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**THE PUBLIC OFFICERS (SPECIAL PROVISIONS)
DECREE 1970**



ARRANGEMENT OF SECTIONS

Section

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| <p>1. Dismissal, removal or compulsory retirement of certain public officers.</p> <p>2. Pension rights : forfeiture, etc.</p> <p>3. Pension rights : supplemental.</p> | <p>4. Exclusion of s.152 of 1963 No. 20' etc.</p> <p>5. Right of appeal.</p> <p>6. Supplementary provisions.</p> <p>7. Interpretation.</p> <p>8. Citation and extent.</p> |
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Decree No. 46

[5th August 1970]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. Where the appropriate authority is satisfied that during the period between 15th January 1966 and 15th January 1970—

(a) any public officer was actively engaged in any hostile or subversive act or rebellion against any of the Governments in the Federation ; or

(b) any public officer was actively engaged in counselling, aiding or abetting any other person to engage in any hostile or subversive act or rebellion against any of the Governments in the Federation ; or

(c) the conduct of a public officer was such that his further or continued employment in the relevant service would not be in the public interest, the appropriate authority may—

(i) dismiss or remove the public officer summarily from his office, or

(ii) require him to retire compulsorily from the relevant service,

notwithstanding any thing to the contrary in the provisions of any enactment, law or instrument.

2.—(1) Where a public officer is dismissed, removed or retired compulsorily pursuant to section 1 above, he shall forfeit such benefits to which this Decree applies as may have been granted or, as the case may be, to which he becomes eligible unless the appropriate authority directs that the officer shall be granted or be eligible for such or so much of the benefits as the appropriate authority may in its discretion authorise.

(2) Where the appropriate authority is satisfied that a former public officer was actively engaged in any hostile or subversive act or rebellion against any of the Governments in the Federation during the period mentioned

Dismissal,
removal or
compulsory
retirement
of certain
public
officers.

Pension
rights :
forfeiture,
etc.

in section 1 above, that former officer shall forfeit such benefits to which this Decree applies as may have been granted unless the appropriate authority directs that the former officer shall be granted such or so much of the benefits as the appropriate authority may in its discretion authorise.

Pension
rights :
supple-
mental.

3.—(1) Without prejudice to the generality of the foregoing provisions and subject to the provisions of this Decree, the appropriate authority may in its discretion require any public officer in the war affected area or returning from the war affected area for reinstatement or reabsorption, (not being a public officer affected by section 1 of this Decree) to retire compulsorily under the provisions of any enactment, law or instrument governing compulsory retirement of the public officer.

(2) Where the public officer is compulsorily retired pursuant to subsection (1) above, the appropriate authority may, if—

(a) the public officer had in the course of his employment completed not less than 10 years service before 15th January 1966 ; and

(b) the appropriate authority is satisfied that the conduct of the officer has during the period of his employment in the service been satisfactory, direct that the public officer shall be granted or be eligible for such or so much of the benefits to which this Decree applies as the appropriate authority may in its discretion authorise.

(3) In this section and in section 7 (3) below, the reference to the service of any public officer in an employment shall be construed as a reference to that service in the employment specified under section 7 (1) below.

Exclusion
of s.152 of
1963 No. 20,
etc.
1966 No. 1.

4.—(1) For the purposes of this Decree, the operation of the provisions of section 152 of the Constitution of the Federation and the corresponding provisions of the constitution of a State, as affected by the Constitution (Suspension and Modification) Decree 1966, which protect certain pension rights, is hereby excluded.

(2) It is hereby declared that any provision of any enactment, law or instrument (including the Constitution of the Federation and the constitution of a State) relating to the benefits to which this Decree applies or relating to appointment, dismissal and disciplinary control of a public officer shall have effect subject to the provisions of this Decree.

(3) Nothing in this Decree shall be construed as affecting the validity of anything done before the commencement of this Decree by any appropriate authority in exercise of its disciplinary or other powers over public officers subject to its authority.

Right of
appeal.

5.—(1) Any person aggrieved by anything done in respect of him by the appropriate authority under this Decree may appeal to the Head of the Federal Military Government who may, before arriving at a decision on the appeal, take the advice of such persons as he deems appropriate.

(2) The Head of the Federal Military Government may after considering the appeal made under this section confirm, modify or rescind anything done by the relevant appropriate authority and the decision of the Head of the Federal Military Government shall be final.

Supple-
mentary
provisions.

6.—(1) No civil proceeding shall lie or be instituted in any court for or on account of or in respect of any act, matter or thing done or purported to be done by any person under this Decree and if any such proceeding has been or is instituted before or after the commencement of this Decree, the proceedings shall abate, be discharged and made void.

(2) Chapter III of the Constitution of the Federation is hereby suspended for the purpose of this Decree and the question whether any provision thereof has been or is being or would be contravened by anything done or purported to be done in pursuance of this Decree shall not be inquired into in any court of law.

7.—(1) In this Decree, “public officer” means any person employed in—

Interpretation.

(a) the public service of the Federation within the meaning of section 165 of the Constitution of the Federation ;

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

(c) the service of a body corporate or incorporate established under a Federal or State law ;

(d) a company in which any of the Governments in the Federation has controlling or substantial interest.

(2) The reference in this Decree to “appropriate authority” is a reference to the person or authority empowered in that behalf by or under any enactment, law or instrument to appoint, dismiss and exercise disciplinary control over public officers ; and the reference to any exercise of powers by the appropriate authority includes a reference to the performance of functions and duties.

(3) This Decree applies to any benefits payable under any enactment or law of the Federation or of a State or under any instrument providing for the grant of pension, gratuity or compensation to any public officer in respect of his service or to the widow, children, dependants or personal representatives of that public officer in respect of such service.

8. This Decree may be cited as the Public Officers (Special Provisions) Decree 1970 and shall apply throughout the Federation.

Citation and extent.

MADE at Lagos this 5th day of August 1970.

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

**ROBBERY AND FIREARMS (SPECIAL PROVISIONS)
DECREE 1970**



Decree No. 47

[8th August 1970]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) Any person who commits the offence of robbery shall upon trial and conviction under this Decree, be liable to imprisonment for not less than twenty-one years.

Punishment
for robbery.

(2) If—

(a) any offender mentioned in subsection (1) above is armed with any firearms or any offensive weapon or is in company with any person so armed, or

(b) at or immediately before or immediately after the time of the robbery the said offender wounds or uses any personal violence to any person, the offender shall be liable upon conviction under this Decree to sentence of death.

(3) The sentence of death imposed under this section may be executed by hanging the offender by the neck till he be dead or the offender may suffer death by firing squad as the Military Governor may direct.

2.—(1) Any person who, with intent to steal anything, assaults any other person and at or immediately after the time of assault, uses or threatens to use actual violence to any other person or any property in order to obtain the thing intended to be stolen shall be liable upon conviction under this Decree to imprisonment for not less than fourteen years but not more than twenty years.

Punishment
for attempted
robbery, etc.

(2) If—

(a) any offender mentioned in subsection (1) above is armed with any firearms or any offensive weapon or is in company with any other person so armed, or

(b) at or immediately before or immediately after the time of the assault the said offender wounds or uses any other personal violence to any person, the offender shall be liable upon conviction under this Decree to imprisonment for life with whipping in such manner and to such extent not exceeding twenty-four strokes as the tribunal may decide.

(3) Any person found in any public place in possession of any firearms whether real or imitation and in circumstances reasonably indicating that the possession of the firearms is with intent to the immediate or eventual

commission by that person or any other person of any offence under section 1 above or under the foregoing provisions of this section shall be liable on conviction under this Decree to imprisonment for not less than fourteen years but not more than twenty years.

Punishment
for illegal
possession
of firearms.
Cap. 69.

3. Any person having a firearm in his possession or under his control in contravention of the Firearms Act or any order made thereunder shall be guilty of an offence under this Decree and shall be liable upon conviction under this Decree to a fine not exceeding five hundred pounds or to imprisonment for a period not exceeding seven years, or to both.

Power to
arrest by
force without
warrant, etc.

4.—(1) An armed patrol may arrest without warrant any person reasonably suspected of having committed or of being about to commit an offence under this Decree, and the armed patrol may use such force, including the use of firearms, as may be reasonably necessary to effect the arrest of that person or to prevent his escape.

(2) The foregoing provisions of this section shall have effect—

(a) without prejudice to any other power conferred by any law on members of the Nigeria Police Force or members of the armed forces, and

(b) notwithstanding anything to the contrary in any law.

Constitution
of tribunals
for trial of
offences.

5.—(1) The Military Governor of each State shall constitute a tribunal or tribunals for the trial of offences under this Decree committed within his State.

(2) A tribunal constituted under subsection (1) above shall consist of—

(a) an officer of the Judicial Department of the State concerned not below the rank of a chief magistrate, who shall be chairman,

(b) an officer of the Nigerian Army not below the rank of captain or an officer in the Nigerian Navy or Air Force not below the corresponding rank, and

(c) an officer of the Nigeria Police Force not below the rank of superintendent of Police,

designated by the Military Governor :

Provided that no officer of the Nigerian Armed Forces or of the Nigeria Police Force who has taken part in the search for, pursuit or apprehension of any person to be tried under this Decree or who has taken part in the investigation of the offence alleged or suspected to have been committed by that person shall sit as a member of a tribunal constituted for the trial of that person for that offence.

Procedure
for the trial
of offences.

6.—(1) The trial of offences under this Decree shall commence by way of application, supported by evidence on affidavit, made to the tribunal in that behalf by the Director of Public Prosecutions of the State concerned or by such officer in the Ministry of Justice of that State as the Director of Public Prosecutions may authorise so to do:

Provided that the question whether the Director of Public Prosecutions has given an authority in pursuance of this subsection, or what the authority was, shall not be enquired into by any person except at the instance of the Attorney-General of the State.

(2) Where after perusal of the application and the evidence on affidavit or any further evidence in such form as the tribunal may consider necessary, the tribunal is satisfied that any person appears to have committed any offence under this Decree, it shall cause notice to be served on that person calling upon him to show cause why he should not be punished for that offence.

(3) Where no cause or no sufficient cause under subsection (2) above is shown by the person on whom a notice is served under that subsection to its satisfaction, the tribunal may, after such inquiry as the tribunal may consider necessary, convict that person of the offence and impose upon him an appropriate sentence in accordance with the provisions of this Decree.

(4) The procedure to be followed upon an application to the tribunal under subsection (1) above shall be in accordance with such rulings as the tribunal may make either generally or for the purpose of a particular trial; and in relation to and for the purpose of proceedings of the tribunal the tribunal shall have the same powers, whether of compelling the attendance of persons and the production of documents or otherwise, as the High Court of the State concerned has in the exercise of its ordinary jurisdiction.

(5) For the avoidance of doubt, it is hereby declared that an offender under this Decree shall be entitled to defend himself in person or by a person of his own choice who is a legal practitioner, and to examine in person or by his legal practitioner, if he so wishes, any person whose evidence on affidavit or otherwise forms part of the case against him.

7.—(1) The Military Governor of a State shall, in respect of a tribunal constituted by him, have power to confirm or disallow any conviction or sentence imposed by the tribunal.

Conviction or sentence subject to confirmation or disallowance.

(2) Any sentence imposed under this Decree shall not take effect until the conviction and sentence are confirmed by the appropriate Military Governor under subsection (1) above, and pending such confirmation the convicted offender shall be kept in such place of safe custody as the tribunal may decide.

(3) Where under subsection (1) above the Military Governor disallows—

(a) a conviction, whether upon representation made by the convicted offender or from other circumstances, he shall order the release of the person convicted from custody;

(b) a sentence, he may substitute a less severe form of punishment for any punishment imposed on the convicted offender.

8.—(1) It is hereby declared for the avoidance of doubt that a tribunal constituted under this Decree shall, notwithstanding anything to the contrary in any enactment or law (including the Constitution of the Federation or the Constitution of a State), have the power, in appropriate cases, to award the punishments (including a sentence of death) specified in this Decree.

Supplementary provisions, 1963 No. 20.

(2) No right of appeal to any court in Nigeria granted by any enactment or law as aforesaid shall apply in respect of the conviction of an offender or in respect of any sentence imposed by a tribunal constituted under this Decree.

(3) No civil proceedings shall lie or be instituted in any court for or on account of or in respect of any act, matter or thing done or purporting to be done under this Decree by the Military Governor of a State, or by any member or officer of a tribunal constituted under this Decree, and if such proceedings are instituted after the commencement of this Decree the proceedings shall abate, be discharged and made void.

(4) The question whether any provision of Chapter III of the Constitution of the Federation has been, is being or would be contravened by anything done or proposed to be done in pursuance of this Decree shall not be enquired into in any court of law, and accordingly sections 32, 115 and 117 (2) (d) of that Constitution shall not apply in relation to any such question.

1964 No. 1.

(5) It is hereby declared that section 24 of the Interpretation Act 1964 (which provides, *inter alia*, that a person shall not be punished twice where he is guilty of an offence under more than one enactment) shall apply in respect of this Decree.

Interpreta-
tion.

9. In this Decree, except where the context otherwise requires—

“armed patrol” means any patrol comprising either both armed members of the Nigeria Police Force and armed members of the Nigerian Army or only armed members of the Nigeria Police Force, according as may be directed by the Military Governor for the purposes of patrol duties in respect of particular areas of the State concerned ;

“assault” means striking, touching, moving or otherwise applying force, including heat, light, electrical force, gas, odour, or any other substance or thing whatever, if applied in such a degree as to cause injury or personal discomfort to the person of another, either directly or indirectly without his consent, or with his consent if the consent is obtained by fraud, or any bodily act or gesture, amounting to an attempt or threat to apply force of any kind as aforesaid to the person of another without his consent, in such circumstances that the person making the attempt or threat has in fact or apparently a present ability to effect the purpose ;

“firearms” includes any canon, gun, rifle, carbine, machine-gun, cap-gun, flint-lock gun, revolver, pistol or other firearm, whether whole or in detached pieces ;

“Military Governor” includes the Administrator of the East-Central State ;

“offensive weapon” means any article made or adapted for use for causing injury to the person or intended by the person having it for such use by him and it includes an air gun, air pistol, bow and arrow, spear, cutlass, matchet, dagger, cudgel, or any piece of wood, metal, glass or stone capable of being used as an offensive weapon, but does not include a firearm ;

“robbery” means stealing anything, and, at or immediately before or after the time of stealing it, using or threatening to use actual violence to any person or property in order to obtain or retain the thing stolen or to prevent or overcome resistance to its being stolen or retained ;

“steal” means to take or convert to one’s use or the use of any other person anything other than immovable property, with any of the following intents—

(a) an intent permanently to deprive the owner of the thing of it ;

(b) an intent permanently to deprive any person who has any special property in the thing of such property, the term "special property" here including any charge or lien upon the thing in question and any right arising from or dependent upon holding possession of the thing in question, whether by the person entitled to such right or by some other person for his benefit ;

(c) an intent to use the thing as a pledge or security ;

(d) an intent to part with the thing on a condition as to its return which the person taking or converting it may be unable to perform ;

(e) an intent to deal with the thing in such a manner that it cannot be returned in the condition in which it was at the time of taking or conversion ;

(f) in the case of money, an intent to use it at the will of the person who takes or converts it, although he may intend afterwards to repay the amount to the owner ;

"the tribunal" means a tribunal constituted under section 5 of this Decree.

10.—(1) This Decree may be cited as the Robbery and Firearms (Special Provisions) Decree 1970 and shall apply throughout the Federation.

Citation,
extent,
repeal, etc.

(2) The enactments set out in the Schedule to this Decree are hereby repealed.

(3) Any proceedings instituted before the commencement of this Decree under any enactment repealed by subsection (2) above may continue and be completed as if this Decree had not been made.

SCHEDULE

Section 10 (2).

ENACTMENTS REPEALED

Federal Legislation

1967 No. 2. The Suppression of Robbery Decree 1967.

Western State Legislation

No. 3 of 1967. The Robbery (Summary Trial and Punishment) Edict 1967.

Lagos State Legislation

No. 1 of 1968. The Robbery (Special Provisions) Edict 1968.

No. 1 of 1970. The Robbery (Special Provisions) (Amendment) Edict 1970.

MADE at Lagos this 8th day of August 1970.

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