

CONSTITUTION (SUSPENSION AND MODIFICATION)
(AMENDMENT) DECREE 1986



Decree No. 26

[20th November 1986]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:—

1. The Constitution (Suspension and Modification) Decree 1984, as amended by the Constitution (Suspension and Modification) (Amendment) Decree 1985, is hereby further amended in section 7 by substituting for subsection (2) thereof, the following new subsection, that is—

“(2) The Armed Forces Ruling Council shall consist of—
(a) the President, Commander-in-Chief of the Armed Forces, who shall be the Chairman of the Armed Forces Ruling Council;
(b) the Chief of General Staff, General Staff Headquarters;
(c) the Minister of Defence and Chairman, Joint Chiefs of Staff;
(d) the Chief of Army Staff;
(e) the Chief of Naval Staff;
(f) the Chief of Air Staff;
(g) the Inspector-General of Police; and
(h) such other members of the Armed Forces as the President, Commander-in-Chief of the Armed Forces may from time to time appoint.”

2. The Constitution of the Federal Republic of Nigeria 1979, as amended by the Constitution (Suspension and Modification) Decree 1984 and the Constitution (Suspension and Modification) (Amendment) Decree 1985, is hereby further amended as set out in the Schedule to this Decree.

3. This Decree may be cited as the Constitution (Suspension and Modification) (Amendment) Decree 1986.

Amendment
of the Cons-
titution of the
Federal
Republic of
Nigeria 1979,
1984 No. 1,
1985 No. 17,
Citation.

SCHEDULE
AMENDED PROVISIONS OF THE CONSTITUTION
Section 2

Insertion of section 26A

There shall be inserted immediately after section 26, the following new section, that is—

26a.—(1) Any citizen of Nigeria of full age who wishes to renounce his Nigerian citizenship shall make a declaration in the prescribed manner for the renunciation; and the Armed Forces Ruling Council may cause the declaration to be registered, and upon such registration, that person shall cease to be a citizen of Nigeria.

(2) The Armed Forces Ruling Council may withhold registration of any declaration made under subsection (1) of this section if it is made during any war in which Nigeria may be engaged or if in its opinion it is otherwise contrary to public policy.

(3) For the purpose of this section any woman who has been married shall be deemed to be of full age.

(4) In this section, "prescribed" means prescribed by the Minister charged with responsibility for matters relating to internal affairs.

Section 117

For subsections (2) and (3) thereof, there shall be substituted the following new subsections, that is—

"(2) The public accounts of a State and of all offices and courts of the State shall be audited and reported on by the Director of Audit; and for that purpose, the Director of Audit or any person authorised by him in that behalf shall have access to all books, records and other documents relating to those accounts.

(3) Nothing in subsection (2) of this section shall be construed as authorising the Director of Audit to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies including all persons or bodies established by law but the Director of Audit may—

(a) provide such bodies with—
(i) a list of auditors qualified to be appointed by them as external auditors and from among whom the body shall appoint its external auditor; and
(ii) a guideline on the level of fees to be paid to external auditors; and
(b) comment on their annual accounts and auditors reports thereon.

(4) The Director of Audit shall submit his reports to the State Executive Council."

The existing subsection (4) shall be renumbered as subsection (5).

Sections 140, 144 and 145

In these sections, as amended by the Constitution (Suspension and Modification) Decree 1984, there shall be substituted for the words "Advisory Judicial Committee" wherever they occur, the words "Federal Judicial Service Committee".

Section 140

In subsection (1) thereof, there shall be inserted immediately after paragraph (i) the following new paragraph, that is—
"(j) Federal Capital Territory Judicial Service Committee";

Section 144

In subsection (2) thereof, there shall be inserted immediately after the words "Federal Judicial Service Committee", the words "Federal Capital Territory Judicial Service Committee,".

Section 145

In subsection (1) thereof, there shall be inserted after the words "Federal Judicial Service Committee", the words "Federal Capital Territory Judicial Service Committee,".

Section 160

There shall be inserted immediately after subsection (3) thereof, the following new subsection, that is—

(4) The Attorney-General of the Federation may confer a general or special authority upon the Attorney-General of a State to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by subsection (1) (a) of this section in relation to prosecutions in that State and may vary or revoke any such authority."

Sections 217, 223 (1), 226 (a), 241 (3) and 242

In these sections by deleting the word "personal" wherever it occurs after the word "Islamic".

Section 274

In subsection (5) thereof, there shall be substituted for paragraph (c) the following new paragraph, that is—

"(c) National Security Agencies Decree 1986 ;"

THE SCHEDULES TO THE CONSTITUTION

THIRD SCHEDULE

PART I

Paragraph 7

For paragraph 7 thereof, there shall be substituted the following new paragraph, that is—

7. The Federal Judicial Service Committee shall comprise the following members, namely—

"Federal Judicial Service Committee.

(a) the Chief Justice of Nigeria, who shall be the Chairman;

(b) the Attorney-General of the Federation;

(c) the President of the Court of Appeal;

(d) the Chief Judge of the Federal High Court;

(e) 2 persons, each of whom has been qualified to practice as a legal practitioner in Nigeria for a period of not less than 15 years, from a list of not less than 4 persons so qualified recommended by the Nigerian Bar Association; and

(f) 2 other persons, not being legal practitioners, who in the opinion of the President, Commander-in-Chief of the Armed Forces are of unquestionable integrity."

Paragraph 8

For paragraph 8 thereof, there shall be substituted the following new paragraph, that is—

“8. The Committee shall have power to appoint, dismiss and exercise disciplinary control over the Chief Registrars and Deputy Chief Registrars of the Supreme Court, the Court of Appeal and the Federal High Court and all other members of the staff of the judicial service of the Federation not otherwise specified in this Constitution and of the Federal Judicial Service Committee.”

Insertion of new paragraphs 19 and 20

There shall be inserted immediately after paragraph 18, the following new paragraphs, that is—

“1.—Federal Capital Territory Judicial Service Committee

19. The Federal Capital Territory Judicial Service Committee shall comprise the following members, namely—
(a) the Chief Judge of the Federal Capital Territory, who shall be the Chairman;

Federal
Capital
Territory
Judicial
Service
Committee.

(b) the Attorney-General of the Federation;

(c) the Grand Kadi of the Sharia Court of Appeal;

(d) the President of the Customary Court of Appeal;

(e) one member who is a legal practitioner, and who has been qualified to practise, as a legal practitioner in Nigeria for not less than 10 years; and

(f) one other person, not being a legal practitioner, who in the opinion of the President, Commander-in-Chief of the Armed Forces is of unquestionable integrity.

20. The Committee shall have power to appoint, dismiss and exercise disciplinary control over the Chief Registrar and Deputy Chief Registrar of the High Court, the Chief Registrars of the Sharia Court of Appeal and Customary Court of Appeal, the Magistrates, the Judges and members of District and Area Courts and all other members of the staff of the judicial service of the Federal Capital Territory not otherwise specified in this Constitution and of the Federal Capital Territory Judicial Service Committee.”

Part II

Paragraph 9

For paragraph 9, as amended by the Constitution (Suspension and Modification) Decree 1984 and the Constitution (Suspension and Modification) Decree 1985, there shall be substituted the following new paragraph, that is—

“9. The Committee shall have power to appoint, dismiss and exercise disciplinary control over the Chief Registrar and Deputy Chief Registrar of the High Court, the Chief Registrar of the Sharia Court of Appeal and Customary Court of Appeal, the Magistrates, the Judges and members of

District and Area Courts and all other members of the staff of the judicial service of the State not otherwise specified in this Constitution and of the State Judicial Service Committee.”

Made at Lagos this 20th day of November 1986.

MAJOR-GENERAL I. B. BARANGIDA,
President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria

EXPLANATORY NOTE

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

The Decree further amends the Constitution of the Federal Republic of Nigeria 1979 as previously amended among other things to remove from the Director of Audit of a State, the power to audit the accounts of or appoint auditors for parastatals, and to establish the Federal Capital Territory Judicial Service Committee.