

**NORTHERN NIGERIA.
PROCLAMATION TO
ESTABLISH A CODE
OF CRIMINAL LAW**

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Northern Nigeria. Proclamation to Establish a Code of Criminal Law by High Commissioner of Northern Nigeria

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HIGH COMMISSIONER OF NORTHERN NIGERIA

**NORTHERN NIGERIA.
PROCLAMATION TO
ESTABLISH A CODE
OF CRIMINAL LAW**

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Sir John Macdonnell
C.B. & L.T.

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Code, Criminal

NORTHERN NIGERIA.

Proclamation *c#*

TO ESTABLISH A

CODE OF CRIMINAL LAW.

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1904.



A PROCLAMATION

Enacted by the High Commissioner of Northern Nigeria,

A PROCLAMATION to Establish a Code of Criminal Law.

WHEREAS it is desirable to Declare, Consolidate, and Amend the Criminal Law :

BE IT ENACTED by the High Commissioner of Northern Nigeria as follows :—

1. This Proclamation may be cited as "The Criminal Code Proclamation, 1904." Short Title.

2. On and from the day to be fixed for the coming into operation of this Proclamation, as hereinafter provided, the provisions contained in the Code of Criminal Law set forth in the First Schedule to this Proclamation, and hereinafter called "the Code," shall be the law of the Protectorate with respect to the several matters therein dealt with. The said Code may be cited as "The Criminal Code." Establishment of Code.
Short Title of Code.

3. On and from the coming into operation of the Code the several Proclamations mentioned in the second Schedule to this Proclamation shall be repealed to the extent in the said Schedule indicated.

Construction of Orders in Council, Proclamations, Rules, Regulations, and other instruments.

4. From and after the coming into operation of the Code, the following rules shall, unless the context otherwise indicates, apply with respect to the construction of Orders in Council, Proclamations, Rules, Regulations, and other instruments, that is to say:—

- (1.) When in any Order in Council, Proclamation, Rule, Regulation, or other instrument, public or private, the term "felony" is used, or reference is made to an offence by the name of felony, it shall be taken that reference is intended to an offence which is a felony under the provisions of the Code:
- (2.) When in any Order in Council, Proclamation, Rule, Regulation, or other instrument, public or private, the term "larceny" is used, it shall be taken that reference is intended to the offence of stealing:
- (3.) When in any Order in Council, Proclamation, Rule, Regulation, or other instrument, public or private, reference is made to any offence by any specific name, it shall be intended that reference is intended to the offence which, under the provisions of the Code, is constituted by the act or omission that would heretofore have constituted the offence referred to:
- (4.) When in any Order in Council, Proclamation, Rule, Regulation, or other instrument, public or private, reference is made to any of the provisions hereby repealed, it shall be taken that reference is intended to the corresponding provisions or substituted provisions of the Code.

Provisions of Code exclusive with certain exceptions.

5. From and after the coming into operation of this Code no person shall be liable to be tried or punished in any Court in the Protectorate, other than a Native Court, for an offence except under the express provisions of the Code, or some other Proclamation, or of some Order in Council made by His Majesty for the Protectorate, or under the express provisions of some Statute of the Imperial Parliament which is in force in, or forms part of the law of, the Protectorate.

Civil remedies.
Saving.

6. When by the Code any act is declared to be lawful, no action can be brought in respect thereof.

Except as aforesaid, the provisions of this Proclamation shall not affect any right of action which any person would have had against another if this Proclamation had not been passed; nor shall the omission from the Code of any penal provision in respect of any act or omission which before the time of the coming into operation of the Code constituted an actionable wrong affect any right of action in respect thereof.

7. When an offender is punishable under the provisions of the Code, and also under the provisions of some other Proclamation, or some Order in Council or Statute, he may be prosecuted and convicted under the provisions either of the Code or of such other Proclamation, or Order in Council or Statute; so that he is not twice punished for the same offence.

Offender may be prosecuted under Code, or Order in Council, Proclamation, or Statute.

8. Nothing in this Proclamation or in the Code shall affect the authority of Courts of Record to punish a person summarily for the offence commonly known as "Contempt of Court"; but so that a person cannot be so punished and also punished under the provisions of the Code for the same act or omission.

Contempt of Court.

9. (1.) Where a person is charged :—

Evidence by husband or wife.

(a.) With an offence under any of the Enactments contained in Sections 192, 193, 194, 196, 197, 198, 199, 200, 201, 206, 210, 269, 270, 309, 310, 325, 326, 327, 328, 329, and 330 of this Code; or

When compellable.

(b.) Subject to the provisions of Section 34 of this Code, with an offence against the property of his or her wife or husband; or

(c.) With inflicting violence on his or her wife or husband;

the wife or husband of the person charged may be called as a witness for the prosecution or defence without the consent of the person charged.

(2.) When a person is charged with an offence other than one of those mentioned in the preceding sub-section, the husband or wife of such person, respectively, is a competent witness, but only upon the application of the person charged.

When competent at instance of person charged.

(3.) Nothing contained in the two preceding sub-sections shall compel a person who is or has been married to disclose any communication made to him or her during marriage by any person to whom he or she is or has been married; nor shall he or she be permitted to disclose any such communication unless the person who makes it consents, except in proceedings in which one married person is prosecuted for any offence against the other.

Communications made during marriage.

9a. Notwithstanding anything to the contrary contained in the Authentication and Interpretation Proclamation, 1900, it shall be lawful to set up and print this Proclamation in England, and copies thereof so set up and printed may in all respects be dealt with, and shall in all respects be as valid and of as full effect, as if they had been set up and printed in the manner provided in Section 2 of the said Authentication and Interpretation Proclamation, 1900.

Proclamation may be printed in England.

9b. It shall be a sufficient compliance with the provisions of Section 3 of the Authentication and Interpretation Proclamation, 1900, as to the authentication of copies of Proclamations, if the Chief Justice shall examine three printed copies of this Proclamation struck off

Authentication of copies by Chief Justice.

as provided in the preceding section with the manuscript thereof approved by the High Commissioner, and certify the same to be true and correct copies and attest the same by his signature.

Authenticat-
ed copies now
dealt with.

9c. The said three printed copies shall be dealt with in the manner provided in Section 4 of the Authentication and Interpretation Proclamation, 1900.

Proclamation
need not be
published in
Gazette.

9d. Notwithstanding anything to the contrary contained in Section 6 of the Authentication and Interpretation Proclamation, 1900, it shall not be necessary to publish this Proclamation in the *Gazette*, but the publication of the date of the coming into operation of this Proclamation as hereinafter provided shall in all respects be deemed to be a full and sufficient compliance with the provisions of the said section.

Printing of
amendments.

10. Whenever any amendment is made in the Code, all copies thereof printed by the Government printer after the amendment shall be so printed as to set forth the actual provisions of the Code after omitting all repealed provisions or words, and embodying all newly enacted or substituted provisions or words.

Commence-
ment of
Proclamation.

11. This Proclamation shall come into operation on a day to be fixed by the High Commissioner by Government Notice.

Given under my hand and the seal of the Protectorate this
day of in the year of our Lord one thousand
line hundred and four.

This printed impression has been carefully compared by me with the Proclamation which has been approved by the High Commissioner, and found by me to be a true and correct printed copy of the said Proclamation.

Chief Justice.

THE FIRST SCHEDULE.

THE CRIMINAL CODE OF THE PROTECTORATE.

PART I.—INTRODUCTORY.

INTERPRETATION : APPLICATION : GENERAL PRINCIPLES.

CHAPTER I.—*Interpretation.*

Sect.

1. Construction of terms.
2. Definition of offence.
3. Division of offences.
4. Attempts to commit offences.
5. Arrest without warrant.
6. Carnal knowledge.

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7. Principal offenders.
8. Offences committed in prosecution of common purpose.
9. Mode of execution immaterial.
10. Accessories after the fact.

CHAPTER III.—*Application of Criminal Law.*

11. Effect of changes in Law.
12. Application of Code as to offences wholly or partially committed in the Protectorate.
13. Offences procured or counselled by persons out of the Protectorate.
14. Offences procured in the Protectorate to be committed out of the Protectorate.
15. Military Forces and Police Force.
16. Person not to be twice punished for same offence.

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17. Kinds of punishment.
18. Punishment of death.
- 18a. Construction of provisions of Code as to punishments other than death.
19. Calculation of term of sentence : Cumulative sentences : Escaped prisoners.
20. Prerogative
- 20a. Application of Rules.

CHAPTER V.—*Criminal Responsibility.*

21. Ignorance of law : *Bona fide* claim of right.
22. Intention : Motive.
23. Mistake of fact.
24. Extraordinary emergencies.
25. Presumption of sanity.
26. Insanity.
27. Intoxication.
28. Immature age.
29. Judicial officers.

Sect.

30. Justification and excuse: Compulsion.
31. Compulsion of husband.
32. No conspiracy between husband and wife alone.
33. Offences by partners and members of companies with respect to partnership or corporate property.
34. Liability of husband and wife for offences committed by either with respect to the other's property.
35. Application of rules.

PART II.—OFFENCES AGAINST PUBLIC ORDER.

CHAPTER VI.—*Treason and other Offences against the Sovereign's Authority.*

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37. Instigating invasion of Protectorate.
38. Concealment of treason.
39. Treasonable crimes.
40. Promoting native war.
41. Time for proceeding in cases of treason, concealment of treason, or promoting native war: Two witnesses necessary.
42. Inciting to mutiny.
43. Aiding and inciting to mutinous acts, disobedience, &c.
44. Inducing to desert.
45. Effect of proceeding under sections 42 and 43, of the Code.
46. Assisting escape of prisoners of war.
47. Overt act.

CHAPTER VII.—*Sedition.*

48. Definition of seditious intention.
49. Innocent intentions.
50. Definition of seditious enterprises, &c.
51. Unlawful oaths to commit capital offences.
52. Other unlawful oaths to commit offences.
53. Compulsion, how far a defence.
54. Effect of prosecution.
55. Unlawful drilling.
56. Sedition.
57. Defamation of foreign Princes.

CHAPTER VIII.—*Offences against the Executive Power.*

58. Interference with High Commissioner.

CHAPTER IX.—*Unlawful Assemblies: Breaches of the Peace.*

59. Definitions.
60. Punishment of unlawful assembly.
61. Punishment of riot.
62. Making Proclamation for rioters to disperse.
63. Dispersion of rioters after Proclamation made.
64. Rioting after Proclamation.
65. Preventing or obstructing making of Proclamation.
66. Rioters demolishing buildings, &c.
67. Rioters injuring building, machinery, &c.
68. Smuggling or rescuing goods under arms.
69. Smuggling under arms or in disguise.
70. Going armed so as to cause fear.
71. Forcible entry.
72. Forcible detainer.
73. Affray.
74. Challenge to fight a duel.