The Nigeria (Revenue Allocation) Order in Council, 1951

1951 No. 2127

Made - - - -	*4th December*, 1951
Laid before Parliament	*5th December*, 1951
Coming into Operation:—	
Section 3, 18 *and* 19	*6th December*, 1951
Remainder - -	*On a date to be appointed by the Governor under Section* 3.

At the Court at Buckingham Palace, the 4th day of December, 1951

Present,

The King's Most Excellent Majesty in Council

Whereas it is expedient to make provision for the allocation of revenue to the three Regions of Nigeria:

And Whereas, in pursuance of the Nigeria (Constitution) Order in Council, 1951(**a**), it is expedient to prescribe the extent to which the legislature of any Region of Nigeria may make laws with respect to taxation:

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

Interpretation.

1.—(1) In this Order, unless it is otherwise expressly provided or required by the context—

(*a*) expressions which are defined in Section 1 of the Constitution Order shall have the meanings assigned to them by that section;

(*b*) "the Accountant-General" means the Accountant-General of Nigeria;

"the Constitution Order" means the Nigeria (Constitution) Order in Council, 1951(**a**);

"the Council of Ministers" means the Council of Ministers established by the Constitution Order;

"financial year" means a period of twelve months commencing on the first day of April in any year;

"the House of Representatives" means the House of Representatives established by the Constitution Order;

"the Instructions of 1946 and 1949" means the Instructions, passed under the Royal Sign Manual and Signet, to the Governor and Commander-in-Chief of Nigeria dated the second day of August, 1946, and the Additional Instructions, passed under the Royal Sign Manual and Signet, to the said Governor and Commander-in-Chief, dated the ninth day of November, 1949;

(*c*) any reference to an officer by the term designating his office shall be construed as a reference to the officer for the time being lawfully discharging the functions of that office; and

(**a**) S.I. 1951 No. 1172, p. 14 above. (**b**) 53 & 54 Vict. c. 37.

(*d*) any reference to the commencement of Chapters II to IV, or to the commencement of Chapters V to VII, of the Constitution Order shall be construed as a reference to the commencement of those provisions of the said Chapters which are to be brought into operation by the Governor under Section 3 of the said Order.

(2) Where this Order confers a power to make any Order the power shall, unless the contrary intention appears, be construed as including a power to revoke, add to or amend any Order so made by a further Order.

(3) Save as is in this Order otherwise provided, or required by the context, the Interpretation Act, 1889(**a**), shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

Short title.

2. This Order may be cited as the Nigeria (Revenue Allocation) Order in Council, 1951.

Commencement.

3.—(1) This Order, except this section and Sections 18 and 19 thereof, shall come into operation on such date, not being earlier than the commencement of Chapters II to IV of the Constitution Order, as the Governor, acting in his discretion, may by Proclamation appoint:

Provided that the Governor may at any time after the day on which this Order shall have been laid before both Houses of Parliament exercise any power conferred upon him by any of the following sections of this Order, that is to say Sections 6, 7, 8, 10, 11 and 12.

(2) This section and Sections 18 and 19 of this Order shall come into operation on the day after the day on which this Order shall have been laid before both Houses of Parliament.

Extent to which a Regional Legislature may make laws on taxation.

4.—(1) It is hereby declared, in pursuance of item 24 of the Third Schedule to the Constitution Order, that the legislature of a Region may make laws providing for the imposition of taxes, and for matters ancillary thereto, in respect of—

(*a*) entertainments (including exhibitions, performances, amusements, games and sports) to which persons are admitted for payment;

(*b*) the sale of motor spirit; and

(*c*) any other matter which is, within the competency of such legislature for the purposes of this section by virtue of a declaration made under subsection (2) of this section.

(2) (*a*) A matter shall be within the competency of the legislature of a Region for the purposes of this section if it is declared by the Governor by Order so to be.

(*b*) A matter which has been declared by an Order made under this subsection to be within the competency of the legislature of a Region for the purposes of this section shall cease to be within the competency of such legislature for those purposes if the Order is revoked or otherwise ceases to have effect.

(a) 52 & 53 Vict. c. 63.

(*c*) Notwithstanding that an Order made under this subsection is revoked or otherwise ceases to have effect—

(i) any law enacted by the legislature of a Region by virtue of the declaration contained in the Order shall remain in force but shall be subject to amendment and repeal as if it were a Central law ; and

(ii) until such law is so repealed, any public revenues or other public moneys arising thereunder shall, for the purposes of subsection (1) of Section 5 of this Order (but subject to the provisions of subsections (2) and (3) of the said Section 5), be deemed to be derived from a matter with respect to which the legislature of such Region may make laws.

(3) No Order made under subsection (2) of this section shall have effect unless it has been approved by resolution of the House of Representatives.

Revenues of a Region.

5.—(1) (*a*) In this subsection " revenues " means public revenues and other public moneys.

(*b*) After the thirty-first day of March, 1952, all revenues derived within a Region from—

(i) any matter with respect to which the legislature of the Region may make laws, or

(ii) any matter mentioned in the Fourth Schedule to the Constitution Order or in the Schedule to this Order,

shall, notwithstanding the provisions of any other law in force in Nigeria, be revenues of that Region.

(2) The provisions of subsection (1) of this section shall not apply to any revenues or other moneys

(*a*) which are derived from any institution, undertaking or service which is declared by the Governor by Order to be an institution, undertaking or service not maintained or controlled by the Region, or

(*b*) which are, under any law in force in the Region, payable to any local authority or native authority.

(3) For the purposes of this section any question which may arise as to whether any revenues or other moneys—

(*a*) are derived within any Region, or

(*b*) are derived from any such matter as is referred to in subsection (1) of this section, or

(*c*) are derived from any such institution, undertaking or service as is referred to in subsection (2) of this section,

shall be decided by the Governor, whose decision shall be final.

(4) (*a*) The Governor may by Order add any matter to the matters mentioned in the Schedule to this Order or remove from the said Schedule any matter so added.

(*b*) No Order made under this subsection shall have effect unless it has been approved by resolution of the House of Representatives.

Payment to Regions of part of proceeds of tobacco duties.

6.—(1) Of each separate customs import duty and excise duty on manufactured or unmanufactured tobacco levied by the Government of Nigeria, one half of the gross proceeds in any quarter subsequent to the thirty-first

day of March, 1952, shall be assigned to the Regions and shall be distributed among the Regions in proportion to the quantities of tobacco subject to such duty which are declared by the prescribed authority to have been consumed within the respective Regions in the immediately preceding quarter:

Provided that if at any time the Governor is of the opinion that, owing to the imposition of a new duty or for any other reason, it is not practicable to ascertain the said quantities for the purpose of distributing any such proceeds, then those proceeds shall be distributed among the Regions in proportions which shall be calculated in such manner as the Governor may by Order prescribe.

(2) (*a*) In this section—

" quarter " means a quarter of a financial year ; and

" the prescribed authority " means such authority as the Governor may prescribe.

(*b*) The powers conferred by this section on the Governor shall be exercised by him in his discretion.

Payment to Regions of proceeds of customs duties on motor spirit.

7.—(1) Of any customs import duty on motor spirit levied by the Government of Nigeria, the gross proceeds in any quarter subsequent to the thirty-first day of March, 1952, shall be assigned to the Regions and shall be distributed among the Regions in proportion to the quantities of motor spirit subject to such duty which are declared by the prescribed authority to have been consumed within the respective Regions in the immediately preceding quarter:

Provided that if at any time the Governor is of the opinion that, owing to the imposition of a new duty or for any other reason, it is not practicable to ascertain the said quantities for the purpose of distributing any such proceeds, then those preceeds shall be distributed among the Regions in proportions which shall be calculated in such manner as the Governor may by Order prescribe.

(2) (*a*) In this section—

" quarter " means a quarter of a financial year ; and

" the prescribed authority " means such authority as the Governor may prescribe.

(*b*) The powers conferred by this section on the Governor shall be exercised by him in his discretion.

Determination of quantities of tobacco and motor spirit.

8. For the purposes of Sections 6 and 7 of this Order the Governor, acting in his discretion, may by regulation provide for the manner in which any quantity of tobacco, or any quantity of motor spirit, consumed within any Region in any quarter shall be determined.

Capitation grant.

9. There shall be paid by the Government of Nigeria to each Region in respect of the financial year beginning in the year 1952, and in respect of each subsequent financial year, a sum of money (to be called a " capitation grant ") the amount of which shall be calculated in accordance with the provisions of Section 10 of this Order.

Calculation of capitation grant.

10.—(1) For the purposes of this section the Governor, in each financial year, shall by Order fix a sum of money (which shall be the same for all Regions) as the capitation rate for the next succeeding financial year.

(2) The amount of the capitation grant which shall be paid to a Region in respect of any financial year shall be the amount produced by multiplying the sum fixed under this section as the capitation rate for that year by the total number (which number shall be determined in the prescribed manner) of—

(*a*) male persons who paid tax under the provisions of the Direct Taxation Ordinance to any authority in that Region during the prescribed period ; and

(*b*) male persons resident in that Region at the prescribed time or on the prescribed occasion who paid tax under the provisions of the Income Tax Ordinance during the prescribed period.

(3) For the avoidance of doubts it is hereby declared that a sum fixed under this section as the capitation rate for any financial year may not be varied after the commencement of that year.

(4) (*a*) In this section " prescribed " means prescribed by regulations made by the Governor acting in his discretion.

(*b*) References in this section to the Direct Taxation Ordinance or to the Income Tax Ordinance shall be construed as including references to any enactment which, for the purposes of this section, is declared by the Governor by Order to be an enactment amending, or substituted for, such ordinance.

Education grant

11.—(1) If in the financial year beginning in the year 1952, or in any subsequent financial year, expenditure is incurred by any Region on the provision of recoverable educational grants, the Government of Nigeria shall pay to that Region in respect of that year a sum of money equal to that expenditure.

(2) (*a*) In this section " recoverable educational grants " means such grants, being grants made in accordance with the provisions of Schedule A of the Education Ordinance, 1948, as are declared by the Governor by Order to be recoverable grants for the purposes of this section.

(*b*) The reference in this section to Schedule A of the Education Ordinance, 1948, shall be construed as including a reference to any enactment which, for the purposes of this section, is declared by the Governor by Order to be an enactment amending, or substituted for, that Schedule.

Nigeria Police grant and supplementary grant

12.—(1) (*a*) There shall be paid by the Government of Nigeria to each Region in respect of the financial year beginning in the year 1952, and in respect of each subsequent financial year, a sum of money (to be called a " Nigeria Police grant ") the amount of which shall be calculated in accordance with the following provisions of this subsection.

(*b*) The Nigeria Police grant which shall be paid to a Region in respect of any financial year shall be a sum equal to so much of the expenditure incurred by that Region in that year on the maintenance and equipment of the authorised establishment of police as does not exceed such limit as the Governor may by Order approve.

(2) If in the financial year beginning in the year 1952, or in any subsequent financial year, expenditure is incurred by a Region on the maintenance and equipment of any supplementary establishment of police, the Government of Nigeria shall in respect of that expenditure pay to that Region a sum of money (to be called a " Nigeria Police supplementary grant ") which—

(*a*) in respect of expenditure incurred on the maintenance and equipment of such supplementary establishment of police as is certified by the Governor by Order to be required for the general security of Nigeria, shall be a sum equal to so much of the said expenditure as does not exceed such limit as the Governor may by Order approve ; and

(*b*) in respect of any other expenditure, shall be a sum equal to half of so much of the said expenditure as does not exceed such limit as the Governor may by Order approve.

(3) In approving a limit of expenditure on the maintenance and equipment of an establishment of police for the purposes of subsection (1) or subsection (2) of this section, the Governor shall have regard to the reasonable cost of such maintenance and equipment.

(4) In this section—

(*a*) the expression " authorised establishment of police " means, in relation to any Region, the establishment of the Nigeria Police Force which is declared by the Governor by Order to be normally appropriate for that Region ;

(*b*) the expression " supplementary establishment of police " means, in relation to any Region, an establishment of the Nigeria Police Force in addition to the authorised establishment of police, which the Governor by Order approves for that Region ; and

(*c*) references to expenditure incurred on the maintenance and equipment of an establishment of police do not include references to expenditure incurred in relation to buildings.

Native Authority Police grant

13.—(1) If in the financial year beginning in the year 1950 expenditure was incurred in a Region on the maintenance and equipment of Native Authority Police Forces, the Government of Nigeria shall pay to that Region in respect of the financial year beginning in the year 1952, and in respect of each of two immediately succeeding financial years, a sum of money which, in respect of any financial year, shall be a sum equal to half of the expenditure which was incurred as aforesaid in the financial year beginning in the year 1950.

(2) If in the financial year beginning in the year 1955, or in any subsequent financial year, expenditure is incurred in a Region on the maintenance and equipment of Native Authority Police Forces, the Government of Nigeria shall pay to that Region in respect of that year such sum of money as is equal to half the expenditure incurred in that Region in the financial year next but one preceding the year in respect of which such payment is made on the maintenance and equipment of Native Authority Police Forces.

(3) Any sum payable to a Region under this section shall be called a " Native Authority Police grant ".

(4) In this section references to expenditure incurred on the maintenance and equipment of Native Authority Police Forces do not include references to expenditure incurred in relation to buildings.

Transferred services grant

14.—(1) This section shall apply to any Region which is declared by the Governor by Order to have become responsible at any time after the thirty-first day of March, 1952, for any services which were previously provided by the Government of Nigeria ; and in this section the expression " transferred services " means, in relation to a Region, services for which that Region is declared as aforesaid to have become responsible.

(2) There shall be paid to each Region by the Government of Nigeria in respect of the financial year beginning in the year 1952, and in respect of each of the two immediately succeeding financial years, a sum of money (to be called a " transferred services grant "), which, in respect of any financial year, shall be such sum as is declared by the Governor by Order to represent the reasonable cost to that Region of providing transferred services in that year.

Payment of £2,000,000 *to Northern Region*

15. (1) In addition to any other payment which it is by this Order required to make to the Northern Region, the Government of Nigeria shall pay to the Northern Region a sum of two million pounds.

(2) The said sum is hereby charged upon the funds of the Government of Nigeria and shall be paid within twelve months after the commencement of this section.

(3) Payment of the said sum shall be made by the Accountant-General in pursuance of a warrant directed to him under the hand of the Governor.

Sums charged upon revenues of Government of Nigeria

16. All sums which are required by this Order to be paid by the Government of Nigeria (other than the sum referred to in Section 15 of this Order) are hereby charged upon the revenues of the Government of Nigeria, and payment of the said sums shall be made by the Accountant-General in accordance with such instructions (including instructions as to time and manner of payment) as the Governor, acting in his discretion, may issue to him in that behalf.

Governor not obliged to consult Council in exercise of certain powers

17.—(1) The Governor shall not be obliged to consult with the Council of Ministers—

(*a*) in the exercise of any power conferred upon him by this Order which he is by this Order directed or empowered to exercise in his discretion ; or

(*b*) in the exercise, at any time before the commencement of Chapters V to VII of the Constitution Order, of any other power conferred upon him by this Order.

(2) If the Governor has occasion before the commencement of Chapters V to VII of the Constitution Order to exercise any power conferred upon him by this Order (other than such a power as is referred to in paragraph (*a*) of subsection (1) of this section) he shall, in the exercise of such power, consult with the Executive Council established by the Nigeria Letters Patent, 1946 to 1949, in such circumstances and on such conditions as may be prescribed by such of the Instructions of 1946 and 1949 as may at that time have effect.

Provisions to give effect to Order

18. Section 10 of the Constitution Order (which empowers the Governor to make provision for the purpose of bringing existing instruments into accord with the provisions of the Constitution Order or otherwise for giving

effect, or enabling effect to be given, to those provisions) shall apply in relation to this Order as it applies in relation to the Constitution Order and, for the purpose of its application by this section, the said Section 10 shall have effect with the necessary adaptations and in particular as if the references therein to the Constitution Order and to the commencement of Chapter I of the Constitution Order were references, respectively, to this Order and to the commencement of this section.

Removal of difficulties

19.—(1) If any difficulty shall arise in bringing into operation any of the provisions of this Order or in giving effect to the purposes thereof, a Secretary of State may by Order make such provision as seems to him necessary or expedient for the purpose of removing the difficulty and may by such Order amend or add to any provision of this Order:

Provided that no Order shall be made under this section later than the thirty-first day of March, 1953.

(2) Any Order made under this section may be amended, added to or revoked by a further Order, and may be given retrospective effect to a date not earlier than the commencement of this section.

Power reserved by His Majesty

20. His Majesty hereby reserves to Himself, His Heirs and Successors power, with the advice of His or Their Privy Council, to amend, add to or revoke this Order as to Him or Them shall seem fit.

F. J. Fernau.

SCHEDULE

1.—(*a*) Licensing of mechanically propelled vehicles and the drivers of such vehicles, and inspection of such vehicles.

(*b*) Licensing of premises for the sale or consumption of intoxicating liquor.
(*c*) Licensing of firearms.
(*d*) Licensing of premises for the storage of petroleum.
(*e*) Licensing of small craft used on inland waters.
(*f*) Licences to hunt wild animals.
(*g*) Tax imposed under the provisions of the Direct Taxation Ordinance.
(*h*) Sales, leases and other dispositions of, or of any interest in—
(i) lands and buildings vested in His Majesty for the purposes of the government of Nigeria or any part thereof; and
(ii) other lands which the Governor has power to dispose of;
except such sales, leases and other dispositions as the Governor, acting in his discretion, may by Order prescribe.
(*i*) Rents payable under the provisions of the Minerals Ordinance.

2. References in this Schedule to the Direct Taxation Ordinance or to the Minerals Ordinance shall be construed as including references to any enactment which, for the purposes of this Schedule, as declared by the Governor by Order to be an enactment amending, or substituted for, such ordinance.

EXPLANATORY NOTE

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

This Order

(*a*) provides for the allocation of revenue to the three Regions of Nigeria; and
(*b*) prescribes the extent to which a Regional Legislature in Nigeria may enact laws with respect to taxation.