

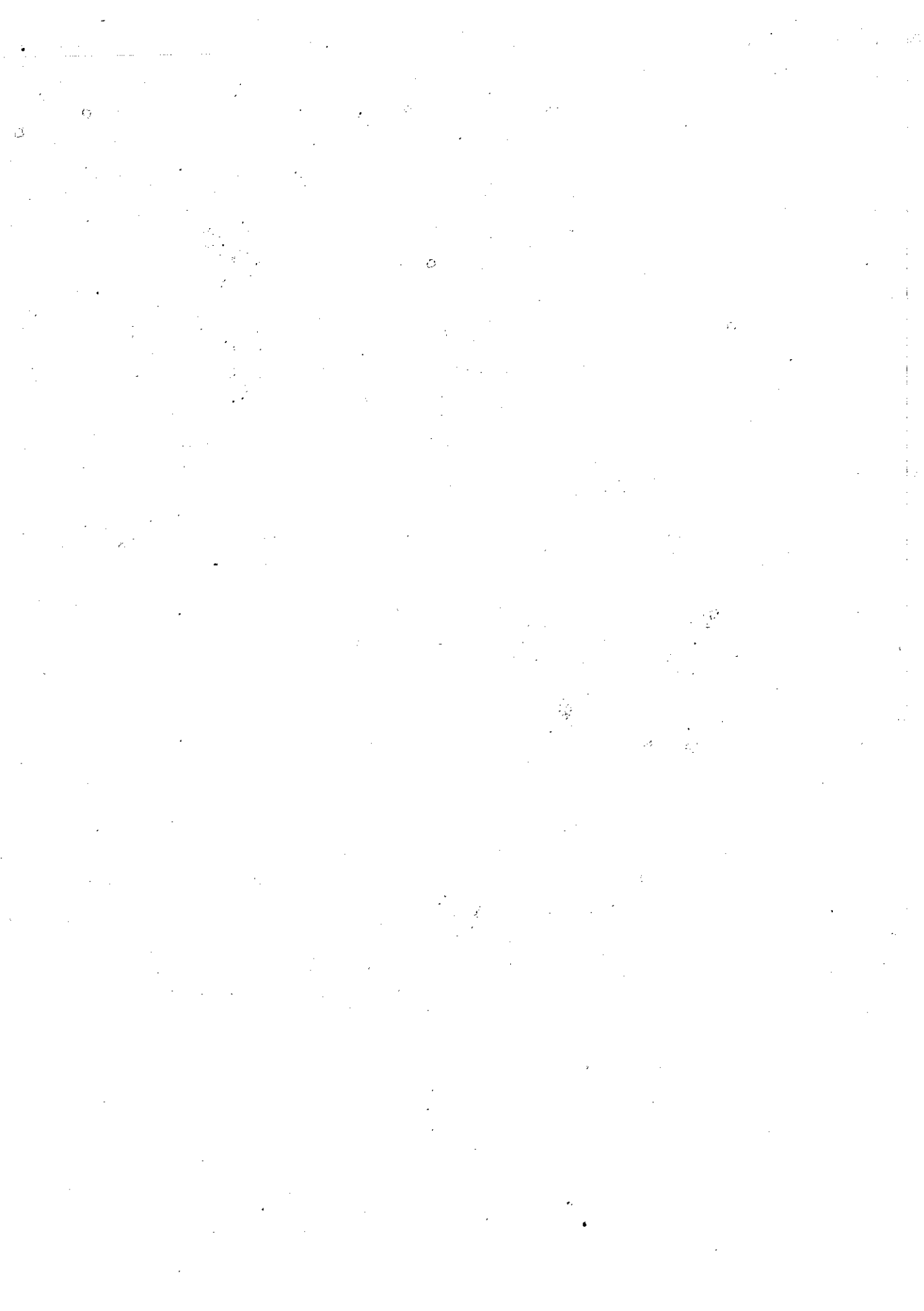
MARITIME OPERATIONS CO-ORDINATING BOARD

(AMENDMENT) BILL ,2017

ARRANGEMENT OF SECTIONS

Section

1. Amendment of the Principal Act
2. Substitution of section 2 of the Principal Act
3. Insertion of new section 6 to the Principal Act
4. Insertion of new section 7 to the Principal Act
5. Insertion of new section 8 to the Principal Act
6. Insertion of new section 9 to the Principal Act
7. Renumbering of section 7 of the Principal Act
8. Renumbering of section 8 of the Principal Act
9. Renumbering of section 9 of the Principal Act
10. Renumbering of section 10 of the Principal Act
11. Citation



A BILL

FOR

AN ACT TO AMEND THE MARITIME OPERATIONS CO-ORDINATING BOARD ACT CAP. M4 LAWS OF THE FEDERATION OF NIGERIA, RECONSTITUTING THE MARITIME OPERATIONS CO-ORDINATING BOARD FOR THE EFFECTIVE CONTROL OF ALL MARITIME OPERATIONS IN NIGERIA'S TERRITORIAL WATERS AND THE EXCLUSIVE ECONOMIC ZONE, CREATE THE MARITIME SECURITY FUND, ESTABLISH ANTI-PIRACY OFFENCES AND FOR RELATED MATTERS

Sponsored by Hon. Abdussamad Dasukia

And 38 others

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 1. The Maritime Co-ordinating Operations Board Act CAP. M4
2 Laws of the Federation of Nigeria, 2004 (in this Bill referred to as "the
3 Principal Act") is amended as set out in this Bill.

Amendment of
the Principal Act

4 2. Section 2 of the Principal Act is amended by substituting
5 existing subsection (2) for new subsection (2)-

Substitution of
the Section 2 of
the Principal Act

6 "Composition of the Board

7 The Board shall consist of-

- 8 (a) the Chief of the Naval Staff as Chairman;
- 9 (b) Flag Officer Commanding Western Naval Command;
- 10 (c) the Chief of Operations (Nigerian Navy);
- 11 (d) the Air Officer Operations (Nigeria Airforce);
- 12 (e) the Director of Navy (Ministry of Defence);
- 13 (f) the Chief of Operations (Nigerian Army);
- 14 (g) the Director of Operations (Defence Headquarters);
- 15 (h) the Director of Petroleum Resources to represent the Minister

1 of Petroleum;

2 (i) Director of Legal Services (Nigerian Navy);

3 (j) the Director of Fisheries to represent the Minister of Agriculture
4 and Rural Development;

5 (k) the Director of Marine Services to represent the Minister of
6 Transport and;

7 (l) the Representative of the Minister of Finance to be nominated from
8 the Office of the Accountant General of the Federation."

Insertion of new
Section 6 to the
Principal Act

9 **3.** Section 6 of the Principal Act is amended by substituting existing
10 section 6 for new section 6-

11 "Offences

12 (1) Any person who dishonestly takes or appropriates any ship, by
13 means of theft, force, intimidation, deception, fraud or by other similar means,
14 shall be guilty of the offence of piracy and shall on conviction be punished,
15 subject to the provisions of section 6(13) of this Act with imprisonment of
16 either description for a term not less than five years and not exceeding ten years
17 and shall also be liable to a fine not less than One Million Naira and not
18 exceeding Ten Million Naira or of an amount equal to the value of the ship in
19 respect of which the offence is committed, whichever is the greater.

20 (2) Anyone who unlawfully transports, traffics or aids the transport
21 or unlawful movement of persons, weapons, petroleum and any of its
22 derivatives or goods of any kind in a vessel shall be guilty of an offence under
23 this Act and shall on conviction be liable to imprisonment of either description
24 for a term not less than three years and not exceeding twenty one years and to a
25 fine not less than One Million Naira and not exceeding Five Million Naira or of
26 an amount equal to the value of the property in respect of which the offence is
27 committed, whichever is the greater.

28 (3) Any person who dishonestly takes or appropriates any property
29 from any ship, by means of theft, force, intimidation, deception, fraud or other
30 similar means shall be guilty of an offence under this Act and shall on

1 conviction be liable, subject to the provision of section 6(13) of this Act, to
2 imprisonment of either description for a term not less than three years and
3 not exceeding seven years and to a fine not less than One Million Naira and
4 not exceeding Five Million Naira or of an amount equal to the value of the
5 property in respect of which the offence is committed, whichever is the
6 greater.

7 (4) Any person who without due permission of the captain, master
8 or person in charge of a ship or without lawful authority, enters or boards any
9 ship, while at sea or while berthed at a port or harbour or on the sea-front,
10 shall be guilty of an offence under this Act and shall on conviction be liable,
11 subject to the provisions, of section 6(13) of this Act, to imprisonment for a
12 term not exceeding two years and to a fine of N500,000:00.

13 (5) Any person who dishonestly commandeers, receives, retains
14 or transports any ship or property taken or appropriated by the commission
15 of an offence under section 6 of this Act shall be guilty of an offence, under
16 this Act and shall on conviction be liable, to imprisonment of either
17 description for a term not exceeding three years and to a fine not exceeding
18 One Million Naira or the value of the property in respect-of which the
19 offence is committed, whichever is the greater.

20 (6) (1) Any person who attempts to commit an offence under the
21 relevant sections of this Act or who aids or abets the commission of such
22 offence shall be guilty of an offence under this Act and shall on conviction be
23 liable, subject to the provisions of section 6(13) of this Act, to imprisonment
24 of either description for a term not exceeding five years and to a fine not
25 exceeding Two Million Naira.

26 (2) Any person who attempts to commit an offence under section 6
27 of this Act shall be guilty of an offence under this Act and shall on conviction
28 be liable, subject to the provisions of section 6 of this Act, to imprisonment
29 of either description for a term not exceeding one year and to a fine.

30 (7) Where at the trial of any person for an offence under section 6

1 of this Act, it is proved that such person used force or intimidation in the
2 commission of such offence; he may be sentenced to, a term of imprisonment
3 extending to twelve years.

4 (8) Where at the trial of a person for an offence under section 6 of this
5 Act, it is proved that such person was armed with a deadly weapon when
6 committing such offence, he may be sentenced to a term of imprisonment
7 extending to fifteen years.

8 (9) Where at the trial of a person for an offence under section 6 of this
9 Act, it is proved that such person voluntarily caused hurt to any other person in
10 the course of committing such offence, such person and any other person
11 jointly concerned in committing such offence may be sentenced to a term of
12 imprisonment extending to twenty-five years

13 (10) (1) Where any person is convicted of an offence under this Act,
14 the Court shall make order that any ship, motor vehicle or mode of conveyance
15 or property, used in, or in connection with, the commission of such offence, be
16 forfeited to the Nigerian Navy, unless the owner of such ship, motor vehicle or
17 mode of conveyance or property or the person legally entitled to the possession
18 thereof, establishes to the satisfaction of court, that such ship, motor vehicle, or
19 mode of conveyance or property was used in or in connection with the
20 commission of such offence without his knowledge or connivance.

21 (2) Any ship, motor vehicle or mode of conveyance or property
22 forfeited by an order made under subsection (1) of this section shall vest
23 absolutely in the Nigerian Navy. Such vesting shall take effect:

24 (a) where no appeal has been made to the Court of Appeal or Supreme
25 Court within the period allowed therefor, after the expiration of the period
26 within which an appeal may be preferred to the Court of Appeal or the Supreme
27 Court, as the case may be, against the order of forfeiture; or

28 (b) where an appeal has been preferred to the Court of Appeal or
29 Supreme Court as the case may be, against the order of forfeiture, upon the final
30 determination of such appeal affirming or upholding the order of forfeiture.

1 (3) where any ship, motor vehicle or mode of conveyance or
2 property is vested in the Nigerian Navy by an order made under subsection
3 (1) of this section the Court shall cause such ship, motor vehicle or mode of
4 conveyance or property to be sold by public auction and the proceeds of sale
5 credited to the Maritime Security Fund.

6 (11) (1) Notwithstanding anything to the contrary in the
7 Administration of Criminal Justice Act 2015 every offence under this Act
8 shall be a cognizable offence and a non-bailable offence, within the meaning
9 of that Act.

10 (2) A person suspected or accused of being concerned in
11 committing, or having committed, an offence under this Act shall not be
12 released on bail except by a Judge of the High Court, on exceptional
13 circumstances being shown to exist.

14 (12) (1) Every officer of the Nigerian Navy shall for the purposes
15 of this Act, be an authorized officer

16 (2) Every officer, staff and member of the Nigerian Customs,
17 Nigerian Immigration Service, Armed Forces, Nigeria Ports Authority or
18 relevant security agencies shall render whatever assistance required to
19 authorized officers of the Nigeria Navy for the enforcement and execution
20 of this Act.

21 (13) Except as otherwise provided by this Act, all offences under
22 this Act shall be investigated, tried or otherwise dealt with, in accordance
23 with the provisions of the Administration of Criminal Justice Act 2015."

24 4. Section 7 of the Principal Act is amended by substituting
25 existing section 7 for new section 7-

Insertion of new
Section 7 to the
Principal Act

26 "Financial provisions

27 (1) The Board shall establish and maintain a fund to be known as
28 the Maritime Security Fund from which shall be defrayed all expenditure
29 incurred by the Board.

30 (2) there shall be paid or credited to the Board:

1 (a) such sums of money as may be provided by the Federal
2 Government from time to time; and

3 (b) such sums of money accruing to the Board from any other source
4 such as:

5 (i) such monies as may be specifically appropriated to the Maritime
6 and Operations Co-ordinating Board from time to time by the National
7 Assembly;

8 (ii) one percent of the funds derived by and accruing to NIMASA
9 pursuant to the Cabotage Act or any other enabling law;

10 (iii) one percent surcharge on maritime contracts and annual
11 regulatory fees payable by maritime operators;

12 (iv) one percent of the total commercial value of the content of each
13 vessel being protected by the Nigerian Navy under this Act;

14 (v) contributions from international companies operating in the oil
15 and gas sector and licensees;

16 (vi) proceeds of sales, by auction, of forfeited vessels or goods subject
17 to the provisions of this Act;

18 (vii) gifts, loans, aids, and such other assets that may from time to time
19 specifically accrue to the Maritime Security Fund.

20 (3) The administrative and operational expenses of the Board, in
21 furtherance of this Act shall be funded directly from the Fund and such
22 expenses shall include-

23 (a) salaries, emoluments, remunerative packages, howsoever called,
24 and allowances for:

25 (i) Maritime Operations Co-ordinating Board Members;

26 (ii) Nigerian Navy staff who are assigned on full-time basis to the
27 Maritime Operations Secretariat or such other staff of the Maritime Operations
28 Secretariat howsoever engaged; and

29 (iii) Fund Manager.

30 (b) operational expenses for the activities of the Maritime Operations

1 Co-ordinating Board,

2 (4) the Board shall ensure that the Fund is at all times totally
3 separated from the Nigerian Navy's statutory allocation and transparently
4 maintained and operated as such.

5 (5) the Board shall cause to be prepared, not later than 31st August
6 in each year, an estimate of the expenditure and income of the Board for the
7 next succeeding year and when prepared they shall be submitted through the
8 Minister to the president for approval.

9 (6) the Board shall keep proper accounts and proper records in
10 relation to those accounts and when certified by the Board the accounts shall
11 be audited as provided in sub section (5) of this section

12 (7) the accounts of the Board shall be audited within six months
13 after the end of each year by auditors appointed by the Board from the list
14 and in accordance with the guidelines supplied by the Auditor-General for
15 the Federation and fees of the auditors and the expenses for the audit shall be
16 paid from the fund of the Board."

17 5. Section 8 of the Principal Act is amended by substituting section
18 8 for new section 8-

Insertion of new
Section 8 of the
Principal Act

19 "Management of the Maritime Security Fund

20 (1) The Board shall, in consultation with the Nigerian Navy,
21 appoint an independent and competent investment management firm as
22 Maritime Operations Co-ordinating Board Fund Managers with
23 responsibilities; amongst others, for:

24 (a) maintaining Maritime Operations Co-ordinating Board Funds
25 financial accounts and records;

26 (b) collaborating with Maritime Operations Co-ordinating Board
27 Secretariat in the collection of Maritime Security assessments and loan
28 repayments;

29 (c) estimating the amount needed annually to sustain the rate of
30 maritime security infrastructure expansion determined by the Nigerian

1 Navy as appropriate to meet Maritime Operations Co-ordinating Board policy
2 objectives;

3 (d) determining the amount of annual revenue required to ensure that
4 the Maritime Operations Co-ordinating Board Fund remains fiscally sound,
5 and calculation of the corresponding rate of assessment;

6 (e) disbursing funds to eligible entities based upon approvals by the
7 Maritime Operations Co-ordinating Board;

8 (f) prudently investing Maritime Security Fund's cash reserves under
9 directions from the Maritime Security and Operations Co-ordinating Board
10 and establishing cash management procedures to ensure maximum return on
11 investments while meeting short-term cash requirements for disbursements;

12 (g) regularly reporting on financial performance of the Maritime
13 Security Fund to the Maritime Operations Co-ordinating Board; and

14 (h) assisting Maritime Security Secretariat in evaluating the
15 effectiveness of the fund in meeting policy goals as set by Government and the
16 Board.

17 (2) The Maritime Operations Co-ordinating Board shall, in
18 collaboration with the Nigerian Navy, determine the terms of engagement and
19 the remuneration package for the Maritime Security Fund Managers."

Insertion of new
Section 9 to the
Principal Act

20 6. Section 9 of the Principal Act is amended by substituting existing
21 section 9 for new section 9-

22 "Administration of the Fund

23 The fund shall be administered by the Chairman, Treasurer and Financial
24 secretary of the Board who shall be the Chief of the Naval Staff, the
25 representative of the Minister of Finance to be nominated from the office of the
26 Accountant General of the Federation and the Director of Legal Services
27 (Nigerian Navy) respectively."

Renumbering
Section 7 of the
Principal Act

28 7. Section 7 of the Principal Act is amended by renumbering it
29 section 10.

1	8. Section 8 of the Principal Act is amended by renumbering it	Renumbering
2	section 11.	Section 8 of the
		Principal Act
3	9. Section 9 of the Principal Act is amended by renumbering it	Renumbering
4	section 12.	Section 9 of the
		Principal Act
5	10. Section 10 of the Act is amended by renumbering it section 13	Renumbering of
6	and inserting in line 4;	Section 10 of the
7	"Fund" means the Maritime Security Fund established by section 7(1) of	Principal Act
8	this Act;"	
9	11. This Bill may be cited as the Maritime Operations Co-	Citation
10	Ordinating Board (Amendment) Bill, 2017.	

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Maritime Operations Co-Ordinating Board Act Cap. M4 Laws of the Federation of Nigeria, reconstituting the Maritime Operations Co-Ordinating Board for the effective control of all maritime operations in Nigeria's territorial waters and the Exclusive Economic Zone, create the Maritime Security Fund, establish anti-piracy offences and for other purposes connected thereto.

