shall furnish the Governor with such information as he may request with respect to any particular matter relating to the government of the Region."

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order amends the provisions of the Nigeria (Constitution) Order in Council, 1954, relating to the Executive Councils of the Regions.

1957 No. 1530

The Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957

Made - - - -	23*rd August*, 1957
Laid before Parliament	29*th August*, 1957
Coming into Operation	30*th August*, 1957

At the Court at Balmoral, the 23rd day of August, 1957

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:—

Citation, construction and commencement

1.—(1) This Order may be cited as the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and shall be construed as one with the Nigeria (Constitution) Orders in Council, 1954 to 1956(b).

(2) The Nigeria (Constitution) Orders in Council, 1954 to 1956, the Nigeria (Constitution) (Amendment) Order in Council, 1957(c), and this Order may be cited together as the Nigeria (Constitution) Orders in Council, 1954 to 1957.

(3) This Order shall come into operation on the thirtieth day of August, 1957.

Amendment of Order of 1954

2. Section 2 of the Nigeria (Constitution) Order in Council, 1954, (hereinafter called "the principal Order") is hereby amended—

(*a*) by the insertion in subsection (2) after paragraph (*c*) of the following paragraph:—

"(*d*) any reference to defence shall, without prejudice to its generality, be construed as including the organization, discipline, control and use of the armed forces of the Crown

(a) 53 & 54 Vict. c. 37.
(b) S.I. 1954/1146, 1955/432, 1956/836 (1954 II, p. 2829; 1955 II, p. 3163; 1956 II, p. 2953).
(c) S.I. 1957/1363 (p. 3028 above).

and the control and use of any establishments, installations and equipment pertaining thereto." ;

(*b*) by the deletion from subsection (4) of all words in sub-paragraph (ii) of paragraph (*a*) after the words "the functions of that office" and the substitution of the words "and shall include, in the case of the Governor-General, the Deputy Governor-General, to the extent to which he is authorized to discharge the functions of the office of Governor-General, and, in the case of the Governor of a Region, the Deputy Governor of the Region, to the extent to which he is authorized to discharge the functions of the office of Governor" ;

(*c*) by the deletion from subsection (4) of the words "a public office" wherever they occur in paragraph (*b*) and the substitution of the words "an office of emolument under the Crown" ;

(*d*) by the insertion in subsection (4) before the word "shall" wherever it occurs in paragraph (*c*) of the words "as amended" ; and

(*e*) by the deletion from subsection (4) of the words "Temporary Member of the Council of Ministers" in sub-paragraph (i) of paragraph (*d*) ; and

(*f*) by the deletion from subsection (4) of paragraph (*e*).

3. Section 4 of the principal Order is hereby amended—

(*a*) by the deletion from subsection (2) of the words "acting in his discretion" in paragraph (*b*) ; and

(*b*) by the insertion in subsection (2) after paragraph (*c*) of the following paragraph :—

"(*d*) In exercise of the powers conferred upon him by this subsection the Governor of the Northern Region shall act in his discretion".

4. Section 6 of the principal Order is hereby amended by the deletion of paragraph (*b*).

5. Section 7 of the principal Order is hereby amended—

(*a*) by the deletion from subsection (1) of the words "paragraphs (*b*), (*c*), (*d*) and (*e*)" in paragraph (*a*) and the substitution of the words "paragraphs (*c*), (*d*) and (*e*)" ; and

(*b*) by the deletion from subsection (2) of the words "paragraphs (*b*), (*c*) and (*d*)" and the substitution of the words "paragraphs (*c*) and (*d*)".

6.—(1) Section 10 of the principal Order is hereby amended—

(*a*) by the deletion from subsection (1) of paragraph (*d*) and the substitution of the following paragraph :—

"(*d*) holds, or is acting in, any office of emolument under the Crown ; or" ; and

(*b*) by the insertion after subsection (2) of the following subsection :—

"(3) (*a*) For the purposes of subsection (1) of this section a person shall not be deemed to hold an office of emolument under the Crown by reason only that he is in receipt of a salary or other emoluments or any allowance in respect of his tenure of any office mentioned in paragraph (*d*) of subsection (4) of section 2 of this Order.

(*b*) If it is declared by any law enacted by the Federal Legislature that any office shall be deemed not to be an office of emolument under the Crown for the purposes of subsection (1) of this section, or that the person holding or acting in any office shall be deemed not to be a person holding or acting in an office of emolument under the Crown for those purposes, the provisions of that subsection shall have effect accordingly.

(*c*) For the purposes of subsection (1) of this section the office of any member of any body corporate incorporated directly by a law enacted by any legislature in Nigeria shall, save as otherwise provided in any law made under this subsection, be deemed to be an office under the Crown."

(2) Section 14 of the principal Order shall continue to apply in relation to a Representative Member of the House of Representatives who immediately before the commencement of this Order was holding or acting in an office of emolument under the Crown as if paragraph (*e*) of subsection (4) of section 2 of the principal Order had not been deleted by section 2 of this Order and as if section 10 of the principal Order had not been amended by subsection (1) of this section; but it shall only so apply to that member until such time as—

(*a*) the seat of that member in the House becomes vacant; or

(*b*) the subsisting appointment of that member to that office expires or is terminated,

whichever is the earlier.

7. Section 21 of the principal Order is hereby amended by the deletion from subsection (1) of paragraph (*a*) and the substitution of the following paragraph:—

"(*a*) the Attorney-General of the Northern Region;".

8.—(1) Section 39 of the principal Order is hereby amended—

(*a*) by the deletion from subsection (1) of paragraph (*d*) and the substitution of the following paragraph:—

"(*d*) holds, or is acting in, any office of emolument under the Crown; or"; and

(*b*) by the insertion after subsection (2) of the following subsections:—

"(3) (*a*) For the purposes of subsection (1) of this section a person shall not be deemed to hold an office of emolument under the Crown by reason only that he is in receipt of a salary or other emoluments or any allowance in respect of his tenure of any office mentioned in paragraph (*d*) of subsection (4) of section 2 of this Order.

(*b*) If it is declared by any law enacted by the Legislature of a Region or the Southern Cameroons that any office shall be deemed not to be an office of emolument under the Crown for the purposes of subsection (1) of this section, or that the person holding or acting in any office shall be deemed not to be a person holding or acting in an office of emolument under the Crown for those purposes, the provisions of that subsection shall have effect accordingly in their application to the House of Assembly of the Region or the House of Assembly of the Southern Cameroons, as the case may be.

(*c*) For the purposes of subsection (1) of this section the office of any member of any body corporate incorporated directly by a law enacted by any legislature in Nigeria shall, save as otherwise provided in any law made under this subsection, be deemed to be an office under the Crown."

(2) Section 47 of the principal Order shall continue to apply in relation to an Elected Member of the House of Assembly of a Region or the Southern Cameroons who immediately before the commencement of this Order was holding or acting in an office of emolument under the Crown as if paragraph (*e*) of subsection (4) of section 2 of the principal Order had not been deleted by section 2 of this Order and as if section 39 of the principal Order had not been amended by subsection (1) of this section; but it shall only so apply to that member until such time as—

(*a*) the seat of that member in the House becomes vacant; or

(*b*) the subsisting appointment of that member to that office expires or is terminated,

whichever is the earlier.

9. Section 40 of the principal Order is hereby amended—

(*a*) by the deletion from subsection (1) of the words "an Official Member of the Northern House of Assembly who has been appointed to that House by name or" and of paragraph (i) of the proviso; and

(*b*) by the deletion from subsection (4) of the words "Official or" wherever they occur in paragraph (*a*) and the words "Official Member or" in paragraph (*b*).

10. Section 41 of the principal Order is hereby amended by the deletion from subsection (1) of the words "an Official Member of the Northern House of Assembly who has been appointed to that House by name, or" and the words "or, in the case of an Official Member of the Northern House of Assembly, because he is administering the government of the Northern Region".

11. Section 42 of the principal Order is hereby revoked.

12. The principal Order is hereby amended by the insertion after section 56 of the following sections:—

"Electricity and gas.

56A.—(1) Subject to the provisions of this section, a law enacted by the Federal Legislature may make provision with respect to electricity or gas in relation to any Region or the Southern Cameroons.

(2) Save to the extent that it may be authorised in that behalf by a law enacted in pursuance of section 52 of this Order, the Federal Legislature shall not make a law in pursuance of subsection (1) of this section that—

(*a*) prohibits or restricts the establishment by or on behalf of the Government of a Region or the Southern Cameroons of an agency for the manufacture, distribution or supply of electricity or gas in that Region or the Southern Cameroons, as the case may be; or

(*b*) regulates the production, distribution or supply of electricity or gas by the Government of a Region or the Southern Cameroons or any such agency.

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

Establishment of Banks by Legislatures of Regions and Southern Cameroons.

56B. A law enacted by the Legislature of a Region or the Southern Cameroons may establish an authority for the purpose of carrying on (subject to and in compliance with the laws enacted by the Federal Legislature for the time being in force, and in particular such of those laws as relate to banks and banking) the business of banking in Nigeria or elsewhere, notwithstanding that banks and banking are not matters with respect to which the Legislature of a Region or the Southern Cameroons, as the case may be, is otherwise competent to make laws, and may make such provision for the constitution of that authority, and for regulating the performance by that authority of its functions, as is not inconsistent with the laws enacted by the Federal Legislature for the time being in force."

13.—(1) Section 57 of the principal Order is hereby amended by the deletion of subsection (3) and the substitution of the following subsection :—

"(3) Subject to the provisions of this Order—

(*a*) an existing law shall, in relation to any part of Nigeria other than Lagos, have effect, in so far as it relates to any matter included in the Exclusive Legislative List, as if it were a law enacted by the Federal Legislature ;

(*b*) an existing law shall, so far as it relates to any matter other than a matter included in the Exclusive Legislative List, have effect—

(i) in relation to a Region, as if it were a law enacted by the Legislature of that Region ;

(ii) in relation to the Southern Cameroons, as if it were a law enacted by the Legislature of the Southern Cameroons :

Provided that the Police Ordinance(a), and any Ordinance amending that Ordinance shall have effect as if it were a law enacted by the Federal Legislature."

(2) (*a*) A law in force or having any effect immediately before the commencement of this Order that was enacted by the Federal Legislature shall, in so far as it provides for the amendment of any provision of an existing law that relates to a matter included in the Concurrent Legislative List, be deemed after the commencement of this Order—

(i) in relation to a Region, to have been enacted by the Legislature of that Region ;

(ii) in relation to the Southern Cameroons, to have been enacted by the Legislature of the Southern Cameroons.

(*b*) In this subsection the expression "existing law" has the meaning assigned to it by subsection (1) of section 57 of the principal Order but does not include the Police Ordinance or any Ordinance amending that Ordinance.

14. Section 60 of the principal Order is hereby amended—

(*a*) by the deletion from subsection (2) of the words "acting in his discretion" in paragraph (*b*) ; and

(a) Laws of Nigeria, Rev. 1948, Chapter 172.

(*b*) by the insertion in subsection (2) after paragraph (*d*) of the following paragraph :—

"(*e*) In exercise of the powers conferred upon him by this subsection the Governor of the Northern Region shall act in his discretion."

15. Section 62 of the principal Order is hereby revoked and the following section is substituted :—

"Bills and motions in House of Representatives affecting public officers, etc.

62.—(1) In this section "reserved Bill or motion" means any Bill or motion that would effect any alteration in the salary, allowances or conditions of service (including leave, passages and promotion) of any public officer, or in the law, regulations or practice governing the payment of pensions, gratuities or other like benefits to any public officer or former public officer or his widow, children, dependants or personal representatives.

(2) It shall be the duty of the Speaker or other person presiding in the House of Representatives, or in any committee thereof, to consider whether any Bill or motion before the House or the committee, as the case may be, is a reserved Bill or motion, and if he is of opinion that it is a reserved Bill or motion he shall forthwith so inform the House and the Governor-General, and no further proceedings shall, save with the consent of the Governor-General, be taken upon the Bill or motion during the period commencing on the day on which the House is informed or the day on which the Governor-General is informed, whichever is the earlier, and ending two days after the day on which the Governor-General is informed.

(3) The Governor-General may, with respect to any Bill or motion that is before the House of Representatives, or any committee thereof, at any time give notice to the Speaker or other person presiding in the House or the committee, as the case may be, that the Bill or motion is, in the opinion of the Governor-General, a reserved Bill or motion, and when such notice has been given, no further proceedings shall, save with the consent of the Governor-General, be taken upon the Bill or motion.

(4) Where a Bill or motion, other than a motion for the amendment of a Bill, appears to the Governor-General to be a Bill or motion that would affect any public officer or former public officer or his widow, children, dependants or personal representatives prejudicially, then—

(*a*) in the case of a Bill, he shall, when the Bill is presented for his assent, reserve the Bill for the signification of Her Majesty's pleasure ;

(*b*) in the case of a motion, he may, within a period of seven days from the date on which it was carried, certify by writing under his hand that he considers that any alteration that has been or would be effected by such motion is one that affects, or would so affect, any public officer or former public officer or his widow,

children, dependants or personal representatives prejudicially, and in such case the motion shall not have effect unless and until it is approved by a Secretary of State.

(5) Any such notice as is referred to in subsection (3) of this section may be given by the Governor-General in such manner as he may think fit.

(6) The powers conferred by the foregoing provisions of this section on the Governor-General shall be exercised by him in his discretion.

(7) The Governor-General shall not withhold consent to the taking of further proceedings upon any Bill or motion in respect of which notice has been given in accordance with subsection (3) of this section if, in his opinion, any alteration that would be effected by such Bill or motion would not affect any public officer or former public officer or his widow, children, dependants or personal representatives prejudicially.

(8) The provisions of a Bill or motion that would effect only the abolition of any office that is vacant shall be deemed not to affect any person prejudicially for the purposes of this section.

(9) Nothing in this section shall be construed so as to derogate from the powers of the House of Representatives conferred by this Order to debate or dispose of any Bill or motion relating to the creation of any new office."

16. The principal Order is hereby amended by the insertion after section 62 of the following section:—

"Bills and motions in Legislative Houses of Northern Region and Southern Cameroons affecting public officers, etc.

62A.—(1) If the Governor or the Attorney-General of the Northern Region gives notice to either Legislative House of the Northern Region or any committee thereof that, in his opinion, a Bill or motion that is before the House or the committee, as the case may be, would effect any alteration in the salary, allowances or conditions of service (including leave, passages and promotion) of any public officer, or in the law, regulations or practice governing the payment of pensions, gratuities or other like benefits to any public officer or former public officer or his widow, children, dependants or personal representatives, the following provisions of this subsection shall have effect, that is to say—

(*a*) except with the consent of the Governor no further proceedings shall be taken upon any such Bill or motion after such notice as aforesaid has been given in respect thereof;

(*b*) no such motion, other than a motion for the amendment of a Bill, shall have effect until the expiration of seven days from the date on which it was carried; and if the Governor, within that period, certifies by writing under his hand that any alteration that would be effected by such motion would affect any public officer or former public officer or his widow, children, dependants or personal representatives prejudicially, such motion shall

not have effect unless and until it has been approved by a Secretary of State.

(2) If the Governor considers that any such alteration as aforesaid, which would be effected by any Bill presented to him for his assent, would affect any public officer or former public officer or his widow, children, dependants or personal representatives prejudicially, he shall reserve the Bill for the signification of Her Majesty's pleasure.

(3) Any such notice as is referred to in subsection (1) of this section may be given by the Governor or the Attorney-General of the Northern Region, as the case may be, in such manner as he may think fit.

(4) The powers conferred by the foregoing provisions of this section on the Governor shall be exercised by him in his discretion.

(5) The Governor shall not withhold consent to the taking of further proceedings upon any Bill or motion in respect of which notice has been given in accordance with subsection (1) of this section if, in his opinion, any alteration that would be effected by any such Bill or motion would not affect any public officer or former public officer or his widow, children, dependants or personal representatives prejudicially.

(6) The provisions of a Bill or motion that would effect only the abolition of any office that is vacant shall be deemed not to affect any person prejudicially for the purposes of this section.

(7) Nothing in this section shall be construed so as to derogate from the powers of either Legislative House of the Northern Region conferred by this Order to debate or dispose of any Bill or motion relating to the creation of any new office.

(8) The provisions of this section shall apply in relation to the House of Assembly of the Southern Cameroons as they apply in relation to a Legislative House of the Northern Region, and for that purpose references to the Governor shall be construed as if they were references to the Governor-General and references to the Attorney-General of the Northern Region shall be construed as if they were references to the Commissioner of the Cameroons or the Legal Secretary of the Southern Cameroons."

17. The principal Order is hereby amended by the insertion after section 66 of the following section:—

"Introduction of Bills by message of Governor-General.

66A.—(1) The Governor-General, acting in his discretion, may—

(*a*) send by message to the Speaker of the House of Representatives a draft of any Bill or motion that it appears to the Governor-General should be introduced or moved in that House;

(*b*) in the same or a later message require that the Bill or motion shall be introduced or moved not later than a date specified in such message.

(2) If a request of the Governor-General made in accordance with paragraph (*b*) of subsection (1) of this section is not complied with, the Bill or motion to which the message relates shall be deemed for all purposes to have been introduced or moved in the House of Representatives on the date specified in the message."

18.—(1) Section 88 of the principal Order is hereby revoked and the following section is substituted:—

"Composition of Council of Ministers.

88.—(1) The members of the Council of Ministers shall be—

(*a*) the Governor-General, who shall be the President of the Council; and

(*b*) not less than eleven other members, who shall be styled Ministers.

(2) The number of Ministers who shall be appointed in addition to the Prime Minister shall, subject to the provisions of this section, be such as the Governor-General may on the recommendation of the Prime Minister from time to time prescribe."

(2) The seats in the Council of Ministers of the Ministers holding office immediately before the commencement of this Order shall become vacant at the commencement of this Order.

19. The principal Order is hereby amended by the insertion after section 88 of the following section:—

"Appointment of Ministers.

88A.—(1) Every Minister shall be appointed by Instrument under the Public Seal from among the members of the House of Representatives, and at least one Minister shall be appointed from among the Representative Members of that House elected in the Southern Cameroons.

(2) Of the Ministers—

(*a*) one, who shall be styled the Prime Minister, shall be appointed by the Governor-General in accordance with subsection (3) of this section;

(*b*) the others shall be appointed by the Governor-General on the recommendation of the Prime Minister.

(3) Whenever the Governor-General has occasion to appoint a person to be a Prime Minister he shall appoint as such the person who appears to him to be best able to command a majority in the House of Representatives and who is willing to be appointed."

20. Section 89 of the principal Order is hereby amended by the deletion from subsection (2) of sub-paragraph (ii) of paragraph (*a*) and the substitution of the following sub-paragraph:—

"(ii) powers conferred upon him by subsections (1) and (2) of section 7, paragraph (*a*) of subsection (2) of section 88A and paragraph (*a*) of subsection (2) of section 97 of this Order; or".

21. Section 90 of the principal Order is hereby revoked and the following section is substituted:—

"Tenure of office of Prime Minister.

90. The Prime Minister shall hold his seat in the Council of Ministers during the Governor-General's pleasure:

Provided that his seat shall in any case become vacant—

(*a*) when, after any dissolution of the House of Representatives, he 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;

(*b*) if he ceases to be a member of the House of Representatives for any reason other than the dissolution of that House;

(*c*) if he resigns his seat by writing under his hand addressed to the Governor-General; or

(*d*) if he absents himself from Nigeria without written permission given by the Governor-General, acting in his discretion."

22. Section 91 of the principal Order is hereby revoked and the following section is substituted:—

"Tenure of office of Minister.

91. The seat in the Council of Ministers of a Minister other than the Prime Minister shall become vacant—

(*a*) if the seat of the Prime Minister in the Council becomes vacant;

(*b*) if he ceases to be a member of the House of Representatives for any reason other than the dissolution of that House;

(*c*) if he resigns his seat by writing under his hand addressed to the Governor-General;

(*d*) if he absents himself from Nigeria without written permission given by the Governor-General on the recommendation of the Prime Minister; or

(*e*) if the Governor-General, on the recommendation of the Prime Minister, so directs."

23. Section 92 of the principal Order is hereby revoked.

24. Section 93 of the principal Order is hereby revoked and the following section is substituted:—

"Determination of questions as to membership of Council of Ministers.

93. Any question whether any person is a member of the Council of Ministers shall be referred to, and determined by, the Governor-General, acting in his discretion."

25. Section 94 of the principal Order is hereby revoked and the following section is substituted:—

"Presiding in Council of Ministers.

94. There shall preside at meetings of the Council of Ministers—

(*a*) the Governor-General; or

(*b*) in the absence of the Governor-General, the Prime Minister."

26. Section 96 is hereby amended by the deletion from subsection (1) of the words "if five or more members of the Council so request in writing" and the substitution of the words "if the Prime Minister requests him in writing so to do".

27. Section 97 of the principal Order is hereby amended by the deletion of subsection (2) and the substitution of the following subsection:—

"(2) (*a*) The Governor-General may, when presiding in the Council of Ministers, give a casting vote if on any question the votes are equally divided, but shall not have an original vote.

(*b*) A Minister shall have an original vote in the Council of Ministers, and the Prime Minister may, when presiding in the Council, also give a casting vote if on any question the votes are equally divided".

28. Section 98 of the principal Order is hereby revoked and the following section is substituted:—

"Assignment of responsibility to Ministers.

98.—(1) (*a*) Subject to the provisions of this Order, the Governor-General may by directions in writing charge any Minister with responsibility for any matter or group of matters to which the executive authority of the Federation extends:

Provided that, except for the purpose of conducting government business relating to such matters in the House of Representatives, a Minister shall not be charged with responsibility for the matters specified in sections 98A and 98B of this Order.

(*b*) For the purposes of this section the Governor-General may charge any Minister with responsibility for any department of government.

(2) The powers conferred upon the Governor-General by this section shall be exercised on the recommendation of the Prime Minister."

29. The principal Order is hereby amended by the insertion after section 98 of the following sections:—

"Governor-General to be responsible for certain matters.

98A. The Governor-General, acting in his discretion, shall be responsible for the following matters:—

(*a*) external affairs, that is to say, such external relations as may from time to time be entrusted to the Federation by Her Majesty's Government in the United Kingdom;

(*b*) defence; and

(*c*) the use and operational control of the police.

Attorney-General to be responsible for certain matters.

98B. The Attorney-General of the Federation shall be responsible for legal matters, which expression shall, without prejudice to its generality, include the initiation, conduct and discontinuance of civil and criminal proceedings."

30. Section 99 of the principal Order is hereby amended by the deletion of subsection (2) and the substitution of the following subsections :—

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

(*a*) if the seat of the Prime Minister in the Council of Ministers becomes vacant;

(*b*) if he ceases to be a member of the House of Representatives for any reason other than the dissolution of that House;

(*c*) if he resigns his office by writing under his hand addressed to the Governor-General;

(*d*) if he absents himself from Nigeria without written permission given by the Governor-General; or

(*e*) if the Governor-General so directs.

(3) The powers conferred by this section on the Governor-General shall be exercised by him on the recommendation of the Prime Minister."

31. Section 101 of the principal Order is hereby revoked.

32. Section 102 of the principal Order is hereby revoked and the following section is substituted:—

"Leave of absence for Ministers and Parliamentary Secretaries.

102.—(1) The Governor-General, acting in his discretion, may grant leave of absence from his duties to the Prime Minister.

(2) The Governor-General, acting on the recommendation of the Prime Minister, may grant leave of absence from his duties to any Minister other than the Prime Minister or to a Parliamentary Secretary."

33. The principal Order is hereby amended by the insertion after section 102 of the following section:—

"Performance of functions of Prime Minister.

102A.—(1) Whenever the Prime Minister is ill or absent from Nigeria, the Governor-General may, by Instrument under the Public Seal, authorize one of the other Ministers to perform the functions conferred on the Prime Minister by this Order (other than the function conferred by subsection (3) of this section) and any Minister so authorized may perform these functions.

(2) The Governor-General may, by Instrument under the Public Seal, revoke any authority given under this section.

(3) The powers conferred upon the Governor-General by this section shall be exercised by the Governor-General acting in his discretion if in the opinion of the Governor-General it is impracticable to obtain the advice of the Prime Minister owing to his illness or absence, and in any other case shall be exercised by the Governor-General on the recommendation of the Prime Minister."

34. Section 105 of the principal Order is hereby amended by the deletion from subsection (2) of sub-paragraph (ii) of paragraph (*a*) and the substitution of the following sub-paragraph :—

"(ii) powers conferred upon him by subsection (2) of section 23, subsection (1) of section 33, paragraph (*a*) of subsection (2) of section 107, paragraph (*a*) of subsection (2) of section 109, paragraph (*a*) of subsection (2) of section 111 or section 118 of this Order; or".

35.—(1) Section 106 of the principal Order is hereby revoked and the following section is substituted:—

"Composition of Executive Council of Northern Region.

106. The members of the Executive Council of the Northern Region shall be—

(*a*) the Governor, who shall be the President of the Council;

(*b*) the Attorney-General of the Region; and

(*c*) not less than fourteen members appointed in accordance with the provisions of section 107 of this Order, who shall be styled Regional Ministers."

(2) The seats in the Executive Council of the Northern Region of the Regional Ministers holding office immediately before the commencement of this Order shall become vacant at the commencement of this Order.

36. Section 107 of the principal Order is hereby amended—

(*a*) by the deletion of subsection (2) and the substitution of the following subsection:—

"(2) Of the Regional Ministers of the Northern Region—

(*a*) one, who shall be styled the Premier of the Region, shall be appointed by the Governor from among the members of the Northern House of Assembly mentioned in paragraph (*b*) or (*c*) of subsection (1) of section 21 of this Order in accordance with the provisions of subsection (3) of this section; and

(*b*) the others shall be appointed by the Governor on the recommendation of the Premier:

Provided that at least eleven shall be appointed from among the members of the Northern House of Assembly and at least two but not more than four shall be appointed from among the members of the Northern House of Chiefs.";

and

(*b*) by the insertion after subsection (2) of the following subsections:—

"(3) Whenever the Governor has occasion to appoint a person to be Premier he shall appoint as such the person who appears to him to be best able to command a majority in the Northern House of Assembly and who is willing to be appointed.

(4) The number of Regional Ministers of the Northern Region who shall be appointed in addition to the Premier shall, subject to the provisions of section 106 of this Order, be such as the Governor may on the recommendation of the Premier from time to time prescribe."

37. Section 109 of the principal Order is hereby amended—

(*a*) by the deletion from subsection (2) of the words "acting in his discretion" in paragraph (*a*) and the substitution of the words "in accordance with the provisions of subsection (4) of this section"; and

(*b*) by the insertion after subsection (3) of the following subsection:—

"(4) Whenever the Governor has occasion to appoint a person to be Premier he shall appoint as such the person who appears to him to be best able to command a majority in the Western House of Assembly and who is willing to be appointed."

38. Section 111 of the principal Order is hereby amended—

(*a*) by the deletion from subsection (2) of the words "acting in his discretion" in paragraph (*a*) and the substitution of the words "in accordance with the provisions of subsection (4) of this section"; and

(*b*) by the insertion after subsection (3) of the following subsection:—

"(4) Whenever the Governor has occasion to appoint a person to be Premier he shall appoint as such the person who appears to him to be best able to command a majority in the Eastern House of Assembly and who is willing to be appointed."

39. Section 113 of the principal Order is hereby amended—

(*a*) by the deletion from subsection (1) of paragraph (*f*); and

(*b*) by the deletion of subsection (2).

40. Section 123 of the principal Order is hereby revoked and the following section is substituted—

"Leave of absence for Regional Ministers and Parliamentary Secretaries.

123.—(1) The Governor of a Region, acting in his discretion, may grant leave of absence from his duties to the Premier of the Region.

(2) The Governor of a Region, acting on the recommendation of the Premier, may grant leave of absence from his duties to a Regional Minister other than the Premier and to a Parliamentary Secretary to a Regional Minister."

41. The principal Order is hereby amended by the insertion after section 123A of the following section:—

"**123B.**—(1) Whenever the Premier of a Region is ill or absent from Nigeria, the Governor may, by Instrument under the Public Seal, authorize one of the other Regional Ministers to perform the functions conferred on the Premier by this Order (other than the function conferred by subsection (3) of this section) and any Regional Minister so authorized may perform those functions.

(2) The Governor may, by Instrument under the Public Seal, revoke any authority given under this section.

(3) The powers conferred upon the Governor by this section shall be exercised by the Governor, acting in his discretion, if in the opinion of the Governor it is impracticable to obtain the advice of the Premier owing to his illness or absence, and in any other case shall be exercised by the Governor on the recommendation of the Premier."

42. Section 135 of the principal Order is hereby revoked and the following section is substituted:—

"Co-ordination of executive authority of Federation, Regions and Southern Cameroons.

135.—(1) The executive authority of a Region or the Southern Cameroons 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.

(2) The Governor-General, acting in his discretion, may give to the Governor of the Western Region or the Eastern

Region such directions as appear to him to be necessary for the purpose of ensuring that the executive authority of that Region is not exercised in contravention of subsection (1) of this section.

(3) The Governor-General, acting in his discretion, may by regulation make such provision as he considers to be necessary or expedient in order to ensure that any directions given under subsection (2) of this section are carried out.

(4) Regulations made under subsection (3) of this section shall have effect notwithstanding anything inconsistent therewith in any law enacted by any legislature in Nigeria, and provision may be made by any such regulation for the amendment, suspension or revocation of any such law.

(5) The Governor-General shall not exercise the powers conferred upon him by this section unless he has obtained the consent of a Secretary of State.

(6) The question whether the executive authority of a Region or the Southern Cameroons has in any case been exercised in accordance with the provisions of subsection (1) of this section or the question whether any, and if so what, directions have been given under subsection (2) of this section shall not be enquired into in any court."

43. Section 136 of the principal Order is hereby amended by the addition to subsection (1) of the following proviso:—

"Provided that a regulation made under section 135 of this Order may confer functions upon any officer or authority of a Region without the consent of the Governor of that Region."

44. Section 151 of the principal Order is hereby amended—

(*a*) by the deletion of subsection (2) and the substitution of the following subsection:—

"(2) A law enacted by the Federal Legislature may make provision for the service and execution of the civil and criminal processes, judgments, decrees, orders and decisions of the Federal Supreme Court or of any court outside Nigeria."; and

(*b*) by the insertion after subsection (2) of the following subsections:—

"(3) (*a*) A law enacted by the Federal Legislature may make provision—

(i) for the service and execution in a Region of the civil and criminal processes, judgments, decrees, orders and decisions of the courts of any other Region or the Southern Cameroons or Lagos;

(ii) for the service and execution in the Southern Cameroons of the civil and criminal processes, judgments, decrees, orders and decisions of the courts of a Region or Lagos.

(*b*) A law enacted by the Legislature of a Region may make provision for the service and execution in that Region of the civil and criminal processes, judgments, decrees, orders and decisions of the courts of that Region, any other Region, the Southern Cameroons or Lagos.

(*c*) A law enacted by the Legislature of the Southern Cameroons may make provision for the service and execution

in the Southern Cameroons of the civil and criminal processes, judgments, decrees, orders and decisions of the courts of the Southern Cameroons, any Region or Lagos.

(4) In this section " processes " includes processes for securing the attendance of any person at a court."

45. Section 172 of the principal Order is hereby amended—

(*a*) by the deletion of the definitions of " existing African officer " and " existing overseas officer " in paragraph (*a*) and the substitution of the following definitions:—

" " existing African officer " means a person—

(i) who, on the twenty-ninth day of August, 1957, was the substantive holder of an office in the public service of the Federation or the public service of the Northern Region declared to be pensionable under the provisions of any pensions law; and

(ii) who is not an overseas officer; "

" existing overseas officer " means a person—

(i) who, on the twenty-ninth day of August, 1957, was the substantive holder of an office in the public service of the Federation or the public service of the Northern Region declared to be pensionable under the provisions of any pensions law; and

(ii) who is, either individually or as a member of a class, declared by the Governor-General to be an overseas officer."; and

(*b*) by the insertion after sub-paragraph (ii) of the definition of " future overseas officer " of the following sub-paragraph:—

" and

(iii) who is not an existing overseas officer."

46. Section 173 of the principal Order (as amended by section 7 of the Nigeria (Constitution) (Amendment) Order in Council, 1956) is hereby amended by the deletion from subsection (4) of paragraph (*c*) and the substitution of the following paragraph:—

" (*c*) This subsection applies to any law that is an existing law for the purposes of subsection (5) of section 57 of this Order, and to any Order made under that subsection."

47. Section 191 of the principal Order is hereby amended by the deletion from subsection (1) of the words " section 198 " and the substitution of the words " section 191A ".

48. The principal Order is hereby amended by the insertion after section 191 of the following section:—

" Financial responsibility for additional allowance or gratuity.

191A.—(1) Where any additional allowance or additional gratuity is granted under this Order at any time after the commencement of this Order to any officer in the public service of a Region, then—

(*a*) in the case of an officer whose whole service that qualifies for pension has been in Nigeria, the cost of such allowance or gratuity shall be shared by the Federation and each Region in the public service of

which that officer has served, so that the Federation shall pay such amount of the allowance or gratuity as is proportionate to the aggregate amount of the pensionable emoluments received by the officer in respect of his service in the public service of the Federation and each such Region shall pay such amount of the allowance or gratuity as is proportionate to the aggregate amount of the pensionable emoluments received by the officer in respect of his service in the public service of that Region; and

(*b*) in the case of any other officer, such allowance or gratuity shall be paid by the Region in the public service of which the officer is serving at the time when he retires.

(2) For the purposes of this section service in the former public service of Nigeria shall be deemed to be service in the public service of the Federation."

49.—(1) Part 2 of Chapter VII of the principal Order is hereby revoked, and the following Part is substituted:—

"*Part 2—Regulations relating to Certain Pensions*

Regulations regarding grant of pensions and gratuities to certain persons.

192.—(1) The Governor-General may, with the approval of a Secretary of State, make regulations regarding the grant of pensions and gratuities on retirement—

(*a*) to existing overseas officers;

(*b*) to existing African officers.

(2) Subject to the provisions of this Part, any such regulations may be made to have effect from any date that is not earlier than the thirtieth day of August, 1957.

Existing overseas officers.

193. Regulations made under this Part shall provide—

(*a*) that an existing overseas officer may, after giving such notice as is prescribed by such regulations, retire at any time after the twenty-ninth day of August, 1957;

(*b*) that an existing overseas officer, on retiring under the provisions of such regulations, may be granted such pension as may be prescribed therein or at his option in lieu of such pension, a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region;

(*c*) that an existing overseas officer may, on retiring under the provisions of such regulations, be granted in addition to his pension or gratuity an additional allowance or, in lieu of such additional allowance, an additional gratuity, calculated in accordance with the provisions set out in the Fourth Schedule to this Order.

Existing African officers.

194.—(1) Regulations made under this Part shall provide—

(*a*) that an existing African officer holding a Secretary of State's appointment who satisfies a Secretary of

State that his career in the public service has been prejudiced by the provisions of this Order or that, because of those provisions, he has reasonable cause for anxiety about his career in the public service, may retire at any time after the twenty-ninth day of August, 1957, and, on retiring under the provisions of such regulations, may be granted such pension as may be prescribed therein or at his option, in lieu of such pension, a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region;

(*b*) that an existing African officer, other than an officer holding a Secretary of State's appointment, who satisfies the Governor-General that his career in the public service has been prejudiced by the provisions of this Order or that, because of those provisions, he has reasonable cause for anxiety about his career in the public service may retire at any time after the twenty-ninth day of August, 1957, and on retiring under the provisions of such regulations, may be granted such pension as may be prescribed therein or at his option, in lieu of such pension, a gratuity of one quarter of the aggregate amount of his pensionable emoluments during his service in the former public service of Nigeria, the public service of the Federation and the public service of any Region;

(*c*) that an existing African officer may, on retiring under the provisions of such regulations, be granted in addition to his pension or gratuity an additional allowance or at his option, in lieu of such additional allowance, an additional gratuity calculated in accordance with the provisions set out in the Fourth Schedule to this Order.

(2) For the purposes of this section an officer shall be regarded as holding a Secretary of State's appointment if he holds an office appointment to which was, at the time when he was appointed thereto, subject to the approval of the Secretary of State.

Future overseas officers.

195.—(1) A future overseas officer may, after giving notice in writing to the Governor-General or the Governor, as the case may be, retire from the public service of the Federation or the public service of a Region if he has completed ten years' qualifying service of which the three years immediately before his retirement were served—

(*a*) in the public service of the Federation;

(*b*) in the public service of one or more Regions; or

(*c*) partly in the public service of the Federation and partly in the public service of one or more Regions.

(2) An officer retiring in accordance with this section may be granted the pension, gratuity or other retiring bene-

fits for which he may be eligible under the pensions law applicable to him:

Provided that he shall, if need be, be deemed to have attained the age at which, apart from the provisions of this section, he could be granted a pension under that law on his retirement from the public service.

(3) The notice to be given under subsection (1) of this section shall be six months' notice or such shorter period as the Governor-General or the Governor, as the case may be, may allow.

(4) In this section "qualifying service" means service which may be taken into account under the pensions law applicable to an officer in determining whether he is eligible for a pension or gratuity.

(5) Nothing in this section shall prevent an officer from retiring without having served the three years immediately before his retirement as mentioned in subsection (1) of this section if he is entitled under the pensions law applicable to him to retire at any earlier date.

Officer may elect to receive pension and gratuity or additional allowance and gratuity in certain cases.

196. Regulations made under this Part shall provide that any officer to whom there has been granted—

(*a*) any such pension as is referred to in paragraph (*b*) of section 193 or paragraph (*a*) or (*b*) of subsection (1) of section 194 of this Order, or

(*b*) any such additional allowance as is referred to in paragraph (*c*) of section 193 or paragraph (*c*) of subsection (1) of section 194 of this Order,

may at his option, be paid in lieu of such pension or additional allowance a reduced pension or reduced additional allowance at the rate of three-fourths of such pension or additional allowance together with a gratuity equal to twelve and one half times the amount by which such pension or additional allowance is so reduced.

Miscellaneous provisions.

197.—(1) No officer shall retire under the provisions of regulations made under this Part without the permission of the Governor-General in the case of an officer in the public service of the Federation, or the Governor in the case of an officer in the public service of a Region:

Provided that the Governor-General or the Governor, as the case may be, shall not withhold his permission unless proceedings for the officer's dismissal are being taken or about to be taken.

(2) Where an officer in the public service of the Federation or the public service of a Region retires under regulations made under this Part, the pensions law applicable to that officer—

(*a*) shall, subject to the provisions of this Part and of any regulations made under this Part, apply in relation to the grant of any pension and in relation to any

pension granted in pursuance of regulations made under this Part; and

(*b*) shall, subject as aforesaid, apply in relation to the grant of any additional allowance and in relation to any additional allowance granted in pursuance of regulations made under this Part as if that additional allowance were a pension.

(3) An officer shall not while he is serving on probation be granted any pension or gratuity in pursuance of regulations made under this Part.

(4) An option exercisable by an officer in accordance with regulations made under this Part—

(*a*) shall be exercisable on or before the date of the officer's retirement:

Provided that the Governor-General or the Governor, as the case may be, may, if he thinks fit, and subject or not to conditions, extend the period for the exercise of the option;

(*b*) shall be irrevocable after the date of the officer's retirement;

(*c*) shall be exercised by notice in writing to the Governor-General or the Governor, as the case may be; and

(*d*) shall be deemed to have been exercised on the date on which such notice is received."

(2) The regulations made under Part 2 of Chapter VII of the principal Order and in force immediately before the commencement of this Order shall continue in force in so far as they relate to the grant of pensions and gratuities to officers in the public service of the Western Region or the Eastern Region who have retired before, or who retire at or after, the commencement of this Order, or to officers in the public service of the Federation or the Northern Region who have retired before the commencement of this Order, and may be amended or revoked as if this Order had not been made.

(3) The reference to regulations in section 197 of the principal Order shall be construed as including any regulations kept in force by subsection (2) of this section.

50.—(1) The First Schedule of the principal Order is hereby amended—

(*a*) by the deletion from Part I of items 2, 9 and 10;

(*b*) by the insertion in Part I after item 16 of the following items:—

"16A. Designation of securities in which trust funds may be invested.

16B. The establishment and regulation of a Federal authority empowered to administer trusts.

16C. The establishment and regulation of a Federal authority empowered to apply for grants of representation in respect of the estates in Nigeria of deceased persons and to administer such estates.

16D. The establishment and regulation of a Federal authority empowered to prohibit or restrict the exhibition of

cinematograph films in Nigeria in the interests of public safety, public order or public morality";

(*c*) by the insertion in Part I after item 20 of the following item:—

"20A. Insurance other than insurance undertaken by the Government of a Region or the Southern Cameroons but including any insurance undertaken by the Government of a Region that extends beyond the limits of that Region and any insurance undertaken by the Government of the Southern Cameroons that extends beyond the limits of the Southern Cameroons.";

(*d*) by the insertion in Part I after item 22 of the following item:—

"22A. 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.";

(*e*) by the insertion in Part I at the end of item 24 of the words "and natural gas";

(*f*) by the insertion in Part I after item 25 of the following items:—

"25A. Nationality, including naturalisation of aliens and citizenship of Nigeria.";

(*g*) by the deletion from Part I of item 30;

(*h*) by the deletion from Part I of the words "times and" in item 41;

(*i*) by the deletion from Part II of item 1;

(*j*) by the insertion in Part II after item 3 of the following item:—

"3A. Census.";

(*k*) by the deletion from Part II of item 6;

(*l*) by the deletion from Part II of item 7 and the substitution of the following item:—

"7. Such drugs and poisons as the Governor-General may, with the consent of the Governor of each Region, by Order designate.";

(*m*) by the deletion from Part II of items 8 and 11;

(*n*) by the insertion in Part II after the word "courses" in item 12 of the words "or conducting examinations";

(*o*) by the deletion from Part II of item 14;

(*p*) by the insertion in Part II after item 18 of the following item:—

"18A. Police, including bureaux of intelligence and investigation.";

(*q*) by the insertion in Part II after the words "the Governor-General may" in item 20 of the words "with the consent of the Governor of each Region";

(*r*) by the deletion from Part II of items 25 and 30;

(*s*) by the deletion from Part IV of the word "and" in paragraph (*a*); and

(*t*) by the insertion in Part IV after paragraph (*b*) of the following paragraph:—

" ; and

(*c*) the establishment and regulation of tribunals of enquiry for the purpose of any of those matters."

(2) Any Orders made under Item 20 of Part II of the First Schedule to the principal Order and in force immediately before the commencement of this Order shall continue in force after the commencement of this Order as if they had been made with the consent of the Governor of each Region and may be amended or revoked accordingly.

51. Section 222 of the principal Order is hereby revoked, and the following section is substituted:—

" Enactment of laws relating to police.

222. No law shall be enacted by the Legislature of a Region or the Southern Cameroons with respect to police until such time as a Secretary of State, after consultation with the Governor-General and the Governors of the Regions, has notified the Governor-General that those Legislatures may enact such laws, and the notification has been published in the Official Gazette of the Federation."

52. The Fourth Schedule to the principal Order is hereby amended—

(*a*) by the deletion of the words " paragraph (*c*) of subsection (1) of section 193 " and the substitution of the words " paragraph (*c*) of section 193 " ; and

(*b*) by the deletion of the words " paragraph (*b*) of subsection (1) of section 193 " and the substitution of the words " paragraph (*b*) of section 193 ".

Adaptation of existing laws

53.—(1) The Governor-General may, by Order published in the Official Gazette of the Federation, at any time within twelve months after the commencement of this Order, provide that any existing law shall be read and construed with such adaptations and modifications as may appear to the Governor-General to be necessary or expedient for bringing the provisions of that law into accord with the provisions of the principal Order, as amended by the Nigeria (Constitution) (Amendment) Order in Council, 1957, or this Order, or otherwise for giving effect or enabling effect to be given to those provisions; and any existing law shall have effect accordingly from such date as may be specified in the Order, not being a date earlier than the commencement of this Order.

(2) In this section " existing law " means a law in force or having effect immediately before the commencement of this Order that was enacted by any legislature in Nigeria and includes any instrument made in pursuance of any such law.

W. G. Agnew.

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order amends the provisions of the Nigeria (Constitution) Order in Council, 1954, relating to the Legislative Houses established for Nigeria, the powers of the Nigerian legislatures, the Council of Ministers of the Federation and the Executive Councils of the Regions.