

# THE NATIONAL RECONSTRUCTION AND DEVELOPMENT SAVINGS DECREE 1967



## ARRANGEMENT OF SECTIONS

### Section

#### *National Reconstruction and Development Savings Fund*

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## Decree No. 52

[3rd January 1968]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

*National Reconstruction and Development Savings Fund*

1.—(1) On the day appointed by the Federal Commissioner for Finance (in this Decree hereafter referred to as "the appointed day") there shall be established for the purposes of financing reconstruction and development programmes of the Federal Military Government otherwise than from the general revenues of the Federation, a special fund to be called the National Reconstruction and Development Savings Fund (in this Decree hereafter referred to as "the fund") which shall consist of contributions made from the income of workers (but not otherwise) and subject to the provisions of this Decree, shall be paid for credit of the fund into the Central Bank of Nigeria (in this Decree hereafter referred to as "the bank").

National  
Reconstruc-  
tion and  
Develop-  
ment  
Savings  
Fund  
established.

(2) Contributions by persons self-employed, and by flat rate payers shall be made in the first instance to Inland Revenue (meaning thereby as respecting a State, the authority however described having powers relative to the assessment and collecting of income tax) which shall thereafter pay amounts received for the purposes of this Decree into the bank for credit of the fund.

(3) Moneys in the fund may be withdrawn from the fund in the same manner as are moneys held for credit of the Federal Military Government in the Consolidated Revenue Fund.

(4) The Commissioner aforesaid (in this Decree hereafter referred as "the Commissioner") may approve a form of lodgment of moneys deducted under this Decree and payable to the bank, showing a break-down of the amount lodged with the name and amount deducted in respect of each worker thereby affected; and the form shall be prepared in such number of copies as the circumstances may require. The bank shall retain the original for onward transmission to the Commissioner, and one copy for its own record; and other copies shall be delivered as may be necessary. The production thereafter of a copy of the form duly receipted shall, in respect of the break-down, be sufficient evidence of the names and payments shown therein unless the contrary is proved.

2.—(1) Subject to the provisions of this Decree, an employer shall, from the appointed day, be liable to contribute to the fund in respect of any worker employed by him.

Liability to  
contribute  
to the fund.

(2) Nothing in this section shall be construed so as to impose liability on an employer for payments in respect of any worker in Nigeria who is not a citizen of Nigeria without the consent in writing of any such worker; but where consent is given it shall not be withdrawn without the approval of the Commissioner.

3.—(1) The Commissioner by notice in the Gazette may exempt workers in particular classes of employment from liability to contribute to the fund and workers in any such class shall cease to be subject to this Decree while engaged in the class of employment so exempted.

Liability in  
special  
cases.

(2) The fact that workers are exempted from making contributions under this Decree shall not operate to exempt the employer himself, if he is a citizen of Nigeria, from making his own contribution to the fund in any proper case.

(3) Where a person enters into a contract whereby some other person is to provide workers for any lawful purpose of the person entering into the contract, the workers shall, unless the Commissioner otherwise requires, be deemed for the purposes of this Decree to be in the employ of the person entering into the contract; and the failure to comply with the requirements of this subsection by any party to the contract shall be an offence under this Decree.

4. Any contributor to the fund who for any reason ceases to be affected by this Decree may apply to the Commissioner for leave to continue his contributions; and if approved, the contributor shall make consecutive monthly payments at the rate prescribed or consecutive annual payments in an amount in either case to be agreed between the contributor and the Commissioner.

5. This Decree shall apply to casual workers as it applies to workers in regular employment.

#### *Contributions*

6.—(1) Every employer shall unless his workers are exempted under this Decree, as from the appointed day, deduct from the wages of his workers at such intervals as may from time to time be prescribed by the Commissioner, an amount equal to five per cent per annum of the wages of each of his workers affected, and pay the total amount so deducted into the fund as hereinbefore provided; and where for any reason the prescribed intervals are inapplicable or inconvenient the deductions shall be made and be paid at intervals not exceeding in any case two months.

(2) Contributions of a worker to the fund under this section shall be deducted at the time when the wages are paid to the worker; and where for any reason (other than negligence on the part of the employer when the employer shall make the payment on demand without recourse to the wages of the worker) the employer fails to deduct contributions under this section he may within three months after the failure agree with the worker to deduct amounts then outstanding by instalments or in a lump sum.

(3) Contributions payable—

(a) by persons self-employed shall be made at the rate of five per cent per annum of their respective chargeable income (which expression "chargeable income" shall for the purposes of this subsection and anything in any enactment or law to the contrary notwithstanding be defined by reference to the Personal Income Tax (Lagos) Act 1961);

(b) by persons who are flat rate payers shall be made at the rate of ten shillings in respect of every such person in any one year, and where payments are made by or on behalf of any such persons, no further payment under this Decree shall thereafter be made in the year when payment was so made.

(4) Where a worker dies during a contribution period no contribution shall be due from his wages for that contribution period; but any contribution if deducted and paid to the fund may be retained in the fund, and be dealt with under this Decree.

Special contributors.

Casual workers.

Contribution to the fund.

(5) Where an employer deducts contributions from the wages of workers under this section, the contributions shall be deemed to be held by the employer in trust for the purposes of this Decree and the failure to pay the contributions to the fund shall be an offence under this Decree.

(6) It shall be an offence under this section—

(a) for an employer to deduct the amount of the employer's contribution from the wages of a worker, or

(b) for workers to coerce or otherwise influence employers to the intent that the employers shall pay wages due without deduction as required by this Decree, and thereafter themselves as employers pay to the fund required deductions from their own resources.

(7) It is declared for avoidance of doubt that contributions in excess at any one time of those required to be deducted under this section shall not, during the currency of this Decree, be refunded or be adjusted at the time of the next or any succeeding payment; but any such excess shall be held in the fund for credit of the worker or workers entitled.

7.—(1) Where the Commissioner is satisfied that any contribution to the fund has been deducted from the wages of a worker, but the employer has failed to pay the moneys to the fund, he may recover the amount from the employer as a debt owing to the Ministry of Finance Incorporated.

Failure to pay in workers' contributions, etc.

(2) If contribution in any particular case is not made within the time prescribed or approved under this Decree, a sum equal to five per cent per annum as interest on the amount unpaid shall be added for each month or part of a month after the date when payment should have been made; and interest so added shall be recoverable as part of the contribution to be treated as a debt owing by the employer to the Ministry of Finance Incorporated.

(3) Interest added under subsection (2) above shall not be paid for credit of the fund but shall be allocated to and form part of the general revenues of the Federation.

8. Where a worker is employed successively or concurrently in a contribution period or part of a contribution period by more than one employer, the employers shall, in addition to any other liability under this Decree and unless the Commissioner otherwise directs, be jointly and severally liable to pay to the fund the amount prescribed for each employer for the whole of the contribution period.

Employment by several employers.

9.—(1) Subject to the provisions of this section, contributions to the fund shall be inalienable during the continuance of this Decree and shall not be assets for the benefit of creditors on the bankruptcy or insolvency of a contributor to the fund, or be liable to attachment under any process of law; and any security, pledge or assignment given before or after the coming into force of this Decree in respect of contribution to the fund shall be void,

Contributions etc. to be inalienable.

(2) Payment of contributions to the fund shall continue to be made notwithstanding the bankruptcy or insolvency of a worker, and any moneys paid during the bankruptcy or insolvency shall not be deemed to be after acquired property while held in the fund,

Accounts  
and audit.

10. Accounts shall be kept of moneys in the fund in such form as the Commissioner after consultation with the governor of the bank may approve ; and subject to the provisions of this Decree, shall be subject to audit in the like manner as if the fund formed part of the consolidated revenue fund.

Interest  
payable on  
contributions.

11. Interest on contributions to the fund shall be calculated at the rate of three per cent per annum ; and it shall not be assessable to income tax.

Certifi-  
cates and  
redemption,  
etc.

12.—(1) Subject to the provisions of this section and to the continued operation of this Decree, the Commissioner shall at the end of the year 1968 and of each succeeding year thereafter, cause to be prepared in favour of each person entitled as a contributor under this Decree, a certificate showing the total amount paid to which that person is entitled as well as the amount which that total will produce at the end of the year 1977 with simple interest added.

(2) No certificate under this section shall be negotiable or be capable of being assigned before 1st January 1973 ; but on and after that date until maturity (which for the purpose of this Decree shall be the last day of December 1977), any such certificate may be assigned with the approval of the Commissioner.

(3) Nothing in this section shall be construed to prevent the acquisition of an interest by operation of law, or subject thereto, be construed as authorising the disposition of any such interest thereafter in a certificate otherwise than under this section.

(4) The Commissioner may by regulation make provision for the redemption of certificates at maturity which are issued under this section, and the provision may be by way of sinking fund or otherwise in the discretion of the Commissioner ; and any such provision for redemption may be made for the whole or part only of the accounts to be redeemed.

Criminal  
proceedings,  
etc.

13.—(1) Any person who—

(a) for the purpose of evading payment of any contribution by him or some other person knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular ; or

(b) for the purpose of obtaining any benefit for himself or some other person, knowingly makes any false statement or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular ; or

(c) misrepresents, or fails to disclose any material fact ; or

(d) fails to pay to the fund within such period as may be prescribed any amount which he is liable to pay under this Decree ; or

(e) obstructs or assaults any inspector in the discharge of his duties under this Decree ; or

(f) fails to comply with any regulations made under this Decree as a result of which there is a loss to the fund,

shall be liable, on conviction to a fine not exceeding £500 or to imprisonment for a term not exceeding 5 years, or to both such fine and imprisonment.



(2) Any employer or other person required to produce to the bank records of the contributions of a worker, who fails without reasonable excuse to produce records as and when reasonably required, shall be guilty of an offence under this Decree, and the penalty prescribed for an offence under subsection (1) above shall apply and may be imposed in the case of any offence under this subsection.

(3) The court before which any person is convicted of an offence under this Decree shall, without prejudice to any civil remedy, order such person to pay to the fund the amount of any contributions, together with any interest or penalty thereon, certified to be due from such person to the fund at the date of conviction; and such amount may be recovered in the same manner as a fine and shall be paid in for credit of the fund.

(4) Proceedings in respect of any offence under this Decree may be commenced at any time within the period of three months from the date on which evidence in the opinion of the Director of Public Prosecutions of the Federation sufficient to justify a prosecution for the offence comes to his knowledge, or within a period of twelve months after the commission of the offence, whichever is the later.

(5) For the purposes of this section and notwithstanding the provisions of any other enactment, an employer may be charged with more than one offence under paragraph (d) of subsection (1) of this section, and where the offences charged do not exceed thirty-six in number they shall be deemed to form part of the same transaction or series of offences of the same or similar character.

14.—(1) A contribution to the fund may be recovered by action as a debt due and owing to the Ministry of Finance Incorporated, at any time within six years from the date when the contribution became due anything to the contrary in this or any other enactment notwithstanding.

Civil proceedings.

(2) In this section—

“contribution” includes any interest or penalty payable or imposed for non-payment or for late payment, as the case may be;

“enactment” includes the Law of a State.

15.—(1) Where—

(a) any attachment is issued against the property of an employer in execution of an order of court against him and any such property is seized or sold or otherwise realised in pursuance of such execution, or

(b) on the application of a secured creditor the property of an employer is sold,

the proceeds of the sale or other realisation of such property shall not be distributed to any person entitled thereto until the court ordering the sale or other realisation has made provision for the payment of any amounts due in respect of contributions payable by the employer under this Decree during the twelve months before the date of such order.

Protection of contributions in certain cases.

(2) The provisions of this section shall rank *pari passu* with those of the National Provident Fund Acts 1961 and 1964 and those enactments shall be construed as amended to the extent necessary to give effect hereto; and where used in this section “employer” includes a company in liquidation under the Companies Act.

1961 No. 20.  
1964 No. 17.

Cap. 37.

Liability  
for acts of  
association  
of persons.

16. Where an offence under this Decree by any association of persons whether corporate or unincorporate, is found to have been committed with the consent or connivance of, or is attributable to any act or default on the part of any person or persons in apparent control of the association of persons, the person or persons in apparent control and the association of persons shall be deemed to have committed the offence.

Certificates  
as evidence.

17. A copy of an entry in the accounts of the fund or other extract from the records of the fund shall, when certified on behalf of the bank be received in all courts without proof of signature, as prima facie evidence of the matter stated in the records of the fund.

*Miscellaneous, Citation etc.*

Inspectors.

18.—(1) There may from time to time be appointed inspectors for the purposes of this Decree; and until appointments are made under this subsection, the income tax inspectors appointed for the purposes of the Federal Board of Inland Revenue and those appointed for the purposes of any State shall be inspectors under this Decree in cases when it is necessary to investigate the affairs of persons self-employed or persons who are flat rate payers.

(2) If an inspector under this Decree has reasonable cause to believe that there are workers on any premises or place he may, on production of his authority as an inspector, enter at all reasonable times on the premises or place and there make any examination and inquiry necessary to obtain information for the purposes of this Decree. In the exercise of his powers an inspector may require production of documents relating to contribution or liability to contribute to the fund, for inspection by him on the premises or place; and the failure without reasonable excuse to produce any such document on request by an inspector shall be an offence under this Decree.

(3) Nothing in this section shall authorise entry on any premises or place occupied by a Government department or office.

(4) In this section—

“document” has the meaning assigned by section 463 of the Criminal Code;

“Government” means the Government of the Federation and includes any State Government;

“premises” means any building or other erection used for the purpose of business, but does not include a dwelling used exclusively for residential purposes.

19. No stamp duty shall be payable on any receipt, contract, instrument or other document given for the purposes of this Decree by the bank or by the Commissioner or by Inland Revenue, as the case may be.

20. If any question of fact arises as to the liability of an employer or any other person to pay contributions under this Decree, the question shall be determined by the Commissioner whose decision shall be final.

Cap. 42.

Exemption  
from stamp  
duty.

Power for  
Com-  
missioner to  
determine  
questions of  
fact.

21. The Commissioner may from time to time make regulations necessary or desirable to give effect to the provisions of this Decree, and without prejudice to section 12 (4) or limiting the generality of the power it is hereby declared that regulations may be made for all or any of the following purposes—

Regulations.

(a) prescribing conditions for registration and exemption under this Decree ;

(b) prescribing conditions under which payment of contributions by employers may be made and the mode of collection, for the purposes of this Decree ;

(c) providing that any provisions of this Decree shall not apply or shall apply with such modifications (if any) as may be specified in the regulations to any person or class of persons ;

(d) prescribing any forms for the purposes of this Decree ;

(e) prescribing the procedure for dealing with unclaimed moneys in the fund.

22. In this Decree unless the context otherwise requires—

Interpretation.

“bank” or “the bank” has the meaning assigned by section 1 (1) ;

“casual worker” means any worker engaged on a daily contract of service who has not been employed by one employer for a continuing period of three months, the continuity of which shall not be construed as interrupted if broken by not more than fourteen days during the period of three months ;

“Commissioner” means the Federal Commissioner for Finance ;

“contribution period” means where wages are paid to a worker—

(a) at intervals of more than a fortnight, the month during which the wages are paid ; or

(b) at intervals of more than a week but not more than a fortnight, the fortnight ending with the last day of the week in which the wages are paid ; or

(c) at intervals of a week or less, the week in which the wages are paid ;

“contributions” means the contributions of a worker payable under this Decree and, in respect of the fund “contributor” likewise means any such worker ;

“court” or “the court” means any court of competent jurisdiction ;

“employer” in respect of any worker employed or engaged as a member of the crew of any ship means the owner or owners of the ship, or the agents in Nigeria of the ship as the case may be, and in any other case means the person with whom the worker entered into a contract of service or apprenticeship, and who is responsible for the payment of the wages of the worker ;

“flat rate payer” means any person in Nigeria who if he were in Lagos would be liable under the Personal Income Tax (Lagos) Act 1961 only to income rate ;

1961 No. 23.

“the fund” means the National Reconstruction and Development Savings Fund under this Decree ;

“Inland Revenue” has the meaning assigned by section 1 (2) ;

“maturity” has the meaning assigned by section 12 (2) ;



“wages” means remuneration in money paid to a worker under his contract of service or apprenticeship as the case may be, and whether agreed to be paid at fixed or determinable intervals of time—

(a) in respect of normal periods of work to be performed by the worker ; or

(b) where payment is calculated in relation to set tasks, in respect of the number of tasks completed by the worker ; or

(c) where payment is calculated in relation to the volume of work done, in respect of the volume completed by the worker,

and includes pensions in any form and whenever payable, as well as allowances payable by the employer to the worker in respect of the cost of living ;

“work” includes piece-work ;

“worker” means any person not a child (meaning thereby a person under the apparent age of 16 years) who being a citizen of Nigeria is—

(a) employed in Nigeria under any contract express or implied of service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise and howsoever paid, such contract not being one of employment as a member of the crew of any ship ; or

(b) employed under a contract of service or other agreement entered into in Nigeria as a member of the crew of any ship, the owners of which have a place of business, or have agents, in Nigeria ; or

(c) self-employed ; or

(d) employed outside Nigeria under a contract of service with an employer in Nigeria by whom he is paid ;

and includes a person of any other nationality who is a voluntary contributor to the fund ;

“year” means for the avoidance of doubt, in respect of the year 1968 the period from the appointed day until the last day of December 1968, and thereafter means a calendar year.

Citation, etc.

23.—(1) This Decree may be cited as the National Reconstruction and Development Savings Decree 1967 and, subject to the provision of the next succeeding subsection, shall apply throughout the Federation.

(2) As and when a State or division of a State in the former Eastern Region becomes subject to effective administrative control of the Military Governor of that State, the provisions of this Decree relating to contributions (including compulsory deductions from wages or otherwise) shall apply as from the date of such effective control for a period of one year, as if this Decree had been extended so as to give effect to this subsection ; and if this Decree is extended for any other purpose, the extension shall have effect in the State or division thereof hereby affected to the like extent as it then applies elsewhere in the Federation.

(3) This Decree shall have effect as from the appointed day which, as heretofore notified by the Commissioner by divers means, is 3rd January 1968.

(4) Where no penalty is prescribed for an offence under this Decree the person guilty shall be liable on conviction to a fine of not less than £50, or more than £200 or to imprisonment for a term of not more than 12 months, or to both such fine and imprisonment.

(5) This Decree shall, as to the provisions relating to contributions (including compulsory deductions from wages or otherwise) cease to have effect on the last day of December 1968 unless sooner extended in regard to those provisions, but without prejudice to—

(a) actions or prosecutions instituted, commenced or in progress on that date relative to contributions to the fund ; or

(b) disbursement of moneys in the fund at the maturity date in favour of persons entitled ; or

(c) things authorised to be done or omitted to be done under this Decree.

(6) Nothing in this Decree shall be construed—

(a) to apply to members of the armed forces, other ranks (meaning thereby persons below commissioned rank) ; or

(b) to preclude deductions from being made from wages after the last day of December 1968 and paid for the credit of the fund if the consent in writing of the worker is obtained and the provision for compulsory deduction has ceased to have effect and if any payments are so voluntarily made, the amounts paid shall be the subject of certificates to be issued under this Decree.

MADE at Lagos this 28th day of December 1967.

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