

CAPITAL TRANSFER TAX DECREE 1979



ARRANGEMENT OF SECTIONS

*Section**Capital Transfer Tax in respect of transfers inter vivos*

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SCHEDULE

Provisions supplemental to certain of the provisions of this Decree.

Decree No. 12

[1st April 1979]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Capital Transfer Tax in respect of transfers inter vivos

1.—(1) Subject to subsection (2) of this section, as from 1st April 1979 capital transfer tax at the graduated rate specified in section 18 of this Decree shall be payable on the value of any property transferred by any person during his life-time.

Imposition
of Capital
Transfer Tax
on transfers
inter vivos.

(2) Subsection (1) of this section shall not apply in the case of a transfer of property where it is shown to the satisfaction of the Relevant Tax Authority that the transfer was a genuine outright sale of property and was not intended and was not made in a transaction intended to confer gratuitous benefit on the transferee and either—

(a) the transfer was made in a transaction at arm's length between persons not connected with each other ; or

(b) the transfer was such as might be made in a transaction at arm's length between persons not connected with each other.

(3) Any person to whom property in respect of which capital transfer tax is payable under this section is transferred shall be the person accountable for the tax for the purposes of this Decree.

2.—(1) Subject to subsection (2) of this section no capital transfer tax shall be payable on the transfer of property where on the date of the transfer the value of the property does not exceed ₹100,000.

Special
exemption in
respect of
transfers
inter vivos :
cumulative
transfers.

(2) Notwithstanding subsection (1) of this section, where at any time during the life-time of the transferor any further property the transfer of which is liable to capital transfer tax, or would but for subsection (1) above would have been so liable, is subsequently transferred to the transferee of property exempted under subsection (1) above and the value of the second or subsequent transfer if taken together with the value of any property previously transferred would exceed ₹100,000 then on the date of the second or subsequent transfer the value of all property transferred to the same transferee shall be aggregated and capital transfer tax shall be payable at the rate prescribed in section 18 on the aggregated value of all the property transferred.

(3) Nothing in subsection (2) above shall be construed as extending the application of that subsection to any property transferred before 1st April 1979.

3.—(1) Title to transferred property liable to capital transfer tax under section 1 shall not pass to the transferee until the capital transfer tax has been paid.

Title to
transferred
property :
registration.

(2) Where an instrument or document effecting the transfer of property liable to capital transfer tax (or evidencing the same) is registrable under any law the instrument or document shall not be registered unless there has

been issued by the Relevant Tax Authority a discharge certificate as provided in section 20 of this Decree, and if any such instrument or document is registered without the discharge certificate having been issued the registration shall be void and of no effect whatsoever.

Capital Transfer Tax in respect of transfers on Death

Imposition
of capital
transfer tax.

4. In respect of every person dying on or after 1st April 1979 there is hereby imposed on the value of all property passing on the death of such person capital transfer tax at the graduated rates specified in section 18 of this Decree.

What
property is
deemed to
pass.

5.—(1) Property passing on the death of the deceased includes the following :—

(a) property of which the deceased was at the time of his death competent to dispose ;

(b) property in which the deceased or any other person had an interest ceasing on the death of the deceased, to the extent to which a benefit accrues or arises by the cesser of such interest ;

(c) any property taken as a *donatio mortis causa* made by any person dying on or after 1st April 1979, or taken under a disposition made by any person so dying, purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust or otherwise but exclusive of any such property in respect of which capital transfer tax had been paid during the life-time of the deceased ;

(d) any property which a person dying on or after 1st April 1979 having been entitled thereto, has caused or may cause to be transferred to or vested in himself and any other person jointly whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person ;

(e) any property passing under any past or future settlement made by any person dying on or after such day by deed or any other instrument not taking effect as a will, whereby an interest in such property for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by the exercise of any power, to restore to himself, or to reclaim the absolute interest in such property ;

(f) any annuity or other interest purchased or provided by the deceased either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased.

(2) For the purposes of this Decree—

(a) a person shall be deemed competent to dispose of property if he has such a right (including any right of occupancy granted or deemed to be vested pursuant to the Land Use Decree 1978) or interest therein or such general power as would, if he were *sui juris*, enable him to dispose of the property, whether or not with the consent of any authority specified under the Land Use Decree 1978 ; and the expression "general powers" includes every power or authority enabling the donee or other holder

thereof to appoint or dispose of property as he thinks fit, whether exercisable by instrument *inter vivos* or by will, or both, but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself, or as mortgagee ;

(b) a disposition taking effect out of the interest of the deceased person shall be deemed to have been made by him, whether the concurrence of any other person was or was not required ;

(c) money which a person has a general power to charge shall be deemed to be property of which he has power to dispose.

6. The supplemental and other provisions set out in the Schedule to this Decree shall have effect in respect of the various matters to which they relate.

Supplemental provisions in the Schedule.

Administration and General

7. For determining the rate of capital transfer tax to be paid on any property passing on the death of the deceased, all property so passing in respect of which the tax is leviable situated within the territory of the State concerned shall be aggregated so as to form one estate, and the tax shall be levied at the proper graduated rate on the value thereof.

Aggregation of property to form one estate for purpose of capital transfer tax.

8.—(1) In respect of the property situated in a State the due administration of this Decree shall be under the care and management of the statutory body (however described) charged with responsibility for the assessment and collection of tax on the income of persons resident in the State, and such body (in this Decree referred to as "the Relevant Tax Authority") is hereby charged with responsibility for the assessment and collection of the tax imposed under this Decree.

Administration of this Decree.

(2) Subsection (1) of this section shall have effect notwithstanding that the deceased or transferor of the property as the case may be, was not liable to pay income tax to the statutory body in that state.

9. Every person who under any provision of this Decree is accountable for capital transfer tax in respect of any property shall not later than 12 months after the death of the deceased or 6 months after the transfer of the property prepare and deliver to the Relevant Tax Authority in the prescribed form (hereinafter referred to as "the Capital Transfer Tax Form") which shall—

Capital Transfer Tax Form.

(a) in the case of the estate of a deceased person contain a true and perfect inventory and account of the estate of the deceased and a statement of the value of the estate ; and

(b) in the case of a transfer *inter vivos* contain a description of the property and a statement of its value.

10.—(1) The value of any property for the purposes of this Decree shall be estimated to be the price which, in the opinion of the Relevant Tax Authority, such property would fetch if sold in the open market at the time of the death of deceased or of the transfer of the property

Determination of value of property, etc

(2) Subject to this Decree, the value of any property for the purposes of subsection (1) above shall be ascertained by the Relevant Tax Authority in such manner as it thinks fit and if it authorises a person to inspect any property and report to it the value thereof for the purposes of this Decree, the person having the custody or possession of that property shall permit the person so authorised to inspect it at such reasonable times as the Relevant Tax Authority may consider necessary.

(3) The Relevant Tax Authority may from time to time appoint a sufficient number of qualified persons to act as valuers for the purposes of this Decree and shall, in respect of persons so appointed who are not public officers; fix a scale of charges for the remuneration of such persons; and the court may in the case of an appeal under section 21 refer any question of disputed value under this section to the arbitration of any of the persons so appointed and the costs of any such arbitration shall be part of the costs of the appeal.

(4) Where the Relevant Tax Authority requires a valuation to be made by any person appointed under this section the reasonable costs of such valuation shall be defrayed by the Relevant Tax Authority.

Persons
accountable
for capital
transfer tax
in certain
cases, etc.

11.—(1) The executor of the deceased shall, to the best of his knowledge and belief, specify in the Capital Transfer Tax Form all the property in respect of which capital transfer tax is payable upon the death of the deceased and shall be accountable for the tax in respect of all personal property wheresoever situate in the State concerned of which the deceased was competent to dispose at his death, but shall not be liable for any tax in excess of the assets which he has received as executor, or might but for his own neglect or default have received.

(2) Where by operation of law, including customary or other personal law, property passes on the death of the deceased, and there is no executor or the executor is not accountable for the capital transfer tax in respect of such property every person to whom any property so passes, by operation of law as aforesaid, for any beneficial interest in possession, and also, to the extent of the property actually received or disposed of by him, every trustee, guardian, committee or other person in whom any interest in the property so passing or the management thereof is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title shall be accountable for the capital transfer tax on the property, and shall, within the time required by section 9 of this Decree prepare and deliver a Capital Transfer Tax Form as provided in that section:

Provided that nothing in this section shall render a person accountable for tax who acts merely as agent or bailiff for another person in the management of property.

(3) Every person accountable for capital transfer tax, and every person whom the Relevant Tax Authority believes to have taken possession of any property, or administered any part of the estate, in respect of which capital transfer tax is payable or is in receipt of the income of any part of such property or estate, shall, if required to do so by the Relevant Tax Authority supply to the Authority, in such form as the Authority may direct, evidence as it requires relating to the property or estate.

(4) A person who wilfully fails to comply with any of the foregoing provisions of this section shall be guilty of an offence and liable on conviction to a fine of a sum equal to double the amount of the capital transfer tax, if any, remaining unpaid for which he is accountable.

(5) If any person makes any statement in a Capital Transfer Tax Form which is false in any material particular he shall be guilty of an offence and liable on conviction to a fine of ₹10,000 or to imprisonment for two years.

12.—(1) Capital transfer tax shall be collected and recovered as hereinafter mentioned.

Collection
and recovery
of the tax.

(2) The person accountable for capital transfer tax in respect of the estate of a deceased person shall pay the tax in respect of all personal property of which the deceased was competent to dispose at this death, on delivering to the Relevant Tax Authority of the Capital Transfer Tax Form and may pay in like manner the tax in respect of any other property passing on such death, which by virtue of any testamentary disposition of the deceased or by operation of law, including customary or other personal law, is under his control, or, in the case of property not under his control, if any other person accountable for the tax in respect thereof requests him to make such payment.

(3) The transferee of property transferred *inter vivos* shall pay the capital transfer tax on delivery of the Capital Transfer Tax Form to the Relevant Tax Authority.

(4) Where the person accountable for capital transfer tax does not know the amount or value of any property to which this Decree relates, he may state in the Capital Transfer Tax Form that such property exist, but he does not know the amount of or value thereof, and that he undertakes, as soon as the amount and value are ascertained, to bring in an account thereof, and to pay both the tax for which he is or may be liable, and any further tax payable by reason thereof for which he is or may be liable in respect of the other property mentioned in the Capital Transfer Tax Form.

(5) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

(6) The tax which is to be collected upon a Capital Transfer Tax Form shall be due on the delivery thereof, or on the expiration of 12 months after the death or 6 months after the transfer, whichever ever first happens.

(7) Capital transfer tax shall in the first instance be calculated by the Relevant Tax Authority at the appropriate rate according to the value of the property or estate as set forth in the Capital Transfer Tax Form delivered, but if afterwards it appears for any reason that too little tax has been paid, the additional tax shall unless a certificate of discharge has been delivered under this Decree, be payable, and be treated as tax in arrears.

(8) The Relevant Tax Authority may, on application from a person accountable for the tax on any property where it considers that it can conveniently be done, certify the amount of valuation accepted by them in respect of the property or part thereof.

(9) Where the Relevant Tax Authority is satisfied that the capital transfer tax leviable in respect of any property cannot without excessive sacrifice be raised at once, it may allow payment to be postponed for such interest not exceeding 3 per cent and on such terms, as the Relevant Tax Authority, thinks fit.

(10) When it is proved to the satisfaction of the Relevant Tax Authority that too much tax has been paid, the excess shall be repaid by them and, in cases where the overpayment was due to over-valuation by the Relevant Tax Authority, with interest at 3 per cent per annum.

Allowable deductions in respect of transfers on death.

13.—(1) In determining the value of the estate of a deceased person for the purpose of capital transfer tax allowance shall be made for reasonable funeral expenses and for debts and encumbrances ; but an allowance shall not be made—

(a) for debts incurred by the deceased, or incumbrances created by the deceased, unless such debts or incumbrances were incurred or created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest ; nor

(b) for any debt in respect whereof there is a right to re-imbusement from any other estate or person, unless such re-imbusement cannot be obtained ; nor

(c) more than once for the same debt or incumbrance charged upon different portions of the estate ;

and any debt or incumbrance for which an allowance is made shall be deducted from the value of the land or other property liable thereto.

(2) For the purposes of subsection (1) of this section reasonable funeral expenses means such expenses as may be admitted as reasonable by the Relevant Tax Authority and includes reasonable expenditure in embalming and transporting the deceased to the burying place, so however that the expenses so admitted shall not—

(a) in respect of a tombstone, exceed ₹1,000 ; and

(b) in respect of all other expenses, exceed ₹3,000.

(3) Where an estate includes an interest in expectancy, capital transfer tax in respect of that interest shall be paid, at the option of the person accountable for the tax, either with the tax in respect of the rest of the estate or when the interest falls into possession, and if the tax is not paid with the tax in respect of the rest of the estate, then—

(a) for the purpose of determining the rate of tax in respect of the rest of the estate the value of the interest shall be its value at the date of the death of the deceased ; and

(b) the rate of tax in respect of the interest when it falls into possession shall be calculated according to its value when it falls into possession, together with the value of the rest of the estate as previously ascertained.

(4) The value of the benefit accruing or arising from the cesser of an interest ceasing on the death of the deceased shall—

(a) if the interest extended to the whole income of the property, the value of that property ; and

(b) if the interest extended to less than the whole income of the property, be the value of an addition to the property equal to the income to which the interest extended.

14.—(1) In the case of property which does not pass to the executor or to any other person accountable as such, an amount equal to the proper rateable part of the capital transfer tax may be recovered by the person, who being authorised or required to pay the tax in respect of any property has paid the tax, from the person entitled to any sum charged on such property (whether as capital or as an annuity or otherwise), under a disposition not containing any express provision to the contrary.

Apportionment of tax.

(2) Any dispute as to the proportion of the tax to be borne by any property or person, may be determined upon application by any person interested in manner directed by rules of court, by the High Court.

(3) Any person from whom a rateable part of the tax can be recovered under this section shall be bound by the accounts and valuations as settled between the person entitled to recover the same and the Relevant Tax Authority.

15.—(1) A rateable part of capital transfer tax on an estate, in proportion to the value of any property which does not pass to the executor or to any other person accountable as such, shall be a first charge on the property in respect of which tax is leviable ; provided that the property shall not be so chargeable as against a *bona fide* purchaser thereof for valuable consideration without notice.

Charge of capital transfer tax and facilities for raising it.

(2) On an application submitting in the prescribed form the description of the lands or other subjects of property (whether hereditaments, stocks, funds, shares or securities) and of the debts and incumbrances allowed by the Relevant Tax Authority in assessing the value of the property for the purposes of capital transfer tax, the Authority shall grant a certificate of the tax paid in respect of the property, and specify the debts and incumbrances so allowed, as well as the lands or other subjects of property.

(3) Subject to any repayment of capital transfer tax arising from want of title to the land or other subjects of property, or from the existence of any debt or incumbrance thereon for which under this Decree an allowance ought to have been but has not been made, or from any other cause, the certificate of the Relevant Tax Authority shall be conclusive evidence that the amount of tax named therein is a first charge on the land or other subject of property after the debts and incumbrances allowed as aforesaid :

Provided that any such repayment of tax by the Relevant Tax Authority shall be made to the person producing to it the said certificate.

(4) If the rateable part of the tax in respect of any property is paid by the executor or other person accountable, it shall when occasion requires be repaid to him by the trustees or owners of the property or any other person beneficially entitled to the property.

(5) A person authorised or required to pay the tax in respect of any property shall, for the purpose of paying the tax, or raising the amount of the tax when already paid, have power, whether the property is or is not vested in him, to raise the amount of such tax and any interest and expenses properly paid or incurred by him in respect thereof, by the sale or mortgage of or a terminable charge on that property or any part thereof.

(6) A person having a limited interest in any property, who pays the tax in respect of that property shall be entitled to the like charge, as if the tax in respect of that property had been raised by means of a mortgage to him.

Powers to accept composition for capital transfer taxes.

16. Where, by reason of the number of deaths on which property has passed or of the complicated nature of the interests of different persons in other cause, it is difficult to ascertain exactly the amount of the capital transfer taxes or any of them payable in respect of any property or any interest therein, or so to ascertain the same without undue expense in proportion to the value of the property or interest, the Relevant Tax Authority on the application of any person accountable for any tax thereon and upon his giving to it all the information in his power respecting the amount of the property and the several interests therein, and other circumstances of the case, may by way of composition for all or any of the capital transfer taxes payable in respect of the property, or interest, as having regard to the circumstances appears proper, and may accept payment of the sum so assessed in full discharge of all claims for the taxes in respect of such property or interest, and shall give a certificate of discharge accordingly :

Provided that the certificate shall not discharge any person from any tax in case of fraud or failure to disclose material facts.

Exemptions from capital transfer tax.

17.—(1) Subject to subsection (2) below and notwithstanding anything to the contrary in any other provision of this Decree, no capital transfer tax shall be payable in respect of any family house.

(2) For the purposes of this section, "family house" means any house or part thereof used wholly by a particular family as the principal place of residence for that family and in respect of which no income accrues to such family or any member thereof.

(3) Notwithstanding anything to the contrary in any other provision of this Decree, no capital transfer tax shall be payable in respect of such paintings, manuscripts, works of art or scientific collections as may be donated or bequeathed to any body or institution in Nigeria to which subsection (4) below applies and no property, the tax in respect of which is so exempted, shall be aggregated with any other property for the purpose of fixing the rate of tax.

(4) The foregoing subsection shall apply in relation to such museums, universities or other public institutions as may be specified by the Federal Executive Council by order published in the *Gazette*.

18. The rates of capital transfer tax shall be according to the following scale :—

<i>Net Value of the Estate or Property transferred</i>	<i>Rate of Capital Transfer Tax</i>
₹	
First 100,000	Nil
Next 150,000	10%
Next 150,000	20%
Next 250,000	30%
Next 500,000	40%
Next 1,000,000	50%
Thereafter	60%

Scale of rates of capital transfer tax.

19. Where the Relevant Tax Authority is satisfied that capital transfer tax has become payable on any property consisting of land or a business (not being a business carried on by a company), or any interest in land or such a business, passing upon the death of any person, and that subsequently within ten years capital transfer tax has again become payable on the same property or any part thereof passing on the death of the person to whom the property passed on the first death, the amount of capital transfer tax payable on the second death in respect of the property so passing shall be reduced as follows :—

Reduction of tax in case of quick succession.

Where the second death occurs within 12 months of the first death, by 80 per cent ;

Where the second death occurs within 2 years of the first death, by 75 per cent ;

Where the second death occurs within three years of the first death, by 60 per cent ;

Where the second death occurs within four years of the first death, by 55 per cent ;

Where the second death occurs within five years of the first death, by 50 per cent ;

Where the second death occurs within six years of the first death, by 45 per cent ;

Where the second death occurs within seven years of the first death, by 30 per cent ;

Where the second death occurs within eight years of the first death by 20 per cent ;

Where the second death occurs within nine years of the first death, by 15 per cent ;

Where the second death occurs within ten years of the first death, by 10 per cent ;

Provided that where the value, on which the tax is payable, of the property on the second death exceeds the value, on which the duty was payable, of the property on the first death, the latter value shall be substituted for the former for the purpose of determining the amount of tax on which the reduction under this section is to be calculated.

Release of persons paying capital transfer tax and provisional assessments.

20.—(1) The Relevant Tax Authority on being satisfied that the full capital transfer tax has been paid in respect of any property or in respect of an estate or any part thereof shall give a certificate to that effect, which shall discharge from any further claim for capital transfer tax the property shown on the certificate.

(2) A certificate of the Relevant Tax Authority under this section shall not discharge any person or property from capital transfer tax in case of fraud or failure to disclose material facts, and shall not affect the rate of tax payable in respect of any property afterwards shown to have passed on the death, and the tax in respect of such property shall be at such rate as would be payable if the value thereof were added to the value of the property in respect of which tax has been already accounted for.

(3) A certificate purporting to be a discharge of the whole capital transfer tax payable in respect of any property included in the certificate shall exonerate a *bona fide* purchaser for valuable consideration without notice from the tax notwithstanding any such fraud or failure.

(4) Where, after filling the Capital Transfer Tax Form by the person *prima facie* responsible for accounting for the tax, the Relevant Tax Authority is satisfied upon the information disclosed therein that capital transfer tax is payable in respect of any estate, the Relevant Tax Authority shall issue a certificate of provisional assessment to him for the purposes only of section 25 of this Decree and for the avoidance of doubt, such certificate shall not—

(a) prejudicially affect the operation of the other provisions of this Decree and in particular section 9 (a) thereof (relating to the disclosure in the Form of a true and perfect inventory and account of any estate); or

(b) relieve any such person from payment of court fees chargeable for oaths or, subject to this Decree, of any probate fees where it is subsequently revealed that the estate is not chargeable to capital transfer tax.

Appeals.

21.—(1) Any person aggrieved by the decision of the Relevant Tax Authority with respect to the amount of capital transfer tax payable in respect of any property, whether on the ground of the value of the property or the rate charged or otherwise, may on payment of 50 per cent of the tax assessed by the Relevant Tax Authority or of such portion of it as is therein payable by him, appeal to the High Court of the State concerned and the amount of tax shall be determined by the High Court, and if the tax as determined is less than that paid to the Relevant Tax Authority the excess shall be repaid.

(2) Appeals shall lie from decisions of the High Court under this section in the same manner and to the same extent as appeals from the decisions of the Court in civil proceedings given by that Court sitting at first instance.

(3) The High Court, where it appears to the court just, may order the Relevant Tax Authority to pay on any excess of duty repaid by them interest at the rate of 3 per cent per annum for such period as appears to the court just.

(4) The Chief Judge of a State may make rules providing for the manner of making appeals to the High Court from any decision of the Relevant Tax Authority, and the procedure to be followed in respect of such appeals; and until such rules are made the rules applicable in the case of appeals to the High Court from decisions of Appeal Commissioners under any applicable law shall with all necessary modifications apply to appeals under this section.

22.—(1) The Relevant Tax Authority may if it thinks fit on the application of any person liable to pay capital transfer tax accept in satisfaction of the whole or any part of such tax any property, including interest in land, as may be agreed between the Relevant Tax Authority and that person.

Power to transfer property in satisfaction of capital transfer tax.

(2) The Relevant Tax Authority may hold and dispose of any property accepted pursuant to this section and shall account for any such property and the proceeds of sale thereof in a manner to be prescribed by the appropriate State Commissioner.

23. The Relevant Tax Authority in its discretion, upon application by a person entitled to an interest in expectancy, may commute the capital transfer tax which would or might, but for the commutation, become payable in respect of such interest for a certain sum to be presently paid, and for determining that sum shall cause a present value to be set upon such tax, regard being had to be contingencies affecting the liability to and rate and amount of such tax, and interest being reckoned at 3 per cent and on the receipt of such sum they shall give a certificate of discharge accordingly.

Commutation of duty in interest on expectancy.

24.—(1) For the purposes of enforcing payment of capital transfer tax due from any person charged with the payment of such tax and in addition to any other power conferred under this Decree where any person fails, neglect or refuses to pay any tax the Relevant Tax Authority may—

Power to distrain for non-payment of capital transfer tax.

(a) for the non-payment of such tax distrain—

(i) upon the land, premises or place in respect of which the tax was charged ;

(ii) the person charged by his goods or other chattels including money, bills of exchange, bonds or other securities;

(b) recover the amount of tax by sale of anything so distrained.

(2) Subject to subsection (3) (c) below, the power conferred under this section may be exercised by any officer authorised by the Relevant Tax Authority.

(3) The Sheriffs and Civil Process Law in force in the State concerned shall apply for the purposes of this section as it applies for the purpose of levying execution against the movable or immovable property of a judgment debtor, subject to the following—

(a) for references to "judgment creditor" and "judgment debtor" there shall be substituted references to the Relevant Tax Authority and the person accountable for capital transfer tax or charged with the payment of the tax under this Decree respectively ;

(b) for references to "sheriff", "deputy sheriff" and "bailiff" there shall be substituted respectively references to officer authorised by the Relevant Tax Authority ;

(c) any power exercisable by the registrar of a court or by a magistrate by virtue of that Law shall be exercisable by an officer of the Relevant Tax Authority not below the rank of a Principal Inspector of Taxes ; and

(d) all or any of the forms prescribed in the Sheriffs and Civil Process Law may be applied or varied in such manner as the Relevant Tax Authority may deem necessary.

(4) The foregoing provisions of this section shall not be construed so as to authorise the sale of any immovable property without an order of the High Court.

Exemption from fees under other enactments, etc.

25. Notwithstanding anything to the contrary in any law, including rules of court, if any person applying to any court for probate or grant of letters of administration in respect of the will or estate of a deceased person or in respect of any matter connected with the distribution of the estate of a deceased person produces to the appropriate officer of the court a certificate or, as the case may be, a certificate of provisional assessment issued pursuant to section 20 of this Decree in relation to the estate of that deceased person no such fees as may be prescribed by any law including rules of court shall be payable in respect of the application of the court, and if any such fees had been paid before the issue of a certificate pursuant to section 20 of the Decree they shall be refunded to the person producing the certificate.

Power to appoint agent, etc.

26.—(1) The Relevant Tax Authority may by notice in writing appoint any person accountable for capital transfer tax under this Decree as the agent of any other person accountable for the tax, and the person so appointed as agent may be required to pay any tax which is or will be payable by the person in respect of whom he is appointed an agent from any moneys which may be held by him for that person, and in default of such payment the tax shall be recoverable from the person appointed as agent.

(2) For the purposes of this section, the Relevant Tax Authority may require any person to give information as to any moneys and other assets which may be held by him for any person accountable for capital transfer tax under this Decree.

(3) Any person appointed as agent pursuant to this section may retain out of any money coming into his hands on behalf of a person accountable for tax so much thereof as shall be sufficient to pay the tax, and is hereby indemnified against any person whatsoever for all payments made by him in pursuance of this section.

Regulations.

27. The Federal Executive Council may make regulations generally for the proper administration of this Decree and may, without prejudice to the generality of the foregoing, by the regulations prescribe—

- (a) the form of the Capital Transfer Tax Form ;
- (b) any other thing requiring to be prescribed under this Decree.

Interpretation.

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

“Capital Transfer Tax Form” means the Capital Transfer Tax Form referred to in section 9 of this Decree ;

“executor” means the executor or administrator of a deceased person, and includes, as regards any obligation under this Decree, any person who takes possession of or intermeddles with the personal property of a deceased person ;

“High Court” means the High Court of the State concerned ;

“incumbrances” includes mortgages and terminable charges ;

“interest in expectancy” includes an estate in remainder or reversion and every other future interest whether vested or contingent, but does not include reversions expectant upon the determination of leases ;

“person accountable” means any person accountable for the payment of capital transfer tax under the provisions of this Decree ;

“prescribed” means prescribed by this Decree or by regulations made under this Decree ;

"property" includes money and all interests capable of being held in land, and personal property and the proceeds of sale thereof respectively and any money or investment for the time being representing the proceeds of sale ;

"property passing on the death" includes property passing either immediately on the death or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation and "on the death" includes "at a period ascertainable only by reference to the death" ;

"settled property" means property comprised in a settlement ;

"tax" or "the tax" means capital transfer tax payable under this Decree.

29. This Decree may be cited as the Capital Transfer Tax Decree 1979 and shall be deemed to have come into force on 1st April 1979.

Citation
and commen-
cement.

SCHEDULE

Section 6

PROVISIONS SUPPLEMENTAL TO CERTAIN OF THE PROVISIONS OF THIS DECREE

PART I

1.—(1) Any disposition made by the deceased in favour of a relative of his shall be treated for the purpose of section 5 of this Decree as a gift unless—

Gifts
generally.

(a) the disposition was made on the part of the deceased for full consideration in money or money's worth paid to him for his own use or benefit ; or

(b) the deceased was concerned in a fiduciary capacity imposed on him otherwise than by a disposition made by him and in such capacity only ;

and references to a gift in any other provision of this Decree shall be construed accordingly :

Provided that where the disposition was made on the part of the deceased for partial consideration in money or money's worth paid to him for his own use or benefit, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of capital transfer tax.

(2) Where the deceased made a disposition of property in favour of a relative of his, the creation or disposition in favour of the deceased of an annuity or other interest limited to cease on the death of the deceased or of any other person shall not be treated for the purposes of this Decree as consideration for the disposition made by the deceased.

(3) If a company to which this paragraph applies was concerned in a transaction in relation to which it is claimed that the provisions of paragraph 1 (1) (a) above or the proviso to that paragraph have effect, those provisions shall have effect in relation thereto if and only if, and to the extent only to which, the Relevant Tax Authority is satisfied that those provisions would have had effect in the following circumstances, namely, if the assets of the company had been held by it on trust for the members thereof and any other person to whom it is under any liability incurred otherwise than for the purposes of the business of the company wholly and exclusively, in accordance with the rights attaching to the shares in and debentures of the company and the terms on which any such liability was incurred, and if the company had acted in the capacity of a trustee only with power to carry on the business of the company and to employ the assets of the company therein.

(4) Any gift made in favour of a relative of the deceased by a company of which the deceased at the time of the gift had control within the meaning of paragraph 13 below shall be treated for the purposes of section 5 of this Decree as a gift made by the deceased, and the property taken under the gift shall be treated as included in the property passing on the death of the deceased if, and to the extent to which, the Relevant Tax Authority is satisfied that they would fall to be so treated in the circumstances mentioned in the last foregoing sub-paragraph.

(5) In this paragraph the expression "relative" means, in relation to the deceased,—

(a) the wife or husband of the deceased ;

(b) the father, mother, children, uncles and aunts, of the deceased ; and

(c) any issue of any person falling within either of the preceding paragraphs and the other party to a marriage with any such person or issue ; and references to "children" and "issue" include references to children born out of wedlock and to adopted children.

(6) In this paragraph, the expression "annuity" includes any series of payments, whether inter-connected or not, whether of the same or of varying amounts, and whether payable at regular intervals or otherwise, and payments of dividends or interest on shares in or debentures of a company shall be treated for the purposes of this paragraph as a series of payments constituting an annuity limited to cease on a death if the payments are liable to cease on the death, or the amounts thereof are liable to be reduced on the death, by reason directly or indirectly of the extinguishment or any alteration of rights attaching to, or of the issue of, any shares in or debentures of a company.

(7) If the deceased has made in favour of a company to which this paragraph applies a disposition which, if it had been made in favour of a relative of his, would have fallen within sub-paragraph (1) of this paragraph, this section shall have effect in like manner as if the disposition had been made in favour of a relative of his, unless it is shown to the satisfaction of the Relevant Tax Authority that no relative of the deceased was, at the time of the disposition or subsequently during the life of the deceased, a member of the company.

For the purposes of this sub-paragraph, a person who is, or is deemed by virtue of this provision to be, a member of a company to which this paragraph applies and which is a member of another such company shall be deemed to be a member of that other company.

(8) Where there have been associated operations effected with reference to the receiving by the deceased of any payment in respect of such an annuity or other interest as is mentioned in sub-paragraph (2) of this paragraph, or effected with a view to enabling him to receive or to facilitating the receipt by him of any such payment, this section shall have effect in relation to each of those associated operations as it has effect in relation to the creation or disposition in favour of the deceased of such an annuity or other interest.

2.—(1) The creation by a person or with his consent of a debt or other right enforceable against him personally or against property of which he was or might become competent to dispose, or to charge or burden for his own benefit, shall be deemed for the purposes of this Decree to have been a disposition made by that person, and in relation to such a disposition the expression "property" in this Decree shall include the debt or right created.

Gifts by way of creation of burden or release of right.

(2) The extinguishment at the expense of the deceased of a debt or other right shall be deemed for the purposes aforesaid to have been a disposition made by the deceased in favour of the person for whose benefit the debt or right was extinguished, and in relation to such a disposition the expression "property" in this Decree shall include the benefit conferred by the extinguishment of the debt or right.

3.—(1) Where by way of gift a person pays a premium under a policy of assurance on his life in circumstances where the payment does not fall to be treated for capital transfer tax purposes both as a gift and as one of money, and, by reason of assignment or otherwise the payment operates to keep up the policy for the benefit of another person (hereinafter referred to as "the donee"), then for capital transfer tax purposes the payment shall be treated as a gift to the donee of rights under the policy, and the property comprised in the gift shall be treated for those purposes as standing at the payer's death (whether or not the policy continues on foot till that time) at a value equal to the proportion of the value of the policy which the amount of the premium bears to the aggregate amount of all relevant premiums.

Insurance premiums.

(2) Where by reason of any dealing with a policy of life assurance property would under section 5 of this Decree and apart from this paragraph, be deemed to have passed on the death of the assured, the property so deemed to have passed shall be treated as standing at the assured's death (whether or not the policy continues on foot till that time) at a value equal to the proportion of the value of the policy which the aggregate amount of all premiums paid under the policy before the dealing with the policy bears to the aggregate amount of all relevant premiums.

(3) For the purposes of the two foregoing sub-paragraphs the value of a policy shall be determined as follows :—

(a) subject to the following paragraph, the value shall be taken to be the value, as at the death, of the benefits receivable under the policy on the death or other event on which they are receivable ;

(b) the foregoing sub-paragraph shall not apply in relation to any payment of a premium or dealing with a policy if any dealing with the policy has subsequently taken place either so as to alter the beneficial interest in the rights under the policy or by way of surrender, but in such case the value shall be ascertained by reference to the time of the subsequent dealing (or of the first, if there has been more than one), and shall be taken to be the value at that time of the consideration therefor, or if there was no consideration or (in the case of a dealing other than a surrender) its value was less than the market value of the policy at that time, that market value.

(4) In this section "relevant premiums" means premiums paid under the policy (whoever paid them) which—

(a) where paragraph (a) of the foregoing sub-paragraph applies, have been paid before the maturity of the policy; or

(b) where paragraph (b) of that sub-paragraph applies, have been paid before the time by reference to which the value of the policy falls to be ascertained.

Charge on company's assets in respect of deceased's benefits therefrom.

4.—(1) Where a person dying after the commencement of this Decree has made to a company to which this paragraph applies a transfer of any property (other than an interest limited to cease on his death or property which he transferred in a fiduciary capacity), and any benefits accruing to the deceased from the company accrued to him during his life time, the assets of the company shall be deemed for the purposes of capital transfer tax to be included in the property passing on his death to an extent determined, in accordance with sub-paragraph (2) below, by reference to the proportion of that aggregate amount of the benefits accruing to the deceased from the company bore to the net income of the company.

(2) The extent to which the assets of the company are to be deemed to be included as aforesaid shall be the proportion ascertained by comparing the aggregate amount of the benefits accruing to the deceased from the company during his life time with the aggregate amount of the net income of the company at the time the benefits accrued:

Provided that—

(a) where, in any of the said accounting years, the company sustained loss, the amount of that loss shall be deducted in ascertaining the said aggregate net income of the company;

(b) where the company came into existence in the last but three, or in the last but two, or in the last but one, or in the last, of the said accounting years the reference in this sub-paragraph to the said accounting years shall be construed as references to the last four, the last three, the last two or the last, of those years, as the case may be.

(3) The assets of the company which are deemed to be included in the property passing on the death of the deceased by virtue of this paragraph shall include any assets thereof which have been disposed of or distributed by the company at any time between the beginning of the first of the accounting years aforesaid and the death of the deceased, either—

(a) in or towards satisfaction of rights attaching to shares in or debentures of the company; or

(b) otherwise howsoever except as follows, that is to say, by way of sale for full consideration in money or money's worth received by the company for its own use and benefit, or in or towards discharge of taxes or rates or other liability imposed by or under an enactment, or in or towards discharge of a fine or penalty of a liability for tort incurred without collusion with the injured party,

including assets which have been so disposed of or distributed in a winding up, whether continuing at or completed before the death:

Provided that this subsection shall not apply to assets disposed of or distributed by way of payments from which income tax was deductible, or which were assessable to income tax, of amounts not exceeding in the aggregate, as respects payments made in any accounting year or in the period between the end of the last accounting year and the death of the deceased, the amount of the income of the company for that year or period.

(4) This paragraph shall have effect subject to and in accordance with the succeeding provisions of this Schedule and the provisions contained in Part II of this Schedule shall have effect for the purpose of supplementing and interpreting this paragraph and the succeeding provisions of this Part of this Schedule.

5.—(1) The following shall be treated as benefits accruing to the deceased from the company, that is to say—

(a) any income of the company, and any periodical payment out of the resources or at the expense of the company, which the deceased received for his own benefit whether directly or indirectly, and any enjoyment in specie of land or other property of the company or of a right thereover which the deceased had for his own benefit whether directly or indirectly ;

(b) any such income or payment or enjoyment which the deceased was entitled to receive or have as aforesaid ; and

(c) any such income or payment or enjoyment which the deceased could have become entitled to receive or have as aforesaid by an exercise of any power exercisable by him or with his consent ;

and where the deceased could, by an exercise of any such power as aforesaid, have become entitled to receive as aforesaid any payment out of the resources or at the expense of the company not being a periodical payment, but did not in fact receive or become entitled to receive that payment, there shall be treated as benefit accruing to the deceased from the company interest on that payment at the average rate from the earliest date on which he could have become entitled to receive it.

(2) In this paragraph the expression "periodical payment" means a payment by way of dividend or interest, a payment by way of remuneration not being a single lump sum payment, and any other payment being one of a series of payments, whether inter-connected or not, whether of the same or of varying amounts, and whether payable at regular intervals or otherwise.

(3) The amounts to be taken into account for the purposes of paragraph 4 (2) of this Schedule in respect of benefits accruing to the deceased from the company, and the time at which such a benefit is to be treated for the purposes of that paragraph as having accrued to him, shall be determined in accordance with the provisions of paragraphs 1 and 2 respectively of Part II of this Schedule.

6.—(1) Subject to the provisions of sub-paragraph (3) below, if the deceased has made, whether for value or not, a surrender of his title to receive any such income or payment or enjoyment as is mentioned in the last preceding paragraph or of any such power as is therein mentioned, the last preceding paragraph shall have effect as if the surrender had not been made.

(2) The deceased shall be deemed to have made such a surrender as aforesaid if a right which he had to receive any such income or payment or enjoyment as aforesaid, or if any such power as aforesaid, has been extinguished or suspended by the effect solely or partly of any disposition made by him or with his consent of shares in or debentures of a company or of any other

Matters to be treated as benefits to deceased from company.

Surrender of title to, or of power to obtain, benefits.

property or right, or of the exercise or the leaving unexercised by him or with his consent of any power or right or of the extinguishment or suspension by him or with his consent of any power or right, otherwise than in a fiduciary capacity, or if apart from such a disposition or other act or omission he would have become entitled to receive any such income or payment or enjoyment as aforesaid but by the effect solely or partly thereof he did not become entitled to receive it.

Determina-
tion of income
of company.

1961 No. 22.

7. The income of the company for any accounting year or for the period between the end of the last accounting year and the death of the deceased, shall be determined by computing the amount of the income of the company from each source in accordance with the provisions of the Companies Income Tax Act 1961 relating to the computation of income from such a source (subject to the modification that the computation shall be made by reference to the actual income for that year or period, and not by reference to the income for any other period), and the net income of the company for any accounting year shall be determined by deducting from the income of the company for that year the aggregate of the amounts of—

(a) the liabilities of the company for that year in respect of any kind of payment from which income tax is deductible, or which is assessable to income tax, but excluding liabilities in respect of any dividend on shares of or interest on debentures in the company and liabilities incurred otherwise than for the purposes of the business of the company wholly and exclusively ;

(b) any deduction or set off that could have been claimed for income tax purposes if the computation of the income of the company had been made by reference to the assessable income for that year and not to the actual income :

Provided that there shall be excluded from the computation of the income of the company any income thereof which was neither *bona fide* earned in the ordinary course of business nor the produce of income-yielding assets held by it.

Determina-
tion of value
of assets.

8.—(1) In determining the value of the estate for the purpose of capital transfer tax, the provisions of subsection (1) of section 13 of this Decree making allowance for debts and encumbrances to which assets of the company passing on the death by virtue of paragraph 4 of this Schedule were liable shall apply, but the Relevant Tax Authority shall make an allowance from the value of those assets for all liabilities of the company (computed, as regards liabilities which have not matured at the date of the death, by reference to the value thereof at that date, and, as regards contingent liabilities, by reference to such estimation as appears to the Relevant Tax Authority to be reasonable) other than—

(a) liabilities in respect of shares in or debentures of the company ; and

(b) liabilities incurred otherwise than for the purposes of the business of the company wholly and exclusively.

(2) In estimating the value of the said assets the Relevant Tax Authority shall fix the price thereof on the basis of a sale of the business of the company as a going concern.

(3) Where the said assets include any distributed assets, if partial consideration (other than the extinguishment or an alteration, of rights attaching to shares in or debentures of a company to which paragraph 4 of this Schedule applies) was given for the distribution in money or money's worth received by the company for its own use and benefit, a further allowance shall be made, in addition to the allowances specified in sub-paragraph (1) above of an amount equal to the value of the consideration given.

(4) For the purpose of the estimation of the value of any distributed assets section 10 (1) of this Decree shall have effect with the substitution for the reference therein to the time of the death of the deceased of a reference to the time of the distribution.

9.—(1) If it is shown to the satisfaction of the Relevant Tax Authority that—

(a) the value of all such property as is mentioned in paragraph 4 of this Schedule, of which the deceased made a transfer to the company, together with an amount equal to any excess of interest at the average rate on the value thereof from the date or respective dates of transfer to the death of the deceased over the aggregate amount of the benefits received by the deceased by virtue of the transfer, is less than—

(b) the value on which capital transfer tax would be chargeable on the death under the said paragraph if all benefits accruing to him from the company other than benefits received by him by virtue of the transfer were disregarded,

an amount equal to the deficiency shall be deducted from the proportion of the value of the company's assets that corresponds to the benefits received by him by virtue of the transfer.

References in this sub-paragraph to benefits received by the deceased by virtue of a transfer shall be construed as references to benefits accruing to him from the company which he received or had as consideration for the transfer, or in consequence of his having received as consideration therefor shares or debentures or other property which produced any of those benefits.

(2) References in this paragraph to the proportion of the value of the company's assets that corresponds to any particular benefits shall be construed as references to so much of the value on which capital transfer tax is chargeable on the death by virtue of paragraph 4 of this Schedule as is chargeable by reason of the bringing of those benefits into the computation made under sub-paragraph (2) of that paragraph.

(3) So much of any income or periodical payment or enjoyment of a kind mentioned in paragraph 5 of this Schedule as is shown to the satisfaction of the Relevant Tax Authority to have represented, or to have been such that it would if received have represented, reasonable remuneration to the deceased for any services rendered by him as the holder of an office under the company shall, notwithstanding anything in that paragraph, not be treated for the purposes of paragraph 4 of this Schedule as a benefit accruing to the deceased from the company; and any liability of the company in respect of the remuneration of any person as the holder of an office under the company shall be treated for the purposes of that paragraph as incurred for the purposes of the business of the company wholly and exclusively to the extent to which it is shown to the satisfaction of the Relevant Tax Authority that the amount thereof was reasonable, and to that extent only.

Limitation
on, and
prevention of
duplication
of, charge.

Aggregation.

10. For the purposes of section 7 of this Decree, the deceased shall be deemed to have had an interest in the property deemed by virtue of paragraph 4 of this Schedule to be included in the property passing on death.

Duty to give information to the Relevant Tax Authority

11.—(1) The company shall be under obligation to inform the Relevant Tax Authority, within one month from the date of the death of the deceased, of the death, of the fact that the deceased made a transfer of property to the company, and of the fact that benefits accrued to the deceased from the company, and every person who was an officer of the company at that date, or, if the company has been wound up and dissolved before that date, who was an officer of the company at any time, shall be under the like obligation as respects such of the facts aforesaid as are within his knowledge, unless he knows, or has reasonable cause for believing, that the information in question has already been given to the Relevant Tax Authority by the company or some other person.

(2) If the company or any such person as aforesaid who is under obligation by virtue of the preceding sub-paragraph to give any information to the Relevant Tax Authority makes default in the performance of that obligation the defaulter shall be guilty of an offence and liable on conviction to a fine of ₹10,000.

Collection and incidence of capital transfer tax under paragraph 4.

12.—(1) The following persons shall be accountable for the tax payable on the death of the deceased by virtue of paragraph 4 of this Schedule, that is to say :—

(a) the company ;

(b) any person (other than a *bona fide* purchaser for full consideration in money or money's worth received by the company for its own use and benefit) who receives, whether directly from the company or otherwise, or disposes of, any assets which the company had, whether as capital or as income, at the death or at any time thereafter ;

(c) any person who received any distributed assets of the company on their distribution :

Provided that a person shall not—

(i) by virtue of paragraph (b) of this sub-paragraph, be accountable in respect of any assets for any capital transfer tax in excess of the value of those assets, or

(ii) by virtue of paragraph (c) of this sub-paragraph, be accountable in respect of any assets for more than a part of the capital transfer tax bearing to the whole thereof the same proportion that the value of the distribution of those assets bears to the principal value of the assets of the company passing on the death by virtue of paragraph 4 after making the allowance to be made under paragraph 8.

For the purposes of this subsection the expressions "distributed assets" and "assets of the company passing on the death" do not include any distributed assets of the company which the deceased received on their distribution ; and a person who, having received any distributed assets of the company, has died before the deceased shall be deemed to have been a person accountable by virtue of sub-paragraph (c) of this paragraph.

(2) A person accountable for any capital transfer tax by virtue of this paragraph shall, for the purpose of raising and paying the tax, have all the powers conferred on accountable parties by this Decree.

(3) On a winding up of the company subsection (1) of section 297 of the Companies Decree 1968 (which determines what debts shall have priority over other debts in a winding up) shall have effect as if there were included in paragraph (a) of that subsection a reference to any tax payable in respect of assets of the company passing on a death by virtue of paragraph 4 of this Schedule.

1968 No. 51.

(4) The tax payable on the death of the deceased by virtue of paragraph 4 of this Schedule shall be a first charge by way of floating security on the assets which the company had at the death or has at any time thereafter, any part of the tax for which by virtue of paragraph (c) of sub-paragraph (1) above any person is accountable in respect of any distributed assets shall be a first charge also on those assets :

Provided that nothing in this sub-paragraph shall operate to make any property chargeable as against a *bona fide* purchaser thereof for valuable consideration without notice.

(5) Where any tax has been—

(a) paid by a person accountable therefor by virtue only of paragraph (c) of sub-paragraph (1) above ; or

(b) raised by virtue of sub-paragraph (5) above out of any distributed assets charged therewith ;

that person or , as the case may be, the person who was entitled to those assets subject to the charge, may (without prejudice to any right of contribution or indemnity which he may have apart from this sub-paragraph) recover the amount of the tax so paid or raised as aforesaid from any person who is accountable therefor otherwise than by virtue of the said paragraph (c).

(6) No part of the tax paid by the company shall be recoverable by it from any person on the ground only that he is entitled to any interest in, or to any sum charged on, the assets which the company had at the death of the deceased.

(7) The following provisions of this Decree shall not have effect in relation to the tax payable by virtue of paragraph 4 of this Schedule, that is to say—

(a) so much of section 12 (2) of this Decree as relates to payment of capital transfer tax on personal property of which the deceased was competent to dispose at his death ; and

(b) so much of section 11 (1) of this Decree as relates to the accountability of the executor of the deceased in respect of personal property of which the deceased was competent to dispose at his death, and subsection (2) of that section ;

and section 11 (1) of this Decree shall have effect in relation to the estate as if the property passing by virtue of paragraph 4 of this Schedule had been property passing to the executor as such.

13.—(1) Where for the purposes of capital transfer tax there pass, on the death of a person dying after the commencement of this Decree, shares in or debentures of a company to which this paragraph applies, then if—

(a) the deceased had the control of the company at any time during the 5 years ending with his death ; or

Valuation for capital transfer tax of shares and debentures of certain companies.

(b) dividends which were declared by the company for any period falling wholly or partly within those 5 years, or which, not having been declared for any particular period were declared at a time within those 5 years, together with any amounts which accrued due during any period falling wholly or partly within those 5 years for interest on debentures of the company, are, as to amounts forming in the aggregate more than one-half of the total amount of such dividends and interest, to be treated by virtue of any of the provisions of paragraphs 5 and 6 of this Schedule benefits accruing to the deceased had made a transfer of property to the company ; or

(c) the deceased had at any time during those 5 years a beneficial interest in possession in shares in or debentures of the company, or in both, of an aggregate nominal amount representing one-half or more of the aggregate nominal amount of the shares in and debentures of the company then issued and outstanding, and no one other person had at that time the control of the company ;

the value or the shares or debentures, in lieu of being estimated in accordance with the provisions of section 10 (1) of this Decree shall be estimated by reference to the net value of the assets of the company in accordance with the provisions of the next succeeding sub-paragraph.

(2) For the purposes of such ascertainment as aforesaid—

(a) the net value of the assets of the company shall be taken to be the value thereof estimated in accordance with the said section 10 (1) less the like allowance for liabilities of the company as is provided by sub-paragraph (1) of paragraph 8 of this Schedule in relation to the assets of a company passing on a death by virtue of paragraph 4 of this Schedule but subject to the modification that allowance shall be made for such a liability as is mentioned in paragraph (b) of that sub-paragraph (a) thereof ;

(b) the aggregate value of all the shares and debentures of the company issued and outstanding at the death of the deceased shall be taken to be the same as the net value of the assets of the company ;

(c) in a case in which there are both shares in and debentures of the company issued and outstanding at the death, or different classes of either, the net value of the assets of the company shall be apportioned between them with due regard to the rights attaching thereto respectively ; and

(d) the value of any share, or of any debenture, or of a share or debenture of any class, shall be a rateable proportion, ascertained by reference to nominal amount, of the net value of the assets of the company as determined under paragraph (a) of this sub-paragraph, or, in the case mentioned in paragraph (c) of this sub-paragraph of the part thereof apportioned under that paragraph to the shares of the company, or to its debentures, or to that class thereof, as the case may be.

(3) For the purposes of this paragraph a person shall be deemed to have had control of a company at any time if he then had—

(a) the control of powers of voting on all questions, or on any particular question, affecting the company as a whole which if exercised would have yielded a majority of the votes capable of being exercised thereon ; or

(b) the capacity to exercise, or to control the exercise of any of the following powers, that is to say, the powers of a board of directors or of a governing director of the company, power to veto the appointment of a director thereof, or powers of a like nature ;

or if he could have obtained such control or capacity by an exercise at that time of a power exercisable by him or with his consent.

(4) Control of a company which a person had in a fiduciary capacity shall be disregarded for the purposes of this paragraph.

(5) In this paragraph references to the assets of a company shall be construed as references to the assets that it had at the death of the deceased.

14.—(1) The companies to which paragraphs 2, 4 and 13 of this Schedule respectively apply are any company which, at any relevant time, was a private company within the meaning of the Companies Decree 1968 and for the purposes of this sub-paragraph the expression "relevant time" means any time during the period ending with the death of the deceased and beginning, as respects the said paragraph 13, 5 years before his death, and, as respects each of the others of the said provisions of this Schedule, at the date of the disposition, transfer or other transaction or event relevant for the purposes of that paragraph, or, if that disposition, transfer or other transaction, or event was one of associated operations, at the date of the earliest of those operations.

Application
of certain of
the provisions
of this
Schedule.
1968 No. 51.

(2) A person shall be deemed for the purposes of this Part of this Schedule to have made a transfer of property to a company if the property came to be included in the resources of the company by the effect of a disposition made by him or with his consent or of any associated operations of which such a disposition formed one.

(3) A person shall be deemed to have received or had any payment, income, enjoyment, assets, or interest, the receipt or having whereof by him is relevant for the purposes of this Part of this Schedule, if any of the following conditions have been satisfied in relation thereto, that is to say—

(a) if the relevant payment or other matter has been applied in any manner for the benefit of that person, or has been dealt with by that or any other person in any manner calculated to cause it to inure for the benefit of that person at any time, whether in the form of income or not, or if any property which was or would be available for the purpose by reason of the effect or successive effects of any one or more of associated operations relating to the relevant payment or other matter has been so applied or dealt with ;

(b) if any advantages received or to be received at any time by that person have been provided out of that payment or other matter, or out of any such property as aforesaid ;

(c) if that person became able in any manner to control the application of the relevant payment or other matter, or of any such property as aforesaid, otherwise than in a fiduciary capacity ;

(d) if the relevant payment or other matter, or any such property as aforesaid, has been applied in any manner so as to increase the value to that person of any property in which he was beneficially interested ; or

(e) as respects such income as is mentioned in sub-paragraph (1) of paragraph 5 of this Schedule, if the receipt by, or accrual to, the company of that income operated in any manner so as to increase the value to that person of any property in which that person was beneficially interested, so however that the amount of the income which that person is to be treated as having received by virtue of this paragraph shall be limited to the amount of the increase in value of the property in question ;

and references in this Schedule to the deceased's receiving or having or being or becoming entitled to receive or have, any such payment or other matter as aforesaid shall be construed accordingly.

(4) References in this Part of this Schedule to a disposition's being made by any person, to a power's being exercised or exercisable by any person, or to any other act's being done by any person, include references to its being made, or being exercised or exercisable, or being done, by him and another jointly or by another at his direction or by a company of which he had control within the meaning of paragraph 13 of this Schedule, whether with or without the consent of any other person ; references importing an omission on the part of any person in relation to any such matter as aforesaid shall be construed in like manner ; and references in relation to any such matter as aforesaid to its being made, or being exercised or exercisable, or being done or omitted, with the consent of any person include references to its being made, or being exercised or exercisable, or being done or omitted, at his request or with or subject to his acquiescence.

(5) References in this Schedule to a person having any power or control or doing any act in a fiduciary capacity shall be construed as references to his having that power or control or doing that act in a fiduciary capacity imposed on him otherwise than by a disposition made by him and in such a capacity only.

(6) References in this Decree (including this Part of this Schedule) to an interest's being limited to cease on a death shall be construed as including references to its being subject to a limitation, in whatsoever form, having the effect of providing in the alternative for its ceasing on the death or on the occurrence of some event, or the expiration of some period, before the death.

Gifts *inter vivos* generally.

15.—(1) Where property comprised in a gift *inter vivos* (being neither property settled by the gift, nor a sum of money in naira or any other currency) is deemed for the purpose of capital transfer tax to pass on the death of the donor, and at some time before the death the donee has ceased to have the possession and enjoyment of any of the property so comprised, then subject to the provisions of this paragraph the provision of this Decree in respect of gifts *inter vivos* (including this paragraph) shall apply as if the property, if any, received by the donee in substitution for that property had been comprised in the gift instead of that property (but in addition to any other property so comprised).

(2) In the foregoing sub-paragraph, the reference to property received by the donee in substitution for property comprised in the gift includes in particular—

(a) in relation to property sold, exchanged or otherwise disposed of by the donee any benefit received by the donee by way of consideration for the sale, exchange or other disposition ; and

(b) in relation to a debt or security, any benefit received by the donee in or towards the satisfaction or redemption thereof ; and

(c) in relation to any right to acquire property, any property acquired in pursuance of that right.

(3) Where at a time before the death of the donor the donee makes a gift of property comprised in the gift to him, or otherwise voluntarily divests himself of any such property otherwise than for a consideration in money or money's worth not less than the principal value of the property at that time, then unless he does so in favour of the donor he shall be treated for the purposes of sub-paragraph (1) above as continuing to have the possession and enjoyment of that property and the principal value aforesaid shall be taken as the principal value of that property as property comprised in the gift, but for this purpose a disposition made by the donee by agreement shall not be deemed to be made voluntarily, if it is made to any authority who when the agreement is made is authorised by, or is or can be authorised under, any enactment to acquire the property compulsorily.

A donee shall be treated for the purposes of this sub-paragraph as divesting himself, voluntarily and without consideration, of any interest in property which merges or is extinguished in another interest held or acquired by him in the same property.

(4) Where any shares in or debentures of a body corporate are comprised in a gift *inter vivos* and the donee is, as the holder of those shares or debentures, issued with shares in or debentures of the same or any other body corporate, or granted any right to acquire any such share or debentures, then unless the issue or grant is made by way of exchange for the first mentioned shares or debentures, the shares or debentures so issued, or the right granted shall be treated for the purposes of this Decree as having been comprised in the gift in addition to any other property so comprised.

In this sub-paragraph the reference to an issue being made or right being granted to the donee as the holder of shares or debentures shall be taken to include any case in which an issue or grant is made to him as having been the holder of those shares or debentures, or is made to him in pursuance of an offer or invitation made to him as being or having been the holder of those shares or debentures, or of an offer or invitation in connection with which any preference is given to him as being or having been the holder thereof.

(5) Where either sub-paragraph (2) (c) or (4) above applies to determine, for purposes of capital transfer tax on a death, the property comprised in a gift *inter vivos* made by the deceased, the value of any consideration in money or money's worth given by the donee for the acquisition in pursuance of the right referred to in the said sub-paragraph 2(c) or for the issue or grant referred to in the said sub-paragraph (4) as the case may be, shall be allowed as a deduction in valuing the property comprised in the gift as property deemed to pass on the death by virtue of the gift; but if any part (not being a sum of money) of the said consideration consists of property comprised in the same or another gift from the donor and deemed for purposes of capital transfer tax to pass on his death, no deduction shall be made in respect of it under this sub-paragraph.

(6) For the purposes of the last foregoing sub-paragraphs there shall be left out of account so much (if any) of the consideration for any shares in or debentures of a body corporate or for the grant of any right to be issued with any such shares or debentures as consists in the capitalisation or reserves of that body corporate, or in the retention by that body corporate, by way of set-off or otherwise, of any property distributable by it, or is otherwise provided directly or indirectly out of the assets or at the expense of

that or any associated body corporate; and for this purpose two bodies corporate shall be deemed to be associated if one has a controlling interest in the other, or if some person has a controlling interest in both.

(7) In the case of a donee who dies before the donor, the foregoing sub-paragraph shall apply as if he had not died, and as if the acts of his personal representatives were his acts, and property taken by any person under his testamentary dispositions or on his intestacy (or partial intestacy) were taken under a gift made by him at the time of his death.

(8) Where property comprised in a gift *inter vivos* is deemed for purposes of capital transfer tax to pass on the death of the donor, and that property was settled by the gift, the foregoing provisions of this paragraph shall not apply but subject to the following provisions thereof, the provisions of this Decree relating to gifts *inter vivos* shall apply as if the property comprised in settlement at the time of the donor's death, except in so far as that property neither is, nor represents, nor is derived from, property originally comprised in the gift:

Provided that if the settlement comes to an end at sometime before the death of the donor as respects all or any of the property which on the death of the donor immediately before that time would be treated as comprised in the gift; the property in question, other than property to which the donor then becomes absolutely and beneficially entitled in possession, and any consideration (not consisting of rights under the settlement) given by the donor for any of the property to which he so becomes entitled shall be treated as comprised in the gift (in addition to any other property so comprised) and as being of a principal value, as property so comprised, equal to its principal value at that time.

(9) Where property comprised in a gift *inter vivos* is not settled by that gift, but is before the death of the donor settled by the donee, the foregoing sub-paragraph shall apply in relation to property comprised in the settlement as if the settlement had been made by the gift and for this purpose property which becomes settled property under any testamentary disposition of the donee or on his intestacy (or partial intestacy) shall be treated as settled by him.

(10) For purposes of aggregation, any property which is by virtue of any of the foregoing provisions of this paragraph to be treated as comprised in a gift *inter vivos* made by the deceased shall be deemed to be property in which the deceased had an interest, except in so far as it directly or indirectly represents or is derived from property originally comprised in the gift in which the deceased never had an interest.

(11) For the purposes of capital transfer tax on any death, any question whether, in the case of any property comprised in a gift *inter vivos* possession and enjoyment of that property was at a particular time assumed or had by any person to the exclusion of any other person shall (so far as the question depends on the identity of the property) be determined by reference to the property which would for the time being be treated, in relation to the death if it occurred at that time, as property comprised in the gift or property in which the interest subsisted, as the case may be.

(12) Where under any trust or power relating to settled property income arising from that property is accumulated, the accumulation shall not be treated for the purposes of sub-paragraph (8) of this paragraph as derived from that property.

(13) For the purposes of this paragraph the value of any property at a time before the death of the deceased shall be ascertained as it would be for the purpose of capital transfer tax chargeable on his death if he had died immediately before that time.

(14) Any reference in this paragraph to property comprised in a gift being deemed to pass on a death shall be construed as referring to the conditions under which property so comprised is to be deemed to pass on the death being satisfied, apart from questions as to the identity or existence of the property at the death.

16. In this Part of this Schedule, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

Definitions
for Purposes
of Part 1.

“accounting year” has the meaning assigned to it by paragraph 6 of Part II of this Schedule ;

“assets” includes goodwill ;

“associated operations” means any two or more operations of any kind being—

(a) operations which affect the same property, or one of which affects some property and the other or others of which affect property which represents, whether directly or indirectly, property or income arising from that property, or any property representing accumulations of any such income ; or

(b) any two operations of which one is effected with reference to the other, or with a view to enabling it to be effected or facilitating its being effected, and any third operation having a like relation to either of those two, and any fourth operation having a like relation to any of those three, and so on ;

whether those operations are effected by the same person or by different persons, whether they are connected otherwise than as aforesaid or not, and whether they are contemporaneous or any of them precedes or follows any other ;

“average rate” means, in relation to a company, a rate per cent per annum, the percentage being ascertained by—

(a) computing the aggregate amount of the net income of the company for the relevant accounting years (a deduction being made, where the company sustained a loss in any of those years, of the amount of the loss) ;

(b) dividing that amount by the number of those years ; and

(c) comparing the result with the principal value of the assets of the company passing on the death of the deceased by virtue of paragraph 4 of this Schedule after making the allowances to be made under paragraph 8 ;

“company” includes any body corporate, wheresoever incorporated ;

“debenture” means, in relation to a company, any obligation of the company in respect of any loan capital issued by the company otherwise than as consideration for a loan made to it in the ordinary course of a banking business, or in respect of any debt incurred by the company—

(a) for any money borrowed by the company, otherwise than by way of temporary loan made in the ordinary course of a banking business ;

(b) for any transfer of capital assets made to the company by any person, unless the obligation is one resulting from a dealing with a person who transferred such assets to the company in, and on terms consistent with, the ordinary course of a business carried on by him ;

(c) without consideration, or for consideration the value of which to the company at the time when the debt was incurred was substantially less than the value at that time of the debt (including any premium thereon); or

(d) where the debt was of such a nature that it would, in the ordinary course of business and apart from some special arrangement, have carried interest, if the debt did not carry interest or carried interest at a rate which was either unreasonably high or unreasonably low ;

“disposition” includes any trust, covenant, agreement or arrangement, whether made by a single operation or by associated operations, and also, in relation to shares in or debentures of a company, the extinguishment or any alteration of rights attaching thereto, whether effected by a single operation or by associated operations ;

“distributed assets” means, in relation to a company, assets of the company to which paragraph 4 (3) of this Schedule applies which were disposed of or distributed by the company as mentioned in that paragraph ; and “value of the distribution” means, in relation to any distributed assets, the value thereof or, if partial consideration (other than the extinguishment, or an alteration, of rights attaching to shares in or debentures of a company to which that paragraph applies was given for the distribution in money or money’s worth received by the company for its own use and benefit the value thereof less the value of the consideration given ;

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“dividend” includes a bonus which would be treated as income for the purposes of the Companies Income Tax Act 1961 ;

“member” means, in relation to a company, a holder in his own right of any share in or debenture of the company and a person interested in any share in or debenture of the company held, whether by himself or another otherwise than in the holder’s own right ;

“officer” means, in relation to a company, any person who exercises the function of a director, manager, secretary or liquidator of the company ;

“payment” includes a transfer of property and a set-off or release of an obligation, and references to the amount of a payment include, in relation to property transferred or to an obligation set-off or released, references to the value thereof ;

“periodical payment” has the meaning assigned to it by paragraph 5 (2) of this Schedule ;

“power” includes any right or power exercisable by virtue of the holding of shares in or debentures of a company, and any right or power to procure an issue in or debentures of a company.

PART II

PROVISIONS SUPPLEMENTARY TO CERTAIN OF THE
PROVISIONS OF PART I OF THIS SCHEDULE

1.—(1) The provisions of this paragraph shall have effect for the purpose of determining the amount to be taken into account, for the purposes of paragraph 4 (2) of Part I of this Schedule, as the amounts of benefits accruing to the deceased from the company.

Amounts to be taken into account in respect of benefits.

(2) No amount shall be taken into account more than once.

(3) Where an amount is taken into account by reference to the deceased's having been entitled to a benefit which he did not in fact receive, or by reference to a power which was not in fact exercised or was surrendered, due regard shall be had to the effect that his receiving the benefit, or the power's being exercised, would have had in relation to other benefits.

(4) The amounts that are to be taken into account by reference to the deceased's having been entitled to a benefit which he did not in fact receive, or by reference to a power which was not in fact exercised or was surrendered, shall be such as would have fallen to be taken into account as benefits received by the deceased if he had acted in relation to the claiming of benefits and the exercise of powers during the ten years ending with his death to his greatest financial advantage, due regard being had to any consideration which he would have to give in respect of a claim to any benefit or the exercise of any power.

(5) In making for the purposes of the last preceding sub-paragraph a computation of any diminution of income which the deceased would have sustained by giving any such consideration as is therein mentioned, or of any increase of income which the company would have obtained from any such consideration to be given to the company, it shall be assumed that the consideration would have yielded income equal to interest at the average rate on the amount or value thereof.

(6) The amounts to be taken into account shall include any income tax which the deceased paid or bore in respect of the benefits in question.

(7) The amount to be taken into account in respect of a benefit consisting of any enjoyment in specie of land or other property of the company or of a right thereover shall be the value of the enjoyment thereof for the period during which the benefit subsisted.

2.—(1) The provisions of this paragraph shall have effect for the purpose of determining—

Time when benefits are to be treated as accruing.

(a) whether a benefit accruing to the deceased from the company is to be treated as having accrued to him during the 5 years ending with his death, or during a particular accounting year, or at any other relevant time; and

(b) the period during which a benefit consisting of any enjoyment in specie of land or other property of the company or of a right thereover is to be treated as having subsisted.

(2) A benefit consisting of income of the company or a Periodical payment which the deceased received, or became entitled to (but did not in fact) receive, shall be treated as having accrued to him at the earliest time at which he could have obtained receipt thereof.

(3) A benefit consisting of income of the company or a periodical payment which the deceased could have become entitled to receive by an exercise in the 5 years ending with his death of a power which was not in fact exercised or was surrendered shall be treated as having accrued to him at the earliest time at which he could have obtained receipt thereof if he had acted as mentioned in sub-paragraph (4) of paragraph 1 of this Part of this Schedule.

(4) A benefit consisting of interest on such a payment other than a periodical payment as is mentioned in paragraph 5 (1) of Part I of this Schedule which the deceased could have become entitled to receive shall be treated as having accrued to him in any accounting year to the extent to which the period during which the interest is to be treated as accruing fell within that year.

(5) A benefit consisting of any such enjoyment in specie as aforesaid shall be treated as having accrued to the deceased in the said 5 years if any part of the period during which it subsisted fell within those years, and shall be treated as having accrued to him in any accounting year to the extent to which the period during which it subsisted fell within that year.

(6) A benefit consisting of any such enjoyment in specie as aforesaid shall be treated as having subsisted during the following period, that is to say—

(a) in the case of enjoyment that the deceased had, during the period for which he had it ;

(b) in the case of enjoyment which he became entitled to (but did not in fact) have, during the period for which he could have had it ;

(c) in the case of enjoyment which he could have become entitled to have by an exercise in the 5 years ending with his death of a power which was not in fact exercised or was surrendered, during the period for which he could have had it if he had acted as mentioned in sub-paragraph (4) of paragraph 1 of this Part of this Schedule.

Adjustments
as to dis-
tributed
assets.

3.—(1) Where the assets of the company passing on the death of the deceased by virtue of paragraph 4 of Part I of this Schedule include any distributed assets, or by reason of the company's having been wound up or dissolved before the death consist of distributed assets, the following provisions of this paragraph shall have effect.

(2) The net income of the company shall be determined as if the income of the company had included, or the company had had income equal to, interest on a sum equal to the value of each distribution at the average rate from the date thereof.

(3) If on any distribution the deceased received beneficially an interest in any of the distributed assets, the benefits accruing to the deceased from the company shall be ascertained as if the amount brought into the income of

the company under the last preceding sub-paragraph by reference to the value of the distribution of those assets had been income of the company which the deceased was entitled to receive immediately on its accrual to the company, or, where the interest in those assets which the deceased received was less than an absolute interest, had been such income to an extent corresponding to the proportion which the value of the interest in those assets received by him bore to the value of those assets.

(4) Where sub-paragraph (3) of this paragraph has effect—

(a) the value on which, apart from this provision, capital transfer tax would be payable on the death of the deceased by virtue of paragraph 4 of Part I above shall be reduced by an amount equal to the value of the distribution of the assets in question, or, where the interest in those assets which the deceased received was less than an absolute interest, by an amount equal to the proportion aforesaid of that value ; and

(b) any amount which is treated as a benefit accruing to the deceased from the company by virtue of that sub-paragraph shall be treated for the purposes of paragraph 4 (1) of Part I above as a benefit received by him.

4.—(1) Where the value of the assets of the company passing on the death of the deceased by virtue of paragraph 4 of Part I above is increased by reason of an addition's having been made to the assets of the company, otherwise than by way of receipts, representing income in respect of which the company was liable to pay or bear income tax, between the beginning of the first of the relevant accounting years and the death of the deceased, either—

Added
assets.

(a) in consideration of an issue of shares in or debentures of the company ;
or

(b) otherwise howsoever, except by way of purchase for full consideration in money or money's worth given by the company,

the following provisions of this paragraph shall have effect in relation to the added assets.

(2) The net income of the company shall be determined as if the income of the company had included interest on a sum equal to the value of the addition at the average rate from the beginning of the first of the relevant accounting years to the date of the addition.

(3) If a transfer of any of the added assets or of any interest in any of them was made to the company by the deceased, the benefits accruing to the deceased from the company shall be ascertained as if the amount brought into the income of the company under the last preceding sub-paragraph by reference to the value of the addition of those assets had been income of the company which the deceased was entitled to receive immediately on its accrual to the company, or had been such income to an extent corresponding to the proportion which the value of the interest transferred bore to the value of those assets, as the case may be.

(4) Where sub-paragraph (3) of this paragraph has effect, if the deceased received as consideration for the addition of the assets in question an interest in any shares in or debentures of the company in respect of which

estate duty would be payable on his death apart from anything in paragraph 4 of Part I above, amount which is treated as a benefit accruing to him from the company by virtue of that sub-paragraph shall be treated for the purposes of the said paragraph as a benefit accruing to him by virtue of his interest in those shares or debentures.

(5) In this paragraph the expression "value of the addition" means, in relation to any added assets, the value thereof or, if partial consideration (other than an issue of, or an alteration of rights attaching to, shares in or debentures of the company) was given therefor in money or money's worth out of the resources or at the expense of the company, the value thereof less the value of the consideration given.

Prevention of duplication of charge in respect of benefits and charge in respect of shares.

5. For the purposes of paragraph 4 of Part I above, where the benefits that accrued to the deceased from the company in the relevant accounting years included benefits that accrued to him otherwise than as mentioned in that paragraph, but the deceased had at any time an interest in, or a power was at any time exercisable in relation to, shares in or debentures of the company in respect of which capital transfer tax would be payable on his death apart from anything in that paragraph, and by virtue of that interest or power benefits accrued to the deceased from the company in those years, or would so have accrued to him if any payments had been made by virtue of rights attached to those shares or debentures, then—

(a) if the first-mentioned benefits consisted to any extent of payments made out of moneys which, if not so applied, could have been applied in increasing the last-mentioned benefits, or as payments which would have constituted such benefits; or

(b) if the first-mentioned benefits are brought into the computation made under paragraph 4 (2) of Part I above to the exclusion to any extent of the last-mentioned benefits;

the first-mentioned benefits shall to that extent be treated as if they had accrued to the deceased by virtue of his interest in, or of the power exercisable in relation to, the said shares or debentures.

Accounting year, etc.

6.—(1) The expression "accounting year" means if the company has, before the death of the deceased, made up accounts for a period of twelve months ending in the last year of his life, that period and each previous period of twelve months ending on the date corresponding to that to which the accounts were made up, or, if not, a period twelve months ending on such date in the last year of his life as the Relevant Tax Authority may determine and each previous period of twelve months ending on the date corresponding to the date determined.

(2) The expression "relevant accounting years" means the accounting years by reference to which the extent of the passing of the assets of the company is to be determined under paragraph 4 of Part I above.

(3) Where an accounting year does not coincide with a period of which accounts of the company were made up, the Relevant Tax Authority may, for the purpose of determining the income or net income of the company for that accounting year, divide any such period and make such apportionments and

aggregations of the income of the company as may be necessary, so however that any apportionments so made shall be made in proportion to the number of months or fractions of months in the respective periods for which the apportionment is made.

MADE at Lagos this 9th day of April 1979.

LT-GENERAL O. OBASANJO,
*Head of the Federal Military Government,
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 effect)*

The Decree makes provision for the imposition of capital transfer tax where property is transferred to any person during his life-time or following upon the death of another person but for such property to attract this tax, its value must not be less than ₦100,000. Other provisions thereof relate to exemptions from the tax of family houses and of donations made to certain institutions and generally for the due administration of the Decree.

NATIONAL DOCK LABOUR DECREE 1979



ARRANGEMENT OF SECTIONS

Section

Establishment of National Dock Labour Board

1. Establishment of the National Dock Labour Board.
2. Constitution and membership of the Board.
3. Functions of the Board.
4. Secretary and other staff of the Board.

Local Dock Labour Committees

5. Establishment of Local Dock Labour Committees.
6. Composition of each Committee.
7. Functions of each Committee.

Registration

8. Application for registration.
9. Consideration of applications for registration, etc.
10. Discipline.
11. Renewal of registration.
12. Power of Board to cancel registration.

13. Effect of removal from register.
14. Appeals.
15. Duties of registered dock labour employers.
16. Control of employment of dock workers, etc.

Financial Provisions

17. Funds.
18. Borrowing powers.

Miscellaneous and Supplemental

19. Power to obtain information.
20. Offences.
21. Annual reports.
22. Regulations.
23. Interpretation.
24. Citation, etc. and repeals.

SCHEDULES

Schedule 1—Supplementary provisions relating to the Board, Committees, etc.

Schedule 2—Ports to which this Decree applies.

Decree No. 13

[9th April 1979]

Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

Establishment of National Dock Labour Board

1. There shall be established a body to be known as the National Dock Labour Board (hereafter in this Decree referred to as "the Board") which shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

Establishment of the National Dock Labour Board.

2.—(1) The Board shall consist of a Chairman to be appointed by the Commissioner with the approval of the Federal Executive Council and the following other members, that is—

Constitution and membership of the Board.

(a) a representative each of the Federal Ministries of Labour and Transport;

- (b) a representative of the Nigerian Ports Authority ;
- (c) two representatives of registered dock labour employers of whom one shall be the General Manager of the National Cargo Handling Company ;
- (d) two representatives of dock workers ; and
- (e) a representative of shipping companies.

(2) Members of the Board, other than the Chairman and *ex officio* members, shall be appointed by the Commissioner on the recommendation of the organisations which they represent, so however that where there is no such organisation the Commissioner may appoint such person as appears to him to be appropriate.

(3) Schedule 1 to this Decree shall have effect with respect to the proceedings of the Board and the other matters therein mentioned.

Functions
of the Board.

3. The functions of the Board shall be—

- (a) to secure greater regularity of employment of dock workers and to ensure that an adequate number of dock workers is available for the efficient performance of dock work ;
- (b) to make provision for the registration of dock workers and for this purpose to maintain and keep a register of dock workers ;
- (c) to make provision for the registration of dock labour employers and for this purpose to maintain and keep a register of dock labour employers ;
- (d) to make provision for the employment and discharge of dock workers and their allocation to registered dock labour employers ;
- (e) to make provision for the training of dock workers and for their welfare, including medical services ;
- (f) to regulate the conditions of service of dock workers and dock labour employers ;
- (g) to establish a pensions scheme for dock workers ;
- (h) to establish a system of direct payment of wages to dock workers or to pay, as agents of registered dock labour employers, to dock workers all earnings properly due to them from registered dock labour employers : Provided that no payment shall be made to a dock worker by or through a headman or other person not employed for that purpose by the Board ;
- (i) to make statutory or other lawful deductions from wages due to dock workers ;
- (j) to establish a pool of dock workers or to register dock workers against specified registered dock labour employers as the case may be ;
- (k) to delegate to each Committee after consultation with the Committee concerned such functions of the Board as the Board may, at its discretion, decide ; and
- (l) to set up, with the aid of the Federal Ministry of Labour after consultation with registered dock workers and registered dock labour employers, a Joint Industrial Council for the dock labour industry.

Secretary
and other
staff of
the Board.

4.—(1) The Board shall appoint a Secretary to the Board who shall be the chief executive officer of the Board and shall be responsible for the execution of the policies of the Board and the day to day running of the affairs of the Board.

(2) The Board shall, subject to the provisions of this Decree, have power—

- (a) to appoint such other employees of the Board as it may determine ;
- (b) to pay such employees as aforesaid such remuneration (including pensions and gratuities) and allowances as the Board may determine.

(3) The Board may, with the approval of the Federal Commissioner for Establishments, declare the office of any of its employees to be a pensionable office for the purposes of the Pensions Act.

Cap. 147.

(4) Nothing in this Decree shall prevent the appointment of a person to any office on terms which preclude the grant of a pension or gratuity in respect of service in that office.

Local Dock Labour Committees

5. There shall be established by the Board committees to be known as Local Dock Labour Committees (in this Decree collectively referred to as "Committees") each of which shall be charged with responsibility for such matters as the Board may determine in relation to a port or a group of ports.

Establishment of Local Dock Labour Committees.

6.—(1) Each Committee shall consist of a chairman to be appointed by the Board and the following other members, that is—

Composition of each Committee.

- (a) two representatives of dock labour employers ;
- (b) two representatives of dock workers operating in the port or ports under the Committee's authority ;
- (c) a representative of the Federal Ministry of Labour ;
- (d) a representative of the Nigerian Ports Authority ; and
- (e) a representative of shipping companies.

(2) Members of a Committee, other than the chairman and *ex officio* members, shall be appointed by the Board on the recommendation of the bodies which they represent, so however that where there is no such body the Board shall appoint such other person as appears to it to be appropriate.

(3) Schedule 1 to this Decree shall have effect with respect to the proceedings of a Committee and the other matters therein mentioned.

(4) The Board may appoint a secretary to each Committee to carry out such duties as the Board may determine.

7.—(1) Each Committee shall—

- (a) register, in accordance with conditions laid down by the Board, dock workers employed in the port or ports under its area of authority ;
- (b) ensure that no person other than a registered dock labour employer shall be engaged to perform any dock work and that no person other than a registered worker is employed on dock work ;
- (c) have power to prevent entry to or remove from any place to which this Decree applies any dock worker who is not registered in accordance with the provisions of this Decree and who is employed without the prior permission of the Committee ;
- (d) allocate unemployed registered dock workers in the pool to dock labour employers ; and
- (e) carry out such other functions as may from time to time be referred to it by the Board.

Functions of each Committee.

(2). Notwithstanding any provision of this Decree, a Committee may whenever it is satisfied that dock work is urgently required to be done and that it is not reasonably practicable to obtain a registered dock worker for that work, allocate a person who is not a registered dock worker to a registered dock labour employer or permit such dock labour employer to engage any person by himself; but no dock worker shall be employed under this subsection for a period exceeding 14 days.

Registration

Application
for registra-
tion.

8.—(1) An application for registration as a dock labour employer shall be made in the prescribed manner and shall be accompanied by the prescribed particulars.

(2) An applicant for registration as a dock labour employer shall give to the Board such information, in addition to the prescribed particulars, as the Board may reasonably require for enabling it to come to a decision on the application.

(3) The Commissioner may by regulations prescribe the particulars which are to accompany all applications for registration as a dock labour employer.

(4) Any applicant for registration as a dock labour employer who knowingly makes a false statement or produces a false document in order to procure a registration or renewal of registration as a dock labour employer shall be guilty of an offence and shall be liable on summary conviction—

(a) in the case of an individual, to imprisonment for a term not exceeding six months or to a fine not exceeding ₹200 or to both such fine and imprisonment; and

(b) in the case of a body corporate, to a fine not exceeding ₹2,000.

Considera-
tion of appli-
cations for
registration,
etc.

9.—(1) The Board shall consider every application for registration as a dock labour employer made to it and shall take a decision on every such application in accordance with the following provisions of this section.

(2) In deciding whether or not to register an applicant as a dock labour employer and in deciding the conditions for the registration of the applicant as a dock labour employer the Board shall have regard to any material considerations and in particular to the following considerations:—

(a) whether or not the applicant is a limited liability company;

(b) whether or not the applicant has a minimum paid-up capital of ₹100,000 or can produce a banker's guarantee for such amount;

(c) whether or not the applicant can submit a certified true copy of the last annual report it filed with the Registrar of Companies in compliance with section 117 of the Companies Decree 1968;

(d) whether or not the applicant can produce a certificate issued by the Director of the National Provident Fund that it is not indebted to the Fund in respect of any of its workers engaged in dock work up to and including the date of the application for registration as a dock labour employer;

(e) whether or not the applicant can produce written evidence from a reputable insurance company that its workers have been, or will be, and thereafter will continue to be insured against industrial accidents;

(f) whether or not the applicant has paid to the Board the prescribed registration fee.

(3) The Commissioner may by regulations —

(a) prescribe other considerations in addition to those prescribed in subsection (2) of this section as considerations to which the Board shall have regard in deciding whether or not to register an applicant ; and

(b) modify any considerations specified in the said subsection.

10.—(1) The power to exercise disciplinary control over dock workers (including power to dismiss) shall vest in the Board, so however that the Board may, subject to such conditions as it may think fit, delegate any of its powers under this subsection to any member of the Board, a Committee, the Secretary or any other officer of the Board or the secretary to a Committee.

Discipline.

(2) Without prejudice to the generality of the provisions of subsection (1) above, any dock worker who—

(a) fails to carry out his duties in accordance with the provisions of this Decree ;

(b) fails to comply with any lawful orders given to him by his registered dock labour employer, a Committee or the Board ;

(c) is inefficient or negligent in the discharge of his duties ;

(d) absents himself from duty without permission or acceptable reason ;

or
(e) misconducts himself in a port area or the premises of the Board or a Committee may—

(i) be suspended from duty for a specified period of not more than 30 days ; or

(ii) have his registration cancelled by the Board.

11.—(1) An application for the renewal of registration as a dock labour employer may be made at any time during the 30 days preceding the date of expiration of the licence.

Renewal of registration.

(2) When an application is made for renewal of a registration as a dock labour employer, the registration sought to be renewed shall, notwithstanding the expiration of the period for which it was granted, continue in force—

(a) where the Board renews without alteration, until the date when the renewal takes effect ;

(b) where the Board decides to alter the conditions of registration, until a period of three months from the time limited for appealing against the decision or, where an appeal is brought, from the disposal of the appeal ; or

(c) where the Board decides not to renew the registration, until three months from the notification of that decision or, where an appeal is brought against that decision, from the disposal of the appeal.

12. Subject to the provisions of this Decree, the Board may for the purpose of securing greater regularity of employment of dock workers cancel the registration of such number of dock workers or dock labour employers as it may from time to time determine.

Power of the Board to cancel registration.

13. The cancellation of the registration of a dock worker or a dock labour employer in accordance with the provisions of this Decree shall not affect any obligation incurred or right accrued prior to such cancellation.

Effect of removal from register.

Appeals.

14.—(1) Any aggrieved dock worker or dock labour employer whose registration is cancelled pursuant to the provisions of this Decree may within thirty days after the date on which such cancellation was made lodge an appeal with the Commissioner.

(2) An appeal under subsection (1) above shall be in writing setting out the grounds on which it is made.

(3) The Commissioner shall give a decision on any appeal lodged in accordance with this section not later than ninety days after the date of its receipt by him, and he shall notify the appellant of his decision in writing and thereafter, no further or other appeal shall lie.

(4) Any applicant for registration as a dock labour employer who is aggrieved by a decision of the Board with respect to his non-registration, may within 30 days of the notice of the decision appeal in the prescribed manner, giving the prescribed particulars, to the Commissioner.

(5) On an appeal being made to the Commissioner under the foregoing subsection, the Commissioner shall give notice of the appeal and of the grounds thereof to the Board.

(6) The Board shall within 30 days of the receipt of a notice of appeal under subsection (5) above make representations with respect of the appeal to the Commissioner.

(7) The Commissioner may in any particular case extend the time for lodging an appeal or representations under the foregoing provisions of this section and, where he does so, shall give notice of the extension to the parties affected thereby.

15. Every registered dock labour employer shall—

(a) employ only a registered dock worker who has been allocated to or selected by him in accordance with the provisions of this Decree ;

(b) pay such levies and make such contributions as may be imposed by the Board for the purposes of this Decree ;

(c) comply with the provisions of any directions on pensions scheme for dock workers established by the Board in accordance with this Decree ; and

(d) keep such records as may be required by the Board.

Duties of registered dock labour employers.

Control of employment of dock workers, etc.

16.—(1) No person shall engage any other person as a dock worker in a port specified in Schedule 2 to this Decree unless he is registered as a dock labour employer and except in accordance with the terms of that registration.

(2) No person shall work as a dock worker in a port so specified unless he does so in the employment of another person and in accordance with the provisions of this Decree.

(3) Any person who contravenes any of the foregoing provisions of this section shall be liable on summary conviction—

(a) in the case of an individual, to imprisonment for a term not exceeding three months or to a fine not exceeding ₦200 or to both such imprisonment and fine ;

(b) in the case of a body corporate, to a fine not exceeding ₦2,000.

(4) A shipping company which fails to comply with the provisions of this Decree or of any regulation made thereunder shall at the request of the Board be denied facilities by the Nigerian Ports Authority for such period as may be specified by the Board.

(5) Notwithstanding any provision of this Decree, a master or crew of any vessel in any port affected by this Decree may, in preparation to receiving or discharging cargo, ship's stores or ballast, do any of the following things that is—

- (a) hoist the ship's derricks and rig them for the discharge of cargo ;
- (b) uncover the ship's hold ;
- (c) have dunnage ; or
- (d) do such other thing as is necessary to prepare the ship as aforesaid.

(6) For the purposes of this section "facilities" include facilities for loading, unloading, movement or storage of cargoes or such other facilities as are connected with the preparation of ships or other vessels for the receipt or discharge of cargo.

(7) A registered dock labour employer who fails to comply with any provision of this Decree or any regulation made thereunder may, in addition to any other penalty prescribed therefor, have his registration cancelled and his shore handling and stevedoring contract revoked by his principal on the direction of the Board.

Financial Provisions

17.—(1) The funds of the Board shall be—

Funds.

- (a) such moneys as may be provided to the Board from time to time by the Federal Military Government ;
- (b) contributions made by registered dock labour employers pursuant to this Decree ;
- (c) such sums as may be borrowed pursuant to section 18 of this Decree ;
- (d) any other assets accruing from time to time to the Board pursuant to this Decree.

(2) The Board shall endeavour to be self-sufficient financially, that is to say, that it shall ensure that the revenue accruing to the Board from services provided by it are not less than sufficient to meet the total cost of providing those services, taking one year with another.

(3) The Board shall keep proper accounts in a form which conforms with accepted commercial standards of its receipts, payments, assets and liabilities and shall submit the same from time to time but not less frequently than annually for auditing by a qualified auditor approved annually by the Federal Commissioner for Finance.

(4) The Board shall, not later than 1st August in each financial year or so soon thereafter as the Commissioner may in a proper case allow, submit to the Commissioner for approval, estimates of its revenue and expenditure in the next succeeding financial year.

18. The Board may borrow by way of loan, mortgage or otherwise from any source such moneys as the Board may require for meeting its obligations and discharging its functions under this Decree, so however that the Board may not borrow any sum in excess of ₦100,000 without the consent of the Commissioner.

Borrowing powers.

Miscellaneous and Supplemental

Power to
obtain infor-
mation.

19.—(1) For the purposes of carrying out the functions of the Board under this Decree, the Secretary and any other employee of the Board authorised by the Board in that behalf—

(a) shall have access at all times to any port to which this Decree applies ;

(b) may by notice in writing served on any dock labour employer or dock worker require that person to supply information on such matters as may be specified by him.

(2) A person required to furnish information pursuant to subsection (1) above shall within thirty days from the date of the receipt of the notice comply with the notice.

Offences.

20.—(1) If any person required to furnish information pursuant to section 19 of this Decree fails to furnish such information, he shall be guilty of an offence and liable on conviction to a fine not exceeding ₦200 or imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

(2) If a person in purported compliance with a requirement to furnish information as aforesaid knowingly or recklessly makes any statement in the returns which is false in any material particular, he shall be guilty of an offence and liable on conviction to a fine not exceeding ₦100 or imprisonment for a period not exceeding 3 months or to both such fine and imprisonment.

Annual
reports.

21.—(1) The Board shall prepare and submit to the Commissioner not later than 30th June in each year in such form as the Commissioner may direct a report on the activities of the Board during the immediately preceding year and shall include in the report a copy of the audited accounts of the Board for that year and of the auditor's report on the accounts.

(2) The Commissioner shall as soon as may be after receipt thereof cause a copy of the report submitted to him under this section to be laid before the Federal Executive Council.

Regulations.

22. The Commissioner may, in addition to any other powers conferred on him under this Decree, make regulations generally for the purposes of this Decree and, without prejudice to the generality of the foregoing, such regulations may—

(a) prescribe the fees payable by dock labour employers under this Decree ;

(b) make provision with respect to disciplinary matters and proceedings of disciplinary bodies ;

(c) prescribe forms necessary under this Decree.

Interpreta-
tion.

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

“the Board” means the National Dock Labour Board established by section 1 of this Decree ;

“cargo” means manifested cargo and includes passengers' baggage ;

“Commissioner” means the Federal Commissioner charged with responsibility for matters relating to labour ;

“Committee” means any Local Dock Labour Committee set up pursuant to section 6 of this Decree ;

“dock labour employer” means a person by whom a dock worker is employed and includes a stevedore labour contractor ;

“dock worker” includes—

(a) a person employed in or in the vicinity of a port to perform any duties connected with the loading, unloading, movement or storage of cargoes, the preparation of ships or other vessels for the receipt or discharge of cargoes ;

(b) an itinerant worker employed on coastal voyages ;

(c) a tally clerk ;

(d) a supervisor, headman or other person for the time being in charge of a team of dock workers ; and

(e) a port security man ;

“pool” means a central reserve of a number or class or description of registered dock workers as the Board may from time to time determine ;

“principal” means a shipping company, shipping agency or the Nigerian Ports Authority ;

“register” means the register of dock workers or, as the case may require, dock labour employers maintained by the Board or Local Dock Labour Committees in accordance with section 3 (b) and (c) of this Decree ; and “registered” shall be construed accordingly.

24.—(1) This Decree may be cited as the National Dock Labour Decree 1979.

Citation,
etc. and
repeals.

(2) The provisions of this Decree shall apply in relation to the ports specified in Schedule 2 to this Decree.

(3) The Commissioner may by Order published in the *Gazette* add to, delete from or otherwise amend Schedule 2 to this Decree.

(4) The Dock Labour (Registration and Control of Employment) Rules 1967 (as continued in operation by the Labour Decree 1974) are hereby revoked and the Dock Labour (Registration and Control of Employment) Rules (Application) Declaration 1971 is consequentially revoked.

L.N. 39 of
1967.
1974 No. 21.
L.N. 15 of
1971.

SCHEDULES

SCHEDULE 1

Sections 2(3) and 6(3)

SUPPLEMENTARY PROVISIONS RELATING TO
THE BOARD, COMMITTEES, ETC.*Tenure of office of members of the Board and Committees*

1.—(1) A person appointed to be a member of the Board under section 2 of this Decree, and not being an *ex officio* member, shall—

(a) hold office for a period of 3 years and in the case of a member appointed to fill a vacant post, such member shall hold office for the unexpired period of appointment of the person he succeeds ; and

(b) be eligible for re-appointment for a further period of 3 years but shall vacate office at the end of a total period of six years.

(2) Any member of the Board not being an *ex officio* member shall be paid such allowances in accordance with scales approved from time to time by the Federal Executive Council.

(3) A person appointed to be a member of a Committee under section 6 of this Decree (other than an *ex officio* member) shall—

(a) hold office for a period of not more than 3 years and in the case of a person appointed to fill a vacant post, such person shall hold office for the unexpired period of appointment of the person he succeeds ;

(b) be eligible for re-appointment for a further period of 3 years but shall vacate office at the expiration of a total period of six years.

(4) Any member of a Committee, not being an *ex officio* member, shall be paid allowances in accordance with scales approved from time to time by the Federal Executive Council.

Proceedings of the Board and Committees

1964 No. 1.

2. Subject to the provisions of this Decree and of section 26 of the Interpretation Act 1964 (which provides for decisions of a statutory body to be taken by a majority of members of the body and for the person presiding to have a second or casting vote) the Board may make standing orders regulating the proceedings of the Board or a Committee.

3. The quorum of the Board or of a Committee shall be fixed by the Board.

4.—(1) The Chairman shall preside at any meeting of the Board, but in the absence of the Chairman, the members present shall appoint one of their number to preside at that meeting.

(2) The provisions of sub-paragraph (1) of this paragraph shall also apply to meetings of Committees.

5. Where standing orders made under paragraph 2 above provide for the Board or a Committee to co-opt persons who are not members of the Board or Committee, any such person may advise the Board or Committee on any matter referred to him by the Board or Committee but shall not be entitled to vote at a meeting of the Board or Committee or count towards a quorum.

Miscellaneous

6. The fixing of the seal of the Board shall be authenticated by the signature of the Chairman or of any other person authorised in that behalf by the Board.

7. Any contract or instrument which, if made or executed by any person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Board by any person generally or specially authorised to act for that purpose by the Board.

8. Any document purporting to be duly executed under the seal or on behalf of the Board or a Committee shall be received in evidence and presumed to be so executed unless the contrary is proved.

9. Any member of the Board or a Committee who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or Committee shall forthwith disclose this interest to the Board or Committee and shall not vote on any question relating to the contract or arrangement.

10. The Board or a Committee may act notwithstanding any vacancy in its membership or any defect in the appointment of a member or in the absence of a member.

SCHEDULE 2

Section 24 (2)

PORTS TO WHICH THIS DECREE APPLIES

The ports to which this Decree applies are—

Burutu

Calabar

Koko

Lagos Port complex including Apapa and Tin Can Island

Port Hacourt

Sapele

Warri

MADE at Lagos this 9th day of April 1979.

LT-GENERAL O. OBASANJO,
*Head of the Federal Military Government,
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 only intended to explain its purport)*

The Decree establishes the National Dock Labour Board and charges it with responsibility for the registration of dock labour employers and employees and generally for securing greater regularity of employment of dock workers and for ensuring that an adequate number of dock workers is available for the efficient performance of dock work. The Decree further provides for the training, discipline and welfare of dock workers.

**BANKS (MOTOR VEHICLE LOANS) (MISCELLANEOUS
PROVISIONS) DECREE 1979**



Decree No. 14

[4th April 1979]

**Commence-
ment.**

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) As from the commencement of this Decree, it shall be an offence for any person to sell, dispose or otherwise part with the possession of a motor vehicle on which a loan obtained from a bank is still outstanding without first obtaining the consent in writing of the bank prior to the sale or disposal.

**Offence and
penalty for
unauthorised
sale of a
motor vehicle
on which a
loan is
outstanding.**

(2) Any person who fails to comply with the provision of subsection (1) of this section shall be guilty of an offence and liable on conviction to a fine of ₦200 or six months imprisonment or to both such fine and imprisonment.

2.—(1) As from the commencement of this Decree, any person who purchases a motor vehicle with a loan granted by a bank shall disclose to the licensing authority the particulars of the loan, the name and address of the bank making the loan and such other particulars as may be prescribed :

**Disclosure
of certain
particulars
to the
licensing
authority.**

Provided that where such a person fails or refuses to disclose such particulars within 30 days from the purchase of the motor vehicle the bank may itself supply the particulars concerned to the licensing authority which shall register the latter particulars in substitution for any other entry made in the relevant register.

(2) It shall be the duty of the licensing authority to which the particulars stipulated in subsection (1) above are given to cause the particulars or, as the case may require, the substituted particulars to be entered in the appropriate register relating to the motor vehicle and to endorse on the motor vehicle licence the name of the bank making the loan or such endorsement on the motor vehicle licence that clearly shows that a loan is still outstanding on the motor vehicle.

(3) No change of ownership of the motor vehicle shall, prior to the full repayment or settlement of the loan, be registered by the licensing authority without a certificate of discharge or consent in writing issued by the bank offering the loan to purchase the motor vehicle.

(4) Any registration made contrary to the provisions of this section shall be void and shall have no effect whatsoever on the right of ownership or the right to recover possession of the motor vehicle by the bank which had granted the loan for the purchase of such motor vehicle.

Issue and effect of discharge certificate.

3.—(1) Immediately after full settlement or repayment of a loan (including any interest thereon) is made by the borrower to the bank, the bank shall issue a discharge certificate to the person who obtained the loan and shall send a copy of the discharge certificate to the licensing authority.

(2) On the receipt of the discharge certificate, the licensing authority shall make an entry in that behalf in the register relating to the motor vehicle and thereafter the owner of the motor vehicle shall be free to dispose of the motor vehicle without having to comply with the requirements laid down in the foregoing provisions of this Decree.

Interpretation.

1969 No. 1.

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

“bank” has the meaning assigned thereto by section 41 of the Banking Decree 1969 ;

“motor vehicle” means a mechanically propelled vehicle intended or adopted for use on roads ;

“prescribed” means prescribed by the Federal Commissioner charged with responsibility for finance.

Citation.

5. This Decree may be cited as the Banks (Motor Vehicle Loans) (Miscellaneous Provisions) Decree 1979.

MADE at Lagos this 4th day of April 1979.

LT-GENERAL O. OBASANJO,
Head of the Federal Military Government,
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 prohibits the sale, disposal or parting with possession of a motor vehicle on which a loan from a bank is still outstanding. It also provides that every licensing authority shall enter particulars relating to the loan on the register and make necessary endorsement on the motor vehicle licence.