

Supplement to Official Gazette Extraordinary No. 2, Vol. 76, 11th January, 1989—Part A

**CODE OF CONDUCT BUREAU AND TRIBUNAL
DECREE 1989**



ARRANGEMENT OF SECTIONS

<p><i>Section</i></p> <p>1. Establishment of Code of Conduct Bureau.</p> <p>2. Aims and objectives of the Bureau.</p> <p>3. Functions of the Bureau.</p> <p>4. Members of staff of the Bureau.</p> <p>5. Conflict of interest with duty.</p> <p>6. Restrictions on specified officers.</p> <p>7. Prohibition of foreign account.</p> <p>8. Retired public officers.</p> <p>9. Certain retired public officers.</p> <p>10. Gifts or benefits in kinds.</p> <p>11. Restriction on loans, gifts or benefits to certain public officers.</p> <p>12. Bribery of public officers.</p> <p>13. Abuse of powers.</p> <p>14. Membership of societies.</p> <p>15. Declaration of assets.</p>	<p>16. Allegation of breach of provisions of this Decree.</p> <p>17. Agents and nominees.</p> <p>18. Exemption.</p> <p>19. Indemnity of members of the Bureau.</p> <p>20. Establishment of Code of Conduct Tribunal.</p> <p>21. Staff.</p> <p>22. Tenure of office of Chairman and member.</p> <p>23. Powers of the Tribunal to impose punishment.</p> <p>24. Rules of procedure and institution of proceedings.</p> <p>25. Power to issue search warrants.</p> <p>26. Interpretation.</p> <p>27. Citation and commencement.</p> <p style="text-align: center;">SCHEDULES</p>
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Decree No. 1

[See section 27]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

PART I—Code of Conduct Bureau

1.—(1) Notwithstanding the provisions of Part I of the Fifth Schedule to the Constitution of the Federal Republic of Nigeria 1979, as amended, there is hereby established a bureau to be known as the Code of Conduct Bureau (hereafter in this Decree referred to as “the Bureau”).

Establish-
ment of
Code of
Conduct
Bureau.

(2) The Bureau shall consist of a Chairman and ten other members who shall be men of unimpeachable integrity in the Nigerian society.

(3) The Chairman and members of the Bureau shall not be less than fifty years of age on the date of their respective appointments and shall, subject to the provisions of this Decree, each vacate office on attaining the age of seventy years.

(4) The Chairman and the other members shall be appointed by the President, Commander-in-Chief of the Armed Forces.

Aims and objectives of the Bureau.

2. The aims and objectives of the Bureau shall be to establish and maintain a high standard of morality in the conduct of Government business and to ensure that the actions and behaviour of public officers conform to the highest standards of public morality and accountability.

Functions of the Bureau.

3. The functions of the Bureau shall be to—

(a) receive assets declarations by public officers in accordance with the provisions of this Decree ;

(b) examine the assets declarations and ensure that they comply with the requirements of this Decree and of any law for the time being in force ;

(c) take and retain custody of such assets declarations ; and

(d) receive complaints about non-compliance with or breach of this Decree and where the Bureau considers it necessary to do so, refer such complaints to the Code of Conduct Tribunal in accordance with the provisions of sections 20 to 25 of this Decree established by section 20 of this Decree :

Provided that where the person concerned makes a written admission of such breach or non-compliance, no reference to the Tribunal shall be necessary.

Members of staff of the Bureau.

4.—(1) Subject to the provisions of this Decree, the tenure of office of staff of the Bureau shall be the same as that provided for in respect of officers in the civil service of the Federation.

(2) The power to appoint members of staff of the Bureau and to exercise disciplinary control over them shall vest in the Bureau, and shall be exercisable in accordance with the provisions of rules and regulations as may, from time to time, be made by the President, Commander-in-Chief of the Armed Forces.

Conflict of interest with duty.

5. A public officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities.

Restrictions on specified officers.

6. Without prejudice to the generality of section 5 of this Decree, a public officer shall not—

(a) receive or be paid the emoluments of any public office at the same time as he receives or is paid the emoluments of any other public office ; or

(b) engage or participate in the management or running of any private business, profession or trade ; but nothing in this paragraph shall apply to any public officer who is not employed on full time basis.

Prohibition of foreign accounts.

7. Any public officer specified in Schedule 2 to this Decree or any other persons as the Armed Forces Ruling Council, may from time to time, by order prescribe shall not maintain or operate a bank account in any country outside Nigeria.

8. A public officer shall not, after his retirement from public service and while receiving pension from public funds, accept more than one remunerative position as Chairman, director or employee of a company owned or controlled by any Government or public authority or receive any other remuneration from public funds in addition to his pension and the emolument of one such remunerative position. Retired public officers.
- 9.—(1) Retired public officers who have held offices to which this section applies are prohibited from service or employment in foreign companies or foreign enterprises. Certain retired public officers.
- (2) This section applies to the office of President, Vice-President, Chief Justice of Nigeria, Governor and Deputy Governor of a State.
- 10.—(1) A public officer shall not ask for or accept any property or benefits of any kind for himself or any other person on account of any thing done or omitted to be done by him in the discharge of his duties. Gifts or benefits in kinds.
- (2) For the purposes of subsection (1) of this section, the receipt by a public officer of any gifts or benefits from commercial firms, business enterprises or persons who have contracts with the Government shall be presumed to have been received in contravention of subsection (1) of this section, unless the contrary is proved.
- (3) A public officer shall only accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognised by custom :
- Provided that any gift or benefit to a public officer on any public or ceremonial occasion shall be treated as gifts or benefits to the appropriate institution represented by the public officer, and accordingly, the mere acceptance or receipt of any such gift or benefit shall not be treated as a contravention of this provision.
11. The President or Vice-President, Governor or Deputy Governor, Minister of the Government of the Federation or Commissioner of the Government of a State or any other public officer who holds office of a Director-General or head of any public corporation, university, or other parastatal organisation shall not accept— Restriction on loans, gifts or benefits to certain public officers.
- (a) a loan, except from government or any of its agencies or a bank, building society or other financial institution recognised by law ; or
- (b) any benefit of whatever nature from any company, contractor, businessman or the nominee or agent of such person :
- Provided that the head of a public corporation or of a university or other parastatal organisation may, subject to the rules and regulations of any such body, accept a loan from any such body.
12. No person shall offer a public officer any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of the public officer's duties. Bribery of public officers.
13. A public officer shall not do or direct to be done, in abuse of his office, any act prejudicial to the rights of any other person, knowing that such act is unlawful or contrary to any government policy. Abuse of powers.

Membership
of societies.

14. A public officer shall not be a member of or belong to or take part in any society the membership of which is incompatible with the functions or dignity of his office.

Declaration
of assets.

15.—(1) Every public officer shall, within 15 months after the coming into force of this Decree or immediately after taking office and thereafter—

(a) at the end of every four years ;

(b) at the end of his term of office ; and

(c) in the case of a serving officer, within thirty days of the receipt of the form from the Bureau or at such other intervals as the Bureau may specify, submit to the Bureau a written declaration in the Form prescribed in Schedule 1 to this Decree or, in such form as the Bureau may, from time to time, specify, of all his properties, assets and liabilities and those of his spouse or unmarried children under the age of 21 years.

(2) Any statement in any declaration that is found to be false by any authority or person authorised in that behalf to verify it shall be deemed to be a breach of this Decree.

(3) Any property or assets acquired by a public officer after any declaration required by subsection (1) of this section and which is not fairly attributable to income, gifts or loan approved by this Decree shall be deemed to have been acquired in breach of this Decree unless the contrary is proved.

Allegation
of breach of
provisions of
this Decree.

16. Any complaint that a public officer has committed a breach of or has not complied with the provisions of this Decree shall be made to the Bureau.

Agents and
nominees.

17. A public officer who does any act prohibited by this Decree through a nominee, trustee or other agent shall be deemed *ipso facto* to have committed a breach of this Decree.

Exemption.

18.—(1) The Armed Forces Ruling Council may by order exempt any cadre of public officers from the provisions of this Decree if it appears to it that their position in the public service is below the rank which it considers appropriate for the application of those provisions.

(2) The Armed Forces Ruling Council may by order confer on the Bureau such additional powers as may appear to it to be necessary to enable it to discharge more effectively the functions conferred upon it under this Decree.

Indemnity
of members
of the
Bureau.

19. The Chairman and other members of the Bureau shall not be liable, and shall be indemnified, in any action or litigation for any acts or omissions done or purported to be done in the course of the discharge of their duties under this Decree.

PART II—Code of Conduct Tribunal

Establish-
ment of
Code of
Conduct
Tribunal.

20.—(1) There is hereby established a tribunal to be known as the Code of Conduct Tribunal (hereafter in this Decree referred to as "the Tribunal").

(2) The Tribunal shall consist of a Chairman and four other members.

(3) The Chairman shall be a person who has held or is qualified to hold office as a Judge of a superior court of record in Nigeria and shall receive such remuneration as may be prescribed by law.

(4) The Chairman and other members of the Tribunal shall be appointed by the President, Commander-in-Chief of the Armed Forces.

(5) The Armed Forces Ruling Council may by order confer on the Tribunal such additional powers as may appear to the Council to be necessary to enable the Tribunal to discharge more effectively the functions conferred on it under this Decree.

21.—(1) The tenure of office of the staff of the Tribunal shall, subject to the provisions of this Decree, be the same as that provided for in respect of officers in the civil service of the Federation.

Staff.

(2) The power to appoint the staff of the Tribunal and to exercise disciplinary control over them shall vest in the members of the Tribunal and shall be exercisable in accordance with the provisions of this Decree.

22.—(1) Subject to the provisions of this section, a person holding the office of Chairman or member of the Tribunal shall vacate his office when he attains the age of 70 years.

Tenure of office of Chairman and member.

(2) A person who has held office as Chairman or member of the Tribunal for a period of not less than 10 years shall, if he retires at the age of 70 years, be entitled to pension for life at a rate equivalent to his last annual salary in addition to other retirement benefits to which he may be entitled.

(3) A person holding the office of Chairman or member of the Tribunal shall not be removed from his office or appointment by the President, Commander-in-Chief of the Armed Forces except for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body) or for misconduct or for contravention of this Decree.

(4) A person holding the office of Chairman or member of the Tribunal shall not be removed from office before retiring age save in accordance with the provisions of this section.

23.—(1) Where the Tribunal finds a public officer guilty of contravening any of the provisions of this Decree, it shall impose upon that officer any of the punishments specified under subsection (2) of this section.

Powers of the Tribunal to impose punishment.

(2) The punishment which the Tribunal may impose shall include any of the following—

(a) vacation of office or any elective or nominated office, as the case may be ;

(b) disqualification from holding of any public office (whether elective or not) for a period not exceeding 10 years ; and

(c) seizure and forfeiture to the State of any property acquired in abuse or corruption of office.

(3) The punishments mentioned in subsection (2) of this section shall be without prejudice to the penalties that may be imposed by any law where the breach of conduct is also a criminal offence under the Criminal Code or any other enactment or law.

(4) Where the Tribunal gives a decision as to whether or not a person is guilty of a contravention of any of the provisions of this Decree, an appeal shall lie as of right from such decision or from any punishment imposed on such person to the Court of Appeal at the instance of any party to the proceedings.

(5) Any right of appeal to the Court of Appeal from the decision of the Tribunal conferred by subsection (4) of this section shall be exercised in accordance with the provisions of the rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

(6) Nothing in this section shall prejudice the prosecution of a public officer punished under this section, or preclude such officer from being prosecuted or punished for an offence in a court of law.

(7) The provisions of the Constitution of the Federal Republic of Nigeria 1979, as amended, relating to prerogative of mercy shall not apply to any punishment imposed in accordance with the provisions of this section.

Rules of procedure and institution of proceedings.

24.—(1) The rules of procedure to be adopted in any prosecution for the offences under this Decree, before the Tribunal, and the forms to be used in such prosecutions shall be as set out in Schedule 3 to this Decree.

(2) Prosecutions for all offences referred to in this Decree shall be instituted in the name of the Federal Republic of Nigeria by the Attorney-General of the Federation or such officers in the Federal Ministry of Justice as the Attorney-General of the Federation may authorise so to do.

(3) For the purpose of subsection (2) of this section, the Attorney-General of the Federation may—

(a) after consultation with the Attorney-General of any State in the Federation, authorise any officer of the Ministry of Justice of the State concerned to undertake any such prosecutions directly or assist therein ; or

(b) if the Tribunal so requests, or if contingencies so dictate, authorise any other legal practitioner in Nigeria to undertake any such prosecution or assist therein :

Provided that the question whether any authority has been given in pursuance of this subsection shall not be inquired into by any person.

(4) Any person accused of any offence referred to in this Decree shall be entitled to defend himself in person or by a person of his own choice who is a legal practitioner resident in Nigeria.

Power to issue search warrants.

25. Notwithstanding the provisions of any other enactment conferring power to search, if the Chairman of the Tribunal is satisfied that there is a reasonable ground to suspect that there may be found in any building or other place whatsoever, any books, records, statements or information in any form whatsoever, which, in his opinion, are or maybe material to the charge or any trial under this Decree, he may issue a warrant under his hand authorising any police officer or any member of the Armed Forces or security agencies to enter, if necessary by force, the said building or other place and every part thereof, and to search for, seize and remove any such material as aforesaid, found therein.

PART III—Miscellaneous

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

“the Bureau” means the Code of Conduct Bureau established by and under section 1 of this Decree;

“business” means any profession, vocation or trade and includes—

(a) any adventure or concern in the nature of trade ; and

(b) farming ;

Interpretation.

“child” includes a step-child, a lawfully adopted child, a child born out of wedlock and any child to whom any individual stands in place of a parent ;

“emolument” means any salary, wage, overtime or leave pay, commission, fee, bonus, gratuity, benefit, advantage (whether or not the allowance, pension or annuity is paid, given or granted in respect of any employment or office) ;

“functions” include powers and duties ;

“foreign companies” or “foreign enterprises” means companies or enterprises in which the controlling shares are owned by persons other than the Government, its agencies or citizens of Nigeria ;

“members” include the members of the Bureau or the Tribunal as the case may be ;

“public officer” means a person holding any of the offices specified in Schedule 2 to this Decree ;

“the Tribunal” means the Tribunal established by and under section 20 of this Decree.

27. This Decree may be cited as Code of Conduct Bureau and Tribunal Decree 1989 and shall be deemed to have come into force, except for offences created therein on 1st January 1988.

Citation.

SCHEDULES

SCHEDULE 1

Section 15 (1)

FORM (CCB.1)

CODE OF CONDUCT BUREAU AND TRIBUNAL DECREE 1989

ASSETS DECLARATION FORM FOR PUBLIC OFFICERS

1. Full Name of Declarant :
2. Present Appointment and Date :
3. Rank :
4. Address :
5. (a) Last Appointment :
- (b) Date of Appointment : From..... To.....
6. Details of Assets :
- (a) Cash in hand (if over ₦1,000).....
- (b) Cash at bank in Nigeria (give particulars of banks)
-
-
-

(c) Cash in bank outside Nigeria (give particulars of banks and Countries).

.....

.....

.....

(d) Landed Property in Nigeria (give details together with value of each and annual income derived from each :—

	<i>Date acquired</i>	<i>Total Value</i>	<i>Annual Income</i>
(i) Buildings
.....
(ii) Farms
.....
(iii) Vacant land
.....
(iv) Factories
.....
(v) Other Enterprises
How acquired : (i)
(ii)
(iii)
(iv)

(e) Movable Property or Assets :

	<i>Date acquired</i>	<i>Total Value</i>	<i>Annual Income</i>
(i) Vehicles
.....
(ii) Boats/other means of transport
(iii) Machinery, etc.
.....
(iv) Furniture
.....

(f) How acquired :

(i)

(ii)

(iii)

(j) Details of Assets/Property of (a) wife/wives (b) children if not public officers, liable to assets declaration.

(i) Wife/Wives.....
.....
.....
.....

(ii) Children.....
.....
.....
.....

(k) I,.....
(full names)

solemnly declare that the facts given by me in this form are correct and that I conscientiously believe same to be true by virtue of the provisions of the Oaths Act of 1963.

.....
Signature of Declarant

Declared at..... Registry.....
this..... day of..... 19.....

Before me

High Court Judge

SPACE FOR ADDITIONAL RELEVANT INFORMATION UNDER PARAGRAPHS

6 (a) (i) IF NECESSARY

For Official Use

1. Date of Receipt of Form.....

2. Action taken (a) Acknowledgement slip issued.
(b) filed
(c) sent for variation

Signature.....

Name.....

(Receiving Officer)

ACKNOWLEDGEMENT SLIP

(From Office of Deposit)

Receipt No.

Received from.....

of.....

copies of Form CCB. I

Signature

Name.....

Receiving Office.....

Date

SCHEDULE 2

Section 7

PUBLIC OFFICERS FOR THE PURPOSES OF THE CODE OF CONDUCT

1. The President of the Federation or Head of the Federal Military Government (by whatsoever name so called).
2. The Vice-President of the Federation or Chief of General Staff (by whatsoever name called).
3. The President and Deputy President of the Senate, Speakers and Deputy Speakers of the House of Representatives and of the Houses of Assembly of States, and all members and staff of Legislative Houses.
4. Governors and Deputy Governors of States or Military Governors of States.
5. Chief Justice of Nigeria, Justices of the Supreme Court, President and Justices of the Court of Appeal, all other judicial officers and all staff of courts of law.
6. Attorney-General of the Federation and Attorney-General of each State.
7. Ministers of the Government of the Federation and Commissioners of the Governments of the States.
8. Chief of Defence Staff, Head of the Army, Navy, Air Force and all members of the Armed Forces of the Federation.
9. Inspector-General of Police, Deputy Inspector-General of Police and all members of the Nigeria Police Force.
10. Secretary to the Government, Head of the Civil Service, Permanent Secretaries or Directors-General and all other persons in the civil service of the Federation or of the States.
11. Ambassadors, High Commissioners and other officers of Nigerian Missions Abroad.
12. Chairman and other members and staff of the Code of Conduct Bureau and Code of Conduct Tribunal.
13. Chairmen and other members and staff of local government councils.
14. Chairmen and members of the Boards or other government bodies and staff of statutory corporations and of companies in which the Federal or any State Government has controlling interests.

15. All staff of universities, colleges and institutions owned and financed by the Federal or State Governments or Local Government Councils.

16. Chairmen and other members and staff of permanent commissions or councils appointed on full time basis.

SCHEDULE 3

Section 24 (1)

CODE OF CONDUCT TRIBUNAL RULES OF PROCEDURE

Commencement and Conduct of Trial

Institution of proceedings.

1. The trial of offences under this Decree shall commence by way of an application, supported by a summary of evidence or affidavit to the Tribunal by the prosecutor.

Order on an accused to appear.

2. Where after the perusal of the application and the summary of evidence, affidavit or any further evidence in such form as the Tribunal may consider necessary, the Tribunal is satisfied that any person appears to have committed an offence provided under this Decree, it shall cause that person to be brought before the Tribunal on such date and at such time as it may direct.

Commencement of trial.

3.—(1) When the Tribunal is ready to commence the trial the accused shall be brought before it and the Tribunal shall read or cause to be read to him the substance of the complaint against him and he shall be asked whether he is guilty of the offence or offences charged.

(2) If the accused pleads guilty the plea shall be recorded and he may in the discretion of the Tribunal be convicted thereon.

Plea of not guilty or no plea.

4. If the accused pleads not guilty or makes no plea or refuses to plead or if the Tribunal enters a plea of not guilty on behalf of the accused the Tribunal shall proceed to try the case.

Presentation of case for prosecution.

5.—(1) After a plea of not guilty has been taken or no plea has been made the prosecutor may open the case against the accused, stating shortly by what evidence he intends to prove the guilt of the accused.

(2) The prosecutor shall then examine the witnesses for the prosecution who may be cross-examined by the accused or his counsel and may thereafter be re-examined by the prosecutor.

Procedure after presentation of evidence by the prosecutor.

6.—(1) After the conclusion of the presentation of evidence by the prosecutor the Tribunal shall ask the accused—

(a) whether he wishes to give evidence on his own behalf ; and

(b) whether he intends to call any witness other than witnesses as to character.

(2) If the accused says that he does not intend to call any witnesses other than witnesses as to character, the prosecutor may sum up his case against the accused and the Tribunal shall then call upon the accused to enter upon the defence.

(3) Notwithstanding the provisions of paragraph (2) of this rule, the Tribunal may, if after hearing the evidence against the accused or any of several accused it considers the evidence not sufficient to justify the continuation of the trial, record a finding of not guilty in respect of such accused without calling upon him or them to enter upon their defence and such accused shall thereupon be discharged and acquitted and the Tribunal shall then call upon the remaining accused, if any, to enter upon their defence.

(4) If the accused or any one of several accused says that he intends to call any witness, other than a witness as to character, the Tribunal shall call upon the accused to enter upon his defence.

(5) Notwithstanding the provisions of paragraph (4) of this rule, the Tribunal may, before calling upon the accused to enter upon his defence, call upon the prosecutor to sum up his case against any one or more of the accused persons against whom it considers that the evidence is not sufficient to justify the continuation of the trial and, after hearing the summing up, if any, may in its discretion record a finding of not guilty in respect of any such accused or call upon any of them to enter upon his or their defence.

7. When the Tribunal calls upon the accused to enter upon his defence the accused or his counsel may open his case stating the facts or law on which he intends to rely and making such comments as he thinks necessary on the evidence for the prosecution, and the accused may then give evidence on his own behalf, examine his witnesses, if any, and, after their cross-examination and re-examination, if any, the accused or his counsel may sum up his case.

Defence.

8.—(1) If the accused or any of the accused calls any witness, other than a witness to character, or any document, other than a document relating to character, is put in evidence for the defence, the prosecutor shall be entitled to reply.

Right of prosecutor to reply.

(2) If the accused has called only evidence as to character, the prosecutor may at the close of the case for the defence adduce evidence of previous convictions of the accused.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this rule, the prosecution may, with the leave of the Tribunal be heard in reply on a point of law or on any new matter or evidence, other than evidence as to character introduced by the accused.

9. When the case for the defence and the reply of the prosecution, if any, are concluded and the Tribunal does not desire to put any further question to the accused, the Tribunal shall retire or adjourn to consider its finding.

Consideration of findings.

10. After the Tribunal has made its findings the Chairman shall announce such findings and, where the accused is found guilty, it shall impose the appropriate penalty prescribed in this Decree, and issue an appropriate order accordingly.

Announcement of findings.

11. The Tribunal may, in addition to its sentence, make an appropriate recommendation as to mercy but in any such case shall give reasons for such recommendation.

Recommendation to mercy.

12.—(1) The Chairman or any other member of the Tribunal authorised by the Chairman in that behalf shall, in every case, take notes in writing of the oral evidence, or so much thereof as he considers material, in a book to be kept for that purpose and such book shall be signed by the Chairman and not less than two other members of the Tribunal including the person who took down the notes, at the conclusion of each day's proceeding.

Notes of evidence to be taken.

(2) The record so kept as aforesaid or a copy thereof purporting to be signed and certified as a true copy by the Chairman shall, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses at such proceedings.

Issue of summons for witness.

13. If the Tribunal is satisfied that any person is likely to give material evidence for the prosecution or for the defence, the Tribunal may issue a summons to such person requiring him to attend, at a time and place to be mentioned therein, before the Tribunal to give evidence in respect of the case and to bring with him any specified documents or things and any other documents or things relating thereto which may be in his possession or power or under his control.

Warrant of witness after summons.

14. If the person to whom any such summons is directed does not attend before the Tribunal at the time and place mentioned therein, and there does not appear to the Tribunal on inquiry to be any reasonable excuse for such non attendance, then after proof to the satisfaction of the Tribunal that the summons was duly served or that the person to whom the summons is directed wilfully avoided service, the Tribunal, on being satisfied that such person is likely to give material evidence may issue a warrant to apprehend him and to bring him, at the time and place to be mentioned in the warrant, before the Tribunal in order to testify as aforesaid.

Local inspections.

15. It shall be the duty of the Tribunal to make or cause to be made such local inspection as the circumstances of the case may require.

Forms.

16. Subject to any express provisions of these rules, the forms contained in the Annex to these rules may, in accordance with any instructions contained in the said forms, and with such variation as the circumstances of the particular case may require, be used in the case to which they apply, and when so used, shall be good and sufficient in law.

Application of Criminal Procedure Act or Code.

17. Where these rules contain no provision in respect of any matter relating to or connected with the trial of offences under this Decree, the provisions of the Criminal Procedure Act or, depending on the venue, the Criminal Procedure Code shall, with such modifications as the circumstances may require, apply in respect of such matter to the same extent as they apply to the trial of offences generally.

Interpretation.

18. In these rules, "the prosecutor" means the Attorney-General of the Federation or any other person authorised by him pursuant to section 24 of this Decree to conduct the prosecution of an offence before the Tribunal or to assist therein.

ANNEX

(Rule 16)

FORMS

FORM 1

Code of Conduct Bureau and Tribunal Decree 1989

To : The Chairman,
Tribunal for the trial of Offences under the Code of Conduct Bureau and Tribunal Decree 1989.

.....
.....
.....

Pursuant to section (24) of the Code of Conduct Bureau and Tribunal Decree 1989, I hereby apply for the commencement of a trial for the offence of.....under section.....of the Decree against the undermentioned persons :—

- (i)
(ii)

2. In support of this application I attach hereto.....copies of the summary of evidence or affidavit for the consideration of the Tribunal.

3. If this application is granted, I shall be relying on the facts disclosed in the summary of evidence and any further evidence the Tribunal may consider necessary at the trial. I attach hereto four copies of the charge against the accused. A list of the deponents and their addresses is also attached for the purpose of issuing summonses to them.

Prosecutor

FORM 2

Code of Conduct Bureau and Tribunal Decree 1989

SUMMONS TO ACCUSED

In the Tribunal for the trial of Offences under the Code of Conduct Bureau and Tribunal Decree 1989.

To. A.B. of.....

Complaint has been made this day by.....for that on the.....day of.....at.....in the.....aforesaid did*.....

You are therefore summoned to appear before the Tribunal mentioned above sitting at.....

on.....to answer the said Complaint.....

Date the.....day of.....19.....

Chairman of the Tribunal

*State concisely the substance of the offence.

FORM 3

Code of Conduct Bureau and Tribunal Decree 1989

WARRANT FOR APPREHENSION OF ACCUSED

In the Tribunal for the trial of offences under the Code of Conduct Bureau and Tribunal Decree 1989.

Between

The Federal Republic of Nigeria

and

Accused

To..... Police Officer, Complaint has been made on..... of..... by..... that..... hereinafter called the accused, on the..... day of..... did*

You are hereby commanded to bring the accused before the Tribunal mentioned above sitting at..... on..... to answer the said complaint and to be dealt with according to law.

Dated the..... day of..... 19.....

Chairman of the Tribunal

*State concisely the substance of the offence.

FORM 4

Code of Conduct Bureau and Tribunal Decree 1989

SUMMONS TO WITNESS

In the Tribunal for the trial of offences under the Code of Conduct Bureau and Tribunal Decree 1989.

Between

The Federal Republic of Nigeria

and

Accused

To (i)..... (ii)..... has been charged by (iii)..... at.....

.....in.....
that he did (iv).....

.....
and it appearing to me on the application of (iii).....
that you are likely to give material evidence therein on behalf of the prosecutor
(or accused).

You are therefore summoned to appear before the Tribunal named
above sitting at.....on the.....day of
.....19.....at the hour of.....in the.....
noon to testify what you know in such matter.

DATED the.....day of.....19.....

.....
Chairman of the Tribunal

- (i) *Insert name of witness.*
- (ii) *Insert name of accused.*
- (iii) *Insert the name of prosecutor.*
- (iv) *State concisely the substance of the offence.*

FORM 5

Code of Conduct Bureau and Tribunal Decree 1989

WARRANT FOR APPREHENSION OF WITNESS IN THE FIRST INSTANCE

In the Tribunal for the trial of offences under the Code of Conduct
Bureau and Tribunal Decree 1989.

To.....

A.B, has been charged by.....for that
he on the.....day of.....at
.....in the.....State aforesaid did*.....

.....
And it appearing to me by the oath of.....that
.....is likely to give material evidence concerning the said matter,
and that it is probable he will not attend to give evidence unless compelled
to do so.

You are therefore hereby commanded to bring him before the Tribunal named above sitting at forthwith to testify what he knows concerning the said matter.

DATED the day of 19.....

..... Chairman of the Tribunal

*State Concisely the Substance of the offence.

FORM 6

Code of Conduct Bureau and Tribunal Decree 1989

WARRANT FOR APPREHENSION OF A WITNESS

In the Tribunal for the trial of offences under the Code of Conduct Bureau and Tribunal Decree 1989.

Between

The Federal Republic of Nigeria

and

..... Accused.

To, Police Constable or to each and all the Constables

(i) was duly summoned to appear before the Tribunal named above sitting at on

..... at the hour of

in the noon, to tesify what he knows concerning a certain complaint against

And he has neither appeared thereto, nor offered any just excuse for his neglect.

And it has been proved on oath that the summons has been duly served on him (and that a reasonable sum has been paid or tendered) to him for his costs and expenses in that behalf).

You are therefore hereby commanded to bring him before the Tribunal named above sitting at forthwith to testify what he knows concerning the said matter.

DATED the day of 19.....

..... Chairman of the Tribunal

(i) Insert Name of witness.

FORM 7

Code of Conduct Bureau and Tribunal Decree 1989

WARRANT FOR COMMITMENT OF WITNESS

In the Tribunal for the trial of offences under the Code of Conduct Bureau and Tribunal Decree 1989.

Between

The Federal Republic of Nigeria

and

..... Accused

To.....and to the Superintendent of.....Prison

(i).....having appeared or been brought before the Tribunal named above sitting at.....on theday of.....19..... to testify what he knows concerning a certain matter against.

(ii).....refused to take an oath (or having taken an oath) refused to answer any (or a certain) question put to him concerning the matter and did not offer any just excuse for his refusal.

You the said Police Officer are hereby commanded to convey the said

.....safely to the prison, and deliver him to the Superintendent thereof, together with this Warrant and you, the Superintendent of the said prison, to receive him into your custody and keep him for the period of.....unless, he in the meantime consents to be examined and to answer concerning the matter.

DATED the.....day of.....19.....

.....
Chairman of the Tribunal

(i) *Insert name of witness.*

(ii) *Insert name of accused.*

FORM 8

Code of Conduct Bureau and Tribunal Decree 1989

COMMITMENT ON REMAND

In the Tribunal for the trial of offences under the Code of Conduct Bureau and Tribunal Decree 1989.

Between

The Federal Republic of Nigeria

and

To.....Accused
.....and officer-in-Charge of
.....Police Station and to the
Superintendent of.....Prison.

(i)hereinafter called the
accused being brought before the Tribunal named above, sitting at.....

.....charged with having

(ii)

The hearing of the case being adjourned :

You the said Police Officer are hereby commanded to convey the accused to Police custody at.....*to the prison and thereto deliver him to the Officer-in-Charge*/Superintendent thereof, together with this Warrant, and you, the Officer-in-Charge*/the Superintendent of the said prison to receive him into your custody, and keep him until the.....day of.....19.....and on that day to convey him before the said Tribunal at the hour of..... in the.....noon to be further dealt with according to law.

DATED the.....day of.....19.....

.....
Chairman of the Tribunal

(i) Insert name of the accused.
(ii) State the offence or offences.
*Delete whichever does not apply.

FORM 9

Code of Conduct Bureau and Tribunal Decree 1989

In the tribunal for the trial of offences under the Code of Conduct Bureau and Tribunal Decree 1989.

WARRANT OF CONVICTION

Between

The Federal Republic of Nigeria

and

.....Accused

(i).....having appeared before the Tribunal named above sitting at.....is this day convicted for that he, on the.....day of.....19..... at.....within the.....did

(ii).....And it is adjudged that the accused, for his said offence, be sentenced to (iii)..... and the accused shall until the conviction and/or sentence be confirmed or disallowed by the Armed Forces Ruling Council kept in custody at (iv).....

DATED the.....day of.....19.....

.....
Chairman of the Tribunal

(i) *Insert name of accused.*

(ii) *State offence or offences for which accused is convicted.*

(iii) *Insert the tribunal sentence.*

(iv) *Insert place of custody.*

MADE at Lagos this 9th day of January 1989.

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

EXPLANATORY NOTE

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

The Decree provides for the establishment of both the Code of Conduct Bureau and the Tribunal to deal with complaints of corruption by public officers and prescribes punishments for breaches of its provisions.

**NATIONAL ECONOMIC RECONSTRUCTION FUND
DECREE 1989**



ARRANGEMENT OF SECTIONS

Section

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Establishment, aims objectives of the National Economic Reconstruction Fund. 2. Eligibility. 3. Establishment and composition of the National Economic Reconstruction Committee, etc. 4. Establishment of a Monitoring Office, etc. 5. Functions and obligations of participating banks. | <ol style="list-style-type: none"> 6. Functions of the Fund. 7. Interest rates. 8. Funding sources. 9. Audit. 10. Reports. 11. Proceedings of the Committee. 12. Interpretation. 13. Citation. |
|---|--|

Decree No. 2

[9th January 1989]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) There is hereby established a fund to be known as the National Economic Reconstruction Fund (hereinafter in this Decree referred to as “the Fund”).

(2) The aims and objectives of the Fund shall be to—

(a) correct any observed inadequacies in the provision of medium to long-term financing to small and medium-scale industrial enterprises, especially manufacturing and agro-allied enterprises and ancillary services ;

(b) provide medium to long-term loans to participating commercial and merchant banks for on-lending to small and medium-scale enterprises for the promotion and acceleration of productive activities in such enterprises ;

(c) facilitate the provision of loans with five to ten year maturity, including a grace period of one to three years, depending on the nature of the enterprise or project ;

(d) provide such loans either in naira or in foreign currencies or both according to the sources of funds available to the Fund and the requirements of the eligible enterprise or project.

Establish-
ment, aims
and
objectives
of the
National
Economic
Reconstruc-
tion Fund.

Eligibility.

2.—(1) Manufacturing and agro-related projects, mining, quarrying, industrial support services, equipment leasing and such other enterprises or projects ancillary thereto shall be eligible for loans under this Decree if—

(a) the enterprise or project is wholly owned by Nigerians ;

(b) the enterprise or project is small or medium-scale and its fixed assets, other than land, including the cost of the investment project, does not exceed ₦10 million ; and

(c) in the case of a manufacturing enterprise or project, at least 40 per cent of its raw materials and other production inputs is at present locally derived or at least 60 per cent shall, by 30th September 1990, be so derived.

(2) In granting loans under this Decree, preference shall be given to enterprises or projects located in the rural areas.

Establishment and composition of the National Economic Reconstruction Committee, etc.

3.—(1) There is hereby established a committee to be known as the National Economic Reconstruction Fund Committee (hereinafter in this Decree referred to as “the Committee”) which shall comprise—

(a) the Minister or his representative as Chairman ;

(b) the Governor of the Central Bank of Nigeria or his representative ;

(c) the Fund General Manager ;

(d) one representative of commercial banks ;

(e) one representative of merchant banks ;

(f) one representative of development banks ; and

(g) one representative of Ministry of Finance and Economic Development who shall be the Secretary to the Committee.

(2) The three representatives of the banks shall be appointed by the President, Commander-in-Chief of the Armed Forces on the recommendation of the Minister.

(3) The status of the representatives of the banks shall not be less than that of Assistant General Manager.

(4) The Committee shall administer the Fund and perform such other functions as are conferred upon it by this Decree.

(5) The members of the Committee, other than *ex-officio* members, shall be paid such allowances as may be determined, from time to time, by the Minister.

(6) The quorum of the Committee shall be four.

Establishment of a Monitoring Office, etc.

4.—(1) For the day-to-day operations of the Fund, there shall be established a Monitoring Office to be located at the Federal Ministry of Finance and Economic Development.

(2) The Monitoring Office shall be headed by a Fund General Manager who shall be appointed by the President, Commander-in-Chief of the Armed Forces on the recommendation of the Minister.

(3) The Fund General Manager shall, subject to the control of the Committee, be responsible for the management of the Fund and perform such other functions as the Committee may, from time to time, assign to him.

(4) The Committee may appoint such other employees as it may deem necessary to assist the Fund General Manager in the performance of his functions under this Decree.

(5) The Fund General Manager and the other employees of the Monitoring office shall be persons of proven professional competence and be drawn from the Central Bank of Nigeria or other commercial and merchant banks.

(6) The Fund General Manager and the other employees of the Fund shall be paid such remuneration, allowances and other benefits as the Fund may, with the approval of the Minister, determine.

5.—(1) The participating banks shall—

(a) provide the working capital required by eligible enterprises and projects under this Decree ;

(b) evaluate eligible enterprises and projects and approve loans in accordance with the practice of the particular banks and be responsible for the disbursement, monitoring and recovery of the loans ;

(c) collect from its customers all loan repayments and agreed interest and pay to the Fund the amounts due to it on or before the due date ;

(d) be responsible for any commercial or market risk involved in any loan granted pursuant to this Decree.

(2) Each participating bank shall disburse funds to approved enterprises or projects not later than three working days of release of the funds by the Fund to the bank.

(3) Loan agreements showing disbursement and repayment schedules shall be deposited by each participating bank with the Monitoring Office.

(4) For loans disbursed in foreign currency, repayment by the participating banks shall be the naira equivalent of the amount of repayment due, at the prevailing exchange rate on the date of repayment in the inter-bank dealing of the Foreign Exchange Market.

6.—(1) The Fund shall provide medium to long-term finance to participating banks for on-lending to eligible enterprises or projects.

(2) The Fund shall be responsible for the disbursement to, and recovery from, participating banks of all loans made to them for on-lending to enterprises and projects approved pursuant to this Decree.

(3) Unless a participating bank has pre-paid all the amounts due on the loan before the scheduled repayment date, the Fund shall inform the Central Bank of Nigeria of any amount outstanding at that date and it shall be the duty of the Central Bank of Nigeria to debit the account of the participating bank concerned at the Central Bank of Nigeria with the amount outstanding on the particular loan and credit that amount to the account of the Fund.

(4) In order to meet foreign obligations promptly, the Fund General Manager shall procure the foreign currency required to service the Fund's foreign currency loans and hold such component of foreign exchange acquired in income-bearing securities or deposits, and repay its loans as per scheduled repayment dates from the component so held.

(5) The Fund shall be self-financing, service its loans and meet administrative expenses from its own resources, and shall not receive any Government subvention except as provided under section 8 of this Decree.

Functions
and obligations
of
participating
banks.

Function :
of the Fund.

Interest rates.

7.—(1) The naira loans made by the Fund shall be at interest rates slightly lower than the prevailing commercial rates in the country.

(2) The naira interest rate for each loan shall be fixed for the duration of the loan.

(3) The Fund shall charge the participating banks not more than one percentage point above its borrowing rate.

(4) Participating banks shall be allowed a maximum spread of four percentage points above the rate charged by the Fund.

(5) Interest rates chargeable by the Fund on foreign currency loans shall differ from currency to currency but shall be limited to a spread of one percentage point above the Fund's borrowing rate in each currency.

(6) The interest rate chargeable on foreign currency loans shall reflect the agreed terms on which the loans were made available to the Fund.

(7) Any profit made by the Fund shall be applied towards increasing the reserves of the Fund.

Funding sources.

8. Without prejudice to future capital increase, the Fund shall commence operation with an initial funding in the following amounts or any part thereof, that is—

(a) Federal Government of Nigeria, ₦200 million ;

(b) Central Bank of Nigeria, ₦100 million ;

(c) counterpart funding from the World Bank, the African Development Bank, Export Credit Agencies, Governments, Banks and other organisations or any such fundings as may be acceptable to the Committee.

Audit.

9.—(1) The Fund shall be audited, not later than 3 months after the end of each year, by an auditor appointed by the Committee from the list of qualified auditors submitted by the Auditor-General of the Federation.

(2) The audited accounts, the auditor's report and the comments of the Committee thereon shall be submitted to the Federal Military Government not later than 3 months after the receipt of the audited accounts.

Reports.

10.—(1) The Fund General Manager shall submit monthly reports on the operation of the Fund to the Committee.

(2) The Committee shall submit reports on the activities of the Fund every quarter and every 31st of December of each year to the Federal Military Government.

Proceedings of the Committees.

11.—(1) The Committee shall have power to regulate its own proceedings and may make Standing Orders not inconsistent with this Decree for that purpose and subject to such Standing Orders, may function notwithstanding any vacancy in its membership or the absence of a member.

(2) The Committee shall meet for the performance of its functions under this Decree whenever the Chairman convenes a meeting of the Fund.

(3) Where, upon any special occasion, the Committee desires to obtain the advice of any person on any particular matter, the Committee may co-opt that person to be a member for as many meetings as may be necessary and that person shall, while so co-opted, have all the privileges of a member except that he shall not be entitled to vote or count towards a quorum.

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

Interpreta-
tion.

“Committee” means the National Economic Reconstruction Committee appointed pursuant to section 3 of this Decree ;

“Fund” means the National Economic Reconstruction Fund established under section 1 of this Decree ;

“Minister” means the Minister charged with responsibility for matters relating to finance and economic development ;

“participating banks” means the commercial and merchant banks involved in granting loans to eligible enterprises and projects under this Decree.

13. This Decree may be cited as the National Economic Reconstruction Fund Decree 1989.

Citation.

MADE at Lagos this 9th day of January 1989.

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

EXPLANATORY NOTE

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

The Decree establishes a National Economic Reconstruction Fund to correct, amongst other things, inadequacies in the provisions of medium to long-term financing to small and medium-scale industrial enterprises and also to provide medium and long-term credit to participating and commercial banks for on-lending to small and medium scale industries.

The Fund is to be administered by the National Economic Reconstruction Fund Committee headed by the Minister of Finance.