public Prosecutions of the Region under this section ought to be investigated then—

(a) the Governor, acting in accordance with the advice of the Premier, shall appoint a tribunal, which shall consist of a chairman and not less than two other members, the chairman and half of the other members being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

(b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the Director ought to be removed under this section.

(5) If the question of removing the Director of Public Prosecutions of the Region has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the Director from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Director should not be removed.

69.—(1) Before appointing any person to hold the office of Director of Audit of the Region the Public Service Commission of the Region shall consult the Premier.

Appointment  
and tenure  
of office of  
Director of  
Audit.

(2) Subject to the provisions of this section, a person holding the office of Director of Audit of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(3) A person holding the office of Director of Audit of the Region shall be removed from office by the Governor if a resolution is passed by each Legislative House of the Region recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) Any person holding the office of Director of Audit of the Region shall not be removed from office except in accordance with the provisions of this section.

(5) If the office of Director of Audit of the Region is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Region, acting after consultation with the Premier, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission, acting after consultation with the Premier.

Powers relating to Clerks of Legislative Houses.

70. Before exercising any of its powers in relation to the Clerk to the House of Chiefs the Public Service Commission of the Region shall consult the President of that House and before exercising any of its powers in relation to the Clerk to the House of Assembly the Commission shall consult the Speaker of that House.

Powers of Commissions in relation to grant of pensions, etc.

71.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Regional law, those benefits shall not be so withheld, reduced in amount or suspended—

(a) in the case of benefits that have been granted in respect of the service in the public service of the Region of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Judicial Service Commission of the Region or for which any person may be eligible in respect of such service, without the approval of that Commission; or

(b) in any other case, without the approval of the Public Service Commission of the Region.

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of judge of the High Court of the Region or for which any such person may

eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

(3) This section applies to any benefits payable under any Regional law providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Region in respect of their service in that public service, or to the widows, children, dependants or personal representatives of such persons in respect of such service.

## CHAPTER VII

### MISCELLANEOUS

72.—(1) Any Commission established by this Constitution may, with the consent of the Premier or such other Minister of the Government of the Region as may be authorized in that behalf by the Premier, by regulation or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority of the Region for the purpose of discharging its functions.

Powers and procedure of Commissions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

73.—(1) The Governor may by instrument in writing establish for any Province of the Region a Provincial Administration.

Establishment of Provincial Administrations.

(2) A Provincial Administration established under this section shall have such functions as may be prescribed by the Governor or by or under any law in force in the Region and shall consist of—

- (a) a Provincial Administrator, whose office shall be an office in the public service of the Region;
- (b) a Provincial Authority, which shall consist of the Provincial Administrator, who shall be chairman, and such other members as may be prescribed by the Governor;

(c) a Provincial Council, which shall consist of such members as may be prescribed by the Governor.

(3) The provisions of this section shall be without prejudice to the powers of the Legislature of the Region to establish a Provincial Administration for any Province of the Region or otherwise to make provision for the administration of that Province.

Council of  
Chiefs.

**74.**—(1) There shall be a Council of Chiefs for the Region, which shall consist of—

- (a) the Premier, who shall be chairman;
- (b) those Ministers of the Government of the Region who have been appointed as such from among the members of the House of Chiefs;
- (c) the persons for the time being co-opted as members of the Council in accordance with sub-section (2) of this section.

(2) Whenever any matter is proposed for discussion in the Council of Chiefs of the Region, the Premier may co-opt four persons from among the members of the House of Chiefs to be members of the Council for the purpose of discussing that matter.

(3) The Governor shall act in accordance with the advice of the Council of Chiefs of the Region in the exercise of all powers conferred upon him with respect to—

- (a) the appointment, approval of the appointment or recognition of a person as a Chief;
- (b) the grading of a Chief;
- (c) the deposition of a Chief;
- (d) the removal of a Chief or a person who was formerly a Chief from any part of the Region; or
- (e) the exclusion of a Chief or any person who was formerly a Chief from any part of the Region.

(4) The Council of Chiefs of the Region may regulate its own procedure.

Resignations.

**75.**—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he is appointed, elected or selected:

Provided that in the case of a member of a Legislative House of the Region who holds office as President or Speaker of the House his resignation from the House or that office shall be addressed to the House and in the case of any other member of the House his resignation from the House shall be addressed to the President or Speaker of the House.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

76.—(1) Where any person has vacated any office constituted by this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution. Re-appointments, etc.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any office in the public service of the Region, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of his office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this sub-section, then for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

77.—(1) In this Constitution, unless it is otherwise expressly provided or required by the context— Interpretation.

“Act of Parliament” means any law made by Parliament;

“the Advisory Council” means the Advisory Council on the Prerogative of Mercy of the Region;

“the Commonwealth” means Nigeria, any country to which section 13 of the Constitution of the Federation applies and any dependency of any such country;

“financial year” means any period of twelve months beginning on the first day of April in any year or such other date as the Legislature of the Region may prescribe;

“oath” includes affirmation;

“the oath of allegiance” means such oath of allegiance as may be prescribed by Parliament;

“Parliament” means the Parliament of the Federation;

“the public service of the Region” means the service of the Crown in a civil capacity in respect of the government of the Region;

“Regional law” means any law made by the Legislature of the Region.

(2) In this Constitution, unless it is otherwise expressly provided or required by the context—

(a) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices; and

(b) references to offices in the public service of the Region include references to the offices of the judges of the High Court of the Region and references to the offices of members of all other courts of law established by the Legislature of the Region, being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Region.

(3) For the purposes of this Constitution, the office of the President or the Deputy President of the House of Chiefs, a member of the House of Chiefs, the Speaker or the Deputy Speaker of the House of Assembly, a member of the House of Assembly, a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister or a member of the Executive Council, any Commission established by this Constitution, the Advisory Council or the Council of Chiefs of the Region shall not be regarded as an office in the public service of the Region.

(4) The Interpretation Act, 1889(a), as in force on the first day of October, 1960, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

(5) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

(a) 52 & 53 Vict. c. 63.

THE FOURTH SCHEDULE

Section 2.

THE CONSTITUTION OF WESTERN NIGERIA

ARRANGEMENT OF SECTIONS

CHAPTER I

THE GOVERNOR

1. Establishment of office of Governor.
2. Oaths to be taken by Governor.
3. Discharge of Governor's functions during vacancy, etc.

CHAPTER II

THE LEGISLATURE OF THE REGION

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*Composition of Legislature*

4. Establishment of Legislature.
5. Composition of House of Chiefs.
6. Composition of House of Assembly.
7. Qualifications for membership of House of Assembly.
8. Disqualifications for membership of House of Assembly.
9. President of House of Chiefs.
10. Speaker of House of Assembly.
11. Right of attendance of Ministers.
12. Tenure of seats of members of House of Assembly.
13. Establishment of Electoral Commission.
14. Constituencies.
15. Elections.
16. Determination of questions of membership of Legislative Houses.
17. Clerks to Legislative Houses and their staffs.

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WHEREAS Western Nigeria is a Region of the Federation of Nigeria:

AND WHEREAS it is expedient to make provision, subject to the provisions of the Constitution of the Federation, for a Constitution for Western Nigeria (hereinafter referred to as "the Region"):

NOW, THEREFORE, the Constitution of the Region shall be as follows:—

CHAPTER I  
THE GOVERNOR

1.—(1) There shall be a Governor of the Region, who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in the Region. Establishment of office of Governor.

(2) The Premier shall consult the Prime Minister of the Federation before tendering any advice to Her Majesty for the purposes of this section.

2. A person appointed to the office of Governor shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and such oath to the due execution of the office as may be prescribed by the Legislature of the Region. Oaths to be taken by Governor.

3. Whenever the office of Governor is vacant or the holder of the office is absent from Nigeria or is for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as Her Majesty may appoint or, if there is no person in the Region so appointed and able to perform those functions, by the Chief Justice of the Region: Discharge of Governor's functions during vacancy, etc.

Provided that nothing in this section shall preclude the Governor from performing any of those functions at any time when he is absent from Nigeria.

CHAPTER II  
THE LEGISLATURE

PART I

*Composition of Legislature*

4. There shall be a Legislature for the Region, which shall consist of Her Majesty, a House of Chiefs and a House of Assembly and which shall have power to make laws for the peace, order and good government of the Region. Establishment of Legislature.

Composition  
of House  
of Chiefs.

- 5.—(1) The House of Chiefs shall consist of—
- (a) the persons for the time being holding such Chieftaincies as may be prescribed by the Governor, who shall be *ex officio* members of the House;
  - (b) one hundred and fifteen Chiefs having such qualifications and selected in such manner as may be prescribed by the Legislature of the Region; and
  - (c) such other Chiefs (not exceeding four) having such qualifications as may be prescribed by the Legislature of the Region as may be selected by the Governor, acting in accordance with the advice of the Premier.
- (2) The seat in the House of Chiefs of a member other than an *ex officio* member shall become vacant in such circumstances as may be prescribed by the Legislature of the Region.
- (3) In this section—
- “Chief” means any person who is for the time being recognized as a Chief under any law in force in the Region.

Composition  
of House of  
Assembly.

6. The House of Assembly shall consist of one hundred and twenty-four members.

Qualifica-  
tions for  
member-  
ship of  
House of  
Assembly.

7. Subject to the provisions of section 8 of this Constitution, a person shall be qualified to be a member of the House of Assembly if he is a citizen of Nigeria who has attained the age of twenty-one years and—
- (a) who was born in the Region; or
  - (b) whose father was born in the Region; or
  - (c) who has resided in the Region for a continuous period of at least one year immediately before the date of the election.

Disqualifica-  
tions for  
membership  
of House of  
Assembly,  
etc.

- 8.—(1) No person shall be qualified for election to the House of Assembly—
- (a) if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country;
  - (b) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;

- (c) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed upon him by such a court or substituted by competent authority for some other sentence imposed upon him by such a court;
- (d) if he is an undischarged bankrupt, having been adjudged or otherwise declared to be bankrupt under any law in force in any part of Nigeria;
- (e) save as otherwise provided by the Legislature of the Region, if he is a member of the public service of the Region, the public service of the Federation or the public service of another Region, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown; or
- (f) if he is a member of the House of Chiefs, an *ex officio* member of the Senate or a member of a legislative house of another Region.

(2) The Legislature of the Region may provide that a person shall not be qualified for membership of the House of Assembly for such period (not exceeding five years) as may be prescribed if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a Legislative House of the Region, a House of Parliament or a legislative house of another Region as may be prescribed.

(3) The Legislature of the Region may prescribe that a person disqualified under paragraph (c) of sub-section (1) of this section by reason of his being under a sentence of imprisonment exceeding six months for any such offence (being an offence that appears to that Legislature to involve dishonesty) as may be prescribed or by reason of his being under sentences of imprisonment that include such a sentence for any such offence shall not be qualified for membership of the House of Assembly for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be prescribed.

(4) The Legislature of the Region may provide that a person who is the holder of any office the functions of which involve responsibility for, or in connection with, the conduct of any election to the House of Assembly or the compilation of any register of voters for the purposes of such an election shall not be qualified for election to that House.

(5) The Legislature of the Region may, in order to permit any person who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of sub-section (1) of this section for such time as may be prescribed.

(6) For the purposes of paragraph (c) of sub-section (1) of this section two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(7) For the purposes of paragraph (e) of sub-section (1) of this section—

(a) a person shall not be regarded as holding an office of emolument under the Crown by reason only that he is in receipt of a pension or other like benefit in respect of service in an office under the Crown; and

(b) the office of the Speaker or the Deputy Speaker of the House of Assembly, the President, Deputy President, Speaker or Deputy Speaker or a member of a House of Parliament or a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region, a Parliamentary Secretary to any such Minister, a member of the Executive Council of the Region, a member of the Council of Ministers, a member of the Executive Council of another Region, a member of the Council of Chiefs of the Northern Region, a member of the Minority Council of a Minority Area in the Region or Eastern Nigeria or a member of any such body corporate as is referred to in the proviso to sub-section (10) of this section shall not be regarded as an office of emolument under the Crown.

(8) Save as otherwise provided by the Legislature of the Region, a person shall not be regarded as disqualified for membership of the House of Assembly by reason only that he holds office as a member of a statutory corporation.

(9) If a person who holds the office of a member of any statutory corporation becomes a member of the House of Assembly, he shall, unless it is otherwise provided by the Legislature of the Region, thereupon cease to hold office as a member of that corporation.

(10) In this section "statutory corporation" means any body corporate established directly by any law in force in Nigeria:

Provided that it does not include any body corporate established by or under the Western Region Local Government Law, 1952, or the Local Government Law, 1957, of the Region(a), as amended, or any law replacing either of those laws.

9.—(1) There shall be a President of the House of Chiefs, who shall be elected by the members of that House.

President of  
House of  
Chiefs.

(2) No person shall be elected as President of the House of Chiefs unless he is a member of the House or a Chief qualified for selection as a member of the House.

(3) The President of the House of Chiefs shall vacate his office—

- (a) if, having been elected from among the members of the House, he ceases to be a member of the House otherwise than by reason of a dissolution of the Legislative Houses of the Region;
- (b) if, having been elected from outside the House, any circumstances arise (other than a dissolution of the Legislative Houses) that if he were a member of the House other than an *ex officio* member would cause him to vacate his seat as such;
- (c) when the House first sits after any dissolution;
- (d) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region; or
- (e) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

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(a) Laws No. 1 of 1953 and 12 of 1957.

(4) No business shall be transacted in the House of Chiefs (other than an election to the office of President) at any time when the office of President is vacant.

Speaker of  
House of  
Assembly.

**10.**—(1) There shall be a Speaker of the House of Assembly, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Assembly unless he is a member of the House or a person qualified to be a member of the House.

(3) The Speaker of the House of Assembly shall vacate his office—

(a) if, having been elected from among the members of the House, he ceases to be a member otherwise than by reason of a dissolution of the Legislative Houses of the Region;

(b) if, having been elected from outside the House, any circumstances arise (other than a dissolution of the Legislative Houses) that if he were a member of the House would cause him to vacate his seat as such;

(c) when the House first sits after any dissolution;

(d) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region; or

(e) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Assembly (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.

Right of  
attendance  
of Ministers.

**11.**—(1) A Minister of the Government of the Region may attend and take part in the proceedings of either Legislative House of the Region notwithstanding that he is not a member of that House.

(2) Nothing in this section shall entitle any person who is not a member of a Legislative House of the Region to vote in that House or any of its committees.

12.—(1) A member of the House of Assembly shall vacate his seat in the House—

Tenure of seats of members of House of Assembly.

- (a) if he becomes a member of the House of Chiefs, a House of Parliament or a legislative house of another Region;
- (b) if any other circumstances arise that, if he were not a member of the House, would cause him to be disqualified for election as such under sub-section (1) or (2) of section 8 of this Constitution;
- (c) if he ceases to be a citizen of Nigeria;
- (d) if he becomes a Minister of the Government of the Federation or a Minister of the Government of another Region;
- (e) save as otherwise provided by the Legislature of the Region, if he becomes a member of any statutory corporation; or
- (f) if he is absent from two consecutive meetings of the House and the Speaker of the House does not, by writing under his hand, excuse his absence within one month after the end of the second meeting.

(2) The Legislature of the Region may, in order to permit any member of the House of Assembly who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of this section until such time as may be prescribed.

(3) In this section the expression "statutory corporation" has the meaning assigned to it for the purposes of section 8 of this Constitution.

13.—(1) There shall be an Electoral Commission for the Region.

Establishment of Electoral Commission.

(2) The members of the Electoral Commission of the Region shall be—

- (a) the chairman of the Electoral Commission of the Federation, who shall be chairman;

- (b) the member of the Electoral Commission of the Federation representing the Region; and
- (c) two other members or such greater number of members as may be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified for appointment as a member of the Electoral Commission of the Region if he is a member of either Legislative House of the Region, a member of either House of Parliament or a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Electoral Commission of the Region appointed by the Governor shall vacate his office—

- (a) at the expiration of five years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Electoral Commission of the Region appointed by the Governor may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Electoral Commission of the Region appointed by the Governor shall not be removed from office except in accordance with the provisions of this section.

(7) In the exercise of its functions under this Constitution the Electoral Commission of the Region shall not be subject to the direction or control of any other person or authority.

14.—(1) The Region shall be divided into as many constituencies as there are members of the House of Assembly in such manner as the competent authority, acting with the approval of each Legislative House of the Region signified by resolution, may prescribe.

(2) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features and the distribution of different communities.

(3) The competent authority shall review the division of the Region into constituencies at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review:

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any alteration of the boundaries of the Region or by reason of the holding of a census of the population of the Region in pursuance of any law in force in the Region.

(4) Where the boundaries of any constituency established under this section are altered in accordance with the provisions of this section, that alteration shall come into effect upon the next dissolution of the Legislative Houses of the Region after the alteration has been approved by those Houses.

(5) In this section "population quota" means the number obtained by dividing the number of the inhabitants of the Region by the number of constituencies into which the Region is divided under this section.

(6) For the purposes of this section the number of inhabitants of the Region shall be ascertained by reference to the latest census of the population of the Region held in pursuance of any law in force in the Region.

(7) In this section "the competent authority" means the Electoral Commission of the Region or such other authority consisting of persons appointed by the Governor, acting in accordance with the advice of the Premier, as may be established in that behalf by the Legislature of the Region.

15.—(1) Every constituency established under section 14 of Elections. this Constitution shall return to the House of Assembly one member who shall be directly elected in such manner as may be prescribed by the Legislature of the Region.

(2) The registration of voters at elections to the House of Assembly and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission of the Region.

Determina-  
tion of  
questions of  
membership  
of Legislative  
Houses.

16.—(1) The High Court of the Region shall have original jurisdiction to hear and determine any question whether—

- (a) any person has been validly selected or elected as a member of a Legislative House of the Region; or
- (b) the seat in a Legislative House of any member of that House has become vacant.

(2) The Legislature of the Region may make provision with respect to—

- (a) the persons who may apply to the High Court of the Region for the determination of any question under this section;
- (b) the circumstances and manner in which, and the conditions upon which, any such application may be made; and
- (c) the powers, practice and procedure of the High Court in relation to any such application.

Clerks to  
Legislative  
Houses and  
their staffs.

17.—(1) There shall be a Clerk to the House of Chiefs and a Clerk to the House of Assembly:

Provided that the offices of Clerk to the House of Chiefs and Clerk to the House of Assembly may be held by the same person.

(2) Subject to the provisions of any Regional law, the office of the Clerk of each Legislative House of the Region and the members of his staff shall be offices in the public service of the Region.

## PART 2

### *Procedure in Legislative Houses*

Oaths to be  
taken by  
members of  
Legislative  
Houses.

18.—(1) Every member of either Legislative House of the Region shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance but a member may before taking that oath take part in the election of a President of the House of Chiefs or a Speaker of the House of Assembly, as the case may be:

Provided that if a Legislative House is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of the Region.

(2) Any person elected to the office of President or Speaker of a Legislative House of the Region who is not a member of that House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the House.

19.—(1) There shall preside at any sitting of the House of Chiefs— Presiding in  
House of  
Chiefs.

- (a) the President; or
- (b) in the absence of the President, the Deputy President; or
- (c) in the absence of the President and the Deputy President, such member of the House as the House may elect for that purpose.

(2) The House of Chiefs may from time to time elect a member of the House to be Deputy President and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

20.—(1) There shall preside at any sitting of the House of Assembly— Presiding in  
House of  
Assembly.

- (a) the Speaker; or
- (b) in the absence of the Speaker, the Deputy Speaker; or
- (c) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Assembly may from time to time elect a member of the House to be Deputy Speaker and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

21. If objection is taken by any member of a Legislative House of the Region present that there are present in that House (besides the person presiding) fewer than one-sixth of all the members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

Quorum in  
Legislative  
Houses.

Use of  
English in  
Legislative  
Houses.

22. The business of the Legislative Houses of the Region shall be conducted in English.

Voting in  
Legislative  
Houses.

23.—(1) Any question proposed for decision in a Legislative House of the Region shall be determined by the required majority of the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a Legislative House of the Region may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

Unqualified  
persons  
sitting or  
voting.

24. Any person who sits or votes in either Legislative House of the Region knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by the Legislature of the Region for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of the Region at the suit of the Attorney-General of the Region.

Mode of  
exercising  
legislative  
power.

25.—(1) The power of the Legislature of the Region to make laws shall be exercised by bills passed by both Legislative Houses of the Region (or in the cases mentioned in section 27 of this Constitution the House of Assembly) and assented to by the Governor on behalf of Her Majesty.

(2) A bill other than a money bill may originate in either Legislative House of the Region but a money bill may originate only in the House of Assembly.

(3) When a bill has been passed by the Legislative House of the Region in which it originated, it shall be sent to the other House; and it shall be presented to the Governor for assent—

(a) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it; or

(b) when it is required to be so presented under section 27 of this Constitution.

(4) When a bill is presented to the Governor for assent, he shall signify that he assents or that he withholds assent.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

26.—(1) The House of Chiefs shall not—

(a) proceed upon any bill, other than a bill sent from the House of Assembly, that, in the opinion of the person presiding, makes provision for any of the following purposes:—

Restrictions  
with regard  
to certain  
financial  
measures.

(i) for the imposition, repeal or alteration of taxation;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(b) proceed upon any amendment to any bill that in the opinion of the person presiding makes provision for any of those purposes;

(c) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(d) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

(2) Except upon the recommendation of the Governor signified by a Minister of the Government of the Region, the House of Assembly shall not:—

(a) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes:—

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

- (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or
- (c) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

Limitation  
of powers of  
House of  
Chiefs.

27.—(1) Where a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs without amendment within one month after it is so sent, the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for his assent.

(2) Where—

- (a) a bill that is not a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs before the end of the session or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree; and
- (b) in the following session (whether of the same Legislative Houses or not) but not earlier than six months after it was first passed by the House of Assembly the same bill, with no other alterations than those mentioned in subsection (4) of this section, is passed again by the House of Assembly and sent to the House of Chiefs at least one month before the end of the session and is not passed by

the House of Chiefs before the end of the session or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree,

the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for his assent with such amendments, if any, as may have been agreed to by both Houses.

(3) The House of Assembly may, on the passage of a bill for the purposes of paragraph (b) of sub-section (2) of this section, suggest any amendments without inserting the amendments in the bill and any such suggested amendments shall be considered by the House of Chiefs and, if agreed to by the House of Chiefs, shall be treated as amendments agreed to by both Houses; but the exercise of this power by the House of Assembly shall not affect the operation of this section if the bill is not passed by the House of Chiefs or is passed by the House of Chiefs with amendments to which the House of Assembly does not agree.

(4) The alterations referred to in sub-section (2) of this section are alterations certified by the Speaker of the House of Assembly to be necessary owing to the time that has elapsed since the bill was passed in the earlier session or to represent amendments made in that session by the House of Chiefs.

(5) When a money bill is sent to the House of Chiefs from the House of Assembly it shall bear a certificate of the Speaker of the House of Assembly that it is a money bill.

(6) When a bill is presented to the Governor in pursuance of this section it shall bear a certificate of the Speaker of the House of Assembly that this section has been complied with and that certificate shall be conclusive for all purposes and shall not be questioned in any court.

(7) This section does not apply to any bill for the purposes of section 5 of the Constitution of the Federation.

28.—(1) Subject to the provisions of this Constitution, each Legislative House of the Region may regulate its own procedure.

*Regulation  
of procedure  
in Legislative  
Houses.*

(2) Each Legislative House of the Region may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any dissolution) and the

presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

Interpretation.

29. In this Part of this Chapter "money bill" means a bill that in the opinion of the Speaker of the House of Assembly contains only provisions dealing with—

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
- (b) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Region or the variation or repeal of any such charges;
- (c) the grant of money to the Crown or to any other person or authority or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the raising or guarantee of any loan or the repayment thereof; or
- (f) subordinate matters incidental to any of those matters:

Provided that the expressions "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

### PART 3

#### *Summoning, Prorogation and Dissolution*

Sessions of Legislative Houses.

30. Each session of the Legislative Houses of the Region shall be held at such place within the Region and shall begin at such time (not being later than twelve months from the end of the preceding session if those Houses have been prorogued or three months from the end of that session if those Houses have been dissolved) as the Governor shall appoint.

Prorogation and dissolution of Legislative Houses.

31.—(1) The Governor may at any time prorogue or dissolve the Legislative Houses of the Region.

(2) Subject to the provisions of sub-section (3) of this section, the Legislative Houses of the Region, unless sooner dissolved, shall continue for five years from the date of their first sitting after any dissolution and shall then stand dissolved.

(3) At any time when the Federation is at war, the Legislature of the Region may from time to time extend the period of five years specified in sub-section (2) of this section for not more than twelve months at a time:

Provided that the life of the Legislative Houses of the Region shall not be extended under this sub-section for more than five years.

(4) In the exercise of his powers to dissolve the Legislative Houses of the Region, the Governor shall act in accordance with the advice of the Premier:

Provided that—

- (a) if the Premier recommends a dissolution and the Governor considers that the government of the Region can be carried on without a dissolution and that a dissolution would not be in the interests of the Region he may refuse to dissolve the Legislative Houses;
- (b) if the House of Assembly passes a resolution that it has no confidence in the Government of the Region and the Premier does not within three days either resign or advise a dissolution, the Governor may dissolve the Legislative Houses; and
- (c) if the office of Premier is vacant and the Governor considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the members of the House of Assembly to that office within a reasonable time, the Governor may dissolve the Legislative Houses.

### CHAPTER III

#### EXECUTIVE POWERS

32.—(1) The executive authority of the Region shall be vested in Her Majesty.

Exercise of  
executive  
authority  
of Region.

(2) Subject to the provisions of this Constitution, the executive authority of the Region may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent the Legislature of the Region from conferring functions on persons or authorities other than the Governor.

Ministers of  
Government  
of Region.

**33.—**(1) There shall be a Premier of the Region, who shall be appointed by the Governor.

(2) Whenever the Governor has occasion to appoint a Premier he shall appoint a member of House of Assembly who appears to him likely to command the support of the majority of the members of the House.

(3) There shall be, in addition to the office of Premier, such other offices of Minister of the Government of the Region as may be established by the Legislature of the Region or, subject to the provisions of any Regional law, by the Governor, acting in accordance with the advice of the Premier.

(4) Appointments to the office of Minister of the Government of the Region other than the office of Premier shall be made by the Governor, acting in accordance with the advice of the Premier:

Provided that at least two Ministers shall be appointed from among the members of the House of Chiefs.

(5) A person shall not hold office at the same time both as a Minister of the Government of the Region and as a Minister of the Government of another Region.

(6) Subject to the provisions of sub-section (11) of this section, a person who holds office as a Minister of the Government of the Region for any period of four consecutive months without also being a member of a Legislative House of the Region shall cease to be a Minister at the expiration of that period or, if that period expires at a time when the Legislative Houses are dissolved and he does not in the meantime become a member of a Legislative House, at the date on which the Legislative Houses first meet after that dissolution.

(7) Subject to the provisions of sub-section (11) of this section, a person who holds office as a Minister of the Government of the Region and who is at no time while holding that office also a member of a Legislative House of the Region shall not be qualified for reappointment as such a Minister before the Legislative Houses are next dissolved after he ceases to hold that office, unless in the meantime he has become a member of a Legislative House.

(8) The office of the Premier shall become vacant—

- (a) when, after any dissolution of the Legislative Houses of the Region, the Premier is informed by the Governor that the Governor is about to re-appoint him as Premier or to appoint another person as Premier; or
- (b) if he ceases to be a member of the House of Assembly otherwise than by reason of a dissolution of the Legislative Houses.

(9) The office of a Minister of the Government of the Region other than the Premier shall become vacant if the office of Premier becomes vacant.

(10) Subject to the provisions of sub-sections (8) and (9) of this section, the Ministers of the Government of the Region shall hold office during the Governor's pleasure:

Provided that—

- (a) the Governor shall not remove the Premier from office unless it appears to him that the Premier no longer commands the support of a majority of the members of the House of Assembly; and
- (b) the Governor shall not remove a Minister other than the Premier from office except in accordance with the advice of the Premier.

(11) The office of the Attorney-General of the Region shall be that of a Minister of the Government of the Region:

Provided that—

- (a) the provisions of sub-sections (6) and (7) of this section shall not apply in relation to a person holding that office;
- (b) if the person holding that office is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions may be performed by such other person (whether or not that person is a Minister) as may from time to time be designated in that behalf by the Governor acting in accordance with the advice of the Premier; and
- (c) a person shall not be qualified to hold that office or to perform the functions conferred upon the person holding that office by this Constitution or any other law unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Establishment of Executive Council.

34.—(1) There shall be an Executive Council for the Region, whose function shall be to advise the Governor in the government of the Region and which shall consist of the Premier and such other persons, being Ministers of the Government of the Region, as the Governor, acting in accordance with the advice of the Premier, may from time to time appoint.

(2) A person appointed as a member of the Executive Council shall vacate his seat in the Council if he ceases to be a Minister of the Government of the Region or if the Governor, acting in accordance with the advice of the Premier, so directs.

Collective responsibility.

35.—(1) The Executive Council shall be collectively responsible to the Legislative Houses of the Region for any advice given to the Governor by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Region in the execution of his office.

(2) The provisions of this section shall not apply in relation to—

- (a) the appointment and removal from office of Ministers of the Government of the Region, members of the Executive Council and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers or the authorization of another member of the Executive Council to perform the functions of the Premier during absence or illness;
- (b) the dissolution of the Legislative Houses of the Region; or
- (c) the matters referred to in section 44 of this Constitution (which relates to the prerogative of mercy).

Allocation of portfolios to Ministers.

36. The Governor, acting in accordance with the advice of the Premier, may assign to the Premier or any other Minister of the Government of the Region responsibility for any business of the Government of the Region, including the administration of any department of government.

Performance of functions of Premier during absence or illness.

37.—(1) Whenever the Premier is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by this Constitution the Governor may authorize some other member of the Executive Council of the Region to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor.

(2) The powers of the Governor under this section shall be exercised by him in accordance with the advice of the Premier:

Provided that if the Governor considers that it is impracticable to obtain the advice of the Premier owing to his absence or illness he may exercise those powers without that advice.

38.—(1) In the exercise of his functions under this Constitution, the Constitution of the Federation or any other law the Governor shall act in accordance with the advice of the Executive Council or a Minister of the Government of the Region acting under the general authority of the Executive Council except in cases where by this Constitution he is required to act in accordance with the advice of any person or authority other than the Executive Council:

Exercise of Governor's powers.

Provided that the Governor shall act in accordance with his own deliberate judgment in the performance of the following functions:—

- (a) in the exercise of the powers relating to the dissolution of the Legislative Houses of the Region conferred upon him by the proviso to sub-section (4) of section 31 of this Constitution;
- (b) in the exercise of the power to appoint the Premier conferred upon him by sub-section (2) of section 33 of this Constitution;
- (c) in the exercise of the powers conferred upon him by section 37 of this Constitution (which relates to the performance of the functions of the Premier during absence or illness) in the circumstances described in the proviso to sub-section (2) of that section; and
- (d) in signifying his approval for the purposes of section 63 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the Governor is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law.

39. The Premier shall keep the Governor fully informed concerning the general conduct of the government of the Region and shall furnish the Governor with such information as he may request with respect to any particular matter relating to the government of the Region.

Governor to be informed concerning matters of government.

Parliamentary Secretaries.

40.—(1) The Governor, acting in accordance with the advice of the Premier, may appoint Parliamentary Secretaries from among the members of the Legislative Houses of the Regions to assist Ministers of the Government of the Region in the performance of their duties.

(2) The office of a Parliamentary Secretary shall become vacant—

- (a) if he ceases to be a member of one or other of the Legislative Houses of the Region otherwise than by reason of a dissolution of those Houses;
- (b) if the office of Premier becomes vacant; or
- (c) if the Governor, acting in accordance with the advice of the Premier, so directs.

Oaths to be taken by Ministers, etc.

41. A member of the Executive Council, Minister of the Government of the Region or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

Permanent secretaries.

42. Where any Minister of the Government of the Region has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Region:

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

Constitution of offices for Region, etc.

43. Subject to the provisions of this Constitution and of any Regional law, the Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Region, make appointments to any such office and terminate any such appointment.

Prerogative of Mercy.

44.—(1) The Governor may, in Her Majesty's name and on Her Majesty's behalf—

- (a) grant to any person concerned in or convicted of any offence created by or under a Regional law a pardon, either free or subject to lawful conditions;

- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence; or
- (d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the Crown on account of such an offence.

(2) The powers of the Governor under sub-section (1) of this section shall be exercised by him in accordance with the advice of such member of the Executive Council as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(3) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution by the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

45.—(1) There shall be for the Region an Advisory Council on the Prerogative of Mercy, which shall consist of—

Establishment of Advisory Council on Prerogative of Mercy.

- (a) such member of the Executive Council as may for the time being be designated under sub-section (2) of section 44 of this Constitution, who shall be chairman;
- (b) where the chairman is a Minister other than the Attorney-General of the Region, the Attorney-General; and
- (c) not less than five and not more than seven other members, who shall be appointed by the Governor, acting in accordance with the advice of the Premier, of whom at least one shall be a person who is qualified to practise as a medical practitioner in Nigeria.

(2) A person shall not be qualified for appointment by the Governor as a member of the Advisory Council if he is a member of a Legislative House of the Region, a member of either House of Parliament, a member of a legislative house of another Region, a

Minister of the Government of the Region, a Minister of the Government of the Federation or a Minister of the Government of another Region.

(3) A member of the Advisory Council appointed by the Governor shall hold office for three years:

Provided that his seat in the Council shall become vacant—

- (a) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such; or
- (b) if he is removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of this office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

Functions of  
Advisory  
Council.

46.—(1) Where any person has been sentenced to death by any court of law in Nigeria for any offence created by or under a Regional law the member of the Executive Council of the Region designated under sub-section (2) of section 44 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor that he should exercise any of his powers under that section in relation to that person.

(2) The number of the Executive Council designated under sub-section (2) of section 44 of this Constitution may consult with the Advisory Council before making any recommendation to the Governor under that sub-section in any case not falling within sub-section (1) of this section, but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

Public  
prosecutions.

47.—(1) There shall be a Director of Public Prosecutions for the Region, whose office shall be an office in the public service of the Region.

(2) The Director of Public Prosecutions of the Region shall have power in any case in which he considers it desirable so to do—

- (a) to institute and undertake criminal proceedings against any person before any court of law in the Region in respect of any offence created by or under any Regional law;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(3) The powers of the Director of Public Prosecutions of the Region under sub-section (2) of this section may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

(4) The Director of Public Prosecutions of the Region may confer a general or special authority upon the Director of Public Prosecutions of the Federation to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by sub-section (2) of this section and may vary or revoke any such authority.

(5) The powers conferred upon the Director of Public Prosecutions of the Region by paragraphs (b) and (c) of sub-section (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this sub-section shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions of the Region shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law in the Region or any case stated or question of law reserved for the purposes of any such proceedings to any other court in Nigeria or to Her Majesty in Council shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

## CHAPTER IV

### COURTS

Establishment of High Court.

48.—(1) There shall be a High Court for the Region.

(2) The judges of the High Court of the Region shall be—

(a) the Chief Justice of the Region; and

(b) such number of other judges (not being less than six) as may be prescribed by the Legislature of the Region.

(3) The High Court of the Region shall be a superior court of record and, save as otherwise provided by any law in force in the Region, shall have all the powers of such a court.

Appointment of judges of High Court.

49.—(1) The Chief Justice of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(2) The judges of the High Court of the Region other than the Chief Justice shall be appointed by the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region.

(3) A person shall not be qualified to hold the office of a judge of the High Court of the Region unless—

(a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified to practise as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(4) If the office of Chief Justice of the Region is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of the Region as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(5) If the office of any judge of the High Court of the Region other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region, may appoint a person with such qualifications as may be prescribed by the Legislature of the Region to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of his appointment or if no period is specified until his appointment is revoked by the Governor, acting in accordance with the advice of the Commission.

50.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of the Region or any other judge of the High Court of the Region shall vacate his office when he attains such age as may be prescribed by the Legislature of the Region:

Tenure of  
offices of  
judges of  
High Court.

Provided that the Governor, acting in accordance with the advice of the Premier, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of a judge of the High Court of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of a judge of the High Court of the Region shall be removed from office by the Governor if the question of the removal of that judge from office has, at the

request of the Governor made in pursuance of sub-section (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing a judge of the High Court of the Region under this section ought to be investigated, then—

(a) the Governor shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor, acting in accordance with the advice of the Premier, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;

(b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and

(c) if the tribunal so recommends, the Governor shall request that the question should be referred accordingly.

(5) If the question of removing a judge of the High Court of the Region from office has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the judge from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect—

(a) if the tribunal recommends to the Governor that he should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee; or

(b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(6) This section shall apply to any person appointed to act in the office of a judge of the High Court of the Region as it applies

to a person holding the office of a judge of the High Court, but without prejudice to the provisions of section 49 of this Constitution relating to the revocation of his appointment by the Governor.

51.—(1) An appeal shall lie from decisions of a subordinate court to the High Court of the Region as of right or, if it is provided by any law in force in the Region that an appeal as of right shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court as of right in the following cases:—

Appeals to High Court from subordinate courts.

- (a) where the matter in dispute on the appeal to the High Court is of the value of fifty pounds or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifty pounds or upwards, final decisions in any civil proceedings;
- (b) where the ground of appeal to the High Court involves questions of law alone, decisions in any criminal proceedings in which any person has been sentenced to imprisonment for a term exceeding three months or corporal punishment exceeding six strokes or a fine or forfeiture exceeding twenty-five pounds by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence;
- (c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, the Constitution of the Federation or the constitution of another Region;
- (d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution of the Federation has been contravened in relation to any person;
- (e) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death;
- (f) decisions in any other criminal proceedings before a subordinate court sitting at first instance from which no appeal lies as of right to another subordinate court; and

- (g) such other cases as may be prescribed by any law in force in the Region:

Provided that no appeal shall lie from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies as of right to the Federal Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 111 of that Constitution.

(2) An appeal shall lie from decisions of a subordinate court to the High Court of the Region with the leave of the High Court or, if it is provided by any law in force in the Region that an appeal shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court with the leave of the High Court in the following cases:—

- (a) decisions in any criminal proceedings from which no appeal lies as of right to the High Court; and
- (b) such other cases in which no appeal lies as of right to the High Court as may be prescribed by any law in force in the Region:

Provided that no appeal shall lie under paragraph (a) of this sub-section from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies to the Federal Supreme Court (whether as of right or with the leave of the Federal Supreme Court) by virtue of an Act of Parliament enacted under section 111 of that Constitution.

(3) Any right of appeal from decisions of a subordinate court to the High Court of the Region conferred by this section:—

- (a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject to the provisions of section 47 of this Constitution, at the instance of such other persons or authorities as may be prescribed by any law in force in the Region; and
- (b) shall be exercised in accordance with any laws and rules of court for the time being in force regulating the powers, practice and procedure of the High Court.

(4) In this section—

“decision” means, in relation to a subordinate court, any determination of that court and includes (without prejudice to the generality of the foregoing) a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation;

“subordinate court” means any court of law in the Region other than the Federal Supreme Court, the High Court of the Region or a court-martial.

52.—(1) There shall be a Judicial Service Commission for the Region. Establishment of  
Judicial  
Service  
Commission.

(2) The members of the Judicial Service Commission of the Region shall be—

- (a) the Chief Justice of the Region, who shall be chairman;
- (b) such other judge of the High Court of the Region as may be designated by the Governor, acting in accordance with the advice of the Premier;
- (c) the chairman of the Public Service Commission of the Region; and
- (d) one other member, who shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) The following provisions shall apply in relation to a member of the Judicial Service Commission of the Region appointed by the Governor—

- (a) a person shall not be qualified for appointment as such unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;
- (b) subject to the provisions of this sub-section, a person appointed as such shall vacate his office at the expiration of five years from the date of his appointment;
- (c) a person appointed as such may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour; and

- (d) a person appointed as such shall not be removed from office except in accordance with the provisions of this sub-section.

Appointment  
of officers  
connected  
with courts.

53.—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission of the Region:

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members, to any judge or to the holder of any office to which this section applies.

(2) The offices to which this section applies are the offices of members of any court of law established by the Legislature of the Region, being offices the emoluments attaching to which are payable out of the Consolidated Revenue Fund or any other public fund of the Region, the office of Chief Registrar or Registrar of the High Court, the office of Registrar of any Magistrate's Court established by the Legislature of the Region, any office of Justice of the Peace established by that Legislature and such other offices connected with the High Court of the Region or any court of law established by that Legislature as may be prescribed by that Legislature.

Oaths to be  
taken by  
judges.

54. A judge of the High Court of the Region shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

## CHAPTER V

### FINANCE

Establish-  
ment of  
Consolidated  
Revenue  
Fund.

55.—(1) All revenues or other moneys raised or received by the Region (not being revenues or other moneys payable under this Constitution or any Regional law into some other public fund of the Region established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Region except to meet expenditure that is charged upon the Fund by this Constitution, the Constitution of

the Federation or any Regional law or where the issue of those moneys has been authorized by an appropriation law or a law made in pursuance of section 57 of this Constitution.

(3) No money shall be withdrawn from any public fund of the Region other than the Consolidated Revenue Fund unless the issue of those moneys has been authorized by a Regional law.

(4) No money shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Region except in the manner prescribed by the Legislature of the Region.

56.—(1) The Minister of the Government of the Region responsible for finance shall cause to be prepared and laid before both Legislative Houses of the Region in each financial year estimates of the revenues and expenditure of the Region for the the next following financial year.

Authoriza-  
tion of  
expenditure  
from  
Consoli-  
dated  
Revenue  
Fund.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution, the Constitution of the Federation or any Regional law) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Region of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

(a) that the amount appropriated by the appropriation law for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the law; or

(b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation law or for a purpose for which no amount has been appropriated by the law,

a supplementary estimate showing the sums required or spent shall be laid before both Legislative Houses of the Region and the heads of any such expenditure shall be included in a supplementary appropriation bill.

57. The Legislature of the Region may make provision under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial

Authoriza-  
tion of  
expenditure  
in advance  
of appro-  
priation.

year, the Minister of the Government of the Region responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Region for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation law, whichever is the earlier.

Contingencies fund.

58.—(1) The Legislature of the Region may provide for the establishment of a Contingencies Fund for the Region and for authorizing the Minister of the Government of the Region responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Remuneration of Governor and certain other officers.

59.—(1) There shall be paid to the holders of the offices to which this section applies such salary as may be prescribed by the Legislature of the Region.

(2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Region.

(3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies to the office of Governor, Chief Justice or other judge of the High Court of the Region, member of the Electoral Commission of the Region, appointed member of the Judicial Service Commission of the Region, member of the Public Service Commission of the Region, Director of Public Prosecutions of the Region and Director of Audit of the Region.

Audit of public accounts.

60.—(1) There shall be a Director of Audit for the Region, whose office shall be an office in the public service of the Region.

(2) The public accounts of the Region and of all officers, courts and authorities of the Region shall be audited and reported on by the Director of Audit of the Region and for that purpose the Director or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Region shall submit his reports to the Minister of the Government of the Region responsible for finance, who shall cause them to be laid before both Legislative Houses of the Region.

(4) In the exercise of his functions under this Constitution the Director of Audit of the Region shall not be subject to the direction or control of any other person or authority.

61.—(1) The public debt of the Region shall be secured on the revenues and assets of the Region. Public debt.

(2) In this section references to the public debt of the Region include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

## CHAPTER VI

### THE PUBLIC SERVICE OF THE REGION

62.—(1) There shall be a Public Service Commission for the Region, which shall consist of a chairman and not less than two or more than four other members. Establishment of Public Service Commission.

(2) The members of the Public Service Commission of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Region if he is a member of a Legislative House of the Region, a member of a House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Region shall vacate his office—

- (a) at the expiration of five years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission of the Region may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Public Service Commission of the Region shall not be removed from office except in accordance with the provisions of this section.

(7) A person who has been appointed to be a member of the Public Service Commission of the Region shall not thereafter be eligible for appointment to any office in the public service of the Region.

Appoint-  
ment, etc.,  
of officers  
in public  
service.

63.—(1) Power to appoint persons to hold or act in offices in the public service of the Region (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Region:

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Region.

(2) This section shall not apply in relation to any of the following offices:—

- (a) the office of the Deputy Governor of the Region or any judge of the High Court of the Region;
- (b) except for the purposes of making appointments thereto, the office of the Director of Audit of the Region or the Director of Public Prosecutions of the Region;

(c) any office to which section 53 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission of the Region) applies;

(d) any office to which section 65 of this Constitution (which relates to the office of the principal representative of the Region in the United Kingdom) applies.

(3) The provisions of this section shall be subject to the provisions of section 66 of this Constitution (which relates to permanent secretaries).

(4) No appointment shall be made under this section to any office on the personal staff of the Governor unless the Governor signifies his approval of the appointment.

64. If at any time the office of Deputy Governor of the Region is established under section 43 of this Constitution, power to appoint persons to hold or act in that office and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

Appoint-  
ment, etc.,  
of Deputy  
Governor.

65.—(1) Power to appoint persons to hold or act in the office of the Agent-General of the Region in the United Kingdom (including power to make appointments on promotion and transfer) and to remove persons so appointed from that office shall vest in the Governor acting in accordance with the advice of the Premier.

Appoint-  
ment, etc.,  
of Agent-  
General in  
U.K.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Region other than an office to which this section applies, the Premier shall consult the Public Service Commission of the Region.

66.—(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Region and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

Appoint-  
ment, etc.,  
of  
permanent  
secretaries.

(2) Before tendering any advice for the purposes of this section the Premier shall consult the Public Service Commission of the Region.

Qualifications of Director of Public Prosecutions.

67. A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Region unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Tenure of office of Director of Public Prosecutions.

68.—(1) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(2) A person holding the office of Director of Public Prosecutions of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Director of Public Prosecutions of the Region shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under sub-section (4) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing the Director of Public Prosecutions of the Region under this section ought to be investigated then—

- (a) the Governor shall appoint a tribunal, which shall consist of a chairman and not less than two other members, acting in accordance with the advice of the Premier, the chairman and half of the other members being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and
- (b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the Director ought to be removed under this section.

(5) If the question of removing the Director of Public Prosecutions of the Region has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the Director from performing the

functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Director should not be removed.

69.—(1) Before appointing any person to hold the office of Director of Audit of the Region the Public Service Commission of the Region shall consult the Premier.

Appointment and tenure of office of Director of Audit.

(2) Subject to the provisions of this section, a person holding the office of Director of Audit of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(3) A person holding the office of Director of Audit of the Region shall be removed from office by the Governor if a resolution is passed by each Legislative House of the Region recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) Any person holding the office of Director of Audit of the Region shall not be removed from office except in accordance with the provisions of this section.

(5) If the office of Director of Audit of the Region is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Region, acting after consultation with the Premier, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission, acting after consultation with the Premier.

70. Before exercising any of its powers in relation to the Clerk to the House of Chiefs the Public Service Commission of the Region shall consult the President of that House and before exercising any of its powers in relation to the Clerk to the House of Assembly the Commission shall consult the Speaker of that House.

Powers relating to Clerks of Legislative Houses.

71.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Regional law, those benefits shall not be so withheld, reduced in amount or suspended—

Powers of Commissions in relation to grant of pensions, etc.

- (a) in the case of benefits that have been granted in respect of the service in the public service of the Region of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Judicial Service Commission of the Region or for which any person may be eligible in respect of such service, without the approval of that Commission; or
- (b) in any other case, without the approval of the Public Service Commission of the Region.

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of judge of the High Court of the Region or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

(3) This section applies to any benefits payable under any Regional law providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Region in respect of their service in that public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

## CHAPTER VII

### MISCELLANEOUS

Powers and  
procedure of  
Commis-  
sions.

72.—(1) Any Commission established by this Constitution may, with the consent of the Premier or such other Minister of the Government of the Region as may be authorized in that behalf by the Premier, by regulation or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority of the Region for the purpose of discharging its functions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

Minority  
Areas.

73.—(1) The Governor may declare any area within the Region to be a Minority Area.

(2) There shall be a Minority Council for each Minority Area, which shall consist of—

(a) those members of the House of Representatives of the Federation or the House of Assembly who have been elected as such to represent a constituency all or part of which is within that Minority Area; and

(b) those members of the House of Chiefs who represent an area all or part of which is within that Minority Area.

(3) The Minority Council for a Minority Area shall be responsible for advising the Government of the Region with respect to the development and welfare of that Minority Area and for bringing to the notice of the Government any discrimination against the inhabitants of that Minority Area and shall have such other functions with respect to that Minority Area as may be conferred upon it by any law in force in the Region.

(4) For the purposes of this section the Legislature of the Region may—

(a) make provision for the selection of persons as members of the Minority Council for a Minority Area;

(b) prescribe the circumstances in which the seat in the Council of a person so selected shall become vacant; and

(c) make provision for the organization of the work of the Council and the appointment, tenure of office and terms of service of staff to assist the Council in the performance of its functions.

74.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he is appointed, elected or selected: Resignations.

Provided that in the case of a member of a Legislative House of the Region who holds office as President or Speaker of the House his resignation from the House or that office shall be addressed to the House and in the case of any other member of the House his resignation from the House shall be addressed to the President or Speaker of the House.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying

the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

Re-appoint-  
ment, etc.

75.—(1) Where any person has vacated any office constituted by this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any office in the public service of the Region, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of his office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this sub-section, then for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

Interpreta-  
tion.

76.—(1) In this Constitution, unless it is otherwise expressly provided or required by the context—

“Act of Parliament” means any law made by Parliament;

“the Advisory Council” means the Advisory Council on the Prerogative of Mercy of the Region;

“the Commonwealth” means Nigeria, any country to which section 13 of the Constitution of the Federation applies and any dependency of any such country;

“financial year” means any period of twelve months beginning on the first day of April in any year or such other date as the Legislature of the Region may prescribe;

“oath” includes affirmation;

“the oath of allegiance” means such oath of allegiance as may be prescribed by Parliament;

“Parliament” means the Parliament of the Federation;

“the public service of the Region” means the service of the Crown in a civil capacity in respect of the government of the Region;

“Regional law” means any law made by the Legislature of the Region.

(2) In this Constitution, unless it is otherwise expressly provided or required by the context—

- (a) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices; and
- (b) references to offices in the public service of the Region include references to the offices of the judges of the High Court of the Region and references to the offices of members of all other courts of law established by the Legislature of the Region, being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Region.

(3) For the purposes of this Constitution, the office of the President or the Deputy President of the House of Chiefs, a member of the House of Chiefs, the Speaker or the Deputy Speaker of the House of Assembly, a member of the House of Assembly, a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister or a member of the Executive Council, any Commission established by this Constitution, the Advisory Council or the Minority Council for a Minority Area in the Region shall not be regarded as an office in the public service of the Region.

(4) The Interpretation Act, 1889(a), as in force on the first day of October, 1960, shall apply, with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

(5) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

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(a) 52 & 53 Vict. c. 63.



THE FIFTH SCHEDULE

Section 2.

THE CONSTITUTION OF EASTERN NIGERIA  
ARRANGEMENT OF SECTIONS

CHAPTER I

THE GOVERNOR

SECTION

1. Establishment of office of Governor.
2. Oaths to be taken by Governor.
3. Discharge of Governor's functions during vacancy, etc.

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THE LEGISLATURE OF THE REGION

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*Composition of Legislature*

4. Establishment of Legislature.
5. Composition of House of Chiefs.
6. Composition of House of Assembly.
7. Qualifications for membership of House of Assembly.
8. Disqualifications for membership of House of Assembly.
9. President of House of Chiefs.
10. Speaker of House of Assembly.
11. Right of attendance of Ministers.
12. Tenure of seats of members of House of Assembly.
13. Establishment of Electoral Commission.
14. Constituencies.
15. Elections.
16. Determination of questions of membership of Legislative Houses.
17. Clerks to Legislative Houses and their staffs.

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19. Presiding in House of Chiefs.
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## SECTION

30. Sessions of Legislative Houses.
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56. Authorization of expenditure from Consolidated Revenue Fund.
57. Authorization of expenditure in advance of appropriation.
58. Contingencies fund.
59. Remuneration of Governor and certain other officers.
60. Audit of public accounts.
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THE PUBLIC SERVICE OF THE REGION

SECTION

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64. Appointment, etc., of Deputy Governor.
65. Appointment, etc., of Agent-General in U.K.
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68. Tenure of office of Director of Public Prosecutions.
69. Appointment and tenure of office of Director of Audit.
70. Powers relating to Clerks of Legislative Houses.
71. Powers of Commissions in relation to grant of pensions, etc.

CHAPTER VII

MISCELLANEOUS

72. Powers and procedure of Commissions.
73. Minority Areas.
74. Establishment of Provincial Administrations.
75. Resignations.
76. Re-appointments, etc.
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WHEREAS EASTERN NIGERIA is a Region of the Federation of Nigeria:

AND WHEREAS it is expedient to make provision, subject to the provisions of the Constitution of the Federation, for a Constitution for Eastern Nigeria (hereinafter referred to as "the Region"):

NOW, THEREFORE, the Constitution of the Region shall be as follows:—

## CHAPTER I

### THE GOVERNOR

1.—(1) There shall be a Governor of the Region, who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure and who shall be Her Majesty's representative in the Region. Establishment of office of Governor.

(2) The Premier shall consult the Prime Minister of the Federation before tendering any advice to Her Majesty for the purposes of this section.

2. A person appointed to the office of Governor shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and such oath for the due execution of the office as may be prescribed by the Legislature of the Region. Oaths to be taken by Governor.

3. Whenever the office of Governor is vacant or the holder of the office is absent from Nigeria or is for any reason unable to perform the functions conferred upon him by this Constitution, those functions shall be performed by such person as Her Majesty may appoint or, if there is no person in the Region so appointed and able to perform those functions, by the Chief Justice of the Region: Discharge of Governor's functions during vacancy, etc.

Provided that nothing in this section shall preclude the Governor from performing any of those functions at any time when he is absent from Nigeria.

## CHAPTER II

### THE LEGISLATURE

#### PART I

#### *Composition of Legislature*

4. There shall be a Legislature for the Region, which shall consist of Her Majesty, a House of Chiefs and a House of Assembly and which shall have power to make laws for the peace, order and good government of the Region. Establishment of Legislature.

Composition  
of House of  
Chiefs.

5.—(1) The House of Chiefs shall consist of—

- (a) all traditional Rulers, who shall be *ex officio* members of the House;
- (b) such first-class Chiefs as may be selected to represent provinces in the Region in such manner as may be prescribed by the Legislature of the Region;
- (c) fifty-five Chiefs having such qualifications and selected in such manner as may be prescribed by the Legislature of the Region; and
- (d) such special members (not exceeding five) having such qualifications as may be prescribed by the Legislature of the Region as may be selected by the Governor, acting in accordance with the advice of the Premier.

(2) The seat in the House of Chiefs of a member other than an *ex officio* member shall become vacant in such circumstances as may be prescribed by the Legislature of the Region.

(3) In this section—

“Chief” means any person who is for the time being recognized as a Chief under any law in force in the Region;

“first-class Chief” means any Chief who is for the time being recognized as a first-class Chief under any law in force in the Region;

“traditional Ruler” means any person who is for the time being recognized as a traditional Ruler under any law in force in the Region.

Composition  
of House of  
Assembly.

6. The House of Assembly shall consist of one hundred and forty-six members.

Qualifica-  
tions for  
membership  
of House of  
Assembly.

7. Subject to the provisions of section 8 of this Constitution, a person shall be qualified to be a member of the House of Assembly if he is a citizen of Nigeria who has attained the age of twenty-one years and—

- (a) was born in the Region; or
- (b) whose father was born in the Region; or
- (c) who has resided in the Region for a continuous period of at least one year immediately before the date of the election.

8.—(1) No person shall be qualified for election to the House of Assembly—

Disqualifications for membership of House of Assembly.

- (a) if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country;
- (b) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;
- (c) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed upon him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
- (d) if he is an undischarged bankrupt, having been adjudged or otherwise declared to be bankrupt under any law in force in any part of Nigeria;
- (e) save as otherwise provided by the Legislature of the Region, if he is a member of the public service of the Region, the public service of the Federation or the public service of another Region, a member of the armed forces of the Crown or the holder of any other office of emolument under the Crown; or
- (f) if he is a member of the House of Chiefs, an *ex officio* member of the Senate or a member of a legislative house of another Region.

(2) The Legislature of the Region may provide that a person shall not be qualified for membership of the House of Assembly for such period (not exceeding five years) as may be prescribed if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a Legislative house of the Region, a House of Parliament or a Legislative house of another Region as may be prescribed.

(3) The Legislature of the Region may prescribe that a person disqualified under paragraph (c) of sub-section (1) of this section by reason of his being under a sentence of imprisonment exceeding six months for any such offence (being an offence that appears to that Legislature to involve dishonesty) as may be prescribed or by reason of his being under sentences of imprisonment that

include such a sentence for any such offence shall not be qualified for membership of the House of Assembly for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be prescribed.

(4) The Legislature of the Region may provide that a person who is the holder of any office the functions of which involve responsibility for, or in connection with, the conduct of any election to the House of Assembly or the compilation of any register of voters for the purposes of such an election shall not be qualified for election to that House.

(5) The Legislature of the Region may, in order to permit any person who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of sub-section (1) of this section for such time as may be prescribed.

(6) For the purposes of paragraph (c) of sub-section (1) of this section two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.

(7) For the purposes of paragraph (e) of sub-section (1) of this section—

(a) a person shall not be regarded as holding an office of emolument under the Crown by reason only that he is in receipt of a pension or other like benefit in respect of service in an office under the Crown; and

(b) the office of the Speaker or the Deputy Speaker of the House of Assembly, the President, Deputy President, Speaker or Deputy Speaker or a member of a House of Parliament or a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region, a Parliamentary Secretary to any such Minister, a member of the Executive Council of the Region, a member of the Council of Ministers, a member of the Executive Council of another Region, a

member of the Council of Chiefs of the Northern Region, a member of the Minority Council of a Minority Area in the Region or Western Nigeria or a member of any such body corporate as is referred to in the proviso to sub-section (10) of this section shall not be regarded as an office of emolument under the Crown.

(8) Save as otherwise provided by the Legislature of the Region, a person shall not be regarded as disqualified for membership of the House of Assembly by reason only that he holds office as a member of a statutory corporation.

(9) If a person who holds the office of a member of any statutory corporation becomes a member of the House of Assembly, he shall, unless it is otherwise provided by the Legislature of the Region, thereupon cease to hold office as a member of that corporation.

(10) In this section "statutory corporation" means any body corporate established directly by any law in force in Nigeria:

Provided that it does not include any body corporate established by or under the Eastern Region Local Government Law, 1960, of the Region(a), as amended, or any law replacing that law.

9.—(1) There shall be a President of the House of Chiefs, who shall be elected by the members of that House.

President of  
House of  
Chiefs.

(2) The President of the House of Chiefs shall vacate his office—

- (a) if, having been elected from among the members of the House, he ceases to be a member of the House otherwise than by reason of a dissolution of the Legislative Houses of the Region;
- (b) if, having been elected from outside the House, any circumstances arise other than a dissolution of the Legislative Houses) that if he were a member of the House selected from among the Chiefs would cause him to vacate his seat as such;
- (c) when the House first sits after any dissolution;
- (d) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region; or

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(a) Law No. 17 of 1960.

(e) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(3) No business shall be transacted in the House of Chiefs (other than an election to the office of President) at any time when the office of President is vacant.

Speaker of  
House of  
Assembly.

**10.**—(1) There shall be a Speaker of the House of Assembly, who shall be elected by the members of that House.

(2) No person shall be elected as Speaker of the House of Assembly unless he is a member of the House or a person qualified to be a member of the House.

(3) The Speaker of the House of Assembly shall vacate his office—

(a) if, having been elected from among the members of the House, he ceases to be a member otherwise than by reason of a dissolution of the Legislative Houses of the Region;

(b) if, having been elected from outside the House, any circumstances arise (other than a dissolution of the Legislative Houses) that if he were a member of the House would cause him to vacate his seat as such;

(c) when the House first sits after any dissolution;

(d) if he becomes a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister, a Minister of the Government of the Federation or a Minister of the Government of another Region; or

(e) if he is removed from office by a resolution of the House supported by the votes of two-thirds of all the members of the House.

(4) No business shall be transacted in the House of Assembly (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.

Right of  
attendance  
of Ministers.

**11.**—(1) A Minister of the Government of the Region may attend and take part in the proceedings of either Legislative House of the Region notwithstanding that he is not a member of that House. ◊

(2) Nothing in this section shall entitle any person who is not a member of a Legislative House of the Region to vote in that House or any of its committees.

12.—(1) A member of the House of Assembly shall vacate his seat in the House—

Tenure of seats of members of House of Assembly.

- (a) if he becomes a member of the House of Chiefs, a House of Parliament or a legislative house of another Region;
- (b) if any other circumstances arise that, if he were not a member of the House, would cause him to be disqualified for election as such under sub-section (1) or (2) of section 8 of this Constitution;
- (c) if he ceases to be a citizen of Nigeria;
- (d) if he becomes a Minister of the Government of the Federation or a Minister of the Government of another Region;
- (e) save as otherwise provided by the Legislature of the Region, if he becomes a member of any statutory corporation; or
- (f) if he is absent from two consecutive meetings of the House and the Speaker of the House does not, by writing under his hand, excuse his absence within one month after the end of the second meeting.

(2) The Legislature of the Region may, in order to permit any member of the House of Assembly who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of this section until such time as may be prescribed.

(3) In this section the expression "statutory corporation" has the meaning assigned to it for the purposes of section 8 of this Constitution.

13.—(1) There shall be an Electoral Commission for the Region.

Establishment of Electoral Commission.

(2) The members of the Electoral Commission of the Region shall be—

- (a) the chairman of the Electoral Commission of the Federation, who shall be chairman;
- (b) the member of the Electoral Commission of the Federation representing the Region; and
- (c) two other members or such greater number of members as may be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) A person shall not be qualified for appointment as a member of the Electoral Commission of the Region if he is a member of either Legislative House of the Region, a member of either House of Parliament or a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Electoral Commission of the Region appointed by the Governor shall vacate his office—

- (a) at the expiration of five years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Electoral Commission of the Region appointed by the Governor may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Electoral Commission of the Region appointed by the Governor shall not be removed from office except in accordance with the provisions of this section.

(7) In the exercise of its functions under this Constitution the Electoral Commission of the Region shall not be subject to the direction or control of any other person or authority.

14.—(1) The Region shall be divided into as many constituencies as there are members of the House of Assembly in such manner as the competent authority, acting with the approval of each Legislative House of the Region signified by resolution, may prescribe.

Constituencies.

(2) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features and the distribution of different communities.

(3) The competent authority shall review the division of the Region into constituencies at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review:

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any alteration of the boundaries of the Region or by reason of the holding of a census of the population of the Region in pursuance of any law in force in the Region.

(4) Where the boundaries of any constituency established under this section are altered in accordance with the provisions of this section, that alteration shall come into effect upon the next dissolution of the Legislative Houses of the Region after the alteration has been approved by those Houses.

(5) In this section "population quota" means the number obtained by dividing the number of the inhabitants of the Region by the number of constituencies into which the Region is divided under this section.

(6) For the purposes of this section the number of inhabitants of the Region shall be ascertained by reference to the latest census of the population of the Region held in pursuance of any law in force in the Region.

(7) In this section "the competent authority" means the Electoral Commission of the Region or such other authority consisting of persons appointed by the Governor, acting in accordance with the advice of the Premier, as may be established in that behalf by the Legislature of the Region.

**Elections.** 15.—(1) Every constituency established under section 14 of this Constitution shall return to the House of Assembly one member who shall be directly elected in such manner as may be prescribed by the Legislature of the Region.

(2) The registration of voters at elections to the House of Assembly and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission of the Region.

**Determina-  
tion of  
questions of  
membership  
of Houses of  
Legislature.**

16.—(1) The High Court of the Region shall have original jurisdiction to hear and determine any question whether—

- (a) any person has been validly selected or elected as a member of a Legislative House of the Region; or
- (b) the seat in a Legislative House of any member of that House has become vacant.

(2) The Legislature of the Region may make provision with respect to—

- (a) the persons who may apply to the High Court of the Region for the determination of any question under this section;
- (b) the circumstances and manner in which, and the conditions upon which, any such application may be made; and
- (c) the powers, practice and procedure of the High Court in relation to any such application.

**Clerks to  
Legislative  
Houses and  
their staffs.**

17.—(1) There shall be a Clerk to the House of Chiefs and a Clerk to the House of Assembly:

Provided that the offices of Clerk to the House of Chiefs and Clerk to the House of Assembly may be held by the same person.

(2) Subject to the provisions of any Regional law, the office of the Clerk of each Legislative House of the Region and the members of his staff shall be offices in the public service of the Region.

## PART 2

### *Procedure in Legislative Houses*

**Oaths to be  
taken by  
members of  
Legislative  
Houses.**

18.—(1) Every member of either Legislative House of the Region shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance but a member

may before taking that oath take part in the election of a President of the House of Chiefs or a Speaker of the House of Assembly, as the case may be:

Provided that if a Legislative House is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of the Region.

(2) Any person elected to the office of President or Speaker of a Legislative House of the Region who is not a member of that House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the House.

19.—(1) There shall preside at any sitting of the House of Chiefs— Presiding in House of Chiefs.

- (a) the President; or
- (b) in the absence of the President, the Deputy President; or
- (c) in the absence of the President and the Deputy President, such member of the House as the House may elect for that purpose.

(2) The House of Chiefs may from time to time elect a member of the House to be Deputy President and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

20.—(1) There shall preside at any sitting of the House of Assembly— Presiding in House of Assembly.

- (a) the Speaker; or
- (b) in the absence of the Speaker, the Deputy Speaker; or
- (c) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

(2) The House of Assembly may from time to time elect a member of the House to be Deputy Speaker, and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

21. If objection is taken by any member of a Legislative House of the Region present that there are present in that House (besides the person presiding) fewer than one-sixth of all the members of that House and, after such interval as may be Quorum in Legislative Houses.

prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

Use of  
English in  
Legislative  
Houses.

22. The business of the Legislative Houses of the Region shall be conducted in English.

Voting in  
Legislative  
Houses.

23.—(1) Any question proposed for decision in a Legislative House of the Region shall be determined by the required majority of the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a Legislative House of the Region may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

Unqualified  
persons  
sitting or  
voting.

24. Any person who sits or votes in either Legislative House of the Region knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by the Legislature of the Region for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of the Region at the suit of the Attorney-General of the Region.

Mode of  
exercising  
legislative  
power.

25.—(1) The power of the Legislature of the Region to make laws shall be exercised by bills passed by both Legislative Houses of the Region (or in the cases mentioned in section 27 of this Constitution the House of Assembly) and assented to by the Governor on behalf of Her Majesty.

(2) A bill other than a money bill may originate in either Legislative House of the Region, but a money bill may originate only in the House of Assembly.

(3) When a bill has been passed by the Legislative House of the Region in which it originated, it shall be sent to the other House; and it shall be presented to the Governor for assent—

(a) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it; or

(b) when it is required to be so presented under section 27 of this Constitution.

(4) When a bill is presented to the Governor for assent, he shall signify that he assents or that he withholds assent.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

26.—(1) The House of Chiefs shall not—

(a) proceed upon any bill, other than a bill sent from the House of Assembly, that, in the opinion of the person presiding, makes provision for any of the following purposes:—

Restrictions with regard to certain financial measures.

(i) for the imposition, repeal or alteration of taxation;

(ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region;

(iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Region;

(b) proceed upon any amendment to any bill that in the opinion of the person presiding makes provision for any of those purposes;

(c) proceed upon any motion (including any amendment to a motion), the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or

(d) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

(2) Except upon the recommendation of the Governor signified by a Minister of the Government of the Region, the House of Assembly shall not—

- (a) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes:—
- (i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;
  - (ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Region or the alteration of any such charge otherwise than by reduction;
  - (iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Region of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or
  - (iv) for the composition or remission of any debt due to the Region;
- (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or
- (c) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

Limitation  
of powers of  
House of  
Chiefs.

27.—(1) Where a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs without amendment within one month after it is so sent, the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for his assent.

(2) Where—

- (a) a bill that is not a money bill is passed by the House of Assembly and, having been sent to the House of Chiefs at least one month before the end of the session, is not passed by the House of Chiefs before the end of the session or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree; and

- (b) in the following session (whether of the same Legislative Houses or not) but not earlier than six months after it was first passed by the House of Assembly the same bill, with no other alterations than those mentioned in sub-section (4) of this section, is passed again by the House of Assembly and sent to the House of Chiefs at least one month before the end of the session and is not passed by the House of Chiefs before the end of the session or is passed by the House of Chiefs with amendments to which the House of Assembly does not before the end of the session agree,

the bill shall, unless the House of Assembly otherwise resolves, be presented to the Governor for his assent with such amendments, if any, as may have been agreed to by both Houses.

(3) The House of Assembly may, on the passage of a bill for the purposes of paragraph (b) of sub-section (2) of this section, suggest any amendments without inserting the amendments in the bill and any such suggested amendments shall be considered by the House of Chiefs and, if agreed to by the House of Chiefs, shall be treated as amendments agreed to by both Houses; but the exercise of this power by the House of Assembly shall not affect the operation of this section if the bill is not passed by the House of Chiefs or is passed by the House of Chiefs with amendments to which the House of Assembly does not agree.

(4) The alterations referred to in sub-section (2) of this section are alterations certified by the Speaker of the House of Assembly to be necessary owing to the time that has elapsed since the bill was passed in the earlier session or to represent amendments made in that session by the House of Chiefs.

(5) When a money bill is sent to the House of Chiefs from the House of Assembly it shall bear a certificate of the Speaker of the House of Assembly that it is a money bill.

(6) When a bill is presented to the Governor in pursuance of this section it shall bear a certificate of the Speaker of the House of Assembly that this section has been complied with and that certificate shall be conclusive for all purposes and shall not be questioned in any court.

(7) This section does not apply to any bill for the purposes of section 5 of the Constitution of the Federation.

Regulation  
of procedure  
in Legislative  
Houses.

28.—(1) Subject to the provisions of this Constitution, each Legislative House of the Region may regulate its own procedure.

(2) Each Legislative House of the Region may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any dissolution) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

Interpreta-  
tion.

29. In this Part of this Chapter “money bill” means a bill that in the opinion of the Speaker of the House of Assembly contains only provisions dealing with—

- (a) the imposition, repeal, remission, alteration or regulation of taxation;
- (b) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Region or the variation or repeal of any such charges;
- (c) the grant of money to the Crown or to any other person or authority or the variation or revocation of any such grant;
- (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
- (e) the raising or guarantee of any loan or the repayment thereof; or
- (f) subordinate matters incidental to any of those matters:

Provided that the expressions “taxation”, “public money” and “loan” do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

### PART 3

#### *Summoning, Prorogation and Dissolution*

Sessions of  
Legislative  
Houses.

30. Each session of the Legislative Houses of the Region shall be held at such place within the Region and shall begin at such time (not being later than twelve months from the end of the preceding session if those Houses have been prorogued or three months from the end of that session if those Houses have been dissolved) as the Governor shall appoint.

31.—(1) The Governor may at any time prorogue or dissolve the Legislative Houses of the Region.

Prorogation and dissolution of Legislative Houses.

(2) Subject to the provisions of sub-section (3) of this section, the Legislative Houses of the Region, unless sooner dissolved, shall continue for five years from the date of their first sitting after any dissolution and shall then stand dissolved.

(3) At any time when the Federation is at war, the Legislature of the Region may from time to time extend the period of five years specified in sub-section (2) of this section for not more than twelve months at a time:

Provided that the life of the Legislative Houses of the Region shall not be extended under this sub-section for more than five years.

(4) In the exercise of his powers to dissolve the Legislative Houses of the Region, the Governor shall act in accordance with the advice of the Premier:

Provided that—

- (a) if the Premier recommends a dissolution and the Governor considers that the government of the Region can be carried on without a dissolution and that a dissolution would not be in the interests of the Region he may refuse to dissolve the Legislative Houses;
- (b) if the House of Assembly passes a resolution that it has no confidence in the Government of the Region and the Premier does not within three days either resign or advise a dissolution, the Governor may dissolve the Legislative Houses; and
- (c) if the office of Premier is vacant and the Governor considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the members of the House of Assembly to that office within a reasonable time, the Governor may dissolve the Legislative Houses.

### CHAPTER III

#### EXECUTIVE POWERS

32.—(1) The executive authority of the Region shall be vested in Her Majesty.

Exercise of executive authority of Region.

(2) Subject to the provisions of this Constitution, the executive authority of the Region may be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.

(3) Nothing in this section shall prevent the Legislature of the Region from conferring functions on persons or authorities other than the Governor.

Ministers of  
Government  
of Region.

33.—(1) There shall be a Premier of the Region, who shall be appointed by the Governor.

(2) Whenever the Governor has occasion to appoint a Premier he shall appoint a member of the House of Assembly who appears to him likely to command the support of the majority of the members of the House.

(3) There shall be, in addition to the office of Premier, such other offices of Minister of the Government of the Region as may be established by the Legislature of the Region or, subject to the provisions of any Regional law, by the Governor, acting in accordance with the advice of the Premier.

(4) Appointments to the office of Minister of the Government of the Region other than the office of Premier shall be made by the Governor, acting in accordance with the advice of the Premier:

Provided that at least two Ministers shall be appointed from among the members of the House of Chiefs.

(5) A person shall not hold office at the same time both as a Minister of the Government of the Region and as a Minister of the Government of another Region.

(6) Subject to the provisions of sub-section (11) of this section, a person who holds office as a Minister of the Government of the Region for any period of four consecutive months without also being a member of a Legislative House of the Region shall cease to be a Minister at the expiration of that period or, if that period expires at a time when the Legislative Houses are dissolved and he does not in the meantime become a member of a Legislative House, at the date on which the Legislative Houses first meet after that dissolution.

(7) Subject to the provisions of sub-section (11) of this section, a person who holds office as a Minister of the Government of the Region and who is at no time while holding that office also a

member of a Legislative House of the Region shall not be qualified for reappointment as such a Minister before the Legislative Houses are next dissolved after he ceases to hold that office, unless in the meantime he has become a member of a Legislative House.

(8) The office of the Premier shall become vacant—

(a) when, after any dissolution of the Legislative Houses of the Region, the Premier is informed by the Governor that the Governor is about to re-appoint him as Premier or to appoint another person as Premier; or

(b) if he ceases to be a member of the House of Assembly otherwise than by reason of a dissolution of the Legislative Houses.

(9) The office of a Minister of the Government of the Region other than the Premier shall become vacant if the office of Premier becomes vacant.

(10) Subject to the provisions of sub-sections (8) and (9) of this section, the Ministers of the Government of the Region shall hold office during the Governor's pleasure:

Provided that—

(a) the Governor shall not remove the Premier from office unless it appears to him that the Premier no longer commands the support of a majority of the members of the House of Assembly; and

(b) the Governor shall not remove a Minister other than the Premier from office except in accordance with the advice of the Premier.

(11) The office of the Attorney-General of the Region shall be that of a Minister of the Government of the Region:

Provided that—

(a) the provisions of sub-sections (6) and (7) of this section shall not apply in relation to a person holding that office;

(b) if the person holding that office is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions may be performed by such other person (whether or not that person is a Minister) as may from time to time be designated in that behalf by the Governor acting in accordance with the advice of the Premier; and.

- (c) a person shall not be qualified to hold that office or to perform the functions conferred upon the person holding that office by this Constitution or any other law unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

(12) Save as otherwise provided by the Legislature of the Region, the office of Provincial Commissioner for any province of the Region shall be that of a Minister of the Government of the Region.

Establishment of Executive Council.

34.—(1) There shall be an Executive Council for the Region, whose function shall be to advise the Governor in the government of the Region and which shall consist of the Premier and such other persons, being Ministers of the Government of the Region, as the Governor, acting in accordance with the advice of the Premier, may from time to time appoint.

(2) A person appointed as a member of the Executive Council shall vacate his seat in the Council if he ceases to be a Minister of the Government of the Region or if the Governor, acting in accordance with the advice of the Premier, so directs.

Collective responsibility.

35.—(1) The Executive Council shall be collectively responsible to the Legislative Houses of the Region for any advice given to the Governor by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Region in the execution of his office.

(2) The provisions of this section shall not apply in relation to—

- (a) the appointment and removal from office of Ministers of the Government of the Region, members of the Executive Council and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers or the authorization of another member of the Executive Council to perform the functions of the Premier during absence or illness;
- (b) the dissolution of the Legislative Houses of the Region; or
- (c) the matters referred to in section 44 of this Constitution (which relates to the prerogative of mercy).

36. The Governor, acting in accordance with the advice of the Premier, may assign to the Premier or any other Minister of the Government of the Region responsibility for any business of the Government of the Region, including the administration of any department of government.

Allocation of portfolios to Ministers.

37.—(1) Whenever the Premier is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by this Constitution the Governor may authorize some other member of the Executive Council of the Region to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the Governor.

Performance of functions of Premier during absence or illness.

(2) The powers of the Governor under this section shall be exercised by him in accordance with the advice of the Premier:

Provided that if the Governor considers that it is impracticable to obtain the advice of the Premier owing to his absence or illness he may exercise those powers without that advice.

38.—(1) In the exercise of his functions under this Constitution, the Constitution of the Federation or any other law the Governor shall act in accordance with the advice of the Executive Council or a Minister of the Government of the Region acting under the general authority of the Executive Council, except in cases where by this Constitution he is required to act in accordance with the advice of any person or authority other than the Executive Council:

Exercise of Governor's powers.

Provided that the Governor shall act in accordance with his own deliberate judgment in the performance of the following functions:—

- (a) in the exercise of the powers relating to the dissolution of the Legislative Houses of the Region conferred upon him by the proviso to sub-section (4) of section 31 of this Constitution;
- (b) in the exercise of the power to appoint the Premier conferred upon him by sub-section (2) of section 33 of this Constitution;
- (c) in the exercise of the powers conferred upon him by section 37 of this Constitution (which relates to the performance of the functions of the Premier during absence or illness) in the circumstances described in the proviso to sub-section (2) of that section; and

(d) in signifying his approval for the purposes of section 63 of this Constitution of an appointment to an office on his personal staff.

(2) Where by this Constitution the Governor is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law.

Governor to be informed concerning matters of government.

39. The Premier shall keep the Governor fully informed concerning the general conduct of the government of the Region and shall furnish the Governor with such information as he may request with respect to any particular matter relating to the government of the Region.

Parliamentary Secretaries.

40.—(1) The Governor, acting in accordance with the advice of the Premier, may appoint Parliamentary Secretaries from among the members of the Legislative Houses of the Regions to assist Ministers of the Government of the Region in the performance of their duties.

(2) The office of a Parliamentary Secretary shall become vacant—

- (a) if he ceases to be a member of one or other of the Legislative Houses of the Region otherwise than by reason of a dissolution of those Houses;
- (b) if the office of Premier becomes vacant; or
- (c) if the Governor, acting in accordance with the advice of the Premier, so directs.

Oaths to be taken by Ministers, etc.

41. A member of the Executive Council, Minister of the Government of the Region or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

Permanent secretaries.

42. Where any Minister of the Government of the Region has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Region.\*

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

43. Subject to the provisions of this Constitution and of any Regional law, the Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Region, make appointments to any such office and terminate any such appointment.

Constitution of offices for Region, etc.

44.—(1) The Governor may, in Her Majesty's name and on Her Majesty's behalf—

Prerogative of mercy.

- (a) grant to any person concerned in or convicted of any offence created by or under a Regional law a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence; or
- (d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the Crown on account of such an offence.

(2) The powers of the Governor under sub-section (1) of this section shall be exercised by him in accordance with the advice of such member of the Executive Council as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(3) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

45.—(1) There shall be for the Region an Advisory Council on the Prerogative of Mercy, which shall consist of—

Establishment of Advisory Council on Prerogative of Mercy.

- (a) such member of the Executive Council as may for the time being be designated under sub-section (2) of section 44 of this Constitution, who shall be chairman;\*

- (b) where the chairman is a Minister other than the Attorney-General of the Region, the Attorney-General; and
- (c) not less than five and not more than seven other members, who shall be appointed by the Governor, acting in accordance with the advice of the Premier, of whom at least one shall be a person who is qualified to practise as a medical practitioner in Nigeria.

(2) A person shall not be qualified for appointment by the Governor as a member of the Advisory Council if he is a member of a Legislative House of the Region, a member of either House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation or a Minister of the Government of another Region.

(3) A member of the Advisory Council appointed by the Governor shall hold office for three years:

Provided that his seat in the Council shall become vacant—

- (a) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such; or
- (b) if he is removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

Functions of  
Advisory  
Council.

46.—(1) Where any person has been sentenced to death by any court of law in Nigeria for any offence created by or under a Regional law the member of the Executive Council of the Region designated under sub-section (2) of section 44 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor that he should exercise any of his powers under that section in relation to that person.

(2) The member of the Executive Council designated under sub-section (2) of section 44 of this Constitution may consult with the Advisory Council before making any recommendation to the Governor under that sub-section in any case not falling within sub-section (1) of this section, but he shall not be obliged to act in accordance with the advice of the Council.

(3) The Advisory Council may regulate its own procedure.

47.—(1) There shall be a Director of Public Prosecutions for the Region, whose office shall be an office in the public service of the Region. Public  
prosecutions.

(2) The Director of Public Prosecutions of the Region shall have power in any case in which he considers it desirable so to do—

(a) to institute and undertake criminal proceedings against any person before any court of law in the Region in respect of any offence created by or under any Regional law;

(b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and

(c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(3) The powers of the Director of Public Prosecutions of the Region under sub-section (2) of this section may be exercised by him in person or through members of his staff acting under and in accordance with his general or special instructions.

(4) The Director of Public Prosecutions of the Region may confer a general or special authority upon the Director of Public Prosecutions of the Federation to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by sub-section (2) of this section and may vary or revoke any such authority.

(5) The powers conferred upon the Director of Public Prosecutions of the Region by paragraphs (b) and (c) of sub-section (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this sub-section shall

prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(6) In the exercise of the powers conferred upon him by this section the Director of Public Prosecutions of the Region shall not be subject to the direction or control of any other person or authority.

(7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law in the Region or any case stated or question of law reserved for the purposes of any such proceedings to any other court in Nigeria or to Her Majesty in Council shall be deemed to be part of those proceedings.

(8) The provisions of this section shall apply in relation to any offence created by or under any law in force in the Region relating to any matter not included in the Legislative Lists set out in the Schedule to the Constitution of the Federation (other than an offence created by or under an Act of Parliament or a Regional law) as they apply in relation to an offence created by or under a Regional law.

## CHAPTER IV

### COURTS

Establish-  
ment of High  
Court.

48.—(1) There shall be a High Court for the Region.

(2) The judges of the High Court of the Region shall be—

(a) the Chief Justice of the Region; and

(b) such number of other judges (not being less than six) as may be prescribed by the Legislature of the Region.

(3) The High Court of the Region shall be a superior court of record and, save as otherwise provided by any law in force in the Region, shall have all the powers of such a court.

Appointment  
of judges of  
High Court.

49.—(1) The Chief Justice of the Region shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(2) The judges of the High Court of the Region other than the Chief Justice shall be appointed by the Governor, acting in

accordance with the advice of the Judicial Service Commission of the Region.

(3) A person shall not be qualified to hold the office of a judge of the High Court of the Region unless—

(a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or

(b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified to practise as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

(4) If the office of Chief Justice of the Region is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of the Region as may from time to time be designated in that behalf by the Governor, acting in accordance with the advice of the Premier.

(5) If the office of any judge of the High Court of the Region other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the functions of his office, the Governor, acting in accordance with the advice of the Judicial Service Commission of the Region, may appoint a person with such qualifications as may be prescribed by the Legislature of the Region to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of his appointment or if no period is specified until his appointment is revoked by the Governor, acting in accordance with the advice of the Commission.

50.—(1) Subject to the provisions of this section, a person holding the office of Chief Justice of the Region or any other judge of the High Court of the Region shall vacate his office when he attains such age as may be prescribed by the Legislature of the Region:

Tenure of  
offices of  
judges of  
High Court.

Provided that the Governor, acting in accordance with the advice of the Premier, may permit a judge to continue in office for

such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(2) A person holding the office of a judge of the High Court of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of a judge of the High Court of the Region shall be removed from office by the Governor if the question of the removal of that judge from office has, at the request of the Governor made in pursuance of sub-section (4) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing a judge of the High Court of the Region under this section ought to be investigated, then—

- (a) the Governor shall appoint a tribunal consisting of a chairman and not less than two other members selected by the Governor, acting in accordance with the advice of the Premier, from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;
- (b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and
- (c) if the tribunal so recommends, the Governor shall request that the question should be referred accordingly.

(5) If the question of removing a judge of the High Court of the Region from office has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the judge from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect—

- (a) if the tribunal recommends to the Governor that he should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee; or
- (b) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(6) This section shall apply to any person appointed to act in the office of a judge of the High Court of the Region as it applies to a person holding the office of a judge of the High Court, but without prejudice to the provisions of section 49 of this Constitution relating to the revocation of his appointment by the Governor.

51.—(1) An appeal shall lie from decisions of a subordinate court to the High Court of the Region as of right or, if it is provided by any law in force in the Region that an appeal as of right shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court as of right in the following cases:—

Appeals to High Court from subordinate courts.

- (a) where the matter in dispute on the appeal to the High Court is of the value of fifty pounds or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifty pounds or upwards, final decisions in any civil proceedings;
- (b) where the ground of appeal to the High Court involves questions of law alone, decisions in any criminal proceedings in which any person has been sentenced to imprisonment for a term exceeding three months or corporal punishment exceeding six strokes or a fine or forfeiture exceeding twenty-five pounds by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence;

- (c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, the Constitution of the Federation or the Constitution of another Region;
- (d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of the Constitution of the Federation has been contravened in relation to any person;
- (e) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death;
- (f) decisions in any other criminal proceedings before a subordinate court sitting at first instance from which no appeal lies as of right to another subordinate court; and
- (g) such other cases as may be prescribed by any law in force in the Region:

Provided that no appeal shall lie from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the High Court in any case in which an appeal lies as of right to the Federal Supreme Court by virtue of any Act of Parliament enacted in pursuance of section 111 of that Constitution.

(2) An appeal shall lie from decisions of a subordinate court to the High Court of the Region with the leave of the High Court or, if it is provided by any law in force in the Region that an appeal shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court with the leave of the High Court in the following cases:—

- (a) decisions in any criminal proceedings from which no appeal lies as of right to the High Court; and
- (b) such other cases in which no appeal lies as of right to the High Court as may be prescribed by any law in force in the Region:

Provided that no appeal shall lie under paragraph (a) of this sub-section from decisions of a subordinate court established under section 119 of the Constitution of the Federation to the

High Court in any case in which an appeal lies to the Federal Supreme Court (whether as of right or with the leave of the Federal Supreme Court) by virtue of an Act of Parliament enacted under section 111 of that Constitution.

(3) Any right of appeal from decisions of a subordinate court to the High Court of the Region conferred by this section—

(a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject to the provisions of section 47 of this Constitution, at the instance of such other persons or authorities as may be prescribed by any law in force in the Region; and

(b) shall be exercised in accordance with any laws and rules of court for the time being in force regulating the powers, practice and procedure of the High Court.

(4) In this section—

“decision” means, in relation to a subordinate court, any determination of that court and includes (without prejudice to the generality of the foregoing) a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation;

“subordinate court” means any court of law in the Region other than the Federal Supreme Court, the High Court of the Region or a court-martial.

52.—(1) There shall be a Judicial Service Commission for the Region:

Establishment of  
Judicial  
Service  
Commission.

(2) The members of the Judicial Service Commission of the Region shall be—

(a) the Chief Justice of the Region, who shall be chairman;

(b) such other judge of the High Court of the Region as may be designated by the Governor, acting in accordance with the advice of the Premier;

(c) the chairman of the Public Service Commission of the Region; and

(d) one other member, who shall be appointed by the Governor, acting in accordance with the advice of the Premier.

(3) The following provisions shall apply in relation to a member of the Judicial Service Commission of the Region appointed by the Governor—

- (a) a person shall not be qualified for appointment as such unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court;
- (b) subject to the provisions of this sub-section, a person appointed as such shall vacate his office at the expiration of five years from the date of his appointment;
- (c) a person appointed as such may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour; and
- (d) a person appointed as such shall not be removed from office except in accordance with the provisions of this sub-section.

Appointment  
of officers  
connected  
with courts.

53.—(1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial Service Commission of the Region:

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members, to any judge or to the holder of any office to which this section applies.

(2) The offices to which this section applies are the offices of members of any court of law established by the Legislature of the Region, being offices the emoluments attaching to which are payable out of the Consolidated Revenue Fund or any other public fund of the Region, the office of Chief Registrar or Registrar of the High Court, the office of Registrar of any Magistrate's

Court established by the Legislature of the Region, any office of Justice of the Peace established by that Legislature and such other offices connected with the High Court of the Region or any court of law established by that Legislature as may be prescribed by that Legislature.

54. A judge of the High Court of the Region shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Legislature of the Region.

Oaths to be taken by judges.

## CHAPTER V

### FINANCE

55.—(1) All revenues or other moneys raised or received by the Region (not being revenues or other moneys payable under this Constitution or any Regional law into some other public fund of the Region established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.

Establishment of Consolidated Revenue Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Region except to meet expenditure that is charged upon the Fund by this Constitution, the Constitution of the Federation or any Regional law or where the issue of those moneys has been authorized by an appropriation law or a law made in pursuance of section 57 of this Constitution.

(3) No moneys shall be withdrawn from any public fund of the Region other than the Consolidated Revenue Fund unless the issue of those moneys has been authorized by a Regional law.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Region except in the manner prescribed by the Legislature of the Region.

56.—(1) The Minister of the Government of the Region responsible for finance shall cause to be prepared and laid before both Legislative Houses of the Region in each financial year estimates of the revenues and expenditure of the Region for the next following financial year.

Authorization of expenditure from Consolidated Revenue Fund.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution, the Constitution of the Federation or any Regional law) shall be included in a bill, to be known as an

appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Region of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

(3) If in respect of any financial year it is found—

- (a) that the amount appropriated by the appropriation law for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the law; or
- (b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation law or for a purpose for which no amount has been appropriated by the law,

a supplementary estimate showing the sums required or spent shall be laid before both Legislative Houses of the Regions and the heads of any such expenditure shall be included in a supplementary appropriation bill.

Authoriza-  
tion of  
expenditure  
in advance  
of appro-  
priation.

57. The Legislature of the Region may make provision under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of the Government of the Region responsible for finance may authorize the withdrawal of moneys from the Consolidated Revenue Fund of the Region for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation law, whichever is the earlier.

Contingencies fund.

58.—(1) The Legislature of the Region may provide for the establishment of a Contingencies Fund for the Region and for authorizing the Minister of the Government of the Region responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

59.—(1) There shall be paid to the holders of the offices to which this section applies such salary as may be prescribed by the Legislature of the Region.

Remuneration of Governor and certain other officers.

(2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Region.

(3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

(4) This section applies to the office of Governor, Chief Justice or other judge of the High Court of the Region, member of the Electoral Commission of the Region, appointed member of the Judicial Service Commission of the Region, member of the Public Service Commission of the Region, Director of Public Prosecutions of the Region and Director of Audit of the Region.

60.—(1) There shall be a Director of Audit for the Region, whose office shall be an office in the public service of the Region.

Audit of public accounts.

(2) The public accounts of the Region and of all officers, courts and authorities of the Region shall be audited and reported on by the Director of Audit of the Region and for that purpose the Director or any person authorized by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Region shall submit his reports to the Minister of the Government of the Region responsible for finance, who shall cause them to be laid before both Legislative Houses of the Region.

(4) In the exercise of his functions under this Constitution the Director of Audit of the Region shall not be subject to the direction or control of any other person or authority.

61.—(1) The public debt of the Region shall be secured on the revenues and assets of the Region.

Public debt.

(2) In this section references to the public debt of the Region include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

## CHAPTER VI

## THE PUBLIC SERVICE OF THE REGION

Establish-  
ment of  
Public  
Service  
Commis-  
sion.

62.—(1) There shall be a Public Service Commission for the Region, which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission of the Region shall be appointed by the Governor acting in accordance with the advice of the Premier.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Region if he is a member of a Legislative House of the Region, a member of a House of Parliament, a member of a legislative house of another Region, a Minister of the Government of the Region, a Minister of the Government of the Federation, a Minister of the Government of another Region or a member of the public service of the Region, the public service of the Federation or the public service of another Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Region shall vacate his office—

- (a) at the expiration of five years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(5) A member of the Public Service Commission of the Region may be removed from office by the Governor, acting in accordance with the advice of the Premier, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

(6) A member of the Public Service Commission of the Region shall not be removed from office except in accordance with the provisions of this section.

(7) A person who has been appointed to be a member of the Public Service Commission of the Region shall not thereafter be eligible for appointment to any office in the public service of the Region.

63.—(1) Power to appoint persons to hold or act in offices in the public service of the Region (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Region:

Appoint-  
ment, etc.,  
of officers  
in public  
service.

Provided that the Commission may, with the approval of the Premier and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Region.

(2) This section shall not apply in relation to any of the following offices:—

- (a) the office of the Deputy Governor of the Region or any judge of the High Court of the Region;
- (b) except for the purposes of making appointments thereto, the office of the Director of Audit of the Region or the Director of Public Prosecutions of the Region;
- (c) any office to which section 53 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission of the Region) applies;
- (d) any office to which section 65 of this Constitution (which relates to the office of the principal representative of the Region in the United Kingdom) applies.

(3) The provisions of this section shall be subject to the provisions of section 66 of this Constitution (which relates to permanent secretaries).

(4) No appointment shall be made under this section to any office on the personal staff of the Governor unless the Governor signifies his approval of the appointment.

64. If at any time the office of Deputy Governor of the Region is established under section 43 of this Constitution, power to appoint persons to hold or act in that office and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

Appoint-  
ment, etc.,  
of Deputy  
Governor.

65.—(1) Power to appoint persons to hold or act in the office of the Agent-General of the Region in the United Kingdom (including power to make appointments on promotion and transfer)

Appoint-  
ment, etc.,  
of Agent-  
General in  
U.K.

and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Region other than an office to which this section applies, the Premier shall consult the Public Service Commission of the Region.

Appoint-  
ment, etc.,  
of  
permanent  
secretaries.

**66.**—(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Region and to remove persons so appointed from that office shall vest in the Governor, acting in accordance with the advice of the Premier.

(2) Before tendering any advice for the purposes of this section the Premier shall consult the Public Service Commission of the Region.

Qualifica-  
tions of  
Director of  
Public  
Prosecutions.

**67.** A person shall not be qualified to hold or act in the office of Director of Public Prosecutions of the Region unless he is qualified for admission as an advocate in Nigeria and has been so qualified for at least ten years.

Tenure of  
office of  
Director  
of Public  
Prosecutions.

**68.**—(1) Subject to the provisions of this section, a person holding the office of Director of Public Prosecutions of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(2) A person holding the office of Director of Public Prosecutions of the Region may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(3) A person holding the office of Director of Public Prosecutions of the Region shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under sub-section (4) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability or misbehaviour.

(4) If the Premier represents to the Governor that the question of removing the Director of Public Prosecutions of the Region under this section ought to be investigated then—

(a) the Governor acting in accordance with the advice of the Premier, shall appoint a tribunal, which shall consist of a

chairman and not less than two other members, the chairman and half of the other members being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; and

- (b) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether the Director ought to be removed under this section.

(5) If the question of removing the Director of Public Prosecutions of the Region has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Premier, may suspend the Director from performing the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with the advice of the Premier, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Director should not be removed.

69.—(1) Before appointing any person to hold the office of Director of Audit of the Region the Public Service Commission of the Region shall consult the Premier.

Appointment and tenure of office of Director of Audit.

(2) Subject to the provisions of this section, a person holding the office of Director of Audit of the Region shall vacate that office when he attains such age as may be prescribed by the Legislature of the Region.

(3) A person holding the office of Director of Audit of the Region shall be removed from office by the Governor if a resolution is passed by each Legislative House of the Region recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(4) Any person holding the office of Director of Audit of the Region shall not be removed from office except in accordance with the provisions of this section.

(5) If the office of Director of Audit of the Region is vacant or the holder of the office is for any reason unable to perform the

functions of the office, the Public Service Commission of the Region, acting after consultation with the Premier, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission, acting after consultation with the Premier.

Powers relating to Clerks of Legislative Houses.

70. Before exercising any of its powers in relation to the Clerk to the House of Chiefs the Public Service Commission of the Region shall consult the President of that House and before exercising any of its powers in relation to the Clerk to the House of Assembly the Commission shall consult the Speaker of that House.

Powers of Commissions in relation to grant of pensions, etc.

71.—(1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Regional law, those benefits shall not be so withheld, reduced in amount or suspended—

- (a) in the case of benefits that have been granted in respect of the service in the public service of the Region of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Judicial Service Commission of the Region or for which any person may be eligible in respect of such service, without the approval of that Commission; or
- (b) in any other case, without the approval of the Public Service Commission of the Region.

(2) No benefits to which this section applies that have been granted to any person who holds or has held the office of judge of the High Court of the Region or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehaviour while holding that office unless that person has been removed from that office by reason of such misbehaviour.

(3) This section applies to any benefits payable under any Regional law providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Region in respect of their service in that public service, or to the widows, children, dependants or personal representatives of such persons in respect of such service.

CHAPTER VII

MISCELLANEOUS

72.—(1) Any Commission established by this Constitution may, with the consent of the Premier or such other Minister of the Government of the Region as may be authorized in that behalf by the Premier, by regulation or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority of the Region for the purpose of discharging its functions.

Powers and  
procedure of  
Commis-  
sions.

(2) Subject to its rules of procedure, any Commission established by this Constitution may act notwithstanding any vacancy in its membership or the absence of any member:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

73.—(1) The Governor may declare any area within the Region to be a Minority Area.

Minority  
Areas.

(2) There shall be a Minority Council for each Minority Area, which shall consist of—

- (a) those members of the House of Representatives of the Federation or the House of Assembly who have been elected as such to represent a constituency all or part of which is within that Minority Area; and
- (b) those members of the House of Chiefs who represent an area all or part of which is within that Minority Area.

(3) The Minority Council for a Minority Area shall be responsible for advising the Government of the Region with respect to the development and welfare of that Minority Area and for bringing to the notice of the Government any discrimination against the inhabitants of that Minority Area and shall have such other functions with respect to that Minority Area as may be conferred upon it by any law in force in the Region.

(4) For the purposes of this section the Legislature of the Region may—

- (a) make provision for the selection of persons as members of the Minority Council for a Minority Area;
- (b) prescribe the circumstances in which the seat in the Council of a person so selected shall become vacant; and

- (c) make provision for the organization of the work of the Council and the appointment, tenure of office and terms of service of staff to assist the Council in the performance of its functions.

Establish-  
ment of  
Provincial  
Administra-  
tions.

74.—(1) The Governor may by instrument in writing establish for any Province of the Region a Provincial Administration.

(2) A Provincial Administration established under this section shall consist of such persons and shall have such functions as may be prescribed by the Governor or by or under any law in force in the Region.

(3) The provisions of this section shall be without prejudice to the powers of the Legislature of the Region to establish a Provincial Administration for any Province of the Region or otherwise to make provision for the administration of that Province.

Resignations.

75.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he is appointed, elected or selected:

Provided that in the case of a member of a Legislative House of the Region who holds office as President or Speaker of the House his resignation from the House or that office shall be addressed to the House and in the case of any other member of the House his resignation from the House shall be addressed to the President or Speaker of the House.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorized by that person or authority to receive it.

Re-appoint-  
ments, etc.

76.—(1) Where any person has vacated any office constituted by this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any office in the public service of the Region, a person may be appointed to that office notwithstanding that some other person may be holding

that office, when that other person is on leave of absence pending relinquishment of his office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this sub-section, then for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

77.—(1) In this Constitution, unless it is otherwise expressly provided or required by the context—

*Interpretation.*

“Act of Parliament” means any law made by Parliament;

“the Advisory Council” means the Advisory Council on the Prerogative of Mercy of the Region;

“the Commonwealth” means Nigeria, any country to which section 13 of the Constitution of the Federation applies and any dependency of any such country;

“financial year” means any period of twelve months beginning on the first day of April in any year or such other date as the Legislature of the Region may prescribe;

“oath” includes affirmation;

“the oath of allegiance” means such oath of allegiance as may be prescribed by Parliament;

“Parliament” means the Parliament of the Federation;

“the public service of the Region” means the service of the Crown in a civil capacity in respect of the government of the Region;

“Regional law” means any law made by the Legislature of the Region.

(2) In this Constitution, unless it is otherwise expressly provided or required by the context—

(a) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices; and

(b) references to offices in the public service of the Region include references to the offices of the judges of the High Court of the Region and references to the offices of members of all other courts of law established by the

Legislature of the Region, being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Region.

(3) For the purposes of this Constitution, the office of the President or the Deputy President of the House of Chiefs, a member of the House of Chiefs, the Speaker or the Deputy Speaker of the House of Assembly, a member of the House of Assembly, a Minister of the Government of the Region, a Parliamentary Secretary to such a Minister or a member of the Executive Council, any Commission established by this Constitution, the Advisory Council or the Minority Council for a Minority Area in the Region shall not be regarded as an office in the public service of the Region.

(4) The Interpretation Act, 1889(a), as in force on the first day of October, 1960, shall apply with the necessary adaptations, for the purpose of interpreting this Constitution and otherwise in relation thereto as it applies for the purposes of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

(5) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.

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#### EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

By virtue of the provisions of the Nigeria Independence Act, 1960, Nigeria will attain fully responsible status within the Commonwealth on 1st October, 1960. This Order makes fresh constitutional provision for Nigeria as a Federation consisting of the three Regions and a Federal territory with effect from that date.

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(a) 52 & 53 Vict. c. 63.

## PART II

SUBSIDIARY LEGISLATION UNDER THE NIGERIA  
(CONSTITUTION) ORDERS IN COUNCIL, 1954 TO 1958

THE NIGERIA (CONSTITUTION) ORDER IN COUNCIL, 1954

COLONY PROVINCE AND ADMINISTRATIVE  
DIVISIONS DIRECTIONSW.R.L.N.  
139 of 1954.

In exercise of the powers conferred upon him by paragraph (b) of sub-section (2) of section 4 of the Nigeria (Constitution) Order in Council, 1954, His Excellency the Officer Administering the Government has been pleased to direct as follows:

1. That part of the Colony comprised in the Western Region by virtue of paragraph (b) of sub-section (2) of section 3 and the Second Schedule of Nigeria (Constitution) Order in Council, 1954, shall, for administrative and other purposes, constitute a province to be known as the Colony Province.

2. The Colony Province shall comprise and be divided into three administrative divisions, to be known as the Badagry Division, the Epe Division, and the Ikeja Division, the boundaries of which shall be those described in the First, Second and Third Schedules hereto respectively.

3. These directions shall be deemed to have come into force on the 1st day of October, 1954.

## FIRST SCHEDULE

## BOUNDARIES OF BADAGRY DIVISION

*North.*—Commencing at a point on the Colony boundary situate at the mouth of Ajara River; thence following the Colony boundary in a general easterly direction to a point at a confluence of the stream which flows through the village of Iba, and the River Owo; thence in a general south-easterly direction to a point approximately one mile west of Amuwo village; thence in a general north-easterly direction to a point approximately 400 yards east of the village of Oko Ajija.

*East.*—Thence in a general southerly direction to a point on the northern shore of the Lagoon approximately one mile east of the village of Ihunjawgbe; thence in a general south-easterly direction to the village of Abekun; thence in a general southerly direction to the shore of the Bight of Benin.

*South.*—Thence following the Colony boundary in a westerly direction along the shore of the Bight of Benin until it meets the French frontier at Dahomey.

*West.*—Thence in a general northerly direction along the Colony boundary to the mouth of Ajara River, the point of commencement.

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## SECOND SCHEDULE BOUNDARIES OF EPE DIVISION

*North.*—Commencing at a point on the Colony boundary approximately one mile west of the River Berre; thence following the Colony boundary in a general easterly direction until it meets the left bank of Oshun River.

*East.*—Thence following the Colony boundary in a general southerly direction to the shore of the Bight of Benin.

*South.*—Thence following the Colony boundary in a westerly direction along the shore of the Bight of Benin to a point on the coast half a mile west of Mopo Ijebu village.

*West.*—Thence in a general north-easterly direction till it reaches the southern bank of the Omu Creek at a point approximately 1,500 yards south of Oko Abe village; thence following the southerly bank of Omu Creek in a general westerly direction to the entrance to Omu Creek at a point approximately 1,000 yards east of the village of Badore; thence in a general north-easterly direction across Lagos Lagoon to a point on the northern shore of Lagos Lagoon, approximately half a mile west of Ipanmi village; thence in a general northerly direction to the point of commencement.

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## THIRD SCHEDULE BOUNDARIES OF IKEJA DIVISION

*North.*—Commencing at a point on the Colony boundary situate on the main Lagos-Abeokuta Road approximately 2 miles east of Otta; thence following the Colony boundary in a general easterly direction until it meets the Epe Division boundary at a point approximately 1 mile west of the River Berre.

*East.*—Thence in a general southerly direction to a point on the northern shore of the Lagos Lagoon, approximately half a mile west of Ipanmi village; thence in a general southerly direction to a point on the southern shore of the Lagos Lagoon approximately 1,000 yards east of the village of Badore;

thence following the southern bank of Omu Creek to a point approximately 1,300 yards south of the village of Oko Abe; thence in a general south-westerly direction to a point on the shore of the Bight of Benin approximately half a mile west of Mopo Ijebu village.

*South.*—Thence along the Colony boundary along the shore of the Bight of Benin to a point on the Lagos Township boundary, approximately 400 yards south-west from the village of Songo Jimi; thence in a general northerly direction to the southern bank of Five Cowrie Creek; thence in a general north-easterly direction to a point on the Lagos Lagoon approximately three-quarters of a mile north of the village of Mobba; thence in a general northerly direction to the mouth of the Akoko Creek; thence in a general south-westerly direction along the western shores of the Lagos Lagoon to a point on the Lagos Township boundary approximately three-quarters of a mile east of the village of Somolu; thence in a general westerly direction along the northern boundary of the Lagos Township boundary to a point approximately 200 yards west of the village of Akinwunmi; thence in a general southerly direction to meet the Badagry Division boundary at a point approximately 400 yards east of the village of Oko Ajiya; thence in a general south-westerly direction along the northern boundary of Badagry Division to a point one mile west of Amuwo village.

*West.*—Thence in a general north-westerly direction to a point at the confluence of the stream flowing through the village of Iba and the Owo River; thence in a general north-easterly direction following the Colony boundary to a point on Lagos-Abeokuta Road approximately 2 miles east of Otta, the point of commencement.



THE NIGERIA (CONSTITUTION) ORDER IN COUNCIL, 1954

KUKURUKU DIVISION (CHANGE OF NAME) DIRECTIONS

W.R.L.N.  
378 of 1955.

In exercise of the powers conferred upon him by section 4 (2) (b) of the Nigeria (Constitution) Order in Council, 1954, His Excellency the Governor has been pleased to direct that the Division of the Benin Province of the Western Region known as Kukuruku Division shall henceforth be known as Afenmai Division.



THE NIGERIA (CONSTITUTION) ORDERS IN COUNCIL, 1954 TO 1958

W.R.L.N.  
442 of 1958.

WESTERN REGION PUBLIC SERVICE

COMMISSION REGULATIONS

[27th October, 1958.]

In exercise of the powers conferred upon the Governor by section 180D of the Nigeria (Constitution) Orders in Council, 1954 to 1958, and after consultation with the Public Service Commission, the following Regulations are made:—

PART I

PRELIMINARY

1. These Regulations may be cited as the Western Region Public Service Commission Regulations. Short title.

2. (1) In these regulations unless the context otherwise requires— Interpreta-  
tion.

"the Administrative Class" means the officers holding the posts specified in any order made for the purpose by the Governor acting on the advice of Executive Council;

"the appropriate officer" means—

(a) in relation to any public office or public officer in the Administrative Class, the Head of the Public Service;

(b) in relation to any public office or public officer in the Executive Class or the Stenographic and Secretarial Class, an Under Secretary in the Ministry of Finance;

(c) in relation to any other public office or public officer that is included in a Ministry or Department subject to a Regional Minister, the Permanent Secretary who exercises supervision over that Ministry or Department; and

(d) in relation to any other public office or public officer that is not included in a Ministry but is included in a Department, the Head of the Department;

"the Chairman" means the Member of the Commission appointed under the provisions of section 180c of the Order to be Chairman of the Commission;

- "the Commission" means the Western Region Public Service Commission constituted under the provisions of the Order;
- "Commissioner" means any person appointed under the provisions of section 180c of the Order to be a Member of the Commission, and includes any temporary Member;
- "enactment" includes any Ordinance, Law, Order of Her Majesty in Council or Act of Parliament;
- "the Executive Class" means the officers holding posts of Senior Executive Officer, Higher Executive Officer, Executive Officer or Executive Officer-in-training;
- "the Governor" means the Governor acting on the recommendation of the Commission;
- "the Governor's personal staff" means the officers for the time being prescribed under sub-section (2) of section 224 of the Order;
- "non-pensionable officer" includes an officer serving under a contract or agreement which does not provide for the payment of a pension;
- "official document" means any document or paper prepared by any public officer in the course of his employment or any document or paper which comes into the custody of any public officer in the course of such employment;
- "the Order" means the Nigeria (Constitution) Orders in Council, 1954 to 1958;
- "public office" means any office of emolument in the public service of the Western Region;
- "public officer" means the holder of any public office, including any person appointed to act in any such office;
- "public officer having powers to hold an enquiry or investigation" means any public officer upon whom powers are conferred to hold an enquiry or investigation under regulation 43;
- "the public service" means the service of the Crown in a civil capacity in respect to the Government of the Western Region;
- "the Secretary" means the person appointed under these regulations as Secretary of the Commission;
- "the Stenographic and Secretarial Class" means the officers holding the posts of Confidential Clerk, Confidential Secretary, Grade I, Confidential Secretary, Grade II, Confidential Secretary, Grade III, Hansard Reporter and Verbatim Reporter.

(2) References in these regulations to delegated powers of appointment, promotion or disciplinary control are references to any such powers delegated by Instrument made under section 180B of the Order.

(3) These regulations shall not apply to the appointment, promotion, transfer, dismissal or disciplinary control of the Deputy Governor, any Judge of the High Court, the holder of any office subject to the Judicial Service Commission, the Director of Public Prosecutions, the Director of Audit, the Secretary to the Premier and Executive Council, a Permanent Secretary or a member of the Governor's personal staff except to the extent to which these matters are not provided for in the Order.

## PART II

### PUBLIC SERVICE COMMISSION

3. (1) The Governor shall appoint a Secretary to the Commission, and may authorise the appointment of such other staff as from time time shall seem to him to be necessary. Secretary.

(2) The Governor may grant leave of absence to the Secretary and during any such period of leave or any period of temporary absence or incapacity of the Secretary may appoint a person to act as temporary Secretary.

(3) The Secretary shall not be a member of the Commission and his functions and duties shall be limited to matters of an administrative nature.

4. The Commission may by resolution delegate to the Chairman or other Commissioner or Commissioners any of the powers or duties of the Commission other than the functions of making recommendations to the Governor in accordance with the provisions of the Order and of these regulations. Delegation of functions by Commission.

5. (1) Every meeting of the Commission shall be presided over by the Chairman, and the Chairman and one Commissioner shall form a quorum for a meeting. Presiding at meetings and quorum.

(2) Save as provided in regulation 7 all decisions of the Commission shall be by a majority of votes of the Commissioners present and voting at a meeting of the Commission:

Provided that the Chairman shall have a second or casting vote whenever the voting shall be equal.

6. (1) A record shall be kept of the Commissioners present and of the business transacted at every meeting of the Commission. Record of meetings.

(2) Any Commissioner who is present at a meeting when a decision is made shall be entitled to dissent from the decision and to have his dissent and his reasons therefor set out in the record of the meeting.

Decision without meeting.

7. (1) Subject to paragraphs (2) and (3) of this regulation a decision may be made by the Commission without a meeting by circulation of the relevant papers among the Commissioners and the expression of their views in writing and in such case the decision shall be the view of the majority of Commissioners expressing a view;

(2) If any Commissioner requires that a decision on a matter being dealt with by circulation of the relevant papers shall be deferred until the subject matter shall be considered at a meeting of the Commission, no decision shall be made on that subject except at a meeting of the Commission.

(3) Where a Commissioner dissents from a view recorded by a majority of Commissioners on papers circulating for a decision, the decision shall not be implemented until that Commissioner records the reasons for his view or until the Commission deals with the matter at a meeting.

Records of Commission privileged from production in court.

8. Any report, statement or other communication or record of any meeting, inquiry or proceedings which the Commission may make in exercise of its functions or which any Commissioner may make in the performance of his duties, or in discharge of any duty to the Governor or to any public officer, shall be privileged in that its production may not be compelled in any legal proceedings if the Governor certifies that such production is not in the public interest.

Protection of Chairman and Commissioners in proceedings.

9. The Chairman and any Commissioner shall have such and the like protection and privilege in case of any action or suit brought against him for any act done or omitted to be done in the execution of his duties under these regulations as is by law given to the acts done or words spoken by a Judge of the High Court in the exercise of his judicial office.

Commission may require public officers to attend.

10. The Commission may require the holder of an office in the public service to attend and give evidence before it concerning any matter which it is required to consider in exercise of its functions under these Regulations and may require the production of any official documents relating to any such matter.

Material to be made available to Commission.

11. The holder of any public office who submits any matter for the consideration of the Commission shall ensure that all relevant documents and papers are made available to the Commission.

Failure of public officer to appear.

12. The holder of any public office who without reasonable excuse fails to appear before the Commission when notified to do so, or who fails to comply with any request lawfully and properly made by the Commission, shall be guilty of a breach of discipline and the Commission may direct the appropriate officer that disciplinary proceedings should be instituted against him.

## PART III

## APPOINTMENTS (INCLUDING PROMOTIONS AND TRANSFERS)

13. The Commission may exercise supervision over and approve all schemes for admission to any public office by examination, and over all other methods of recruitment including the appointment and procedure of Boards for the selection of candidates. Supervision of schemes of recruitment.
14. Where vacancies are not to be filled by persons already in the public services in Nigeria or by the results of examinations prescribed under any approved scheme, the public shall, unless the Commission otherwise directs, be informed by advertisement of the existence of such vacancies in time to enable candidates to make their applications in accordance with that advertisement. Advertisement of vacancies.
15. (1) The claims of officers for promotion shall be considered only on the basis of official qualifications, experience and merit. Recommendation for promotion or acting appointment.
- (2) Recommendations made to the Commission for promotion shall state whether the person recommended is the senior officer of the class of officers eligible for promotion, and where this is not the case detailed reasons shall be given in respect of each person in that class over whom it is proposed that the person recommended should be promoted. For the purpose of this paragraph members of the Administrative Class shall constitute a class, members of the Executive Class shall constitute a class and members of the Stenographic and Secretarial Class shall constitute a class.
- (3) The procedure for making acting appointments in posts which are substantively vacant shall be the same as that prescribed in these regulations for making a promotion. When an acting appointment is recommended to the Commission it shall be stated whether or not the officer recommended for acting appointment is in every way qualified to perform all the duties of the office in which he is to act.
16. (1) Subject to the provisions of regulation 19, the following procedure shall apply to the appointment, promotion or transfer of a public officer to a public office in respect of which powers of appointment, promotion and transfer have not been delegated:— Procedure for appointment of officers when powers not delegated.
- (a) as soon as it is known that a vacancy will occur in a post the appropriate officer shall communicate to the Secretary in writing his recommendations regarding the filling of the vacancy. These recommendations shall include his view as to the method to be employed in filling the vacancy and whether or not the post should be advertised;
- (b) if the Commission requires that the post should be advertised, the appropriate officer shall submit an advertisement to the Director of Recruitment for publication after first obtaining the concurrence of the Permanent Secretary, Ministry of Finance, as to the terms of the draft advertisement. The Commission shall arrange for the publication of the advertisement; the Director of Recruitment, the

appropriate officer, and a senior officer of the Ministry or Department concerned shall prepare a short list of candidates from amongst the persons applying for the vacancy and shall submit it to the Commission who shall interview such of the candidates as they think fit. Together with the claims of candidates on this list the Commissioners shall consider the claims of any officer of the Ministry or Department who is recommended by the appropriate officer to be eligible for promotion to the post. If no officer is considered to be eligible the appropriate officer shall so inform the Commission;

(c) when the vacancy is likely to involve the recruitment of an overseas officer the Director of Recruitment shall state briefly for the information of the Commission the position regarding the availability of Nigerian candidates for such posts;

(d) (i) the Commission shall decide whether a Selection Board shall be constituted to interview candidates and what the composition of the Board shall be, and the form in which the report of the Board shall be submitted;

(ii) where a Selection Board is constituted the Board shall forward its report to the Secretary.

(2) The appropriate officer may, subject to the approval of the Commission, constitute Departmental Selection Boards to advise him before making a recommendation to the Commission under this regulation.

(3) Notwithstanding the procedure set out in the foregoing paragraphs of this regulation the Commission may in its discretion summon any of the candidates for interview by the Commission.

Procedure for appointment when power exercisable by appropriate officer with approval of Commission.

17. Where the appointment, promotion or transfer of a public officer is to a public office in respect of which powers of appointment, promotion and transfer have been delegated to the appropriate officer, acting with the approval of the Commission, the appropriate officer shall, subject to the provisions of regulation 16 and to the provisions of any approved scheme of recruitment, submit his recommendations to the Secretary for the approval of the Commission.

Procedure for appointments, etc., in cases of urgency.

18. Where any delay is likely to result from carrying out the procedure prescribed by regulation 15 or 16 and the delay appears to the appropriate officer likely to cause serious inconvenience, he may so inform the Commission and may make recommendations to it for a person to act in the office concerned and the Commission may approve or recommend as the case may be such an appointment without further compliance with regulation 15 or 16.

Recruitment by competitive examination.

19. Where vacancies are to be filled according to the results of an examination in conformity with any scheme of recruitment, the procedure set out in regulations 16 and 17 shall not apply. The appropriate officer shall notify the vacancies to the Secretary and the Commission shall arrange for the holding of the necessary examination in accordance with the scheme of recruitment.

PART IV

DETERMINATION OF APPOINTMENTS AND EXTENSION OF  
PROBATIONARY SERVICE

20. (1) If it appears to the appropriate officer that there is reason why a public officer who has attained the age of forty-five years and who holds a pensionable office, should be called upon to retire from the public service, the appropriate officer shall report the matter together with his reasons therefor to the Secretary, and the Commission shall recommend to the Governor whether such officer should be called upon to retire.

Procedure for recommendations for retirement.

(2) In the case of an officer in respect of whom powers of appointment and dismissal have not been delegated, the Commission, having received the recommendation of the appropriate officer, may authorise the appropriate officer to call upon the officer to submit any representations of a personal nature which he may wish to make regarding his proposed compulsory retirement, and the appropriate officer shall add his own observations upon them and transmit them to the Secretary.

(3) In the case of an officer in respect of whom powers of appointment or dismissal have been delegated, the appropriate officer shall afford the officer an opportunity to submit to him any representations of a personal nature regarding his proposed compulsory retirement and he shall transmit such representations with his observations thereon to the Secretary.

21. Where a public office which is one of a number of such offices has been abolished but one or more such offices remain the appropriate officer shall make his recommendations to the Secretary with reasons therefor, as to which substantive holder of such office shall have his appointment terminated, and the Commission shall make its recommendations thereon to the Governor.

Procedure for termination on abolition of a number of offices.

22. If it appears to the appropriate officer that the appointment of a public officer who holds a non-pensionable office should be terminated (otherwise than as provided in regulation 21) the appropriate officer shall, in writing, inform the officer that he proposes to recommend the termination of his appointment, giving the reasons, and require the officer to show cause, in writing, before a date to be specified (which shall allow a reasonable interval for the purpose), why his appointment should not be terminated. If no reply is received by the appropriate officer from the officer or if the appropriate officer considers that no adequate cause has been shown—

Procedure for termination of appointments of non-pensionable officers.

(a) in the case of an officer in respect of whom powers of termination of appointment have not been delegated, the appropriate officer shall report the case together with his recommendations, giving his reasons and forwarding any representation made by the officer, to the Secretary; and the Commission shall recommend to the Governor whether the appointment should be terminated;

- (b) in the case of an officer in respect of whom powers of termination of appointment have been delegated to the appropriate officer acting with the approval of the Commission, the appropriate officer shall report the case, together with his recommendations, giving his reasons and forwarding any representations made by the officer, to the Secretary for the approval of the Commission.

Procedure for recommendation as to appointments on probation.

23. (1) Where a public officer holds an appointment on probation, six months before the expiration of the period of probation the appropriate officer shall consider whether the officer should on such expiration be confirmed in a pensionable office, or whether a further period of probationary service is necessary to determine whether the officer should be confirmed, or whether the officer should not remain in the public service.

(2) In the case of an officer in respect of whom powers of appointment have not been delegated to him, the appropriate officer shall make his recommendation to the Secretary and the Commission shall either approve confirmation or if it considers the officer should not remain in the public service make its recommendation to the Governor.

(3) In the case of an officer in respect of whom powers of appointment are delegated to the appropriate officer, acting with the approval of the Commission, the appropriate officer shall, if he considers that the officer's appointment should be terminated or his probationary period extended, report the case to the Secretary with his reasons for the approval of the Commission.

(4) Where a public officer holds an appointment on probation and the appropriate officer at any time during the period of the probation is of opinion that the officer's appointment should be terminated, the appropriate officer, except in the case of an officer in respect of whom powers have been delegated to him, shall make a recommendation to the Secretary accordingly.

(5) Before reporting to the Secretary, under the preceding provisions of this regulation, that a further period of probationary service by an officer is necessary or that an officer's probationary appointment should be terminated, the appropriate officer shall call upon the officer concerned to submit his representations on the matter.

Procedure for recommendation for making trial promotion substantive.

24. Where a public officer holds an appointment on trial promotion, a recommendation that his appointment be made substantive may be made at any time up to three years from the effective date of the trial promotion. Where no such recommendation has been made within three years the appropriate officer shall submit to the Secretary for the approval of the Commission a recommendation that the officer's promotion be made substantive, or that the period of trial be extended, or that the officer should revert to his substantive appointment.

## PART V

## DISCIPLINE

25. In any case which comes to the attention of the Commission, if the Commission is of the opinion that disciplinary proceedings should be instituted against a public officer the Commission may, notwithstanding the provisions of these regulations, direct the appropriate officer to initiate such proceedings:

Commission may initiate disciplinary proceedings.

Provided that before giving such a direction in a case in which it appears that an offence against any enactment may have been committed the Commission shall instruct the Secretary to refer the case to the Director of Public Prosecutions; and the Director of Public Prosecutions shall inform the Secretary whether the case is such that a prosecution should be instituted; and if the Director of Public Prosecutions advises that a prosecution should be instituted the Commission shall not give such a direction before the conclusion of the prosecution.

26. (1) Whenever the appropriate officer considers it necessary to institute disciplinary proceedings against a public officer in respect of whom powers of disciplinary control have not been delegated, and the misconduct alleged against the officer appears to him to be such that if proved it would justify that officer's dismissal from the public service, he shall, after such preliminary investigation as he considers necessary, report the case with his recommendations to the Secretary for the directions of the Commission.

Procedure for disciplinary proceedings on charges justifying dismissal when powers not delegated.

(2) If the Commission directs that a charge should be framed against the accused officer, the appropriate officer shall, after consulting the Solicitor-General with regard to the terms of the charge, forward to the officer a statement of the charge framed against him together with a brief statement of the allegations on which the charge is based in so far as it is not clear from the charge itself, and shall call on the accused officer to state in writing before a day to be specified (which shall allow a reasonable interval for the purpose) any grounds upon which he relies to exculpate himself.

(3) The appropriate officer shall, immediately after the specified day, either report to the Secretary the fact that the accused officer has failed to furnish an exculpatory statement or shall forward the statement to the Secretary with his comments or recommendations.

(4) (a) After receiving the report and statement forwarded by the appropriate officer the Commission may recommend to the Governor the appointment of a Committee of such persons as it shall specify, not less than three in number, to inquire into the matter; and the Governor may appoint a Committee for such purpose.

(b) One member of the Committee shall be a public officer with legal qualifications. The appropriate officer shall not be a member of the Committee.

(5) The Committee shall inform the accused officer that on a specified day the charge made against him will be investigated by them and that he will be allowed or, if the Committee shall so determine, will be required, to appear before them to defend himself.

(6) If witnesses are examined by the Committee the accused officer shall be given an opportunity of being present and of putting questions on his own behalf to the witnesses, and no documentary evidence shall be used against him unless he has previously been supplied with a copy thereof or is given access thereto.

(7) The Committee may in their discretion permit the prosecuting party or the accused officer to be represented by a public officer or a legal practitioner provided that where the Committee permit the prosecuting party to be so represented they shall permit the accused officer to be represented in the same manner.

(8) If during the course of the inquiry grounds for the framing of any additional charge against the accused officer are disclosed, the Committee shall inform the Secretary of the same and, if the Commission thinks fit to proceed against the accused officer upon such grounds, the same procedure shall be followed by the appropriate officer in framing any additional charge as was adopted in framing the original charge.

(9) The Committee, having inquired into the matter, shall forward their report thereon to the Secretary, accompanied by the record of the charges framed, the evidence led, the defence, and other proceedings relevant to the inquiry and their finding on the charges.

(10) The Commission, after consideration of the report of the Committee, may, if it is of opinion that the report should be amplified in any way or that further investigation is desirable, refer the matter back to the Committee for further investigation and report, or may itself hear evidence or examine any documentary evidence.

(11) The Commission shall forward the written proceedings of the inquiry to the Governor together with its recommendation as to the punishment, if any, which should be inflicted on the accused officer. The decision on each charge preferred against the accused officer (but not the reasons for the decision) shall be communicated to him.

Procedure for discipline on charges justifying dismissal when powers exercisable by appropriate officer with approval of Commission.

27. (1) Whenever the appropriate officer considers it necessary to institute disciplinary proceedings against a public officer in respect of whom powers of disciplinary control have been delegated to the appropriate officer, acting with the approval of the Commission, and the misconduct alleged against the officer appears to him to be such that if proved it would justify his dismissal from the public service, the appropriate officer shall, after such preliminary investigation as he may consider necessary, frame a charge in writing against the officer, and shall communicate the charge to the officer in order that he may have a full opportunity of exculpating himself.

(2) If the officer does not avail himself of the opportunity to exculpate himself or if the appropriate officer does not consider that the officer has exculpated himself, the appropriate officer shall appoint a public officer holding powers of inquiry under the provisions of these regulations to hold an inquiry into the charge.

(3) At an inquiry under this regulation the accused officer shall be permitted to be present and shall be allowed to cross-examine any witnesses testifying against him, to call witnesses in his defence and to have access to all documentary evidence against him. The public officer holding the inquiry may in his discretion permit the prosecuting party or the accused officer to be represented at the inquiry by a public officer or a legal practitioner, provided that where the officer holding the inquiry permits the prosecuting party to be so represented he shall permit the accused officer to be represented in the same manner.

(4) If, after considering the report of an inquiry held under this regulation, the appropriate officer thinks that punishment should be inflicted on the accused officer, the appropriate officer shall forward a copy of the charges and evidence and of the finding on each charge, together with his recommendations, to the Secretary.

(5) The Commission after considering the proceedings and recommendations shall issue instructions to the appropriate officer as to what punishment, if any, it considers should be inflicted on the officer. The decision made on each charge preferred against the accused officer (but not the reasons for the decision) shall be communicated to him.

28. Whenever the appropriate officer considers it necessary to institute disciplinary proceedings against a public officer in respect of whom powers of disciplinary control have been delegated to him, acting without the approval of the Commission, and the misconduct alleged appears to him such that if proved it would justify dismissal, the appropriate officer shall follow the procedure specified in paragraphs (1), (2) and (3) of regulation 27, and if, after considering the report of the inquiry, he thinks it necessary to inflict on the accused officer any punishment, the appropriate officer shall determine whether the punishment shall be dismissal or a lesser punishment and shall communicate his decision (but not the reasons for the decision) to the officer.

Disciplinary proceedings on charges justifying dismissal of officer when power delegated.

29. (1) On completion of proceedings instituted for the dismissal of a public officer in respect of whom disciplinary control has not been delegated, the Commission shall, if of opinion that the officer does not deserve to be dismissed but that the proceedings disclose grounds for removing him on account of general inefficiency in the performance of his duties, recommend to the Governor that the officer be so removed.

Removal for general inefficiency arising from proceedings instituted for dismissal.

(2) Where the appropriate officer is of opinion that paragraph (1) of this regulation should be applied to a public officer in respect of whom disciplinary control has been delegated to him acting with the approval of the Commission, he shall refer the case, giving his opinion thereon, to the Secretary; and the Commission shall, after causing such further inquiry to be made as appears necessary, issue instructions to the appropriate officer as to whether the officer should be so removed.

(3) Where the appropriate officer is of opinion that paragraph (1) of this regulation should be applied to a public officer in respect of whom disciplinary control has been delegated, he may order his removal from the public service on such grounds.

(4) When proceedings for removal of a public officer on grounds of general inefficiency are taken under this regulation, the provisions of regulation 42 shall not apply.

Procedure for discipline on charges not justifying dismissal when powers not delegated.

30. (1) Whenever the appropriate officer considers it necessary to institute disciplinary proceedings against a public officer in respect of whom powers of disciplinary control have not been delegated and the misconduct alleged does not appear to him serious enough to warrant proceedings under regulation 26, the appropriate officer shall report the case together with his recommendations to the Secretary, for the directions of the Commission; and if the Commission is of opinion that the misconduct alleged is not sufficiently serious to warrant proceedings under regulation 26 it may cause an investigation to be made into the matter in such manner as it thinks proper, provided that the accused officer shall be entitled to know the whole case against him and shall have an adequate opportunity throughout of making his defence.

(2) If as a result of such investigations and after considering any representations which the officer may desire to make on his behalf, the Commission is of opinion that misconduct is proved, it shall recommend to the Governor that such punishment as it thinks proper other than dismissal, be inflicted upon the accused officer.

Procedure for discipline on charges not justifying dismissal when powers exercisable by appropriate officer with approval of Commission.

31. (1) Whenever the appropriate officer considers it necessary to institute disciplinary proceedings against a public officer in respect of whom powers of disciplinary control have been delegated to the appropriate officer acting with the approval of the Commission and the misconduct does not appear to him serious enough to warrant proceedings against the officer with a view to dismissal, the appropriate officer shall cause an investigation to be held by a public officer holding powers of inquiry and that officer shall investigate the matter in such manner as he may think proper, in which case the accused officer shall be entitled to know the case against him and shall have an adequate opportunity of making his defence.

(2) If, after considering the report of the officer investigating the matter, the appropriate officer is of opinion that the allegation is proved he shall forward the case with his recommendations to the Secretary.

(3) The Commission after considering the case shall issue instructions to the appropriate officer as to what punishment, if any, other than dismissal, it considers should be inflicted on the officer.

Procedure for discipline on charges not justifying dismissal when power delegated.

32. Wherever the appropriate officer considers it necessary to institute disciplinary proceedings against a public officer in respect of whom powers of disciplinary control have been delegated to him acting without the approval of the Commission, and the misconduct does not appear to him serious enough to warrant proceedings against the officer with a view to dismissal, he shall proceed in the manner prescribed in regulation 31, save that a reference to the Commission for its approval shall not be necessary.

33. (1) If the appropriate officer considers that a public officer in respect of whom powers of dismissal and disciplinary control have not been delegated should be removed from the public service on grounds of general inefficiency in the performance of his duties, he shall obtain statements as to the officer's general standard of efficiency and shall allow the accused officer an opportunity of considering such statements and showing cause why he should not be removed from the public service or otherwise dealt with for general inefficiency.

Procedure for removal for general inefficiency when powers not delegated.

(2) If the appropriate officer, after considering the accused officer's statement, is of opinion that the accused officer should be removed from the public service or otherwise dealt with for general inefficiency, the appropriate officer shall report the case, together with his recommendations, to the Secretary, for the directions of the Commission.

(3) The Commission shall make its recommendation to the Governor in regard to the action, if any, that it considers should be taken against the accused officer.

34. If the appropriate officer considers that a public officer in respect of whom powers of dismissal and disciplinary control have been delegated to the appropriate officer, acting with the approval of the Commission, should be removed from the public service on the grounds of inefficiency in the performance of his duties, he shall proceed in the manner prescribed in paragraphs (1) and (2) of regulation 33 and the Commission shall issue instructions to the appropriate officer in regard to the action, if any, that it considers should be taken against the accused officer.

Procedure for removal for general inefficiency when powers exercisable by appropriate officer with approval of Commission.

35. If the appropriate officer considers that a public officer in respect of whom powers of dismissal and disciplinary control have been delegated to him, acting without the approval of the Commission, should be removed from the public service on grounds of general inefficiency in the performance of his duties, he shall obtain statements as to the officer's general standard of efficiency and shall allow the accused officer an opportunity of considering the statements and showing cause why he should not be removed from the public service or otherwise dealt with for general inefficiency and the appropriate officer shall consider the accused officer's statement before giving his decision.

Procedure for removal for general inefficiency when powers delegated.

36. (1) If a public officer in respect of whom powers of dismissal and disciplinary control have not been delegated is convicted of a criminal charge in a court the appropriate officer shall report the matter to the Secretary with his recommendations as to punishment, together with a copy of the charge or charges and of the judgment (and the proceedings of the court if available), and the Commission shall consider the judgment (and the proceedings if available) and if it is of opinion that the officer should be dismissed or subjected to some lesser penalty on account of the conviction for the offence of which he had been adjudged guilty, the Commission shall recommend to the Governor that such punishment should be inflicted without following the procedure prescribed in regulation 26, 30 or 33.

Procedure for discipline arising from a criminal conviction when powers not delegated.

Procedure for discipline arising from a criminal conviction when power exercisable by appropriate officer with approval of Commission.

(2) If a public officer, in respect of whom powers of dismissal and disciplinary control have been delegated to the appropriate officer acting with the approval of the Commission, is convicted on a criminal charge in a court, the appropriate officer and the Commission shall proceed in the manner prescribed by paragraph (1) of this regulation, save that the Commission may issue instructions to the appropriate officer in regard to the punishment, if any, that it considers should be inflicted on the accused officer.

Procedure for discipline arising from a criminal conviction when power delegated.

(3) Where a public officer, in respect of whom powers of dismissal and disciplinary control have been delegated to the appropriate officer acting without the approval of the Commission, is convicted on a criminal charge in a court the appropriate officer may inflict such punishment upon the accused officer as may seem proper to him without following the procedure prescribed in regulation 28, 32 or 35.

Regulations to govern disciplinary procedure.

37. (1) All acts of misconduct by public officers shall be dealt with under this Part as soon as possible after the time of their occurrence.

(2) Any case in which provision is not made for an appropriate procedure by these regulations shall be reported to the Commission. The Commission shall refer the case to the Governor, who after consultation with the Commission, may issue instructions as to how the case shall be dealt with, and the case shall be dealt with accordingly.

Grounds for criminal prosecution.

38. When a preliminary investigation or a disciplinary inquiry discloses that an offence against any enactment may have been committed by a public officer, the appropriate officer, unless action by the Police has been or is about to be taken, shall consult the Director of Public Prosecutions as to whether a prosecution should be instituted and, if the Director of Public Prosecutions does not advise a prosecution, the appropriate officer shall refer the matter to the Solicitor-General for an opinion whether disciplinary action should be taken or continued under the appropriate regulation. In the latter case the charges framed against the officer shall be approved by the Solicitor-General before the officer is required to answer them or before the inquiry proceeds.

No disciplinary action while criminal proceedings pending.

39. If criminal proceedings are instituted against a public officer in any court, proceedings for his dismissal upon any grounds involved in the criminal charge shall not be taken until the conclusion of the criminal proceedings and the determination of any appeal therefrom.

Disciplinary action after acquittal on a criminal charge.

40. A public officer acquitted of a criminal charge in any court shall not be dismissed or otherwise punished on any charge upon which he has been acquitted, but nothing in this regulation shall prevent his being dismissed or otherwise punished on any other charges arising out of his conduct in the matter, unless the charges raise substantially the same issues as those on which he has been acquitted.

41. A public officer in respect of whom a disciplinary inquiry is to be held shall be entitled to receive free copies of any documentary evidence relied on for the purpose of the inquiry, or be allowed access to it. He may also be given a copy of the evidence (including documents tendered in evidence) after the inquiry is closed, on payment of one shilling for each page of any documents tendered in evidence and a charge of sixpence for every hundred words after the first hundred words of the record of evidence, for a copy of that record:

Copies of evidence of inquiries.

Provided that he shall not be entitled to copies of office orders, minutes, reports, or recorded reasons for decisions.

42. (1) When it is provided by an Instrument delegating to any public officer powers of dismissal or disciplinary control that an appeal shall lie to the Governor against an order made by the officer exercising such powers no appeal shall be entertained in any case unless the petition setting out the grounds of appeal is received by the Secretary within six weeks of the date upon which the decision is addressed to the officer:

Appeals.

Provided that the Commission may entertain an appeal out of time if in its opinion the circumstances warrant it.

(2) Only one such appeal shall be allowed:

Provided that a second appeal within one year of the date upon which the decision appealed against is addressed to the officer may be admitted if the Commission is satisfied that there appear in the second appeal new and material facts which might have affected a former decision, and if adequate reasons for the non-disclosure of such facts at an earlier date are given.

(3) When an appeal lies from a decision of an officer exercising delegated powers of dismissal or disciplinary control, that officer shall, when communicating his decision to the accused public officer, inform him that an appeal may be lodged within six weeks thereafter:

Provided that failure to communicate such fact shall not invalidate the award.

43. (1) The Governor acting on the recommendation of the Commission may by direction in writing confer on any public officer power to hold disciplinary enquiries and investigations under these regulations either generally or in any particular case.

Powers of other public officers.

(2) For the avoidance of doubt it is hereby declared that such power shall not include any power to reach final decision or award punishment.

44. (1) If in any case the authority empowered by or under the Order to dismiss any public officer considers that the interests of the public service require that such public officer should cease forthwith to exercise the powers and functions of his office, the authority may interdict him from the exercise of those powers and functions, if proceedings for his dismissal are being taken or are about to be taken or if criminal proceedings are being instituted against him.

Interdiction.

(2) Where in the opinion of the most senior public officer immediately available the interests of the public service require that a public officer who is of junior rank to such senior officer and responsible to the same appropriate officer should be interdicted from the exercise of his powers and functions and such senior public officer is also of opinion that a delay of forty-eight hours or more is liable to intervene before the sanction of the authority who, under the provisions of paragraph (1) of this regulation, could so interdict such junior officer, that public officer may order such junior officer to cease to exercise any of his powers and functions. The power to give such an order shall not be exercised by an officer who is in receipt of a basic salary of less than £600 per annum.

(3) On the giving of such an order such senior public officer shall forthwith report the giving of the order and the reasons therefor to the appropriate officer.

(4) If the appropriate officer considers that the officer should be interdicted from the exercise of his powers and functions he shall—

(a) in the case of an officer in respect of whom powers of dismissal and disciplinary control have not been delegated, report the case with his recommendations to the Secretary for the directions of the Commission and the Commission shall forward its recommendations to the Governor in regard to interdiction;

(b) in the case of an officer in respect of whom powers of dismissal and disciplinary control have been delegated to the appropriate officer, acting with the approval of the Commission, proceed in the manner prescribed in sub-paragraph (a) of this paragraph and the Commission shall issue instructions to the appropriate officer;

(c) in the case of an officer in respect of whom powers of dismissal and disciplinary control have been delegated to the appropriate officer acting without the approval of the Commission, determine whether or not the officer concerned should be interdicted from the exercise of his powers and functions.

(5) An officer shall be informed that he has been interdicted and the interdiction shall date from the time of the order given under the provisions of this paragraph, and if the authority so empowered to interdict decides not to exercise such power he shall inform both the officer giving the order and the officer to whom the order is addressed that the order is cancelled.

(6) An officer who is interdicted shall, subject to the provisions of regulation 45, receive such salary, not being less than half his salary, as the authority empowered to dismiss him shall think fit.

(7) If the disciplinary proceedings do not result in the officer's dismissal the whole of the salary withheld from him shall be restored to him when the final decision is made.

45. A public officer adjudged by a court to be guilty of a criminal charge shall not receive any emoluments from the date of such judgment pending the decision of the authority who is empowered to dismiss him.

Non-payment of salary on conviction of a criminal charge.

46. An officer who is under interdiction may not leave the Western Region of Nigeria without the permission of the officer who interdicted him or of any superior officer having authority over the interdicted officer.

Interdicted officer not to leave the Western Region.

47. The following are the punishments which may be ordered as a result of proceedings under this Part of these regulations:—

Punishments.

- (a) dismissal;
- (b) reduction in rank;
- (c) reduction in salary;
- (d) deferment of increment;
- (e) withholding of increment; and
- (f) reprimand:

Provided that nothing in this regulation shall limit any powers to remove a public officer from the public service on the grounds of general inefficiency.

48. (1) If the appropriate officer is of the opinion that there are grounds upon which the grant of an annual increment of a public officer should be withheld or deferred, he shall proceed as follows:

Withholding or deferment of increments.

- (a) in the case of an officer in respect of whom powers of dismissal and disciplinary control have not been delegated he shall forward a report to the Commission together with his recommendation and the Commission shall make a recommendation to the Governor;
- (b) in the case of an officer in respect of whom powers of dismissal and disciplinary control have been delegated to the appropriate officer, acting with the approval of the Commission, he shall forward a report to the Commission together with his recommendation and the Commission shall issue instructions to the appropriate officer in regard to the action to be taken;
- (c) in other cases the appropriate officer may withhold or defer the increment as he shall think fit.

(2) Where an increment has been deferred the appropriate officer shall upon expiration of the period fixed for deferment—

- (a) if the increment was deferred by the Governor on the recommendation of the Commission or by the appropriate officer acting with the approval of the Commission, make a report to the Commission together with his recommendation as to whether the increment should be granted or withheld and the Commission shall make a recommendation to the Governor or issue instructions to the appropriate officer as the case may require;
- (b) if the increment was deferred by the appropriate officer, grant or withhold the increment as he thinks fit.

## PART VI

## MISCELLANEOUS

Saving right  
of the  
Crown.

49. Nothing in these regulations contained shall be construed to limit the right of the Crown, exercisable by the Governor, to dismiss or terminate the appointment of any public officer without compensation.

Provisions  
relating to  
matters  
initiated  
prior to the  
commence-  
ment of these  
Regulations.  
W.R.L.N.  
150 of 1955.

50. When, in respect of any matter to which these regulations relate, action was initiated prior to the commencement of these regulations under the provisions of the Western Region of Nigeria Public Service Commission Regulations, 1955, such further action as may be required under the provisions of these regulations shall be taken as if the action taken prior to the commencement of these regulations had been taken under and in accordance with the provisions of these regulations.

**PART III**  
**APPEALS TO PRIVY COUNCIL**  
**STATUTORY INSTRUMENTS**  
1957 No. 2224

L.N. 44  
of 1948.

JUDICIAL COMMITTEE RULES, 1957

MADE ... .. 20th December, 1957

COMING INTO OPERATION ... 1st February, 1958

At the Court at Buckingham Palace, the 20th day of December, 1957

Present,

The Queen's Most Excellent Majesty in Council

Whereas there was this day read at the Board a representation from the Judicial Committee of the Privy Council recommending that certain Orders in Council relating to the practice and procedure in accordance with which the general appellate jurisdiction of Her Majesty in Council is exercised, dated respectively the second day of May, 1925, the eighth day of August, 1932, the thirtieth day of April, 1936, and the twenty-fifth day of February, 1944, ought to be revoked as from the first day of February, 1958, and that the several rules thereunto annexed ought to be substituted therefor and ought to come into operation on that date:

Now, therefore, Her Majesty, having taken the said representation into consideration, and in exercise of the powers conferred on Her by section twenty-four of the Judicial Committee Act, 1833, or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to approve thereof and to order, as it is hereby ordered, as follows:—

1. The Orders in Council mentioned in the said representation are hereby revoked, and the rules thereunto annexed are substituted therefor, as set out in the Schedule to this Order.

2. This Order shall come into operation on the first day of February, 1958.

Whereof all persons whom it may concern are to take notice and govern themselves accordingly.

W. G. AGNEW

## SCHEDULE

## ARRANGEMENT OF RULES

*Rule*

1. Interpretation.

*Leave to appeal*

2. Leave to appeal generally.

*Special leave to appeal*

3. Form of Petition for special leave to appeal.
4. Six copies of Petition to be lodged together with Affidavits in support.
5. Time for lodging Petition.
6. Security for costs and transmission of Record.
7. General provisions.
8. Petitions for special leave to appeal *in forma pauperis*.
9. Exemption of pauper Appellant from lodging security and paying Office fees.
10. Exemption of unsuccessful Petitioner for leave to appeal *in forma pauperis* from payment of Office fees.

*Record and Appearance by Appellant*

11. Record to be transmitted without delay.
12. Printing and publishing of Record.
13. Number of copies to be transmitted, where Record printed abroad.
14. One certified copy to be transmitted, where Record to be printed or duplicated in England.
15. Record printed partly abroad.
16. Reasons for judgments to be included.
17. Exclusion of unnecessary documents from Record.
18. Documents objected to to be indicated.
19. Registration and numbering of Records.
20. Inspection of Record by parties.
21. Appearance by Appellant.
22. Times within which a copy of a written Record shall be bespoken.
23. Preparation of copy of Record for printing or duplication.
24. Lodging copy of Record for printing or duplicating.
25. Special Case.
26. Examination of proof of Record and striking off copies.
27. Number of copies of Record for parties.
28. How costs of printing or duplicating Record are to be borne.

*Petition of Appeal*

29. Times within which Petition shall be lodged.
30. Form of Petition.
31. Service of Petition.

*Withdrawal of Appeal*

32. Withdrawal of Appeal before Petition of Appeal has been lodged.
33. Withdrawal of Appeal after Petition of Appeal has been lodged.

## Rule

*Non-prosecution of Appeal*

34. Dismissal of Appeal where Appellant takes no step in prosecution thereof.
35. Dismissal of Appeal for non-prosecution after Appellant's Appearance and before lodgment of Petition of Appeal.
36. Dismissal of Appeal for non-prosecution after lodgment of Petition of Appeal.
37. Restoring an Appeal dismissed for non-prosecution.

*Appearance by Respondent*

38. Time within which Respondent may appear.
39. Notice of Appearance by Respondent.
40. Form of Appearance where all the Respondents do not appear.
41. Separate Appearances.
42. Non-appearing Respondent not entitled to receive notices or lodge Case.
43. Procedure on non-appearance of Respondent.
44. Respondent defending Appeal *in forma pauperis*.

*Petitions generally*

45. Mode of addressing Petitions.
46. Orders on Petitions which need not be drawn up.
47. Form of Petition and number of copies to be lodged.
48. Caveat.
49. Service of Petition.
50. Verifying Petition by Affidavit.
51. Petition for Order of Revivor or Substitution.
52. Petition disclosing no reasonable cause of appeal or containing scandalous matter to be refused.
53. Setting down Petition.
54. Times within which set-down Petitions shall be heard.
55. Notice to parties of day fixed for hearing Petition.
56. Procedure where Petition is consented to or is formal.
57. Withdrawal of Petition.
58. Procedure where hearing of Petition unduly delayed.
59. Only one Counsel heard on a side in Petitions.

*Case*

60. Lodging of Case.
61. Printing or duplicating of Case.
62. Number of copies to be lodged.
63. Form of Case.
64. Separate Cases by two or more Respondents.
65. Notice of lodgment of Case.
66. Case Notice.
67. Setting down Appeal and exchanging Cases.

*Rule**Binding Records, etc.*

68. Mode of binding Records, etc., for use of Judicial Committee.  
69. Time within which bound copies shall be lodged.

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70. Notice of day on or before which Appeals must be set down for ensuing Sittings.  
71. Notice to parties of day fixed for hearing Appeal.  
72. Only two Counsel heard on a side in Appeals.  
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85. Affidavits may be sworn before the Registrar of the Privy Council.  
86. Change of Agent.  
87. Scope of application of Rules.  
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Schedule A. Rules as to printing and duplicating.  
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Interpreta-  
tion.

- 1.—(1) In these Rules, unless the context otherwise requires—  
“Appeal” means an Appeal to Her Majesty in Council;  
“Judgment” includes decree, order, sentence, or decision of any Court, Judge, or Judicial Officer;

“Record” means the aggregate of papers relating to an Appeal (including the pleadings, proceedings, evidence and judgments) proper to be laid before Her Majesty in Council on the hearing of the Appeal;

“Registrar” means the Registrar or other proper officer having the custody of the records in the Court appealed from;

“Abroad” means the country or place where the Court appealed from is situate;

“Agent” means a person qualified by virtue of Her late Majesty’s Order in Council of the 6th March, 1896, to conduct proceedings before Her Majesty in Council on behalf of another;

“Party” and all words descriptive of parties to proceedings before Her Majesty in Council (such as “Petitioner,” “Appellant,” “Respondent”) means, in respect of all acts proper to be done by an Agent, the Agent of the party in question where such party is represented by an Agent;

“Respondent” includes Intervener;

“Month” means calendar month;

Words in the singular shall include the plural, and words in the plural shall include the singular.

(2) Where by these Rules any step is required to be taken in England in connection with proceedings before Her Majesty in Council, whether in the way of lodging a Petition or other document, entering an Appearance, lodging security, or otherwise, such step shall be taken in the Registry of the Privy Council, Downing Street, London.

*Leave to appeal*

2. All Appeals shall be brought either in pursuance of leave obtained from the Court appealed from, or, in the absence of such leave, in pursuance of special leave to appeal granted by Her Majesty in Council upon a Petition in that behalf presented by the intending Appellant.

Leave to appeal generally.

*Special leave to appeal*

3. A Petition for special leave to appeal to Her Majesty in Council shall state succinctly and clearly all such facts as it may be necessary to state in order to enable the Judicial Committee

Form of Petition for special leave to appeal.

to advise Her Majesty whether such leave ought to be granted, and shall be signed by the Counsel who attends at the hearing or by the party himself if he appears in person. The Petition shall deal with the merits of the case only so far as is necessary for the purpose of explaining and supporting the particular grounds upon which special leave to appeal is sought.

Six copies of Petition to be lodged together with Affidavits in support.

4. The Petitioner shall lodge at least six copies of his Petition for special leave to appeal together with the Affidavit in support thereof prescribed by Rule 50 hereinafter contained, and also six copies of the Judgment from which leave to appeal is sought, and, unless a Caveat as prescribed by Rule 48 has been lodged by the other parties who appeared in the Court below, an Affidavit of service of notice of the intended application upon such parties or their Solicitors or Agents, either abroad or in England.

Time for lodging Petition.

5. A Petition for special leave to appeal shall in every case be lodged with the least possible delay after the date of the judgment from which leave to appeal is sought.

Security for costs and transmission of Record.

6. Where the Judicial Committee agree to advise Her Majesty to grant special leave to appeal, they shall, in their Report, specify the amount of the security for costs (if any) to be lodged by the Petitioner, and shall, unless the circumstances of a particular case render such a course unnecessary, provide for the transmission of the Record by the Registrar to the Registrar of the Privy Council and for such further matters as the justice of the case may require. Unless otherwise ordered the security shall be lodged at any time before the Appellant enters an Appearance.

General provisions.

7. Save as by the four last preceding Rules otherwise provided, the provisions of Rules 47 to 50 and 52 to 59 (all inclusive) hereinafter contained shall apply *mutatis mutandis* to Petitions for special leave to appeal.

Petitions for special leave to appeal in *forma pauperis*.

8. Rules 3 to 7 (both inclusive) shall apply *mutatis mutandis* to Petitions for leave to appeal *in forma pauperis*, but in addition to the Affidavits referred to in Rule 4 every such Petition shall be accompanied by an Affidavit from the Petitioner stating that he is not worth £100 in the world excepting his wearing apparel and his interest in the subject-matter of the intended Appeal, and that he is unable to provide sureties, and also by a certificate of Counsel that the Petitioner has reasonable ground of appeal.

9. Where a Petitioner obtains leave to appeal *in forma pauperis*, he shall not be required to lodge security for the costs of the Respondent or to pay any Council Office fees.

Exemption of pauper Appellant from lodging security and paying Office fees.

10. A Petitioner whose Petition for leave to appeal *in forma pauperis* is dismissed may, notwithstanding such dismissal, be excused from paying the Council Office fees usually chargeable to a Petitioner in respect of a Petition for leave to appeal, if Her Majesty in Council, on the advice of the Judicial Committee, shall think fit so to order.

Exemption of unsuccessful Petitioner for leave to appeal *in forma pauperis* from payment of Office fees.

#### *Record and Appearance by Appellant*

11. As soon as the Appeal has been admitted, whether by an Order of the Court appealed from or by an Order of Her Majesty in Council granting special leave to appeal, the Appellant shall without delay take all necessary steps to have the Record transmitted to the Registrar of the Privy Council, and the Registrar shall, with all convenient speed, certify to the Registrar of the Privy Council that the Respondent has received notice, or is otherwise aware, of the Order of the Court appealed from admitting the Appeal, or of the Order of Her Majesty in Council giving the Appellant special leave to appeal, and has also received notice, or is otherwise aware, of the dispatch of the Record to England. Where an Appellant who has obtained special leave to appeal by an Order of Her Majesty in Council fails to have the Record transmitted to the Registrar of the Privy Council with due diligence, the Registrar of the Privy Council shall call upon the Appellant to explain his default, and if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar insufficient, the said Registrar may issue a Summons to the Appellant calling upon him to show cause before the Judicial Committee at a time to be named in the said Summons why the special leave to appeal granted should not be rescinded. The Respondent shall be entitled to be heard before the Judicial Committee in the matter of the said Summons and to ask for his costs and such other relief as he may be advised. The Judicial Committee may, after considering the matter of the said Summons, recommend to Her Majesty to rescind the grant of special leave to appeal or give such other directions therein as the justice of the case may require.

Record to be transmitted without delay.

12.—(a) The Record may be printed either abroad or in England.

Printing or duplicating of Record.

(b) When a written Record is received from abroad it shall, unless the parties agree to its being printed, be duplicated by a process approved by the Registrar of the Privy Council, and Rules IV to XI contained in Schedule A hereto shall apply.

(c) If the Record is printed it shall be printed in accordance with the Rules contained in Schedule A hereto.

(d) When the Record is printed abroad the parties in England shall, upon perusal, consider whether the order of the documents is in accordance with these Rules, and if it is not, they shall agree upon the proper order. The Appellant shall then rearrange copies of the Record for the use of the Judicial Committee and the other parties. In the event of the parties being unable to agree, the matter shall be referred to the Registrar of the Privy Council who, if he thinks fit, may require the parties to attend before the Judicial Committee for directions.

Number of  
copies to be  
transmitted,  
where  
Record  
printed  
abroad.

13. Where the Record is printed abroad, the Registrar shall, at the expense of the Appellant, transmit to the Registrar of the Privy Council forty copies of such Record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the seal, if any, of the Court appealed from.

One certified  
copy to be  
transmitted,  
where  
Record to be  
printed in  
England.

14. Where the Record is to be printed or duplicated in England, the Registrar shall, at the expense of the Appellant, transmit to the Registrar of the Privy Council one certified copy of such Record, together with an index of all the papers and exhibits in the case. No other certified copies of the Record shall be transmitted to the Agents in England by or on behalf of the parties to the Appeal.

Record  
printed  
partly  
abroad.

15. Where part of the Record is printed abroad and part is to be printed or duplicated in England, Rules 13 and 14 shall, as far as practicable, apply to such parts as are printed abroad and such as are to be printed or duplicated in England respectively.

Reasons for  
judgments to  
be included.

16. The reasons given by the judge, or any of the judges, for or against any judgment pronounced in the course of the proceedings out of which the Appeal arises, shall by such judge or judges be communicated in writing to the Registrar and shall be included in the Record.

17. The Registrar, as well as the parties and their Agents, shall endeavour to exclude from the Record all documents (more particularly such as are merely formal) that are not relevant to the subject-matter of the Appeal, and, generally, to reduce the bulk of the Record as far as practicable, taking special care to avoid the unnecessary repetition of documents and headings and other merely formal parts of documents; but the documents omitted to be printed or copied shall be enumerated in a typewritten list to be transmitted with the Record.

Exclusion of unnecessary documents from Record.

18. Where in the course of the preparation of a Record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant, and the other party nevertheless insists upon its being included, the Record, as finally printed abroad or printed or duplicated in England, shall, with a view to the subsequent adjustment of the costs of and incidental to such documents, indicate, in the index of papers, or otherwise, the fact that, and the party by whom, the inclusion of the document was objected to.

Documents objected to to be indicated.

19. As soon as the Record is received in the Registry of the Privy Council, it shall be registered in the said Registry, with the date of arrival, the names of the parties, and the description whether "printed" or "written". A Record, or any part of a Record, not printed in accordance with the Rules contained in Schedule A hereto shall be treated as written. Appeals shall be numbered consecutively in each year in the order in which the Records are received in the said Registry.

Registration and numbering of Records.

20. The parties shall be entitled to inspect the Record and to extract all necessary particulars therefrom for the purpose of entering an Appearance.

Inspection of Record by parties.

21. The Appellant shall enter an Appearance before taking any step in the prosecution of the Appeal, and after entering such Appearance, shall forthwith give notice thereof to the Respondent, if the latter has entered an Appearance.

Appearance by Appellant.

22. Where the Record arrives in England either wholly written, or partly written and partly printed, the Appellant shall, within a period of two months from the date of such arrival, enter an Appearance and bespeak a typewritten copy of the Record, or of such parts thereof as it may be necessary to have copied, and

Times within which a copy of a written Record shall be bespoken.

shall engage to pay the cost of preparing such copy at the current rate; and shall also engage to pay at such price as shall be fixed by the Registrar of the Privy Council the cost of printing or duplicating at least forty copies thereof.

Preparation of copy of Record for printing or duplication.

23. As soon as the Appellant has obtained the typewritten copy of the Record bespoken by him, he shall proceed, with due diligence, to arrange the documents in suitable order, to check the index, to insert marginal notes and check the same with the index, and, generally, to do whatever may be required for the purpose of preparing the copy for printing or duplication in accordance with the Rules contained in Schedule A hereto, and shall, if the Respondent has entered an Appearance, submit the copy, as prepared for printing or duplication, to the Respondent for his approval. In the event of the parties being unable to agree, the matter shall be referred to the Registrar of the Privy Council who, if he thinks fit, may require the parties to attend before Judicial Committee for directions.

Lodging copy of Record for printing or duplicating.

24. As soon as the typewritten copy of the Record is ready, the Appellant shall lodge it in the Registry of the Privy Council for printing or duplication by a person or firm selected by the Registrar of the Privy Council, and at the same time shall lodge the amount of the estimated cost of printing or duplicating the Record.

Special Case.

25. Whenever it shall be found that the decision of a matter on appeal is likely to turn exclusively on a question of law, the parties, with the sanction of the Registrar of the Privy Council, may submit such question of law to the Judicial Committee in the form of a Special Case, and print or duplicate such parts only of the Record as may be necessary for the discussion of the same: Provided that nothing herein contained shall in any way prevent the Judicial Committee from ordering the full discussion of the whole case, if they shall so think fit, and that, in order to promote such arrangements and simplification of the matter in dispute, the said Registrar may call the parties before him, and having heard them, and examined the Record, may report to the Judicial Committee as to the nature of the proceedings.

Examination of proof of Record and striking off copies.

26. The Registrar of the Privy Council shall, as soon as the proofs of the Record are ready, give notice to all parties who have entered an Appearance requesting them to attend at the Registry of the Privy Council at a time to be named in such notice in order

to examine the said proofs and compare the same with the certified Record, and shall, for that purpose, furnish each of the said parties with one proof. After the examination has been completed, the Appellant shall, without delay, lodge his proof, duly corrected and (so far as necessary) approved by the Respondent, and the Registrar of the Privy Council shall thereupon cause the copies of the Record to be struck off from such proof.

27. Each party who has entered an Appearance shall be entitled to receive, for his own use, six copies of the Record.

Number of copies of Record for parties.

28. Subject to any special direction from the Judicial Committee to the contrary, the costs of and incidental to the printing or duplicating of the Record shall form part of the costs of the Appeal, but the costs of and incidental to the printing or duplicating of any document objected to by one party, in accordance with Rule 18, shall, if such document is found on the taxation of costs to be unnecessary or irrelevant, be disallowed to, or borne by, the party insisting on including the same in the Record.

How costs of printing or duplicating Record are to be borne.

#### *Petition of Appeal*

29. The Appellant shall lodge his Petition of Appeal—

(a) Where the Record arrives in England printed, within a period of two months from the date of such arrival;

(b) Where the Record arrives in England written, within a period of one month from the date of the completion of the printing or duplicating thereof:

Times within which Petition shall be lodged.

Provided that nothing in this Rule contained shall preclude the Appellant from lodging his Petition of Appeal prior to the arrival of the Record, or the completion of the printing or duplicating thereof, if there are special reasons why, in the opinion of the Registrar of the Privy Council, it should be desirable for him to do so.

30. The Petition of Appeal shall be lodged in the form prescribed by Rule 47 hereinafter contained. It shall recite succinctly and, as far as possible, in chronological order, the principal steps in the proceedings leading up to the Appeal from the commencement thereof down to the admission of the Appeal, but shall not contain argumentative matter or travel into the merits of the case.

Form of Petition.

Service of  
Petition.

31. The Appellant shall, after lodging his Petition of Appeal, serve a copy thereof without delay on the Respondent, as soon as the latter has entered an Appearance, and shall endorse such copy with the date of the lodgment.

#### *Withdrawal of Appeal*

Withdrawal  
of Appeal  
before  
Petition of  
Appeal has  
been lodged.

32. Where an Appellant, who has not lodged his Petition of Appeal, desires to withdraw his Appeal, he shall give notice in writing to that effect to the Registrar of the Privy Council, and the said Registrar shall, with all convenient speed after the receipt of such notice, by letter notify the Registrar of the Court appealed from that the Appeal has been withdrawn, and the said Appeal shall thereupon stand dismissed as from the date of the said letter without further Order.

Withdrawal  
of appeal  
after  
Petition of  
Appeal has  
been lodged.

33. Where an Appellant, who has lodged his Petition of Appeal, desires to withdraw his Appeal, he shall present a Petition to that effect to Her Majesty in Council. On the hearing of any such Petition a Respondent who has entered an Appearance in the Appeal shall, subject to any agreement between him and the Appellant to the contrary, be entitled to apply to the Judicial Committee for his costs, but where the Respondent has not entered an Appearance, or, having entered an Appearance, consents in writing to the prayer of the Petition, the Petition may, if the Judicial Committee think fit, be disposed of in the same way *mutatis mutandis* as a Consent Petition under the provisions of Rule 56 hereinafter contained.

Dismissal of  
Appeal  
where  
Appellant  
takes no  
step in  
prosecution  
thereof.

34. Where an Appellant takes no step in prosecution of his Appeal within a period of two months from the date of the arrival of the Record in England, the Registrar of the Privy Council shall, with all convenient speed, by letter notify the Registrar of the Court appealed from that the Appeal has not been prosecuted, and the Appeal shall thereupon stand dismissed for non-prosecution as from the date of the said letter without further Order, and a copy of the said letter shall be sent by the Registrar of the Privy Council to any Respondent who has entered an Appearance in the Appeal.

35. Where an Appellant who has entered an Appearance—
- (a) fails to bespeak a copy of a written Record, or of part of a written Record, in accordance with, and within the period prescribed by, Rule 22; or
  - (b) having bespoken such copy within the period prescribed by Rule 22, fails thereafter to proceed with due diligence to take all such further steps as may be necessary for the purpose of completing the printing or duplication of the said Record; or
  - (c) fails to lodge his Petition of Appeal within the periods respectively prescribed by Rule 29;

Dismissal of Appeal for non-prosecution after Appellant's Appearance and before lodgment of Petition of Appeal.

the Registrar of the Privy Council shall call upon the Appellant to explain his default, and, if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar, insufficient, the said Registrar shall, with all convenient speed, by letter notify the Registrar of the Court appealed from that the Appeal has not been effectively prosecuted, and the Appeal shall thereupon stand dismissed for non-prosecution as from the date of the said letter without further Order, and a copy of the said letter shall be sent by the Registrar of the Privy Council to all the parties who have entered an Appearance in the Appeal.

36. Where an Appellant, who has lodged his Petition of Appeal, fails thereafter to prosecute his Appeal with due diligence, the Registrar of the Privy Council shall call upon him to explain his default, and, if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar, insufficient, the said Registrar shall issue a Summons to the Appellant calling upon him to show cause before the Judicial Committee at a time to be named in the said Summons why the Appeal should not be dismissed for non-prosecution: Provided that no such Summons shall be issued by the said Registrar before the expiration of one year from the date of the arrival of the Record in England. If the Respondent has entered an Appearance in the Appeal, the Registrar of the Privy Council shall send him a copy of the said Summons, and the Respondent shall be entitled to be heard before the Judicial Committee in the matter of the said Summons at the time named and to ask for his costs and such other relief as he may be advised. The Judicial Committee may, after considering the matter of the said Summons, recommend to Her Majesty the dismissal of the Appeal for non-prosecution, or give such other directions therein as the justice of the case may require.

Dismissal of Appeal for non-prosecution after lodgment of Petition of Appeal.

Restoring an Appeal dismissed for non-prosecution. **37.** An appellant whose Appeal has been dismissed for non-prosecution may present a Petition to Her Majesty in Council praying that his Appeal may be restored.

*Appearance by Respondent*

Time within which Respondent may appear. **38.** The Respondent may enter an Appearance at any time between the arrival of the Record and the hearing of the Appeal, but if he unduly delays entering an Appearance he shall bear, or be disallowed, the costs occasioned by such delay, unless the Judicial Committee otherwise direct.

Notice of Appearance by Respondent. **39.** The Respondent shall forthwith after entering an Appearance give notice thereof to the Appellant, if the latter has entered an Appearance.

Form of Appearance where all the Respondents do not appear. **40.** Where there are two or more Respondents, and only one, or some, of them enter an Appearance, the Appearance Form shall set out the names of the appearing Respondents.

Separate Appearances. **41.** Two or more Respondents may, at their own risk as to costs, enter separate Appearances in the same Appeal.

Non-appearing Respondent not entitled to receive notices or lodge Case. **42.** A Respondent who has not entered an Appearance shall not be entitled to receive any notices relating to the Appeal from the Registrar of the Privy Council, nor be allowed to lodge a Case in the Appeal.

Procedure on non-appearance of Respondent. **43.** Where a Respondent fails to enter an Appearance in an Appeal, the following Rules shall, subject to any special Order of the Judicial Committee to the contrary, apply—

- (a) If the non-appearing Respondent was a Respondent at the time when the Appeal was admitted, whether by the Order of the Court appealed from or by an Order of Her Majesty in Council giving the Appellant special leave to appeal, and it appears from the terms of the said Order, or Order in Council, or otherwise from the Record, or from a Certificate of the Registrar of the Court appealed from, that the said non-appearing Respondent has received notice, or was otherwise aware, of the Order of the Court appealed from admitting the Appeal, or of the Order of

Her Majesty in Council giving the Appellant special leave to appeal, and has also received notice, or was otherwise aware, of the dispatch of the Record to England, the appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing Respondent at any time after the expiration of two months from the date of the lodging of the Petition of Appeal;

- (b) if the non-appearing Respondent was made a Respondent by an Order of Her Majesty in Council subsequently to the admission of the Appeal, and it appears from the Record, or from a Supplementary Record, or from a Certificate of the Registrar of the Court appealed from, that the said non-appearing Respondent has received notice, or was otherwise aware, of any intended application to bring him on the record as a Respondent, the Appeal may, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the said non-appearing Respondent at any time after the expiration of two months from the date on which he shall have been served with a copy of Her Majesty's Order in Council bringing him on the Record as a Respondent:

Provided that where it is shown to the satisfaction of the Registrar of the Privy Council, by Affidavit or otherwise, either that an Appellant has made every reasonable endeavour to serve a non-appearing Respondent with the notices mentioned in clause (a) and (b) respectively and has failed to effect such service, or that it is not the intention of the non-appearing Respondent to enter an Appearance to the Appeal, the Appeal may, without further Order in that behalf and at the risk of the Appellant, be proceeded with *ex parte* as against the said non-appearing Respondent.

44. A Respondent who desires to defend an Appeal *in forma pauperis* may present a Petition to that effect to Her Majesty in Council, which Petition shall be accompanied by an Affidavit from him stating that he is not worth £100 in the world excepting his wearing apparel and his interest in the subject-matter of the Appeal.

Respondent  
defending  
Appeal *in  
forma  
pauperis*.

*Petitions generally*

Mode of  
addressing  
Petitions.

45. All Petitions for orders or directions as to matters of practice or procedure arising after the lodging of the Petition of Appeal and not involving any change in the parties to an Appeal shall be addressed to the Judicial Committee. All other Petitions shall be addressed to Her Majesty in Council, but a Petition which is properly addressed to Her Majesty in Council may include, as incidental to the relief thereby sought, a prayer for orders or directions as to matters of practice or procedure.

Orders on  
Petitions  
which need  
not be drawn  
up.

46. Where an Order made by the Judicial Committee does not embody any special terms or include any special directions, it shall not be necessary to draw up such Order, unless the Committee otherwise direct, but a Note thereof shall be made by the Registrar of the Privy Council.

Form of  
Petition  
and number  
of copies to  
be lodged.

47. All Petitions shall consist of paragraphs numbered consecutively and shall be written, typewritten, or lithographed, on paper with quarter margin and endorsed with the name of the Court appealed from, the full title and Privy Council number of the Appeal to which the Petition relates or the full title of the Petition (as the case may be), and the name and address of the London Agent (if any) of the Petitioner, but need not be signed, except as provided by Rule 3. Unless the Petition is a Consent Petition within the meaning of Rule 56 at least six copies thereof shall be lodged.

Caveat.

48. Where a Petition is expected to be lodged, or has been lodged, which does not relate to any pending Appeal of which the Record has been registered in the Registry of the Privy Council, any person claiming a right to appear before the Judicial Committee on the hearing of such Petition may lodge a Caveat in the matter thereof, and shall thereupon be entitled to receive from the Registrar of the Privy Council notice of the lodging of the Petition, if at the time of the lodging of the Caveat such Petition has not yet been lodged, and, if and when the Petition has been lodged, to require the Petitioner to serve him with a copy of the Petition, and to furnish him, at his own expense, with copies of any paper lodged by the Petitioner in support of his Petition. The Caveator shall forthwith after lodging his Caveat give notice thereof to the Petitioner, if the Petition has been lodged.

49. Where a Petition is lodged in the matter of any pending Appeal of which the Record has been registered in the Registry of the Privy Council, the Petitioner shall serve any party who has entered an Appearance in the Appeal with a copy of such Petition, and the party so served shall thereupon be entitled to require the Petitioner to furnish him, at his own expense, with copies of any papers lodged by the Petitioner in support of his Petition.

Service of  
Petition.

50. A Petition not relating to any Appeal of which the Record has been registered in the Registry of the Privy Council, and any other Petition containing allegations of fact which cannot be verified by reference to the registered Record or any certificate or duly authenticated statement of the Court appealed from, shall be supported by Affidavit. Where the Petitioner prosecutes his Petition in person, the said Affidavit shall be sworn by the Petitioner himself and shall state that, to the best of the deponent's knowledge, information, and belief, the allegations contained in the Petition are true. Where the Petitioner is represented by an Agent, the said Affidavit shall be sworn by such Agent and shall, besides stating that, to the best of the deponent's knowledge, information, and belief, the allegations contained in the Petition are true, show how the deponent obtained his instructions and the information enabling him to present the Petition.

Verifying  
Petition by  
Affidavit.

51. A Petition for an Order of Revivor of Substitution shall be accompanied by a certificate or duly authenticated statement from the Court appealed from showing who, in the opinion of the said Court, is the proper person to be substituted, or entered, on the Record in place of, or in addition to, a party who has died or undergone a change of status.

Petition for  
Order of  
Revivor or  
Substitution.

52. The Registrar of the Privy Council may refuse to receive a Petition on the grounds that it discloses no reasonable cause of appeal, or is frivolous or contains scandalous matter or fails to comply with the provisions of Rule 3, but the Petitioner may appeal, by way of motion, from such refusal to the Judicial Committee.

Petition  
disclosing no  
reasonable  
cause of  
appeal or  
containing  
scandalous  
matter to be  
refused.

53. As soon as a Petition and all necessary documents are lodged the Petition shall thereupon be deemed to be set down.

Setting down  
Petition.

Times within which set-down Petitions shall be heard.

54. On each day appointed by the Judicial Committee for the hearing of Petitions the Registrar of the Privy Council shall, unless the Committee otherwise directs, put in the paper for hearing all such Petitions as have been set down: Provided that, in the absence of special circumstances of urgency to be shown to the satisfaction of the said Registrar, no Petition, if opposed, shall be put in the paper for hearing before the expiration of ten clear days from the lodging thereof, unless the Opponent consents to the Petition being put in the paper on an earlier day.

Notice to parties of day fixed for hearing Petition.

55. Subject to the provisions of the next following Rule, the Registrar of the Privy Council shall, as soon as the Judicial Committee have appointed a day for the hearing of a Petition, notify all parties concerned by Summons of the day so appointed.

Procedure where Petition is consented to or is formal.

56. Where the prayer of a Petition is consented to in writing by the opposite party, or where a Petition is of a formal and non-contentious character, the Judicial Committee may, if they think fit, make their Report to Her Majesty on such Petition, or make their Order thereon, as the case may be, without requiring the attendance of the parties in the Council Chamber, and the Registrar of the Privy Council shall not in any such case issue the Summons provided for by the last-preceding Rule, but shall with all convenient speed after the Committee have made their Report or Order notify the parties that the Report or Order has been made and of the date and nature of such Report or Order.

Withdrawal of Petition.

57. A Petitioner who desires to withdraw his Petition shall give notice in writing to that effect to the Registrar of the Privy Council. Where the Petition is opposed, the Opponent shall, subject to any agreement between the parties to the contrary, be entitled to apply to the Judicial Committee for his costs, but where the Petition is unopposed, or where, in the case of an opposed Petition, the parties have come to an agreement as to the costs of the Petition, the Petition may, if the Judicial Committee think fit, be disposed of in the same way *mutatis mutandis* as a Consent Petition under the provisions of the last-preceding Rule.

Procedure where hearing of Petition unduly delayed.

58. Where a Petitioner unduly delays bringing a Petition to a hearing, the Registrar of the Privy Council shall call upon him to explain the delay, and if no explanation is offered, or if the explanation offered is, in the opinion of the said Registrar, insufficient, the said Registrar may, after notifying all parties

interested by Summons of his intention to do so, put the Petition in the paper for hearing on the next following day appointed by the Judicial Committee for the hearing of Petitions for such directions as the Committee may think fit to give thereon.

59. At the hearing of a Petition not more than one Counsel shall be admitted to be heard on a side.

Only one Counsel heard on a side in Petitions.

Case

60. No party to an Appeal shall be entitled to be heard by the Judicial Committee unless he has previously lodged his Case in the Appeal: Provided that where a Respondent who has entered an Appearance does not desire to lodge a Case in the Appeal, he may give the Registrar of the Privy Council notice in writing of his intention not to lodge any Case, while reserving his right to address the Judicial Committee on the question of costs.

Lodging of Case.

61.—(a) The Case may be printed either abroad or in England and shall, in either event, be printed in accordance with Rules I to III contained in Schedule A hereto.

Printing or duplicating of Case.

(b) When the Case is not printed abroad it shall, unless the parties agree to its being printed in England, be duplicated by a process approved by the Registrar of the Privy Council.

(c) Whether the Case is printed or duplicated every tenth line thereof shall be numbered in the margin and it shall be signed by at least one of the Counsel who attends at the hearing of the Appeal or by the party himself if he conducts his Appeal in person.

62. Each party shall lodge thirty copies of his Case either printed or duplicated.

Number of copies to be lodged.

63. The Case shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the Appeal arises, the contentions to be urged by the party lodging the same, and the reasons of appeal. References by page and line to the relevant portions of the Record as printed or duplicated shall, as far as practicable, be printed or duplicated in the margin, and care shall be taken to avoid, as far as possible, the reproduction in the Case of long extracts from the Record. The Taxing Officer, in taxing the costs of the Appeal, shall either of his own motion, or at the instance of the opposite party, inquire into any unnecessary prolixity in the Case, and shall disallow the costs occasioned thereby.

Form of Case.

Separate  
Cases by  
two or more  
Respondents.

64. Two or more Respondents may, at their own risk as to costs, lodge separate Cases in the same Appeal.

Notice of  
lodgment  
of Case.

65. Each party shall, after lodging his Case, forthwith give notice thereof to the other party.

Case Notice.

66. Subject as hereinafter provided, the party who lodges his Case first may, at any time after the expiration of three clear days from the day on which he has given the other party the notice prescribed by the last-preceding Rule, serve such other party, if the latter has not in the meantime lodged his Case, with a "Case Notice," requiring him to lodge his Case within one month from the date of the service of the said Case Notice and informing him that, in default of his so doing, the Appeal will be set down for hearing *ex parte* as against him, and if the other party fails to comply with the said Case Notice, the party who has lodged his Case may, at any time after the expiration of the time limited by the said Case Notice for the lodging of the Case, lodge an Affidavit of Service (which shall set out the terms of the said Case Notice), and the Appeal shall thereupon, if all other conditions of its being set down are satisfied, be set down *ex parte* as against the party in default: Provided that no Case Notice shall be served until after the completion of the printing or duplication, or re-arrangement under Rule 12, of the Record, and also that nothing in this Rule contained shall preclude the party in default from lodging his Case, at his own risk as regards costs and otherwise, at any time up to the date of hearing.

Setting down  
Appeal and  
exchanging  
Cases.

67. Subject to the provisions of Rule 43 and of the last-preceding Rule, an Appeal shall be set down *ipso facto* as soon as the Cases on both sides are lodged, and the parties shall thereupon exchange Cases by handing one another, either at the Offices of one of the Agents or in the Registry of the Privy Council, ten copies of their respective Cases.

#### *Binding Records, etc.*

Mode of  
binding  
Records, etc.,  
for use of  
Judicial  
Committee.

68. As soon as an Appeal is set down, the Appellant shall attend at the Registry of the Privy Council and obtain seven copies of the Record and Cases to be bound for the use of the Judicial Committee at the hearing. The copies shall be bound in cloth with paper sides. The front cover shall bear a label stating the title and Privy Council number of the Appeal, the contents of the volume, and the names and addresses of the London

Agents. The several documents, indicated by incuts, shall be arranged in the following order: (1) Appellant's Case; (2) Respondent's Case; (3) Record (if in more than one part, showing the separate parts by incuts, all parts being paged at the top of the page); (4) Supplemental Record (if any); and the short title and Privy Council number of the Appeal shall also be shown on the back.

69. The Appellant shall lodge the bound copies not less than four clear days before the commencement of the Sittings during which the Appeal is to be heard.

Time within which bound copies shall be lodged.

*Hearing*

70. The Registrar of the Privy Council shall name a day on or before which Appeals must be set down if they are to be entered in the List of Business for the ensuing Sittings. All Appeals set down on or before the day named shall, subject to any directions from the Committee or to any agreement between the parties to the contrary, be entered in such List of Business and shall, subject to any directions from the Committee to the contrary, be heard in the order in which they are set down.

Notice of day on or before which Appeals must be set down for ensuing Sittings.

71. The Registrar of the Privy Council shall, subject to the provisions of Rule 42, notify the parties to each Appeal by Summons, at the earliest possible date, of the day appointed by the Judicial Committee for the hearing of the Appeal, and the parties shall be in readiness to be heard on the day so appointed.

Notice to parties of day fixed for hearing Appeal.

72. At the hearing of an Appeal not more than two Counsel shall be admitted to be heard on a side.

Only two Counsel heard on a side in Appeals.

73. In Admiralty Appeals the Judicial Committee may, if they think fit, require the attendance of two Nautical Assessors.

Nautical Assessors.

*Judgment*

74. Where the Judicial Committee, after hearing an Appeal, decide to reserve their Judgment thereon, the Registrar of the Privy Council shall in due course notify the parties by Summons of the day appointed by the Committee for the delivery of the Judgment.

Notice to parties of day fixed for delivery of Judgment.

*Costs*

Taxation  
of costs.

**75.** All Bills of Costs under the Orders of the Judicial Committee on Appeals, Petitions, and other matters, shall be referred to the Registrar of the Privy Council, or such other person as the Judicial Committee may appoint, for taxation, and all such taxations shall be regulated by the Schedule of Fees set forth in Schedule B hereto.

What costs  
taxed in  
England.

**76.** The taxation of costs in England shall be limited to costs incurred in England.

Order to tax.

**77.** The Registrar of the Privy Council shall, with all convenient speed after the Judicial Committee have given their decision as to the costs of an Appeal, Petition, or other matter, issue to the party to whom costs have been awarded an Order to tax and a Notice specifying the day and hour appointed by him for taxation. The party receiving such Order to tax and Notice shall, not less than 48 hours before the time appointed for taxation, lodge his Bill of Costs (together with all necessary vouchers for disbursements), and serve the opposite party with a copy of his Bill of Costs and of the Order to tax and Notice.

Power of  
Taxing  
Officer where  
taxation  
delayed  
through the  
fault of the  
party whose  
costs are to  
be taxed.

**78.** The Taxing Officer may, if he think fit, disallow to any party who fails to lodge his Bill of Costs (together with all necessary vouchers for disbursements) within the time prescribed by the last-preceding Rule, or who in any way delays or impedes a taxation, the charges to which such party would otherwise be entitled for drawing his Bill of Costs and attending the taxation.

Appeal from  
decision of  
Taxing  
Officer.

**79.** Any party aggrieved by a taxation may appeal from the decision of the Taxing Officer to the Judicial Committee. The Appeal shall be heard by way of motion, and the party appealing shall give three clear days' Notice to Motion to the opposite party, and shall also leave a copy of such Notice in the Registry of the Privy Council.

Amount of  
taxed costs  
to be in-  
serted in Her  
Majesty's  
Order in  
Council.

**80.** The amount allowed by the Taxing Officer on the taxation shall, subject to any appeal from his taxation to the Judicial Committee and subject to any direction from the Committee to the contrary, be inserted in Her Majesty's Order in Council determining the Appeal or Petition.

81. Where the Judicial Committee directs costs to be taxed on the pauper scale, the Taxing Officer shall not allow any fees of Counsel, and shall only award to the Agents out-of-pocket expenses and a reasonable allowance to cover office expenses, such allowance to be taken at about three-eighths of the usual professional charges in ordinary Appeals. Such pauper scale shall apply to and include the application upon which leave to appeal in *forma pauperis* was granted.

Taxation on the pauper scale.

82. Where the Appellant has lodged security for the Respondent's costs of an Appeal in the Registry of the Privy Council, the Registrar of the Privy Council shall deal with such security in accordance with the directions contained in Her Majesty's Order in Council determining the Appeal.

Security to be dealt with as Her Majesty's Order in Council determining Appeal directs.

#### Miscellaneous

83. The Judicial Committee may, for sufficient cause shown, excuse the parties from compliance with any of the requirements of these Rules, and may give such directions in matters of practice and procedure as they shall consider just and expedient. Applications to be excused from compliance with the requirements of any of these Rules shall be addressed in the first instance to the Registrar of the Privy Council, who shall take the instructions of the Committee thereon and communicate the same to the parties. If, in the opinion of the said Registrar, it is desirable that the application should be dealt with by the Committee in open Court, he may direct the party applying to lodge in the Registry of the Privy Council, and to serve the opposite party with a Notice of Motion returnable before the Committee.

Power of Judicial Committee to excuse from compliance with Rules.

84. Any document lodged in connection with an Appeal, Petition, or other matter pending before Her Majesty in Council or the Judicial Committee, may be amended by leave of the Registrar of the Privy Council, but if the said Registrar is of opinion that an application for leave to amend should be dealt with by the Committee in open Court, he may direct the party applying to lodge in the Registry of the Privy Council, and to serve the opposite party with, a Notice of Motion returnable before the Committee.

Amendment of documents.

85. Affidavits relating to any Appeal, Petition, or other matter pending before Her Majesty in Council or the Judicial Committee may be sworn before the Registrar of the Privy Council.

Affidavits may be sworn before the Registrar of the Privy Council.

Change of  
Agent.

86. Where a party to an Appeal, Petition, or other matter pending before Her Majesty in Council changes his Agent, such party, or the new Agent, shall forthwith give the Registrar of the Privy Council and the outgoing Agent notice in writing of the change, and shall amend the Appearance accordingly. Until such notices are given the former Agent shall be considered the Agent of the party until the final conclusion of the Appeal, Petition, or other matter.

Scope of  
application  
of Rules.

87. Subject to the provisions of any Statute or of any Statutory Rule or Order to the contrary, these Rules shall apply to all matters falling within the Appellate Jurisdiction of Her Majesty in Council.

Mode of  
citation.

88. These Rules may be cited as the Judicial Committee Rules, 1957.

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#### SCHEDULE A

(RULE 12)

##### *Rules as to Printing and Duplicating*

I. All Records and other proceedings in Appeals or other matters pending before Her Majesty in Council or the Judicial Committee which are required by the above Rules to be printed shall be printed in the form known as Demy Quarto.

II. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and  $8\frac{1}{2}$  inches in width.

III. The type to be used in the text shall be Pica type, but Long Primer shall be used in printing accounts, tabular matter, and notes. The number of lines in each page of Pica type shall be 47 or thereabouts, and every tenth line shall be numbered in the margin.

IV. Records shall be arranged in two parts in the same volume, where practicable, *viz.*:—

Part I. The pleadings and proceedings, the transcript of the evidence of the witnesses, the Judgments, Decrees, etc, of the Courts below down to the Order admitting the Appeal.

Part II. The exhibits and documents.

V. The Index to Part I shall be in chronological order, and shall be placed at the beginning of the volume.

The Index to Part II shall follow the order of the exhibit mark, and shall be placed immediately after the Index to Part I.

VI. Part I shall be arranged strictly in chronological order, *i.e.*, in the same order as the index.

Part II shall be arranged in the most convenient way for the use of the Judicial Committee, as the circumstances of the case require. The documents shall be as far as suitable in chronological order, mixing Plaintiff's and Defendant's documents together when necessary. Each document shall show its exhibit mark, and whether it is a Plaintiff's or Defendant's document (unless this is clear from the exhibit mark) and in all cases documents relating to the same matter, such as—

- (a) a series of correspondence, or
- (b) proceedings in a suit other than the one under appeal,

shall be kept together. The order in the Record of the documents in Part II will probably be different from the order of the Index, and the proper page number of each document shall be inserted in the Index.

The parties will be responsible for arranging the Record in proper order for the Judicial Committee, and in difficult cases Counsel may be asked to settle it.

VII. The documents in Part I shall be numbered consecutively.

The documents in Part II shall not be numbered, apart from the exhibit mark.

VIII. Each document shall have a heading which shall consist of the number or exhibit mark and the description of the document in the Index, without the date.

IX. Each document shall have a marginal note which shall be repeated on each page over which the document extends, *viz.*:—

#### Part I

(a) Where the case has been before more than one Court, the short name of the Court shall first appear. Where the case has been before only one Court, the name of the Court need not appear.

(b) The marginal note of the document shall then appear consisting of the number and the description of the document in the Index, with the date, except in the case of oral evidence.

(c) In the case of oral evidence, "Plaintiff's evidence" or "Defendant's evidence" shall appear beneath the name of the Court, and then the marginal note consisting of the number in the Index and the witness's name, with "examination," "cross-examination," "re-examination," as the case may be.

#### Part II

The word "Exhibits" shall first appear.

The marginal note of the exhibit shall then appear consisting of the exhibit mark and the description of the document in the Index, with the date.

X. The parties shall agree to the omission of formal and irrelevant documents, but the description of the document may appear (both in the Index and in the Record), if desired, with the words "not printed" or "not duplicated" against it.

A long series of documents, such as accounts, rent rolls, inventories, etc., shall not be printed or duplicated in full, unless Counsel so advise, but the parties shall agree to short extracts being printed or duplicated as specimens.

XI. In cases where maps sent from abroad are of an inconvenient size or unsuitable in character, the Appellant shall, in agreement with the Respondent, prepare in England, from the materials sent from abroad, maps drawn properly to scale and of reasonable size, showing as far as possible, the claims of the respective parties, in different colours.

SCHEDULE B

(RULE 75)

I.

FEES ALLOWED TO AGENTS CONDUCTING APPEALS OR OTHER MATTERS  
BEFORE THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

*(50 per cent is added to these fees)*

	£	s	d
Retainer fee ... ..	0	13	4
Drawing Appearance or Caveat ... ..	0	5	0
Perusing printed Record, for every printed sheet of 8 pages ...	1	1	0
Perusing written Record, for every 25 folios ... ..	0	6	8
Drawing Index ... .. per folio	0	2	0
Drawing Marginal Notes and Headings ... .. per folio	0	0	6
Attending at the Registry to examine proof of Record with the certified Record ... .. per day	3	3	0
per half-day	1	11	6
Correcting revised print of Record, per sheet of 8 pages ...	0	10	6
Correcting revised duplicated copy of Record, per sheet of 10 pages ... ..	0	10	6
Instruction for Petition or Motion, or to Oppose ... ..	0	10	0
Instructions for Petition of Appeal ... ..	0	10	0
Instructions for Case ... ..	1	0	0
Drawing Petition, Motion, Case or Affidavit ... .. per folio	0	2	0
Copying Petition, Motion, Case or Affidavit ... .. per folio	0	0	6
Correcting proof of printed Case, per sheet of 8 pages ...	0	10	6
Correcting proof of duplicated copy of Case per sheet of 10 pages ... ..	0	10	6
Drawing and fair copy, Case Notice ... ..	0	10	0
Perusing Petition, Motion, or Affidavit ... .. per folio	0	2	0
Perusing Petition of Appeal ... ..	1	1	0
Perusing Case, per printed sheet of 8 pages ... ..	1	1	0
Perusing Case, per duplicated sheet of 10 pages ... ..	1	1	0
Instructions for and preparing Retainer to Counsel ... ..	0	10	0

*SCHEDULE B—contd.*

	£	s	d
Instructions to Counsel to argue an Appeal ... ..	1	0	0
Instructions to Counsel to argue a Petition or Motion ...	0	10	0
Instruction to printer ... ..	0	10	0
Attending Consultation ... ..	1	0	0
Attending at the Council Chamber for the hearing of a Petition or Motion ... ..	1	6	8
Attending at the Council Chamber all day on an Appeal not called on ... ..	2	6	8
Attending the hearing of an Appeal ... .. per day	3	6	8
Attending a Judgment ... ..	1	6	8
Approving draft Order ... ..	0	10	0
Attendances generally ... ..	0	10	0
Attendances on Counsel where fee is 30 guineas or over ...	1	0	0
Drawing Bill of Costs ... .. per folio	0	1	0
Copying Bill of Costs ... .. per folio	0	0	6
Attending Taxation of Costs of an Appeal ... ..	2	2	0
Attending Taxation of Costs of a Petition or Motion ...	1	1	0
Sessions Fee for each year or part of a year from the date of appearance (in Appeals only) ... ..	3	3	0
Letters, etc. (in Petitions) ... ..	1	1	0
Letters, etc. (in Appeals) for 1st year ... ..	2	2	0
For each following year ... ..	1	1	0

*Council Office Fees*

Entering Appearance ... ..	1	5	0
Amending Appearance ... ..	0	12	6
Examining proof of Record with the certified record at the Registry (chargeable to Appellant only) ... .. per day	2	10	0
per half-day	1	5	0
Lodging Petition of Appeal ... ..	3	15	0
Lodging Petition for special leave to appeal ... ..	2	10	0
Lodging any other Petition or Motion ... ..	1	5	0
Lodging Case or Notice under Rule 60 ... ..	2	10	0
Setting down Appeal (chargeable to Appellant only) ...	6	5	0
Setting down Petition for special leave to appeal (chargeable to Petitioner only) ... ..	2	10	0
Setting down any other Petition (chargeable to Petitioner only) ... ..	1	5	0
Summons ... ..	1	5	0
Committee Report on Petition ... ..	2	10	0
Committee Report on Appeal ... ..	3	15	0
Original Order of Her Majesty in Council determining an Appeal ... ..	6	5	0
Any other original Order of Her Majesty in Council ...	3	15	0
Plain copy of an Order of Her Majesty in Council ... ..	0	6	6
Original Order of the Judicial Committee ... ..	2	10	0
Plain copy of Committee Order ... ..	0	6	6
Lodging Affidavit ... ..	0	12	6
Certificate delivered to parties ... ..	0	12	6
Lodging Caveat ... ..	1	5	0
Taxing Fee 6d for each pound allowed or a fraction thereof.			

## EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

These Rules revoke and replace the Judicial Committee Rules, 1925, as amended, with certain modifications. The most important changes are as follows:—

1. Provision is made for the Records and Cases to be duplicated instead of printed.
2. At present a litigant cannot proceed *in forma pauperis* unless he proves he is not worth £25 in the world. £100 is now substituted for £25.
3. (a) The Council Office fees, other than the taxing fee, are increased by 25 per cent.  
(b) The taxing fee (which at present is at the rate of  $2\frac{1}{2}$  per cent up to £300 and thereafter 1 per cent) is to be at the rate of  $2\frac{1}{2}$  per cent throughout.

## STATUTORY INSTRUMENTS

L.N. 59  
of 1956.

1955 No. 706

## JUDICIAL COMMITTEE

THE NIGERIA (APPEALS TO PRIVY COUNCIL) ORDER IN  
COUNCIL, 1955

MADE ... ..	...	6th May, 1955
LAI D BEFORE PARLIAMENT ...	...	6th May, 1955
COMING INTO OPERATION		On a day to be deter- mined under section 2 of the Order.

At the Court at Buckingham Palace, the 6th day of May, 1955

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) In this Order unless the context otherwise requires— Interpre-  
tation.

“appeal” means appeal to Her Majesty in Council; and “judgment” includes decree, order, sentence, and decision;

“the Court” means the Federal Supreme Court of Nigeria;

“Nigeria” has the meaning assigned to it by sub-section (1) of section 2 of the Nigeria (Constitution) Order in Council, 1954(b);

“record” means the aggregate of papers relating to an appeal (including the pleadings, proceedings, evidence and judgments) proper to be laid before Her Majesty in Council on the hearing of the appeal;

“registrar” means the registrar or other proper officer having custody of the records in the Court.

(2) The Interpretation Act, 1889(c), shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(a) 53 & 54 Vict. c. 37.  
(b) S.I. 1954/1146.

(c) 52 & 53 Vict. c. 63.

Citation and  
commence-  
ment.

2. This Order may be cited as the Nigeria (Appeals to Privy Council) Order in Council, 1955, and shall come into operation on the day on which the Court is deemed to assume its functions for the purposes of section 219 of the Nigeria (Constitution) Order in Council, 1954.

3.—[*Revoked by section 1 (5) of Nigeria (Constitution) Order in Council, 1960.*](d)

4.—[*Revoked by section 1 (5) of Nigeria (Constitution) Order in Council, 1960.*](d)

Conditions  
on which  
leave to  
appeal is to  
be granted.

5. Leave to appeal under section 3 of this Order shall in the first instance be granted by the Court only—

- (a) upon condition of the appellant, within a period to be fixed by the Court but not exceeding three months from the date of the hearing of the application for leave to appeal, providing good and sufficient security, to the satisfaction of the Court, in a sum not exceeding five hundred pounds sterling, for the due prosecution of the appeal and the payment of all such costs as may become payable to the respondent in the event of the appellant's not obtaining an order granting him final leave to appeal, or of Her Majesty in Council ordering the appellant to pay the respondent's costs of the appeal as the case may be; and
- (b) upon such other conditions (if any) as to the time or times within which the appellant shall take the necessary steps for the purpose of procuring the preparation of the record and the despatch thereof to England as the Court, having regard to all the circumstances of the case, may think it reasonable to impose.

Execution of  
judgment  
pending  
appeal.

6. Where the judgment appealed from requires the appellant to pay money or perform a duty, the Court shall have power, when granting leave to appeal, either to direct that the said judgment shall be carried into execution or that the execution thereof

shall be suspended pending the appeal, as to the Court shall seem just, and in case the Court shall direct the said judgment to be carried into execution, the person in whose favour it was given shall, before the execution thereof, provide good and sufficient security, to the satisfaction of the Court, for the due performance of such Order as Her Majesty in Council shall think fit to make thereon.

7. For the purpose of sections 5 and 6 of this Order a person may provide security in any manner that the Court may approve in his case, and for the avoidance of doubts it is declared that such security may with the approval of the Court consist in whole or in part of a deposit of money.

Manner of providing security.

8.—(1) The preparation of the record shall be subject to the supervision of the Court, and the parties may submit any disputed question arising in connection therewith to the decision of the Court, and the Court shall give such directions thereon as the justice of the case may require.

Preparation of record.

(2) The registrar, as well as the parties and their legal agents, shall endeavour to exclude from the record all documents (more particularly such as are merely formal) that are not relevant to the subject matter of the appeal, and generally to reduce the bulk of the record as far as practicable, taking special care to avoid the duplication of documents and the unnecessary repetition of headings and other merely formal parts of documents; but the documents omitted to be copied or printed shall be enumerated in a list to be placed after the index or at the end of the record.

(3) Where in the course of the preparation of the record one party objects to the inclusion of a document on the ground that it is unnecessary or irrelevant and the other party nevertheless insists upon its being included, the record as finally printed (whether in Nigeria or in England) shall, with a view to the subsequent adjustment of the costs of and incidental to such document, indicate in the index of papers or otherwise the fact that, and the party by whom, the inclusion of the document was objected to.

(4) The reasons given by the judges of the Court for or against any judgment pronounced in the course of the proceedings out of which the appeal arises shall be communicated by them in writing to the registrar, and shall be included in the record.

Printing of  
record.

9.—(1) The record shall be printed in accordance with the rules set forth in the Schedule to this Order. It may be so printed either in Nigeria or in England.

(2) Where the record is printed in Nigeria, the registrar shall, at the expense of the appellant transmit to the Registrar of the Privy Council forty copies of the record, one of which copies he shall certify to be correct by signing his name on, or initialling, every eighth page thereof and by affixing thereto the seal of the Court.

(3) Where the record is to be printed in England, the registrar shall, at the expense of the appellant, transmit to the Registrar of the Privy Council one certified copy of the record together with an index of all the papers and exhibits in the case. No other certified copies of the record shall be transmitted to the agents in England by or on behalf of the parties to the appeal.

(4) Where part of the record is printed in Nigeria and part is to be printed in England, sub-sections (2) and (3) of this section shall, as far as practicable, apply to such parts as are printed in Nigeria and such as are to be printed in England respectively.

Consolidation of  
appeals.

10. Where there are two or more applications for leave to appeal arising out of the same matter, and the Court is of opinion that it would be for the convenience of the Lords of the Judicial Committee and all parties concerned that the appeals should be consolidated, the Court may direct the appeals to be consolidated and grant leave to appeal by a single order.

Rescinding  
leave to  
appeal.

11. Where an appellant, having obtained an order granting him conditional leave to appeal and having complied with conditions imposed on him by such order, fails thereafter to apply with due diligence to the Court for an order granting him final leave to appeal, the Court may, on an application in that behalf made by the respondent, rescind the order granting conditional

leave to appeal notwithstanding the appellant's compliance with the conditions imposed by such order, and may give such directions as to the costs of the appeal and the security provided by the appellant as the Court shall think fit, or make such further or other order in the premises as, in the opinion of the Court, the justice of the case requires.

12.—(1) On an application for final leave to appeal the Court may inquire whether notice, or sufficient notice, of the application has been given by the appellant to parties concerned, and, if not satisfied as to the notices given, may defer the granting of the final leave to appeal, or may give such other directions in the matter as, in the opinion of the Court, the justice of the case requires.

Notice to other parties.

(2) The registrar shall, with all convenient speed, transmit to the Registrar of the Privy Council a certificate to the effect that the respondent has received notice, or is otherwise aware, of the order of the Court granting final leave to appeal and of the transmission of the record to England.

13. An appellant who has obtained final leave to appeal shall prosecute his appeal in accordance with the rules for the time being regulating the general practice and procedure in appeals to Her Majesty in Council.

Prosecution of appeal.

14.—(1) An appellant who has obtained an order granting him conditional leave to appeal may at any time prior to the making of an order granting him final leave to appeal withdraw his appeal on such terms as to costs and otherwise as the Court may direct.

Withdrawal of appeal.

(2) Where an appellant, having obtained final leave to appeal desires, prior to the despatch of the record to England, to withdraw his appeal, the Court may, upon an application in that behalf made by the appellant, grant him a certificate to the effect that the appeal has been withdrawn, and the appeal shall thereupon be deemed, as from the date of such certificate, to stand dismissed without express Order of Her Majesty in Council, and the costs of the appeal and the security entered into by the appellant shall be dealt with in such manner as the Court may think fit to direct.

Dismissal  
for non-  
prosecution.

15. Where an appellant, having obtained final leave to appeal, fails to show due diligence in taking all necessary steps for the purpose of procuring the despatch of the record to England, the respondent may, after giving the appellant due notice of his intended application, apply to the Court for a certificate that the appeal has not been effectually prosecuted by the appellant, and if the Court sees fit to grant such a certificate the appeal shall be deemed, as from the date of such certificate, to stand dismissed for non-prosecution without express Order of Her Majesty in Council, and the costs of the appeal and the security provided by the appellant shall be dealt with in such manner as the Court may think fit to direct.

Substitution  
of parties.

16. (1) Where at any time between the order granting final leave to appeal and the despatch of the record to England the record becomes defective by reason of the death or change of status of a party to the appeal, the Court may, notwithstanding the order granting final leave to appeal, on an application in that behalf made by any person interested, grant a certificate showing who, in the opinion of the Court, is the proper person to be substituted or entered on the record in place of, or in addition to, the party who has died or undergone a change of status, and the name of such person shall thereupon be deemed to be so substituted or entered on the record as aforesaid without express Order of Her Majesty in Council.

(2) Where the record subsequently to its despatch to England becomes defective by reason of the death or change of status of a party to the appeal, the Court shall, upon an application in that behalf made by any person interested, cause a certificate to be transmitted to the Registrar of the Privy Council showing who, in the opinion of the Court, is the proper person to be substituted or entered on the record in place of, or in addition to, the party who has died or undergone a change of status.

Printing  
of case.

17. The case of each party to the appeal may be printed either in Nigeria or in England and shall, in either event, be printed in accordance with the Rules set forth in the Schedule to this Order, every tenth line thereof being numbered in the margin, and shall be signed by at least one of the counsel who attends at the hearing of the appeal, or by the party himself if he conducts his appeal in person.

18. The case shall consist of paragraphs numbered consecutively and shall state, as concisely as possible, the circumstances out of which the appeal arises, the contentions to be urged by the party lodging the same, and the reasons of appeal. References by page and line to the relevant portions of the record as printed shall, as far as practicable, be printed in the margin, and care shall be taken to avoid, as far as possible, reprinting in the margin, long extracts from the record. The taxing officer, in taxing the costs of the appeal, shall, either of his own motion or at the instance of any party, inquire into any unnecessary prolixity in the case and shall disallow the costs occasioned thereby. Form of case.

19. Where the Judicial Committee directs a party to bear the costs of an appeal incurred in Nigeria, such costs shall be taxed by the proper officer of the Court in accordance with the rules for the time being regulating taxation in the Court. Costs in Nigeria.

20. Any Order which Her Majesty in Council may think fit to make on an appeal from a judgment of the Court shall be enforced in like manner as any judgment of the Court should or might have been enforced. Enforcing judgment.

21. Nothing in this Order contained shall be deemed to interfere with the right of Her Majesty, upon the humble petition of any person aggrieved by any judgment of the Court, to admit his appeal therefrom upon such conditions as Her Majesty in Council shall think fit to impose. Special leave to appeal.

W. G. AGNEW

#### SCHEDULE

##### RULES FOR PRINTING CASES

1. Records and cases in appeals to Her Majesty in Council shall be printed in the form known as demy quarto. Sections 9 and 17.
2. The size of the paper used shall be such that the sheet, when folded and trimmed, will be 11 inches in height and  $8\frac{1}{2}$  inches in width.
3. The type to be used in the text shall be pica type, but long primer shall be used in printing accounts, tabular matter and notes.
4. The number of lines in each page of pica type shall be forty-seven or thereabouts, and every tenth line shall be numbered in the margin.

## EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport)*

This Order makes provision for appeals from the Federal Supreme Court of Nigeria to the Judicial Committee of the Privy Council.

PART IV

IMPERIAL STATUTES

THE ADMIRALTY OFFENCES (COLONIAL) ACT, 1849<sup>(1)</sup>  
(12 & 13 VICT., c. 96)

AN ACT TO PROVIDE FOR THE PROSECUTION AND TRIAL IN HER  
MAJESTY'S COLONIES OF OFFENCES COMMITTED WITHIN THE  
JURISDICTION OF THE ADMIRALTY<sup>(2)</sup>.

[1st August, 1849.]

WHEREAS by an Act passed in the eleventh year of the reign of King William the Third, intituled "An Act for the more effectual Suppression of Piracy", it is enacted, that all piracies, felonies, and robberies committed on the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, may be examined, inquired of, tried, heard, and determined, and adjudged, in any place at sea or upon the land in any of His Majesty's islands, plantations, colonies, dominions, forts, or factories, to be appointed for that purpose by the King's commission, in the manner therein directed, and according to the civil law and the method and rules of the Admiralty: And whereas by an Act passed in the forty-sixth year of the reign of King George the Third, intituled "An Act for the speedy Trial of Offences committed in distant parts upon the Sea", it is enacted, that all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, may be inquired of, tried, heard, determined, and adjudged, according to the common course of the laws of this realm used for offences committed upon the land within this realm, and not otherwise, in any of Her Majesty's islands, plantations, colonies, dominions, forts, or factories under and by virtue of the King's commission or commissions under the Great Seal of Great Britain to be directed to commissioners in the manner and with the powers and authorities therein provided: And whereas it is expedient to

(<sup>1</sup>) Extended and applied to the Protectorate and the Cameroons by the Nigeria Protectorate and Cameroons (Imperial Statutes Extension) Order in Council, 1955, S.I. 1955/1820.

(<sup>2</sup>) The short title was given to this Act by the Short Titles Act, 1896, 59 & 60 Vict., c.14.

make further and better provisions for the apprehension, custody, and trial in Her Majesty's islands, plantations, colonies, dominions, forts, and factories of persons charged with the commission of such offences on the sea, or in any such haven, river, creek, or place as aforesaid:

Trial of Admiralty offences in colonies.

1. If any person within any colony shall be charged with the commission of any treason, piracy, felony, robbery, murder, conspiracy or other offence, of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, and in every such case, all magistrates, justices of the peace, public prosecutors, juries, judges, courts, public officers, and other persons in such colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining, and adjudging such offences; and they are hereby respectively authorised, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid on trial, and for and auxiliary to and consequent upon the trial of any such person for any such offence wherewith he may be charged as aforesaid, as by the law of such colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same, upon any waters situate within the limits of any such colony, and within the limits of the local jurisdiction of the courts of criminal justice of such colony.

2. (*Repealed by the Statute Law Revision Act, 1891, 54 & 55 Vict., c. 67.*)

Provision, etc., where death in the colony, or at sea, etc., follows from injuries inflicted on the sea, etc.

3. Where any person shall die in any colony of any stroke, poisoning, or hurt, such person having been feloniously stricken, poisoned, or hurt upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or at any place out of such colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, may be dealt with, inquired of, tried, determined, and punished, in such colony, in the same manner and in all respects as if such offence had been wholly committed in that colony; and if any person in any colony shall be charged with any such offence as aforesaid in respect of

the death of any person who, having been feloniously stricken, poisoned, or otherwise hurt, shall have died of such stroke, poisoning, or hurt upon the sea, or in any haven, river creek, or place where the admiral or admirals have power, authority, or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the sea.

4. Nothing in this Act contained shall in any way affect or abridge the jurisdiction of the supreme courts of New South Wales and Van Diemen's Land, as established by the Australian Courts Act, 1828. Saving.  
9 Geo. 4,  
c.83.

5. For the purposes of this Act the word "colony" shall mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except any island within the United Kingdom, and the islands of Man, Guernsey, Jersey, Alderney, and Sark, and the islands adjacent thereto respectively. Interpreta-  
tion of  
"colony"

6. (*Repealed by the Statute Law Revision Act, 1878, 41 & 42 Vict., c. 79.*)



THE ADMIRALTY OFFENCES (COLONIAL) ACT, 1860<sup>(1)</sup>

(23 &amp; 24 VICT., c.122)

AN ACT TO ENABLE THE LEGISLATURES OF HER MAJESTY'S POSSESSIONS ABROAD TO MAKE ENACTMENTS SIMILAR TO THE ENACTMENT OF THE ACT NINTH GEORGE THE FOURTH, CHAPTER THIRTY-ONE, SECTION EIGHT.

[28th August, 1860.]

*(Preamble)*

1. It shall be lawful for the legislature of any of Her Majesty's possessions abroad to enact by any law or ordinance, to be by them made in the usual manner, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place within the limits of such possession, shall die of such stroke, poisoning, or hurt upon the seas or at any place out of the limits of such possession, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished in the possession within the limits of which such stroke, poisoning, or hurt shall happen, in the same manner in all respects as if such offence had been wholly committed within the limits of such possessions; or such legislature may enact, by any such law or ordinance to be made as aforesaid, to the like effect.

Legislatures of possessions abroad may legislate for trial, etc., of offences committed in such possessions, where persons injured die out of the limits thereof.

<sup>(1)</sup> The short title was given to this Act by the Short Titles Act, 1896, 59 & 60 Vict., c.14.



THE BRITISH LAW ASCERTAINMENT ACT, 1859<sup>(1)</sup>  
(22 & 23 VICT., c.63)

AN ACT TO AFFORD FACILITIES FOR THE MORE CERTAIN ASCERTAINMENT OF THE LAW ADMINISTERED IN ONE PART OF HER MAJESTY'S DOMINIONS WHEN PLEADED IN THE COURTS OF ANOTHER PART THEREOF<sup>(2)</sup>.

[13th August, 1859.]

WHEREAS great improvements in the administration of the law would ensue if facilities were afforded for more certainly ascertaining the law administered in one part of Her Majesty's Dominions when pleaded in the courts of another part thereof:

1. If in any action depending in any court within Her Majesty's Dominions, it shall be the opinion of such court, that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's Dominions on any point on which the law of such other part of Her Majesty's Dominions is different from that in which the court is situate, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts, as these may be ascertained by verdict of a jury or other mode competent, or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing, and upon such case being approved of by such court or a judge thereof, they shall settle the questions of law arising out of the same on which they desire to have the opinion of another court, and shall pronounce an order remitting the same, together with the case, to the court in such other part of Her Majesty's Dominions, being one of the superior courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case, and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act; and it shall be competent to any of the parties to the action to present a petition to the court whose opinion is to be obtained, praying such last-mentioned

Courts in one part of Her Majesty's dominions may remit a case for the opinion in law of a court in any other part thereof.

<sup>(1)</sup> Extended and applied to the Protectorate and the Cameroons by the Nigeria Protectorate and Cameroons (Imperial Statutes Extension) Order in Council, 1955, S.I. 1955/1820.

<sup>(2)</sup> The short title was given to this Act by the Short Titles Act, 1896, 59 & 60 Vict., c.14.

court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or counsel; and the court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the court; and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper.

Certified copies of opinion to be given.

2. Upon such opinion being pronounced, a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action by whom the same shall be required, and shall be deemed and held to contain a correct record of such opinion.

Opinion to be applied by the court making the remit, etc.

3. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with an officer of the court in which the action may be depending, who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said court shall thereupon apply such opinion to such facts in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court, or upon special verdict of a jury; or the said last-mentioned court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as evidence, or conclusive evidence as the court may think fit, of the foreign law therein stated, and the said opinion shall be so submitted to the jury.

Her Majesty in Council or House of Lords on appeal may adopt or reject opinion.

4. In the event of an appeal to Her Majesty in Council or to the House of Lords in any such action, it shall be competent to bring under the review of Her Majesty in Council or of the House of Lords the opinion pronounced as aforesaid by any court whose judgments are reviewable by Her Majesty in Council or by the House of Lords, and Her Majesty in Council or that House may respectively adopt or reject such opinion of any court whose judgments are respectively reviewable by them, as the same shall appear to them to be well founded or not by law.

5. In the construction of this Act, the word "action" shall include every judicial proceeding instituted in any court, civil, criminal, or ecclesiastical; and the words "Superior Courts" shall include, in England, the Superior Court of Law at Westminster, the Lord Chancellor, the Lords Justices, the Master of the Rolls or any Vice-Chancellor, the Judge of the Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate; in Scotland, the High Court of Judiciary, and the Court of Session acting by either of its divisions; in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls, and the Judge of the Admiralty Court; and in any other part of Her Majesty's Dominions, the Superior Courts of Law or Equity therein.

Interpreta-  
tion of  
terms.



THE COURTS (COLONIAL) JURISDICTION ACT, 1874  
(37 & 38 VICT., c. 27)

AN ACT TO REGULATE THE SENTENCES IMPOSED BY COLONIAL COURTS WHERE JURISDICTION TO TRY IS CONFERRED BY IMPERIAL ACTS.

[30th June, 1874.]

WHEREAS by certain Acts of Parliament jurisdiction is conferred on courts in Her Majesty's colonies to try persons charged with certain crimes or offences, and doubts have arisen as to the proper sentences to be imposed upon conviction of such persons; and it is expedient to remove such doubts:

1. This Act may be cited for all purposes as the Courts (Colonial) Jurisdiction Act, 1874. Short title.

2. For the purposes of this Act—the term “colony” shall not include any places within the United Kingdom, the Isle of Man, the Channel Islands, British India but shall include any plantation, territory, or settlement situate elsewhere within Her Majesty's Dominions, and subject to the same local government; and for the purposes of this Act, all plantations, territories, and settlements under a central legislature shall be deemed to be one colony under the same local government. Definition of term “colony”.

2A. This Act applies in relation to each Governor's Province and Chief Commissioner's Province of British India.....as it applies in relation to a colony. Application of Act to British India.

3. When, by virtue of any Act of Parliament now or hereafter to be passed, a person is tried in a court of any colony for any crime or offence committed upon the high seas or elsewhere out of the territorial limits of such colony and of the local jurisdiction of such court, or if committed within such local jurisdiction made punishable by that Act, such person shall, upon conviction, be liable to such punishment as might have been inflicted upon him if the crime or offence had been committed within the limits of such colony and of the local jurisdiction of the court, and to no At trials in any colonial courts by virtue of Imperial Acts, courts empowered to pass sentences as if crimes had been committed in the colony.

other, anything in any Act to the contrary notwithstanding: Provided always, that if the crime or offence is a crime or offence not punishable by the law of the colony in which the trial takes place, the person shall, on conviction, be liable to such punishment (other than capital punishment) as shall seem to the court most nearly to correspond to the punishment to which such person would have been liable in case such crime or offence had been tried in England.

THE DOCUMENTARY EVIDENCE ACT, 1868  
(31 & 32 VICT., c.37)

AN ACT TO AMEND THE LAW RELATING TO DOCUMENTARY EVIDENCE  
IN CERTAIN CASES.

[25th June, 1868.]

WHEREAS it is expedient to amend the Law relating to  
Evidence:

1. This Act may be cited for all purposes as "The Document- Short title.  
ary Evidence Act, 1868."

2. *Prima facie* evidence of any proclamation, order, or Mode of  
regulation issued before or after the passing of this Act by Her proving  
Majesty, or by the Privy Council, also of any proclamation, order, certain  
or regulation issued before or after the passing of this Act by or documents.  
under the authority of any such department of the Government or  
officer as is mentioned in the first column of the schedule hereto,  
may be given in all courts of justice, and in all legal proceedings  
whatsoever, in all or any of modes herein-after mentioned; that  
is to say:

- (1) By the production of a copy of the Gazette purporting to contain such proclamation, order, or regulation.
- (2) By the production of a copy of such proclamation, order, or regulation, purporting to be printed by the Government Printer, or, where the question arises in a court in any British colony or possession, of a copy purporting to be printed under the authority of the legislature of such British colony or possession.
- (3) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the lords or others of the Privy Council, and, in the case of any proclamation, order, or regulation issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer.

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print and partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation.

Act to be  
in force in  
colonies.

3. Subject to any law that may be from time to time made by the legislature of any British colony or possession, this Act shall be in force in every such colony and possession.

Punishment  
for forgery,  
or knowingly  
tendering  
forged  
documents  
in evidence.

4. If any person commits any of the offences following; that is to say:—

(1) Prints any copy of any proclamation, order, or regulation, which falsely purports to have been printed by the Government Printer, or to be printed under the authority of the legislature of any British colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or

(2)<sup>(1)</sup> Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorised to be annexed to a copy of or extract from any proclamation, order, or regulation,

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude.

Interpreta-  
tion.

5. (1) The following words shall in this Act have the meaning hereinafter assigned to them, unless there is something in the context repugnant to such construction; (that is to say),

“British colony and possession” shall for the purposes of this Act include the Channel Islands, the Isle of Man, and all other Her Majesty’s dominions.

“Legislature” shall signify any authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any colony or possession.

(<sup>1</sup>) Repealed as to England and Ireland by the Forgery Act, 1913, 3 & 4 Geo. 5, c.27. s.20 and Schedule, Part I.

“Privy Council” shall include Her Majesty in Council and the lords and others of Her Majesty’s Privy Council, or any of them, and any committee of the Privy Council that is not specially named in the schedule hereto.

“Government Printer” shall mean and include the printer to Her Majesty, and any printer purporting to be the printer authorised to print the statutes, ordinances, acts of state, or other public acts of the legislature of any British colony or possession, or otherwise to be the Government Printer of such colony or possession.

“Gazette” shall include the London Gazette, the Edinburgh Gazette, and the Dublin Gazette, or any of such Gazettes.

(2) For the purposes of this Act, British India as a whole and also each Governor’s Province and Chief Commissioner’s Province thereof shall be regarded as separate British possessions.

6. The provisions of this Act shall be deemed to be in addition to, and not in derogation of, any powers of proving documents given by any existing statute, or existing at common law.

Provisions of Act to be cumulative.

SCHEDULE

Column 1 <i>Name of Department or Officer</i>	Column 2 <i>Names of Certifying Officers</i>
The Treasury ... ..	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the office of Lord High Admiral.	Any of the Commissioners for executing the office of Lord High Admiral, or either of the Secretaries to the said Commissioners.
Secretaries of State ... ..	Any Secretary or Under-Secretary of State.
Committee of Privy Council for Trade.	Any member of the Committee of Privy Council for Trade, or any Secretary or Assistant Secretary of the said Committee.
The Poor Law Board ... ..	Any Commissioner of the Poor Law Board, or any Secretary or Assistant Secretary of the said Board.



THE EVIDENCE ACT, 1851<sup>(1)</sup>  
(14 & 15 VICT., c.99)

AN ACT TO AMEND THE LAW OF EVIDENCE<sup>(2)</sup>.

[7th August, 1851.]

7. All proclamations, treaties, and other acts of state of any foreign state or of any British colony, and all judgments, decrees, orders, and other judicial proceedings of any court of justice in any foreign state or in any British colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such court, may be proved in any court of justice, or before any person having by law or by consent of parties authority to hear, receive and examine evidence, either by examined copies or by copies authenticated as hereinafter mentioned; that is to say, if the document sought to be proved be a proclamation, treaty, or other act of state, the authenticated copy to be admissible in evidence must purport to be sealed with the seal of the foreign state or British colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any foreign or colonial court, or any affidavit, pleading or other legal document filed or deposited in any such court, the authenticated copy to be admissible in evidence must purport either to be sealed with the seal of the foreign or colonial court to which the original document belongs, or, in the event of such court having no seal, to be signed by the judge, or, if there be more than one judge, by any one of the judges of the said court, and such judge shall attach to his signature a statement in writing on the said copy that the court whereof he is a judge has no seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall respectively be admitted in evidence, in every case in which the original document could have been received in evidence without any proof of the seal where a seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

Proof of  
foreign and  
colonial acts  
of state,  
judgments,  
etc.

(1) Sections 7 and 11 of the Act were extended and applied to the Protectorate and the Cameroons by the Nigeria Protectorate and Cameroons (Imperial Statutes Extension) Order in Council, 1955, S.I. 1955/1820.

(2) The short title was given to this Act by the Short Titles Act, 1896, 59 & 60 Vict. c.14.

Proof of  
documents  
in the  
colonies.

11. Every document which by any law now in force or hereafter to be in force is or shall be admissible in evidence of any particular in any court of justice in England or Wales or Ireland without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence to the same extent and for the same purposes in any court of justice of any of the British colonies, or before any person having in any of such colonies by law or by consent of parties authority to hear, receive, and examine evidence, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

THE EVIDENCE BY COMMISSION ACT, 1859<sup>(1)</sup>  
(22 VICT., c.20)

AN ACT TO PROVIDE FOR TAKING EVIDENCE IN SUITS AND PROCEEDINGS PENDING BEFORE TRIBUNALS IN HER MAJESTY'S DOMINIONS IN PLACES OUT OF THE JURISDICTION OF SUCH TRIBUNALS<sup>(2)</sup>.

[19th April, 1859.]

WHEREAS it is expedient that facilities be afforded for taking evidence in or in relation to actions, suits, and proceedings pending before tribunals in Her Majesty's dominions in places in such dominions out of the jurisdiction of such tribunals:

1. Where upon an application for this purpose it is made to appear to any court or judge having authority under this Act that any court or tribunal of competent jurisdiction in Her Majesty's dominions has duly authorised, by commission, order, or other process, the obtaining the testimony in or in relation to any action, suit or proceeding pending in or before such court or tribunal of any witness or witnesses out of the jurisdiction of such court or tribunal, and within the jurisdiction of such first-mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination before the person or persons appointed, and in manner and form directed by such commission, order, or other process as aforesaid, of such witness or witnesses accordingly; and it shall be lawful for the said court or judge by the same order, or for such court or judge, or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purposes of being examined, or the production of any writings or other documents to be mentioned in such order, and to give all such directions as to the time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just, and any such order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by such court or judge in a cause depending in such court or before such judge.

Examination of witness out of the jurisdiction of any tribunal in Her Majesty's possessions in relation to any suit pending before such tribunal.

<sup>(1)</sup> Extended and applied to the Protectorate and the Cameroons by the Nigeria Protectorate and Cameroons (Imperial Statutes Extension) Order in Council, 1955, S.I. 1955/1820.

<sup>(2)</sup> The short title was given to this Act by the Short Titles Act, 1896, 59 & 60 Vict., c 14.

Persons giving false evidence guilty of perjury.

2.<sup>(3)</sup> Every person examined as a witness under any such commission, order, or other process as aforesaid, who shall upon such examination wilfully and corruptly give any false evidence, shall be deemed and taken to be guilty of a perjury.

Payment of expenses.

3. Provided always that every person whose attendance shall be so ordered shall be entitled to the like conduct money, and payment for expenses and loss of time, as upon attendance at a trial.

Power to persons to refuse to answer questions or to produce documents.

4. Provided also, that every person examined under any such commission, order, or other process as aforesaid, shall have the like right to refuse to answer questions tending to criminate himself, and other questions which a witness in any cause pending in the court by which, or by a judge whereof, or before the judge by whom the order for examination was made, would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

What courts and judges to have authority under this Act.

5. (1) Her Majesty's Superior Courts of Common Law at Westminster and in Dublin respectively, the Court of Session in Scotland, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who, by any Order of Her Majesty in Council, may be appointed for this purpose, shall respectively be courts and judges having authority under this Act.

(2) For the purposes of this Act, the expression "Supreme Court" means, as respects India, a court which is a High Court for the purposes of the Government of India Act, 1935.

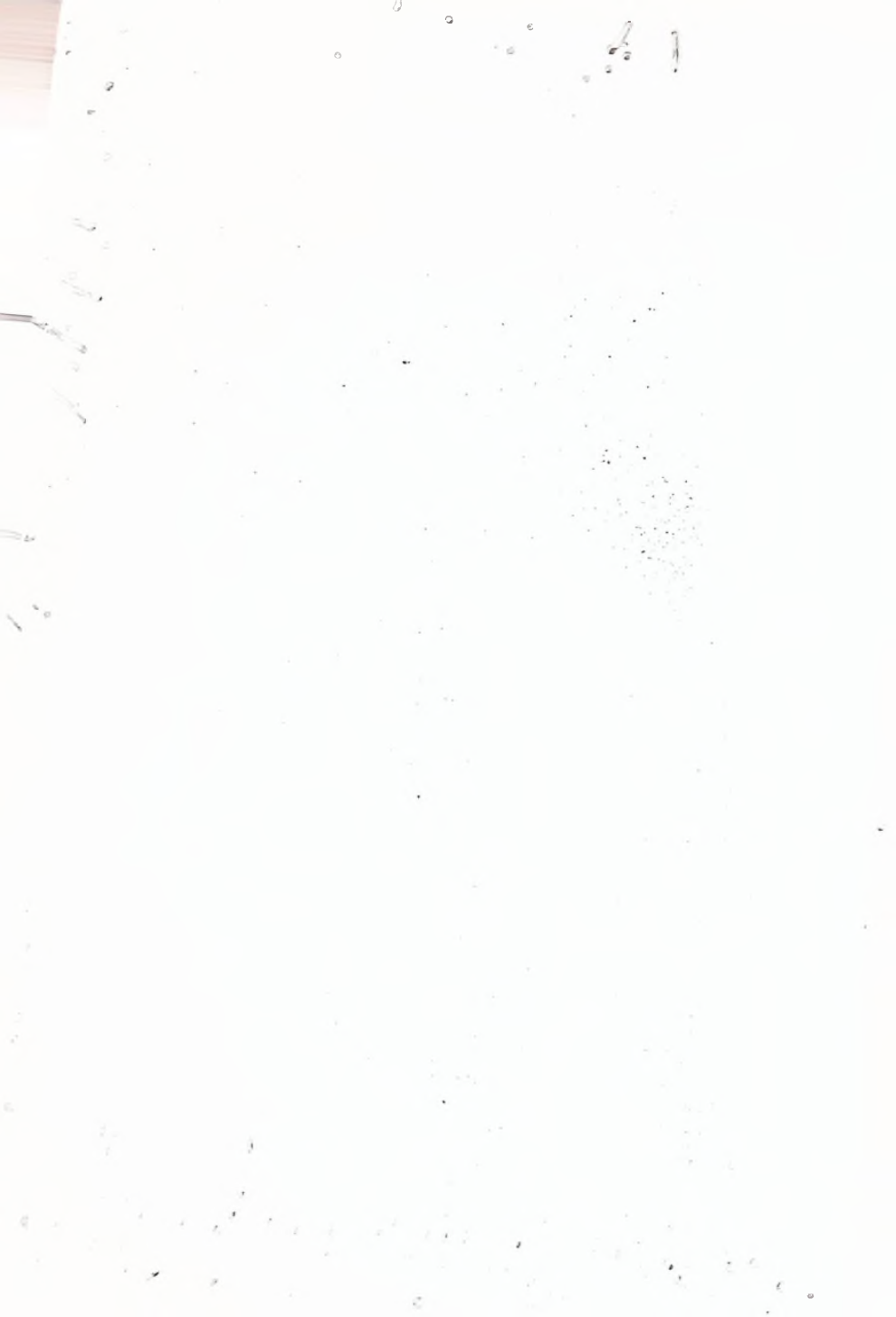
Power to frame rules, etc., for giving effect to provisions of this Act.

6. It shall be lawful for the Lord Chancellor of Great Britain, with the assistance of two of the judges of the Courts of Common Law at Westminster, so far as relates to England, and for the Lord Chancellor of Ireland, with the assistance of two of the judges of the Courts of Common Law at Dublin, so far as relates to Ireland, and for two of the judges of the Court of Session,

(<sup>3</sup>) Repealed as to England by the Perjury Act, 1911, 1 & 2 Geo. V, c.6, s.17 & Schedule; as to Scotland by the False Oaths (Scotland) Act, 1933, 23 & 24 Geo. V, c.20, s.8 & Schedule; and as to Northern Ireland by the Perjury Act (Northern Ireland) 1946, (c.13) (N.I.) s.16 (3) & Schedule.

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so far as relates to Scotland, and for the chief or only judge of the Supreme Court in any of Her Majesty's colonies or possessions abroad, so far as relates to such colony or possession, to frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.



THE EVIDENCE BY COMMISSION ACT, 1885<sup>(1)</sup>  
(48 & 49 VICT., c. 74)

AN ACT TO AMEND THE LAW RELATING TO TAKING EVIDENCE BY COMMISSION IN INDIA AND THE COLONIES, AND ELSEWHERE IN HER MAJESTY'S DOMINIONS.

[14th August, 1885.]

1. This Act may be cited as "The Evidence by Commission Act, 1885". Short title.
2. Where in any civil proceeding in any court of competent jurisdiction an order for the examination of any witness or person has been made, and a commission, mandamus, order, or request for the examination of such witness or person is addressed to any court, or to any judge of a court, in India or the Colonies, or elsewhere in Her Majesty's dominions, beyond the jurisdiction of the court ordering the examination, it shall be lawful for such court, or the chief judge thereof, or such judge to nominate some fit person to take such examination, and any deposition or examination taken before an examiner so nominated shall be admissible in evidence to the same extent as if it had been taken by or before such court or judge. Power to courts to nominate examiner in civil proceedings.
3. Where in any criminal proceeding a mandamus or order for the examination of any witness or person is addressed to any court or to any judge of a court, in India or the Colonies, or elsewhere in Her Majesty's dominions, beyond the jurisdiction of the court ordering the examination, it shall be lawful for such court, or the chief judge thereof, or such judge, to nominate any judge of such court, or any judge of an inferior court, or magistrate within the jurisdiction of such first-mentioned court, to take the examination of such witness or person, and any deposition or examination so taken shall be admissible in evidence to the same extent as if it had been taken by or before the court or judge to whom the mandamus or order was addressed. Power in criminal proceedings to nominate judge or magistrate to take depositions.
4. The provisions of the Evidence by Commission Act, 1859, as amended by this Act, shall apply to proceedings under this Act. Conduct money, etc., 22 Vict., c. 20.

<sup>(1)</sup> Extended and applied to the Protectorate and the Cameroons by the Nigeria Protectorate and Cameroons (Imperial Statutes Extension) Order in Council, 1955, S.I. 1955/1820.

Amendment  
of 22 Vict.  
c. 20, as to  
costs.

5. The power to make rules conferred by section six of the Evidence by Commission Act, 1859, shall be deemed to include a power to make rules with regard to all costs of or incidental to the examination of any witness or person, including the remuneration of the examiner, if any, whether the examination be ordered pursuant to that Act or under this or any other Act for the time being in force relating to the examination of witnesses beyond the jurisdiction of the court ordering the examination.

Oath or  
affirmation  
of witness.

6. When, pursuant to any such commission, mandamus, order, or request as in this Act referred to, any witness or person is to be examined in any place beyond the jurisdiction of the court ordering the examination, such witness or person may be examined on oath, affirmation, or otherwise, according to the law in force in the place where the examination is taken, and any deposition or examination so taken shall be as effectual for all purposes as if the witness or person had been examined on oath before a person duly authorised to administer an oath in the court ordering the examination.

THE EVIDENCE (COLONIAL STATUTES) ACT, 1907<sup>(1)</sup>

(7 EDW. VII, c.16)

AN ACT TO FACILITATE THE ADMISSION IN EVIDENCE OF STATUTES PASSED BY THE LEGISLATURES OF BRITISH POSSESSIONS AND PROTECTORATES, INCLUDING CYPRUS.

[21st August, 1907.]

1. (1) Copies of Acts, Ordinances, and Statutes passed (whether before or after the passing of this Act) by the legislature of any British possession, and of Orders, Regulations, and other instruments issued or made, whether before or after the passing of this Act, under the authority of any such Act, Ordinance, or Statute, if purporting to be printed by the Government printer, shall be received in evidence by all Courts of Justice in the United Kingdom without any proof being given that the copies were so printed.

Proof of  
Statutes of  
British  
possessions.

(2) If any person prints any copy or pretended copy of any such Act, Ordinance, Statute, Order, Regulation, or instrument which falsely purports to have been printed by the Government printer or tenders in evidence any such copy or pretended copy which falsely purports to have been so printed, knowing that it was not so printed, he shall on conviction be liable to be sentenced to imprisonment with or without hard labour for a period not exceeding twelve months.

(3) In this Act—

The expression "Government printer" means, as respects any British possession, the printer purporting to be the printer authorised to print the Acts, Ordinances, or Statutes of the legislature of that possession, or otherwise to be the Government printer of that possession:

The expression "British possession" means any part of His Majesty's dominions exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local legislature, shall include both all parts under the central legislature and each part under a local legislature.

(4) Nothing in this Act shall affect the Colonial Laws Validity Act, 1865.

28 & 29  
Vict., c.63.

(1) Applied to Nigeria by Order in Council of 1922, see PART V below.

(5). His Majesty may by Order in Council extend this Act to Cyprus and any British protectorates, and where so extended this Act shall apply as if Cyprus or the protectorate were a British possession, and with such other necessary adaptations as may be made by the Order.

Short title.

2. This Act may be cited as the Evidence (Colonial Statutes) Act, 1907.

THE FOREIGN LAW ASCERTAINMENT ACT, 1861<sup>(1)</sup>  
(24 & 25 VICT., c. 11)

AN ACT TO AFFORD FACILITIES FOR THE BETTER ASCERTAINMENT OF THE LAW OF FOREIGN COUNTRIES WHEN PLEADED IN COURTS WITHIN HER MAJESTY'S DOMINIONS.<sup>(2)</sup>

[17th May, 1861.]

WHEREAS an Act was passed in the twenty-second and twenty-third years of Her Majesty's reign, intituled "An Act to afford Facilities for the more certain Ascertainment of the Law administered in one part of Her Majesty's dominions when pleaded in the Courts of another part thereof": and whereas it is expedient to afford the like facilities for the better ascertainment, in similar circumstances, of the law of any foreign country or state with the government of which Her Majesty may be pleased to enter into a convention, for the purpose of mutually ascertaining the law of such foreign country or state when pleaded in actions depending in any courts within Her Majesty's dominions and the law as administered in any part of Her Majesty's dominions when pleaded in actions depending in the courts of such foreign country or state:

1. If, in any action depending in any of the superior courts within Her Majesty's dominions, it shall be the opinion of such court that it is necessary or expedient, for the disposal of such action, to ascertain the law applicable to the facts of the case as administered in any foreign state or country, with the government of which Her Majesty shall have entered into such convention as aforesaid, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts as these may be ascertained by verdict of jury or other mode competent, or as may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing; and upon such case being approved of by such court or a judge thereof, such court or judge shall settle the questions of law arising out of the same on which they desire to have the opinion

Superior Courts within Her Majesty's dominions may remit a case, with queries, to a court of any foreign country with which Her Majesty may have made a covenant for that purpose, for ascertaining the law of such state as to the facts in question.

<sup>(1)</sup> Extended and applied to the Protectorate and the Cameroons by the Nigeria Protectorate and the Cameroons (Imperial Statutes Extension) Order in Council, 1955, S.I. 1955/1820.

<sup>(2)</sup> The short title was given to this Act by the Short Titles Act, 1896, 59 & 60, Vict. c.14.

of another court, and shall pronounce an order remitting the same, together with the case, to such superior court in such foreign state or country as shall be agreed upon in said convention, whose opinion is desired upon the law administered by such foreign court as applicable to the facts set forth in such case, and requesting them to pronounce their opinion on the questions submitted to them; and upon such opinion being pronounced, a copy thereof, certified by an officer of such court, shall be deemed and held to contain a correct record of such opinion.

Copy of opinion to be lodged in court in which action depends. Court to apply opinion to the facts set forth in the case, etc., Remitter of case back to foreign court.

2. It shall be competent to any of the parties to the action, after having obtained such certified copy of such opinion, to lodge the same with the officer of the court within Her Majesty's dominions in which the action may be depending who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said court shall thereupon, if it shall see fit, apply such opinion to such facts, in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court, or upon special verdict of a jury; or the said last-mentioned court shall, if it think fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as conclusive evidence of the foreign law therein stated, and the said opinion shall be so submitted to the jury: provided always, that if after having obtained such certified copy, the court shall not be satisfied that the facts had been properly understood by the foreign court to which the case was remitted or shall on any ground whatsoever be doubtful whether the opinion so certified does correctly represent the foreign law as regards the facts to which it is to be applied, it shall be lawful for such court to remit the said case either with or without alterations or amendments, to the same or to any other such superior court in such foreign state as aforesaid, and so from time to time as may be necessary or expedient.

Courts in Her Majesty's dominions shall pronounce opinion on case remitted by a foreign court.

3. If in any action depending in any court of a foreign country or state with whose government Her Majesty shall have entered into a convention as above set forth, such court shall deem it expedient to ascertain the law applicable to the facts of the case as administered in any part of Her Majesty's dominions, and if the foreign court in which such action may depend shall remit to the court in Her Majesty's dominions whose opinion is desired

a case setting forth the facts and the questions of law arising out of the same on which they desire to have the opinion of a court within Her Majesty's dominions, it shall be competent to any of the parties to the action to present a petition to such last-mentioned court, whose opinion is to be obtained, praying such court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion without hearing parties or counsel; and the court to which such petition shall be presented shall consider the same, and, if they think fit, shall appoint an early day for hearing parties or their counsel on such case, and shall pronounce their opinion upon the questions of law as administered by them which are submitted to them by the foreign court; and in order to their pronouncing such opinion they shall be entitled to take such further procedure thereupon as to them shall seem proper, and upon such opinion being pronounced a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action by whom the same shall be required.

4. In the construction of this Act the word "action" shall include every judicial proceeding instituted in any court, civil, criminal, or ecclesiastical; and the words "superior courts" shall include in England, the Superior Courts of Law at Westminster, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice-Chancellor, the Judge of the Court of Admiralty, the Judge ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate; in Scotland, the High Court of Justiciary, and the Court of Session, acting by either of its divisions; in Ireland, the Superior Courts of Law at Dublin, the Master of the Rolls, and the Judge of the Admiralty Court; and in any other part of Her Majesty's dominions, the Superior Courts of Law or Equity therein; and in a foreign country or state any superior court or courts which shall be set forth in any such convention between Her Majesty and the government of such foreign country or state.

Interpretation of terms: "action"; "superior courts".



THE FOREIGN TRIBUNALS EVIDENCE ACT, 1856<sup>(1)</sup>(<sup>2</sup>)  
(19 & 20 VICT., c. 113)

AN ACT TO PROVIDE FOR TAKING EVIDENCE IN HER MAJESTY'S  
DOMINIONS IN RELATION TO CIVIL AND COMMERCIAL MATTERS  
PENDING BEFORE FOREIGN TRIBUNALS<sup>(3)</sup>.

[29th July, 1856.]

WHEREAS it is expedient that facilities be afforded for taking evidence in Her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals:

1. Where upon an application for this purpose, it is made to appear to any court or judge having authority under this Act that any court or tribunal of competent jurisdiction in a foreign country, before which any civil or commercial matter is pending, is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction of such first-mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination upon oath, upon interrogatories or otherwise, before any person or persons named in such order, of such witness or witnesses accordingly; and it shall be lawful for the said court or judge, by the same order, or for such court or judge or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order, for the purpose of being examined, or the production of any writings or other documents to be mentioned in such order, and to give all such directions as to the time, place and manner of such examination, and all other matters connected therewith, as may appear reasonable and just; and any such order may be enforced in like manner as an order made by such court or judge in a cause depending in such court or before such judge.

Order for the examination of witnesses in relation to matters pending before a foreign tribunal.

2. A certificate under the hand of the ambassador, minister or other diplomatic agent of any foreign power, received as such by Her Majesty, or in case there be no such diplomatic agent, then of the consul-general or consul of any such foreign power at London, received and admitted as such by Her Majesty, that any matter

Certificate of ambassador, etc., sufficient evidence in support of application.

<sup>(1)</sup> Extended and applied to the Protectorate and the Cameroons by the Nigeria Protectorate and Cameroons (Imperial Statutes Extension) Orders in Council, 1955, S.I. 1955/1820.

<sup>(2)</sup> The Act was extended by the Extradition Act, 1870, 33 & 34 Vict., c.52, s.24, so as to apply to criminal matters other than those of a political nature.

<sup>(3)</sup> The short title was given to this Act by the Short Titles Act, 1896, 59 & 60 Vict., c.14.

in relation to which an application is made under this Act is a civil or commercial matter pending before a court or tribunal in the country of which he is the diplomatic agent or consul having jurisdiction in the matter so pending, and that such court or tribunal is desirous of obtaining the testimony of the witness or witnesses to whom the application relates, shall be evidence of the matters so certified; but where no such certificate is produced, other evidence to that effect shall be admissible.

Examination of witnesses to be taken upon oath. Person giving false evidence guilty of perjury.

3. It shall be lawful for every person authorised to take the examination of witnesses by any order made in pursuance of this Act to take all such examinations upon the oath of the witnesses, or affirmation in cases where affirmation is allowed by law instead of oath, to be administered by the person so authorised; [and if upon such oath or affirmation any person making the same wilfully and corruptly give any false evidence, every person so offending shall be deemed and taken to be guilty of perjury](<sup>4</sup>).

Expenses of witnesses.

4. Provided always, that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial.

Extent of right of refusal to answer questions and to produce documents.

5. Provided also, that every person examined under any order made under this Act shall have the like right to refuse to answer questions tending to criminate himself, and other questions, which a witness in any cause pending in the court by which or by a judge whereof or before the judge by whom the order for examination was made would be entitled to; and that no person shall be compelled to produce under any such order as aforesaid any writing or other document that he would not be compellable to produce at a trial of such a cause.

Certain courts and judges to have authority under this Act.

6. Her Majesty's Superior Courts of Common Law at Westminster and in Dublin respectively, the Court of Session in Scotland, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who by any Order of Her Majesty in Council may be appointed for this purpose, shall respectively be courts and judges having authority under this Act.

(<sup>4</sup>) The words in square brackets were repealed as to England by the Perjury Act, 1911, 1 & 2 Geo. 5, c.6, s.17 & Schedule; and as to Scotland by the False Oaths (Scotland) Act, 1933, 23 & 24 Geo. 5, c.20, s.8 & Schedule.

THE TERRITORIAL WATERS JURISDICTION ACT, 1878  
(41 & 42 VICT., c. 73)

AN ACT TO REGULATE THE LAW RELATING TO THE TRIAL OF  
OFFENCES COMMITTED ON THE SEA WITHIN A CERTAIN DISTANCE  
OF THE COASTS OF HER MAJESTY'S DOMINIONS.

[16th August, 1878.]

WHEREAS the rightful jurisdiction of Her Majesty, Her heirs and successors, extends and has always extended over the open seas adjacent to the coasts of the United Kingdom and of all other parts of Her Majesty's dominions to such a distance as is necessary for the defence and security of such dominions:

AND WHEREAS it is expedient that all offences committed on the open sea within a certain distance of the coasts of the United Kingdom and of all other parts of Her Majesty's dominions, by whomsoever committed, should be dealt with according to law:

1. This Act may be cited as the Territorial Waters Jurisdiction Act, 1878. Short title.

2. An offence committed by a person, whether he is or is not a subject of Her Majesty, on the open sea within the territorial waters of Her Majesty's dominions, is an offence within the jurisdiction of the Admiral, although it may have been committed on board or by means of a foreign ship, and the person who committed such offence may be arrested, tried, and punished accordingly. Amendment of the law as to the jurisdiction of the Admiral.

3. Proceedings for the trial and punishment of a person who is not a subject of Her Majesty, and who is charged with any such offence as is declared by this Act to be within the jurisdiction of the Admiral, shall not be instituted in any court of the United Kingdom, except with the consent of one of Her Majesty's Principal Secretaries of State, and on his certificate that the institution of such proceedings is in his opinion expedient, and shall not be instituted in any of the dominions of Her Majesty out of the United Kingdom, except with the leave of the Governor of the part of the dominions in which such proceedings are proposed to be instituted, and on his certificate that it is expedient that such proceedings should be instituted. Restriction on institution of proceedings for punishment of offence.

Provisions  
as to  
procedure.

4. On the trial of any person who is not a subject of Her Majesty for an offence declared by this Act to be within the jurisdiction of the Admiral, it shall not be necessary to aver in any indictment or information on such trial that such consent or certificate of the Secretary of State or Governor as is required by this Act has been given, and the fact of the same having been given shall be presumed unless disputed by the defendant at the trial; and the production of a document purporting to be signed by one of Her Majesty's Principal Secretaries of State as respects the United Kingdom, and by the Governor as respects any other part of Her Majesty's dominions, and containing such consent and certificate, shall be sufficient evidence for all the purposes of this Act of the consent and certificate required by this Act.

Proceedings before a justice of the peace or other magistrate previous to the committal of an offender for trial or to the determination of the justice or magistrate that the offender is to be put upon his trial shall not be deemed proceedings for the trial of the offence committed by such offender for the purposes of the said consent and certificate under this Act.

Saving as to  
jurisdiction.

5. Nothing in this Act contained shall be construed to be in derogation of any rightful jurisdiction of Her Majesty, Her heirs or successors, under the law of nations, or to affect or prejudice any jurisdiction conferred by Act of Parliament or now by law existing in relation to foreign ships or in relation to persons on board such ships.

Saving as to  
piracy.

6. This Act shall not prejudice or affect the trial in manner heretofore in use of any act of piracy as defined by the law of nations, or affect or prejudice any law relating thereto; and where any act of piracy as defined by the law of nations is also any such offence as is declared by this Act to be within the jurisdiction of the Admiral, such offence may be tried in pursuance of this Act, or in pursuance of any other Act of Parliament, law, or custom relating thereto.

Definitions:

7. In this Act, unless there is something inconsistent in the context, the following expressions shall respectively have the meanings hereinafter assigned to them, that is to say:—

"jurisdiction  
of the  
Admiral":

"The jurisdiction of the Admiral", as used in this Act, includes the jurisdiction of the Admiralty of England and Ireland, or either of such jurisdictions as used in any Act of Parliament; and for the purpose of arresting any person charg'd

with an offence declared by this Act to be within the jurisdiction of the Admiral, the territorial waters adjacent to the United Kingdom, or any other part of Her Majesty's dominions, shall be deemed to be within the jurisdiction of any judge, magistrate, or officer having power within such United Kingdom, or other part of Her Majesty's dominions, to issue warrants for arresting or to arrest persons charged with offences committed within the jurisdiction of such judge, magistrate, or officer:

"United Kingdom" includes the Isle of Man, the Channel Islands, and other adjacent islands: "United Kingdom":

"The territorial waters of Her Majesty's dominions" in reference to the sea, means such part of the sea adjacent to the coast of the United Kingdom, or the coast of some other part of Her Majesty's dominions, as is deemed by international law to be within the territorial sovereignty of Her Majesty; and for the purpose of any offence declared by this Act to be within the jurisdiction of the Admiral, any part of the open sea within one marine league of the coast measured from low-water mark shall be deemed to be open sea within the territorial waters of Her Majesty's dominions: "territorial waters of Her Majesty's Dominions":

"Governor", as respects India, means the Governor-General, and as respects a British possession which consists of several constituent colonies, means the Governor-General of the whole possession or the Governor of any of the constituent colonies; and as respects any other British possession, means the officer for the time being administering the government of such possession; also any person acting for or in the capacity of Governor shall be included under the term "Governor": "Governor":

"Offence" as used in this Act means an act, neglect, or default of such a description as would, if committed within the body of a county in England, be punishable on indictment according to the law of England for the time being in force: "Offence":

"Ship" includes every description of ship, boat, or other floating craft: "Ship":

"Foreign ship" means any ship which is not a British ship. "Foreign ship":



PART V

IMPERIAL ORDERS IN COUNCIL

THE COLONY OF NIGERIA BOUNDARIES  
ORDER IN COUNCIL, 1913

AT THE COURT AT WINDSOR CASTLE

*The 22nd day of November, 1913*

Present:

THE KING'S MOST EXCELLENT MAJESTY

Earl Spencer. Lord Stamfordham. Lord Emmott.

WHEREAS by certain Letters Patent passed under the Great Seal of the United Kingdom of Great Britain and Ireland bearing date at Westminster the twenty-eighth day of February, 1906, His late Majesty King Edward the Seventh did constitute the Office of Governor and Commander-in-Chief of the Colony of Southern Nigeria and did provide for the Government thereof:

AND WHEREAS by the said Letters Patent it was declared that, until His said late Majesty should otherwise provide, the Colony of Southern Nigeria should comprise the Island of Lagos and such portions of the neighbouring territories as had been annexed to His Majesty's Dominions:

AND WHEREAS His Majesty has this day, by and with the advice of His Privy Council, been pleased to direct that Letters Patent be passed under the Great Seal of the United Kingdom of Great Britain and Ireland for the purpose of providing, amongst other things, that the Colony of Southern Nigeria shall in future be known as the Colony of Nigeria, as in the said Letters Patent more fully appears, and the draft of the said Letters Patent has this day been approved by His Majesty in Council:

AND WHEREAS it is expedient that the boundaries of the Colony of Nigeria should be defined and that all such portions of the

territories of Africa within the limits hereinafter defined which have not already been included within His Majesty's Dominions should be annexed to and form part of the said Colony of Nigeria:

NOW, THEREFORE, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

I. This Order may be cited as the Colony of Nigeria Boundaries Order in Council, 1913.

II. The limits of this Order shall be the territories of Africa which are bounded by the following line, namely:—A line starting from Beacon No. 12 on the shore of the Bight of Benin in a northerly direction along the frontier of Dahomey to the mouth of the Ajara River. Thence the boundary follows the north bank of the Badagri-Porto Novo Lagoon and the west bank of the Yewa River to a point situated due west of the mouth of the Iragbo Creek. Thence it follows the thalweg of the Iragbo Creek to the point where the path to Iragbo meets the creek. Thence it follows the path passing through Iragbo to Igborosun as far as a point about half a mile south-east of Iragbo where a track branches off to Igedan, the path and all villages on it lying in the Colony. Thence it follows the path through Igedan to Ikawga, the path and all villages on it lying in the Colony. Thence it proceeds due south to a point about a quarter of a mile south of Ikawga. Thence it proceeds in a straight line in an easterly direction to the road-junction about a quarter of a mile west of Ilogbo, Ilogbo lying in the Colony; and thence to the point about a quarter of a mile south-east of Agbara where a path from Agbara meets the creek entering the Ologe Lagoon, Agbara lying in the Nigeria Protectorate. Thence it follows the north banks of the last-mentioned creek and the lagoon lying about one mile south of Igbessa to the mouth of the Awwaw River. Thence it follows the thalwegs of the Awwaw and Ilo Rivers until the Ilo meets the most direct road from Otta to Isheri about one-eighth of a mile north of the Ilo railway bridge. Thence it follows the last-named road passing by Igbo, Aga, Jagun, Alagbole, and Oke to the point where it meets the right bank of the Ogun River at the north-east end of Oke, the road and Oke village lying in the Colony, and Igbo, Aga, Jagun, and Alagbole lying in the Nigeria Protectorate. Thence it crosses the river by the shortest route to the left bank. Thence it follows the left bank of the Ogun River to a point where a pillar is erected

about half a mile south-east of Isheri and about one-eighth of a mile west of Orisha. Thence it proceeds in a straight line to a point on the Owuru River about one mile and three-quarters below Tapa. Thence it ascends the thalweg of the Owuru River until it cuts the parallel of latitude of  $6^{\circ} 40' 51''$  N. Thence it runs in an easterly direction along a line of boundary pillars situate approximately at the points where paths and streams cross the said parallel until it meets the left bank of the Awshun (Oshun) River. Thence it follows the left bank of the Awshun (Oshun) River to its mouth. Thence it follows the north bank of the Lekki Lagoon and the north bank of the more northerly lagoon running from the Lekki Lagoon to Makun to the point where it is cut by the meridian of Abereji (Aberige). Thence it follows the meridian of Abereji to the shore of the Bight of Benin, Abereji lying in the Colony. Thence it follows the shore of the Bight of Benin to the point of starting.

III. All such parts of the territories within the limits aforesaid as have not heretofore been included in His Majesty's Dominions shall be, and the same are hereby annexed to His Majesty's Dominions, and the whole of the said territories are declared to be part and parcel of the Colony of Nigeria.

IV. As and from the date of the coming into operation of this Order, all Laws and Ordinances which shall at such date be in force in the territories heretofore known as the Colony of Southern Nigeria shall take effect within the limits of this Order, and shall remain in force therein until the same shall have been altered or repealed by the Governor of the Colony of Nigeria, by and with the advice and consent of the Legislative Council, or by His Majesty.

V. This Order shall come into operation on the first day of January, 1914, and shall be published in the Government Gazette; and the Governor shall give directions for the publication of this Order at such places, and in such manner, and for such time or times as he thinks proper for giving due publicity thereto within Nigeria.

VI. His Majesty may from time to time revoke, alter, add to or amend this Order.

And the Right Honourable Lewis Harcourt, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

ALMERIC FITZROY

STATUTORY INSTRUMENTS

1955 No. 1820

L.N. 128 of  
1955.

WEST AFRICA

THE NIGERIA PROTECTORATE AND CAMEROONS (IMPERIAL  
STATUTES EXTENSION) ORDER IN COUNCIL, 1955

MADE ... ..	1st December, 1955
LAI'D BEFORE PARLIAMENT ...	6th December, 1955
COMING INTO OPERATION ...	7th December, 1955

At the Court at Buckingham Palace, the 1st day of December, 1955

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Nigeria Protectorate and Cameroons (Imperial Statutes Extension) Order in Council, 1955.

Citation  
and  
commence-  
ment.

(2) This Order shall come into operation on the 7th day of December, 1955.

2. In this Order the expressions "the Cameroons", "the Protectorate," "Region" and "the Southern Cameroons" have the meanings respectively assigned to them by the Nigeria (Constitution) Order in Council, 1954(b).

Interpreta-  
tion.

3.—(1) The enactments set forth in the Schedule to this Order shall extend and be applied for all purposes to the Protectorate and the Cameroons as if they were British possessions.

Application  
of certain  
enactments  
to Nigeria  
Protectorate  
and  
Cameroons.

(2) References to the Federal Supreme Court of Nigeria and the High Courts established for each Region of Nigeria and for the Southern Cameroons, and to any judge of any of those courts, shall be substituted in the said enactments for the references therein to a Supreme Court or a Superior Court in a colony, or a judge of a court in a colony, as the case may be.

(a) 53 & 54 Vict., c. 37.  
(b) S.I. 1954/1146.

*Nigeria Protectorate and Cameroons (Imperial  
Statutes Extension)*

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Revocations.

4. The Northern Nigeria (Imperial Statutes Extension) Order, 1910(c), and the Southern Nigeria Protectorate (Imperial Statutes Extension) Order, 1911(d), shall be revoked without prejudice to anything lawfully done thereunder.

Section 3.

SCHEDULE

The Admiralty Offences (Colonial) Act, 1849(e)

Sections 7 and 11 of the Evidence Act, 1851(f)

The Foreign Tribunals Evidence Act, 1856(g), as amended by the Extra-  
dition Act(h), 1870

The Evidence by Commission Act(i) 1859

The British Law Ascertainment Act(j), 1859

The Foreign Law Ascertainment Act(k), 1861

The Evidence by Commission Act(l), 1885.

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EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to  
explain its general purport).*

This Order makes provision for the extension of certain Acts of Parliament to the Protectorate of Nigeria and the Cameroons.

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(c) S.R. & O. 1910/253 Rev. VIII, p. 383; 1910 p.125

(d) S.R. & O. 1911/235 Rev. XVI p. 916

(e) 12 & 13 Vict., c. 96

(f) 14 & 15 Vict., c. 99

(g) 19 & 20 Vict., c. 113

(h) 33 & 34 Vict., c. 52

(i) 22 Vict., c. 20

(j) 22 & 23 Vict., c. 63

(k) 24 & 25 Vict., c. 11

(l) 48 & 49 Vict., c. 74

ORDER IN COUNCIL APPLYING THE EVIDENCE  
(COLONIAL STATUTES) ACT, 1907, TO NIGERIA

AT THE COURT AT BUCKINGHAM PALACE

*The 14th day of December, 1922*

Present:

THE KING'S MOST EXCELLENT MAJESTY

Lord President.  
Lord Somerleyton.  
Lord Chamberlain.

Mr E. F. L. Wood.  
Sir Frederick Ponsonby.

WHEREAS by the Evidence (Colonial Statutes) Act, 1907, it is provided that His Majesty may by Order in Council extend that Act to Cyprus and any British protectorate, and where so extended that Act shall apply as if Cyprus or the protectorate were a British possession:

AND WHEREAS by an Order in Council dated the 18th day of October, 1909 (hereinafter called the principal Order), it was ordered that the said Act should extend to Cyprus and to the British protectorates named in the Schedule thereto:

AND WHEREAS in consequence of the constitutional changes since effected in the status of certain territories by the Orders named in the First Schedule hereto, it is expedient that the said Principal Order should be amended and that a revised Schedule should be substituted for the Schedule thereto:

NOW, THEREFORE, His Majesty, by and with the advice of His Majesty's Privy Council, is pleased to order, and it is hereby ordered, that the said Act shall extend to the British protectorates named in the Second Schedule hereto, which as from the date of this Order shall be deemed to be substituted for the Schedule to the Principal Order. Provided nevertheless that such last-mentioned Schedule shall continue in full force and effect with regard to any British protectorate included therein but not included in the Second Schedule to this Order.

ALMERIC FITZROY.

*Order in Council extending Evidence  
(Colonial Statutes) Act to Nigeria*

FIRST SCHEDULE

<i>Name of Order in Council</i>	<i>Date</i>
The Northern Rhodesia Order in Council, 1911...	4th May, 1911.
The Nigeria Protectorate Order in Council, 1913	22nd November, 1913.
The Cyprus (Annexation) Order in Council, 1914	5th November, 1914.
The Gilbert and Ellice Islands Order in Council, 1915.	10th November, 1915.
The Kenya (Annexation) Order in Council, 1920	11th June, 1920.

SECOND SCHEDULE

Bechuanaland Protectorate  
 British Solomon Islands  
 Nigeria  
 Northern Rhodesia  
 Northern Territories of the Gold Coast  
 Nyasaland  
 Somaliland.  
 Southern Rhodesia  
 Swaziland  
 Uganda  
 Zanzibar.



