

BANKING (FREEZING OF ACCOUNTS) DECREE 1984



ARRANGEMENT OF SECTIONS

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Decree No. 6

[31st December 1983]

Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:

1. Where the Head of the Federal Military Government has cause to suspect that transactions, whether before or after the commencement of this Decree, in any account of persons (hereinafter referred to as "the account") with any bank are such as may involve the offences of bribery, corruption, extortion or abuse of office, he may direct or cause a direction to be issued to the manager of the bank where the accounts are, or are to be, or in the alternative to the head office of such bank requiring the manager to freeze forthwith all transactions in the account concerned.

Freezing of accounts, etc.

2. The manager of a bank in which an account affected by a direction under subsection (1) of this section is kept shall on receipt of a direction under subsection (1) of this section effect forthwith suspension of all banking transactions whatsoever in that account for such period as may be specified in the direction.

3. Where an account has been frozen pursuant to a direction under subsection (1) of this section, the Head of the Federal Military Government may cause any qualified person to issue an order requiring the bank to prepare and maintain in the orders over the period stated therein, and the manager to prepare and certify the records as required on or before the expiration of such period, and such order may be approved by the person issuing the order.

4. Orders for a report on accounts shall be as in Form I in the Schedule to this Decree or to the like effect and shall be sent by registered post or may be delivered. If a receipt appears to relate to an order under this Decree and is signed by or on behalf of the bank to which it is addressed or delivered, such receipt shall be sufficient evidence of delivery without further proof.

Verification  
of accounts.

2.—(1) A qualified person authorised in that behalf, after production to the manager of his authority, shall consider the record furnished by the bank and may, if he thinks it fit, thereafter by supplementary order as in Form 7 in the Schedule to this Decree, require the manager to give to him further information or produce books or documents relating to particular items in the record of any of the accounts; and the manager shall furnish such information within an agreed time or, if no time is agreed, then within three days after the date of the order.

(2) A qualified person investigating the accounts having completed his investigations as far as possible shall, within seven days of the receipt of the record or additional record furnished by the bank, submit his findings together with the conclusions drawn by him and the reasons therefor to the Secretary to the Federal Military Government who shall likewise thereafter report to the Head of the Federal Military Government.

(3) If the Head of the Federal Military Government, after considering the report of a qualified person submitted pursuant to subsection (2) of this section, is of opinion that items in the accounts or any of them confirm or tend to confirm the reasonable suspicion of the Head of the Federal Military Government under section 1 (1) of this Decree, he may cause an order to be issued for the continued freezing of the account concerned.

(4) Where the Head of the Federal Military Government is satisfied that the report submitted pursuant to subsection (2) of this section does not confirm his suspicion that the person concerned has been involved in the offences of bribery, corruption, extortion or abuse of office, he may cause to be revoked the direction freezing the account and thereafter, normal banking transactions shall forthwith resume relative to that account.

(5) Where a direction freezing an account is given pursuant to the provisions of subsection (3) of this section, the direction shall have effect for the period mentioned in the order unless sooner revoked by another order. Provided that the Head of the Federal Military Government may delegate his powers under the foregoing provisions of this section to a qualified person, and the period mentioned in any such order may, from time to time by subsequent orders issued as aforesaid, be extended for such further period as may be specified in the order.

(6) Where the Head of the Federal Military Government after considering the reports submitted pursuant to subsection (2) of this section is of the opinion that the report confirms or tends to confirm his suspicion of the commission of the offences specified in section 1 (1) of this Decree, the Head of the Federal Military Government may direct that a copy of the report be delivered to the Attorney-General of the Federation and the Attorney-General shall thereafter take such action as appears to him necessary.

Transitional  
provisions.

3: Any account frozen by any person authorised in that behalf, whether by the Head of the Federal Military Government or any other authority between the date of the commencement of this Decree and the date of its making, shall be deemed to have been frozen under this Decree and shall have full effect as if so issued, notwithstanding any deviations from the foregoing provisions of this Decree but any such freezing order still pending shall, as from the date of the making of this Decree, be conducted in compliance therewith.

4. Where the manager complies with any direction or an order made or deemed to have been made under this Decree, by the Head of the Federal Military Government or a person authorised by him, the bank and all persons complying with the direction, or as the case may be, any order or requirement of the person aforementioned shall be indemnified from liability to the extent of compliance therewith; and accordingly, no action, claim, suit or demand by or on behalf of any person whose account is frozen or investigated pursuant to any such direction, order or requirement shall lie against the bank or any person so complying.

Indemnity  
for  
compliance.

5.—(1) The question whether any provision of Chapter IV of the Constitution of the Federal Republic of Nigeria 1979 has been, is being or would be contravened by anything done or proposed to be done in pursuance of this Decree shall not be enquired into in any court of law, and accordingly no provision of that Constitution shall apply in relation to any such question; and no court or person shall be concerned to enquire whether the circumstances justify any order, direction or requirement under this Decree.

Exclusion of  
remedies.

(2) An appeal shall not lie to any court against this Decree or any order made or given thereunder, or any subsequent direction or requirement of the Head of the Federal Military Government or a person authorised by him in that behalf, as the case may be.

6. It shall be an offence against this Decree for any bank or manager to refuse to comply with any direction under this Decree or any order or requirement of the Head of the Federal Military Government or a person authorised by him in that behalf; and the penalties prescribed under the Banking Act 1969 in respect of failure to produce any book, account, document or information or in respect of any falsehood shall apply to the failure to comply with any order, direction or requirement under this Decree or of any falsehood if they apply to cases within that subsection.

Offences.

1969 No. 1.

7. In this Decree, unless the context otherwise requires—

Interpreta-  
tion.

“the Head of the Federal Military Government” includes any person authorised by him in any regard under this Decree;

“manager” includes any person in apparent control of a bank;

“person” includes any company or association or body of persons (corporate or unincorporate) in which the bank affected by a direction or order is, or may be, aware that the persons designated by name in such direction or order are interested as directors, partners, managers or agents;

“qualified person” means a bank examiner or any other person designated as such by the Head of the Federal Military Government.

8. This Decree may be cited as the Banking (Freezing of Accounts) Decree 1984 and shall be deemed to have come into force on 31st December, 1983.

Citation  
and com-  
mencement.



MADE at Lagos this 29th day of March 1984.

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

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EXPLANATORY NOTE

*(This note does not form part of the above Decree  
 but is intended to explain its purpose)*

The Decree empowers the Head of the Federal Military Government where he suspects or believes that any person has been involved in certain offences including bribery and abuse of office, to issue a direction or cause an order to be issued authorising an investigation into the person's account and restricting the operation of such accounts subject to such conditions and for such duration as may be prescribed in the direction or order.

Offences are created and penalties imposed for such offences and for non-compliance with a direction or an order under the Decree. Banks are indemnified against any suit arising out of compliance with an order under the Decree.

No. 20

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