

A 121

**THE CONSTITUTION (SUSPENSION AND MODIFICATION)
(No. 5) DECREE 1966**



ARRANGEMENT OF SECTIONS

<i>Section</i> 1. Nigeria to be a Republic. 2. Consequential changes. 3. Unification of the public service. 4. Appointment etc. of officers in National Public Service. 5. Appointment etc. of permanent secretaries and other public officers of equivalent rank. 6. Appointment etc. of members of Police Service Commission. 7. Consequential suspension of some and modification of other constitutional provisions.	8. Transitional and saving provisions. 9. Meaning of certain expressions in Decrees and other laws. 10. Extent of Decree. 11. Citation, extent etc.
SCHEDULES	
1—Provisions of Constitution of Republic suspended by s.7 (1). 2—Provisions of provincial constitutions suspended by s.7 (2) (a). 3—Amendments of Schedule 4 of principal Decree.	

Decree No. 34

[24th May 1966]

Commence-
ment

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

1. Subject to the provisions of this Decree, Nigeria shall on 24th May 1966 (in this Decree referred to as "the appointed day") cease to be a Federation and shall accordingly as from that day be a Republic by the name of the Republic of Nigeria, consisting of the whole of the territory which immediately before that day was comprised in the Federation.

Nigeria to
be a
Republic

2.—(1) As from the appointed day—
(a) the Federal Military Government and the Federal Executive Council shall be known respectively as the National Military Government and the Executive Council;
(b) the Federal territory shall be known as the Capital territory;

Consequen-
tial changes

(c) the provinces, including Kaduna capital territory, in schedule 1 of this Decree which immediately before the appointed day were respectively comprised in Northern Nigeria, Eastern Nigeria, Western Nigeria and Mid-Western Nigeria shall be known respectively as the Northern group of Provinces, the Eastern group of Provinces, the Western group of Provinces and the Mid-Western group of Provinces;

(d) for the purposes of administration each group of provinces shall, subject to the authority of the Head of the National Military Government, be under the general direction and control of a Military Governor appointed by the Head of the National Military Government;

(e) Act No. 20 of 1963 (that is to say the Constitution of the Federation) may be cited as the Constitution of the Republic.

(2) Without prejudice to section 8 of this Decree, the person who immediately before the appointed day holds the office of Military Governor of a Region shall be deemed to have been appointed by the Head of the National Military Government as Military Governor of the corresponding group of provinces with effect from that day.

(3) The National Military Government may either conditionally or unconditionally delegate to a Military Governor of a group of provinces power to make laws by edict for the peace, order and good government with respect to any matter specified in the delegation in relation to that group of provinces.

(4) Subject to this and any other Decree, a Military Governor of a group of provinces may exercise by way of edict or, as the case may be, by regulation, order, or instrument the powers and functions vested in the Executive Council of the Government of a former Region, or of the Governor, Premier, or Minister (except in relation to criminal prosecutions) of a government of a former Region under any existing law with respect to that group of provinces; and accordingly sections 3 (2), (3), (5), (6) and (7) and section 4 (6) of the Constitution (Suspension and Modification) Decree 1966 (in this Decree referred to as "the principal Decree") shall cease to have effect.

(5) Subsection (4) shall be without prejudice to section 8 of this Decree, and the repeal by that subsection of any provision of the principal Decree shall not affect the operation of that provision in relation to any time before the appointed day.

(6) Any Edict made by the Military Governor of a Region which is in force immediately before the appointed day shall, as from that day, have effect as a Decree applying only to the group of provinces which corresponds to that Region, and references to a Decree shall be construed accordingly.

In this subsection "Edict" includes a decree made as mentioned in section 4 (6) of the principal Decree.

(7) Notwithstanding section 1 of this Decree, (on and after the appointed day—

(a) the provisions of the constitution of each former Region which are not for the time being suspended shall, in relation to the corresponding group of provinces, have effect as modified by the combined operation of the principal Decree, as amended, and this Decree; and

(b) the
tion c
Province
group of

3.—(1)
Republic i
the Natio
before the
the publi
National

Prov
Attorney-

(2)

(a)
Consti
Comm
Servic

(b)
appro
as the
Servi
be co

(3)

Repu
Com
befo
appo
mad

4,
person
power
and tr
acting
Public

(c)
the f
unco
any p

Nat
of an
excer
Prov

dele
belo
may
the

46 No. 1

(b) the constitution of each former Region may be cited as the Constitution of the Northern, Eastern, Western or Mid-Western group of Provinces, as the case may be, and references to the constitution of a group of provinces shall be construed accordingly.

3.—(1) As from the appointed day all offices in the service of the Republic in a civil capacity shall be offices in a single service to be known as the National Public Service; and accordingly all persons who immediately before that day are members of the public service of the Federation or of the public service of a Region shall on that day become members of the National Public Service:

Unification of the public service.

Provided that this subsection shall not apply to the office of the Attorney-General of the Republic or of a group of Provinces.

(2) As from the appointed day,—

(a) the Public Service Commission established under section 146 of the Constitution of the Republic shall be known as the National Public Service Commission, and references in that section and elsewhere to the Public Service Commission of the Federation shall be amended accordingly;

1963 No. 20

(b) all Regional Public Service Commissions established under the appropriate provisions of the Constitutions of the Regions shall be known as the Provincial Public Service Commissions, and references to the Public Service Commissions created under the Constitutions of the Regions shall be construed accordingly.

(3) Notwithstanding anything contained in the Constitution of the Republic or of a group of Provinces, the members of the Public Service Commission of the Federation and of the Regions who, immediately before the appointed day hold office, shall continue in office until the appointments expire or are sooner revoked, and fresh appointments are made.

4.—(1) Subject to the provisions of this section, power to appoint persons to hold or act in offices in the National Public Service (including power to make appointments on promotion and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall, as from the appointed day, vest in the National Public Service Commission.

Appointment etc. of officers in National Public Service.

(2) The National Public Service Commission may, with the approval of the Head of the National Military Government, either conditionally or unconditionally delegate any of its powers under subsection (1) above to any person or authority in Nigeria.

(3) Subject to subsections (4) and (6) below, all the powers of the National Public Service Commission under subsection (1) above in respect of any office in the National Public Service carrying an initial salary not exceeding £2,292, shall be treated as having been delegated to the appropriate Provincial Public Service Commission.

(4) Any delegation effected under subsection (2) above (including any delegation which in accordance with subsection (3) above or subsection (6) below is to be treated as having been effected under subsection (2) above) may be varied or revoked by the National Public Service Commission with the approval of the Head of the National Military Government.

(5) Subsection (1) above shall not apply in relation to any of the following offices—

- (a) the office of any judge of the Supreme Court, the High Court of Lagos, the High Court of a group of provinces or the Sharia Court of Appeal;
- (b) the office of economic adviser to the Republic;
- (c) except for the purpose of making appointments thereto, the office of the Director of Audit of the Republic and the office of the Director of Audit of a group of provinces;
- (d) the office of Magistrate and Justice of the Peace;
- (e) any office in the Nigeria Police Force;
- (f) any office to which section 148 of the Constitution of the Republic applies.

(6) Without prejudice to subsection (4) above or to section 8 of this Decree, any delegation effected under section 147 of the Constitution of the Federation, or under the corresponding section of the constitution of a Region, which is in force immediately before the appointed day shall, as from that day, be deemed to have been duly effected by the National Public Service Commission under subsection (2) above.

(7) The provisions of this section shall be subject to the provisions of section 5 of this Decree.

Appoint-
ment, etc., of
permanent
secretaries
and other
public
officers of
equivalent
rank.

5.—(1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Republic or any other office of equivalent rank in the National Public Service, and to remove persons so appointed from any such office shall, as from the appointed day, vest in the Supreme Military Council.

(2) Before appointing any person by virtue of this section, the Supreme Military Council shall consult the National Public Service Commission.

(3) Subsection (1) above shall not apply in relation to any of the offices mentioned in section 4 (5) of this Decree.

Appoint-
ment, etc., of
members of
Police
Service
Commission.

6. As from the appointed day the members of the Police Service Commission shall be appointed by the Head of the National Military Government; and accordingly in the entry in Schedule 2 of the principal Decree relating to section 109 of the Constitution of the Republic, for the words "Federal Executive Council" in both places where they occur, there shall, as from the appointed day, be substituted the words "Head of the National Military Government".

Consequen-
tial suspen-
sion of
some and
modification
of other
constitu-
tional
provisions.

7.—(1) As from the appointed day, the provisions of the Constitution of the Republic mentioned in Schedule 2 of this Decree shall be suspended.

(2) As from the appointed day—

(a) the provisions of the constitution of each group of provinces which are mentioned in Schedule 3 of this Decree shall be suspended; and

(b) Schedule 4 of the principal Decree shall have effect subject to the amendments specified in Schedule 4 of this Decree.

shall
alter-
(
and
(
of t
day
(
said
wer
into c

(2
of the
offices,
in con
in like

(3
before
9.

"e
"g
Easte
Mid-

"th
Milit.

"th
"the
Provi
this I

10.
through

11.
Modifica

(2)
apply in

(3)

8.—(1) As from the appointed day the principal Decree, as amended, shall have effect with such modifications (whether by way of addition, alteration or omission) as may be necessary to bring it, and through it—

Transitional and saving provisions.

(a) the unsuspended provisions of the Constitution of the Republic and of the constitution of each group of provinces ; and

(b) all existing law within the meaning of subsection (1) of section 12 of the principal Decree, so far as in force immediately before the appointed day ; and

(c) all other law which would be existing law within the meaning of the said subsection (1) if the references in that subsection to 16th January 1966 were references to the appointed day ;

into conformity with this Decree.

(2) Without prejudice to the generality of subsection (1) above, section 13 of the principal Decree (which makes provision for the saving of existing offices, appointments, etc.) shall, with such modifications as may be necessary in consequence of this Decree, have effect in relation to the appointed day in like manner as it has effect in relation to 16th January 1966.

(3) Nothing in this Decree shall affect the validity of anything done before the appointed day.

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

“enactment” includes any provision of a Decree ;

“group of provinces” means the Northern Group of Provinces, the Eastern Group of Provinces, the Western Group of Provinces or the Mid-Western Group of Provinces ;

“the Military Governor”, in relation to a group of provinces, means the Military Governor of that group of provinces ;

“the Northern Group of Provinces”, “the Eastern Group of Provinces”, “the Western Group of Provinces” and “the Mid-Western Group of Provinces” have the respective meanings assigned in section 2 (1) (c) of this Decree.

Meaning of certain expressions in Decrees and other laws.

10. Every Decree made on or after the appointed day shall apply throughout Nigeria except in so far as the contrary intention appears therein.

Extent of Decrees.

11.—(1) This Decree may be cited as the Constitution (Suspension and Modification) (No. 5) Decree 1966 and shall apply throughout Nigeria.

Citation, extent, etc.

(2) Subsections (3) and (4) of section 17 of the principal Decree shall apply in relation to this Decree as they apply in relation to that Decree.

(3) In this Decree “the appointed day” means 24th May 1966.

SCHEDULES

Section
2 (1) (c)

SCHEDULE 1

<i>Northern Provinces</i>	<i>Eastern Provinces</i>	<i>Western Provinces</i>	<i>Mid-Western Provinces</i>
1. Sokoto	1. Enugu	1. Abeokuta	1. Benin
2. Katsina	2. Abakaliki	2. Colony	2. Delta
3. Kano	3. Ogoja	3. Ibadan	
4. Bornu	4. Onitsha	4. Ijebu	
5. Ilorin	5. Owerri	5. Ondo	
6. Niger	6. Calabar	6. Oyo I	
7. Zaria	7. Umuahia	7. Oyo II	
8. Bauchi	8. Port Harcourt		
9. Plateau	9. Annang		
10. Adamawa	10. Uyo		
11. Benue	11. Degema		
12. Kabba	12. Yenagoa		
13. Kaduna			
Capital Territory			
14. Saraduna			

Section 7 (1)

SCHEDULE 2

PROVISIONS OF CONSTITUTION OF REPUBLIC SUSPENDED BY s.7 (1)

The preamble
The long title
Sections 2 and 3
Section 147
Section 149
The Schedule

Section
7 (2) (a)

SCHEDULE 3

PROVISIONS OF PROVINCIAL CONSTITUTIONS SUSPENDED BY s.7 (2) (a)

<i>Constitution of Northern Provinces</i>	<i>Constitution of Eastern Provinces</i>	<i>Constitution of Western Provinces</i>	<i>Constitution of Mid-Western Provinces</i>
The preamble Section 67 (1) to (3) Section 69	The preamble Section 64 (1) to (3) Section 67	The preamble Section 63 (1) to (3) Section 66	The preamble Section 62 (1) to (3) Section 65

Section
7 (2) (b)

SCHEDULE 4

AMENDMENTS OF SCHEDULE 4 OF PRINCIPAL DECREE

1. In the entry in Part II relating to section 59 of the Constitution of the Northern Provinces, and in the corresponding entries in Parts III, IV and V, for the word "Edict" there shall be substituted the word "Decree".

2. In the entry in Part II relating to section 60 of the Constitution of the Northern Provinces, and in the corresponding entries in Parts III, IV and V—

(a) in the first paragraph, for the word "him" there shall be substituted the words "the National Military Government";

(b) in the second and third paragraphs, for the word "Edict", wherever it occurs, there shall be substituted the word "Decree"; and

(c) in the third paragraph, for the words "Military Governor" there shall be substituted the words "National Military Government".

3. In the entry in Part II relating to section 62(2) of the Constitution of the Northern Provinces, and in the corresponding entries in Parts III, IV and V, for the word "Edict" there shall be substituted the word "Decree".

4. In the entry in Part II relating to section 66 of the Constitution of the Northern Provinces, and in the corresponding entries in Parts III, IV and V, before the existing paragraph there shall be inserted the following paragraph—

In subsection (1), for the words "a Public Service Commission for the Region" there shall be substituted the words "a Provincial Public Service Commission for the group of provinces".

5. In this Schedule "the corresponding entries in Parts III, IV and V", in relation to an entry in Part II relating to a provision of the Constitution of the Northern Provinces, means the entries in Parts III, IV and V relating to the corresponding provisions of the constitutions of the other groups of provinces.

DATED at Lagos this 24th day of May, 1966.

MAJOR-GENERAL J. T. U. AGUIYI-IRONSI,
*Head of the Federal Military Government,
Supreme Commander of the Armed Forces,
Federal Republic of Nigeria*