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LAWS OF THE FEDERATION OF NIGERIA

CHAPTER F12

FEDERAL HIGH COURT ACT

An Act to establish the Federal High Court as a High Court with certain special powers and to provide for all other matters connected therewith.

[1990 No. 4. 1992 No. 16. 1993 No. 46. S.1. 9 of 1993.]

[Date of commencement: 13th April, 1973]

PART I

The Constitution of the Federal High Court

1. Establishment of the Federal High Court

(1) There is hereby established a High Court of Justice which shall be styled "the Federal High Court" (in this Act referred to as "the Court").

(2) The Court shall consist of the following—

(a) the Chief Judge, who shall have overall control and supervision of the administration of the Court; and

(b) 50 Judges of the Federal High Court.

(3) The Court shall be a superior court of record and, save as otherwise provided by law, shall have all the powers of the High Court of any of the States in the Federation.

(4) The Court shall assume its functions on such date as may be appointed by an order made by the President of the Federal Republic of Nigeria.

2. Appointment of Judges

(1) The Chief Judge of the Court and the other Judges of that Court shall be appointed by the President on the recommendation of the Federal Judicial Service Commission.

(2) A person shall not be qualified to hold the office of a Judge of the Court unless—

(a) he is or has been a Judge of a Court having unlimited jurisdiction in civil and criminal matters in Nigeria or a Court having jurisdiction in appeals from any such Court; or

(b) he is qualified for admission as a legal practitioner in Nigeria and has been so qualified for not less than ten years.

Provided that in computing the period during which any person has been qualified for admission as a legal practitioner, any period during which he has held office as a Judge or

magistrate after becoming so qualified, shall be included.

(3) If the office of the Chief Judge is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other Judges of the Court as may, from time to time, be designated in that behalf by the President acting in his discretion from among the Judges of the Court.

(4) If the office of any Judge of the Court other than that of the Chief Judge is vacant or the person holding the office is acting as Chief Judge or is for any reason unable to perform the functions of his office, the President, acting after consultation with the Federal Judicial Service Commission, may appoint a person with such qualifications as prescribed in this Act to act in the office of a Judge of the Court; and any person so appointed shall continue to act for the period of The appointment, or if no period is specified, until his appointment is terminated.

3. Tenure of office of Judges

Any person holding or appointed to act in the office of the Chief Judge or a Judge of the Court may be removed from office in accordance with the provisions of the Constitution.

4. Precedence

(1) The Chief Judge shall take precedence before the other Judges of the Court, and the other Judges shall take precedence after The Chief Judge in accordance with such directions as may be given by the President.

(2) The Chief Judge shall rank equal with the Chief Judge of the States of the Federation and of the Federal Capital Territory, Abuja and The Judges of the Court shall, in like manner, rank with Judges of the High Courts of The States and of the Federal Capital Territory,

Abuja.

5. Salaries and allowances of Judges

(1) There shall be paid to The Chief Judge and to each of the other Judges of the Court, such salaries and remunerations as are payable, respectively, to the Chief Judge of the States of The Federation and of the Federal Capital Territory, Abuja and the Judges of the High Courts of the States and of the Federal Capital Territory, Abuja.

(2) There shall also be paid to each Judge on account of expenses incurred in connection with his office or otherwise, such allowances as are considered reasonable by the Federal Government.

(3) The amounts payable under the provisions of this section shall be charged upon and paid out of the Consolidated Revenue Fund of the Federation.

6. Seal of the Court

(1) The Court shall have and may use a seal bearing a device or impression approved by the Chief Judge with the inscription "The Federal High Court".

(2) The seal shall be kept by the Chief Judge and the duplicate thereof shall be kept by each of the other Judges, and the Chief Judge and other Judges may entrust the seal or duplicate to such officers of court as they may think fit.

(3) The seal shall be a seal of the Court for all purposes for which it may be required under the provisions of any enactment or Rule of Court.

PART II

Jurisdiction and Law

7. Original jurisdiction

(1) The Court shall to the exclusion of any other court have original jurisdiction to try civil causes and matters—

- (a) relating to the revenue of the Government of the Federation in which the said Government or any organ thereof or a person suing or being sued on behalf of the said Government is a party;
- (b) connected with or pertaining to the taxation of companies and other bodies established or carrying on business in Nigeria and all other persons subject to Federal taxation;
- (c) connected with or pertaining to customs and excise duties and export duties, including any claim by or against the Nigeria Customs Service or any member or officer thereof, arising from the performance of any duty imposed under any regulation relating to customs and excise duties and export duties;
- (d) connected with or pertaining to banking, banks, other financial institutions, including any action between one bank and another, any action by or against the Central Bank of Nigeria arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory notes and other fiscal measures:

Provided that this paragraph shall not apply to any dispute between an individual customer and his bank in respect of transactions between the individual customer and the bank;
- (e) arising from the operation of the Companies and Allied Matters Act or any other enactment replacing that Act or regulating the operation of

companies incorporated under the Companies and Allied Mailers Act;

[LFN Cap. C21J.]

- (f)* any Federal enactment relating to copyright, patent, designs, trade marks and passing-off, industrial designs and merchandise marks, business names, commercial and industrial monopolies, combines and trusts, standards of goods and commodities and industrial standards;
- (g)* any admiralty jurisdiction, including shipping and navigation on the River Niger, Benue and their affluents and on such other inland waterway as may be designated by any enactment to be an international waterway, all Federal ports, (including the constitution and powers of the ports authorities for Federal ports) and carriage by sea;
- (h)* diplomatic, consular and trade representation;
- (i)* citizenship, naturalisation and aliens, deportation of persons who are not citizens of Nigeria, extradition, immigration into and emigration from Nigeria, passports and visas;
- (j)* bankruptcy and insolvency;
- (k)* aviation and safety of aircraft;
- (l)* arms, ammunition and explosives;
- (m)* drugs and poisons;
- (n)* mines and minerals (including oil fields, oil mining, geological surveys and natural gas);
- (o)* weights and measures;
- (p)* the administration or the management and control of the Federal

Government or any of its agencies;

- (q)* subject to the provisions of this Constitution, the operation and interpretation of this Constitution in so far as it affects the Federal Government or any of its agencies;
- (r)* any action or proceeding for a declaration or injunction affecting the validity of any executive or administrative action or decision by the Federal Government or any of its agencies; and
- (s)* such other jurisdiction, civil or criminal, and whether to the exclusion of any other court or not as may be conferred upon it by an Act of the National Assembly.

Provided that nothing in the provisions of paragraphs *(p)*, *(q)* and *(r)* of this subsection shall prevent a person from seeking redress against the Federal Government or any of its agencies in an action for damages, injunction or specific performance where the action is based on any enactment, law or equity.

(2) The Federal High Court shall have and exercise jurisdiction and powers in respect of treason, treasonable felony and allied offences.

(3) Where jurisdiction is conferred upon the Court under subsections (1), (2) and (3) of this section, such jurisdiction shall be construed to include jurisdiction to hear and determine all issues relating to, arising from or ancillary to such subject matter.

(4) The jurisdiction conferred by subsection (3) of this section in respect of criminal causes and matters shall, without prejudice to the generality of that subsection and section 64 (3) of this Act, include original jurisdiction in respect of offences under the provisions of the Criminal Code, the Penal Code or the Penal Code (Northern Region) Federal Provisions Act

being offences in relation to which proceedings may be initialed at the instance of the Attorney-General of the Federation.

[LFN Cap.C38. Cap P3.]

(5) Notwithstanding anything to the contrary contained in any other enactment or rule of law, any power conferred on a State High Court or any other court of similar jurisdiction to hear and determine any civil matter or proceedings shall not extend to any matter in respect of which jurisdiction is conferred on the Court under the provisions of this section.

(6) Any decision made after the commencement of this section by any court of law in any purported exercise of any power under the Constitution of the Federal Republic of Nigeria, 1999 or of any Federal or State law shall, as from the date of making of the decision be null and void if it—

[L.F.N Cap C23.]

- (a) has declared the decision invalid or the Court incompetent to exercise exclusive jurisdiction in respect of any of the matters specified under subsection (1) or (2) of section 7 of this Act before it was substituted by this section; or
- (b) has conferred or purported to confer on any other court, apart from the Court, concurrent jurisdiction in respect of the matters specified under section 7 of this Act before it was substituted by this section.

Provided that any decision taken by any court other than the Court as a result of the power of the concurrent jurisdiction so conferred shall be valid, but all other cases pending in the said other courts, other than the Appeal Court, shall, at the commencement of this section,

abate and the Judge before whom it is pending shall transfer them to the Registrar of the Court to be heard as new suits.

(7) Any delegation to hear and determine any Federal causes or matters conferred by any Federal enactment shall be read with such modification to conform with the provisions of the Constitution of the Federal Republic of Nigeria, 1999 and the provisions of this Act.

[LFN Cap.C23.]

(8) Notwithstanding anything to the contrary in the preceding provisions of this section or any other enactment or rule of law, where a tribunal established on or after 31 December 1983, or having effect as if so established, by the Federal Government has jurisdiction to try any matter specified in the preceding provisions of this section, the Court shall, as from the making of the enactment conferring such jurisdiction on that tribunal, forthwith and without any further assurance apart from this section, cease to exercise jurisdiction in respect of such matter.

(9) In this section, any reference to—

- (a) **"civil or criminal proceedings"** includes a reference to the proceedings which originate in the Court and those brought before the Court to be dealt with by the Court in the exercise of its appellate or supervisory jurisdiction; and
- (b) **"decision"** in subsection (7) includes judgment, decree or order of any court of law.

8. Cesser of jurisdiction, etc.

(1) In so far as jurisdiction is conferred upon the Court in respect of the causes or matters mentioned in the foregoing provisions of this Part of this Act, the High Court or any

other court of a State or of the Federal Capital Territory, Abuja shall, to the extent that jurisdiction is so conferred upon the Court, cease to have jurisdiction in relation to such causes or matters.

[I973 No. 38.]

(2) Notwithstanding subsection (1) of this section, the President may by order and to the extent set out in the said order vest in the High Court or any other court of a State or of the Federal Capital Territory, Abuja jurisdiction either generally in relation to the causes and matters set out in the preceding section or specially in relation to any particular cause or matter which may be specified in the said order.

(3) Nothing in the foregoing provisions of this section shall affect the jurisdiction and all other powers of the High Court or any other court of a state to continue to hear and determine causes and matters which are part-heard before such court at the date of the assumption of the functions of the Federal High Court or at the date when jurisdiction is otherwise conferred on the Court by the President, and any proceedings in any such causes and matters, which are still part-heard at the expiration of the period of six months beginning with date of assumption of the functions of the Court or The date when jurisdiction is otherwise conferred on the Court, shall abate on the expiration of that period.

9. Practice and Procedure

(1) The jurisdiction vested in the Court shall, so far as practice and procedure are concerned, be exercised in the manner provided by this Act or any other enactment or by such rules and orders of court as may be made pursuant to this Act.

(2) Where a matter arises in respect of which no provision or no adequate provisions are made in the Rules made under subsection (1) of this Act or in any other Act, or

enactment, the Court shall adopt such procedure as it deems fit to do substantial justice between the parties concerned.

10. Administration of law and equity

Subject to the provisions of this Act, in every civil cause or matter commenced in the Court, law and equity shall be administered by the Court concurrently.

11. Determination of matter completely and finally

The Court, in the exercise of the jurisdiction vested in it by or under this Act shall, in every cause or matter, have power to grant, either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter so that, as far as possible, all matters in controversy between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any of those matters avoided.

12. Rules of equity to prevail

Subject to the express provisions of any other enactment, and in all matters not particularly mentioned in this Act in which there was formerly or there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail in the Court so far as the matters to which those rules relate are cognisable by the Court.

13. Injunctions and receivers

(1) The Court may grant an injunction or appoint a receiver by an interlocutory order in all cases in which it appears to the Court to be just or convenient so to do.

(2) Any such order may be made either unconditionally or on such terms and

conditions as the Court thinks just.

(3) If, whether before, or at, or after the hearing of any civil cause or matter, an application is made for an injunction to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the Court thinks fit, whether the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.

(4) The power conferred by this section to grant an injunction by an interlocutory order may be exercised notwithstanding that the same is granted against an officer or authority of the Federation as such.

14. Orders of *mandamus*, prohibition and certiorari

(1) The Court shall have the power to make an order of mandamus requiring any act to be done or an order of prohibition prohibiting any proceedings, cause or matter, or matter into the Court for any purpose.

(2) The power conferred by this section to make an order of mandamus, prohibition or certiorari may be exercised notwithstanding that the order is made against an officer or authority of the Federation as such.

(3) Subject to the foregoing provision of this section, the references in any written law to any writ of *mandamus*, prohibition or *certiorari* shall be construed as references to an order corresponding thereto and the references to the issue or award of any such order shall in like manner be so construed.

15. Injunction in lieu of *quo warranto*

In any case where any person acts in an office in which he is not entitled to act, the Court may grant an injunction restraining him from so acting and may (if the case so requires) declare the office to be vacant.

16. Execution of instruments by order of court

Where any person neglects or refuses to comply with a judgment or order of the Court directing him to execute any conveyance, contract or other document, or to endorse any negotiable instrument, the Court may, on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document shall be executed, or that the negotiable instrument shall be endorsed by such person as the Court may nominate for that purpose, and a conveyance, contract, document or instrument so executed or endorsed shall operate and be for all purposes as valid as if it had been executed or endorsed by the person originally directed to execute or endorse it.

17. Reconciliation in civil and criminal cases

In any proceedings in the Court, the Court may promote reconciliation among the parties thereto and encourage and facilitate the amicable settlement thereof.

18. Reservation of point of law for Court of Appeal

The Court may, at any time during the hearing of a criminal cause and before its decision is announced, and if so required by the Attorney-General of the Federation shall, State a case on a point of law for the opinion of the Court of Appeal.

PART III

Sitting and Distribution of Business

19. Division of the Court

(1) The Court shall have and exercise jurisdiction throughout the Federation, and for that purpose the whole area of the Federation shall be divided by the Chief Judge into such number of Judicial Divisions or part thereof by such name as he may think fit.

(2) For the more convenient despatch of business, the Court may sit in any one or more Judicial Divisions as the Chief Judge may direct, and he may also direct one or more Judges to sit in any one or more of the Judicial Divisions.

(3) The Chief Judge shall determine the distribution of the business before The Court amongst the Judges thereof and may assign any judicial function to any Judge or Judges or in respect of a particular cause or matter in a Judicial Division.

(4) Subject to the directions of the Chief Judge, every Judge of the Court shall sit for the trial of civil and criminal causes or matters and for the disposal of other legal business the Chief Judge may think fit.

20. Sittings

(1) Subject to Rules of Court and to any provisions pertaining to vacations as may be prescribed, the Court shall open throughout the year for the transaction of any pending general illegal business.

(2) Provision shall be made for the hearing of all such applications as may be required to be expeditiously or immediately heard.

21. Judge's absence

Where the Judge who is presiding over the sitting of the Court is for any cause unable or fails to attend the same on the day appointed, and no other Judge is able to attend in his stead, the Court shall stand adjourned from day to day until a Judge shall attend or until the Courts shall be adjourned or closed by order under the hand of a Judge.

22. Power of transfer

(1) A Judge of the Court may at any time or at any stage of the proceedings in any cause or matter before final judgment, either with or without application from any of the parties thereto, transfer such cause or matter before him to any other Judge of the Court.

[1975 No. 36.]

(2) No cause or matter shall be struck out by the Court merely on the ground that such cause or matter was taken in the Court instead of the High Court of a State or of the Federal Capital Territory, Abuja in which it ought to have been brought, and the Judge of the Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate High Court of a State or of the Federal Capital Territory, Abuja in accordance with Rules of Court to be made under section 44 of this Act.

(3) Notwithstanding anything to the contrary in any law, no cause or matter shall be struck out by the High Court of a State or of the Federal Capital Territory, Abuja on the ground that such cause or matter was taken in the High Court instead of the Court, and the judge before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate Judicial Division of the Court in accordance with such rules of court as may be in force in that High Court or made under any enactment or law empowering the making of rules of court generally which enactment or law shall by virtue of this subsection be deemed also to include power to make rules of court for the purposes of this subsection.

(4) Every order of transfer made pursuant to subsection (2) or (3) of this section shall operate as a stay of proceedings before the court before which such proceedings are

brought or instituted and shall not be subject to appeal.

(5) Where the Court to which any cause or matter has been transferred pursuant to subsection (2) or (3) of this section is of opinion that the cause or matter ought in law to be dealt with by the Court which transferred the cause or matter, the Judge presiding in the first-mentioned Court shall, after hearing counsel on behalf of the parties, State a case on a point of law for the opinion of The Court of Appeal.

(6) Where any case on a point of law is stated for the opinion of the Court of Appeal the Court of Appeal shall, in accordance with rules applicable in that court, give its decision upon the case and the Court which stated the case shall dispose of the cause or matter accordingly.

23. Proceedings to be disposed of by single Judge

Every proceeding in The Court and all business arising therein shall, so far as is practicable and convenient and subject to the provisions of any enactment or law, be heard and disposed of by a single Judge, and all proceedings in an action subsequent to the hearing or trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be taken before the Judge before whom the trial or hearing took place.

24. Powers of single Judge in court and in chambers

A Judge may, subject to Rules of Court, exercise in court or in chambers all or any part of the jurisdiction vested in the Court in all such causes and matters and in all such proceedings in any cause or matter as may be heard in court or in chambers respectively by a single Judge of a High Court or Justice in England.

25. Discharge of orders made in chambers

Subject to the provisions of this Act with respect to appeals in matters of practice and

procedure, every order made by a Judge in chambers, except orders as to costs only, may upon notice be set aside or discharged by the Judge sitting in court.

26. Power to transfer causes or matters to magistrates' courts

Where in the opinion of a Judge of the Court any cause or matter before him is such as will be heard and determined or disposed of more expeditiously by a magistrate's court, the Judge of the Court may, subject to the provisions of this Act, at his discretion order that such cause or matter be heard and determined by a magistrate's court exercising jurisdiction in the state in which the cause of action pertaining thereto arose, or in the Federal Capital Territory, Abuja as the case may be, in accordance with Rules of Court made under section 44 of this Act; and the magistrate's court shall have jurisdiction for the hearing and determination of such cause or matter and may exercise powers in relation thereto (within the limits of its general powers) as if original jurisdiction had been conferred upon it by virtue of this Act.

27. Transfer of causes or mailers from magistrates' courts

(1) Where a magistrate, either of his own motion or on the application of any person concerned, is of opinion that any cause or matter brought before him is one in respect of which jurisdiction is vested in the Court, the magistrate shall report to the Chief Judge of the High Court of the State or of the Federal Capital Territory, Abuja the pendency of the cause or mailer.

(2) The Chief Judge of The State or of the Federal Capital Territory, Abuja may on receipt of the report made pursuant to subsection (1) of this section exercise in respect of The cause or mailer so reported the same power of transfer as is conferred by subsection (3) of section 22 of this Act; and the provisions of subsections (4) to (6) of that section shall apply in respect of such transfer to the same extent as they apply in respect of transfers made under that

section.

28. Appellate jurisdiction

The Court shall have appellate jurisdiction to hear and determine appeals from—

- (a)* the decisions of Appeal Commissioners established under the Companies Income Tax Act in so far as applicable as Federal law;
[LFN Cap. C21.]
- (b)* the decisions of the Immigration and Prison Services Board established under the Immigration and Prison Services Act;
- (c)* the decisions of magistrates' courts in respect of civil or criminal causes or matters transferred to such courts pursuant to this Act; and
- (d)* the decisions of any other body established by or under any other Federal enactment or law in respect of matters concerning which jurisdiction is conferred by this Act.

29. Power of Court in civil appeals

On the hearing of an appeal under section 28 of this Act, the Court may draw any inference of fact and either—

- (a)* confirm, vary or set aside the judgment or order of the court or body mentioned therein; or
- (b)* order a rehearing and determination on such terms as the Court may think just;
- (c)* order judgment to be entered for any party; or
- (d)* make a Final or other order on such terms as the Court may think proper to ensure the determination on the merits of the real questions in

controversy between the parties.

30. Power of Court in criminal appeals

On an appeal from a conviction in a magistrate's court, the Court may—

- (a) uphold the conviction and dismiss the appeal; or
- (b) allow the appeal and set the conviction aside if it appears to the Court that the conviction should be set aside on the ground that it was, having regard to the evidence adduced, unreasonable, or that the conviction should be set aside on the ground of a wrong decision on any question of law, or on the ground that there was a substantial miscarriage of justice. Provided that the Court, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, may dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred; or
- (c) set aside the conviction and convict the appellant of any offence of which he might lawfully have been convicted by the magistrate upon the evidence and sentence him accordingly; or
- (d) set aside the conviction and order that the appellant be re-tried in a court of competent jurisdiction; or
- (e) substitute for the conviction a special finding that the appellant was insane at the time that he did the act or made the omission constituting the offence with which he was charged before the magistrate.

31. Power of Court on appeal against acquittal or dismissal

- (1) Subject to the provisions of this Act, The Court may, on an appeal against an

acquittal or dismissal—

- (a) affirm the decision of the trial court and dismiss the appeal; or
- (b) remit the case, together with the judgment of the Court on the case, to the trial court for determination, whether or not by way of rehearing, with such directions as The Court may think necessary.

(2) Subject as aforesaid, on an appeal against an acquittal or dismissal, the Court shall make any amendment or any consequential or incidental order that may appear just and proper.

32. Appeals to the Court of Appeal

Subject to the provisions of the Constitution of the Federal Republic of Nigeria, the Court of Appeal Act and the Rules of the Court of Appeal, appeals shall lie from the decisions of the Court in its original or appellate jurisdictions to the Court of Appeal.

[LFN Cap.C36.]

PART IV

General Provisions as to Trial and Procedure

33. Criminal procedure

(1) Subject to the provisions of this section, criminal proceedings before the Court shall be conducted substantially in accordance with the provisions of the Criminal Procedure Act, and the provisions of that Act shall, with such modifications as may be necessary to bring it into conformity with the provisions of this Act, have effect in respect of all matters falling within the jurisdiction of the Court.

[LFN Cap.C41.]

(2) Notwithstanding the generality of subsection (1) of this section, all criminal causes or matters before the Court shall be tried summarily.

(3) For the purposes of this section, except when the contrary intention appears from the context, any reference in the Criminal Procedure Act to the Attorney-General of a State shall be construed as a reference to the Attorney-General of the Federation.

[LFN Cap.C41.]

34. Trial of revenue causes or matters in priority to any other business

(1) As far as practicable, all revenue causes or matters shall, notwithstanding anything to the contrary in any enactment or law, be tried, determined or disposed of in priority to any other business of the Court.

(2) In this section, "**revenue causes or matters**" means causes or mailers concerned with, involving or pertaining to the revenue of the Government of the Federation in respect of which jurisdiction is conferred upon the Court by or under the provisions of this Act.

35. Trial with assessors

(1) In any civil cause or mailer, the Court may, if it thinks it expedient so to do or in a manner prescribed under any enactment or law, call in the aid of one or more assessors specially qualified and try and hear the cause or matter wholly or partially with the assistance of such assessors.

(2) The remuneration, if any to be paid to an assessor, shall be as determined by the Court or otherwise as so prescribed.

36. Reference for report

(1) Subject to Rules of Court, the Court may refer to an official or special referee for inquiry or report any question arising in any cause or matter other than a criminal proceeding.

(2) The report of an official or special referee may be adopted wholly or partially by the court or a Judge and, if so adopted, may be endorsed as a judgment or order to the same effect.

37. Reference for trial

In any cause or matter other than a criminal proceeding—

- (a) if all the parties interested, who are not under disability, consent; or
- (b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the court conveniently be conducted by the court through its ordinary officers; or
- (c) if the question in dispute consists wholly or in part of accounts, the Court or a Judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee or an official referee or officer of the Court or arbitrator respectively agreed on by the parties.

38. Powers and remuneration of referees and arbitrators

(1) In all cases of reference to an official or special referee or arbitrator, the official or special referee or arbitrator shall be deemed to be an officer of the Court, and subject to Rules of Court shall have such authority, and conduct the reference in such manner, as the Court or a Judge may direct.

(2) The report of an official or special referee on any reference shall, if adopted and not set aside by the Court or a Judge, be equivalent to a finding of the Court or of the Judge.

(3) An award of an arbitrator on any reference, shall, unless remitted pursuant to

section 11 or set aside on the ground mentioned in section 12 of the Arbitration and Conciliation Act, be binding on the Court or a Judge and equivalent to its finding.

[LFN Cap A18.]

(4) The remuneration to be paid to a special referee or arbitrator to whom any matter is referred under an order of the Court or a Judge shall be determined by the Court or a Judge.

39. Court to have powers as in submissions

The Court or a Judge shall, in relation to references, have all such powers as are conferred by the Arbitration and Conciliation Act on the Court or a Judge in relation to submission.

[LFN Cap A18]

40. Power to order *habeas corpus* to issue

The Court or a Judge may order that a writ of *habeas corpus ad testificandum* shall issue to bring up a prisoner for examination before an official or special referee or arbitrator.

41. Statement of case pending arbitration

A referee or arbitrator may at any stage of the proceedings under a reference, and shall, if so directed by the Court or a Judge, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

42. Power of Court to impose terms as to costs

An order made under the provisions of this Act relating to inquiries and trials by referees may be made on such terms as to costs or otherwise as the Court or a Judge thinks fit.

43. Meaning of "reference"

In the provisions of this Act relating to inquiries and trials by referees, unless the context otherwise requires, the expression "**reference**" relates to a reference under an order made by the Court or a Judge under the said provisions.

PART V

Rules of Court

44. Power to make Rules of Court

(1) The Chief Judge may, with the approval of the President, make Rules of Court for carrying this Act into effect, and in particular and without prejudice to the generality of the foregoing, for all or any of the following purposes and matters—

- (a) regulating the practice and procedure of the Court, including all matters connected with the forms to be used and the fees to be paid;
- (b) prescribing the practice and procedure upon an appeal or an application to the Court where provision is made in any enactment or law for such an appeal or such an application;
- (c) regulating the practice and procedure in cases where an order of mandamus, prohibition or certiorari is sought or proceedings are taken for an injunction;
- (d) regulating, subject to the provisions of this Act, trials by The Court with assessors;
- (e) regulating—
 - (i) the fees to be paid; and
 - (ii) the taxation and recovery of fees and disbursements;
- (f) defining, so far as may be conveniently defined by general rules, the

duties of the several officers of Court;

- (g) regulating, subject to the provisions of this Act, the sittings of the Court and of the Judges thereof whether sitting in Court or chambers, the business and hours of the Court and of the offices connected therewith, and the conduct of the business of the Court during vacation;
- (h) prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by Judges of the Court in chambers or may be transacted or exercised by registrars or other officers of the Court;
- (i) regulating any matters relating to the costs of proceedings in the Court;
- (j) regulating the means by which any judgment or decree of any court outside Nigeria or of the Supreme Court of Nigeria or the former Supreme Court, Court of Appeal, High Court or any other superior Court established or to be established elsewhere in Nigeria which it is necessary to prove or lawful to enforce shall be proved or enforced;
- (k) regulating the arrest of absconding defendants and the giving of security for their release;
- (l) regulating the payment of allowances and travelling expenses of witnesses;
- (m) imposing penalties on any person who fails to take any action required by a ruling of Court or who disobeys any ruling of Court;
- (n) for requiring and regulating the filing of accounts;
- (o) for regulating the procedure in respect of any matter in which the Court

has and may exercise original or appellate jurisdiction under this Act and for fixing the fees payable or providing that no fees be paid or that certain fees need not be paid;

- (p)* for ascertaining the value of anything that requires to be ascertained;
- (q)* for regulating and prescribing the duties and procedure of assessors, referees and arbitrators;
- (r)* for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or by application in connection with or at any stage of any proceedings;
- (s)* for providing for the service or execution of any writ, warrant, order or other process issuing out of the Court, the payment of mileage allowance before or after service or execution, the conditions precedent before any such process or process of certain classes will be served or executed and the procedure to be followed after the service or execution of such process;
- (t)* for providing for the taking of shorthand notes of evidence and proceedings in the Court and for the payment of fees for the taking of notes out of public funds, and for fixing the charges for the making and supply of transcripts of the notes, and for the payment of such charges either by the parties to the proceedings or out of public funds;
- (u)* prescribing the procedure for the transfer of proceedings from the Court to the High Court of a State or the Federal Capital Territory, Abuja and to a Magistrate's Court; and

(v) prescribing vacations.

(2) Rules of Court made under this section shall apply to all proceedings by or against the Government of the Federation.

PART VI

Venue

45. Place where offence may be tried

Subject to the power of transfer contained in this Act, the place for the trial of offences shall be as follows—

- (a) an offence shall be tried by a Court exercising jurisdiction in the area or place where the offence was committed;
- (b) when a person is accused of the commission of any offence by reason of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be tried by a Court exercising jurisdiction in the area or place in which any such thing has been done or omitted to be done, or any such consequence has ensued;
- (c) when an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first-mentioned offence may be tried by a Court exercising jurisdiction in the area or place either in which it happened, or in which the offence with which it was so connected, happened;
- (d) when—
 - (i) it is uncertain in which of several areas or places an offence was

committed; or

- (ii) an offence is committed partly in one area or place and partly in another; or
- (iii) an offence is a continuing one and continues to be committed in more areas or places than one; or
- (iv) an offence consists of several acts committed in different areas or places,

such offence may be tried by a Court exercising jurisdiction in any of such areas or places;

- (e) an offence committed while the offender is in the course of performing a journey or voyage, may be tried by a Court in or into the area or place of whose jurisdiction the offender or person against whom or the thing in respect of which the offence was committed resides, is or passed in the course of that journey or voyage.

PART VII

Miscellaneous

46. Chief Registrar and other officers of Court

(1) The Federal Judicial Service Commission may, from time to time, appoint a fit and proper person to be the Chief Registrar of the Court who shall perform such duties in execution of the powers and authorities of the Court as may, from time to time, be assigned to him by the Rules of Court and, subject thereto, by any special order of the Chief Judge.

(2) The Federal Judicial Service Commission may, from time to time, appoint Registrars, Deputy Registrars and such other officers as may be deemed necessary who shall

perform all such duties with respect to business before the Court as may be directed by Rules of Court and any order of the Chief Judge.

(3) The Chief Registrar, Registrars and Deputy Registrars shall have power to administer oaths and perform such other duties with respect to any proceedings in the Court as may be prescribed by the rules or by any special order of the Chief Judge.

47. Negligence or misconduct of officers

If any officer of the Court, employed to execute an order, wilfully or by neglect or omission loses the opportunity of executing it, then on complaint of the person aggrieved, and proof of the act alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of money.

48. Restriction on officers of Court buying property sold at execution

No person in permanent employment as an officer of the Court shall or may directly or indirectly or by the intervention of a trustee or otherwise purchase any property sold at execution, and in the event of any such person purchasing or being interested in the purchase of any property at an execution sale, such purchase shall be entirely void.

Provided that nothing herein contained shall prevent any such person from purchasing by leave of the Court at an execution sale, any property which it may be necessary for him to purchase in order to protect the interest of himself, his wife or child.

49. Costs

Subject to the provisions of this Act or any other enactment. Rules of Court or law, the costs of and incidental to all proceedings in the Court shall be in the discretion of the Court or Judge, and the Court or Judge shall have full power to determine by whom and to what extent

the costs are to be paid.

50. Allowance to witnesses

(1) The presiding Judge may in any matter order and allow to all persons required to attend, or examined as witnesses, such sum or sums of money as may be specified by Rules of Court as well as for defraying the reasonable expenses of such witnesses as for allowing them a reasonable compensation for their trouble and loss of time.

(2) No person may refuse to attend as a witness, or to give evidence when so required by process of the Court, on the ground that his expenses have not been first paid or provided for.

51. How allowances are to be defrayed

All sums of money so allowed shall be paid in civil proceedings by the party on whose behalf the witness is called and shall be recoverable as ordinary costs of suit if the Court shall so order, and in criminal proceedings they shall, unless ordered by the Court to be paid by the party convicted or the prosecutor, be paid out of the general revenue.

52. Person in Court may be required to give evidence though not summoned

Any person present in Court, whether a party or not in a cause or matter, may be compelled by the Court to give evidence or produce any document in his possession or in his power in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or produce such document and may be punished for any refusal to obey the order of the Court.

53. In what cases prisoners may be brought by warrant to give evidence

A Judge may issue a warrant under his hand for bringing up any person confined as a prisoner under any sentence or order of commitment for trial, or otherwise, or under civil

process to be examined as a witness in any cause or matter pending or to be inquired of in the Court.

Provided that such warrant shall not be granted as of course, unless the Judge shall have probable grounds for believing that the evidence of the prisoner is likely to prove material.

54. Production and custody of prisoners required to give evidence

The Superintendent of Prisons or person in whose custody such prisoner may be, shall forthwith obey such warrant by bringing the prisoner to the Court in his custody, or by delivering him to an officer of the Court as the warrant may order, and if the prisoner shall under the terms of the warrant be delivered to any officer of the Court, the Superintendent of Prisons or other person shall not be liable for the escape of such prisoner.

55. Law not to affect rules of evidence or jurisdiction

Nothing in this Act and nothing in the Rules of Court made under or applied by this Act shall affect the mode of giving evidence in accordance with the provisions of the Evidence Act and other rules of evidence.

[LFN Cap. 1:14.]

Provided that nothing in this section shall—

- (a)* prejudice the operation of any Rules of Court made in pursuance of the express power conferred by this Act to make Rules of Court for regulating the means by which particular facts may be proved and the mode in which evidence thereof may be given; or
- (b)* affect the power of the Court for special reasons to allow depositions or affidavits to be read.

56. Representation of the Government, etc.

(1) In the case of a prosecution by or on behalf of the Government of the Federation or by any public officer in his official capacity, the Government of the Federation or that officer may be represented by a law officer, State Counsel, or by any legal practitioner duly authorised in that behalf by or on behalf of The Attorney-General of the Federation.

(2) In any civil cause or matter in which the Government of the Federation or any public officer in his official capacity is a party or in any civil cause or matter affecting the revenue of the Government of the Federation, that Government or that officer may be represented by a law officer, state Counsel, or any legal practitioner or other person duly authorised in that behalf by or on behalf of the Attorney-General of the Federation.

57. Right to practise

All persons admitted as legal practitioners to practise in Nigeria shall, subject to the provision of the Constitution of the Federal Republic of Nigeria, 1999 and the Legal Practitioners Act, have the right to practise in the Court.

[LFN Cap C23 Cap. L11.]

58. Provisions pending appeal

(1) Where an appeal is entered or leave to appeal is granted against a conviction in respect of which the appellant has been sentenced to imprisonment or borstal training, the Court may, in its discretion, admit the appellant to bail pending the determination of the appeal and, in the case of a sentence of imprisonment, any time during which the appellant is so admitted to bail shall not count as part of the term of imprisonment to which he was sentenced.

(2) The operation of any order made on conviction by the Court for—

(a) the payment of compensation or of any of the expenses of the prosecution; or

- (b) the imprisonment or for any other punishment imposed on the person convicted; or
 - (c) the restoration of any property to any person; or
 - (d) the revesting, in case of any such conviction, in the original owner or his personal representatives of the property in stolen goods,
- shall (unless the Judge before whom the conviction takes place directs to the contrary in any case in which, in his opinion, the title to the property is not in dispute) be suspended until the expiration of thirty days after the date of the conviction.

(3) Where an appeal to the Court of Appeal is entered or leave to appeal is granted in any civil case, the Court may, in its discretion, order a stay of execution either unconditionally or upon the performance of such condition as may be imposed in accordance with the Rules of Court.

59. Notes of evidence and minutes of proceedings to be kept by presiding Judge

(1) In every cause or matter, the presiding Judge shall take down in writing the substance of all oral evidence given before the Court and minutes of the proceedings, and shall sign the same at any adjournment of the case and at the conclusion thereof.

Provided that the presiding Judge may, cause the whole or any part of the proceedings to be recorded in shorthand by an official shorthand writer in accordance with such conditions as may be imposed by Rules of Court.

(2) No person shall be entitled, as of right, to the inspection of or to a copy of the records so kept as aforesaid save as may be expressly provided for by Rules of Court.

(3) The record so kept as aforesaid or a copy thereof purporting to be signed and

certified as a true copy by the Registrar shall at all times, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses.

60. Inspection

In any case, the Court may on the application of either party, or of its own motion, make such order for the inspection by the Court, the parties or witnesses of any movable or immovable property, the inspection of which may be material to the proper determination of the question in dispute, and give such direction respecting such inspection as to the Court may seem fit.

61. Chief Judge may appoint commissioners for affidavits or for taking evidence

The Chief Judge may appoint under his hand and the seal of the Court, from time to time, such and so many persons as may be required to be commissioners for taking affidavits and declarations and receiving production of documents, or for taking the examination of witnesses on interrogatories or otherwise which may be necessary to be taken in respect of any proceedings in the Court, and any order of the Court for the attendance and examination of witnesses or production of documents before any such commissioner shall be enforced in the same manner as an order to attend and be examined or produce documents before the Court.

62. Protection of commissioner from action

No action shall be brought against any commissioner in respect of any act or order performed or made by him in the execution, or supposed execution, of the powers or jurisdiction vested in him, but every such act or order if in excess of such powers and jurisdiction shall be liable to be revised, altered, amended or set aside upon summary application to the Court.

63. Judicial officers not liable to be sued if they acted in good faith

(1) No Judge or other person acting judicially shall be liable to be sued in any court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction.

(2) No officer of the Court or other person bound to execute the lawful warrants or orders of any such Judge or other person acting judicially shall be liable to be sued in any court, for the execution of any warrant or order which he would be bound to execute, if within the jurisdiction of the person issuing the same.

64. Interpretation

(1) In this Act, unless the context otherwise requires—

"action" means a civil proceeding commenced by writ or in such other manner as may be prescribed by Rules of Court but does not include a criminal proceeding;

"cause" includes any action, suit or other original proceeding between a plaintiff and a defendant, and any criminal proceeding;

"Chief Judge" means the Chief Judge of the Federal High Court appointed under section 2 of this Act;

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999;

[LFN Cap. C23.]

"Court" means the Federal High Court and includes the Judges of the Federal High Court sitting together or separately;

"Court of Appeal" means the Court of Appeal as established by section 217 of the Constitution of the Federal Republic of Nigeria, 1999;

"defendant" includes every person served with any writ of summons or process, or served with notice of, or entitled to attend as a person to be affected by the decision

in, any civil proceedings, and also every person charged under any process of the Court with any crime or offence;

"enactment" means any Act of the National Assembly, (including this Act) or law having effect with respect to the Federation or applicable or having effect as Federal law;

"Federal High Court" means the Federal High Court established by section I of this Act;

"former Supreme Court" means the Supreme Court of Justice established under the Supreme Court Act;

"Judge" except where the reference is to the Judge of a High Court of a State, means the Chief Judge or other Judge of the Federal High Court;

"judgment" includes a decision, decree or order of a court of record;

"matter" includes every proceeding in court not in a cause;

"party" includes every person served with notice of, or attending, any proceeding who, although not named on the record of the proceeding, has the like interest in the subject-matter of the proceeding as a person named on the record of the proceeding;

"plaintiff" included every person asking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summon or otherwise;

"Registrar" includes the Chief Registrar and all other Registrars of the Court;

"suit" includes action.

(2) For enabling full effect to be given to the provisions of this Act—

(a) any reference (whether express or by necessary implication) in the

Constitution of the Federal Republic of Nigeria, 1999 to a "High Court of a territory", "High Court", "court of law" or a "court of record"—

[LFN Cap. C23.]

(i) in so far as the reference relates to or is connected with jurisdiction, powers, practice and procedure of a High Court; and

(ii) except in so far as it is inconsistent with the provisions of this Act, shall include a reference to The Court established by this Act; and

(b) all references (whether express or by necessary implication) in any enactment (other than the Constitution of the Federal Republic of Nigeria, 1999) to the High Court of a State in so far as the enactment—

(i) is of general application throughout the Federation; and

(ii) relates to a matter as respects which jurisdiction is conferred upon the Court by or under this Act,

shall be construed as references to the Court, notwithstanding that in an appropriate case the enactment is, or has become, by operation of law, a law of a State.

(3) The powers conferred upon the Attorney-General of the Federation and exercisable by him or the Attorney-General of a State under section 160 of the Constitution or anything made thereunder shall, to the extent that jurisdiction is conferred upon the Court or The High Court of a State by or pursuant to this Act, be exercisable subject as in this Act otherwise provided, and that section and any other enactment or law pertaining thereto shall be so construed.

(4) For the avoidance of doubt the following enactments—

(a) the Criminal Procedure (Northern States) Act;

[LFN Cap.C42.]

(b) the Penal Code (Northern States) Federal Provisions Act;

[LFN Cap. P3.]

(c) section 31 of the Interpretation Act;

[LFN Cap. 123]

(d) the Admiralty Jurisdiction Act; and

[LFN Cap. A5.]

(e) such other Federal enactment as the President may by order specify, shall be construed with such modifications as may be necessary to bring them into conformity with provisions of this Act.

65. Savings

Nothing in this Act shall be construed as affecting the constitution, powers and functions of any tribunal established by or under any other Federal enactment in so far as the jurisdiction conferred thereby (whether civil or criminal) is expressly laid down thereunder.

66. Short title

This Act may be cited as the Federal High Court Act.

LAWS OF THE FEDERATION OF NIGERIA

CHAPTER F12

FEDERAL HIGH COURT ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Federal High Court (Tax Appeals) Rules.
2. Federal High Court (Judicial Divisions) Notice.

FEDERAL HIGH COURT (TAX APPEALS) RULES

ARRANGEMENT OF RULES

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Notice of Appeal

RULE

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2. Time for giving notice of appeal.
3. Contents of notice of appeal.
4. Address for service.
5. Signification of documents.

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Transmission of Records of Appeal to the Court

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FEDERAL HIGH COURT (TAX APPEALS) RULES

[S.I. 13 of 1992.]

[UNDER SECTION 43 (1) (B) CAP. F12; SECTION 56 (8) CAP. C21; SECTION
35 (13)(A)CAP. P13; SECTION 45 (I)CAP. C1]

[Date of commencement: *1st November, 1992*]

ORDER I

Notice of Appeal

1. Notice of Appeal

(1) Any person authorised to appeal by virtue of any Federal legislation that imposes any taxation shall give notice of the appeal (hereafter in these Rules referred to as "notice of appeal").

(2) The notice of appeal shall be in accordance with the relevant provisions of the applicable Federal legislation; or where the case so requires, in accordance with the provisions of rule 2 of this Order

(3) The grounds of appeal shall set forth concisely and under distinct heads, the grounds upon which the appellant intends to rely at the hearing of the appeal, without any argument or without it being narrative and shall be numbered consecutively.

(4) Subject to Order III rule 5 of these Rules, no ground of appeal which is vague or general in terms or which discloses no reasonable ground of appeal shall be permitted, save the general ground that the judgment is against the weight of the evidence.

(5) Any ground of appeal or any part thereof which is not permitted under this rule may be struck out by the Court of its own motion or on application by the respondent.

2. Time For giving notice of appeal, etc.

Subject to the provisions of any enactment, a notice of appeal shall be given in writing

to The Department of Inland Revenue within thirty days after the date upon which the decision appealed against was given.

3. Contents of notice of appeal

The notice of appeal shall State whether the whole or part only of the decision of the Appeal Commissioners is complained of (in the latter case specifying such part) and shall

- (a)* state the exact nature of the relief sought;
- (b)* state the names and addresses of all parties directly affected by the appeal;
- (c)* be accompanied by a sufficient number of copies for service on all such parties; and
- (d)* have endorsed on it an address for service on each party.

4. Address for service

At the foot of the notice of appeal, there shall be stated the address for service, at which documents intended for both the appellant and the respondent may be served in accordance with the provisions of Order XI of these Rules.

5. Signification of documents

Any notice or document which is required by these Rules to be signed by the appellant or the respondent may be signed—

- (a)* by a person holding a special power of attorney given by the appellant or the respondent, as the case may be; or
- (b)* by a legal practitioner representing the appellant or respondent, as the case may be.

Registration of Appeal and Service on Respondent

1. Entry of appeal in Register of Income Tax Appeals

Upon the filing of grounds of appeal, the Registrar shall endorse thereon the time and date of filing the same, and the appeal shall be given a number and entered in a Register of Income Tax Appeals to be kept for that purpose.

2. Service on respondent

(1) The Registrar shall cause a copy of the grounds of appeal to be served upon the respondent, whose address shall be furnished by the appellant in accordance with Order 1 rule 3 *(b)* of these Rules.

(2) The Registrar shall cause a copy of the respondents answer to be served upon the appellant at least fifteen days before the date fixed for the hearing of the appeal.

ORDER 111

Grounds of Appeal

1. Time to file grounds of appeal

The appellant shall, within the period limited for filing his grounds of appeal under Order I of these Rules, file his grounds in support of the appeal (which grounds are hereafter in this Order referred to as "grounds of appeal").

2. Method or lodging appeal

All appeals under these Rules shall be brought by notice (hereafter in these Rules referred to as "the notice of appeal") and shall be tiled in the Registry of the court in accordance with the provisions of Order 1 rule 3 of these Rules.

3. Appeal to be by way of rehearing

An appeal shall be determined by way of a rehearing if the appellant so elects and the

enabling enactment law so allows; otherwise the appeal shall be determined upon the record of proceedings conducted before the Body of Appeal Commissioners and tiled pursuant to Order V rule 2 of these Rules.

4. Decision to be based on grounds of appeal filed

The Court shall not allow the appeal or base its decision on any ground not set forth by the appellant in the notice of appeal, unless the respondent has had sufficient opportunity of contesting the case on that ground.

5. Discretion of the Court as to decision not on grounds of appeal

Subject to the provisions of this Order, on the hearing of the appeal, it shall not be competent for the appellant to go into any other grounds other than those set forth in his notice of appeal.

Provided that where, in the opinion of The Court, other grounds of appeal, than those set out in the notice of appeal, might have been given, or the statement of grounds of appeal is defective, the Court may allow amendment of the grounds of appeal upon such conditions as to service upon the respondent and as to costs as it may think fit.

ORDER IV

Transmission of Records of Appeal to the Court

1. Duty of Secretary to prepare copies of proceedings

It shall be the duty of the Secretary to the Body of Appeal Commissioners to cause copies of proceedings required for an appeal to be prepared with the utmost dispatch.

2. Compilation of records of appeal

Upon receipt of a notice of appeal under Order 1 of these Rules, the Secretary to the

Body of Appeal Commissioners shall compile the record of proceedings before and after judgment of the Body of Appeal Commissioners and shall cause the same to be authenticated and transmitted to the Chief Registrar of the Court.

3. Transmission of proceedings to the Court

As soon as the required number of copies of proceedings have been prepared, the Secretary to the Body of Appeal Commissioners shall forward them, duly certified by him, together with a copy of the notice of appeal and other documents concerning the appeal, to the Chief Registrar of the Court and the appeal shall then be deemed to have been entered and tiled in the Court.

4. Number of copies required

(1) For the purposes of rule 3 of this Order, the Secretary to the Body of Appeal Commissioners shall forward two copies to the Court and one copy each for service on each of the parties to the appeal.

(2) All documents filed in the Court pursuant to the provisions of this rule shall be the office copies of authentic documents or proceedings and shall be verified by affidavit.

(3) In this rule, the expression "**authentic documents or proceedings**" means copies of documents or of proceedings made from the record of proceedings served on each party by the Secretary to the Body of Appeal Commissioners and verified by affidavit.

ORDER V

Records of Appeal and Briefs of Argument

1. Preparation of the records of appeal

Within a period not exceeding fifteen days after the date of the service on him of the record of proceedings by the Secretary to the Body of Appeal Commissioners, the appellant who

opts to argue his appeal based on the record pursuant to Order IV of these Rules and not by way of a rehearing, shall prepare the records of appeal in accordance with the provisions of this Order and shall file and also serve every party to the appeal with a copy of the records.

2. Contents of records of appeal

(1) An appellant who opts to prosecute the appeal by way of a rehearing in accordance with Order III rule 3 of these Rules shall, within fifteen days from the date of the conclusion of evidence, file, in substitution for Counsel's oral address, a written address in terms of rule 1 of this Order of these rules, and the provisions of Orders II to V of these Rules shall be deemed to be a written address as if it were a record of appeal filed under rule 1 of this Order.

(2) The records of appeal shall contain the following documents in the order set out in this rule—

- (a)* the index;
- (b)* a brief statement giving particulars of the appeal;
- (c)* copies of documents and proceedings before the Body of Appeal Commissioners which the appellant considers relevant to the appeal;
- (d)* a copy of the notice of assessment;
- (e)* a copy of the notice of appeal; and
- (f)* a copy of the grounds of appeal.

3. Supplementary records of appeal

If a respondent considers that documents or proceedings which are or may assist his case have not been included in the records of appeal, he shall be at liberty to prepare at his own cost and transmit to the Registrar sufficient copies of a supplementary records of appeal,

incorporating such documents with appropriate index and the Registrar shall serve a copy of the supplementary records of appeal on each party.

4. Brief of argument

(1) The appellant shall, within thirty days of filing the records of appeal, file in Court and serve on the respondent a written brief being a precise statement of his argument in the appeal.

(2) The brief shall clearly state the issue arising in the appeal.

(3) The respondent shall file in the Court and serve on the appellant his own brief within thirty days of service on him of the brief of the appellant.

(4) The appellant may also file in the Court and serve on the respondent a reply brief within fourteen days after service of the brief on the respondent on him and except for good and sufficient cause shown, a reply brief shall be filed and served at least three days before the date set down for the hearing of the appeal.

(5) All briefs shall be concluded with a numbered summary of the reasons upon which the argument is founded.

(6) Briefs filed under this rule shall supersede the grounds of appeal already tiled.

5. Notice of hearing

(1) The Registrar shall give fifteen clear days' notice in writing to the parties of the date fixed for hearing of the appeal and such notice shall not be given before the appellant has been served with a copy of the respondent's answer in accordance with the provisions of rule 4 (4) of this Order.

(2) The provisions of Order XI shall apply to the service of notice of hearing.

6. Oral argument

(1) Oral argument shall only be allowed at the hearing of the appeal to emphasise or clarify the written argument appearing in the briefs already filed in Court.

(2) The appellant shall be entitled to open and conclude the argument.

(3) In The case of a cross–appeal, the appeal and such cross–appeal shall be argued together with the appeal as one case and within the time allotted for one case, and the Court may, having regard to the nature of the appeal, direct the parties as to which party is to open and close the argument.

(4) Unless otherwise directed by the Court, a period not exceeding thirty minutes for the appellant and forty minutes for each respondent shall be allowed for argument.

(5) Any request for additional time shall be made to the Court in writing not later than fifteen days after service of the appellant's brief on the respondent.

(6) Any request made pursuant to paragraph (5) of this rule shall State clearly and in precise terms the reasons why the argument cannot be presented within the time limit

(7) A copy of such request shall be served on the respondent.

(8) Only one legal practitioner shall be heard for each party, unless the Court otherwise allows.

(9) Wherever the Court allows more than one legal practitioner for one side, the Court shall discourage divided argument coming from that party.

(10) Save with the leave of the Court, no oral argument may be heard in support of any argument not raised in the brief or on behalf of any party for whom no brief has been filed.

(11) When an appeal is called and no party or any legal practitioner appearing for him appears to present oral argument, but briefs have been tiled by all the parties concerned in the appeal, the appeal shall be treated as having been argued and shall be considered as such.

(12) When an appeal is called and it is discovered that a brief has been filed for only one of the parties and neither of the parties concerned nor their legal practitioners appear to present oral argument, the appeal shall be regarded as having been argued on that brief.

7. Failure to file brief within time

(1) If an appellant fails to file his brief within the time provided for by these Rules or within the time as extended by the Court, the respondent may apply to the Court for the appeal to be dismissed for want of prosecution.

(2) If the respondent fails to file his brief, he shall not be heard in oral argument except with leave of the Court.

(3) Where The appellant fails to file his brief, dismissal of an appeal under this rule (whether on the application of the respondent or not) shall amount to a dismissal on the merit. Provided that without prejudice to the power of the Court to strike out the appeal, such dismissal on the merit shall only be given where the Court is satisfied that a *prima facie* case has been made arising from the papers before the Court.

8. Accelerated hearing

The Court may, where it considers the circumstances of an appeal to be exceptional, or that the hearing of an appeal shall be accelerated in the interest of justice, waive compliance with the provisions of this order in so far as they relate to the preparation and filing of briefs of argument, either wholly or in part, or reduce the time limits specified in this Order to such extent as the Court may deem reasonable in the circumstances of the case.

9. Enlargement or abridgment of time

(1) The Court may, as often as it thinks fit, and either before or after the expiration

of the duration of the time appointed by these Rules or by any judgment, order or rule of Court, extend or abridge the time for the doing of any act or the taking of any proceeding.

(2) The parties shall not, without the leave of the Court, by consent enlarge or abridge any of the times specified by these Rules for taking any step or filing any document or giving any notice.

ORDER VI

Stay of Execution

1. Stay of execution

Notwithstanding that an appeal is pending, any tax assessed and affirmed by the Body of Appeal Commissioners shall be paid in accordance with the decision of the Body of Appeal Commissioners within one month of the decision of the Body of Appeal Commissioners, but the Court may, after the appeal had been entered, order a stay in respect of the disputed amount by the appellant, upon such terms as the Court may deem just.

ORDER VII

Default by Parties

1. Default by appellant

If the appellant omits to do any act or take any proceeding within the time prescribed therefor or fixed by an order enlarging or abridging such time, or fails to attend the Court on three consecutive hearing dates, the respondent may move the Court to dismiss the appeal and the Court may thereupon give judgment dismissing the appeal.

2. Application by respondent for judgment by default

A motion under rule 1 of this Order shall be made on notice to the appellant and the

respondent shall supply the Registrar with a copy thereof for service on the appellant and shall pay to the Registrar the fees for filing and service.

3. Default by respondent

If a respondent to an appeal omits to file his brief of argument within the time prescribed therefor or fixed by an order enlarging or enlarging such time or fails to attend Court on three consecutive hearing dates, the Court may infer that he has no argument to urge the Court to decide in his favour on the appeal; and unless the Court specifically calls upon him to address it on any particular point, he shall not be entitled to present any oral argument to the Court.

4. Substituted service of application

The Court may, on good cause shown by affidavit, or otherwise, dispense with service of the motion on notice or make an order for substituted service.

ORDER VIII

Setting aside Default Judgment

1. Duty to give notice of judgment

Where judgment is given against a party in his absence and in the absence of the legal practitioner representing him, the other party shall give him notice of the judgment and attach thereto an office copy thereof.

2. Power of Court to set aside judgment and rehear appeal

The Court may in a proper case, upon motion supported by affidavit after the notice to the party who obtained the judgment in the absence of the other party, set aside the judgment and give directions for the hearing of the appeal on such terms as the Court may think just; but no such motion shall be entertained unless notice thereof has been duly filed with the Registrar

within fifteen days of the date on which the notice of the judgment was served; and the time hereby prescribed shall not be extended under Order V rule 9 of these Rules in any circumstance whatsoever.

3. Filling of copy of motion for service

Where a party delivers a notice of motion under rule 2 of this Order for tiling, he shall supply the Registrar with a copy of the notice and of the affidavit for service on the party who obtained the judgment.

ORDER IX

Appeal Out of Time

1. Application by motion

Where an intending appellant wishes to appeal after the period set for doing so in any provision of any tax enactment or under any provision of these Rules, he shall proceed by way of motion filed in the Court, supported by way of one or more affidavits establishing the cause which prevented him from giving notice of appeal within the period prescribed by the relevant enactment or by these Rules and by showing that there was no unreasonable delay on his part.

2. Power exercisable by Court on hearing the application

Upon hearing the motion, the Court shall have the power to enlarge the time appointed by the relevant tax enactment or by these Rules as justice of the case may require, and such enlargement may be ordered although the application for such enlargement is not made until after the expiration of the time appointed.

ORDER X

Abandonment of Appeal

1. Abandonment of appeal

An appellant may abandon his appeal by giving a written notice of abandonment to the Secretary of the Body of Appeal Commissioners, within fifteen days of his appeal being entered in the Court,

2. Notice of abandonment

The notice of abandonment shall be signed by any of the persons competent to sign documents of appeal in accordance with Order 1 rule 5 of these Rules.

3. Notification to Registrar

Immediately after receiving a notice of abandonment, the Secretary to the Body of Appeal Commissioners shall notify the Registrar of the Court.

4. Costs

Where the notice of abandonment is received by the Registrar of the Court after the appeal has been entered, the Court may, on the application of the respondent, order the appellant to pay to the respondent such costs as the Court may deem just.

5. Dismissal of abandoned appeal

Where an appeal has been abandoned, it shall be deemed to have been dismissed.

ORDER XI

Service of Processes

1. Service by bailiff or by registered post

Where any notice or other document has to be served on any party to an appeal under these Rules, the following provisions shall apply—

- (a) where The address for service in the town or locality of the sitting of the Court has been given by the party to be served and if any body corporate is concerned, service shall be sufficiently effected by sending the notice

or other document by a bailiff of the Court delivering it at the registered address of the body corporate or the last known address of its business to an adult person employed or residing at such address, and the same shall sign for it and State his relationship to the person to be served or by registered post to the said address;

Service on Solicitor

- (b) where the party to be served is represented by a solicitor who has given his address for service and if the address is in the locality of the Court, service shall be sufficiently effected by the bailiff of the Court delivering the notice or other document to any clerk or other person in the employment of such solicitor at the address for service or otherwise by sending it by registered post to the aforesaid address whether in the locality of the Court or not;

Service by Registered Post

- (c) where the notice or other document is sent by registered post, it shall, unless the contrary be proved, be deemed to have been served at the time when the registration slip should have reached the addressee in the ordinary course of post.

2. Service of subpoena

The Federal High Court (Civil Procedure) Rules shall also apply in respect of service of any subpoena on any person.

3. Substituted service

Where service of a notice or other document on a party to an appeal in one of the manners specified in this Order has proved impracticable, an application may be made ex parte to the Court for a substituted service in accordance with the Civil Procedure Rules of the Court.

ORDER XII

Fees

4. Fees

The scale of fees for the time being in force in respect of civil Actions in the Court shall be applied in the case of appeals under these Rules as if they were civil actions and as if the grounds of appeal were a writ of summons and the respondent's brief were a statement of defence; provided that the fees payable shall be charged at the applicable rate to writs of summons or the difference between the amount of tax payable under the assessment appealed against and the amount of the tax which the Court is asked to adjudge as being the proper amount of the tax.

5. Body of Appeal Commissioners exempted from payment of fees

No fee shall be payable by the Body of Appeal Commissioners.

ORDER XIII

Transitional Provisions

I. Pending appeals

These Rules shall not apply to any appeal pending on the date when these Rules come into operation if the grounds of appeal and the respondent's answer have already been duly filed.

2. Where no grounds of appeal filed

Where in any appeal pending as aforesaid, no grounds of appeal have been tiled prior to the date when these Rules come into operation, such grounds shall be filed within thirty days from the date aforesaid and these Rules shall apply.

3. Residual cases

In all other cases of pending appeals which have not been heard, the Court shall give such directions as may be necessary or expedient to ensure conformity with the requirements of these Rules.

ORDER XIV

Miscellaneous Provisions and Revocation

1. Revocation

The Federal High Court (Tax Appeals) Rules 1984 are hereby revoked.

2. Application

These Rules shall apply to all cases pertaining to all Federal taxation brought on appeal to the Court.

3. Interpretation

In these Rules, unless the context otherwise requires—

"Board" means the Federal Board of Inland Revenue established by the Companies Income Tax Act, Petroleum Profit Tax Act, the Capital Gains Tax Act or other Federal taxation enactments; or any other similar body replacing that body and performing the same duty;

[LFN Cap. C2I, Cap. PI3. Cap. C1.]

"Body of Appeal Commissioners" means a body established by section 53 of the

Companies Income Tax Act, section 38 of the Petroleum Profits Tax Act or under any other enactment which imposes Federal taxation;

"Court" means the Federal High Court;

"Federal taxation" means any tax imposed by the Government of the Federation by an enactment;

"legal practitioner" means a law officer, a state counsel or a legal practitioner entitled to practice before the Court.

4. Citation and commencement

These Rules may be cited as Federal High Court (Tax Appeals) Rules and shall come into force on 1 November 1992.

FEDERAL HIGH COURT (JUDICIAL DIVISIONS) NOTICE

[S.I 4 of 1994.]

[UNDER SECTION 19(1) AND (2)]

[Date of commencement: *1st July, 1994*]

1. Specification of Federal High Court Judicial Divisions in Nigeria

For the purposes of section 19 (1) of the Federal High Court Act 1973, the whole of the Federal Republic of Nigeria is hereby divided into the Judicial Divisions specified in the Schedule to this Notice which Divisions shall be designated as provided in the first column thereof and for the purposes of section 19 (4) of the Act, the Court shall sit at the places specified in the third and fourth columns of the said Schedule.

[Schedule.]

2. Judge to sit in one or more Divisions

For the purposes of section 19 (2) of the Act, a Judge may be in charge of one or more

Divisions.

3. Chief Judge's powers under section 19 (3)

This Notice is without prejudice to the power conferred on the Chief Judge by virtue of section 19 (3) of the Act.

4. Citation, commencement and revocation

(1) This Notice may be cited as the Federal High Court (Judicial Divisions) Notice 1994 and shall come into Force on 1 July 1994.

(2) The Federal High Court (Judicial Divisions) Notice 1990 is hereby revoked.

[S.L.S of 1990]

Judicial Divisions	States	Head-quarters	Place of sessions
1.Lagos Judicial Division	Lagos	Lagos	
2. Abuja Judicial Division	Federal Capital Territory Niger and	Abuja	Minna, Lokoja
3.Abeokuta Judicial Division	Kogi	Abeokuta	Idiroko
4. Benin Judicial Division	Ogun	Benin	Warri. Asaba
5. Calabar Judicial Division	Edo and Delta Cross River and Akwa	Calabar	Uyo
6. Enugu Judicial Division	Ibom Anambra, Enugu and	Enugu	Awka, Makurdi
7. Ibadan Judicial Division	Benue	Ibadan	Ibadan
8. Ilorin Judicial Division	Oyo	Ilorin	Ilorin
9. Jos Judicial Division	Kwara	Jos	Bauchi
10. Kaduna Judicial Division	Bauchi and Plateau	Kaduna	Kaduna

11. Kano Judicial Division	Kaduna Kano, Jigawa and	Kano	Katsina, Dutse
12. Maiduguri Judicial Division	Katsina Borno and Yobe	Maiduguri	Damaturu
13. Osogbo Judicial Division	Osun and Ondo	Osogbo	Akure
14. Port Harecourt Judicial Division	Rivers, Abia and Imo	Port- Harecourt	Owerri, Umuahia
15. Sokoto Judicial Division	Sokoto and Kebbi	Sokoto	Birnin Kebbi
16. Yola Judicial Division	Adamawa and Taraba	Yola	Jalingo

LAWS OF THE FEDERATION OF NIGERIA

CHAPTER L5

LAND USE ACT

ARRANGEMENT OF SECTIONS

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2. Control and management of land; advisory bodies.

3. Designation of urban areas.
4. Applicable law for the interim management of land

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Principles of Land Tenure, Powers of Governor and Local Governments, and Rights of Occupiers

5. Powers of the Governor in relation to land.
6. Powers of local government in relation to land not in urban areas.
7. Restriction on rights of persons under the age of 21.
8. Special contracts.
9. Certificates of occupancy.
10. Conditions and provisions implied in certificate of occupancy.
11. Power of Governor or public officer to enter and inspect land and improvements.
12. Power of Governor to grant licences to take building materials.
13. Duty of occupier of statutory right of occupancy to maintain beacons.
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LAWS OF THE FEDERATION OF NIGERIA

CHAPTER L5

LAND USE ACT

An Act to vest all land comprised in the territory of each State (except land vested in the Federal Government or its agencies) solely in the Governor of the State, who would hold such land in trust for the people and would henceforth be responsible for allocation of land in all urban areas to individuals resident in the State and to organisations for residential, agricultural, commercial and other purposes while similar powers with respect to non-urban areas are conferred on Local Governments.

[1978 No. 6.]

[Date of commencement: *29th March, 1978*]

PART 1

General

1. Vesting of all land in the State

Subject to the provisions of this Act, all land comprised in the territory of each State in the Federation is hereby vested in the Governor of that State, and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act.

2. Control and management of land; advisory bodies

(1) As from the commencement of this Act—

- (a)* all land in urban areas shall be under the control and management of the Governor of each State; and
- (b)* all other land shall, subject to this Act, be under the control and management of the local government within the area of jurisdiction of which the land is situated.

(2) There shall be established in each State a body to be known as "The Land Use and Allocation Committee" which shall have responsibility for—

- (a)* advising The Governor on any matter connected with the management of land to which paragraph *(a)* of subsection (1) of this section relates;
- (b)* advising the Governor on any matter connected with the resettlement of persons affected by the revocation of rights of occupancy on the ground of overriding public interest under this Act; and
- (c)* determining disputes as to the amount of compensation payable under this Act for improvements on land.

(3) The Land Use and Allocation Committee shall consist of such a number of persons as the Governor may determine and shall include in its membership—

- (a)* not less than two persons possessing qualifications approved for appointment to the civil service as estate surveyors or land officers and who have had such qualification for not less than five years; and
- (b)* a legal practitioner.

(4) The Land Use and Allocation Committee shall be presided over by such one of its members as may be designated by the Governor and, subject to such directions as may be given in that regard by the Governor, shall have power to regulate its proceedings.

(5) There shall also be established for each Local Government a body to be known as "the Land Allocation Advisory Committee" which shall consist of such person as may be determined by the Governor acting after consultation with the local government and shall have responsibility for advising the local government on any matter connected with the management of land to which paragraph (b) of subsection (1) of this section relates.

3. Designation of urban areas

Subject to such general conditions as may be specified in that behalf by the National Council of States, the Governor may for the purposes of this Act by order published in the State *Gazette* designate the parts of the area of the territory of the State constituting land in an urban area,

4. Applicable law for the interim management of land

Until other provisions are made in that behalf and, subject to the provisions of this Act, land under the control and management of the Governor under this Act shall be administered—

(a) in the case of any State where the Land Tenure Law of the former Northern Nigeria applies, in accordance with the provisions of that law; and

(b) in every other case, in accordance with the provisions of the State Land Law applicable in respect of State land in the State,

and the provisions of the Land Tenure Law or The State Land Law, as the case may be, shall have effect with such modifications as would bring those laws into conformity with this Act or its general intentment.

PART II

*Principles of Land Tenure. Powers of Governor and Local Governments,
and Rights of Occupiers*

5. Powers of the Governor in relation to land

(1) It shall be lawful for the Governor in respect of land, whether or not in an urban area to—

- (a) grant statutory rights of occupancy to any person for all purposes;
- (b) grant easements appurtenant to statutory rights of occupancy;
- (c) demand rental for any such land granted to any person;
- (d) revise the said rental—
 - (i) at such intervals as may be specified in the certificate of occupancy; or
 - (ii) where no intervals are specified in the certificate of occupancy at any time during the term of the statutory right of occupancy;
- (e) impose a penal rent for a breach of any covenant in a certificate of occupancy requiring the holder to develop or effect improvements on the land, the subject of the certificate of occupancy, and to revise such penal rent as provided in section 19 of this Act;
- (f) impose a penal rent for a breach of any condition, express or implied, which precludes the holder of a statutory right of occupancy from alienating the right of occupancy or any part thereof by sale, mortgage, transfer of possession, sub-lease or bequest or otherwise howsoever without the prior consent of the Governor;
- (g) waive, wholly or partially, except as otherwise prescribed, all or any of

the covenants or conditions to which a statutory right of occupancy is subject where, owing to special circumstances, compliance therewith would be impossible or great hardship would be imposed upon the holder;

(h) extend except as otherwise prescribed, the time to the holder of a statutory right of occupancy for performing any of the conditions of the right of occupancy upon such terms and conditions as he may think fit.

(2) Upon the grant of a statutory right of occupancy under the provisions of subsection (1) of [his section, all existing rights to the use and occupation of the land, which is the subject of the statutory right of occupancy, shall be extinguished.

6. Powers of local government in relation to land not in urban areas

(1) It shall be lawful for a local government in respect of land not in an urban area to—

(a) grant customary rights of occupancy to any person or organisation for the use of land in the local government area for agricultural, residential and other purposes;

(b) grant customary rights of occupancy to any person or organisation for the use of land for grazing purposes and such other purposes ancillary to agricultural purposes as may be customary in the local government area concerned.

(2) No single customary right of occupancy shall be granted in respect of an area of land in excess of 500 hectares if granted for agricultural purposes, or 5,000 hectares if granted for grazing purposes, except with the consent of The Governor.

(3) It shall be lawful for a local government to enter upon, use and occupy for public purposes any land within the area of its jurisdiction which is not—

- (a) land within an area declared to be an urban area pursuant to section 3 of this Act;
- (b) the subject of a statutory right of occupancy;
- (c) within any area compulsorily acquired by the Government of the Federation or of the State concerned;
- (d) the subject of any laws relating to minerals or mineral oils,

and for the purpose, to revoke any customary right of occupancy on any such land.

(4) The local government shall have exclusive rights to the lands so occupied against all persons except the Governor.

(5) The holder and the occupier according to their respective interests of any customary right of occupancy revoked under subsection (3) of this section shall be entitled to compensation, for the value at the date of revocation, of their unexhausted improvements.

(6) Where land in respect of which a customary right of occupancy is revoked under this Act was used for agricultural purposes by the holder, the local government shall allocate to such holder alternative land for use for the same purpose.

(7) If a local government refuses or neglects within a reasonable time to pay compensation to a holder and an occupier according to their respective interests under the provisions of subsection (5) of this section, the Governor may proceed to the assessment of compensation under section 29 of this Act and direct the local government to pay the amount of such compensation to the holder and occupier according to their respective interests.

7. Restriction on rights of persons under the age of 21

it shall not be lawful for the Governor to grant a statutory right of occupancy or consent to the assignment or subletting of a statutory right of occupancy to a person under the age of 21 years:

Provided that

- (a) where a guardian or trustee of a person under the age of 21 years has been duly appointed for such purpose, The Governor may grant or consent to the assignment or subletting of a statutory right of occupancy to such guardian or trustee on behalf of such person under age;
- (b) a person under the age of 21 years upon whom a statutory right of occupancy devolves on the death of the holder, shall have the same liabilities and obligations under and in respect of his right of occupancy as if he were of full age, notwithstanding the fact that no guardian or trustee has been appointed for him.

8. Special contracts

Statutory right of occupancy granted under the provisions of section 5(1) (a) of this Act shall be for a definite term and may be granted subject to the terms of any contract which may be made by the Governor and the holder not being inconsistent with the provisions of this Act.

9. Certificates of occupancy

- (1) It shall be lawful for the Governor—
 - (a) when granting a statutory right of occupancy to any person; or
 - (b) when any person is in occupation of land under a customary right of occupancy and applies in the prescribed manner; or
 - (c) when any person is entitled to a statutory right of occupancy,

to issue a certificate under his hand in evidence of such right of occupancy.

(2) Such certificate shall be termed a certificate of occupancy and there shall be paid therefor, by the person in whose name it is issued, such fee (if any) as may be prescribed.

(3) If the person in whose name a certificate of occupancy is issued, without lawful excuse, refuses or neglects to accept and pay for the certificate, the Governor may cancel the certificate and recover from such person any expenses incidental thereto, and in the case of a certificate evidencing a statutory right of occupancy to be granted under paragraph (a) of subsection (a) of this section, the Governor may revoke the statutory right of occupancy.

(4) The terms and conditions of a certificate of occupancy granted under this Act and which has been accepted by the holder shall be enforceable against the holder and his successors in title, notwithstanding that the acceptance of such terms and conditions is not evidenced by the signature of the holder or is evidenced by the signature only or, in the case of a corporation, is evidenced by the signature only of some person purporting to accept on behalf of the corporation.

10. Conditions and provisions implied in certificate of occupancy

Every certificate of occupancy shall be deemed to contain provisions to the following effect—

- (a) that the holder binds himself to pay to the Governor the amount found to be payable in respect of any unexhausted improvements existing on the land at the date of his entering into occupation;
- (b) that the holder binds himself to pay to the Governor the rent fixed by The Governor and any rem which may be agreed or fixed on revision in accordance with the provisions of section 16 of this Act.

11. Power of Governor or public officer to enter and inspect land and improvements

The Governor or any public officer duly authorised by The Governor in that behalf, shall have the power to enter upon and inspect the land comprised in any statutory right of occupancy or any improvements effected thereon, at any reasonable hours in the day time, and the occupier shall permit and give free access to the Governor or any such officer to enter and inspect.

12. Power of Governor to grant licences to take building materials

(1) It shall be lawful for the Governor to grant a licence to any person to enter upon any land which is not the subject of a statutory right of occupancy or of a mining lease, mining right or exclusive prospecting licence granted under the Minerals and Mining Act or any other enactment, and remove or extract therefrom any stone, gravel, clay, sand or other similar substance (not being a mineral within the meaning assigned to that term in the Minerals and Mining Act) that may be required for building or for the manufacture of building materials.

[LFN Cap M12]

(2) Any such licence may be granted for such period and subject to such conditions as the Governor may think proper or as may be prescribed.

(3) No such licence shall be granted in respect of an area exceeding 400 hectares.

(4) it shall not be lawful for any licensee to transfer his licence in any manner whatsoever without the consent of the Governor first had and obtained, and such transfer effected without the consent of the Governor shall be null and void.

(5) The Governor may cancel any such licence if the licensee fails to comply with any of the conditions of the licence.

13. Duty of occupier of statutory right of occupancy to maintain beacons

(1) The occupier of a statutory right of occupancy shall at all times maintain in good and substantial repair to the satisfaction of the Governor, or of such public officer as the Governor may appoint in that behalf, all beacons or other land marks by which the boundaries of the land comprised in the statutory right of occupancy are defined and in default of his so doing the Governor or such public officer as aforesaid may by notice in writing require the occupier to define the boundaries in the manner and within the time specified in such notice.

(2) If the occupier of a statutory right of occupancy fails to comply with a notice served under subsection (1) of this section he shall be liable to pay the expenses (if any) incurred by the Governor in defining the boundaries which the occupier has neglected to define.

14. Exclusive rights of occupiers

Subject to the other provisions of this Act and of any laws relating to wayleaves, to prospecting for minerals or mineral oils or to mining or to oil pipelines and subject to the terms and conditions of any contract made under section 8 of this Act, the occupier shall have exclusive rights to the land the subject of the statutory right of occupancy against all persons other than the Governor.

15. The right to improvements

During the term of a statutory right of occupancy the holder—

- (a) shall have the sole right to and absolute possession of all the improvements on the land;
- (b) may, subject to the prior consent of the Governor, transfer, assign or mortgage any improvements on the land which have been effected pursuant to the terms and conditions of the certificate of occupancy

relating to the land.

PART III

Rents

16. Principles to be observed in fixing and revising rents

In determining the amount of the original rent to be fixed for any particular land and the amount of the revised rent to be fixed on any subsequent revision of rent, the Governor—

- (a)* shall take into consideration the rent previously fixed in respect of any other land in the immediate neighborhood and shall have regard to all the circumstances of the case;
- (b)* shall not take into consideration any value due to capital expended upon the land by the same or any previous occupier during his term or terms of occupancy, or any increase in the value of the land the rental of which is under consideration, due to the employment of such capital.

17. Power of Governor to grant rights of occupancy free of rent or at reduced rent

(1) The Governor may grant a statutory right of occupancy free of rent or at a reduced rent in any case in which he is satisfied that it would be in the public interest to do so.

(2) Where a statutory right of occupancy has been granted free of rent, the Governor may, subject to the express provisions of the certificate of occupancy, nevertheless impose a rent in respect of the land the subject of the right of occupancy if and when he may think fit.

18. Acceptance of rent not to operate as a waiver of forfeiture

Subject to the provisions of sections 20 and 21 of this Act, the acceptance by or on

behalf of the Governor of any rent shall not operate as a waiver by the Governor of any forfeiture accruing by reason of the breach of any covenant or condition, express or implied, in any certificate of occupancy granted under this Act.

19. Penal rent

(1) When in any certificate of occupancy the holder has covenanted to develop or effect improvements on the land, the subject of the certificate of occupancy, and has committed a breach of such covenant the Governor may—

- (a) at the time of such breach or at any time thereafter, so long as the breach remains unremedied, fix a penal rent which shall be payable for twelve months from the date of such breach; and
- (b) on the expiration of twelve months from the date of such breach and on the expiration of every subsequent twelve months so long as the breach continues, revise the penal rent to be paid.

(2) Such penal rent or any revision thereof shall be in addition to the rent reserved by the certificate of occupancy and shall be recoverable as rent.

Provided that the first penal rent fixed shall not exceed the rent so reserved and any revised penal rent shall not exceed double the penal rent payable in respect of the twelve months preceding the date of revision.

(3) If the Governor fixes or revises a penal rent, he shall cause a notice in writing to be sent to the holder informing him of the amount thereof and the rent so fixed or revised shall commence to be payable one calendar month from the date of the receipt of such notice.

(4) If the breach for which a penal rent has been imposed is remedied before the expiration of the period for which such rent has been paid, the Governor may in his discretion

refund such portion of the penal rent paid for such period as he may think fit.

(5) The fact that a penal rent or a revised penal rent has been imposed shall not preclude the Governor, in lieu of fixing a subsequent penal rent, from revoking the statutory right of occupancy:

Provided that the statutory right of occupancy shall not be revoked during the period for which a penal rent has been paid.

20. Additional penal rent for unlawful alienation

(1) If then has been any breach of any of the provisions of section 22 or 23 of this Act, the Governor may in lieu of revoking the statutory right of occupancy concerned, demand that the holder shall pay an additional and penal rent for and in respect of each day during which the land the subject of the statutory right of occupancy or any portion thereof or any buildings or other works erected thereon shall be or remain in the possession, control or occupation of any person whomsoever other than the holder.

(2) Such additional and penal rem shall be payable upon demand and shall be recoverable as rent.

(3) The acceptance by or on behalf of the Governor of any such additional and penal rent shall not operate as a waiver by the Governor of any breach of section 22 or 23 of this Act which may continue after the date up to and in respect of which such additional and penal rent has been paid or is due and owing and The Governor shall accordingly be entitled to exercise in respect of any such continuing breach all or any of the powers conferred upon him by this Act.

PART IV

Alienation and Surrender of Rights of Occupancy

21. Prohibition of alienation of customary right of occupancy except with requisite consent or approval

it shall not be lawful for any customary right of occupancy or any part thereof to be alienated by assignment, mortgage, transfer of possession, sublease or otherwise howsoever—

(a) without the consent of the Governor in cases where the property is to be sold by or under the order of any court under the provisions of the applicable Sheriffs and Civil Process Law; or

(b) in other cases without the approval of the appropriate local government.

22. Prohibition of alienation of statutory right of occupancy without consent of Governor

(1) It shall not be lawful for the holder of a statutory right of occupancy granted by the Governor to alienate his right of occupancy or any part thereof by assignment, mortgage, transfer of possession, sublease or otherwise howsoever without the consent of The Governor first had and obtained.

Provided that the consent of the Governor—

(a) shall not be required to the creation of a legal mortgage over a statutory right of occupancy in favour of a person in whose favour an equitable mortgage over the right of occupancy has already been created with the consent of the Governor;

(b) shall not be required to the reconveyance or release by a mortgagee to a holder or occupier of a statutory right of occupancy which that holder or occupier has mortgaged to that mortgagee with the consent of the Governor;

(c) to the renewal of a sub-lease shall not be presumed by reason only of his having consented to the grant of a sub-lease containing an option to renew the same.

(2) The Governor when giving his consent to an assignment, mortgage or sub-lease may require the holder of a statutory right of occupancy to submit an instrument executed in evidence of the assignment, mortgage or sub-lease and the holder shall when so required deliver the said instrument to the Governor in order that the consent given by the Governor under subsection (1) of this section may be signified by endorsement thereon.

23. Sub-underleases

(1) A sub-lessee of a statutory right of occupancy may, with the prior consent of the Governor and with the approval of the holder of the statutory right of occupancy, demise by way of sub-underlease to another person the land comprised in the sub-lease held by him or any portion of the land.

(2) The provisions of subsection (2) of section 22 of this Act shall apply *mutatis mutandis* to any transaction effected under subsection (1) of this section as if it were a sub-lease granted under section 22 of this Act.

24. Devolution of rights of occupancy on death

The devolution of the rights of an occupier upon death shall—

- (a) in the case of a customary right of occupancy, unless non-customary law or any other customary law applies, be regulated by the customary law existing in the locality in which the land is situated; and
- (b) in the case of a statutory right of occupancy (unless any non-customary law or other customary law applies) be regulated by the customary law

of the deceased occupier at the time of his death relating to the distribution of property of like nature to a right of occupancy.

Provided that—

- (c) no customary law prohibiting, restricting or regulating the devolution on death to any particular class of persons or the right to occupy any land shall operate to deprive any person of any beneficial interest in such land (other than the right to occupy the same) or in the proceeds of sale thereof to which he may be entitled under the rules of inheritance of any other customary law;
- (d) a statutory right of occupancy shall not be divided into two or more parts on devolution by the death of the occupier, except with the consent of the Governor.

25. Effect of deed or will where non-customary law applies

In the case of the devolution or transfer of rights to which any non-customary law applies, no deed or will shall operate to create any proprietary right over land except that of a plain transfer of the whole of the rights of occupation over the whole of the land.

26. Null-and-void transactions and instruments

Any transaction or any instrument which purports to confer on or vest in any person any interest or right over land other than in accordance with the provisions of this Act shall be null and void.

27. Surrender of statutory rights of occupancy

The Governor may accept on such terms and conditions as he may think proper the surrender of any statutory right of occupancy granted under this Act.

PART V

Revocation of Rights of Occupancy and Compensation therefor

28. Power of Governor to revoke rights of occupancy

(1) It shall be lawful for the Governor to revoke a right of occupancy for overriding public interest.

(2) Overriding public interest in the case of a statutory right of occupancy means –

- (a) the alienation by the occupier by assignment, mortgage, transfer of possession, sub-lease, or otherwise of any right of occupancy or part thereof contrary to the provisions of this Act or of any regulations made thereunder;
- (b) the requirement of the land by the Government of The State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation;
- (c) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith.

(3) Overriding public interest in the case of a customary right of occupancy means—

- (a) the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation;

- (b)* the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith;
- (c)* the requirement of the land for the extraction of building materials;
- (d)* the alienation by the occupier by sale, assignment, mortgage, transfer of possession, sub-lease, bequest or otherwise of the right of occupancy without the requisite consent or approval.

(4) The Governor shall revoke a right of occupancy in the event of the issue of a notice by or on behalf of the President if such notice declares such land to be required by the Government for public purposes,

(5) The Governor may revoke a statutory right of occupancy on the ground of—

- (a)* a breach of any of the provisions which a certificate of occupancy is by section 10 of this Act deemed to contain;
- (b)* a breach of any term contained in the certificate of occupancy or in any special contract made under section 8 of this Act;
- (c)* a refusal or neglect to accept and pay for a certificate which was issued in evidence of a right of occupancy but has been cancelled by the governor under subsection (3) of section 9 of this Act.

(6) The revocation of a right of occupancy shall be signified under the hand of a public officer duly authorised in that behalf by the Governor and notice thereof shall be given to the holder.

(7) The title of the holder of a right of occupancy shall be extinguished on receipt by him of a notice given under subsection (6) of (his section or on such later date as may be stated in the notice.

29. Compensation payable on revocation of right of occupancy by Governor in certain cases

(1) If a right of occupancy is revoked for the cause set out in paragraph (b) of subsection (2) of section 28 of this Act or in paragraph (a) or (c) of subsection (3) of the same section, the holder and the occupier shall be entitled to compensation for the value at the date of revocation of their unexhausted improvements.

(2) If a right of occupancy is revoked for the cause set out in paragraph (c) of subsection (2) of section 28 of this Act or in paragraph (b) of subsection (3) of the same section the holder and the occupier shall be entitled to compensation under the appropriate provisions of the Minerals and Mining Act or the Petroleum Act or any legislation replacing the same,

[LFN Cap.M12. Cap. P10.]

(3) If the holder or the occupier entitled to compensation under this section is a community the Governor may direct that any compensation payable to it shall be paid

(a) to the community; or

(b) to the chief or leader of the community to be disposed of by him for the benefit of the community in accordance with the applicable customary law; or

(c) into some fund specified by the Governor for the purpose of being utilised or applied for the benefit of the community.

(4) Compensation under subsection (1) of this section shall be, as respects—

(a) the land, for an amount equal to the rent, if any, paid by the occupier during the year in which the right of occupancy was revoked;

(b) buildings, installation or improvements thereon, for the amount of the replacement cost of the building, installation or improvement, that is to

say, such cost as may be assessed on the basis of the prescribed method of assessment as determined by the appropriate officer less any depreciation, together with interest at the bank rate for delayed payment of compensation and in respect of any improvement in the nature of reclamation works, being such cost thereof as may be substantiated by documentary evidence and proof to The satisfaction of the appropriate officer;

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(c) crops on land apart from any building, installation or improvement thereon, for an amount equal to the value as prescribed and determined by the appropriate officer.

(5) Where the land in respect of which a right of occupancy has been revoked forms part of a larger area, the compensation payable shall be computed as in subsection (4) (a) of this section less a proportionate amount calculated in relation to that part of the area not affected by the revocation, but of which the portion revoked forms a part and any interest payable shall be assessed and computed in the like manner.

(6) Where there is any building, installation or improvement or crops on the land to which subsection (5) of this section applies, then compensation shall be computed as specified hereunder, that is as respects—

- (a) such land, on the basis specified in that subsection;
- (b) any building, installation or improvement or corps thereon (or any combination of two or all of those things) on the basis specified in that subsection and subsection (4) of this section, or so much of those provisions as are applicable,

and any interest payable under those provisions shall be computed in the like manner.

(7) For the purposes of this section, "**installation**" means any mechanical apparatus set up or put in position for use or materials set up in or on land or other equipment, but excludes any fixture in or on any building.

30. Reference of dispute as to compensation

Where there arises any dispute as to the amount of compensation calculated in accordance with the provisions of section 29 of this Act, such dispute shall be referred to the appropriate Land Use and Allocation Committee.

31. Exclusion of the application of the Public Lands Acquisition (Miscellaneous Provisions) Act

The provisions of the Public Lands Acquisition (Miscellaneous Provisions) Act shall not apply in respect of any land vested in, or taken over by, the Governor or any local government pursuant to this Act or the right of occupancy to which is revoked under the provisions of this Act but shall continue to apply in respect of land compulsorily acquired before the commencement of this Act.

[1976 No. 33.]

32. Debt due to Government not extinguished by revocation

The revocation of a statutory right of occupancy shall not operate to extinguish any

debt due to the Government under or in respect of such right of occupancy.

33. Option to accept resettlement in case of revocation of right of occupancy

(1) Where a right of occupancy in respect of any developed land on which a residential building has been erected is revoked under this Act, the Governor or the local government, as the case may be, may in his or its discretion offer in lieu of compensation payable in accordance with the provisions of this Act, resettlement in any other place or area by way of a reasonable alternative accommodation (if appropriate in the circumstances).

(2) Where the value of any alternative accommodation as determined by the appropriate officer or the Land Use and Allocation Committee is higher than the compensation payable under this Act, the parties concerned may by agreement require that the excess in value in relation to the property concerned shall be treated as a loan which the person affected shall refund or repay to the Government in the prescribed manner.

(3) Where a person accepts a resettlement pursuant to subsection (1) of this section, his right to compensation shall be deemed to have been duly satisfied and no further compensation shall be payable to such person.

PART VI

Transitional and other Related Provisions

34. Transitional provisions on land in urban areas

(1) The following provisions of this section shall have effect in respect of land in an urban area vested in any person immediately before the commencement of this Act.

(2) Where the land is developed the land shall continue to be held by the person in whom it was vested immediately before the commencement of this Act as if the holder of the land was the holder of a statutory right of occupancy issued by the Governor under this Act.

(3) In respect of land to which subsection (2) of this section applies there shall be issued by the Governor on application to him in the prescribed form a certificate of occupancy if the Governor is satisfied that the land was, immediately before the commencement of this Act, vested in that person,

(4) Where the land to which subsection (2) of this section applies was subject to any mortgage, legal or equitable, or any encumbrance or interest valid in law such land shall continue to be so subject and the certificate of occupancy issued, shall indicate that the land is so subject, unless the continued operation of the encumbrance or interest would in the opinion of The Governor be inconsistent with the provisions, or general intendment of this Act.

(5) Where on the commencement of this Act The land is undeveloped, then—

- (a) one plot or portion of the land not exceeding half of one hectare in area shall, subject to subsection (6) of this section, continue to be held by the person in whom the land was so vested as if the holder of the land was the holder of a statutory right of occupancy granted by the Governor in respect of the plot or portion as aforesaid under this Act; and
- (b) all the rights formerly vested in the holder in respect of the excess of the land shall on the commencement of this Act be extinguished and the excess of the land shall be taken over by the Governor and administered as provided in this Act.

(6) Paragraph (a) of subsection (5) of this section shall not apply on the case of any person who was on the commencement of this Act also the holder of any undeveloped land elsewhere in any urban area in the State and in respect of such a person all his holdings of undeveloped land in any urban area in the State shall be considered together and out of the

undeveloped land so considered together—

- (a) one plot or portion not exceeding half of one hectare in area shall continue to be held by such a person as if a right of occupancy had been granted to him by the Governor in respect of that plot or portion; and
- (b) the remainder of the land (so considered together) in excess of half of one hectare shall be taken over by the Governor and administered in accordance with this Act and the rights formerly vested in the holder in respect of such land shall be extinguished.

(7) No land to which subsection (5) (a) or (6) of this section applies held by any person shall be further subdivided or laid out in plots and no such land shall be transferred to any person except with the prior consent in writing of the Governor.

(8) Any instrument purporting to transfer any undeveloped land in contravention of subsection (7) of this section shall be void and of no effect whatsoever in law and any party to any such instrument shall be guilty of an offence and liable on conviction to imprisonment for one year or a fine of ₦45,000.

(9) In relation to land to which subsection (5) (a) or (6)(b) of this section applies there shall be issued by the Governor on application therefor in the prescribed form a certificate of occupancy if the Governor is satisfied that the land was immediately before the commencement of this Act vested in that person.

35. Compensation for improvements in certain cases

(1) Section 34 of this Act shall have effect notwithstanding that the land in question was held under a leasehold, whether customary or otherwise, and formed part of an estate laid out by any person, group or family in whom the leasehold interest or reversion in respect of

The land was vested immediately before the commencement of this Act, so however that if there has been any improvements on the land effected by the person, group or family in whom the leasehold interest or reversion was vested as aforesaid the Governor shall, in respect of the improvements, pay to that person, group or family, compensation computed as specified in section 29 of this Act.

(2) There shall be deducted from the compensation payable under subsection (1) of this section, any levy by way of development or similar charges paid in respect of the improvements on the land by the lessee to the person, group or family in whom the lease-hold interest or reversion was vested and the amount to be deducted shall be determined by the Governor taking into consideration all the circumstances of the case.

36. Transitional provisions on land not in urban areas

(1) The following provisions of this section shall have effect in respect of land not in an urban area which was immediately before the commencement of this Act held or occupied by any person,

(2) Any occupier or holder of such land, whether under customary rights or otherwise howsoever, shall if that land was on the commencement of this Act being used for agricultural purposes, continue to be entitled to possession of the land for use for agricultural purposes as if a customary right of occupancy had been granted to the occupier or holder thereof by the appropriate local government and the reference in this subsection to land being used for agricultural purposes includes land which is, in accordance with the customary law of the locality concerned, allowed to lie fallow for purposes of recuperation of the soil.

(3) On the production to The local government by the occupier of such land, at his discretion, of a sketch or diagram or other sufficient description of the land in question and on

application therefor in the prescribed form the Local Government shall, if satisfied that the occupier or holder was entitled to the possession of such land whether under customary rights or otherwise howsoever, and that the land was being used for agricultural purposes at the commencement of this Act, register the holder or occupier as one to whom a customary right of occupancy had been issued in respect of the land in question.

(4) Where the land is developed, the land shall continue to be held by the person in whom it was vested immediately before the commencement of this Act as if the holder of the land was the holder of a customary right of occupancy issued by the Local Government, and if the holder or occupier of such developed land, at his discretion, produces a sketch or diagram showing the area of the land so developed, The Local Government shall, if satisfied that that person immediately before the commencement of this Act has the land vested in him, register the holder or occupier as one in respect of whom a customary right of occupancy has been granted by the Local Government.

(5) No land to which this section applies shall be sub-divided or laid out in plots and no such land shall be transferred to any person by the person in whom the land was vested as aforesaid.

(6) Any instrument purporting to transfer any land to which this section relates shall be void and of no effect whatsoever in law and every party to any such instrument shall be guilty of an offence and liable on conviction to a fine of ₦5,000 or to imprisonment for one year.

37. Penalty For false claims, etc., in respect of land

If any person other than one in whom any land was lawfully vested immediately before the commencement of this Act enters any land in purported exercise of any right in relation to

possession of the land or makes any false claim in respect of the land to the Governor or any Local Government for any purpose under this section he shall be guilty of an offence and liable on conviction to imprisonment for one year or to a fine of ₦5.000.

38. Preservation of power of Governor to revoke rights of occupancy

Nothing in this Part shall be construed as precluding the exercise by the Governor or as the case may be the Local Government concerned of the powers to revoke, in accordance with the applicable provisions of this Act, rights of occupancy, whether statutory or customary, in respect to any land to which this Part of this Act relates.

PART VII

Jurisdiction of High Courts and other Courts

39. Jurisdiction of High Courts

(1) The High Court shall have exclusive original jurisdiction in respect of the following proceedings—

- (a) proceedings in respect of any land the subject of a statutory right of occupancy granted by the Governor or deemed to be granted by him under this Act; and for the purposes of this paragraph, proceedings includes proceedings for a declaration of title to a statutory right of occupancy;
- (b) proceedings to determine any question as to the persons entitled to compensation payable for improvements on land under this Act.

(2) All laws, including rules of court, regulating the practice and procedure of the High Court shall apply in respect of proceedings to which this section relates and the laws shall have effect with such modifications as would enable effect to be given to the provisions of this

section.

40. Special provisions in respect of pending proceedings

Where on the commencement of this Act proceedings had been commenced or were pending in any court or tribunal (whether at first instance or on appeal) in respect of any question concerning or pertaining to title to any land or interest therein, such proceedings may be continued and be finally disposed of by the court concerned but any order or decision of the court shall only be as respects the entitlement of either of the parties to the proceedings to a right of occupancy, whether statutory or customary, in respect of such land as provided in this Act.

41. Jurisdiction of area courts or customary courts, etc.

An area court or customary court or other court of equivalent jurisdiction in a State shall have jurisdiction in respect of proceedings in respect of a customary right of occupancy granted by a Local Government under this Act; and for the purposes of this paragraph "proceedings" includes proceedings for a declaration of title to a customary right of occupancy and all laws including rules of court regulating practice and procedure of such courts shall have effect with such modifications as would enable effect to be given to this section.

42. Proceedings for recovery or rent in respect of certificate of occupancy, etc.

(1) Proceedings for the recovery of rent payable in respect of any certificate of occupancy may be taken before a magistrate's court of competent jurisdiction by and in the name of the Chief Lands Officer or by and in the name of any other officer appointed by the Governor in that behalf.

(2) Proceedings for the recovery of rent payable in respect of any customary right of occupancy may be taken by and in the name of the local government concerned in the area

court or customary court or any court of equivalent jurisdiction.

PART VIII

Supplemental

43. Prohibition of and penalties for unauthorised use of land

(1) Save as permitted under section 34 of this Act, as from the commencement of this Act no person shall in an urban area—

(a) erect any building, wall, fence or other structure upon; or

(b) enclose, obstruct, cultivate or do any act on or in relation to,

any land which is not the subject of a right of occupancy or licence lawfully held by him or in respect of which he has not received the permission of the Governor to enter and erect improvements prior to the grant to him of a right of occupancy.

(2) Any person who contravenes any of the provisions of subsection (1) of this section shall on being required by the Governor so to do and within the period of time fixed by the Governor, remove any building, wall, fence, obstruction, structure or thing which he may have caused to be placed on the land and he shall put the land in the same condition as nearly as may be in which it was before such contravention.

(3) Any person who contravenes any of the provisions of subsection (1) of this section shall be guilty of an offence and liable on conviction to imprisonment for one year or to a fine of ₦5,000.

(4) Any person who fails or refuses to comply with a requirement made by the Governor under subsection (2) of this section shall be guilty of an offence and liable on conviction to a fine of ₦100 for each day during which he makes default in complying with the requirement of the Governor.

44. Service of notices

Any notice required by this Act to be served on any person shall be effectively served on him—

- (a)* by delivering it to the person on whom it is to be served; or
- (b)* by leaving it at the usual or last known place of abode of that person; or
- (c)* by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or
- (d)* in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office; or
- (e)* if it is not practicable after reasonable inquiry to ascertain the name or address of a holder or occupier of land on whom it should be served, by addressing it to him by the description of "holder" or "occupier" of the premises (naming them) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

45. Delegation of powers

(1) The Governor may delegate to the State Commissioner all or any of the powers conferred on the Governor by this Act, subject to such restrictions, conditions and qualifications, not being inconsistent with the provisions, or general intendment, of this Act as the Governor may specify.

(2) Where the power to grant certificates has been delegated to the State Commissioner, such certificates shall be expressed to be granted on behalf of the Governor.

46. Power to make regulations

(1) The National Council of States may make regulations for the purpose of carrying this Act into effect and particularly with regard to the following mailers—

- (a) the transfer by assignment or otherwise howsoever of any rights of occupancy, whether statutory or customary, including the conditions applicable to the transfer of such rights to persons who are not Nigerians;
- (b) the terms and conditions upon which special contracts may be made under section 8 of this Act;
- (c) the grant of certificates of occupancy under section 9 of this Act;
- (d) the grant of temporary rights of occupancy;
- (e) the method of assessment of compensation for the purposes of section 29 of this Act.

(2) The Governor may, subject to subsection (1) of this section, make regulations with regard to the following matters—

- (a) the method of application for any licence or permit and the terms and conditions under which licences may be granted;
- (b) the procedure to be observed in revising rents;
- (c) the fees to be paid for any mailer or thing done under this Act;
- (d) the forms to be used for any document or purpose.

47. Exclusion of certain proceedings

(1) This Act shall have effect notwithstanding anything to the contrary in any law or rule of law including the Constitution of the Federal Republic of Nigeria 1999 and, without prejudice to the generality of the foregoing, no court shall have jurisdiction to inquire into—

[L.F.N Cap C23.]

- (a) any question concerning or pertaining to the vesting of all land in the Governor in accordance with the provisions of this Act; or
- (b) any question concerning or pertaining to the right of the Governor to grant a statutory right of occupancy in accordance with the provisions of this Act; or
- (c) any question concerning or pertaining to the right of a local government to grant a customary right of occupancy under this Act.

(2) No court shall have jurisdiction to inquire into any question concerning or pertaining to the amount or adequacy of any compensation paid or to be paid under this Act.

48. Modification of existing laws

All existing laws relating to the registration of title to, or interest in, land or the transfer of title to or any interest in land shall have effect subject to such modifications (whether by way of addition, alteration or omission) as will bring those laws into conformity with this Act or its general intendment.

49. Exemption with respect to Federal Government lands, etc.

(1) Nothing in this Act shall affect any title to land, whether developed or undeveloped, held by the Federal Government or any agency of the Federal Government at the commencement of this Act and, accordingly, any such land shall continue to vest in the Federal Government or the agency concerned.

(2) In this section, "agency" includes any statutory corporation or any other statutory body (whether corporate or unincorporate) or any company wholly owned by the Federal Government.

50. Validity of Jaws, etc.

(1) Notwithstanding anything to the contrary in this Act or any other enactment, all laws and subsidiary legislation made at any time between the commencement of this Act and 30 September 1979 by an Administrator (or former Governor), the Executive Council, a Commissioner or any other authority or any public officer of a State shall be deemed to have been validly made and shall have effect as if they had been made under or pursuant to the Act and accordingly, shall hereafter continue to have effect according to their tenor and intendment as if they were regulations made under or pursuant to section 46 of this Act.

(2) For the purposes of subsection (1) of this section—

- (a) all contracts and all executive and judicial acts, including acts pertaining to the establishment, membership and functions of any Land Use and Allocation Committee or of any other authority or to the appointment of any person, shall be deemed to have been validly entered into or done and shall hereafter continue to have effect as provided in the said subsection; and
- (b) any instrument or other evidence relating to the allocation of any land, whether or not expressed to have been made under this Act, shall be deemed to have been validly issued or given under or pursuant to this Act and shall continue to have effect according to its tenor and intendment accordingly.

51. Interpretation

(1) In this Act, unless the context otherwise requires—

"**agricultural purposes**" includes the planting of any crops of economic value;

"**appropriate officer**" means the Chief Lands Officer of a State and in the case of the Federal Capital Territory, Abuja, means the Chief Federal Lands Officer,

"**customary right of occupancy**" means the right of a person or community lawfully using, or occupying land in accordance with customary law and includes a customary right of occupancy granted by a local government under this Act;

"**developed land**" means land where there exists any physical improvement in the nature of road development services, water, electricity, drainage, building, structure or such improvement that may enhance the value of the land for industrial, agricultural or residential purposes;

"**easement**" means a right annexed to land to utilise other land in different holding in a particular manner (not involving the taking of any part of the natural produce of that land or of any part of its soil) or to prevent the holder of the other land from utilising his land in a particular manner;

"**Government**" means the Government of the Federation or the Government of a State;

"**Governor**" means the Governor of the State concerned;

"**grazing purposes**" includes only such agricultural operations as are required for growing fodder for livestock on the grazing area;

"**High Court**" means the High Court of the State concerned;

"**holder**" in relation to a right of occupancy, means a person entitled to a right of

occupancy and includes any person to whom a right of occupancy has been validly assigned or has validly passed on the death of a holder but does not include any person to whom a right of occupancy has been sold or transferred without a valid assignment, nor a mortgagee, sub-lessee or sub-underlessee;

"improvements" or "unexhausted improvements" means anything of any quality permanently attached to the land, directly resulting from the expenditure of capital or labour by an occupier or any person acting on his behalf, and increasing the productive capacity, the utility or the amenity thereof and includes buildings, plantations of long lived crops or trees, fencing, a well, roads and irrigation or reclamation works, but does not include the result of ordinary cultivation other than growing produce;

"interest at the bank rate" means a simple interest payable at the rate per cent per annum at which the Central Bank of Nigeria will rediscount bills of exchange;

"local government" means the appropriate local government or any other body having or exercising the powers of a local government as provided by law in respect of the area where the land in question is situated;

"mortgage" includes a second and subsequent mortgage and equitable mortgage;

"occupier" means any person lawfully occupying land under customary law and a person using or occupying land in accordance with customary law and includes the sub-lessee or sub-lessee of a holder;

"public purposes" includes—

- (a) for exclusive Government use or for general public use;
- (b) for use by any body corporate directly established by law or by any body corporate registered under the Companies and Allied Matters Act as

respects which the Government owns shares, stocks or debentures;

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- (c) for or in connection with sanitary improvements of any kind;
- (d) for obtaining control over land contiguous to any part or over land the value of which will be enhanced by the construction of any railway, road or other public work or convenience about to be undertaken or provided by the Government;
- (e) for obtaining control over land required for or in connection with development of telecommunications or provision of electricity;
- (f) for obtaining control over land required for or in connection with mining purposes;
- (g) for obtaining control over land required for or in connection with planned urban or rural development or settlement;
- (h) for obtaining control over land required for or in connection with economic, industrial or agricultural development;
- (i) for educational and other social services;

"statutory right of occupancy" means a right of occupancy granted by the Governor under this Act;

"sub-lease" includes a sub-underlease;

"urban area" means such area of the State as may be designated as such by the Governor pursuant to section 3 of this Act.

(2) The powers of a Governor under this Act shall, in respect of land comprised in the Federal Capital Territory. Abuja, or any land held or vested in the Federal Government in

any State, be exercisable by the President or any Minister designated by him in that behalf and references in this Act to Governor shall be construed accordingly.

52. Short title

This Act may be cited as the Land Use Act.

LAWS OF THE FEDERATION OF NIGERIA

CHAPTER L5

LAND USE ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation