1959 No. 368

The Nigeria (Constitution) (Amendment) Order in Council, 1959

Made - - - -	11*th March*, 1959
Laid before Parliament	11*th March*, 1959
Coming into operation	15*th March*, 1959

At the Court at Buckingham Palace, the 11th day of March, 1959

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) Order in Council, 1959, and shall be construed as one with the Nigeria (Constitution) Orders in Council, 1954 to 1958(b).

(2) The Nigeria (Constitution) Orders in Council, 1954 to 1958, and this Order may be cited together as the Nigeria (Constitution) Orders in Council, 1954 to 1959.

(3) This Order shall come into operation on the fifteenth day of March, 1959.

Amendment of Order of 1954

2. Section 2 of the Nigeria (Constitution) Order in Council, 1954(c), (hereinafter called "the principal Order") (as amended by section 2 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957(d), subsection (1) of section 3 of the Nigeria (Constitution) (Amendment) Order in Council, 1958(e), section 2 of the Nigeria (Constitution) (Amendment No. 3) Order in Council, 1958(f), and subsection (1) of section 2 of the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958(g)) is amended by the insertion in subsection (1) after the definition of "oath of allegiance" of the following definition:—

'"produce" means such animal or vegetable products, whether processed or in a natural state, (other than tobacco, hides or skins) as the Governor-General may, after consultation with the Governors of the Regions and the Commissioner of the Cameroons, prescribe by Order published in the Gazette.'

3. Section 4 of the principal Order (as amended by section 3 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended by the deletion from subsection (2) of paragraph (*d*).

(a) 53 & 54 Vict. c. 37.
(b) S.I. 1954/1146, 1955/432, 1956/836, 1957/1363, 1530, 1958/429, 1257, 1522, 1958 (1954 II, p. 2829; 1955 II, p. 3163; 1956 II, p. 2953; 1957 II, pp. 3028, 3030; 1958 II, pp. 2757, 2811, 2822, 2825).
(c) S.I. 1954/1146 (1954 II, p. 2829).
(d) S.I. 1957/1530 (1957 II, p. 3030).
(e) S.I. 1958/429 (1958 II, p. 2757).
(f) S.I. 1958/1522 (1958 II, p. 2822).
(g) S.I. 1958/1958 (1958 II, p. 2825).

4. Section 17 of the principal Order (as amended by section 6 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (1) of the words " forty-seven Chiefs," in paragraph (*b*) and the substitution of the words " ninety-five Chiefs."

5.—(1) Section 21 of the principal Order (as amended by section 7 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and section 9 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (2) of the word " appointed " and the substitution of the word " elected."

(2) Section 21 of the principal Order (as amended) is further amended—

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

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

" (3) A person appointed as Attorney-General of the Northern Region who is not a member of either of the Legislative Houses of the Region shall (save for the purposes of section 75 of this Order) be deemed to be a member of the Northern House of Assembly."

(3) Subsection (2) of this section shall come into force on the date on which subsection (2) of section 21 of this Order ceases to have effect.

6.—(1) Section 23 of the principal Order (as amended by section 10 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and section 4 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958(**a**)) is revoked and the following section is substituted :—

"Speaker and Deputy Speaker of Northern House of Assembly.

23.—(1) When the Northern House of Assembly first sits after any dissolution of the House, and before it proceeds to the despatch of any other business, the members thereof shall elect to be Speaker of the House—

(*a*) one of the members of the House mentioned in paragraph (*b*) or paragraph (*c*) of subsection (1) of section 21 of this Order ; or

(*b*) a person who is not a member of the House.

(2) When the Northern House of Assembly first sits after any dissolution of the House, and before it proceeds to the despatch of any other business except the election of a Speaker, the members thereof shall elect to be Deputy Speaker of the House one of the members of the House mentioned in paragraph (*b*) or paragraph (*c*) of subsection (1) of section 21 of this Order.

(3) As often as the office of the Speaker or the Deputy Speaker falls vacant otherwise than when the Northern House of Assembly first sits after any dissolution thereof, the members of the House shall as soon as is practicable elect a person to that office in like manner as is provided in subsection (1) or subsection (2) of this section, as the case may be.

(4) The office of the Speaker or the Deputy Speaker of the Northern House of Assembly shall become vacant—

(*a*) when the House first sits after any dissolution thereof ; or

(*b*) if he resigns his office by writing under his hand addressed to the House ; or

(a) S.I. 1958/1257 (1958 II, p. 2811).

(*c*) in the case of a person elected as Speaker in pursuance of paragraph (*a*) of subsection (1) of this section or in the case of a person elected as Deputy Speaker, if—

(i) he ceases to be a member of the House otherwise than by reason of a dissolution thereof ; or

(ii) he becomes a Regional Minister or a Parliamentary Secretary to a Regional Minister."

(2) Section 23 of the principal Order (as set out in subsection (1) of this section) is amended by the insertion in subsection (4) after the words " becomes a Regional Minister " in sub-paragraph (ii) of paragraph (*c*) of the words " , Attorney-General of the Northern Region."

(3) Subsection (2) of this section shall come into force as soon as subsection (2) of section 21 of this Order shall cease to have effect.

(4) The persons holding office as Speaker and Deputy Speaker of the Northern House of Assembly immediately before the commencement of this Order shall be deemed respectively to have been elected Speaker in pursuance of paragraph (*a*) of subsection (1) of section 23 of the principal Order (as set out in subsection (1) of this section) and to have been elected Deputy Speaker in pursuance of subsection (2) of that section at the commencement of this Order and the provisions of subsection (4) of that section shall apply to them accordingly.

7. The principal Order is amended by the insertion after section 56C of the principal Order (as set out in section 31 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) of the following section :—

"Tax exemptions in respect of mining.

56D. A law enacted by the Federal Legislature may, for the purpose of implementing any agreement between the Federal Government and any person relating to mining or matters connected therewith, provide for exempting such person in whole or in part from liability for any tax, duty, rate or other due imposed by or under a law enacted by any legislature in Nigeria."

8. The principal Order is amended by the insertion after section 58 of the following section:—

" Freedom of trade and commerce.

58A.—(1) No restriction shall be imposed upon trade or commerce among the Regions or between a Region and the Southern Cameroons or Lagos or between the Southern Cameroons and Lagos by or in pursuance of any law enacted by any legislature in Nigeria.

(2) The provisions of this section shall be without prejudice to the powers conferred upon any legislature in Nigeria by section 54 of this Order or to the like powers possessed by the Federal Legislature in relation to Lagos ; and nothing in this section shall prevent the imposition of restrictions necessary in the interest of defence, public safety, public order, public morality, public health (including the health of animals or plants) or for the purpose of providing, maintaining or securing supplies and services necessary to the life of the community."

9. Section 60 of the principal Order (as amended by section 14 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and section 35 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (2) of paragraph (*e*).

10. Section 62A of the principal Order (as set out in section 16 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and as amended by section 37 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is revoked and the following section is substituted:—

"Application of section 62 to House of Assembly of Southern Cameroons.

62A. The provisions of Section 62 of this Order (other than subsection (6)) shall apply in relation to the House of Assembly of the Southern Cameroons as they apply in relation to the House of Representatives, and for that purpose references to the Governor-General shall be construed as if they were references to the High Commissioner for the Southern Cameroons."

11. Section 64 of the principal Order (as amended by section 39 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the insertion in subsection (6) after paragraph (*b*) of the following paragraph:—

'; and

(*c*) the following proviso were added to subsection (1):—

" Provided that the Governor shall not make any such declaration unless he is satisfied that it is necessary or expedient so to do in the interest of the peace, order and good government of such part of the Cameroons as is comprised in the Northern Region " '.

12. Section 65 of the principal Order (as amended by section 40 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of subsection (5) and the substitution of the following subsection:—

'(5) The provisions of this section shall apply in relation to a Bill passed by the Legislative Houses of the Northern Region as they apply in relation to a Bill passed by the House of Representatives and for that purpose—

(*a*) references to the Governor-General, the House of Representatives and the Official Gazette of the Federation shall be construed as if they were references to the Governor of the Northern Region, the Legislative Houses of the Northern Region and the Official Gazette of the Northern Region ; and

(*b*) subsection (2) shall have effect as if the words " acting in his discretion " were deleted and as if for the proviso there were substituted the following proviso:—

" Provided that, unless he has been authorised by a Secretary of State to assent thereto, the Governor shall reserve for the signification of Her Majesty's pleasure any Bill which appears to the Governor, acting in his discretion—

(*a*) to be inconsistent with any obligation imposed on Her Majesty by any treaty, convention or agreement with or arrangement relating to any country or international or similar organisation outside Nigeria ;

(*b*) to be likely to prejudice the Royal prerogative, or the rights of property of British subjects not residing in Nigeria, or the trade or transport or communications of any part of Her Majesty's dominions ;

(*c*) to be likely to impede or prejudice the performance by the Government of the Federation of any of its functions or to endanger the continuance of federal government in Nigeria ; or

(*d*) to be undesirable in the interest of the peace, order and good government of such part of the Cameroons as is comprised in the Northern Region." '

13. Section 66 of the principal Order (as amended by subsection (1) of section 41 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the words " , any law enacted by the Legislature of the Northern Region to which the Governor has given his assent " ;

(*b*) by the deletion from subsection (1A) of the words " to which the Governor of the Western Region or the Eastern Region " and the substitution of the words " enacted by the Legislature of a Region to which the Governor " ; and

(*c*) by the insertion after subsection (1A) of the following subsection :—

" (1B) Any law to which the Governor of the Northern Region has given his assent may be disallowed by Her Majesty through a Secretary of State if the law contains any provision that appears to Her Majesty to be undesirable in the interest of the peace, order and good government of such part of the Cameroons as is comprised in the Northern Region."

14. Section 71 of the principal Order (as amended by section 46 of of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (2) of the words " in relation to the Legislative Houses of the Western Region and the Eastern Region " in paragraph (*b*).

15.—(1) Section 106 of the principal Order (as set out in subsection (1) of section 35 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended by the deletion of paragraph (*a*).

(2) Section 106 of the principal Order (as amended) is further amended by the deletion of paragraph (*b*).

(3) Subsection (2) of this section shall come into force on the date on which subsection (2) of section 21 of this Order ceases to have effect.

16.—(1) Section 115 of the principal Order (as set out in section 4 of the Nigeria (Constitution) (Amendment) Order in Council, 1957(**a**)) is amended—

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

(*b*) by the deletion from subsection (2) of the words " the Western Region or the Eastern Region " and the substitution of the words " a Region ".

(**a**) S.I. 1957/1363 (1957 II, p. 3028).

(2) Section 115 of the principal Order (as amended) is amended by the addition of the following subsection—

"(3) For the purposes of subsection (2) of this section the Attorney-General of the Northern Region shall be deemed to be a Regional Minister of that Region."

(3) Subsection (2) of this section shall cease to have effect on the date on which subsection (2) of section 21 of this Order ceases to have effect.

17. Section 117 of the principal Order (as set out in section 5 of the Nigeria (Constitution) (Amendment) Order in Council, 1957) is revoked and the following section is substituted :—

"Summoning Executive Councils of Regions and quorum therein.

117.—(1) The Executive Council of a Region shall not be summoned except by the authority of the Premier of the Region.

(2) No business shall be transacted in the Executive Council of a Region if objection is taken by any member present that, in addition to the Premier or other member presiding, there are present—

(*a*) in the case of the Northern Region, less than eight members ; or

(*b*) in the case of the Western Region or the Eastern Region, less than six members."

18. Section 118 of the principal Order (as amended by section 6 of the Nigeria (Constitution) (Amendment) Order in Council, 1957) is amended—

(*a*) by the deletion from subsection (2) of paragraph (*a*) ; and

(*b*) by the deletion from subsection (2) of the words "other than the Governor of the Northern Region" in paragraph (*b*).

19. Section 119 of the principal Order (as amended by section 59 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is revoked.

20.—(1) Section 119A of the principal Order (as set out in subsection (1) of section 60 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (1) of the words "the Western Region or the Eastern Region" in paragraph (*a*) and the substitution of the words "a Region".

(2) Section 119A of the principal Order (as amended) shall have effect in relation to the Northern Region as if subsection (1) were amended by the insertion after the words "any Regional Minister" of the words "or the Attorney General of the Northern Region":

Provided that nothing in that section shall be construed as preventing a person holding or acting in the office of Attorney-General of the Northern Region from holding or acting in the office of Director of Public Prosecutions of the Northern Region.

(3) Subsection (2) of this section shall cease to have effect on the date on which subsection (2) of section 21 of this Order ceases to have effect.

21.—(1) Section 119B of the principal Order (as set out in subsection (1) of section 60 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the words "the Western Region" and the substitution of the words "each Region"; and

(*b*) by the deletion of subsection (4).

(2) Section 119B of the principal Order (as amended) shall have effect in relation to the Northern Region as if—

(*a*) subsection (2) were amended by the deletion of paragraph (*a*); and

(*b*) subsection (3) were amended by the addition of the following proviso:—

"Provided that, in the case of the Attorney-General of the Northern Region, the powers of the Governor shall be exercised after consultation with the Premier of the Region and the Public Service Commission of the Region".

(3) Subsection (2) of this section shall cease to have effect on such date as may be fixed by the Governor of the Northern Region by Proclamation published in the Official Gazette of the Region.

22. Section 120 of the principal Order (as amended by section 61 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (1) of the words "section 119 or".

23. Section 121 of the principal Order (as amended by section 62 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

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

(*b*) by the deletion from subsection (1A) of the words "of the Western Region or the Eastern Region".

24. Section 123 of the principal Order (as set out in section 40 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, and as amended by section 63 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (3) of the words "the Western Region or the Eastern Region" and the substitution of the words "a Region".

25. Section 123A of the principal Order (as set out in section 7 of the Nigeria (Constitution) (Amendment) Order in Council, 1957) is amended by the deletion of the words "the Western Region or the Eastern Region" wherever they appear and the substitution of the words "a Region".

26. Section 135 of the principal Order (as amended by section 42 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended by the deletion from subsection (2) of the words "the Western Region or the Eastern Region" and the substitution of the words "a Region".

27. Section 139 of the principal Order (as amended by section 74 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and section 4 of the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958) is amended by the deletion of subsection (4) and the substitution of the following subsection :—

'(4) Sections 142B and 142C of this Order shall apply in relation to the Federal Supreme Court as they apply in relation to the High Court of a Region, and for that purpose those sections shall have effect as if—

(*a*) references to the Governor of a Region and the High Court of a Region were references to the Governor-General and the Federal Supreme Court.

(*b*) the words "sixty-two years" in subsection (1) of section 142B wherever they occur were deleted and the words "sixty-five years" were substituted ; and

(*c*) the words "If the Premier of a Region, or the Chief Justice of the Region, after consultation with the Premier of the Region, represents to the Governor" in subsection (3) of section 142C were deleted and the words "If the Governor-General, acting in his discretion, considers" were substituted.'

28. Section 142 of the principal Order (as amended by section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1955(**a**), section 6 of the Nigeria (Constitution) (Amendment) Order in Council, 1956(**b**), section 75 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and section 5 of the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958) is revoked and the following section is substituted :—

"Courts of Lagos.

142. A law enacted by the Federal Legislature may establish courts of justice for Lagos in addition to the High Court of Lagos."

29.—(1) Section 142A of the principal Order (as set out in subsection (1) of section 76 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the words "the Western Region" and the substitution of the words "each Region" ;

(*b*) by the deletion from subsections (2), (3), (4), (5), (6), (7) and (8) of the words "the Western Region" wherever they occur and the substitution of the words "a Region" ; and

(*c*) by the deletion of subsection (9) and the substitution of the following subsection :—

"(9) The provisions of subsections (1), (2), (5), (6), (7) and (8) of this section shall apply in relation to Lagos as they apply in relation to a Region and for that purpose references to a Region, the Governor and the Legislature of that Region shall be construed as if they were references to Lagos, the Governor-General and the Federal Legislature."; and

(*d*) by the insertion after subsection (9) of the following subsections :—

'(10) The Chief Justice and the other judges of the High Court of Lagos shall be appointed by the Governor-General in pursuance of instructions given by Her Majesty through a Secretary of State.

(**a**) S.I. 1955/432 (1955 II, p. 3163). (**b**) S.I. 1956/836 (1956 II, p. 2953).

(11) There shall be a High Court of Justice for the Southern Cameroons, and the persons who are for the time being the Chief Justice and the other judges of the High Court of Lagos shall be the Chief Justice and the other judges of that High Court.

(12) The provisions of sections 142B and 142C of this Order shall apply in relation to the High Court of Lagos as they apply in relation to the High Court of a Region and for that purpose those sections shall have effect as if—

(*a*) references to the Governor and to a Region were references to the Governor-General and to Lagos; and

(*b*) subsection (3) of section 142C shall have effect as if the words "If the Premier of a Region, or the Chief Justice of the Region after consultation with the Premier of the Region, represents to the Governor" were deleted and the words "If the Governor-General, acting in his discretion, considers" were substituted.'

(2) The High Court of Justice of the Northern Region, as constituted immediately before the commencement of this Order under section 142 of the principal Order, shall after the commencement of this Order be deemed to be the High Court of Justice of the Northern Region, as constituted by section 142A of the principal Order, as amended by subsection (1) of this section, and accordingly—

(*a*) the person holding office immediately before the commencement of this Order as Chief Justice of the High Court of the Northern Region as constituted under section 142 of the principal Order shall be deemed to have been appointed at the commencement of this Order as Chief Justice of the Northern Region under section 142A of the principal Order, as amended by subsection (1) of this section, and the other persons holding office immediately before the commencement of this Order as judges of the High Court of the Northern Region as constituted under section 142 of the principal Order shall be deemed to have been appointed at the commencement of this Order as judges of the High Court of the Northern Region under section 142A of the principal Order, as amended in subsection (1) of this section;

(*b*) any law enacted by any legislature in Nigeria and in force immediately before the commencement of this Order shall, in so far as its provisions are consistent with the provisions of the principal Order, as from time to time amended, and subject to the provisions of any Order made under section 75 of this Order, have effect after the commencement of this Order as if references therein to the High Court of Justice of the Northern Region as constituted under section 142 of the principal Order and to the judges of that High Court were references to the High Court of Justice of the Northern Region as constituted by section 142A of the principal Order, as amended in subsection (1) of this section, and to the judges of that High Court;

(*c*) any cause or matter or any appeal or case stated from another court that is pending or part-heard before the High Court of Justice of the Northern Region as constituted under section 142 of the principal Order may be continued, completed and determined by the High Court of Justice of the Northern Region as constituted by section 142A of the principal Order, as amended by subsection (1) of this Order; and

(*d*) any appeal or reference from the High Court of Justice of the Northern Region as constituted under section 142 of the principal Order to the Federal Supreme Court or to Her Majesty in Council that is pending or part-heard may be continued, completed and determined as if it were an appeal or reference from the High Court of Justice of the Northern Region as constituted by section 142A of the principal Order, as amended by subsection (1) of this section, and that High Court may give effect to any judgment or order of the Federal Supreme Court or any Order of Her Majesty in Council given or made in the appeal as if it were the court from which the appeal or reference had been made.

(3) The provisions of subsection (2) of this section shall apply in relation to Lagos as they apply in relation to the Northern Region and for that purpose references to that Region shall have effect as if they were references to Lagos.

30. Section 142B of the principal Order (as set out in subsection (1) of section 76 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words "the Western Region or the Eastern Region" wherever they appear and the substitution of the words "a Region".

31. Section 142C of the principal Order (as set out in subsection (1) of section 76 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and as amended by section 19 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958) is amended by the deletion of the words "the Western Region or the Eastern Region" wherever they appear and the substitution of the words "a Region".

32. Section 142D of the principal Order (as set out in subsection (1) of section 76 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words "the Western Region or the Eastern Region" and the substitution of the words "a Region".

33. Section 143 of the principal Order (as amended by section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1955) is revoked and the following section is substituted:—

"Courts of Southern Cameroons.

143. A law enacted by the Legislature of the Southern Cameroons may establish courts of justice for the Southern Cameroons in addition to the High Court of the Southern Cameroons."

34. Section 154C of the principal Order (as set out in section 77 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from the proviso to subsection (1) of the words "the Western Region and the Eastern Region" and the substitution of the words "a Region".

35. Section 155 of the principal Order (as amended by section 78 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of subsection (1) and the substitution of the following subsection:—

"(1) Where under any law enacted by the Federal Legislature a duty is levied in respect of the import into Nigeria of any commodity other than motor spirit, diesel oil, tobacco, wine, potable spirits or

beer, the Federation shall, in respect of each quarter, credit to a special account, maintained by the Federation and referred to in this Order as " the Distributable Pool Account ", a sum equal to thirty per cent. of the proceeds of that duty for that quarter."

36. Section 156 of the principal Order (as amended by section 79 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the insertion in subsection (1) after the words " motor spirit " wherever they occur of the words " or diesel oil " ;

(*b*) by the deletion from subsection (2) of the words " half of " in paragraph (*a*) ;

(*c*) by the insertion in subsection (3) after the words " for a quarter " of the words " levied on any commodity or any particular class, variety or description of commodity ";

(*d*) by the insertion in subsection (3) after the words " allowed for " of the words " less any part of that amount that is declared by the prescribed authority to be attributable to quantities of that commodity or that class, variety or description of commodity distributed, or intended to be distributed, in Lagos." ; and

(*e*) by the deletion of subsection (4).

37. Section 157 of the principal Order (as amended by section 80 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

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

" (1) Where under any law enacted by the Federal Legislature an excise duty is levied on tobacco, or on any particular class, variety or description of tobacco, there shall be paid by the Federation to the Regions in respect of each quarter a sum equal to the proceeds of that duty for that quarter." ;

(*b*) by the deletion of subsection (3) and the substitution of the following subsection :—

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

(*c*) by the deletion of subsections (4) and (5).

38. Section 158 of the principal Order (as amended by section 81 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is

amended by the deletion of subsection (1) and the substitution of the following subsection:—

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

39. Section 161 of the principal Order (as amended by section 84 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is revoked and the following section is substituted :—

'Mining royalties and rents.

161.—(1) There shall be paid by the Federation to each Region a sum equal to fifty per cent. of—

(*a*) the proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region; and

(*b*) any mining rents derived by the Federation during that year from within that Region.

(2) The Federation shall credit to the Distributable Pool Account a sum equal to thirty per cent. of—

(*a*) the proceeds of any royalty received by the Federation in respect of minerals extracted in any Region;

(*b*) any mining rents derived by the Federation from within any Region.

(3) For the purposes of this section the proceeds of a royalty shall be the amount that is declared by the prescribed authority to be the amount remaining from the receipts of that royalty after any refunds or other repayments relating to those receipts have been deducted therefrom or allowed for.

(4) The Governor-General may by regulation make provision for determining for the purposes of this section the Region in which any minerals were extracted.

(5) For the purposes of this section the proceeds of any mining rents derived from within a Region shall be such sum as is declared by the prescribed authority to be equal to the amount of revenue derived by the Federation from within that Region from rents payable under any of the following laws, that is to say—

The Minerals Ordinance(**a**), the Mineral Oils Ordinance(**b**), the Nigerian Coal Corporation Ordinance, 1950(**c**), the Minerals Development (Lead-Zinc) Ordinance, 1952(**d**), and any law that is declared by the Governor-General to be a law amending or substituted for any of those Ordinances.

(6) In this section—

"minerals" includes mineral oil;

"Region" includes the Southern Cameroons.'

(**a**) Laws of Nigeria, Rev. 1948, Chapter 134.
(**b**) Laws of Nigeria, Rev. 1948, Chapter 135.
(**c**) No. 29 of 1950. (**d**) No. 9 of 1952.

40. Section 162 of the principal Order (as amended by section 85 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is revoked.

41. The principal Order (as amended by section 86 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the insertion after section 162 of the following section:—

"Distribution of funds in Distributable Pool Account.

163. There shall be paid by the Federation to the Regions and the Southern Cameroons at the end of each quarter sums equal to the following percentages respectively of the amount standing to the credit of the Distributable Pool Account at that date, that is to say—

(*a*) to the Northern Region, forty per cent.;

(*b*) to the Western Region, twenty-four per cent.;

(*c*) to the Eastern Region, thirty-one per cent.;

(*d*) to the Southern Cameroons, five per cent."

42. Section 164 of the principal Order (as amended by section 87 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of subsection (3).

43. The principal Order (as amended by section 88 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the insertion after section 164 of the following section:—

"Set-off.

165.—(1) Any sum that is required by this Chapter to be paid by the Federation to a Region or the Southern Cameroons may be set off by the Federation in or towards the payment of any sum that is due from that Region or the Southern Cameroons, as the case may be, to the Federation in respect of any loan made by the Federation to that Region or the Southern Cameroons.

(2) The right of set-off conferred by subsection (1) of this section shall be without prejudice to any other right of the Federation to obtain payment of any sum due to the Federation in respect of any loan."

44. Section 170 of the principal Order (as amended by section 91 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the insertion in subsection (1) after the word "royalty" in paragraph (*b*) of the words "or mining rents";

(*b*) by the insertion in subsection (1) after the word "made" in paragraph (*b*) of the words "and sums shall from time to time be credited"; and

(*c*) by the deletion from subsection (1) of paragraph (*d*).

45. The principal Order is amended by the insertion after section 171 of the following section:—

"Fiscal Review Commissions.

171A. The Governor-General shall from time to time, after consultation with the Governors of the Regions and the Commissioner of the Cameroons, appoint a Commission to review and make recommendations with respect to the provisions of this Order relating to the following matters, that is to say—

(*a*) the distribution of the proceeds of royalties in respect of the extraction of minerals;

(*b*) the distribution of the proceeds of mining rents;

(*c*) the Distributable Pool Account."

46. Section 173 of the principal Order (as amended by section 7 of the Nigeria (Constitution) (Amendment) Order in Council, 1956, and section 46 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957) is amended by the insertion after subsection (4) of the following subsection:—

"(5) This section does not apply to any office constituted by the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954, as amended."

47. Section 178 of the principal Order (as amended by section 8 of the Nigeria (Constitution) (Amendment) Order in Council, 1956, and by section 96 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is revoked.

48. Section 179 of the principal Order (as amended by section 97 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is revoked.

49. Section 180 of the principal Order (as amended by section 98 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is revoked.

50. Section 180A of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion of the words "the Western Region" wherever they occur and the substitution of the words "a Region"; and

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

"(3) This section does not apply to any office constituted by the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954, as amended."

51. Section 180B of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) and subsection (2) of the words "the Western Region" and the substitution of the words "a Region"; and

(*b*) by the deletion from subsection (3) of the word "pensions".

52.—(1) Section 180C of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the words "the Western Region" and the substitution of the words "each Region";

(*b*) by the deletion from subsections (2), (3), (4), (5) and (6) of the words "the Commission" wherever those words occur other than in the provisos and the substitution of the words "the Public Service Commission of a Region";

(*c*) by the deletion from subsection (3) of the word "Western";

(*d*) by the deletion from subsections (7) and (8) of the words "the Western Region" and the substitution of the words "a Region"; and

(*e*) by the insertion in subsection (9) after the word "Commission" of the words "of a Region".

(2) The persons holding office as members of the Public Service Commission of the Northern Region immediately before the commencement of this Order shall vacate their offices at the commencement of this Order.

(3) Until such time as provision in that behalf is made in pursuance of subsection (6) of section 180C of the principal Order, as amended, there shall be paid to the Chairman and other members of the Public Service Commission of the Northern Region salaries and allowances calculated at the same rate as the salaries and allowances payable immediately before the commencement of this Order to the Chairman and other members of the Public Service Commission of that Region established by section 179 of the principal Order.

53. Section 180D of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words "the Western Region" and the substitution of the words "a Region".

54. Section 180E of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and as amended by section 6 of the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the word "Western"; and

(*b*) by the deletion from subsection (2) of the words "the Western Region" and the substitution of the words "a Region".

55. Section 180F of the Principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the words "the Western Region" and the substitution of the words "each Region";

(*b*) by the deletion of the words "the Commission" wherever they occur other than in paragraph (*a*) of subsection (2) and the proviso to paragraph (*a*) of subsection (6) and the substitution of the words "the Judicial Service Commission of a Region"; and

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

"(*aa*) in the case of the Judicial Service Commission of the Northern Region, the Grand Kadi of the Region;".

56. Section 180G of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is revoked and the following section is substituted:—

"Appointments etc. of senior Regional representative in U.K.

180G.—(1) Power to make appointments (including appointments on promotion and transfer) to the office of Commissioner in the United Kingdom for the Government of a Region, and to dismiss and to exercise disciplinary control over persons holding or acting in that office, shall vest in the Governor, acting on the recommendation of the Premier of the Region.

(2) Before making any recommendation under subsection (1) of this section in respect of a person who holds or has

held an office in the public service of a Region other than the office of Commissioner in the United Kingdom for the Government of the Region, the Premier of a Region shall consult the Public Service Commission of the Region.

(3) If any person is appointed to the office of Commissioner in the United Kingdom for the Government of a Region who immediately before his appointment as such held some other office in the public service of the Region, that person shall, upon vacating the office of Commissioner, be deemed to have been re-appointed to that other office with effect from the date on which he ceased to hold the office of Commissioner, and the provisions of this Order relating to the tenure of offices in the public service of the Region shall apply accordingly in relation to his tenure of that other office."

57. Section 180H of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion from subsection (1) of the words "the Western Region" and the substitution of the words "a Region".

58. Section 180I of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the words "the Western Region" and the substitution of the words "a Region";

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

(*c*) by the deletion of subsection (3) and the substitution of the following subsection:—

"(3) The foregoing provisions of this section shall apply in relation to the offices of Secretary to the Premier of the Northern Region, Secretary to the Executive Council of the Northern Region, Secretary to the Premier and Executive Council of the Western Region, Chief Secretary to the Premier of the Eastern Region and Secretary to the Executive Council of the Eastern Region as they apply in relation to the office of Permanent Secretary in a Region."

59. Section 180L of the principal Order (as set out in subsection (1) of section 99 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is revoked and the following section is substituted:—

"Provisions of Fifth Schedule to apply to Public Service and Judicial Service Commissions of each Region.

180L. The provisions contained in the Fifth Schedule to this Order shall have effect with respect to the Public Service Commission and the Judicial Service Commission of each Region."

60. Section 189 of the principal Order (as amended by section 101 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and by section 22 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958) is amended by the deletion of subsections (2) and (3).

61. Section 190B of the principal Order (as set out in subsection (1) of section 25 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958, and as amended by subsection (1) of section 7 of the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958) is amended—

(*a*) by the deletion of the words " the Western Region or the Eastern Region " wherever they occur and the substitution of the words " a Region " ;

(*b*) by the insertion in subsection (1) after the word " Governor " of the words " acting in his discretion " ;

(*c*) by the insertion in subsection (3) after the words " the Governor, after consultation with the Public Service Commission of the Region " of the words " or (in the case of a person who has been guilty of negligence, irregularity or misconduct while holding or acting in the office of judge of the High Court of the Region or any office to which section 180E of this Order applies) the Judicial Service Commission of the Region."

(*d*) by the addition to subsection (3) of the following proviso:—

" Provided that nothing in this subsection shall empower the Governor to withhold, reduce or suspend any benefits on the ground that any person has been guilty of negligence, irregularity or misconduct while holding the office of judge of the High Court of the Region unless that person has been removed from that office by reason of such negligence, irregularity or misconduct " ;

(*e*) by the deletion from subsection (5) of the words " of the Western Region or the public service of the Eastern Region " and the substitution of the words " of a Region " ; and

(*f*) by the deletion from subsection (6) of the words " or in respect of which it is provided by any law enacted by the Legislature of the Northern Region that they shall be granted by the Governor of that Region and paid by that Region " in paragraph (*a*) of the proviso and the words " or the Governor of the Northern Region " and the words " or that Region, as the case may be " in paragraph (*b*) of the proviso.

62. Section 224 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words " the Western Region or the Eastern Region " wherever they occur and the substitution of the words " a Region ".

63. Section 225 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) as amended—

(*a*) by the deletion from subsection (1) of the words " the Western Region " and the substitution of the words " each Region " ;

(*b*) by the deletion from subsections (2) and (3) of the words " the Western Region " wherever they occur and the substitution of the words " a Region " ; and

(*c*) by the deletion of subsection (4).

64. Section 226 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words " the Western Region or the Eastern Region " wherever they occur and the substitution of the words " a Region ".

65. Section 227 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words " the Western Region or the Eastern Region " wherever they appear and the substitution of the words " a Region ".

66. Section 228 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the words " the Western Region " and the substitution of the words "each Region " ;

(*b*) by the deletion from subsection (2), (3) and (4) of the words " the Western Region " and the substitution of the words " a Region " ; and

(*c*) by the deletion of subsection (5).

67. Section 229 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and as amended by section 8 of the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958) is amended by the deletion of the words " the Western Region or the Eastern Region " wherever they appear and the substitution of the words " a Region ".

68. Section 230 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words " the Western Region or the Eastern Region " wherever they appear and the substitution of the words " a Region ".

69. Section 231 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and as amended by section 34 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958) is amended—

(*a*) by the deletion from subsection (1) of the words " a Region " in paragraph (*a*) and the substitution of the word " Nigeria " ;

(*b*) by the deletion from subsections (2) and (3) of the words " the Attorney-General of the Northern Region or " ;

(*c*) by the deletion from subsection (2) of the words " the Western Region or the Eastern Region " and the substitution of the words " a Region " ; and

(*d*) by the deletion from subsection (3) of the words " the Western Region or the Eastern Region, as the case may be," and the substitution of the words " a Region ".

70. Section 232 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and as amended by section 35 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958) is revoked.

71. Section 233 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and as amended by section 36 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1958) is amended—

(*a*) by the deletion of the words " the Western Region or the Eastern Region " wherever they occur and the substitution of the words " a Region " ; and

(*b*) by the deletion from subsection (4) of the words " as the case may be," and the substitution of the words " who gave the authority ".

72. Section 234 of the principal Order (as set out in subsection (1) of section 106 of the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the insertion after subsection (2) of the following subsection :—

" (3) The foregoing provisions of this section shall be without prejudice to the powers of the Legislature of the Northern Region to establish a Provincial Administration for any Province of the Northern Region, or otherwise to make provision for the administration of that Province:

Provided that if the provisions of any law enacted by that legislature are inconsistent with the provisions of any Instrument made under this section, the provisions of that Instrument shall prevail over the provisions of that law."

73. The First Schedule to the principal Order (as amended by section 2 of the Nigeria (Constitution) (Amendment) Order in Council, 1955, section 16 of the Nigeria (Constitution) (Amendment) Order in Council, 1956, section 50 of the Nigeria (Constitution) (Amendment No. 2) Order in Council, 1957, section 107 of the Nigeria (Constitution) (Amendment) Order in Council, 1958, and section 9 of the Nigeria (Constitution) (Amendment No. 4) Order in Council, 1958) is amended—

(*a*) by the insertion in Part I at the end of Item 5 of the words " ; control of capital issues " ;

(*b*) by the insertion in Part I at the end of Item 7 of the words " other than borrowing by the Government of a Region or the Southern Cameroons for a period not exceeding twelve months on the security of any funds or assets of that Government held outside Nigeria " ; and

(*c*) by the insertion in Part I after Item 35 of the following item:—

" 35A. Taxes on amounts paid or payable on the sale or purchase of commodities except—

(*a*) produce ;

(*b*) hides and skins ;

(*c*) motor spirit ;

(*d*) diesel oil sold or purchased for use in road vehicles ;

(*e*) diesel oil sold or purchased for other than industrial purposes."

74. The Fifth Schedule to the principal Order (as set out in the Schedule to the Nigeria (Constitution) (Amendment) Order in Council, 1958) is amended by the deletion of the words " the Western Region or the Eastern Region " wherever they occur and the substitution of the words " a Region ".

Adaptation of existing laws

75.—(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 conformity with any of the provisions of the Nigeria (Constitution) Order in Council, 1954, the Nigeria (Offices of Governor-General and Governors) Order in Council, 1954(**a**), the Nigeria (Retirement Benefits) Order in Council, 1958(**b**), or any Order in Council amending any of those Orders, or otherwise for giving effect or enabling effect to be given to that provision ; and any such 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 certain provisions of the Nigeria (Constitution) Order in Council, 1954, relating to the Northern Region, to the public service and to finance.

(**a**) S.I. 1954/1147 (1954 II, p. 2939). (**b**) S.I. 1958/1523 (1958 II, p. 2832).