

CHAPTER 294

NIGERIAN ARMY ACT

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TRANSITIONAL PROVISIONS

CHAPTER 294

NIGERIAN ARMY ACT

1960 No. 26

An Act to consolidate and amend the law as to the establishment, government and discipline of the Nigerian Army and its reserves and to provide for appeals from courts-martial and purposes connected therewith and incidental thereto.

Commence-
 ment.
 L.N. 166 of
 1960.

[1st October, 1960]

PART I.—PRELIMINARY

1. This Act may be cited as the Nigerian Army Act. Short title.
2. (1) In this Act, unless the context otherwise requires— Interpreta-
tion.
- “acting rank” means rank of any description (however called) such that under regulations made under section 203 of this Act a commanding officer has power to order the holder to revert from that rank, and “acting warrant officer” and “acting non-commissioned officer” shall be construed accordingly;
- “aircraft” means any machine for flying, whether propelled by mechanical means or not, and includes any description of balloon;
- “aircraft material” includes—
- (a) parts of, and components of or accessories for, aircraft, whether for the time being in aircraft or not;
 - (b) engines, armaments, ammunition and bombs and other missiles of any description in, or for use in, aircraft;
 - (c) any other gear, apparatus or instruments in, or for use in, aircraft;
 - (d) any apparatus used in connection with the taking-off or landing of aircraft or for detecting the movement of aircraft; and
 - (e) any fuel used for the propulsion of aircraft and any material used as a lubricant for aircraft or aircraft material;
- “appropriate superior authority” has the meaning assigned to it by subsection (1) of section 79 and subsection (1) of section 83 of this Act;
- “Army” means the Army raised under this Act;
- “Army Council” means the Nigerian Army Council established under section 6 of this Act;
- “arrest” includes open arrest;
- “before the enemy”, in relation to a person, means that he is in action against the enemy or about to go into action

against the enemy or is under attack or threat of imminent attack by the enemy;

L.N. 139 of 1965. "Boards of Inquiry Rules" means rules regulating boards of inquiry made under paragraph (e) of subsection (2) of section 128 of this Act;

"boy" means a soldier enlisted in accordance with the provisions of subsection (2) of section 16 of this Act and who has not attained the age of eighteen years;

3 and 4 Eliz. 2, c.18. "the British Act" means the Army Act, 1955, of the United Kingdom as amended from time to time and any enactment substituted therefor;

"civil court" means a court of ordinary criminal jurisdiction, but does not, except where otherwise expressly provided, include—

(a) any such court outside the Commonwealth; or

(b) a local or customary or area court however so called;

"civil offence" has the meaning assigned to it in subsection (2) of section 72 of this Act;

"colour service" means service under the provisions of this Act otherwise than service in the reserve;

L.N. 139 of 1965. "the Commander" means the officer appointed by the President under section 156 of this Act to have the command, direction and general superintendence of the units raised under this Act;

"commanding officer" in relation to any person, means the officer commanding the unit to which the person belongs or is attached;

"Commonwealth" means the British Commonwealth of Nations;

L.N. 139 of 1965. "corresponding civil offence" has the meaning assigned to it by subsection (2) of section 72 of this Act;

"corresponding rank" in relation to any rank or rating in the other armed forces of Nigeria or any allied force means such rank in those forces as may be declared under this Act to correspond with a rank under this Act;

"court-martial" except where it is expressed to be under service law means a court-martial under this Act;

- “customary court” includes an area court;
- “damage” includes destruction and references to damaging shall be construed accordingly;
- “date of attestation”, in relation to any person, means the date on which he is attested in accordance with the provisions of regulations made in that behalf under Part IV of this Act;
- “decoration” includes medal, medal ribbon, clasp and good conduct badge;
- “desertion” shall be construed in accordance with subsection (2) of section 43 of this Act;
- “enemy” includes all persons engaged in armed operations against Nigeria and also includes all armed mutineers, armed rebels, armed rioters and pirates;
- “the Force” means the force raised under this Act;
- “Imprisonment Rules” means rules regulating imprisonment made by the President under paragraph (c) of subsection (2) of section 128 of this Act; L.N. 139 of 1965.
- “provost officer” means a provost marshal or officer appointed to exercise the functions conferred by or under service law on provost officers;
- “public” when used adjectivally means belonging to the Government of the Federation or of any part of Nigeria;
- “recruiting officer” means a person authorised as such under section 15 of this Act;
- “the reserve” means the body of troops comprised of those persons who are subject to reserve service or liability under Part IX of this Act;
- “reservist” means a member of the reserve;
- “Rules of Procedure” means the Rules of Procedure, as from time to time in force, made under the Act, as applied under section 128 of this Act, with such rules amending, varying or modifying the same as may be made under that section;
- “service”, means the Nigerian Army or, as the case may require, belonging to or connected with any other of the armed forces for and any act relating to the navy or air L.N. 139 of 1965.

force of Nigeria and includes as occasion may require, the military, naval or air force law of any allied force;

“ship” includes any description of vessel;

“soldier” does not include an officer but, with the modifications contained in this Act in relation to warrant officers and non-commissioned officers, includes a warrant officer and a non-commissioned officer and every person subject to military law under this Act during the time that he is so subject;

Cap. 77.

“steals” has the meaning assigned to it in section 383 of the Criminal Code Act;

“stoppages” means the recovery by deductions, from the pay of the offender, of a specified sum by way of compensation for any expense, loss or damage occasioned by the offence;

“unit” means a battalion or any other formation of troops which has been declared to be a unit by the Commander.

(2) Where in this Act it is provided that any person subject to military law under this Act is liable on conviction by court-martial to imprisonment and no term or maximum term is specified, then such person shall be liable to imprisonment for any term.

L.N. 139 of
1965.

(3) The President shall consult with the National Council of Ministers in the exercise of all powers conferred upon him by this Act and shall act in accordance with the advice of the Council;

Provisions as
to active
service.

3. (1) In this Act, the expression “on active service” in relation to any unit means that it is engaged in operations against an enemy, and in relation to a person means that he is serving in or with such a unit which is on active service.

(2) Where it appears to the President that, by reason of the imminence of active service or of the recent existence of active service, it is necessary for the public service that a unit should be deemed to be on active service he may declare that for such period, not exceeding three months, beginning with the coming into force of the declaration as may be specified therein that unit shall be deemed to be on active service.

(3) Where it appears to the President that it is necessary for the public service that the period specified in a declaration under subsection (2) of this section should be prolonged or, if previously prolonged under this subsection should be further prolonged, he may declare that the said period shall be prolonged by such time, not exceeding three months, as may be specified in the declaration under this subsection.

(4) If at any time while any unit is deemed to be on active service by virtue of the foregoing provisions of this section, it appears to the President that there is no necessity for the unit to continue to be treated as being on active service, he may declare that as from the coming into operation of the declaration the unit shall cease to be, or to be deemed to be, on active service.

4. (1) There shall be established and maintained in Nigeria such number of bodies of troops forming the Army (hereafter in this Act referred to as "the Army") as the President thinks fit.

Establishment and employment.
L.N. 139 of 1965.

(2) Every unit shall be charged with the defence of and maintenance of order in Nigeria and with such other duties as may be from time to time defined by the President.

(3) The President may order that any officer or soldier of the Army shall proceed to any place outside Nigeria for the purpose of undergoing instruction or training or for duty or employment.

5. (1) There shall be maintained in Nigeria a reserve force to be known as the Nigerian Army Reserve.

Constitution of the reserve.

(2) The reserve shall consist of—

(a) all soldiers who at the commencement of this Act are serving in the Royal Nigerian Military Forces Reserve as constituted by the Royal Nigerian Military Forces Reserve Ordinance hereby repealed; and

(b) all soldiers who are transferred to the reserve on completion of their colour service.

L.N. 139 of 1965

PART II.—NIGERIAN ARMY COUNCIL

Establishment of Nigerian Army Council.

6. (1) There shall be a body to be known as the Nigerian Army Council (hereafter in this Act referred to as the "Army Council") which shall, subject to the provisions of subsection (2) of this section, be responsible under the general authority of the Minister charged with responsibility for matters relating to defence for the command, discipline and administration of, and all other matters relating to, the Army.

(2) The responsibility of the Army Council shall not extend to the operational use of the Army, for which use responsibility shall be vested in the Commander subject to the overall directions of the National Council of Ministers:

Provided that the Minister may give to the Commander such directions with respect to the operational use of the Army in Nigeria for the purpose of maintaining and securing public safety and public order, notwithstanding that the directions of the National Council of Ministers have not been obtained, and the Commander shall comply with those directions or cause them to be complied with.

Membership of Council.
1984 No. 11.

7. (1) The members of the Army Council shall be—

- (a) the President who shall be the Chairman of the Army Council;
- (b) Chief of General Staff;
- (c) the Minister charged with responsibility for defence; and
- (d) the Chief of Army Staff.

(2) The Director-General of the Ministry of Defence shall be the Secretary to the Army Council.

(3) The Army Council may whenever it deems it necessary, co-opt any officer or any public officer or any person as a member of the Army Council for the purpose of any particular meeting of the Army Council but such officer or public officer or person shall have no vote and his membership shall cease at the end of that particular meeting.

(4) In the event of any member being for any reason unable to perform his duties as a member he may with the approval of the Chairman nominate a person to perform such duties during his inability.

8. The Secretary to the Army Council shall be the Director-General of the Ministry responsible for defence. Secretary.

9. The Army Council may provide for all or any of the following matters— Powers of Council.

- (a) the organisation of the work of the Army Council and the manner in which it shall perform its functions and the duties and responsibilities of the several members thereof;
- (b) the delegation by notification in the *Federal Gazette* to any members of the Army Council of any of the powers or duties of the Army Council;
- (c) the consultation by the Army Council with persons other than members thereof;
- (d) the procedure to be followed by the Army Council in conducting its business;
- (e) any other matters for which the Army Council may consider it necessary or desirable to provide in order to secure the better performance of the functions of the Army Council.

PART III.—OFFICERS

10. No person shall be appointed to a commission in the Army unless he has been recommended by a board of officers set up by the Commander. Conditions of appointing officers.

11. (1) A person recommended for appointment to a commission in the Army shall be appointed to a commission either for an indefinite period or for a specified time. Appointment of officers.

(2) Every officer on appointment shall be issued with a commission in the form prescribed by regulations made under section 13 of this Act and signed by the President.

(3) The appointment of a person to a commission in the Army shall be notified in the *Federal Gazette*.

12. (1) All promotions of officers shall be notified in the *Federal Gazette*. Promotion etc. of officers.

(2) Any retirement or resignation of an officer shall be notified in the *Federal Gazette*.

President to
make
regulations.
L.N. 139 of
1965.

13. The President may make regulations governing the commissioning of officers, their terms of service, promotion, retirement, resignation and such other matters concerning officers of the Army as seem to him necessary.

Reserve of
officers.

14. (1) A reserve of officers shall be maintained consisting of those officers of the Army who have been permitted to retire from the active list of the Army.

L.N. 139 of
1965.

(2) The President may make regulations governing the pay, duties, and method of recall of officers of the reserve and any other matters pertaining to such reserve as seem to him necessary.

PART IV.—ENLISTMENT AND TERMS OF SERVICE

Enlistment

Recruiting
officers.

15. Any person authorised in that behalf by regulations made under this Part may enlist recruits in the Army in the prescribed manner.

Enlistment.

16. (1) A person offering to enlist in the Army shall be given a notice in the prescribed form setting out the questions to be answered on attestation and stating the general conditions of the engagement to be entered into by him, and a recruiting officer shall not enlist any person in the Army unless satisfied by that person that he has been given such a notice, understands it, and wishes to be enlisted.

(2) A recruiting officer shall not enlist a person under the apparent age of eighteen years unless consent to the enlistment has been given in writing by his parent or guardian or, where the parents or guardian are dead or unknown, by an administrative officer of the division in which such person resides.

Terms and Conditions of Service

Terms of
enlistment.

17. (1) The term for which a person enlisting in the Army may be enlisted shall be such a term, beginning with the date of his attestation, as is mentioned in the following provisions of this section.

(2) Where the person enlisting has apparently attained the age of eighteen years the said term shall be—

- (a) such term not exceeding twelve years as may be prescribed, being a term of colour service; or
- (b) such term not exceeding twelve years as may be prescribed, being as to such part thereof as may be prescribed a term of colour service and as to the remainder a term of service in the reserve.

(3) Where the person enlisting has not apparently attained the age of eighteen years the said term shall be—

- (a) a term ending with the expiration of such period not exceeding twelve years as may be prescribed, beginning with the date on which he attains such age, being a term of colour service; or
- (b) a term ending with the expiration of such period as aforesaid, being as to such part thereof as may be prescribed a term of colour service and as to the remainder a term of service in the reserve.

Re-engagement and Extension of Service

18. (1) Any soldier before or after completing the term of his colour service may with the approval of the competent military authority re-engage for such further period or periods of colour service and service in the reserve as may be prescribed:

Re-engagement and continuance in service.

Provided that—

- (a) at the expiration of twelve years' continuous colour service from the date of his original attestation or the date when he apparently attained the age of eighteen years, whichever is the later, all reserve service due by him shall be deemed to have been completed; and
- (b) such further period or periods of colour service, together with the original period of colour service, shall not, except as provided by subsections (2) and (3) of this section, exceed a total continuous period of eighteen years' colour service from the date of the soldier's original attestation or the date upon which he apparently attained the age of eighteen years, whichever is the later.

(2) Any soldier who has completed a period of eighteen years' colour service may, if he so desires and with the approval of the competent military authority, continue to serve to complete twenty-two years' colour service in all respects as if his term of colour service was still unexpired:

Provided that—

- (a) it shall be lawful for him to claim his discharge at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged; and
- (b) it shall be lawful for his commanding officer to give him three months' notice of intention to discharge him.

(3) Any soldier who has completed a period of twenty-two years' colour service may, if he so desires and with the approval of the competent military authority, continue to serve in all respects as if his term of colour service was still unexpired.

Prolongation
of service.

19. Any soldier whose term of colour service expires during a state of war, insurrection, hostilities or public emergency may be retained in the Army and his service prolonged for such further period as the competent military authority with the approval of the Minister charged with responsibility for matters relating to defence may direct.

Discharge and Transfer to the Reserve

Discharge.

20. (1) Save as is otherwise provided in this Act, every soldier upon becoming entitled to be discharged shall be discharged with all convenient speed but until discharged shall remain subject to military law under this Act.

(2) When a soldier who is entitled to be discharged is serving out of Nigeria, then he shall be returned to Nigeria free of cost with all convenient speed and shall be discharged on his arrival there or, if he consents to his discharge being delayed, within six months from his arrival.

(3) Except in pursuance of the sentence of a court-martial under service law, a soldier shall not be discharged unless his discharge has been authorised by order of the competent

military authority in accordance with regulations made under this Part.

(4) Every soldier shall be given on his discharge a certificate of discharge containing such particulars as may be prescribed:

Provided that a soldier who is discharged within six months of the date of attestation shall not be entitled to receive a certificate of discharge.

(5) A soldier who is discharged in Nigeria shall be entitled to be conveyed free of cost from the place where he is discharged to the place stated in his attestation paper to be the place where he was attested or to any place at which he intends to reside and to which he can be conveyed with no greater cost.

21. (1) Except as otherwise provided in this Act, every soldier upon falling to be transferred to the reserve shall be transferred to the reserve but until so transferred shall remain subject to military law under this Act.

Transfer to
the reserve.

(2) When a soldier who falls to be transferred to the reserve is serving out of Nigeria he shall be returned to Nigeria free of cost with all convenient speed and shall be transferred to the reserve on his arrival there or, if he consents to this transfer being delayed, within six months from his arrival.

(3) A soldier who is transferred to the reserve in Nigeria shall be entitled to be conveyed free of cost from the place where he is transferred to the place stated in his attestation paper to be the place where he was attested or to any place at which he intends to reside and to which he can be conveyed with no greater cost.

(4) Notwithstanding anything in this section, the competent military authority may, when a soldier falls to be transferred to the reserve as aforesaid, discharge him forthwith without giving any reason and in any such case the provisions of section 20 of this Act shall apply.

Postpone-
ment of
discharge or
transfer
pending
proceedings
for offences,
etc.

22. (1) Notwithstanding anything in this Part, a soldier shall not be entitled to be discharged or transferred to the reserve at a time when he has become liable, as a person subject to service law, to be proceeded against for an offence against any of the provisions of service law:

Provided that if it is determined that the offence shall not be tried by court-martial, this subsection shall cease to apply.

(2) Notwithstanding anything in this Part, a soldier who is serving a sentence of imprisonment or detention awarded by a court-martial under service law or by his commanding officer shall not be entitled to be discharged or transferred to the reserve during the currency of the sentence.

Right of
warrant
officer to
discharge on
reduction to
ranks.

23. A warrant officer who is reduced to the ranks may thereupon claim to be discharged unless a state of war, insurrection, hostilities or a public emergency exists.

Power to
discharge.

24. (1) A soldier may be discharged by the competent military authority at any time during the currency of any term of engagement.

Right of
soldier to
purchase
discharge.

25. (1) A soldier shall be entitled to claim his discharge at any time within six months after the date of his first attestation, and if he makes such a claim he shall on payment of ₦20 or such less sum as a competent military authority may approve be discharged with all convenient speed, but until discharge shall remain subject to military law under this Act:

Provided that the provisions of section 20 of this Act shall not apply to a soldier discharged under the provisions of this section.

(2) Notwithstanding the provisions of this section, no soldier shall be entitled to claim his discharge at a time when or so long as soldiers are required to prolong their colour service under the provisions of section 19 of this Act.

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Rules for
reckoning
service.

26. (1) In reckoning the service of any soldier for discharge or re-engagement or transfer to the reserve there shall be excluded therefrom—

- (a) all periods during which he has been absent from his duty from any of the following causes—
- (i) imprisonment,
 - (ii) desertion,
 - (iii) absence without leave exceeding twenty-eight days; and
- (b) any period ordered by a court-martial to be forfeited.

(2) Regulations under this Part may make provision for restoring service excluded by the provisions of subsection (1) of this section in consideration of good service or on other grounds justifying the restoration of service so excluded.

27. (1) Where a person has made such declaration upon his attestation as may be prescribed and has thereafter received pay as a soldier—

Validity of
attestation
and
enlistment.

- (a) the validity of his enlistment shall not be called in question on the grounds of any error or omission in his attestation paper;
- (b) after the expiration of a period of three months from the date on which he made the said declaration he shall be deemed to have been validly enlisted notwithstanding any non-compliance with the requirements of this Act or any regulations made as to enlistment or attestation or any other ground whatsoever (not being an error or omission in his attestation paper) and he shall be deemed to be a soldier until his discharge.

(2) Where a person has received pay as a soldier without having previously made such declaration as aforesaid then—

- (a) he shall be deemed to be a soldier until discharged;
- (b) he may claim his discharge at any time and if he makes such claim the claim shall be submitted as soon as may be to the competent military authority who shall cause him to be discharged with all convenient speed.

(3) Nothing in the foregoing provisions of this section shall be construed as prejudicing the determination of any question as to the term for which a person was enlisted or as preventing the discharge of a person who has not claimed his discharge.

Regulations
as to
enlistment.

28. The President may make such regulations as appear to him to be necessary or expedient for the purpose of, or in connection with, the enlistment of recruits for the Army and generally for carrying this Part into effect and without prejudice to the generality of the foregoing such regulations may make provision—

- (a) for prescribing the form of attestation paper to be used; and
- (b) for an oath or affirmation to be administered on enlistment.

Interpreta-
tion of
Part IV.

29. In this Part—

“competent military authority” means any prescribed officer;
“prescribed” means prescribed by regulations made under this Part.

PART V.—DISCIPLINE AND TRIAL AND PUNISHMENT OF MILITARY OFFENCES

Treachery, Cowardice and Offences arising out of Military Service

Aiding the
enemy.

30. (1) Any person subject to military law under this Act who with intent to assist the enemy—

- (a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend; or
- (b) does any act calculated to imperil the success of operations of any of the armed forces, of any forces co-operating therewith or of any part of any of those forces; or
- (c) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of measures calculated to influence morale, or in any other manner whatsoever not authorised by international usage; or
- (d) furnishes the enemy with arms or ammunition or with supplies of any description; or

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(e) harbours or protects an enemy not being a prisoner of war,

shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Act.

(2) Any person subject to military law under this Act who knowingly and without lawful excuse—

(a) abandons or delivers up any place or post which it is his duty to defend, or induces any person to abandon or deliver up any place or post which it is that person's duty to defend; or

(b) does any act calculated to imperil the success of operations of any of the armed forces, of any forces co-operating therewith or of any part of any of those forces; or

(c) having been made a prisoner of war, serves with or aids the enemy in the prosecution of hostilities or of other measures calculated to influence morale, or in any other manner whatsoever not authorised by international usage; or

(d) furnishes the enemy with arms or ammunition or with supplies of any description; or

(e) harbours or protects an enemy not being a prisoner of war,

shall, on conviction by court-martial, be liable to suffer imprisonment or any less punishment provided by this Act.

31. (1) Any person subject to military law under this Act who with intent to assist the enemy communicates with or gives intelligence to the enemy shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Act.

Communi-
cation with
the enemy.

(2) Any person subject to military law under this Act who without authority communicates with or gives intelligence to the enemy shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

(3) In this section, the expression "intelligence" means information which is or purports to be information as to any matter such that information about it would or might be directly

or indirectly useful to an enemy, and in particular (but without prejudice to the generality of the foregoing provisions of this subsection) as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say—

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- (a) the number, description, armament, equipment, disposition, movement or condition of any of the armed forces or of any forces co-operating therewith, or of the ships or aircraft of any such co-operating force;
- (b) any operations or projected operations of any of such forces, ships or aircraft as aforesaid;
- (c) any code, cipher, call sign, password or countersign;
- (d) any measures for the defence or fortification of any place on behalf of the Government of the Federation;
- (e) the number, description or location of any prisoners of war;
- (f) munitions of war.

Cowardly
behaviour.

32. (1) Any person subject to military law under this Act who when before the enemy—

- (a) leaves the post, position or other place where it is his duty to be; or
- (b) throws away his arms, ammunition or tools,

in such a manner as to show cowardice, or otherwise behaves in such a manner as to show cowardice, shall be guilty of an offence against this section.

(2) Any person subject to military law under this Act who when before the enemy induces any other person subject to service law and before the enemy to commit an offence under subsection (1) of this section, shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

Offences
against
morale.

33. Any person subject to military law under this Act who—

- (a) spreads (whether orally, in writing, by signal, or otherwise) reports relating to operations of any of the armed forces, of any forces co-operating therewith, or of any

part of any of those forces, being reports calculated to create despondency or unnecessary alarm; or

- (b) when before the enemy, uses words calculated to create despondency or unnecessary alarm,

shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

34. (1) Any person subject to military law under this Act who, through disobedience to orders or wilful neglect of his duty, is captured by the enemy shall be guilty of an offence against this section.

Becoming a prisoner of war through disobedience or wilful neglect and failure to rejoin forces.

(2) Any person subject to military law under this Act who, having been captured by the enemy, fails to take, or prevents or discourages any other person subject to service law who has been captured by the enemy from taking, any reasonable steps to rejoin the armed forces of Nigeria service which are available to him or, as the case may be, to that other person shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

35. (1) Any person subject to military law under this Act who while on guard duty—

Offences by or in relation to sentries, etc.

- (a) sleeps at his post; or

- (b) when not on duty at a post, is asleep at a time when he is not allowed to be asleep; or

- (c) is drunk; or

- (d) leaves his post without having been regularly relieved or otherwise absents himself from any place where it is his duty to be,

shall be guilty of an offence against this section.

(2) For the purposes of this section, a person shall be treated as being drunk if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty.

(3) Any person subject to military law under this Act who strikes or otherwise uses force against any person on guard

duty, being a member of any of the armed forces, or of any forces co-operating therewith, or by the threat of force compels any such person to let him or any other person pass, shall be guilty of an offence against this section.

(4) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that if the offence was not committed on active service he shall not be liable to be imprisoned for more than two years.

(5) References in this section to a person on guard duty are references to a person who—

- (a) is posted or ordered to patrol or has adopted the position of sentry at a post or has undertaken the patrol; or
- (b) is a member of a guard or other party mounted or ordered to patrol,

for the purpose of protecting any persons, premises or place.

(6) The foregoing provisions of this section shall apply in relation to persons posted or ordered to patrol or who have adopted the position of sentries at a post or have undertaken the patrol, and to members of a party mounted or ordered to patrol, for the purpose of preventing or controlling access to or egress from any premises or place, or of regulating traffic by road, by rail or on any inland navigation, as they apply to persons on guard duty.

Looting.

36. Any person subject to military law under this Act who—

- (a) steals from, or with intent to steal searches, the person of anyone killed or wounded in the course of warlike operations; or
- (b) steals any property which has been left exposed or unprotected in consequence of warlike operations; or
- (c) takes otherwise than for the public service any vehicle, equipment or stores abandoned by the enemy,

shall be guilty of looting and liable, on conviction by court-martial, to imprisonment or any less punishment provided by this Act.

Mutiny and Insubordination

37. (1) Any person subject to military law under this Act Mutiny.
who—

- (a) takes part in a mutiny involving the use of violence or the threat of the use of violence, or having as its object or one of its objects the refusal or avoidance of any duty or service against, or in connection with operations against the enemy, or the impeding of the performance of any such duty or service; or
- (b) incites any person subject to service law to take part in such a mutiny, whether actual or intended,

shall, on conviction by court-martial, be liable to suffer death or any other punishment provided by this Act.

(2) Any person subject to military law under this Act who, in a case not falling within subsection (1) of this section, takes part in a mutiny, or incites any person subject to service law to take part in a mutiny, whether actual or intended, shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

(3) In this Act, the expression “mutiny” means a combination between two or more persons subject to service law, or between persons two at least of whom are subject to service law—

- (a) to overthrow or resist lawful authority in any of the armed forces or any forces co-operating therewith or in any part of any of the said forces; or
- (b) to disobey such authority in such circumstances as to make the disobedience subversive of discipline, or with the object of avoiding any duty or service against, or in connection with operations against the enemy; or
- (c) to impede the performance of any duty or service in any of the armed forces or in any forces co-operating therewith or in any part of any of those forces.

38. Any person subject to military law under this Act who, knowing that a mutiny is taking place or is intended—

Failure to suppress mutiny.

- (a) fails to use his utmost endeavours to suppress or prevent it; or

- (b) fails to report without delay that the mutiny is taking place or is intended,
shall on conviction by court-martial—
- (i) if his offence was committed with intent to assist the enemy, be liable to suffer death or any other punishment provided by this Act;
 - (ii) in any other case, be liable to imprisonment or any less punishment provided by this Act.

Insubordinate
behaviour.

39. (1) Any person subject to military law under this Act who—

- (a) strikes or otherwise uses violence to, or offers violence to, his superior officer; or
- (b) uses threatening or insubordinate language to his superior officer,

shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that he shall not be liable to be imprisoned for more than two years if the offence was not committed on active service or did not involve the striking or other use of violence, or offering of violence, to a superior officer exercising authority as such.

(2) In the foregoing provisions of this section, the expression “superior officer”, in relation to any person, means an officer, warrant officer or non-commissioned officer subject to service law of superior rank, and includes an officer, warrant officer or non-commissioned officer so subject of equal rank but greater seniority while exercising authority as the said person’s superior.

Disobedience
to particular
orders.

40. (1) Any person subject to military law under this Act who, in such manner as to show a wilful defiance of authority, disobeys any lawful command given or sent to him personally shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

(2) Any person subject to military law under this Act who whether wilfully or through neglect, disobeys any lawful command shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that if the offence was not committed on active service he shall not be liable to be imprisoned for more than two years.

41. Any person subject to military law under this Act who—

Obstruction
of provost
officers.

(a) obstructs; or

(b) when called on, refuses to assist,

any person known to him to be a provost officer, or to be a person (whether subject to military law under this Act or not) lawfully exercising authority under or on behalf of a provost officer, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

42. (1) Any person subject to military law under this Act who contravenes or fails to comply with any provision of orders to which this section applies, being a provision known to him, or which he might reasonably be expected to know, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Disobedience
to standing
orders.

(2) This section applies to standing orders or other routine orders of a continuing nature made for any formation, unit or body of troops, or for any area, garrison or place, or for any ship, train or aircraft.

Desertion, Absence without Leave, etc.

43. (1) Any person subject to military law under this Act who—

Desertion.

(a) deserts; or

(b) persuades or procures any person subject to service law to desert,

shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that a person shall not be liable to be imprisoned for more than two years unless—

- (i) if the offence was against paragraph (a) of this subsection, he was on active service or under orders for active service at the time when it was committed; or
 - (ii) if the offence was an offence against paragraph (b) of this subsection, the person in relation to whom it was committed was on active service or under orders for active service at that time.
- (2) For the purposes of this Act a person deserts who—
- (a) leaves the armed forces or when it is his duty to do so, fails to join or rejoin the armed forces, with (in either case) the intention, subsisting at the time of the leaving or failure or formed thereafter, of remaining permanently absent from his duty; or
 - (b) being an officer enlists in or enters any of the armed forces without having resigned his commission, or being a soldier enlists in or enters any of the armed forces without having been discharged from his previous enlistment; or
 - (c) absents himself without leave with intent to avoid serving at any place out of Nigeria or to avoid service or any particular service when before the enemy,

and references in this Act to desertion shall be construed accordingly.

(3) In addition to or in lieu of any punishment authorised by subsection (1) of this section, the court-martial by whom a soldier is convicted of desertion may direct that the whole or part of his service previous to the period as respects which he is convicted of having been a deserter shall be forfeited:

Provided that this subsection shall not apply to reservists called out on permanent service.

Absence
without
leave.

44. Any person subject to military law under this Act who—

- (a) absents himself without leave; or
- (b) persuades or procures any person subject to service law to absent himself without leave,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

45. Any person subject to military law under this Act who—

(a) knowingly assists any person subject to service law to desert or absent himself without leave; or

(b) knowing that any person subject to service law has deserted or absented himself without leave, or is attempting to desert or absent himself without leave, fails to report that fact without delay, or fails to take any steps in his power to cause that person to be apprehended,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Assisting and concealing desertion and absence without leave.

46. Any person subject to military law under this Act who without reasonable excuse fails to attend for any parade or other military duty of any description or leaves any such parade or duty as aforesaid before he is permitted to do so shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Failure to perform military duties.

Malingering and Drunkenness

47. (1) Any person subject to military law under this Act who—

Malingering.

- (a) falsely pretends to be suffering from sickness or disability; or
- (b) injures himself with intent thereby to render himself unfit for service, or causes himself to be injured by any person with that intent; or
- (c) injures another person subject to service law, at the instance of that person with intent thereby to render that person unfit for service; or
- (d) with intent to render or keep himself unfit for service does or fails to do anything (whether at the time of the act or omission he is in hospital or not) whereby he produces, or prolongs or aggravates, any sickness or disability,

shall be guilty of malingering and shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

(2) In this section, the expression "unfit" includes temporarily unfit.

Drunken-
ness.

48. (1) Any person subject to military law under this Act who is guilty of drunkenness, whether on duty or not, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act:

Provided that where the offence is committed by a soldier neither on active service nor on duty the sentence imposed shall not exceed imprisonment for a period of six months.

(2) For the purpose of this section, a person is guilty of drunkenness if owing to the influence of alcohol or any drug, whether alone or in combination with any other circumstances, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform, or behaves in a disorderly manner or in any manner likely to bring discredit on the service.

Offences relating to Property

Offences in
relation to
public and
service
property.

49. Any person subject to military law under this Act who—

- (a) steals or fraudulently misapplies any public or service property, or is concerned in or connives at the stealing or fraudulent misapplication of any public or service property; or
- (b) receives or retains any public or service property knowing or having reason to believe it to have been stolen or to have been fraudulently misapplied; or
- (c) wilfully damages, or is concerned in the wilful damage of any public or service property; or
- (d) by wilful neglect causes damage to any public or service property,

shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act.

Offences in
relation to
property of
members of
forces.

50. Any person subject to military law under this Act who—

- (a) steals or fraudulently misapplies any property belonging to a person subject to service law, or is concerned in

or connives at the stealing or fraudulent misapplication of any such property; or

- (b) receives or retains any such property knowing or having reason to believe the same to have been stolen or to have been fraudulently misapplied; or
- (c) wilfully damages, or is concerned in the wilful damage of, any property belonging to a person subject to service law,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

51. Any person subject to military law under this Act who—

Miscellaneous offences relating to property.

- (a) loses any public or service property of which he has the charge or which has been entrusted to his care or which forms part of property of which he has the charge or which has been entrusted to his care; or;
- (b) by negligence damages any public or service property of which he has the charge or which has been entrusted to his care or which forms part of the property of which he has the charge or which has been entrusted to his care; or
- (c) by negligence causes damage to any public or service property; or
- (d) fails to take proper care of any animal or bird used in the public service which is in his charge; or
- (e) makes away (by pawning or in any other way) with any military naval or air force decoration granted to him or any clothing, arms, ammunition or other equipment issued to him for his use for military purposes,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act:

Provided that it shall be a defence for any person charged under paragraph (a) of this section with losing any property that he took reasonable steps for the care and preservation thereof.

Flying, etc., Offences

Dangerous
flying, etc.

52. Any person subject to military law under this Act who is guilty of any act or neglect in flying or in the use of any aircraft, or in relation to any aircraft or aircraft material, which causes or is likely to cause loss of life or bodily injury to any person shall, on conviction by court-martial, be liable to imprisonment or any less punishment provided by this Act:

Provided that if the offender has not acted wilfully or with wilful neglect he shall not be liable to be imprisoned for more than two years.

Inaccurate
certification
of aircraft,
etc.

53. Any person subject to military law under this Act who signs any certificate in relation to an aircraft or to aircraft material without ensuring the accuracy of the certificate shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Low flying.

54. Any person subject to military law under this Act who, being the pilot of a service aircraft, flies it at a height less than such height as may be provided by any regulations made by the President, except—

(a) while taking off or alighting; or

(b) in such other circumstances as may be so provided, shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Annoyance
by flying.

55. Any person subject to military law under this Act who, being the pilot of a service aircraft, flies it so as to cause, or to be likely to cause, unnecessary annoyance to any person shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Offences relating to and by Persons in Custody

Irregular
arrest and
confinement.

56. (1) Any person subject to military law under this Act who, when another person subject thereto is under arrest—

- (a) unnecessarily delays the taking of such steps as it is his duty to take for investigating the allegations against that other person or for having the allegations against that other person investigated by his commanding officer or an appropriate superior authority or, as the case may be, tried by court-martial; or
- (b) fails to release, or effect the release of, that other person when it is his duty to do so,

shall be guilty of an offence against this section.

(2) Any person subject to military law under this Act who, having committed a person (hereinafter referred to as "the prisoner") to the custody of any provost officer or other officer, or any warrant officer or non-commissioned officer, fails without reasonable cause to deliver—

- (a) at the time of the committal; or
 - (b) if it is not practicable so to do at the time of the committal, then within twenty-four hours thereafter,
- to the person to whose custody the prisoner was committed a report in writing signed by himself of the offence which the prisoner is alleged to have committed, shall be guilty of an offence against this section.

(3) Where any person (hereinafter referred to as "the prisoner") is committed to the charge of a person subject to military law under this Act who is in command of a guard, then if without reasonable cause that person does not as soon as he is relieved from his guard and any further duty, or, if he is not sooner relieved, within twenty-four hours after the committal, give to the officer to whom it is his duty to report—

- (a) a written statement containing so far as known to him, the prisoner's name and alleged offence and the name and rank or other description of the officer or other person by whom the prisoner is alleged to have committed the offence; and
- (b) if he has received it, the report required by subsection (2) of this section,

he shall be guilty of an offence against this section.

(4) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment for

a term not exceeding two years or any less punishment provided by this Act.

Permitting
escape and
unlawful
release of
prisoners.

57. (1) Any person subject to military law under this Act who wilfully allows to escape any person who is committed to his charge, or whom it is his duty to guard, shall, on conviction by court-martial be liable to imprisonment or any less punishment provided by this Act.

- (2) Any person subject to military law under this Act who—
- (a) without proper authority releases any person who is committed to his charge; or
 - (b) without reasonable excuse allows to escape any person who is committed to his charge, or whom it is his duty to guard,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Resistance to
arrest.

58. (1) Any person subject to military law under this Act who, being concerned in any quarrel or disorder, refuses to obey any officer who orders him into arrest, or strikes or otherwise uses violence to, or offers violence to, any such officer, shall be guilty of an offence against this section whether or not the officer is his superior officer.

(2) Any person subject to military law under this Act who strikes or otherwise uses violence to, or offers violence to, any person whose duty it is to apprehend him or in whose custody he is, shall be guilty of an offence against this section.

(3) Any person guilty of an offence against this section shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Escape from
confinement.

59. Any person subject to military law under this Act who escapes from arrest, prison or other lawful custody (whether military or not) shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

*Offences in relation to Courts-Martial and
Civil Authorities*

60. (1) Any person subject to military law under this Act who—

Offences in
relation to
courts-
martial.

- (a) having been duly summoned or ordered to attend as a witness before a court-martial, fails to comply with the summons or order; or
- (b) refuses to swear an oath when duly required by a court-martial to do so; or
- (c) refuses to produce any document in his custody or under his control which a court-martial has lawfully required him to produce; or
- (d) when a witness, refuses to answer any question which a court-martial has lawfully required him to answer; or
- (e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of the court; or
- (f) wilfully interrupts the proceedings of a court-martial, or otherwise misbehaves before the court,

shall, on conviction by a court-martial, other than the court in relation to which the offence was committed, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

(2) Notwithstanding anything in subsection (1) of this section, where an offence against paragraph (e) or paragraph (f) of that subsection is committed in relation to any court-martial held in pursuance of this Act that court, if of opinion that it is expedient that the offender should be dealt with summarily by the court instead of being brought to trial before another court-martial, may by order under the hand of the President order the offender to be imprisoned for a period not exceeding twenty-one days.

(3) References in paragraphs (a) to (f) of subsection (1) of this section to a court-martial shall include references to a court-martial held in pursuance of service law.

False
evidence.

61. (1) Any person subject to military law under this Act who, having been lawfully sworn as a witness or as an interpreter in proceedings before a court-martial or before any board or person having power to administer oaths under service law, makes a statement material in those proceedings which he knows to be false or does not believe to be true shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

(2) A person shall not be liable to be convicted of an offence against this section solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

Obstruction
of police
officer
arresting
officer or
soldier.

62. Any person subject to military law under this Act who at any place in the Commonwealth prevents or obstructs—

- (a) the execution by a police officer of a warrant for the arrest of a person subject to service law who has committed or is suspected of having committed an offence punishable on conviction by a civil court; or
- (b) the arrest of a person subject to service law by a police officer acting in the exercise of his powers of arrest without warrant,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Miscellaneous Offences

Injurious
disclosures.

63. (1) Any person subject to military law under this Act who without authority discloses, whether orally, in writing, by signal or by any other means whatsoever, any information which is or purports to be information useful to an enemy shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

(2) In this section, the expression "information useful to an enemy" means information as to any matter such that information as to it would or might be directly or indirectly useful to an enemy, and in particular (but without prejudice

to the generality of the foregoing provisions of this subsection) information as to any matter falling within the following paragraphs, being a matter such that information as to it would or might be useful as aforesaid, that is to say—

- (a) the number, description, armament, equipment, disposition, movement or condition of any of the armed forces of any forces co-operating therewith, or any ship or aircraft of the armed forces or of any such co-operating force; or
- (b) any operations or projected operations of any of such forces, ships or aircrafts as aforesaid; or
- (c) any code, cipher, call sign, password or countersign; or
- (d) any measures for the defence or fortification of any place on behalf of Nigeria; or
- (e) the number, description or location of any prisoners of war; or
- (f) munitions of war.

64. Any person who, when before a recruiting officer for the purpose of being attested in pursuance of Part IV of this Act, has knowingly made a false answer to any question contained in the attestation paper and put to him by or by the direction of the recruiting officer shall if he has since become and remains subject to military law under this Act be liable, on conviction by court-martial, to imprisonment for a term not exceeding three months or to any less punishment provided by this Act.

Making of false statements on enlistment.

65. Any person subject to military law under this Act who—

- (a) makes, signs or makes an entry in any service report, return, pay list or certificate or other service document, being a document or entry which is to his knowledge false in a material particular; or
- (b) alters any service report, return, pay list or certificate or other service document, or alters any entry in such a document, so that the document or entry is to his knowledge false in a material particular, or suppresses, defaces or makes away with any such document or entry which it is his duty to preserve or produce; or

Making of false documents.

- (c) with intent to defraud, fails to make an entry in any such document; or
- (d) aids, abets, commands, counsels, procures or connives at the commission by another person subject to service law of an offence against this section or the corresponding section of the appropriate service law, as the case may be (whether or not he knows the nature of the document in relation to which that offence will be committed),

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Scandalous
conduct of
officer.

66. Every officer subject to military law under this Act who behaves in a scandalous manner, unbecoming the character of an officer and a gentleman, shall, on conviction by court-martial, be cashiered.

Ill-treat-
ment of
officers or
soldiers of
inferior
rank.

67. If—

- (a) any officer subject to military law under this Act strikes or otherwise ill-treats any officer subject to service law or inferior rank or less seniority or any soldier subject to service law; or
- (b) any warrant officer or non-commissioned officer subject to military law under this Act strikes or otherwise ill-treats any person subject to service law, being a warrant officer or non-commissioned officer of inferior rank or less seniority or a soldier,

he shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

Disgraceful
conduct.

68. Any person subject to military law under this Act who is guilty of disgraceful conduct of a cruel, indecent or unnatural kind shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

69. Any person subject to military law under this Act who— False accusation.

(a) makes an accusation against any officer or soldier subject to service law, which he knows to be false or does not believe to be true; or

(b) in making a complaint where he thinks himself wronged, makes a statement affecting the character of an officer or soldier subject to service law, which he knows to be false or does not believe to be true, or wilfully suppresses any material facts,

shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act.

70. Any person subject to military law under this Act who attempts to commit an offence against any of the foregoing provisions of this Part shall, on conviction by court-martial, be liable to the like punishment as for that offence: Attempts to commit military offences.

Provided that if the offence is one punishable by death he shall not be liable to any greater punishment than imprisonment.

71. Any person subject to military law under this Act who is guilty of any conduct or neglect to the prejudice of good order and military discipline shall, on conviction by court-martial, be liable to imprisonment for a term not exceeding two years or any less punishment provided by this Act. Conduct to prejudice of military discipline.

Civil Offences

72. (1) Any person subject to military law under this Act who commits a civil offence, whether in Nigeria or elsewhere, shall be guilty of an offence against this section. Civil offences.

(2) In this Act, the expression "civil offence" means any act or omission punishable by any law enacted by the National Assembly or having effect as if it were so enacted or which, if committed in the Federal Capital Territory, Abuja, would be punishable by any such law; and in this Act the expression "the corresponding civil offence" means the civil offence the commission of which constitutes the offence against this section.

(3) A person convicted by court-martial of an offence against this section shall—

- (a) if the corresponding civil offence is treason or murder, be liable to suffer death; and
- (b) in any other case, be liable to suffer any punishment or punishments which a civil court could award for the corresponding civil offence, if committed in the Federal Capital Territory, Abuja, being a punishment or punishments provided by this Act, or such punishment, less than the maximum punishment, which a civil court could so award, as is so provided:

Provided that where a civil court could not so award imprisonment, a person so convicted shall be liable to suffer such punishment, less than cashiering in the case of an officer, or discharge with ignominy in the case of a soldier, as is so provided.

(4) A person shall not be charged with an offence against this section committed in Nigeria if the corresponding civil offence is treason, murder, manslaughter, treason-felony or rape.

(5) Where the corresponding civil offence is murder or manslaughter, an offence against this section shall be deemed, for the purposes of subsection (4) of this section, to have been committed at the place of the commission of the act or occurrence of the neglect which caused the death, irrespective of the place of the death.

Punishments

Punishment
of officers.

73. (1) The punishments which may be awarded to an officer by sentence of a court-martial under this Act are, subject to the limitations hereinafter provided on the powers of certain courts-martial, those set out in the following scale; and in relation to an officer references in this Act to punishments provided by this Act are references to those punishments.

- (2) The said scale is—
 - (a) death;
 - (b) imprisonment;
 - (c) cashiering;

- (d) dismissal from the service;
- (e) reduction in rank;
- (f) forfeiture of seniority in rank;
- (g) a fine of a sum not exceeding the equivalent of ninety days' pay;
- (h) severe reprimand or reprimand;
- (i) where the offence has occasioned any expense, loss or damage, stoppages.

1974 No. 3.

(3) For the purposes of this Part, a punishment specified in any paragraph of the said scale shall be treated as less than the punishments specified in the preceding paragraphs, and greater than those specified in the following paragraphs, of the scale.

(4) Except as expressly provided in this Act, not more than one punishment shall be awarded by a court-martial for one offence.

(5) Stoppages may be awarded by a court-martial either in addition to or without any other punishment.

(6) A severe reprimand or reprimand may be awarded by a court-martial in addition to a fine.

(7) Where an officer is sentenced by a court-martial to imprisonment, he shall also be sentenced to be cashiered:

Provided that if the court-martial fails to sentence him to be cashiered, the sentence of imprisonment shall not be invalid but shall be deemed to include a sentence of cashiering.

74. (1) The punishments which may be awarded to a soldier by sentence of a court-martial under this Act are, subject to the limitations hereinafter provided on the powers of certain courts-martial, those set out in the following scale; and in relation to a soldier references in this Act to punishments provided by this Act are references to those punishments.

Punishment
of soldiers.

(2) The said scale is—

- (a) death;
- (b) imprisonment;
- (c) discharge with ignominy from the service;

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- (d) in the case of a warrant officer, dismissal from the service;
- (e) in the case of a warrant officer or non-commissioned officer, reduction to the ranks or any less reduction in rank;
- (f) forfeiture of seniority in rank;
- (g) a fine of a sum not exceeding the equivalent of ninety days' pay;
- (h) in the case of a warrant officer or non-commissioned officer, severe reprimand or reprimand;
- (i) where the offence is desertion, forfeiture of service;
- (j) where the offence has occasioned any expense, loss or damage, stoppages.

(3) For the purposes of this Part, a punishment specified in any paragraph of the said scale shall be treated as less than the punishments specified in the preceding paragraphs, and greater than those specified in the following paragraphs, of the scale.

(4) Except as expressly provided in this Act, not more than one punishment shall be awarded by a court-martial for one offence.

(5) A soldier sentenced by a court-martial to imprisonment may in addition thereto be sentenced to be discharged with ignominy from the service.

(6) Where a warrant officer or non-commissioned officer is sentenced by a court-martial to imprisonment, he shall also be sentenced to be reduced to the ranks:

Provided that if the court-martial fails to sentence him to be so reduced, the sentence shall not be invalid but shall be deemed to include a sentence of reduction to the ranks.

(7) In the case of a warrant officer or non-commissioned officer, a severe reprimand or reprimand may be awarded by a court-martial in addition to a fine.

(8) Stoppages may be awarded by a court-martial either in addition to or without any other punishment.

75. (1) In relation to an offence committed by a soldier on active service, the scale set out in subsection (2) of section 74 of this Act shall have effect as if after paragraph (d) thereof there were inserted the following paragraph—

Field
punishment.

“(dd) field punishment for a period not exceeding ninety days;”

and subsection (6) of section 74 of this Act shall apply to field punishment as it applies to imprisonment.

(2) Field punishment shall consist of such duties or drills, in addition to those which the offender might be required to perform if he were not undergoing punishment, and such loss of privileges, as may be provided by or under rules made under this Part, and may include confinement in such place and manner as may be so provided and such personal restraint as may be necessary to prevent the escape of the offender and as may be so provided.

Arrest

76. (1) Any person subject to military law under this Act found committing an offence against any provision of this Act, or alleged to have committed or reasonably suspected of having committed any such offence, may be arrested in accordance with the following provisions of this section.

Power to
arrest
offenders.

(2) An officer may be arrested by an officer subject to service law of superior rank, or, if engaged in a quarrel or disorder, by such an officer of any rank.

(3) A soldier may be arrested by any officer, warrant officer or non-commissioned officer subject to service law:

Provided that a person shall not be arrested by virtue of this subsection except by a person of superior rank.

(4) A provost officer, or any officer, warrant officer, non-commissioned officer or rating subject to service law lawfully exercising authority under a provost officer or on his behalf, may arrest any officer or soldier:

Provided that an officer shall not be arrested by virtue of this subsection except on the order of another officer.

(5) The power of arrest given to any person by this section may be exercised either personally or by ordering into arrest the person to be arrested or by giving orders for that person's arrest.

Provisions
for avoiding
delay after
arrest.

77. (1) The allegations against any person subject to military law under this Act who is under arrest shall be duly investigated without unnecessary delay, and as soon as may be either proceedings shall be taken for punishing his offence or he shall be released from arrest.

(2) Wherever any person subject to military law under this Act, having been taken into military custody, remains under arrest for a longer period than eight days without a court-martial for his trial being assembled, a special report on the necessity for further delay shall be made by his commanding officer to the prescribed authority in the prescribed manner and a similar report shall be made to the like authority and in the like manner every eight days until a court-martial is assembled or the offence is dealt with summarily or he is released from arrest:

Provided that in the case of a person on active service compliance with this subsection shall be excused in so far as it is not reasonably practicable having regard to the exigencies of military operations.

(3) For the purposes of subsection (1) of section 56 of this Act, the question whether there has been unnecessary delay in the taking of any steps for the investigations against a person under arrest shall be determined without regard to the provisions of subsection (2) of this section.

Investigation of and Summary Dealing with Charges

Investigation
of charges
by
commanding
officer.

78. Before an allegation against a person subject to military law under this Act (hereinafter referred to as "the accused") that he has committed an offence against any provision of this Part is further proceeded with, the allegation shall be reported, in the form of a charge, to the accused's commanding officer and the commanding officer shall investigate the charge in the prescribed manner.

79. (1) After investigation, a charge against an officer below the rank of lieutenant-colonel or against a warrant officer may, if an authority has power under the provisions of this Part to deal with it summarily, be so dealt with by that authority (in this Act referred to as "the appropriate superior authority") in accordance with those provisions.

Charges to be dealt with summarily or by court-martial.

(2) After investigation, a charge against a non-commissioned officer or soldier may be dealt with summarily by his commanding officer, subject to and in accordance with the following provisions of this Part.

(3) Any charge not dealt with summarily as aforesaid shall after investigation be remanded for trial by court-martial.

(4) Notwithstanding anything in the foregoing provisions of this section, where the commanding officer has investigated a charge against an officer or warrant officer he may dismiss the charge if he is of opinion that it ought not to be further proceeded with.

(5) References in this Act to dealing summarily with a charge are references to the taking by the appropriate superior authority or the commanding officer of the accused, as the case may require, of the following action, that is to say, determining whether the accused is guilty, dismissing the charge or recording a finding of guilty accordingly, and awarding punishment.

80. (1) The following provisions of this section shall have effect where the commanding officer has investigated a charge against a non-commissioned officer or soldier.

Further proceedings on charges against non-commissioned officers and soldiers.

(2) If the charge is one which can be dealt with summarily but the commanding officer is of opinion that it should not be so dealt with, he shall take the prescribed steps with a view to the charge being tried by court-martial.

(3) Otherwise the commanding officer shall proceed to deal with the charge summarily; and if he records a finding of guilty he may award one or more of the following punishments, that is to say—

(a) if the accused is a non-commissioned officer—

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(i) reduction to the ranks in the case of a lance-corporal,

(ii) a fine of a sum not exceeding the equivalent of twenty-eight days' pay,

(iii) severe reprimand or reprimand,

(iv) admonition,

(v) where the offence has occasioned any expense, loss or damage, stoppages;

(b) if the accused is a soldier other than a non-commissioned officer or a boy—

(i) imprisonment for a period not exceeding twenty-eight days or, if the accused is on active service, field punishment for a period not exceeding twenty-eight days,

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(ii) a fine of a sum not exceeding the equivalent of twenty-eight days' pay,

(iii) confinement to barracks for a period beginning with the day of the sentence and not exceeding twenty-eight days,

(iv) extra guards or piquets not exceeding seven in number,

(v) admonition,

(vi) where the offence has occasioned any expense, loss or damage, stoppages;

(c) if the accused is a boy—

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(i) a fine of a sum not exceeding the equivalent of twenty-eight days' pay,

(ii) confinement to barracks for a period beginning with the day of the sentence and not exceeding seven days,

(iii) extra guards or piquets not exceeding seven in number,

(iv) admonition,

(v) when the offence has occasioned any expense, loss or damage, stoppages.

(4) Where the commanding officer has taken steps with a view to a charge being tried by court-martial, any higher

authority to whom the charge is referred may refer the charge back to the commanding officer to be dealt with summarily; and on any such reference subsection (3) of this section shall apply as if the commanding officer had originally been of opinion that the charge should be dealt with summarily.

81. (1) After investigating a charge against an officer or warrant officer the commanding officer shall, unless he has dismissed the charge, submit it in the prescribed manner to a higher authority; and thereupon it shall be determined by such authority how the charge is to be proceeded with in accordance with subsection (2) and (3) of this section.

Further proceedings or charges against officers and warrant officers.

(2) The charge may be referred to the appropriate superior authority.

(3) If the charge is not so referred, the prescribed steps shall be taken with a view to its being tried by court-martial.

(4) Where the charge is referred to the appropriate superior authority, that authority shall investigate the charge in the prescribed manner and determine whether the accused is guilty of the charge and accordingly dismiss the charge or record a finding of guilty:

Provided that if in the course of investigating the charge the authority determines that it is desirable that the charge should be tried by court-martial, the prescribed steps shall be taken with a view to its being so tried.

(5) If the appropriate superior authority records a finding of guilty, the authority may award one or more of the following punishments, that is to say—

- (a) a fine of a sum not exceeding the equivalent of twenty-eight days' pay;
- (b) severe reprimand or reprimand;
- (c) where the offence has occasioned any expense, loss or damage, stoppages.

(6) Notwithstanding anything in subsection (4) of this section, where the appropriate superior authority has determined that the accused is guilty and if the charge is dealt with summarily will award a fine or stoppages, the authority shall not

record a finding until after affording the accused an opportunity of electing to be tried by court-martial; and if the accused so elects, the authority shall not record a finding but shall take the prescribed steps with a view to the charge being tried by court-martial.

Dismissal of charges referred to higher authority.

82. (1) Notwithstanding anything in sections 80 and 81 of this Act, where a charge—

- (a) has been referred to higher authority with a view to its being tried by court-martial; or
- (b) has been submitted to higher authority for determination how it is to be proceeded with,

that authority may, subject to the provisions of this section, refer the charge back to the commanding officer of the accused with a direction that it shall be dismissed, and in any such case the commanding officer shall dismiss the charge.

(2) The reference back of a charge in pursuance of this section shall be without prejudice to the preferring of another charge if the higher authority has so directed or the commanding officer thinks fit.

Officers who are to act as appropriate superior authorities and to whom commanding officers may delegate powers.

83. (1) The following persons may act as appropriate superior authority in relation to a person charged with an offence, that is to say, the commander and any officer of the rank of brigadier or above or officer of corresponding rank under whose command the person is for the time being.

(2) Rules made by the President for the purpose of this section may confer on commanding officers powers to delegate their functions, in such cases and to such extent as may be specified in the rules, to officers of a class so specified.

Courts-Martial—General Provisions

Powers of courts-martial.

84. (1) A court-martial shall subject to the provisions of this section have the power to try any person subject to military law under this Act for any offence which, under this Act, is triable by court-martial and to award for any such offence any punishment authorised by this Act for that offence.

(2) A court-martial for the trial of an officer or a warrant officer shall consist of at least five officers.

(3) A court-martial consisting of less than five officers shall not award any punishment higher in the scale of punishment than imprisonment for two years.

(4) A court-martial shall not unless it consists of at least five officers try any offence for which the maximum or only punishment is death.

85. A court-martial may be convened by the commander or by any general officer, brigadier or colonel or officer of corresponding rank commanding a body of troops or any officer for the time being acting in place of the commander or such general officer, brigadier or colonel or officer of corresponding rank.

Officers having power to convene courts-martial.

86. (1) Subject to the provisions of section 84 of this Act, a court-martial shall consist of the president and not less than two other officers.

Constitution of courts-martial.

(2) An officer shall not be appointed to be a member of a court-martial unless he is subject to service law and has been an officer in any of the armed forces for a period of not less than two years or for periods amounting in the aggregate to not less than two years.

(3) The president of a court-martial shall be appointed by order of the convening officer and shall not be under the rank of major or correspondent rank unless in the opinion of the convening officer a major or officer of corresponding rank having suitable qualifications is not, with due regard to the public service, available; and in any event the president of a court-martial shall not be under the rank of captain or corresponding rank.

(4) The members of a court-martial, other than the president, shall be appointed by order of the convening officer or in such other manner as may be prescribed.

87. (1) The officer who convenes a court-martial shall not be a member of that court-martial:

Supplementary provisions as to constitution of courts-martial.

Provided that if it is not practicable in the opinion of the convening officer to appoint another officer as president, he may himself be president of the court-martial.

(2) An officer who, at any time between the date on which the accused was charged with the offence and the date of the trial, has been the commanding officer of the accused, and any other officer who has investigated the charge against the accused, or who under service law has held, or has acted as one of the persons holding, an inquiry into matters relating to the subject matter of the charge against the accused, shall not sit as a member of a court-martial or act as judge advocate at such a court-martial.

(3) When the officer convening a court-martial appoints a captain or officer of corresponding rank to be president, being of opinion that a major or officer of corresponding rank having suitable qualifications is not with due regard to the public service available, the order convening the court-martial shall contain a statement of such opinion, and that statement shall be conclusive.

Place for sitting of courts-martial and adjournment to other places.

88. (1) Subject to the provisions of this section, a court-martial shall sit at such place as may be specified in the order convening the court; and the convening officer may convene it to sit at a place outside the limits of his command.

(2) A court-martial sitting at any place shall, if the convening officer directs it to sit at some other place, and may without any such direction if it appears to the court requisite in the interests of justice to sit at some other place, adjourn for the purpose of sitting at that other place.

Courts-Martial—Provisions relating to Trial

Challenges by accused.

89. (1) An accused about to be tried by a court-martial shall be entitled to object, on any reasonable grounds, to any member of the court, whether appointed originally or in lieu of another officer.

(2) For the purpose of enabling the accused to avail himself of the right conferred by subsection (1) of this section, the names of the members of the court shall be read over in the presence of the accused before they are sworn, and he shall be asked whether he objects to any of those officers.

(3) Every objection made by an accused to any officer shall be considered by the other officers appointed members of the court.

(4) If objection is made to the president and not less than one-third of the other members of the court allow it, the court shall adjourn and the convening officer shall appoint another president.

(5) If objection is made to a member of the court other than the president and not less than one-half of the members entitled to vote allow it, the member objected to shall retire and the vacancy may, and if otherwise the number of members would be reduced below the legal minimum shall, be filled in the prescribed manner by another officer.

90. (1) An oath shall be administered to every member of a court-martial and to any person in attendance on a court-martial as judge advocate, officer under instruction, shorthand writer or interpreter.

Administra-
tion of
oaths.

(2) Every witness before a court-martial shall be examined on oath:

Provided that where any child of tender years called as a witness does not in the opinion of the court understand the nature of an oath, his evidence may be received, though not given upon oath, if in the opinion of the court he is possessed of sufficient intelligence to justify the reception of the evidence and understands the duty of speaking the truth, so however that, where the evidence is given on behalf of the prosecution, the accused shall not be liable to be convicted upon such evidence alone unless it is corroborated by some other material evidence in support thereof implicating the accused.

(3) An oath required to be administered under this section shall be in the prescribed form and shall be administered at the prescribed time by the prescribed person and in the prescribed manner.

91. (1) Subject to the provisions of this section, a court-martial shall sit in open court and in the presence of the accused.

Courts-
martial to sit
in open
court.

(2) Nothing in subsection (1) of this section, shall affect the power of a court-martial to sit in camera on the ground that it is necessary or expedient in the interests of the administration of justice to do so; and without prejudice to that power a court-martial may order that, subject to any exceptions the court may specify, the public shall be excluded from all or any part of the proceedings of the court if it appears to the court that any evidence to be given or statement to be made in the course of the proceedings or that part, as the case may be, might otherwise lead to the disclosure of any information which would or might be directly or indirectly useful to an enemy.

(3) A court-martial shall sit in closed court while deliberating on their finding or sentence on any charge.

(4) A court-martial may sit in closed court on any other deliberation amongst the members.

(5) Where a court-martial sits in closed court no person shall be present except the members of the court and such other persons as may be prescribed.

Dissolution
of courts-
martial.

92. (1) Where, whether before or after the commencement of the trial, it appears to the convening officer necessary or expedient in the interests of the administration of justice that a court-martial should be dissolved, the convening officer may by order dissolve the court-martial.

(2) Without prejudice to the generality of subsection (1) of this section, if after the commencement of the trial a court-martial is, by reason of the death of one of the members or for any other reason, reduced below the legal minimum, it shall be dissolved.

(3) If after the commencement of the trial the president dies or is otherwise unable to attend and the court is not reduced below the legal minimum, then—

(a) if the senior member of the court is of the rank of captain or corresponding rank or is of higher rank, the convening officer may appoint him president and the trial shall proceed accordingly; but

(b) if he is not, the court shall be dissolved.

(4) Without prejudice to the generality of subsection (1) of this section, if after the commencement of the trial it is represented to the convening officer that owing to the sickness or other incapacity of the accused it is impracticable having regard to all the circumstances to continue the trial within a reasonable time, the convening officer may dissolve the court.

(5) Where a court-martial is dissolved under the foregoing provisions of this section the accused may be tried by another court-martial.

93. (1) Subject to the provisions of this section, every question to be determined on a trial by court-martial shall be determined by a majority of the votes of the members of the court.

Decisions of courts-martial.

(2) In the case of an equality of votes on the finding, the court shall acquit the accused.

(3) A finding of guilty where the only punishment which the court can award is death shall not have effect unless it is reached with the concurrence of all members of the court; and where on such a finding being come to by a majority of the members there is no such concurrence, the court shall be dissolved and the accused may be tried by another court.

(4) Where the accused is found guilty and the court has power to sentence him either to death or to some less punishment, sentence of death shall not be passed without the concurrence of all the members of the court.

(5) In the case of an equality of votes on the sentence or on any question arising after the commencement of a trial, except the finding, the president shall have a second or casting vote.

94. (1) Without prejudice to the provisions of section 91 of this Act, the finding of a court-martial on each charge shall be announced in open court.

Finding and sentence.

(2) Any finding of guilty shall be, and be announced as being, subject to confirmation.

(3) Any sentence of a court-martial, together with any recommendation to mercy, shall be announced in open court,

and a sentence of a court-martial shall be, and be announced as being, subject to confirmation.

Power to
convict of
offence other
than that
charged.

95. (1) An accused charged before a court-martial with an offence under this Act may, on failure of proof of the offence having been committed under circumstances involving a higher degree of punishment, be found guilty of the offence as having been committed under circumstances involving a less degree of punishment.

(2) An accused charged before a court-martial with any offence may be found guilty of attempting to commit that offence.

(3) An accused charged before a court-martial with attempting to commit an offence may be convicted on that charge notwithstanding that it is proved that he actually committed the offence.

(4) Where an accused is charged before a court-martial under section 72 of this Act in respect of attempting to commit a civil offence, he may be convicted on that charge notwithstanding that it is proved that he actually committed the civil offence.

(5) Where an accused is charged before a court-martial with an offence against section 72 of this Act, and the corresponding civil offence is one in proceedings for which, if he had been tried by a civil court for committing the offence in the Federal Capital Territory, Abuja, he might have been found guilty of another civil offence, then if the court finds that he has committed that other civil offence he may be convicted of an offence against section 72 of this Act in respect of the commission of that other civil offence.

First
Schedule.

(6) An accused charged before a court-martial with an offence specified in the first column of the First Schedule to this Act may be found guilty of an offence specified in relation thereto in the second column of that Schedule.

Rules of
evidence.

96. (1) Except as otherwise provided in this Act, the rules as to evidence to be observed in proceedings before courts-martial shall be the same as those observed in civil courts in the Federal Capital Territory, Abuja, and no person shall be

required in proceedings before a court-martial to answer any question or to produce any document which he could not be required to answer or produce in similar proceedings before a civil court in the Federal Capital Territory, Abuja.

(2) Notwithstanding anything in subsection (1) of this section, a statutory declaration shall, in a trial by court-martial, be admissible as evidence of the facts stated in the declaration in a case where, and to the extent which, oral evidence to the like effect would be admissible in that trial:

Provided that a statutory declaration shall not be admitted in evidence in any such trial on behalf either of the prosecution or of the defence—

- (a) where the declaration is put forward on behalf of the prosecution, unless a copy of the declaration has, not less than seven days before the commencement of the trial, been served on the accused; or
- (b) where the declaration is put forward on behalf of the defence, unless a copy of the declaration has, not less than seven days, or such less period as the commanding officer may allow, before the commencement of the trial, been served on the commanding officer of the accused; or
- (c) in any case, if, not later than three days before the commencement of the trial or within such further time as the court-martial may in special circumstances allow, the accused or, as the case may be, the commanding officer of the accused serves a notice in the prescribed form on the commanding officer or accused requiring that oral evidence shall be given in lieu of the declaration; or
- (d) in any case, if the court-martial is of opinion that it is desirable in the interests of justice that oral evidence should be given in lieu of the declaration and declares that it is of that opinion.

(3) A court-martial shall take judicial notice of all matters of notoriety, including all matters within the general service knowledge of the court, and of all other matters of which judicial notice would be taken in a civil court in the Federal Capital Territory, Abuja.

Privilege of witnesses and others at courts-martial.

97. A witness before a court-martial or any other person whose duty it is to attend on or before the court shall be entitled to the same immunities and privileges as a witness before the High Court.

Offences by civilians in relation to courts-martial.

98. (1) Where in Nigeria any person other than a person subject to military law under this Act—

- (a) having been duly summoned to attend as a witness before a court-martial, fails to comply with the summons; or
- (b) refuses to swear an oath when duly required by a court-martial to do so; or
- (c) refuses to produce any document in his custody or under his control which a court-martial has lawfully required him to produce; or
- (d) when a witness, refuses to answer any question which a court-martial has lawfully required him to answer; or
- (e) wilfully insults any person, being a member of a court-martial or a witness or any other person whose duty it is to attend on or before the court, while that person is acting as a member thereof or is so attending, or wilfully insults any such person as aforesaid while that person is going to or returning from the proceedings of the court; or
- (f) wilfully interrupts the proceedings of a court-martial or otherwise misbehaves before the court; or
- (g) does any other thing which would, if the court-martial had been a court of law having power to commit for contempt, have been contempt of that court,

the president of the court-martial may certify the offence of that person under his hand to any court of law in the part of Nigeria where the offence is alleged to have been committed, being a court having power to commit for contempt, and that court of law may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner

as if he had been guilty of contempt of the court to which the offence is certified.

(2) In this section, "court-martial" means a court-martial held under service law.

99. If—

(a) a person required by virtue of this Act to take an oath for the purposes of proceedings before a court-martial objects to being sworn, and states as the ground of his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief; or

(b) it is not reasonably practicable to administer an oath to such a person as aforesaid in the manner appropriate to his religious belief,

he shall be required to make a solemn affirmation in the prescribed form instead of taking an oath.

Affirmations.

Confirmation, Revision and Review of Proceedings of Courts-Martial

100. (1) Where a court-martial finds the accused guilty of any charge, the record of the proceedings of the court-martial shall be transmitted to a confirming authority for confirmation of the finding and sentence of the court on that charge.

Confirmation of proceedings of courts-martial.

(2) A finding of guilty or sentence of a court-martial shall not be treated as a finding or sentence of the court until confirmed:

Provided that this subsection shall not affect the keeping of the accused in custody pending confirmation, or the operation of sections 101 and 102 of this Act, or the provisions of this Act as to confirmation or approval.

101. At any time after a court-martial has sentenced the accused, but not later than the prescribed time after confirmation is completed, the accused may in the prescribed manner present a petition against finding or sentence or both.

Petitions against finding or sentence.

102. (1) A confirming authority may direct that a court-martial shall revise any finding of guilty come to by the court in any case where it appears to him—

Revision of findings of courts-martial.

- (a) that the finding was against the weight of evidence; or
- (b) that some question of law determined at the trial and relevant to the finding was wrongly determined.

(2) Any such direction shall be accompanied by the necessary directions for the reassembly of the court, and shall contain a statement of the reasons for the direction.

(3) On any revision of a finding, the court shall reconsider the finding, and (unless the court adheres thereto) may substitute therefor either a finding of not guilty or any other finding to which the court could originally have come at the trial in lieu of the finding under revision.

(4) On any such revision, the court shall not have power to receive further evidence.

(5) Where on any such revision the court either adheres to the original finding or substitutes therefor a finding of guilty of another offence, or of the same offence in different circumstances, the court may substitute a different sentence for the original sentence:

Provided that the court shall not have power to substitute a sentence of a punishment greater than the punishment or the greatest of the punishments awarded by the original sentence, or to substitute a sentence which in the opinion of the court is more severe than the original sentence.

(6) The confirming authority shall not have power to direct the revision of any substituted finding come to by the court on a previous direction of a confirming authority, or the revision of the original finding if adhered to by the court on such a previous direction; but save as aforesaid this Act shall apply to the proceedings of the court on any such revision as it applies to their deliberation on the original finding or sentence, and any substituted finding or sentence shall be treated for all purposes as an original finding or sentence of the court:

Provided that the decision of the court on the revision shall not be required to be announced in open court.

103. (1) Subject to the provisions of section 102 of this Act, and to the following provisions of this section, a confirming authority shall deal with the finding or sentence of a court-martial either by withholding confirmation, if of opinion that the finding of the court is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any grounds, there was a miscarriage of justice, or by confirming the finding or sentence or referring the finding or sentence, or both, for confirmation to a higher confirming authority.

Powers of confirming authority.

(2) In lieu of withholding confirmation of the finding of a court-martial, a confirming authority may, if—

- (a) some other finding of guilty could have been validly made by the court-martial on the charge before it; and
- (b) he is of opinion that the court-martial must have been satisfied of the facts necessary to justify that other finding,

substitute that other finding, and if he does so he shall consider in what manner, if at all, the powers conferred by subsection (4) of this section should be exercised.

(3) Where it appears to a confirming authority that a sentence of a court-martial is invalid, he may in lieu of withholding confirmation of the sentence substitute therefor a sentence of any punishment or punishments which could have been awarded by the court, not being greater than the punishment or the greatest of the punishments awarded by the court, and not in his opinion more severe than that punishment or those punishments.

(4) In confirming the sentence of a court-martial, a confirming authority may—

- (a) remit in whole or in part any punishment awarded by the court; or
- (b) commute any such punishment for one or more punishment or punishments provided by this Act, being less than the punishment commuted.

(5) A finding or sentence substituted by the confirming authority, or any sentence having effect after the confirming authority has remitted or commuted punishment, shall be

treated for all purposes as a finding or sentence of the court duly confirmed.

(6) The confirmation of a finding or sentence shall not be deemed to be completed until the finding or sentence has been promulgated; and in the event of any such substitution, remission or commutation as aforesaid the finding or sentence shall be promulgated as it has effect after the substitution, remission or commutation.

(7) Where the confirming authority determines to withhold confirmation, the determination shall be promulgated and shall have effect as from the promulgation thereof.

Confirming
authorities.

104. (1) Subject to the provisions of this section, the following shall have power to confirm the finding and sentence of any court-martial, that is to say—

- (a) the officer who convened the court-martial or any officer superior in command to that officer; or
- (b) the successor of any such officer or superior officer, or any person for the time being exercising the functions of any such officer or superior officer; or
- (c) failing such officer as aforesaid any officer appointed by the Army Council to act as confirming authority whether for the particular case or for a specified number of cases.

(2) The following shall not have power to confirm the finding or sentence of a court-martial, that is to say—

- (a) any officer who was a member of the court-martial; or
- (b) any person who, as commanding officer of the accused, investigated the allegations against him or who is for the time being the commanding officer of the accused; or
- (c) any person who, as appropriate superior authority, investigated the allegations against the accused.

Sentence of
death must
be approved
by President.

105. A sentence of death passed by a court-martial shall not be carried into effect unless approved by the President.

Review of
findings and
sentences of
courts-
martial.

106. (1) A finding or sentence which has been confirmed may at any time be reviewed by a reviewing authority, and if after confirmation of a finding or sentence a petition is duly presented under section 101 of this Act against the finding

or sentence then, subject to the provisions of this section, the finding or sentence shall be so reviewed as soon as may be after the presentation of the petition and after consideration of the matters alleged therein.

(2) The reviewing authorities for the purposes of this Act shall be—

- (a) the Army Council, or (so far as the delegation extends), any officer to whom the powers of the Army Council as reviewing authority, or any of those powers, may be delegated; or
- (b) any officer superior in command to the confirming authority.

(3) If an appeal or application for leave to appeal is lodged with the Registrar of the Court of Appeal under the provisions of Part VI of this Act, so much of subsection (1) of this section as requires the review of a finding or sentence against which a petition has been presented shall thereupon cease to apply to the finding to which the appeal or application for leave to appeal relates and the sentence passed in consequence of that finding.

(4) On a review under this section, the reviewing authority may—

- (a) in so far as the review is of a finding, quash the finding and, if the sentence relates only to the finding quashed, the sentence; or
- (b) in so far as the review is of a sentence, quash the sentence; or
- (c) in any case, exercise the like powers of substituting findings, substituting valid for invalid sentences and remitting or commuting punishment as are conferred on a confirming authority by subsections (2) to (4) inclusive of section 103 of this Act,

and any substituted finding or sentence, or sentence having effect after the remission or commutation of punishment, shall be treated for all purposes as a sentence of the court duly confirmed.

(5) Where a reviewing authority exercises any of the powers conferred by subsection (4) of this section, the determination of the authority shall be promulgated and shall have effect as from the promulgation thereof.

Reconsideration of sentences of imprisonment.

107. (1) Sentences of imprisonment passed by courts-martial may be reconsidered by the Commander or by such officers (not below the rank of colonel or corresponding rank) as may be from time to time appointed by the President; and if on any such reconsideration it appears that the conduct of the offender since his conviction has been such as to justify remission of the sentence, whether in part or in whole, it may be remitted accordingly.

(2) The power to reconsider a sentence may be exercised at any time after confirmation, and where, after review, a sentence remains effective it shall be reconsidered at intervals of six months:

Provided that delay in complying with this section shall not invalidate the sentence.

Review of Summary Findings and Awards

Review of summary findings and awards.

108. (1) Where a charge has been dealt with summarily, otherwise than by the dismissal thereof, the authority hereinafter mentioned may at any time review the finding or award.

(2) The said authority shall be—

(a) the Army Council; or

(b) any officer superior in command to the officer who dealt summarily with the charge.

(3) Where on a review under this section, it appears to the said authority expedient so to do by reason of any mistake of law in the proceedings on the summary dealing with the charge or of anything occurring in those proceedings which in the opinion of the authority involved substantial injustice to the accused, the authority may quash the finding; and if the finding is quashed the authority shall also quash the award.

(4) Where on a review under this section it appears to the said authority that a punishment awarded was invalid, or too

severe, or (where the award included two or more punishments) that those punishments or some of them could not validly have been awarded in combination or are, taken together, too severe, the authority may vary the award by substituting such punishment or punishments as the authority may think proper, being a punishment or punishments which could have been included in the original award and not being in the opinion of the authority more severe than the punishment or punishments included in the original award.

Findings of Insanity, etc.

109. (1) Where, on the trial of a person by court-martial, it appears to the court that the accused is by reason of insanity unfit to stand his trial, the court shall so find; and if the finding is confirmed in accordance with the following provisions of this section the accused shall be kept in custody in such manner as may be provided by or under rules made under this Part until the directions of the President are known or until any earlier time at which the accused is fit to stand his trial.

Provisions
where
accused
found
insane.

(2) Where, on the trial of a person by court-martial, it appears to the court that the evidence is such as, apart from any question of insanity, to support a finding that the accused was guilty of any offence, but that at the time of the acts or omissions constituting that offence the accused was by reason of mental disease or natural mental infirmity not criminally responsible for the act or omission alleged as constituting the offence, the court shall find that the accused committed the act or omission but was insane at the said time, and thereupon the accused shall be kept in custody in such manner as may be provided by or under rules made under this Part until the directions of the President are known.

(3) In the case of any such finding as aforesaid, the President may give orders for the safe custody of the accused during his pleasure in such place and in such manner as the President thinks fit.

(4) A finding under subsection (1) of this section shall not have effect unless and until the finding has been confirmed by an authority who would have had power to confirm a finding of guilty come to by the court-martial in question and has been promulgated.

(5) Where the court or the confirming authority comes to or substitutes a finding under subsection (2) of this section, the confirming authority or, as the case may be, the reviewing authority shall not have power to substitute for that finding, a finding of guilty; but save as aforesaid the provisions of this Act as to revision, confirmation and review (and in particular the provisions of this Act which confer power to substitute for any finding any other finding which could have been come to by the court-martial in question) apply in relation to such findings as are provided for by subsection (2) of this section as those provisions apply in relation to findings of guilty.

(6) Except as otherwise provided in this Act or unless the context otherwise requires, any references in this Act to a conviction or a finding of guilty in respect of any offence includes a reference to a finding under subsection (2) of this section in respect of the offence.

Commencement, Suspension and Duration of Sentence

Commence-
ment of
sentences.

110. Save as otherwise provided in this Act, a sentence of imprisonment or field punishment shall begin to run from the beginning of the day on which sentence was originally pronounced by the court-martial trying the offender or, as the case may be, was originally awarded by his commanding officer.

Duration of
sentences of
imprison-
ment.

111. (1) Where any person serving a sentence of imprisonment becomes unlawfully at large during the currency of the sentence, then, in calculating the period for which he is liable to be imprisoned in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day on which he became at large and ending with the day on which, as a person having become unlawfully at large, he is taken into military, naval or air force custody or the custody of a civil authority or (not having been taken into such custody) returns to the place in which he was imprisoned before he became unlawfully at large:

Provided that if he satisfies such authority as may be specified in that behalf by or under Imprisonment Rules that during any time during the last-mentioned period he was—

-
- (a) in the custody of a civil authority; or
- (b) if and in so far as Imprisonment Rules so provide, in the custody of any military, naval or air force authority of any country or territory outside Nigeria as respects which arrangements have been made under section 113 of this Act,

otherwise than on account of an offence committed by him while unlawfully at large, the last-mentioned time shall not be disregarded in calculating the period for which he is liable to be imprisoned or detained in pursuance of the military sentence.

(2) In subsection (1) of this section, the expression "civil authority" means a civil authority (whether of the Federation or of any country or territory outside Nigeria) authorised by law to detain persons, and includes a police officer.

(3) Without prejudice to subsection (1) of this section, where any person serving a sentence of imprisonment has in accordance with Imprisonment Rules been temporarily released on compassionate grounds, then, in calculating the period for which he is liable to be imprisoned in pursuance of the sentence, no account shall be taken of time elapsing during the period beginning with the day after that on which he is released and ending with the day on which he is required to return to custody.

(4) A person who for any period is released as mentioned in subsection (3) of this section, or who is otherwise allowed, in pursuance of Imprisonment Rules, out of military custody for any period or subject to any condition shall, on failure to return at the expiration of the period or to comply with the condition, be treated for the purposes of subsection (1) of this section, as being unlawfully at large.

(5) A person serving a sentence of imprisonment in civil custody who, after being temporarily released under civil law, is at large at any time during the period for which he is liable to be detained in civil custody in pursuance of his sentence shall be deemed to be unlawfully at large if the period for which he was temporarily released has expired or if an order recalling him has been made in pursuance of civil law.

(6) References in subsection (5) of this section to release or recall under civil law are references to release or recall in pursuance of the law of the country or territory in which he is serving his sentence.

Special provisions as to civil prisoners in Nigeria.

112. A person sentenced to death or imprisonment and committed or transferred to a civil prison in pursuance of rules made under this Part, or of Imprisonment Rules, shall while in that prison be confined and otherwise dealt with in the same manner as a person confined therein under a like sentence of a civil court.

Special provisions as to carrying out or serving of sentences outside Nigeria.

113. The President may, from time to time, make arrangements with the authorities of any country or territory outside Nigeria whereby sentences of death passed by courts-martial may in accordance with rules made under this Part be carried out in establishments under the control of those authorities and sentences of imprisonment may in accordance with Imprisonment Rules be served wholly or partly in such establishments.

Country in which sentence of imprisonment to be served.

114. (1) A person who is serving a sentence of imprisonment in Nigeria may, as may be specified by or under Imprisonment Rules, be removed out of Nigeria to any place where the unit or any part thereof to which for the time being he belongs is serving or is under orders to serve, but not to any other place.

(2) Subject to the following provisions of this section, a person sentenced under this Act, by a court-martial held out of Nigeria, to imprisonment for more than twelve months shall as soon as practicable after the confirmation of the sentence is completed be removed to Nigeria.

(3) Where a person has been sentenced under this Act, by a court-martial held out of Nigeria, to imprisonment for more than twelve months, the confirming or reviewing authority may, notwithstanding anything in subsection (2) of this section, direct that he shall not be required to be removed to

Nigeria until he has served such part of his sentence, not exceeding two years, as may be specified in the direction; and in determining whether or not to exercise the powers conferred by this subsection, a confirming or reviewing authority shall have regard to any recommendation in that behalf made by the court-martial.

(4) Any direction of a confirming authority under this section may at any time be revoked by the confirming authority or by a reviewing authority, or superseded by any direction of the confirming authority or a reviewing authority which the authority could have given under subsection (3) of this section; and any direction of a reviewing authority under this section may at any time be revoked by a reviewing authority or superseded as aforesaid.

(5) Any direction given under this section, and the revocation of any such direction, shall be promulgated.

(6) In ascertaining at any time for the purposes of this section the nature or length of a sentence regard shall be had to any commutation or remission of the sentence previously directed.

115. (1) It shall be the duty, in so far as rules made under this Part or Imprisonment Rules so provide, of the superintendent or other person in charge of a prison (not being a military prison) to receive any person duly sent to that prison in pursuance of such rules and to confine him until execution of the sentence is completed or the prisoner is discharged or delivered over in due course of law.

Duties of persons in charge of prisons and others to receive prisoners.

(2) Where a person is in military custody in pursuance of a sentence of imprisonment, then on receipt of a written order in that behalf purporting to be signed by that person's commanding officer it shall be the duty of any such superintendent or other person as aforesaid, or the police officer in charge of a police station or of any person in charge of any other place in which prisoners may be lawfully confined to keep that person in custody for a period not exceeding seven days unless the said person is earlier discharged or delivered over in due course of law.

*Trial of Persons ceasing to be subject to
Military Law under this Act and time limited for Trials*

Trial and
punishment
of offences
under this
Act not-
withstanding
offender
ceasing to be
subject
thereto.

116. (1) Subject to the provisions of section 117 of this Act, where an offence under this Act triable by court-martial has been committed, or is reasonably suspected of having been committed, by any person while subject to military law under this Act, then in relation to that offence he shall be treated, for the purposes of the provisions of this Act relating to arrest, keeping in custody, investigation of charges, trial and punishment by court-martial (including confirmation, review and reconsideration) and execution of sentences as continuing subject to military law under this Act notwithstanding his ceasing at any time to be subject thereto.

(2) Where, while a person is in custody by virtue of this section (whether before, during or after trial) he commits, or is reasonably suspected of having committed, an offence which if he were subject to military law under this Act would be an offence under this Act triable by court-martial, then in relation to that offence or suspected offence he shall be treated, for the purposes of the provisions of this Act mentioned in subsection (1) of this section and the provisions thereof as to the summary dealing with charges, as having been subject to military law under this Act when the offence was committed or is suspected of having been committed and as continuing subject thereto thereafter.

(3) Where by virtue of either subsection (1) or subsection (2) of this section, a person is treated as being at any time subject to military law under this Act for the purpose of any provision of this Act, that provision shall apply to him—

- (a) if he holds any military rank, as to a person having that rank;
- (b) otherwise as to a person having rank which he had when last actually subject to military law under this Act:

Provided that as respects any time after he has been sentenced for the offence in question and the sentence has been confirmed the said provision shall apply to him (in any case) as to a soldier.

(4) Where apart from this subsection any provision of this Act would under subsection (3) of this section apply to a

person, in relation to different offences, as to a person having different ranks, it shall apply to him as to a person having the lower or lowest of those ranks.

117. (1) No person shall be tried by court-martial for any offence, other than one against section 37 or 38 of this Act or desertion, unless the trial is begun within three years after the commission of the offence, there being disregarded any time during which he was a prisoner of war and any time during which he was illegally absent:

Provided that—

- (a) in the case of an offence against section 72 of this Act where proceedings for the corresponding civil offences must, by virtue of any written law, be brought within a limited time, that limit of time shall apply to the trial of the offence under section 72 of this Act in substitution for the foregoing provisions of this subsection;
- (b) subject to any such limit of time as is mentioned in paragraph (a) of this proviso, a person may be tried by court-martial for a civil offence committed outside Nigeria notwithstanding that it was committed more than three years before the beginning of the trial, if the Attorney-General of the Federation consents to the trial.

Limitation of time for trial of offences under this Act.

(2) Where a person who has committed an offence of desertion, other than desertion on active service, has since the offence served as a soldier continuously in an exemplary manner for not less than three years, he shall not be tried for that offence.

(3) A person shall not be triable by virtue of subsection (1) of section 116 of this Act unless his trial is begun within three months after he ceases to be subject to military law under this Act or the trial is for a civil offence committed outside Nigeria and the Attorney-General of the Federation consents to the trial:

Provided that this subsection shall not apply to an offence against section 37 or 38 of this Act or to desertion.

(4) A person shall not be arrested or kept in custody by virtue of subsection (1) of section 116 of this Act for an offence at any time after he has ceased to be triable for the offence.

*Relations between Military and Civil Courts and
Finality of Trials*

Powers of
civil courts.

118. (1) Subject to the provisions of section 139 of this Act, nothing in this Act shall restrict the offences for which persons may be tried by any civil court, or the jurisdiction of any civil court to try a person subject to military law under this Act for any offence.

(2) Where a person is tried by a civil court for any offence, and he has, in pursuance of this Act, been punished for any act or omission constituting (whether wholly or in part) that offence by his commanding officer or an appropriate superior authority, the civil court shall, in awarding punishment, have regard to his punishment in pursuance of this Act.

Persons not
to be tried
under this
Act for
offences
already
disposed of.

119. (1) Where a person subject to military law under this Act—

- (a) has been tried for an offence by a competent civil court or a court-martial under service law; or
- (b) has been charged with an offence under service law, and has had the charge dismissed, or has been found guilty on the charge, by his commanding officer or an appropriate superior authority; or
- (c) has had an offence condoned by his commanding officer, he shall not be liable in respect of that offence to be tried by court-martial or to have the case dealt with summarily by his commanding officer or an appropriate superior authority.

(2) For the purposes of this section—

- (a) a person shall not be deemed to have been tried by a court-martial if confirmation is withheld of a finding by the court-martial that he is guilty of the offence;
- (b) a case shall be deemed to have been dealt with summarily by a commanding officer or an appropriate superior authority notwithstanding that the finding of that officer or authority has been quashed, or the award of that officer or authority quashed or varied, on the review thereof;
- (c) an offence shall be deemed to have been condoned by the commanding officer of a person alleged to have

committed the offence if, and only if, that officer or any officer authorised by him to act in relation to the alleged offence has with knowledge of all relevant circumstances informed him that he will not be charged therewith;

(d) a person ordered under subsection (2) of section 60 of this Act, or the corresponding provisions of any service law, to be imprisoned or to undergo detention for an offence against that section or provision shall be deemed to have been tried by court-martial for the offence.

(3) Where confirmation of a finding of guilty of an offence is withheld the accused shall not be tried again by court-martial for that offence unless the order convening the later court-martial is issued not later than twenty-eight days after the promulgation of the decision to withhold confirmation.

(4) Except as provided in the foregoing provisions of this section, proceedings for an offence against this Act (whether before a commanding officer or an appropriate superior authority or before a court-martial) shall not be barred on the ground of condonation.

Inquiries

120. (1) Subject to and in accordance with the provisions of rules made under this Part (herein referred to as "Boards of Inquiry Rules"), the Army Council or any military, naval or air force officer commanding a body of troops may convene a board of inquiry to investigate and report on the facts relating to any matter which may be referred to such board by the Army Council or any such officer as aforesaid; and a board shall, if directed so to do, express their opinion on any question arising out of any matters referred to the board.

Boards of inquiry.

(2) A board of inquiry shall consist of such number of persons as may be provided for by the Boards of Inquiry Rules; who shall be persons subject to service law and the president of a board of inquiry shall be an officer not below the rank of lieutenant or corresponding rank.

(3) Evidence given before a board of inquiry shall not be admissible against any person in proceedings before a court-martial, commanding officer or appropriate superior authority

other than proceedings for an offence against section 61 or for an offence against section 72 of this Act when the corresponding civil offence is perjury.

Inquiries
into absence.

121. (1) Where a board of inquiry inquiring into the absence of an officer or soldier reports that he has been absent without leave or other sufficient cause for a period specified in the report, not being less than twenty-one clear days, a record of the report shall in accordance with Boards of Inquiry Rules be entered in the service books.

(2) A record entered in pursuance of subsection (1) of this section shall, unless the absentee subsequently surrenders or is arrested, or the report of the board of inquiry is annulled by the Army Council or a subsequent board of inquiry, have the like effect as a conviction by court-martial for desertion.

Miscellaneous Provisions

Restitution
or
compensation
for theft,
etc.

122. (1) The following provisions shall have effect where a person has been convicted by court-martial of unlawfully obtaining any property, whether by stealing it, receiving it or retaining it knowing or having reason to believe it to have been stolen, fraudulently misapplying it or otherwise.

(2) If any of the property unlawfully obtained has been found in the possession of the offender, it may be ordered to be delivered or paid to the person appearing to be the owner thereof.

(3) If there has been found in the possession of the offender any property (other than money) appearing to have been obtained by him by the conversion or exchange of any of the property unlawfully obtained, the property may be ordered to be delivered to the person appearing to be the owner of the property unlawfully obtained.

(4) Where money is found in the possession of the offender, then whether or not it appears to have been obtained as aforesaid an order may be made that there shall be paid out of that money to the person appearing to be the owner of the property unlawfully obtained such sum as may be specified in the order as or towards compensation for the loss caused

to the said person by the offence, in so far as not otherwise made good under this Act or by the recovery of the property unlawfully obtained.

(5) Where any of the said property unlawfully obtained has been sold or given in pawn to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner thereof of the property sold or given as aforesaid, there shall be paid to the said other person, out of any money found in the possession of the offender (whether or not the money appears to be proceeds of the sale or giving in pawn), such sum as may be specified in the order as or towards compensation for the loss caused to him in consequence of the sale or giving in pawn.

(6) Where any of the property unlawfully obtained has been given in exchange to some other person who did not then know it to have been unlawfully obtained, an order may be made that, subject to the restitution to the owner thereof of the property given as aforesaid, there shall be restored to the said other person the property taken in exchange for the property unlawfully obtained.

(7) An order under this section may be made by the court-martial by whom the offender is convicted, by the confirming authority, or by any reviewing authority; and in this section, the expression, "appearing" means appearing to the court or authority making the order.

(8) An order under this section made by a court-martial shall not have effect until confirmed by the confirming authority and the provisions of this Part as to the confirmation and review of the proceedings of courts-martial shall apply to an order under this section as they apply to a sentence.

(9) The operation of any order under this section shall be suspended—

(a) in any case, until the expiration of the period prescribed under Part VI of this Act as the period within which an application for leave to appeal to the Court of Appeal against the conviction must be lodged; and

(b) if such an application is duly lodged, until either the application is finally refused or is withdrawn or the appeal is determined or abandoned, and where the operation of such an order as aforesaid is suspended under this section—

- (i) it shall not take effect if the conviction is quashed on appeal,
- (ii) the Court of Appeal may by order annul or vary the order although the conviction is not quashed,
- (iii) such steps shall be taken for the safe custody, during the period during which the operation of the order is suspended, of the property ordered to be restored or handed over or the money to which the order relates as may be provided by rules of court made under Part VI of this Act.

(10) Notwithstanding anything in subsection (9) of this section, an order under this section shall not, so far as it relates to the delivery of property to the person appearing to be the owner thereof, be suspended if the court or authority making the order directs to the contrary in any case in which, in the opinion of the court or authority, the title to the property is not in dispute.

(11) An order under this section shall not bar the right of any person, other than the offender or a person claiming through him, to recover any property delivered or paid in pursuance of such an order from the person to whom it is delivered or paid.

Appointment
of judge
advocates.

123. The appointment of a judge advocate to act at any court-martial may be made by the convening officer.

Promul-
gation.

124. Any finding, sentence, determination or other thing required by this Act to be promulgated, shall be promulgated either by being communicated to the accused or as the confirming or reviewing authority, as the case may be, may direct.

125. (1) The record of the proceedings of a court-martial shall be kept in the custody of the Commander for not less than the prescribed period, being a period sufficient to ensure that the rights conferred by subsections (2) and (3) of this section shall be capable of being exercised.

Custody of proceedings of courts-martial and right of accused to a copy thereof.

(2) Subject to the provisions of this section, any person tried by a court-martial shall be entitled to obtain from the Commander on demand at any time within the relevant period and on payment therefor at such rate as may be prescribed a copy of the record of the proceedings of the court.

(3) Where a person tried by court-martial dies within the relevant period, his personal representatives or any person who in the opinion of the Commander ought to be treated for the purposes of this subsection as his personal representative shall subject to the provisions of this section be entitled to obtain from the Commander on demand at any time within the period of twelve months from the death and on payment therefor at the prescribed rate a copy of the record of the proceedings of the court.

(4) If, on an application in pursuance of either subsection (2) or subsection (3) of this section for a copy of the record of any proceedings, the Minister responsible for defence certifies that it is requisite for reasons of security that the proceedings or any part thereof should not be disclosed, the applicant shall not be entitled to a copy of the proceedings or part to which the certificate relates.

(5) In this section, the expression "the relevant period", in relation to any person tried by court-martial, means the period of five years beginning with the date of his acquittal or, where he was convicted, of the promulgation of the findings and sentence or, where a finding of guilty was not confirmed, of the promulgation of the withholding of confirmation:

Provided that where the proceedings relate to two or more charges and the person tried was acquitted on one or more of the charges and convicted on another or others, the relevant period shall be the period of five years beginning with the date of the promulgation of the findings of guilty and the sentence thereon or of the withholding of confirmation of that finding, or those findings.

(6) Any reference in this section to the record of the proceedings of a court-martial includes a reference to the record of the proceedings with respect to the confirmation or revision of the findings and sentence of the court-martial.

Indemnity
for prison
officers, etc.

126. No action shall lie in respect of anything done by any person in pursuance of a sentence of imprisonment if the doing thereof would have been lawful but for a defect in any warrant or other instrument made for the purposes of that sentence.

Interpreta-
tion of
Part V.

127. (1) In this Part—

“civil prison” means a prison in Nigeria in which a person sentenced by a civil court to imprisonment can for the time being be confined;

“convening officer”, in relation to a court-martial, means the officer convening that court-martial and includes his successor or any person for the time being exercising his or his successor’s functions;

“military prison” means separate premises designated by the Commander for persons serving military sentences of imprisonment;

“prescribed” means prescribed by Rules of Procedure;

“prison” means a civil prison or a military prison.

(2) References in this Part to a sentence of imprisonment are references to a sentence of imprisonment passed by a court-martial or awarded by a commanding officer.

(3) References in this Part to warrant officers do not include references to acting warrant officers.

(4) References in this Part to non-commissioned officers include references to acting non-commissioned officers and also to acting warrant officers.

Rules of
Procedure
and other
rules.

128. (1) Subject to the provisions of rules made under paragraph (a) of subsection (2) of this section, the Rules of Procedure shall apply to all proceedings of courts-martial and summary dealing with charges under this Part with such adaptations, modifications and exceptions as may be necessary to give effect to the foregoing provisions of this Part.

- (2) The President may make rules—
- (a) amending, varying or modifying the Rules of Procedure;
 - (b) with respect to the execution of sentences of death under this Act, including the manner and place where such executions are to be carried out and the custody, treatment and removal of persons under sentence of death;
 - (c) for the execution of sentences of imprisonment including the prisons, whether civil or military, in which they are to be served, the classification, treatment, employment, discipline, control, removal and temporary release on compassionate grounds of persons serving such sentence and the appointment, powers and duties of inspectors, visitors, governors and other members of the staff and officers in charge of persons serving sentences of imprisonment;
 - (d) with respect to field punishment;
 - (e) for the convening, constitution and procedure of boards of inquiry, the rules of evidence to be observed and the taking of evidence by such boards, including the administration of oaths and affirmations to witnesses and the making of reports by such boards;
 - (f) in respect of matters for which rules may be made under the foregoing provisions of this Part;
 - (g) for such incidental and supplementary matters as appear requisite for the purposes of the foregoing.

PART VI.—APPEALS FROM COURTS-MARTIAL

129. Subject to the following provisions of this Part, an appeal shall lie from decisions of a court-martial to the Court of Appeal with the leave of the Court of Appeal:

Right of appeal.

Provided that an appeal as aforesaid shall lie as of right without the leave of the Court of Appeal from any decision of a court-martial involving a sentence of death.

130. (1) Leave to appeal to the Court of Appeal shall not be given except in pursuance of an application in that behalf made by or on behalf of the appellant, and lodged, subject to subsection (2) of this section, within forty days of the date of promulgation of the finding of the court-martial in respect

Procedure for applying for leave to appeal or lodging appeal.

of which the appeal is brought, with the Registrar of the Court of Appeal, being an application in the prescribed form and specifying the grounds on which leave to appeal is sought and such other particulars, if any, as may be prescribed.

(2) An appeal against a decision involving a sentence of death shall not be entertained by the Court of Appeal unless the appeal is lodged by or on behalf of the appellant, within ten days of the date of promulgation of the finding of the court-martial in respect of which the appeal is brought, with the Registrar of the Court of Appeal in the prescribed manner.

(3) Rules of court may provide that, in such circumstances as may be specified in the said rules, any such application or appeal which is lodged with such person (other than the Registrar) as is specified in the said rules shall be treated, for the purposes of subsection (1) of this section, as having been lodged with the Registrar.

(4) The Court of Appeal may extend the period within which an application for leave to appeal is required by paragraph (a) of subsection (1) of this section to be lodged, whether that period has expired or not.

(5) In considering whether or not to give leave to appeal, the Court of Appeal shall have regard to any expression of opinion made by a judge advocate, if any, who acted at the court-martial that the case is a fit one for appeal, and, if any such expression is made, may give leave to appeal.

(6) Where the Court of Appeal dismisses an application for leave to appeal it may, if it considers the application to have been frivolous or vexatious, order that any sentence passed upon the applicant in the proceedings from which it was sought to bring the appeal shall begin to run from the day on which the Court dismisses the application.

Determina-
tion of
appeals in
ordinary
cases.

131. (1) Subject to the provisions of section 132 of this Act, on an appeal under this Part against a conviction, the Court of Appeal shall allow the appeal if it thinks that the finding of the court-martial is unreasonable or cannot be supported having regard to the evidence or involves a wrong decision on a question of law or that, on any ground, there was

a miscarriage of justice, and in any other case shall dismiss the appeal:

Provided that the Court of Appeal may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has actually occurred.

(2) If the Court of Appeal allows an appeal against a conviction under this Part, it shall quash the conviction.

(3) On an appeal under this Part against sentence the Court of Appeal shall, if it is of opinion that a different sentence should have been passed, quash the sentence passed by the court-martial and pass such other sentence (whether more or less severe) in substitution therefor as it thinks ought to have been passed, being a sentence which, under section 73 or 74 of this Act, could lawfully have been passed for the offence of which the appellant was convicted, or, if it is not of that opinion, dismiss the appeal.

(4) The term of any sentence passed by the Court of Appeal under subsection (3) of this section, shall, unless the Court of Appeal otherwise directs, begin to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal is brought, and any such sentence shall be deemed for the purposes of this Act to be a sentence passed by the court-martial being a sentence that has been confirmed.

132. (1) If it appears to the Court of Appeal that an appellant, though not properly convicted on some charge preferred against him before the court-martial by which he was tried, was properly convicted on some other charge so preferred, then, if the sentence passed by the court-martial on the appellant was not one which could lawfully be passed by the court-martial for the offence of which he was convicted on the other charge, the Court of Appeal shall pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as it thinks proper, being a sentence which, under section 73 or 74 of this Act, might lawfully be passed in respect of the charge on which the

Power of the
Court of
Appeal in
special
cases.

appellant was properly convicted, but not being a sentence of greater severity.

(2) Where an appellant has been convicted of an offence and the court-martial by which he was tried could lawfully have found him guilty of some other offence, and it appears to the Court of Appeal that the court-martial must have been satisfied of facts which proved him guilty of that other offence, the Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the other offence and pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as it thinks proper, being a sentence which, under section 73 or 74 of this Act, could lawfully have been passed for that other offence but not being a sentence of greater severity.

(3) Where—

- (a) an appellant has been convicted of an offence committed under circumstances involving the higher of two degrees of punishment, and it appears to the Court of Appeal the court-martial by which he was tried ought to have found him guilty of the offence as being committed under circumstances involving the lower degree of punishment; or
- (b) an appellant has been convicted of an offence and it appears to the Court of Appeal that the court-martial by which he was tried ought to have found him guilty of the offence subject to exceptions or variations,

the Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the finding of the court-martial a finding of guilty of the offence as being committed under circumstances involving the lower degree of punishment or, as the case may be, guilty of the offence subject to exception or variations and pass on the appellant, in substitution for the sentence passed on him by the court-martial, such sentence as it thinks proper, being a sentence which, under section 73 or 74 of this Act, could lawfully have been passed for the offence specified or involved in the substituted finding, but not being a sentence of greater severity.

(4) If, on an appeal, it appears to the Court of Appeal that, although the appellant committed the act or omission charged against him, he was insane at the time the act was done, or the omission made, so as not to be responsible according to law for his actions, the Court of Appeal may quash the sentence passed at the trial and order the appellant to be kept in custody under the provisions of section 109 of this Act, in like manner as on a special finding of insanity by the court-martial by which the appellant was convicted.

(5) The term of any sentence passed by the Court of Appeal under any of the foregoing provisions of this section shall, unless the Court of Appeal otherwise directs, begin to run from the time from which it would have begun to run if it had been passed in the proceedings from which the appeal is brought, and any such sentence shall be deemed for the purposes of this Act to be a sentence passed by the court-martial being a sentence that has been confirmed.

133. The determination by the Court of Appeal of any appeal or other matter which it has power to determine, under the provisions of this part of this Act, shall be final.

Appeals to be final.
L.N. 139 of 1965.

134. For the purposes of this Part, the Court of Appeal may, if it thinks it necessary or expedient in the interests of justice, appoint any person with special expert knowledge to act as assessor to the Court in any case where it appears to the Court of Appeal that such special knowledge is required for the proper determination of the case.

Supplementary powers of the Appeal Court.

135. An appellant shall not be entitled to be present at the hearing of an appeal to the Court of Appeal under this Part or at any proceedings preliminary or incidental to such an appeal except where rules of court provide that he shall have the right to be present or the Court of Appeal gives him leave to be present, and accordingly any power of the Court under this Part to pass a sentence may be exercised notwithstanding the absence of the appellant.

Proceedings to be heard in absence of appellants.

136. It shall be the duty of the Attorney-General of the Federation on an appeal against a decision of a court-martial to undertake the defence of the appeal.

Defence of appeals.

Right of appellant to present his case in writing.

137. An appellant may if he so desires, instead of presenting his case orally, present it in writing in the prescribed form.

Suspension of death sentences.

138. Where a conviction by court-martial involves sentence of death—

- (a) the sentence shall not in any case be executed until the expiration of the period within which an appeal to the Court of Appeal against the conviction shall be lodged;
- (b) if such an appeal is duly lodged, the sentence shall not be executed until the appeal is determined or abandoned;

Persons not to be tried again where conviction quashed.

139. Where the conviction of a person by a court-martial for an offence has been quashed under this Part, he shall not be liable to be tried again for that offence by a court-martial or by any other court.

Removal of prisoners for purposes of proceedings under Part VI.

140. Imprisonment Rules may provide in what manner an appellant, when in custody, is to be taken to, kept in custody at, and brought back from any place at which he is entitled to be present for the purposes of this Part or any place to which the Court of Appeal or a judge thereof may order him to be taken for the purpose of any proceedings of the Court of Appeal.

Furnishing, on appeal, of documents relating to trial.

141. In the case of every appeal, or application for leave to appeal, under this Part to the Court of Appeal against a decision of a court-martial, it shall be the duty of the Commander to furnish to the Registrar of the Court of Appeal, in accordance with rules of court, the proceedings of the court-martial (including any proceedings with respect to the revision of the findings or sentence of the court-martial in pursuance of subsection (1) of section 102 of this Act) with respect to the confirmation of the finding and sentence of the court-martial.

Duties of Registrar of the Court of Appeal with respect to appeals, etc.

142. (1) The Registrar of the Court of Appeal shall take all necessary steps for obtaining the determination of an appeal or application under this Part, and shall obtain and lay before the Court of Appeal in proper form all documents, exhibits

and other things relating to the proceedings in the court-martial before which the appellant or applicant was tried which appear necessary for the proper determination of the appeal or application.

(2) The Registrar of the Court of Appeal shall furnish the necessary forms and instructions relating to appeals or applications for leave to appeal under this Part to any person who demands them, to persons in charge of places where persons sentenced by court-martial may lawfully be confined for the purpose of serving their sentences and to such other persons as he thinks fit; and every person in charge of such a place as aforesaid shall cause the forms and instructions to be placed at the disposal of persons confined in that place who desire to lodge an appeal or make application for leave to appeal under this Part.

143. (1) The President of the Court of Appeal may make rules of court for regulating the procedure and practice to be followed in the Court of Appeal for the purposes of this Part.

Rules of court.

(2) Rules of court made for the purposes of any provision of this Part may make different provision in relation to different classes of cases and may provide for any incidental or supplementary matters for which it appears to the Court of Appeal to be necessary or expedient for the purposes of that provision to provide.

(3) Reference in this Part to "prescribed" means prescribed by such rules of court.

144. Nothing in this Part shall affect the exercise by reviewing authorities of the powers conferred by section 106 of this Act in respect of a decision of a court-martial so far as regards the exercise thereof at a time before the lodging with the Registrar of the Court of Appeal of an appeal or an application for leave to appeal to the Court of Appeal against the decision and nothing in this Part shall affect the exercise by the President of the prerogative of mercy.

Saving of reviewing authorities powers.

145. Upon the hearing of any appeal from a court-martial the Court of Appeal shall consist of at least three judges.

Composition of Court.

Exercise of certain powers of the Court of Appeal by a Judge.

146. Notwithstanding the provisions of section 145 of this Act, any Justice of the Court of Appeal may—

- (a) give leave to appeal; or
- (b) extend the period within which an application for leave to appeal is required by paragraph (a) of subsection (1) of section 130 of this Act to be lodged; or
- (c) allow an appellant to be present at any proceedings under this Part,

but if the Justice of the Court of Appeal refuses an application on the part of an appellant to exercise in his favour any of the powers hereinbefore mentioned, the appellant, upon making a requisition in that behalf within the prescribed period and in the prescribed form and manner, shall be entitled to have the application determined in accordance with the provisions of section 145 of this Act.

General provisions as to procedure.
Cap. 75.

147. Subject to the provisions of this Part and to any rules of court, the provisions of the Court of Appeal Act relating to the hearing of appeals from subordinate courts shall apply to the hearing and determination of an appeal under this Part.

PART VII.—PAY, FORFEITURE AND DEDUCTIONS

Regulations as to pay.

148. The President shall make regulations governing the pay, allowances and other emoluments of the officers and soldiers of the Army (hereafter in this Act referred to as Pay Regulations) and other matters pertaining thereto and in particular governing the following provisions of this Part.

Forfeitures and deductions: general provisions.

149. (1) No forfeiture of the pay of an officer or soldier shall be imposed unless authorised by service law or some other written law and no deduction from such pay shall be made unless so authorised or authorised by Pay Regulations.

(2) Pay Regulations shall not authorise the making of any penal deduction that is to say a deduction to be made by reason of the commission of any offence or other wrongful act or in consequence of any negligence.

(3) The foregoing provisions of this section shall not prevent the making of Pay Regulations providing for the imposition

of any forfeiture authorised by this Act or the making of any deduction so authorised, or for the time at which and manner in which sums may be deducted from pay to give effect to authorised deductions or the manner in which amounts may be so deducted in order to recover any fine imposed in pursuance of this Act, or as to the appropriation of any such sum or amount when deducted, or of providing for the determination of questions relating to forfeitures or deductions.

(4) Notwithstanding any deduction from the pay of an officer or soldier he shall (subject to any forfeiture) remain in receipt of pay at not less than such minimum rate as may be prescribed in Pay Regulations.

(5) Notwithstanding that forfeiture of pay of an officer or soldier for any period has been ordered in pursuance of this Act, he shall remain in respect of pay at such a minimum rate as aforesaid, but the amount received for that period may be recovered from him by deduction from pay.

(6) Any amount authorised to be deducted from the pay of an officer or soldier may be deducted from any balance (whether or not representing pay) which may be due to him as an officer or soldier and references in this Act to the making of deductions from pay shall be construed accordingly.

150. (1) The pay of an officer or soldier may be forfeited—

- (a) for any day of absence in such circumstances as to constitute an offence under section 43 or 44 of this Act, or, if the Commander so directs, of other absence without leave;
- (b) for any day of imprisonment, detention or field punishment awarded under service law by a court-martial or commanding officer, or of imprisonment or detention of any description to which he is liable in consequence of an order or sentence of a civil court;
- (c) where he is found guilty (whether by court-martial, an appropriate superior authority or his commanding officer) of an offence under service law, for any day (whether before or after he is found guilty) on which he is in hospital on account of sickness or injury certified

Forfeiture of pay for absence from duty.

by the proper medical officer to have been occasioned by the offence.

(2) The pay of an officer or soldier may be forfeited for any day of absence by reason of his having been made a prisoner of war if the Commander is satisfied—

- (a) that he was made a prisoner of war through disobedience of orders or wilful neglect of his duty; or
- (b) that having been made a prisoner of war he failed to take any reasonable steps available to him to rejoin the service; or
- (c) that having been made a prisoner of war he served with or aided the enemy in the prosecution of hostilities or measures calculated to influence morale or in any other manner whatsoever not authorised by international usage,

but, save as aforesaid, nothing in paragraph (a) of subsection (1) of this section shall apply to absence by reason of having been made a prisoner of war.

(3) Pay Regulations may make provision as to the computation of time for the purposes of this section and in particular as to the counting or disregarding of parts of days.

Deductions
for payment
of civil
penalties.

151. Where an officer or soldier charged with an offence before a civil court (whether within or without the Commonwealth) is sentenced or ordered by the court to pay any fine, penalty, damages, compensation or costs, and the whole or part thereof is met by a payment made by or on behalf of any military authority, the amount of the payment may be deducted from his pay.

Compens-
ation for loss
occasioned
by wrongful
act or
negligence.

152. (1) Without prejudice to the provisions of this Act as to the imposition of stoppages as a punishment, the following provisions shall have effect where, after such investigation as may be prescribed by Pay Regulations, it appears to the Army Council, the Commander or an officer authorised in Pay Regulations that any loss of, or damage to, public or service property has been occasioned by any wrongful act or negligence of an officer or soldier (hereinafter referred to as "the person responsible").

(2) The Army Council, the Commander or authorised officer, as the case may be, may order the person responsible to pay as or towards compensation for the loss or damage, such sum as may be specified in the order, and such sum, in so far as not otherwise paid by the person responsible, may be deducted from his pay.

(3) No order shall be made under the provisions of subsection (2) of this section if, in proceedings before a court-martial under service law, an appropriate superior authority or a commanding officer, the person responsible—

- (a) has been acquitted in circumstances involving a finding that he was not guilty of the wrongful act or negligence in question; or
- (b) has been awarded stoppages in respect of the same loss or damage,

but save as aforesaid, the fact that such proceedings have been brought in respect of the wrongful act or negligence in question shall not prevent the making of an order or deductions under subsection (2) of this section.

153. (1) When damage occurs to any premises in which one or more units or parts of such units are quartered or billeted, or any fixtures, furniture or effects in or belonging to such premises are damaged or lost, and it appears on investigation in accordance with the provisions of Pay Regulations that the damage or loss was occasioned by the wrongful act or negligence of persons belonging to any of the units or parts of units in occupation thereof, but that the said persons cannot be identified, any person belonging to any of such units or parts of units may be required to contribute towards compensation for the damage or loss such amount as may in accordance with Pay Regulations be determined to be just, and the amount may be deducted from his pay.

Deductions
for barrack
damage.

(2) The provisions of subsection (1) of this section, shall extend to ships, trains, motor vehicles and aircraft in which units or parts of units are being transported and reference to premises, quartering and occupation shall be construed accordingly.

Remission of forfeitures and deductions.

154. Any forfeiture or deduction imposed under the provisions of section 150, 151, 152 or 153 or under Pay Regulations may be remitted by the Army Council or in such manner and by such authority as may be provided by such Regulations.

PART VIII.—GOVERNMENT AND GENERAL PROVISIONS

Command

Command and precedence.

155. (1) The seconded officers, officers, seconded warrant officers and warrant officers, seconded non-commissioned officers and non-commissioned officers, and soldiers shall stand with each other in order of precedence as may be prescribed by regulations.

(2) Officers, warrant officers and non-commissioned officers may be seconded to the Army with the approval of the President.

(3) Officers of the same rank shall stand with each other in order of precedence and command in accordance with any order which may be signified by the President and where no such order is signified then according to their seniority reckoned by the date of their respective appointments to the rank for the time being held by them.

Command of the Army.

156. The President may appoint such officer (in this Act called "the Commander") as he thinks fit, in whom the command of the Army shall be vested and subject to the terms of such appointment and to such directions in relation to the operational use thereof as may be given under subsection (2) of section 6 such person shall have the command, direction and general superintendence of the Army.

Regulations as to command.

157. The President may make regulations as to the persons in whom command over the units or any member thereof is vested and as to the circumstances in which such command as aforesaid is to be exercised, and, without prejudice to the generality of the foregoing, may in such regulations provide for the duties, functions and powers of the Commander, his

military staff and the officers, warrant officers, non-commissioned officers and soldiers.

158. In so far as powers of command depend on rank, a member of any of the armed forces who—

(a) is acting with any unit; or

(b) is a member of a body of any of those forces which is acting with any unit,

shall have the like such powers as a member of the Army of corresponding rank; and for the purposes of sections 39 and 76 of this Act, any such member of the said Army shall be treated as if he were a member of the Army of corresponding rank.

Powers of command of members of co-operating forces.

159. (1) If the whole or any part of the Army is required to act with any other military force, the President may place the Army or such part thereof under the command of the officer commanding such other force if that officer is senior in rank to all the officers of the Army or such part thereof.

Co-operation with other military forces.

(2) Where any part of the Army is acting in co-operation with any other force the commander of that part of the Army may, in agreement with the commander of that other force, define the powers of command and the order of precedence of the officers, warrant officers and non-commissioned officers of the Army in relation to an officer, warrant officer, or non-commissioned officer of such other force who is of the same or the equivalent rank.

160. The Commander may place at the disposal of any Commonwealth force such officers and soldiers of the Army who are in that other part of the Commonwealth for the purposes of training or for any other reason pertaining to the well-being of the Army.

Attachment of members of the Army.

Redress of Complaints

161. (1) If an officer thinks himself wronged in any matter by a superior officer or authority and on application to his commanding officer does not obtain the redress to which he thinks he is entitled, he may make a complaint with respect to that matter to the Army Council.

Complaints by officers.

(2) On receiving any such complaint, it shall be the duty of the Army Council to investigate the complaint and to grant any redress which appears to the Army Council to be necessary or if the complaint so requires, the Army Council shall through the responsible Minister make their report on the complaint in order to seek the directions of the President.

Complaints
by soldiers.

162. (1) If a soldier thinks himself wronged in any matter by any officer or by any soldier, he may make a complaint with respect to that matter to his commanding officer.

(2) If a soldier thinks himself wronged in any matter by his commanding officer, either by reason of redress not being given to his satisfaction on a complaint under subsection (1) of this section, or for any other reason, he may make a complaint with respect thereto to any military, naval or air force officer under whom the complainant is for the time being serving, being an officer not below the rank of brigadier or corresponding rank.

(3) It shall be the duty of a commanding or other officer to have any complaint received by him under this section investigated and to take any steps for redressing the matter complained of which appear to him to be necessary.

Exemptions of Members of the Army

Exemptions
from tolls,
etc.

163. (1) Duties or tolls for embarking from or disembarking on any pier, wharf, quay or landing place in Nigeria, or for passing over any road, ferry or bridge in Nigeria, shall not be payable in respect of—

- (a) members of the Army on duty;
- (b) vehicles in military service, being vehicles belonging to the Federation or other vehicles driven by persons (whether a member of the Army or not) in the public service of the Federation;
- (c) goods carried in such vehicles;
- (d) horses or other animals in military service.

(2) In subsection (1) of this section, the expression "in military service" means employed under proper military authority for the purposes of any unit or accompanying any body of the Army.

164. No judgment, decree or order given or made against a member of the Army by any court in Nigeria shall be enforced by the levying of execution on any property of the person against whom it is given or made, being public property, used by him for military purposes.

Exemption from taking in execution of property used for military purposes.

Provisions relating to Deserters and Absentees without Leave

165. (1) A police officer may arrest without a warrant any person whom he has reasonable cause to suspect of being an officer or soldier who has deserted or is absent without leave.

Arrest of deserters and absentees without leave.

(2) Where no police officer is available any person may arrest without a warrant any person whom he has reasonable cause to suspect as aforesaid.

(3) Any person having authority to issue a warrant for the arrest of a person charged with crime, if satisfied by evidence on oath that there is, or is reasonably suspected of being, within his jurisdiction an officer or soldier who has deserted or is absent without leave or is reasonably suspected of having deserted or of being absent without leave, may issue a warrant authorising his arrest.

(4) Any person in custody in pursuance of this section shall as soon as practicable be brought before a magistrate's court.

(5) Notwithstanding the provisions of any other law to the contrary, a person arrested and brought before a magistrate's court under the provisions of this section or of section 166 or 167 of this Act shall not be admitted to bail.

166. (1) Where a person who is brought before a magistrate's court is alleged to be an officer or soldier of the Army who has deserted or is absent without leave, the following provisions shall have effect.

Proceedings before a civil court where persons suspected of illegal absence.

(2) If he admits that he is illegally absent from the Army and the court is satisfied of the truth of the admission, then—

(a) unless he is in custody for some other cause the court shall; and

(b) notwithstanding that he is in custody for some other cause, the court may,

forthwith either cause him to be delivered into military custody in such manner as the court may think fit or commit him to some prison, police station or other place provided for the confinement of persons in custody, to be kept there for such reasonable time as the court may specify (not exceeding such time as appears to the court reasonably necessary for the purpose of enabling him to be delivered into military custody) or until sooner delivered into such custody; and any time specified by the court may be extended by the court from time to time if it appears to the court reasonably necessary so to do for the purpose aforesaid.

(3) If he does not admit that he is illegally absent as aforesaid, or the court is not satisfied of the truth of the admission, the court shall consider the evidence and any statement of the accused, and if satisfied that he is subject to military law under this Act and if of opinion that there is sufficient evidence to justify his being so tried for an offence of desertion or absence without leave, then, unless he is in custody for some other cause, the court shall cause him to be delivered into military custody or commit him as aforesaid, but otherwise shall discharge him:

Provided that if he is in custody for some other cause the court shall have power, but shall not be required, to act in accordance with this subsection.

(4) When proceedings are taken in a magistrate's court under this section, the law applicable in that court in relation to the constitution and procedure of magistrate's courts holding preliminary inquiries and conferring powers of adjournment and remand on such courts so acting, and as to evidence and the issue and enforcement of summonses or warrants to secure the attendance of witnesses, shall apply to such proceedings.

167. (1) Where a person surrenders himself to a police officer as being illegally absent from the Army, the police officer shall (unless he surrenders himself at a police station) bring him to a police station.

(2) The police officer in charge of a police station at which a person has surrendered himself as aforesaid, or to which

Deserters
and
absentees
without leave
surrendering
to police.

a person who has so surrendered himself is brought, shall forthwith inquire in to the case, and if it appears to that officer that the said person is illegally absent as aforesaid he may cause him to be delivered into military custody without bringing him before a magistrate's court or may bring him before such a court.

168. (1) Where a magistrate's court in pursuance of section 166 of this Act deals with a person as illegally absent, then when that person is delivered into military custody there shall be handed over a certificate in the prescribed form signed by a magistrate, containing the particulars so prescribed as to his arrest or surrender and the proceedings before the court.

Certificates of arrest or surrender of deserters and absentees.

(2) Where a person is delivered into military custody without being brought before a court, whether under the provisions of section 167 of this Act or under any other lawful power, there shall be handed over a certificate in the prescribed form signed by the police officer who causes him to be delivered into military custody, containing the prescribed particulars relating to his surrender.

(3) In any proceedings for an offence under section 43 or 44 of this Act—

(a) a document purporting to be a certificate under either subsection (1) or (2) of this section, or under the corresponding provisions of any service law (other than this Act) and to be signed as thereby required, shall be evidence of the matters stated in the document;

(b) where the proceedings are against a person who has been taken into military, naval or air force custody on arrest or surrender, a certificate in the prescribed form purporting to be signed by a provost officer or any corresponding officer of a force raised under the law of a country in the Commonwealth, or by any other officer in charge of the guardroom or other place where that person was confined on being taken into custody, stating the fact, date, time and place of arrest or surrender shall be evidence of the matters stated in the certificate.

Duties of superintendents of prisons and others to receive deserters and absentees.

169. (1) It shall be the duty of the superintendent or other person in charge of a civil prison to receive any person duly committed to that prison by a magistrate's court as illegally absent from the Army and to detain him until in accordance with the directions of the court he is delivered into military custody.

(2) Subsection (1) of this section shall apply to the person having charge of any police station or other place (not being a prison) provided for the confinement of persons in custody as it applies to the superintendent of a prison.

Offences relating to Military Matters punishable by Civil Courts

Punishment for pretending to be a deserter.

170. Any person who falsely represents himself to any military, naval, air force or civil authority to be a deserter from the Army shall be guilty of an offence and liable on conviction to a fine not exceeding ₦100 or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

Punishment for procuring and assisting desertion.

171. Any person who—

- (a) procures or persuades any officer or soldier of the Army to desert or to absent himself without leave; or
- (b) knowing that any such officer or soldier is about to desert or absent himself without leave, assists him in so doing; or

(c) knowing any person to be a deserter or absentee without leave from the Army, conceals him or assists him in concealing himself or assists in his rescue from custody, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ₦100 or to imprisonment for a term not exceeding one year or to both such a fine and such imprisonment.

Punishment for obstructing members of the Army in execution of duty.

172. Any person who wilfully obstructs or otherwise interferes with any officer or soldier of the Army acting in the execution of his duty shall be guilty of an offence and liable on conviction to a fine not exceeding ₦100 or to

imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

173. Any person who—

(a) produces in an officer or soldier of the Army any sickness or disability; or

(b) supplies to or for him any drug or preparation calculated or likely to render him, or lead to the belief that he is permanently or temporarily unfit for service,

with a view to enabling him to avoid military service, whether permanently or temporarily, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ₦100 or to imprisonment for a term not exceeding one year or to both such a fine and such imprisonment.

Punishment
for aiding
malingering.

174. (1) Any person who acquires any military stores or solicits or procures any person to dispose of any military stores, or acts for any person in the disposing of any military stores, shall be guilty of an offence, unless he proves either—

(a) that he did not know, and could not reasonably be expected to know, that the chattels in question were military stores; or

(b) that those chattels had (by the transaction with which he is charged or some earlier transaction) been disposed of by order or with the consent of the President or of some person or authority who had, or whom he had reasonable cause to believe to have, power to give the order or consent; or

(c) that those chattels had become the property of an officer who had retired or ceased to be an officer, or of a soldier who had been discharged, or of the personal representatives of a person who had died,

and shall be liable on conviction to a fine not exceeding ₦1,000 or imprisonment for a term not exceeding two years or to both such a fine and such imprisonment.

(2) A police officer may arrest without warrant any person whom he has reasonable grounds for suspecting of having committed an offence against this section, and may seize any

Unlawful
purchase,
etc. of
military
stores.

property which he has reasonable grounds for suspecting of having been the subject of the offence.

(3) Any person having authority to issue a warrant for the arrest of a person charged with crime may, if satisfied by evidence on oath that a person within his jurisdiction has, or is reasonably suspected of having, in his possession any property which has been the subject of an offence against this section, grant a warrant to search for such property as in the case of stolen goods; and any property suspected of having been the subject of such an offence which is found on such a search shall be seized by the officer charged with the execution of the warrant, and that officer shall bring the person in whose possession or keeping the property is found before a magistrate's court.

(4) In this section—

“acquire” means buy, take in exchange, take in pawn or otherwise receive (whether apart from this section the receiving is lawful or not);

“dispose” means sell, give in exchange, pledge or otherwise hand over (whether apart from this section the handing over is lawful or not);

“military stores” means any chattel of any description belonging to the government of the Federation, which has been issued for use for military purposes or is held in store for the purpose of being so issued when required, and includes any chattel which had belonged, and had been issued or held, as aforesaid at some past time.

(5) For the purposes of subsection (3) of this section, property shall be deemed to be in the possession of a person if he has it under his control, and whether he has it for his own use or benefit or for the use or benefit of another.

Illegal
dealings in
documents
relating
to pay,
pensions,
mobilisation,
etc.

175. (1) Any person who—

(a) as a pledge or a security for a debt; or

(b) with a view to obtaining payment from the person entitled thereto of a debt due either to himself or to any other person,

receives, detains or has in his possession any official document issued in connection with the payment to any person of any pay, pension, allowance, gratuity or other payment payable in respect of his or any other person's military service shall be guilty of an offence against this section.

(2) Any person who has in his possession without lawful authority or excuse (the proof whereof shall lie on him) any such document as aforesaid or any official document issued in connection with the mobilisation or demobilisation of any of the armed forces or any member thereof, shall be guilty of an offence against this section.

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1965.

(3) Any person guilty of an offence against this section shall be liable on conviction to a fine not exceeding ₦100 or to imprisonment for a term not exceeding six months or to both such a fine and such imprisonment.

(4) For the purposes of this section, a document shall be deemed to be in the possession of a person if he has it under his control and whether he has it for his own use or benefit or for the use or benefit of another.

176. (1) Any person who—

- (a) without authority uses or wears any military decoration, or any badge, wound stripe or emblem supplied or authorised by the President or Army Council; or
- (b) uses or wears any decoration, badge, wound stripe, or emblem so nearly resembling any military decoration, or any such badge, stripe or emblem as aforesaid, as to be calculated to deceive; or
- (c) falsely represents himself to be a person who is or has been entitled to use or wear any such decoration, badge, stripe or emblem as is mentioned in paragraph (a) of this subsection,

Unauthorised
use of and
dealing in
decorations,
etc.
L.N. 139 of
1965.

shall be guilty of an offence against this section:

Provided that nothing in this subsection shall prohibit the use or wearing of ordinary regimental badges or of brooches or ornaments representing them.

(2) Any person who purchases or takes in pawn any naval, military or air force decoration awarded to any member of

the armed forces, or solicits or procures any person to sell or pledge any such decoration, or acts for any person in the sale or pledging thereof, shall be guilty of an offence against this section unless he proves that at the time of the alleged offence the person to whom the decoration was awarded was dead or had ceased to be a member of those forces.

(3) Any person guilty of an offence against this section shall be liable on conviction to a fine not exceeding ₦100 or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

Provisions as to Evidence

General provisions as to evidence.

177. (1) The following provisions shall have effect with respect to evidence in proceedings under this Act, whether before a court-martial, a civil court or otherwise.

(2) A document purporting to be a copy of the attestation paper signed by any person and to be certified to be a true copy by a person stated in the certificate to have the custody of the attestation paper shall be evidence of the enlistment of the person attested.

(3) The attestation paper purporting to be signed by a person on his enlistment shall be evidence of his having given the answers to questions which he is therein recorded as having given.

(4) A letter, return or other document stating that any person—

(a) was or was not serving at any specified time or during any specified period in any part of the armed forces or was discharged from any part of those forces at or before any specified time; or

(b) held or did not hold at any specified time any specified rank or appointment in any of those forces, or had at or before any specified time been attached, posted or transferred to any part of those forces, or at any specified time or during any specified period was or was not serving or held or did not hold any rank or appointment in any particular country or place; or

(c) was or was not at any specified time authorised to use or wear any decoration, badge, wound stripe or emblem, shall, if purporting to be issued by or on behalf of the Commander, be evidence of the matters stated in the document.

(5) A record made in any service book or other document prescribed by regulations of the President for the purposes of this subsection, being a record made in pursuance of service law or regulations, or otherwise in pursuance of military duty, and purporting to be signed by the commanding officer or by any person whose duty it was to make the record, shall be evidence of the facts stated therein; and a copy of a record (including the signature thereto) in one of the said service books and a copy of such document, purporting to be certified to be a true copy by a person stated in the certificate to have the custody of the book or the original document, as the case may be, shall be evidence of the record.

(6) A document purporting to be issued by order of the Army Council or the Commander and to contain instructions or orders given or made by the Army Council or the Commander shall be evidence of the giving of the instructions or making of the orders and of their contents.

(7) A certificate purporting to be issued by or on behalf of the Army Council or the Commander and stating—

(a) that a decoration of a description specified in or annexed to the certificate is a military, naval or air force decoration; or

(b) that a badge, wound stripe or emblem of a description specified in or annexed to the certificate is one supplied or authorised by the President, or the Army Council,

shall be evidence of the matters stated in the certificate.

(8) A certificate purporting to be signed by a person's commanding officer or any officer authorised by him to give the certificate, and stating the contents of, or any part of, standing orders or other routine orders of a continuing nature made for—

(a) any formation, unit or body of troops; or

(b) any area, garrison or place; or

(c) any ship, train or aircraft,

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1965.

shall in proceedings against the said person be evidence of the matters stated in the certificate.

Proof of
outcome of
civil trial.

178. (1) Where a person subject to military law under this Act has been tried before a civil court (whether at the time of the trial he was so subject or not), a certificate signed by a Judge or a magistrate and stating all or any of the following matters—

- (a) that the said person has been tried before the court for an offence specified in the certificate;
- (b) the result of the trial;
- (c) what judgment or order was given or made by the court;
- (d) that other offences specified in the certificate were taken into consideration at the trial,

shall for the purposes of this Act be evidence of the matters stated in the certificate.

(2) A document purporting to be a certificate under this section and to be signed by a Judge or a magistrate shall, unless the contrary is shown, be deemed to be such a certificate.

Evidence of
proceedings
of court-
martial.

179. (1) The original proceedings of a court-martial under service law purporting to be signed by the president of the court and being in the custody of the Commander or of any person having the lawful custody thereof shall be admissible in evidence on production from that custody.

(2) A document purporting to be a copy of the original proceedings of a court-martial under service law or any part thereof and to be certified by the Commander or any person authorised by him, or by any other person having the lawful custody of the proceedings, to be a true copy shall be evidence of the contents of the proceedings or the part to which the document relates, as the case may be.

(3) This section shall apply to evidence given in any court, whether civil or criminal.

Reduction of Warrant and Non-commissioned Officers

180. (1) A warrant officer shall not be reduced in rank except by sentence of a court-martial under service law or by order of the Commander.

Restrictions on reduction in rank of warrant officers and non-commissioned officers.
1963 No. 8.

(2) A non-commissioned officer shall not be reduced in rank except—

- (a) by sentence of a court-martial under service law; or
- (b) in the case of a non-commissioned officer other than a lance-corporal, by award or order of the Commander or of an officer by whom the Commander's powers of reduction are exercisable by virtue of this Act; or
- (c) in the case of a lance-corporal, by award or order of his commanding officer.

(3) For the purposes of this section, reduction in rank does not include reversion from acting rank.

Miscellaneous Provisions

181. (1) Where a person is in military custody when charged with, or with a view to his being charged with, an offence against Part V of this Act or the corresponding provisions of any other service law it shall be the duty of the superintendent or other person in charge of a civil prison, or of the person having charge of any police station or other place in which prisoners may be lawfully detained, upon delivery to him of a written order purporting to be signed by the commanding officer of the person in custody to receive him into his custody for a period not exceeding seven days.

Temporary reception in civil custody of persons under escort.

(2) In this section, "civil prison" has the meaning ascribed to it in section 127 of this Act.

182. (1) Every assignment of or charge on, and every agreement to assign or charge, any pay, military award, grant, pension or allowance payable to any person in respect of his or any other person's service in the armed forces shall be void.

Avoidance of assignment of, or charge on, military pay, pensions, etc.

(2) Except as expressly provided by this Act, no order shall be made by any court the effect of which would be to restrain any person from receiving anything which by virtue of this

section he is precluded from assigning and to direct payment thereof to another person.

(3) Nothing in this section shall prejudice any enactment providing for the payment of any sum to a bankrupt's trustee in bankruptcy for distribution among creditors.

Power of certain officers to take statutory declarations.

183. (1) An officer of a rank not below that of major (hereafter in this Act referred to as an "authorised officer") may, outside Nigeria, take statutory declarations from persons subject to this Act.

(2) A document purporting to have subscribed thereto the signature of an authorised officer in testimony of a statutory declaration being taken before him in pursuance of this section and containing in the jurat or attestation a statement of the date on which and the place at which the declaration was taken and of the full name and rank of that officer shall be admitted in evidence without proof of the signature being the signature of that officer or of the facts so stated.

PART IX.—RESERVE

Reservists.

184. Notwithstanding the provisions of section 192 of this Act, this Part shall apply to every soldier who is, by virtue of the provisions of section 5 of this Act, a member of the reserve.

Annual training.

185. (1) Every reservist shall be liable to be called out for training at such place and for such periods not exceeding twenty-eight days in any one year as may be specified in regulations made under this Part.

(2) Every reservist may, during any training for which he may be called out, be attached to and trained with any unit.

Calling out of the reserve to aid the civil power.

186. (1) The President may, at any time when occasion appears to require, call out the reserve, or as many reservists as he thinks necessary, to aid the civil power in the preservation of the public peace.

(2) Reservists called out for service under this section shall not be liable to serve at any one time for a period exceeding twenty-eight days.

187. (1) In the event of a state of war being declared or of insurrection, hostilities or public emergency it shall be lawful for the President, by proclamation, to call out the reserve on permanent service.

Calling out of the reserve on permanent service.

(2) The President may, in any such proclamation as aforesaid, give or authorise a Minister to give such directions as may seem necessary or proper for calling out the reserve or any reservist.

(3) Every such proclamation and the directions given in pursuance thereof shall be obeyed, and every reservist called out by such directions shall attend at the place and time fixed by those directions, and at and after that time shall be deemed to be called out on permanent service.

(4) Every reservist when called out on permanent service shall be liable to serve as a soldier of the Army until his services are no longer required, so, however, that he shall not be required to serve for a period exceeding in the whole the remaining unexpired term of service in the reserve and any further period not exceeding twelve months as a soldier may, under section 19 of this Act, be retained in the Army after the time at which he would otherwise be entitled to be discharged.

188. (1) Any reservist who, without leave lawfully granted or other reasonable excuse, fails to appear at the time and place appointed for annual training, or when called out to aid the civil power or on permanent service, shall—

Punishment for non-attendance.

- (a) if called out on permanent service, be guilty, according to the circumstances, of deserting within the meaning of section 43 of this Act or of absenting himself without leave within the meaning of section 44 of this Act, or
- (b) if called out to aid the civil power or for annual training, be guilty of absenting himself without leave within the meaning of section 44 of this Act.

(2) Any reservist who commits any offence under this section shall be liable—

- (a) to be tried by court-martial, and on conviction to suffer imprisonment for a term not exceeding two years or such less punishment as is provided by this Act; or
- (b) to be tried by a magistrate's court and, on conviction, shall be liable to a fine not exceeding ₦100, or to imprisonment for a term not exceeding two years.

(3) Sections 76 and 165 to 169 of this Act inclusive shall apply to reservists who commit or are alleged to have committed or are reasonably suspected of having committed an offence against this section as they apply to persons otherwise subject to military law under this Act.

Record of
illegal
absence.

189. Where a reservist fails to appear at the time and place appointed for annual training or when called out to aid the civil power or on permanent service, and his absence continues for not less than twenty-one clear days, an entry of such absence shall be made by an officer in the service books prescribed by regulations made under this Part and such entry shall be *prima facie* evidence of the fact of such absence.

Discharge
during
service.

190. A reservist may be discharged by the competent military authority prescribed by regulations made under this Part at any time during the currency of any term of reserve service.

Regulations
as to the
reserve.

191. The President may make regulations with respect to the government and discipline of the reserve, and, without prejudice to the generality of the foregoing, may make regulations—

- (a) for the calling out for training of reservists;
- (b) for the calling out of the reserve to aid the civil power and on permanent service;
- (c) for providing for the pay of reservists, whether on the reserve or called out under section 185, 186 or 187 of this Act;
- (d) requiring reservists to report themselves from time to time, and to obtain the permission of the competent

military authority prescribed by such regulations before leaving Nigeria; and

- (e) providing for any matter which is required by this Part to be prescribed.

PART X.—APPLICATION OF THE ACT AND
SUPPLEMENTARY PROVISIONS

Application

192. (1) The following persons shall be subject to military law under this Act— Application of the Act.

- (a) officers and soldiers of the Army;
- (b) officers of the reserve when called out on service; and
- (c) reservists called out for training, to aid the civil power or on permanent service.

(2) This Act shall apply to the persons subject thereto under the provisions of this section and in relation to the units raised under this Act as well outside as within Nigeria.

193. (1) Subject to the modifications hereinafter specified, where any unit is on active service, Part V of this Act shall apply to any person who is employed in the service of that unit or any part or member thereof, or accompanies the said unit or any part thereof, and is not subject to service law, as Part V of this Act applies to persons subject to military law under this Act. Application of the Act to civilians.

(2) The said modifications are the following—

- (a) the punishments which may be awarded by a court-martial shall include a fine, but shall not include any other punishment less than imprisonment;
- (b) the punishment which may be awarded where a charge is dealt with summarily shall, in the case of any offence, be a fine not exceeding ₦20, but no other punishment;
- (c) the following provision shall have effect in substitution for subsections (2) to (4) inclusive of section 76 of this Act, that is to say, that a person may be arrested by a provost officer, by any warrant officer or non-commissioned officer legally exercising authority under

- a provost officer or on his behalf, or by order of any officer;
- (d) the provisions of this Act relating to the investigation of, and summary dealing with, offences shall, save as otherwise expressly provided, apply as they apply to soldiers;
- (e) for the purposes of the provisions of this Act relating to the investigation of offences, the commanding officer shall be such officer as may be appointed by an officer authorised to convene a court-martial;
- (f) for references in sections 116 and 117 of this Act to being, continuing, or ceasing to be subject to military law under this Act there shall be substituted references to being, continuing to be or ceasing to be in such circumstances that Part V of this Act applies, and subsection (3) of section 116 of this Act shall not apply.

(3) Any fine awarded by virtue of this section, whether by a court-martial or the commanding officer, shall be recoverable as a debt due to the Federation.

Seconded
members of
United
Kingdom
Forces.

194. (1) It is hereby declared that officers, warrant officers and non-commissioned officers who, being members of the United Kingdom military forces, are subject to military law under the British Act and are seconded to serve with the Army shall remain subject to military law under the British Act and shall not be subject to military law under this Act.

(2) The powers of arrest conferred by section 74 of the British Act and the provisions of sections 186 to 190 inclusive of the British Act (which relate to deserters and absentees without leave) shall apply in Nigeria to the persons referred to in subsection (1) of this section.

(3) In the event of a person referred to in subsection (1) of this section committing an offence against the provisions of the British Act he may be held, tried and punished in Nigeria for the offence thereunder.

Wills and Distribution of Property

195. (1) Every soldier on enlistment shall declare the name of the person or persons to whom, in the event of his decease without having made a valid will, any money or personal property due or belonging to him should be paid or delivered, and the name of such person or persons shall be recorded on his attestation paper; or he may direct that his estate is to be administered by the customary or court of some named place according to the customs of his tribe. The record shall be verified periodically, and it shall be the duty of the soldier to report any alteration in the record which he wishes made.

Soldier on enlistment to register the name of person whom estate is to be paid in event of his dying intestate.

(2) Any officer of or seconded to the Army or of the Treasury or other public department, having in his charge or control any pay, accumulations of pay, gratuity or other allowance, or any personal property or money belonging to any soldier dying intestate who has complied with the above conditions, may pay or deliver the same to the person whose name has been recorded by the soldier in the manner prescribed.

196. (1) Any will made by a soldier shall be valid for disposing of any money or personal property which is due or belonging to him at his decease if it is in writing and signed or acknowledged by him in the presence of, and in his presence attested by one witness, being an officer of or seconded to the Army or any Government medical officer; such will shall be deemed well made for the purpose of being admitted to probate, and the person taking out representation to the testator under such will shall exclusively be deemed the testator's representative with respect to the money or personal property thereby bequeathed.

Special provisions relating to soldiers' wills.

(2) Any officer of or seconded to the Army or of the Treasury or other public department, having in his charge or control any pay, accumulation of pay, gratuity or other allowance, or any personal property or money belonging to such testator, not exceeding in the aggregate the value of ₦200, may pay or deliver the same to any person entitled thereto under the will, or to the person entitled to procure probate of or administration under such will, although probate or administration may not have been taken out.

(3) If the value of the said money and personal property exceeds ₦200, the paymaster or other officer as aforesaid, having the same in his charge or control, shall require probate or administration to be taken out and thereupon pay and deliver the said money and effects to the legal representative of the deceased.

Distribution
in case of
deceased
soldier's
intestacy.

197. If any soldier dies without having complied with the requirements stated in section 195 of this Act, and without having made any valid will under section 196 of this Act or other enactment regulating wills for the time being in force, any officer of or seconded to the Army or of the Treasury or other public department having in his charge or control money or personal property of the deceased as aforesaid may, with the concurrence of the Commander or an officer acting on his behalf, pay or deliver such money or personal property to any claimant who proves to the satisfaction of the Commander or such officer that he is either the widow of the deceased or the child or any near relative of the deceased according to the rules of kinship of the tribe to which the deceased belonged, and where there are more such claimants than one, then in such shares and proportions as the claimants would be entitled to receive under the rules of succession prevailing among such tribe or as nearly as may be. In the case of a moslem, the distribution of the estate may be carried out by the area court of the district from which the deceased person came, the area court being responsible to his divisional officer that the distribution is carried out in accordance with Islamic law.

Payment of
debts of
deceased
soldier.

198. (1) Notwithstanding anything hereinbefore contained, if, in cases where probate of the will or administration of the estate of the deceased is not taken out, an officer of or seconded to the Army or of the Treasury or other public department, before disposing of the money and personal property of the deceased in manner aforesaid has notice of any debt due by the deceased, he shall apply such money and property as may remain in his charge or control or so much thereof as may be requisite in or towards payment of such debt, subject to the following conditions—

(a) that the debt accrued within three years before the death;

- (b) that the payment of it is claimed within one year after the death;
- (c) that the claimant proves the debt to the satisfaction of the Commander or an officer acting on his behalf.

(2) Any person claiming to be a creditor of a deceased soldier shall not be entitled to obtain payment of his debt out of any money that may be in the hands of any officer of or seconded to the Army or of the Treasury or other public department, except by means of a claim on an officer responsible for a soldier's pay or an administrative officer, and proceeding thereon under and in accordance with this Act. If the estate is being administered by a customary or area court, any Government debts shall be paid by the officer concerned before the balance of the estate is passed to the customary or area court. All debts other than Government debts shall be settled by the customary or area court which is administering the estate.

199. In all cases where the money or personal property of a deceased soldier or any part thereof is paid or delivered to any person as being interested therein by reason of his name having been recorded in accordance with section 195 of this Act, or under the will of the deceased, or as his widow or child, or near relative, or otherwise in accordance with this Act, any creditor of the deceased shall have the same rights and remedies against such person as if he had received the same as a legal personal representative of the deceased.

Property of deceased soldier distributed subject to rights of creditors.

200. (1) If the money or personal property belonging to a deceased soldier, or any part thereof, remains for one year undisposed of or unappropriated, and without any valid claim thereto having been made, then the same shall be paid over to the Accountant-General of the Federation and be applied towards forming a fund for the benefit of soldiers and ex-soldiers of the Army who are in distress, for the benefit of the Army generally or for charitable purposes:

Deceased soldier's money undisposed or applied to prescribed fund.

Provided that the application under this section of any such money or property or part thereof undisposed of or unappropriated as aforesaid, shall not be deemed to bar any claim of any person to the same, or any part thereof, that may be established at any time after such application.

(2) The formation of the fund and disbursements therefrom shall be in accordance with regulations to be made by the President.

(3) The fund referred to in this section may be the same fund as that referred to in section 206 of this Act or may be a separate fund for the purposes of this section, and regulations may provide accordingly.

Uniforms and decorations of deceased soldier.

201. Uniforms and decorations shall not be considered to be comprised in the personal estate of any deceased soldier with reference to claims of creditors or for any of the purposes of administration under this Act or otherwise, and the same shall be delivered to and held by the officer concerned and disposed of in such manner as may be prescribed.

Application of money, etc. in case of desertion.

202. In every case of desertion any money or property of the deserter in the charge or control of an officer of the Army or of the Treasury or other public department as aforesaid, shall be disposed of in such manner as may be prescribed:

Provided that in every such case the provisions of section 198 of this Act shall, *mutatis mutandis*, apply as nearly as may be.

Miscellaneous Provisions

Power to make regulations.

203. Subject to the foregoing provisions of this Act, the President may make regulations for the better carrying out of the provisions of this Act and generally for providing for any matter required by this Act to be prescribed or provided for by regulations.

Powers exercisable in subsidiary legislation.

204. (1) Any power conferred by this Act to make regulations, rules, orders or other instruments shall include power to make provision for specified cases or classes of cases, and to make different provisions for different classes of cases, and for the purposes of any such instrument classes of cases may be defined by reference to any circumstances specified in the instrument.

(2) Any such regulations, rules, orders, or other instruments as aforesaid may impose conditions, require acts or things to

be performed or done to the satisfaction of any person named therein whether or not such persons are members of the Army, empower such persons to issue orders either orally or in writing requiring acts or things to be performed or done or prohibiting acts or things from being performed or done, and prescribed periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled and provide for appeal against any such order, requirement or direction.

205. Save as expressly provided by any rules or regulations under this Act, any order or determination required or authorised to be made under this Act by any military officer or authority may be signified under the hand of any officer authorised in that behalf; and any instrument signifying such an order or determination and purporting to be signed by an officer stated therein to be so authorised shall unless the contrary is proved be deemed to be signed by an officer so authorised.

Execution of orders, instruments, etc.

206. (1) All fines awarded under sections 73, 74, 80, 81 and 193 of this Act shall be paid over to the Accountant-General of the Federation and be applied towards forming a fund to be known as the Nigerian Army Benefit Fund for the purposes of making moneys available for the benefit of soldiers and ex-soldiers of the Army who are in distress, for the benefit of the Army generally or for charitable purposes.

Nigerian Army Benefit Fund.

(2) The formation of the fund and disbursements therefrom shall be in accordance with regulations to be made by the Minister of Defence.

207. (1) The power to establish and maintain land forces under this Act shall include power to establish and maintain forces consisting of or including women, and any force so established and maintained shall be deemed to form part of the Army Act.

Application of Act to women's land forces.

(2) Subject to subsection (3) of this section, the provisions of this Act which specify the persons who are subject to military law under this Act and any other enactment (including enactments in this Act other than the provisions aforesaid) in so

far as it contains the word "soldier" or other word importing a reference to persons of the male sex only as, or as having been, members of the Army, shall have effect as if for such words there had been substituted therein words having a like meaning in other respects but importing a reference to persons of either sex.

(3) In relation to women members of the Army this Act shall have effect subject to the following modifications—

- (a) so much of Parts I, II, III and IX of this Act as relates to service in, and transfer to, the reserve shall not apply;
- (b) so much of Part V of this Act as provides for field punishment shall not apply;
- (c) references in sections 197 and 199 of this Act to a widow shall be construed as references to a widower.

Repeal and
saving.
1953 No. 7.

208. (1) The Royal Nigerian Military Forces Act, the Royal Nigerian Military Forces Reserve Act and the Royal Nigerian Military Forces (Military Units) Act, 1953, are hereby repealed:

Provided that—

- (a) all units raised under the provisions of the first-named Act shall be deemed to be raised under this Act; and
- (b) all soldiers serving with the Force raised under the first-named Act on the day on which this Act comes into operation shall be deemed to have been enlisted under this Act but such soldiers shall not be required to serve with the Force for a longer period than that for which they were required to serve at the time of their original enlistment or re-engagement.

(2) The transitional provisions set out in the Second Schedule to this Act shall take effect on the repeal of the first-named Act.

Second
Schedule.

FIRST SCHEDULE

Section 95

ALTERNATIVE OFFENCES OF WHICH ACCUSED MAY BE CONVICTED
BY COURT-MARTIAL

<i>Offence charged</i>	<i>Alternative offences</i>
1. Any offence against subsection (1) of section 30.	1. Any offence against subsection (2) of section 30.
2. Any offence against subsection (1) of section 31.	2. Any offence against subsection (2) of section 31.
3. Communicating with or giving intelligence to the enemy, either with intent to assist the enemy or without authority.	3. Disclosing information without authority.
4. Any offence against subsection (1) of section 37.	4. Any offence against subsection (2) of section 37.
5. Striking his superior officer.	5. (a) Using violence to his superior officer otherwise than by striking him. (b) Offering violence to his superior officer.
6. Using violence to his superior officer otherwise than by striking him.	6. Offering violence to his superior officer.
7. Using threatening language to his superior officer.	7. Using insubordinate language to his superior officer.
8. Disobeying, in such a manner as to show wilful defiance of authority, a lawful command given or sent to him personally.	8. Disobeying a lawful command.
9. Desertion.	9. Absence without leave.
10. Attempting to desert.	10. Absence without leave.
11. Stealing any property.	11. Fraudulently misapplying the property.
12. Any offence against section 49 involving wilfulness.	12. The corresponding offence involving negligence.
13. Any offence against subsection (1) of section 57.	13. Any offence against subsection (2) of section 57.

14. Any offence against section 58 involving striking.

14. (a) The corresponding offence involving the use of violence other than striking.

(b) The corresponding offence involving the offering of violence.

15. Any offence against section 58 involving the use of violence other than striking.

15. The corresponding offence involving the offering of violence.

SECOND SCHEDULE

Section 208

TRANSITIONAL PROVISIONS

1. In this Schedule, "the old Act" means the Royal Nigerian Military Forces Act (hereby repealed).

2. (1) In relation to an offence against any section in Part II of the old Act, sections 73 to 119 inclusive and 122 to 126 inclusive of this Act, and the rules made under section 128 of this Act shall apply as if the said section of the old Act had been contained in this Act and this Act had been in force when the offence was committed, and as if any finding or punishment having effect before the date upon which this Act comes into operation, and anything done before that day by virtue of or in relation to such a finding or sentence, had been come to, awarded or done under this Act:

Provided that nothing in this sub-paragraph shall render an offence capable of being tried by court-martial or dealt with summarily, if by reason of the time or place of the commission of the offence it could not have been so tried or dealt with under the old Act.

(2) Notwithstanding anything in sub-paragraph (1) of this paragraph where any proceedings for such an offence as aforesaid have been begun before the date upon which this Act comes into operation, any step in the proceedings taken after that day shall be deemed to be validly taken if taken in accordance with the old Act and the rules made thereunder.

(3) In section 119 of this Act (which provides against trial for offences already disposed of), references to this Act or to any provision thereof shall be construed as including respectively references to the old Act and to the corresponding provision thereof.

3. Where after the date upon which this Act comes into operation a person is alleged—

(a) to have committed an offence continuing over a period beginning before that day and ending thereon or thereafter; or

(b) to have committed an offence between two dates falling within such a period,

and the offence would be one against a provision in Part V of this Act if it had been in operation at all material times, he may be proceeded against as if this Act had so been in operation.

4. Any officer who immediately before the date upon which this Act comes into operation was authorised to recruit or attest soldiers shall, without prejudice to any subsequent withdrawal of the authorisation, be deemed without further authorisation a recruiting officer for the purposes of Part IV of this Act.

5. Any forfeiture of, or deduction from, pay having effect under the old Act immediately before the date upon which this Act comes into operation shall continue to have effect notwithstanding the repeal of the old Act.

6. Any document made before the date upon which this Act comes into operation which would have been admissible in evidence under the provisions of the old Act, or those provisions as applied by any other enactment, shall be admissible to the like extent and in the like proceedings notwithstanding that the old Act has ceased to be in operation.

NIGERIAN ARMY ACT**CHAPTER 294****SUBSIDIARY LEGISLATION***List of Subsidiary Legislation*

	PAGE
1. Nigerian Army (Enlistment and Service Regulations)	11519
2. Nigerian Army (Courts-Martial) (Appeals) Rules of Court	11534

NIGERIAN ARMY (ENLISTMENT AND SERVICE) REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
2. Interpretation.
3. Recruiting officers.
4. Prescribed forms.
5. Method of attestation.
6. Competent military authorities.
7. Transfer between units.
8. Terms of enlistment.
9. Re-engagement.
10. Appointment of warrant officers.
11. Discharge certificates.
12. Restoration of service.

NIGERIAN ARMY (ENLISTMENT AND SERVICE) REGULATIONS

L.N.
89 of 1961.

under section 28

Commencement: 29th June, 1961

1. These Regulations may be cited as the Nigerian Army (Enlistment and Service) Regulations. Short title.

2. (1) In these Regulations, unless the context otherwise requires— Interpreta-
tion.

“the Act” means the Nigerian Army Act;

“commanding officer” means, in relation to a soldier, the officer for the time being commanding the unit with which the soldier is serving;

“enlisted” means enlisted to serve in the Army, and the expression “enlistment” shall be construed accordingly.

(2) Other expressions used in these Regulations have the same meaning as they have in the Act.

Recruiting
officers.

3. All officers of the rank of captain and above who are either officers of the Army or are seconded for service with the Army are hereby authorised to act as recruiting officers.

Prescribed
forms.
First
Schedule.

4. The forms set out in the First Schedule to these Regulations, or forms substantially to the like effect, shall be the forms to be used for the purpose of the Act and these Regulations in cases to which those forms are applicable.

Method of
attestation.

5. (1) After a person offering to enlist has been given a notice paper the recruiting officer shall satisfy himself that the person understands the contents thereof and the conditions of engagement upon which he is about to enter and shall further warn the person to be enlisted that if he knowingly makes any false answer to the questions in the attestation paper which are to be put to him, he will be liable to be punished as provided by the Act.

(2) The recruiting officer shall satisfy himself that the person offering to enlist is, or as the case may be, is not, over the apparent age of eighteen years.

(3) The recruiting officer shall read or cause to be read to the person in a language which he understands, the questions set out in the attestation paper and shall ensure that the answers are duly recorded thereon.

(4) The recruiting officer shall ask the person to make and sign the declaration set out in the attestation paper as to the truth of the answers and shall administer to him the oath of allegiance set out therein:

Provided that if the person objects to be sworn and states as a ground for his objection either that he has no religious belief or that the taking of an oath is contrary to his religious belief, or, if it is not reasonable to administer an oath to such a person in the manner appropriate to his religious belief, the person shall be required to affirm instead of taking the oath.

(5) Upon signing the declaration and upon taking the oath, or as the case may be, affirming, the person shall become a soldier and subject to military law under the Act.

(6) The recruiting officer shall sign and date the attestation paper certifying that the requirements of the Act and these

Regulations have been duly complied with and shall deliver the attestation paper to the officer in charge of the records of the Army who shall by signing it in the appropriate place signify that the person is finally approved for service.

(7) The soldier on being finally approved for service shall be entitled to receive a certified true copy of the attestation paper.

6. (1) In relation to the provisions of the Act specified in the first column of Part I of the Second Schedule to these Regulations and for the purposes specified opposite thereto in the second column thereof, the officer specified in the third column thereof shall be the competent military authority.

Competent
military
authorities.
Second
Schedule.

(2) The officers set out in the second column of Part II of the said Second Schedule shall in pursuance of sections 20 (3) and 24 of the Act, be competent military authorities for the purpose of authorising the discharge of a soldier for the reasons set out in the first column thereof.

7. A soldier on enlistment shall be appointed to a unit and may be transferred from one unit to another by order of the officer in charge of records of the Army if it is in the interest of the Army so to do.

Transfer bet-
ween units.

8. (1) The terms of service for which, in accordance with subsection (2) of section 17 of the Act, a person who has apparently attained the age of eighteen years may be enlisted shall be—

Terms of
enlistment.

- (a) a term of six months, one, two, three, four, five, or six years of colour service; or
- (b) a term of nine years, being as to six years a term of colour service and as to the remainder, a term of service in the reserve; or
- (c) a term of twelve years, being as to nine years a term of colour service and as to the remainder, a term of service in the reserve.

(2) The terms of service for which, in accordance with subsection (3) of section 17 of the Act, a person who has not apparently attained the age of eighteen years may be enlisted

shall be one of the following, being a term beginning on the date of his attestation and ending with the expiration of a period of—

- (a) a term of six months, one, two, three, four, five or six years of colour service; or
- (b) a term of nine years, being as to six years a term of colour service and as to the remainder, a term of service in the reserve; or
- (c) a term of twelve years, being as to nine years a term of colour service and as to the remainder, a term of service in the reserve.

(2) The terms of service for which in accordance with subsection (3) of section 17 of the Act, a person who has not apparently attained the age of eighteen years may be enlisted shall be one of the following, being a term beginning on the date of his attestation and ending with the expiration of a period of—

- (a) six years beginning with the day on which he attained the apparent age of eighteen years, being a term of colour service; or
- (b) nine years beginning with the date on which he attained the apparent age of eighteen years being as to six years, a term of colour service and as to the remainder, a term of service in the reserve; or
- (c) twelve years beginning with the day on which he attained the apparent age of eighteen years being as to nine years, a term of colour service and as to the remainder, a term of service in the reserve.

Re-engage-
ment.

9. The period or periods of colour service for which a soldier may re-engage in accordance with the provisions of subsection (1) of section 18 of the Act shall not be more than one, two, three or six years and thereafter for period of one, two or three years at a time until he has completed twenty-two years' colour service:

Provided that such further period of colour service shall not, except as subsection (2) of the said section 18, exceed a total continuous period of eighteen years' colour service from the

date of his attestation or, as the case may be, the date on which he attained the apparent age of eighteen years.

10. Every warrant officer on appointment shall be issued with a warrant signed by the Minister charged with responsibility for matters relating to defence in the form set out in the Third Schedule hereto, or substantially to the like effect.

Appointment
of warrant
officers.
Third
Schedule.

11. The particulars to be contained in a certificate of discharge shall be—

Discharge
certificates.

- (a) number;
- (b) name, including Christian names or forenames;
- (c) date and place of enlistment;
- (d) physical description of soldier on leaving colour service;
- (e) rank of soldier on leaving colour service;
- (f) assessment of conduct and character on leaving colour service;
- (g) date of transfer to the reserve;
- (h) rank on transfer to the reserve;
- (i) date of discharge;
- (j) rank on discharge;
- (k) reason for discharge;
- (l) total service on discharge, both colour service and service in the reserve; and
- (m) signature of issuing officer:

Provided that the particulars specified in items (g) and (h) shall be omitted in the case of a soldier who has not served in the reserve.

12. Where a soldier has had service excluded in accordance with the provisions of section 26 of the Act, an order may be made by any officer not below the rank of brigadier or officer of corresponding rank under whom the soldier is serving restoring all or part of the excluded service—

Restoration
of service.

- (a) if he is promoted to the rank of sergeant; or
- (b) if he has served for a continuous period of eighteen months without incurring an adverse entry in his regimental conduct sheet.

FIRST SCHEDULE

(Regulation 4)

FORM 1

NIGERIAN ARMY
NOTICE PAPER

NOTICE TO BE GIVEN UNDER SECTION 16 OF THE NIGERIAN ARMY
ACT (CAP. 294) TO A PERSON OFFERING TO ENLIST IN THE
NIGERIAN ARMY

This paper sets out the questions you will be required to answer before the officer who will attest you for service in the Nigerian Army and the general conditions of the various engagements.

Under the provisions of section 64 of the Nigerian Army Act, if any person knowingly makes a false answer to any question contained in the attestation paper he is liable to punishment.

QUESTIONS TO BE PUT TO THE RECRUIT BEFORE ENLISTMENT

1. What is your full name?
2. What is your address?
3. State day, month and year of your birth.
4. Where were you born?
5. What is your nationality now?
6. What was the nationality at birth of—
 - (a) yourself
 - (b) your father
 - (c) your mother
 - (d) your wife?
7. Are you single, married, widowed, divorced?
8. How many children are dependent on you?
9. What is your religion?
10. What is your trade or calling?
11. Give the name or names of the person or persons to whom in the event of your dying without having made a will any money or personal property due or belonging to you should be paid or delivered.
12. Do you belong to, or have you ever served in, any naval, military or air force or in any police force? If so, state which, and the periods of service and the reasons for and dates of discharge.

13. Have you ever been cashiered, dismissed, discharged with disgrace, with ignominy or for misconduct from any naval, military or air force or from any police force?
14. Have you truly stated the whole, if any, of your previous service?
15. Have you at any time been found guilty by any civil court of any offence? If so, give particulars.
16. Have you ever been rejected for service in any naval, military or air force or in any police force? If so, on what grounds?
17. Are you willing to be vaccinated or re-vaccinated?
18. Have you received a notice paper setting out the questions to be answered on attestation, and the general conditions of the engagement to be entered into, and do you understand the contents of the notice paper and wish to be enlisted?
19. What is the place to which you wish to proceed on leave or discharge (*i.e.*, Nigerian home place)? If this is not the place indicated at serials 2, 4 or 11, reasons should be stated.
20. Are you willing to serve Nigeria in the Nigerian Army, provided that Nigeria shall so long require your services, for—
 - a term of.....years with the colours;*
 - a term of.....years with the colours and three years in the reserve;*if you are under the apparent age of eighteen years, the period from the date of attestation up to the date on which you attain the apparent age of eighteen years and thereafter for—
 - a period of six years with the colours;
 - a period of.....years with the colours and three years in the reserve.

GENERAL CONDITIONS OF ENGAGEMENT

1. You will be required to engage to serve Nigeria in the Nigerian Army, for such time as is agreed on attestation, provided that Nigeria shall so long require your services. You will be liable to serve in any part of such Army and may be ordered to serve outside Nigeria.
2. You may engage to serve—
 - (a) for a term of six months, one, two, three, four, five or six years with the colours when any of these terms of service are currently open; or

* Delete matters not appropriate and complete where necessary.

- (b) for a term of six years with the colours and three years in the reserve, or
- (c) for a term of nine years with the colours and three years in the reserve; or
- (d) if you are under the apparent age of eighteen years, for a term up to your apparent eighteenth birthday and thereafter for a term—
 - (i) of six years with the colours, or
 - (ii) six years with the colours and three years in the reserve, or
 - (iii) nine years with the colours and three years in the reserve.

3. You will be required to make the following declaration—

“I,, do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfil the engagements made.”

On signing the declaration and taking the oath or making the solemn affirmation you will become a soldier of the Nigerian Army subject to military law under the Nigerian Army Act.

4. At any time within two years of your completing your colour service, you may apply to serve for a further term with the colours until you have completed a continuous period of twenty-two years with the colours.

5. After you have completed twenty-two years with the colours, you may apply to continue to serve with the colours from year to year and during such continued service you may give three months' notice to claim your discharge.

6. You will be enlisted in the rank of private/boy.* Subsequent promotion will depend on vacancies in the establishment.

7. When you have been attested you will be subject to the provisions of the Nigerian Army Act, for the time being in force, and you will be required to carry out whatever duties may be ordered by those in authority over you.

8. No guarantee can be given that you will be employed on any particular duties but where you are enlisted with a view to performing particular duties or to being trained in a particular trade, you will be employed on those duties or, as the case may be, trained and employed in that trade, so far as the requirements of the service permit.

9. Where you are enlisted with a view to being employed on particular duties or in a particular trade and through no fault of your own you fail to qualify or are unable to be employed on those duties or in that trade, except for periods of limited duration, you may apply for discharge which will be granted to you so long as the requirements of the service permit. Employment in a trade depends on passing a specified trade test and there being a vacancy in that trade.

10. If you are enlisting for the first time in the Nigerian Army you will be entitled to claim your discharge subject to section 25 of the Nigerian Army Act at any time within six months of your attestation on payment of a sum not exceeding twenty naira.

11. In computing your service for the purpose of discharge, re-engagement or transfer to the reserve, periods during which you have been away from your duty because of imprisonment, desertion or absence without leave exceeding twenty-eight days will be excluded and, further, any period which you are ordered by a court-martial to forfeit will be similiary excluded.

12. You may be discharged at any time during your engagement by order of a competent military authority as a result of irregularities concerning your enlistment, for misconduct, for unfitness on medical grounds or for the benefit of the public service.

13. If at the time when your colour service expires there is a state of war, insurrection, hostilities, or public emergency, you may be retained and your service prolonged for such further period as a competent military authority may direct.

14. If you are transferred to the reserve at the end of your colour service you will be liable when in the reserve to be called out—

- (a) by proclamation if a state of war has been declared or in the event of insurrection, hostilities or public emergency, in which event you are liable to serve for the whole of the remaining unexpired term of service in the reserve and such further period not exceeding twelve months as a soldier may be retained under section 19 of the Nigerian Army Act;
- (b) on temporary service to aid the civil power for periods not exceeding twenty-eight days when the President thinks necessary; and
- (c) for training not exceeding twenty-eight days in any one year.

15. If at the time you are due to be discharged or transferred to the reserve you are liable to be proceeded against for an offence against service law, your discharge or transfer to the reserve will be postponed until after the proceedings have been concluded.

16. If at the time when you are entitled to be discharged or transferred to the reserve you are serving out of Nigeria you will be returned to Nigeria free of all costs.

17. In certain circumstances when you are discharged or transferred to the reserve you will be sent to the place where you were attested or to the place in Nigeria where you intend to reside and to which you can be conveyed with no greater cost.

FORM 2

ATTESTATION PAPER¹NATURE OF ENGAGEMENT².....YEARS WITH THE COLOURS.....

YEARS IN THE RESERVE

General Instructions for Completing the Attestation Paper

The recruit will first be given a copy of the notice paper.

QUESTIONS TO BE PUT TO THE RECRUIT BEFORE ENLISTMENT

1. What is your full name?
2. What is your address?
3. State the day, month and year of your birth.
4. Where were you born?
5. What is your nationality now?
6. What was the nationality at birth of:

(a) yourself?	(b) your father?
(c) your mother?	(d) your wife?
7. Are you single, married, widowed, divorced?
8. How many children are dependent on you?
9. What is your religion?
10. What is your trade or calling?
11. Give the name or names of the person or persons to whom in the event of your dying without having made a will any money or personal property due or belonging to you should be paid or delivered.
12. Do you belong to, or have you ever served in, any naval, military or air force or in any police force? If so, state which, and the periods of service and the reasons for and dates of discharge.³
13. Have you ever been cashiered, dismissed, discharged with disgrace, with ignominy or for misconduct from any naval, military or air force or from any police force?
14. Have you truly stated the whole, if any, of your previous service?

15. Have you at any time been found guilty by a civil court of any offence? If so, give particulars.
16. Have you ever been rejected for service in any naval, military or air force or in any police force? If so, on what grounds?
17. Are you willing to be vaccinated or re-vaccinated?
18. Have you received a notice paper setting out the questions to be answered on attestation, and the general conditions of the engagement to be entered into and do you understand the contents of the notice paper and wish to be enlisted?
19. What is the place to which you wish to proceed on leave or discharge (*i.e.*, Nigerian home place)? If this is not the place indicated at serials 2, 4 or 11, reasons should be stated.
20. Are you willing to serve Nigeria in the Nigerian Army, provided Nigeria shall so long require your services, for—
 - a term of.....years⁴ with the colours;
 - a term of.....years⁴ with the colours and three years in the reserve⁴;
 if you are under the apparent age of eighteen years, the period from the date of your attestation up to the date on which you attain the apparent age of eighteen years and thereafter for—
 - a period of six years with the colours;
 - a period of.....years⁴ with the colours and three years in the reserve⁵.

SOLEMN DECLARATION

I,, do solemnly declare that the above answers made by me to the above questions are true, and that I am willing to fulfil the engagement made.

DATED the.....day of....., 19.....

.....
Signature of Recruit

.....
Signature of Witness

DECLARATION FOR THE PURPOSES OF SECTION 195 OF THE NIGERIAN
ARMY ACT

(The name(s)⁵ and address(es)⁵ of the person(s)⁵ to whom I wish any money or personal property which may be due or belonging to me at my death to be delivered in the event of my not having made a valid will is/are.....)⁵

(In the event of my death I direct that my estate be administered by the area or customary court of.....in accordance with the customs of my tribe.)⁵

DATED the.....day of....., 19.....

.....
Signature of Recruit

.....
Signature of Witness

FORM OF (OATH) (AFFIRMATION)⁵

I,.....
(swear by Almighty God) (do solemnly, sincerely and truly declare and affirm)⁵ that I will be faithful and bear true allegiance to the Federal Republic of Nigeria, and that I will observe and obey all orders of the President and the officers placed over me.

CERTIFICATE OF RECRUITING OFFICER

The above-named recruit was cautioned by me that if he knowingly made any false answer to any of the questions put to him he would be liable to be punished as provided in the Nigerian Army Act.

The questions were then read to the recruit in my presence.

I have taken care that he understands each question, and that his answer to each question has been duly entered.

I have taken care to see that the recruit has received a notice paper and I am satisfied that he is fully aware of the terms and general conditions of service on which he has entered.

I am satisfied from (the evidence produced) (the statements made by the recruit) that he (has) (has not) attained the apparent age of eighteen years.

The said recruit has made and signed the declaration and (taken the oath) (affirmed) before me at.....on this.....day of....., 19.....

.....
*Signature and Rank of
Recruiting Officer*

CERTIFICATE OF MEDICAL EXAMINATION

I have examined the above-named recruit in accordance with current instructions and have assessed him as follows—

P	U	L	H	E	E	M	S

Identification particulars of.....on enlistment.

Apparent age..... years.....months.
(to be determined by the examining medical officer)

Colour of eyes.....Hair.....

Height.....inches *(without boots/shoes)*

Weight.....lbs. *(undressed)*

Distinctive marks, and marks indicating congenital peculiarities or previous disease.

Description of features.....

Date....., 19.....

Place.....

.....
Medical Officer

I certify that this attestation paper of the above-named recruit is properly completed and that the required forms relative to his enlistment appear to have been complied with. I accordingly approve his enlistment in the Nigerian Army.

Date....., 19.....

Place.....

.....
Signature, Rank and Appointment of Approving Officer

- 1 The recruit will first be given a question paper.
- 2 Insert type of engagement.
- 3 If the recruit has former service he is to be asked particulars of his former service and will produce, if possible, all certificates issued on discharge. All certificates will be returned to the recruit and certificates will be conspicuously endorsed in red ink that he has been enlisted in the Nigerian Army.
- 4 Insert term.
- 5 Delete whichever is inappropriate. Deletion to be initialled by the recruiting officer.

SECOND SCHEDULE

(Regulation 6)

PART I

<i>Provision of the Act</i>	<i>Purpose</i>	<i>Competent military authority</i>
Section 18(1)	Approving re-engagement	The commanding officer.
Section 18(2)	Approving continuance in colour service	The officer in charge of records.
Section 19	Prolonging service during emergency	In Nigeria—the Commander. Outside Nigeria—the commander of the force with which the soldier is serving.
Section 21(4)	Discharging a soldier when he falls to be transferred to the reserve	The officer in charge of records.
Section 25(1)	Fixing amount to be paid	The officer in charge of records.
Section 27(2)	Receiving claim and discharging a person who has not made a declaration on attestation	The commanding officer.

PART II

<i>Reason</i>	<i>Competent military authority</i>
For inefficiency during the first six months of service	The Commanding Officer.
On being dismissed from the service	In the case of a warrant officer—the confirming authority; in the case of a non-commissioned officer or soldier—the commanding officer.
For inefficiency after the first six months of service	The Commander.
Services no longer required	The Commander.
Conviction by a civil court	The Commander.
Medically unfit	The Commanding Officer.
On compassionate grounds	The Commander.
On purchase under section 25 of the Act	The Commanding Officer.
On being unable to qualify for a trade	The Commanding Officer.

THIRD SCHEDULE (Regulation 10)

WARRANT

To.....
(Name of Warrant Officer)

By virtue of the authority to me in this behalf given I do hereby constitute and appoint you the said.....to be a warrant officer in the Nigerian Army from the.....day of....., 19....., and to continue in the said office during the pleasure of the Honourable Minister of Defence. You are therefore carefully and diligently to discharge your duty as such by doing and performing all manner of things thereunto belonging, as required by the established regulations of the service, and you are to observe and follow such orders and directions as you shall receive from your commanding, or any other superior officer, according to the rules and discipline of war.

GIVEN at Lagos this.....day of....., 19.....

.....
Minister of Defence

NIGERIAN ARMY (COURTS-MARTIAL) (APPEALS) RULES OF COURT

ARRANGEMENT OF RULES OF COURT

RULE

1. Short title.
2. Interpretation.
3. Application for leave to appeal and notices.
4. Extension of time.
5. Application to single judge.
6. Abandonment of appeal.
7. Presentation of appeal in writing.
8. Courts-martial proceedings.
9. Copies of proceedings, etc.
10. Documents and exhibits.
11. Security of documents, etc.
12. Witnesses.
13. Register and cause list.
14. Presence of appellant at hearing.
15. Notifying results of appeals, etc.
16. Restitution order.
17. Right of audience.
18. Non-compliance with Rules.
19. Enforcement of duties.

L.N.
90 of 1961.

NIGERIAN ARMY (COURTS-MARTIAL) (APPEALS) RULES OF COURT

under section 143

Commencement: 1st July, 1961

Short title.

1. These Rules may be cited as the Nigerian Army (Courts-Martial) (Appeals) Rules of Court.

Interpreta-
tion.

2. In these Rules, unless the context otherwise requires—
“appellant” includes a person who has applied for leave to
appeal;

NIGERIAN ARMY (COURTS-MARTIAL) (APPEALS) RULES OF COURT

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Short title.

1. These Rules may be cited as the Nigerian Army (Courts-Martial) (Appeals) Rules of Court.

Interpreta-
tion.

2. In these Rules, unless the context otherwise requires—
“appellant” includes a person who has applied for leave to
appeal;

- “the Court” means the Court of Appeal;
- “the Act” means the Nigerian Army Act;
- “exhibits” means all documents and things which have been produced and used in evidence at a trial by court-martial, whether they are attached to the proceedings of the court-martial or not;
- “the Registrar” means the Chief Registrar of the Court;
- “the respondent” means the Attorney-General of the Federation.

3. (1) A person desiring to appeal to the Court against his conviction by a court-martial shall give notice of appeal or notice of application for leave to appeal in Form 1 or Form 2 set out in the First Schedule hereto and shall answer the questions and comply with the requirements set forth therein.

Application for leave to appeal and notices.
First Schedule.

(2) A notice of appeal or of application for leave to appeal and any other notice required or authorised to be given to the Court under these Rules shall be signed by the appellant or by his legal representative:

Provided that notice of abandonment shall, subject to the provisions of paragraph (2) of Rule 6 hereof, be signed by the appellant himself.

(3) A notice of appeal or of application for leave to appeal, and any other notice required or authorised to be given to the Court under these Rules, shall, subject to paragraph (4) of this rule, be addressed to the Registrar.

(4) In any of the circumstances specified in the first column of the Second Schedule hereto, any application or notice which is required or authorised to be given to the Court under these Rules may be lodged with the person specified in relation to these circumstances in the second column of that Schedule.

Second Schedule.

(5) Where an appellant, or any other person required or authorised to make an application or give any notice for the purpose of these Rules, is unable to write, he may affix his mark thereto, in the presence of a witness who shall attest

the same, and thereupon such application or notice shall be deemed to be signed by the appellant.

Extension of
time.
First
Schedule.

4. A notice of application to the Court for an extension of time within which to make application for leave to appeal, shall be in Form 3 set out in the First Schedule hereto and shall be sent to the Registrar.

Application
to single
Judge.

5. (1) Where an application has been dealt with by a single Judge in exercise of the powers of the Court under section 146 of the Act, the Registrar shall notify the appellant of the decision.

(2) If the judge refuses an application on the part of the appellant to exercise in his favour any of the powers prescribed in section 146 of the Act, the appellant may make a requisition in terms of the said section within ten days from the date on which he receives a notification under paragraph (1) of this rule and such requisition shall be made in Form 4 set out in the First Schedule hereto.

First
Schedule.

(3) A judge who has refused an application to exercise the powers of the Court under section 146 of the Act may sit as a member of the Court determining such application.

Abandon-
ment of
appeal.
First
Schedule.

6. (1) An appellant may, at any time after he has given notice of appeal or of application for leave to appeal, abandon his appeal by giving to the Registrar notice of abandonment thereof in Form 5 set out in the First Schedule hereto.

(2) Where it is contended that the appellant is insane, a notice of abandonment may be given and signed by the legal representative.

Presentation
of appeal in
writing.
First
Schedule.

7. Where in accordance with section 137 of the Act, an appellant desires to present his case in writing the form to be given shall be the Form 1 or Form 2 set out in the First Schedule hereto.

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Extension of
time.
First
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Presentation
of appeal in
writing.
First
Schedule.

7. Where in accordance with section 137 of the Act, an appellant desires to present his case in writing the form to be given shall be the Form 1 or Form 2 set out in the First Schedule hereto.

8. (1) The Registrar, on receipt of a notice of appeal or of application for leave to appeal under the Act, shall request the Commander to forward to him the proceedings of the court-martial and any petition presented by the appellant praying that his conviction be quashed.

Courts-martial proceedings.

(2) After an application is finally refused or is withdrawn or the appeal is determined or abandoned the proceedings of the court-martial and any petition shall, subject to any order which the Court may make, be returned by the Registrar to the Commander.

(3) A copy of any document which is required for the use of the Court may be made by such person and in such manner as the Commander may direct.

9. (1) At any time after the Registrar has received a notice of appeal or of application for leave to appeal, an appellant or the respondent may, subject to the provisions of these Rules, obtain from the Registrar copies of any document in his possession for the purpose of the appeal.

Copies of proceedings, etc.

(2) Copies of any documents shall be supplied by the Registrar to the appellant at a charge not exceeding 10 kobo per folio of seventy-two words.

10. (1) Subject to rule 11 of these Rules, any document or exhibit forwarded to the Registrar for the purpose of an appeal or application shall, pending the determination of the appeal or application, be open, as and when the Registrar may arrange, for inspection by the appellant or the respondent.

Documents and exhibits.

(2) Subject to the provisions of rule 11 of these Rules, the Court may, at any stage of an appeal, whenever it thinks it necessary or expedient in the interests of justice so to do, order any document, exhibit or other thing connected with the proceedings to be produced to the Registrar or before it by any person having the custody or control thereof.

(3) After an application is finally refused or is withdrawn, or the appeal is determined or abandoned, documents and exhibits shall, subject to any order which the Court may make, be returned by the Registrar to the person who produced or forwarded them.

(4) Service of any order made under this rule shall be personal service unless the Court otherwise orders.

Security of documents, etc.

11. (1) If the President or any other person authorised by him in that behalf certifies that, for reasons of security, the whole or part of the proceedings of the court-martial or other document, exhibit or other thing ought not to be disclosed otherwise than to the Court, or ought only to be disclosed subject to certain conditions specified by the person who so certifies, the Registrar shall, notwithstanding any provisions of these Rules to the contrary, not permit inspection or supply a copy thereof without an order of the Court which may direct upon what conditions, if any, inspection shall be permitted or a copy supplied.

(2) Nothing in these Rules shall affect any rule of law which authorises or requires the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

Witnesses.
First
Schedule.

12. (1) An order of the Court that a witness shall attend and be examined shall be in Form 6 set out in the First Schedule hereto and shall specify the time and place at which such witness shall attend.

(2) Such an order may be made on the application at any time of the appellant or the respondent, but if the appellant is in custody and is not legally represented, the application shall be made by him in Form 7 set out in the First Schedule hereto.

First
Schedule.

(3) Service of any order required by this rule to be given to any witness shall be personal service, unless the Court otherwise orders.

Register and
cause list.

13. (1) The Registrar shall keep a register of all cases in which he shall receive a notice of appeal or of application for leave to appeal under the Act, and such register shall be open for public inspection in such place and at such hours as the Registrar, subject to the approval of the Court, shall decide.

(2) The Registrar shall also publish a list of appeals and applications which the Court may consider on the days on which the Court, as constituted for the hearing and determination of appeals under the Act, shall sit, and shall cause such list to be published at such times and in such places and in such a manner as he, subject to the approval of the Court, shall think convenient for giving due notice to any parties interested therein of the hearing of the cases in such list by the Court.

14. Where an appellant is in custody and has obtained leave to be present at the hearing and determination of his application or appeal, or at any stage thereof, the Registrar shall notify the appellant, the person in charge of the place where the appellant is confined, and the Commander or the Director of Prisons, as the case may be, of the probable date thereof.

Presence of appellant at hearing.

15. (1) On the final determination of any appeal or of any application, the Registrar shall, unless it appears to him unnecessary to do so, give to the appellant, the respondent, and, where the appellant is in custody, to the person in charge of the place where he is confined, written notice of the determination.

Notifying results of appeals, etc.

(2) In the case of an appeal against a conviction involving sentence of death, the Registrar shall, on receiving a notice of appeal, send a copy thereof to the President and, on the final determination of an appeal, shall forthwith give written notice to the appellant and to the President and to the person in charge of the place where the appellant is confined.

16. (1) Where any property or money has been ordered to be restored or handed over under the provisions of section 122 of the Act, and the operations of the order has been suspended under subsection (9) of that section, unless the property is in the custody of the Registrar, the authority which made or confirmed the order shall cause it to be kept in safe custody for the period during which the operation of the order is suspended.

Restitution order.

(2) Any person in whose favour or against whom an order has been made under the section referred to in the preceding paragraph of this rule, and, with the leave of the Court, any other persons, shall on the final hearing by the Court of the appeal against the conviction on which such order was made, be entitled to have any representations that he or they may make considered by the Court before any order is made under paragraph (d) of subsection (9) of section 122 of the Act.

Right of audience.

17. In any proceedings before the Court, any of the following persons may address the Court—

- (a) a legal practitioner retained by or on behalf of the appellant; and
- (b) the appellant, if he has the leave of the Court to be present;
- (c) the respondent or his representative.

Non-compliance with Rules.

18. Non-compliance with these Rules by an appellant shall not prevent further prosecution of his appeal, unless the Court otherwise directs; and the Registrar shall forthwith notify the appellant of any directions given by the Court under this rule, where the appellant was not present at the time when such directions were given.

Enforcement of duties.

19. The performance of any duty imposed upon any person under the Act or these Rules may be enforced by order of the Court.

FIRST SCHEDULE

Nigerian Army (Courts-Martial) (Appeals) Rules of Court

FORM 1

(Rule 3)

To THE CHIEF REGISTRAR OF THE COURT OF APPEAL

NOTICE OF APPEAL FROM DECISION OF COURTS-MARTIAL
INVOLVING SENTENCE OF DEATH

Name of Appellant.....Number.....

Unit.....Rank.....

Convicted by court-martial held at.....

Offence of which convicted.....

Sentence.....

Date when finding promulgated.....

Name of prison or place of detention¹.....

I, the above-named appellant, hereby give you notice that I desire to appeal to the Court of Appeal against my conviction on the following grounds.²

(Signed)³..... (Appellant)

DATED the⁴.....day of....., 19.....

Questions⁵

Answers

1. Is any legal practitioner now acting for you? If so, give his name and address.

2. Do you desire to be present when the Court considers your appeal?

3. Do you desire to apply for leave to call any witness on your appeal?

If your answer to this question is "Yes", you must fill in Form 7 and send it with this Form.

1 If not in custody set out appellant's address in full.

2 Here set out clearly and concisely the reasons why it is considered that this conviction should be quashed.

3 This notice must be signed by the appellant or his legal representative. If the appellant cannot write he must affix his mark in the presence of a witness. The name and address of such attesting witness must be given.

4 This form must be lodged within ten days of the promulgation of the finding of the Courts-Martial, and the Court of Appeal has no power to extend the time allowed.

5 These questions must be answered.

*Nigerian Army (Courts-Martial) (Appeals)
Rules of Court*

FORM 2

(Rule 3)

To THE CHIEF REGISTRAR OF THE COURT OF APPEAL

APPLICATION FOR LEAVE TO APPEAL AGAINST CONVICTION
BY COURTS-MARTIAL

Name of Appellant.....Number.....
 Unit.....Rank.....Convicted by
 courts-martial held at.....
 Offence of which convicted.....
 Sentence.....Date when finding promulgated.....
 Name of prison or place of detention¹.....

I, the above-named appellant, hereby give you notice that I desire to appeal to the Court of Appeal against my conviction on the following grounds.²

(Signed)³.....(Appellant)

DATED the⁴.....day of....., 19.....

Questions⁵

Answers

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| <p>1. Is any legal practitioner now acting for you? If so, give his name and address.</p> <p>2. Do you desire to be present when the Court considers your appeal?</p> <p>3. Do you desire to apply for leave to call any witness on your appeal? If your answer to this question is "Yes", you must fill in Form 7 and send it with this Form.</p> | <p>.....</p> <p>.....</p> <p>.....</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|

¹ If not in custody set out appellant's address in full.

² Here set out clearly and concisely the reasons why it is considered that this conviction should be quashed.

³ This notice must be signed by the appellant or his legal representative. If the appellant cannot write he must affix his mark in the presence of a witness. The name and address of such attesting witness must be given.

⁴ This form must be lodged within forty days after the appellant has become entitled to apply for leave to appeal. If it is lodged more than forty days after the appellant has become entitled to apply for leave to appeal he must also fill in Form 3 and send it with this Form.

⁵ These questions must be answered.

Nigerian Army (Courts-Martial) (Appeals) Rules of Court

FORM 3

(Rule 4)

To THE CHIEF REGISTRAR OF THE COURT OF APPEAL.

NOTICE OF APPLICATION FOR EXTENSION OF TIME WITHIN WHICH TO APPLY FOR LEAVE TO APPEAL

I,1have been convicted of the offence of2..... by courts-martial held at..... on the.....day of....., 19....., and being now at.....,3

give you notice that I hereby apply to the Court for an extension of the time within which I may give notice of application for leave to appeal, on the grounds following4.....

(Signed).....(Appellant)

DATED the.....day of....., 19.....

- 1 Insert name, number, rank and unit.
2 State shortly the offence or offences.
3 Set out address in full.
4 Here set out clearly and concisely the reasons for the delay in giving notice, and the grounds on which you submit that the Court should extend the time.

(Form 1 must be filled up and sent WITH THIS NOTICE to the Chief Registrar.)

Nigerian Army (Courts-Martial) (Appeals) Rules of Court

FORM 4

(Rule 5)

To THE CHIEF REGISTRAR OF THE SUPREME COURT

NOTICE OF APPEAL FROM A JUSTICE OF THE COURT OF APPEAL UNDER SECTION 146 OF THE NIGERIAN ARMY ACT

I,1.....having received your notification that my application for— (a) leave to appeal;2 (b) extension of the period within which application for leave to appeal may be made;2 (c) permission to be present at the proceedings in the appeal;2

has been refused by a Judge of the Court, DO HEREBY GIVE YOU NOTICE that I desire that the said application shall be considered and determined by the full Court.

(Signed).....(Appellant)

- 1 Insert name, number, rank and unit.
- 2 Strike out if not appropriate.

DATED the.....day of....., 19.....
(If you wish to state any reasons, in addition to those set out by you in your original application, upon which you submit that the Court should grant this application, you may do so in the space below.)

Nigerian Army (Courts-Martial) (Appeals)
Rules of Court

FORM 5

(Rule 6)

To THE CHIEF REGISTRAR OF THE COURT OF APPEAL

NOTICE OF ABANDONMENT

Name of Appellant.....Number.....
 Unit.....Rank.....
 Convicted by courts-martial held at.....
 Offence of which convicted.....
 Name of prison or place of detention¹.....

I, the above-named appellant, having been convicted as above stated and having duly sent to the Chief Registrar of the Court notice that I desired to appeal DO HEREBY GIVE NOTICE that I do not intend further to prosecute my appeal but THAT I HEREBY ABANDON all proceedings in regard thereto as from the date hereof.

DATED the.....day of....., 19.....

(Signed)².....(Appellant)

This notice was signed by the above-named appellant on the day above stated in my presence.

Signature of Witness.....

Address of Witness.....

Occupation of Witness.....

1 If not in custody set out appellant's address in full.

2 This notice must be signed in the presence of a witness.

Nigerian Army (Courts-Martial) (Appeals) Rules of Court

FORM 6

(Rule 12)

From THE CHIEF REGISTRAR OF THE COURT OF APPEAL ORDER TO WITNESS TO ATTEND FOR EXAMINATION

To¹.....

WHEREAS, on good cause shown to the Court of Appeal, you have been ordered to attend and be examined as a witness before the Court upon the appeal of².....

This is to give you notice to attend before the Court at.....o'clock in the.....noon on the.....day of....., 19....., at³.....

You are also required to have with you at the said time and place the following books, papers and other things relating to the appeal.

DATED the.....day of....., 19.....

Chief Registrar

- 1 Name and address of witness. 2 Name, number and rank of appellant. 3 Location of Court to be inserted.

Nigerian Army (Courts-Martial) (Appeals) Rules of Court

FORM 7

(Rule 12)

To THE CHIEF REGISTRAR OF THE COURT OF APPEAL APPELLANT'S APPLICATION TO CALL FURTHER EVIDENCE

I,¹.....having applied for leave to appeal to the Court of Appeal, hereby give notice that I desire the Court to order the following witness(es) to attend the Court and be examined on my behalf.

(Signed).....(Appellant)

DATED the.....day of....., 19.....

You are required to complete the following form.²

1. Name and address of witness.....
2. Was the witness examined at your court-martial?.....
3. If not, state the reason why he was not examined.....
4. State shortly the evidence you think he can give.....

¹ Insert name, number, rank and unit.

² If more than one witness is desired the information must be given in respect of each witness.

SECOND SCHEDULE

(Rule 3)

Nigerian Army (Courts-Martial) (Appeals) Rules of Court

<i>Circumstance</i>	<i>Person with whom an application or notice is lodged under Rule 3(4)</i>
1. Applicant is serving with a unit of the Army	Officer Commanding the unit.
2. Applicant is confined in a civil prison	Superintendent or other person in charge of the prison.
3. Applicant is a civilian	Officer Commanding the nearest unit of the Army.