

A BILL

FOR

AN ACT TO ESTABLISH THE NIGERIA COAST GUARD SERVICE TO PROVIDE SECURITY AND SAFETY FOR ALL CATEGORIES OF USERS OF THE NIGERIAN MARITIME INDUSTRY AND FOR RELATED MATTERS

Sponsored by Hon. Joan Onyemaechi Mrakpor

[] Commencement

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

1 PART I — ESTABLISHMENT OF THE NIGERIA COAST
2 GUARD SERVICE, ETC.

3 1.-(1) There is established a body to be known as the Nigeria Coast
4 Guard Service (in this Act referred to as “the Nigeria Coast Guard Service”)
5 which shall-

Establishment of
the Nigeria Coast
Guard Service

- 6 (a) be a body corporate with perpetual succession;
- 7 (b) have a common seal; and
- 8 (c) sue and be sued in its corporate name.

9 (2) The Nigeria Coast Guard Service may-

- 10 (a) enter into contract and incur obligation;
- 11 (b) acquire, hold, mortgage, purchase, sell, lease or deal in any way it
12 deems fit with property, whether movable or immovable, real or personal,
13 for the purposes of this Act; and

14 (c) do or suffer any or all acts or things which a body corporate may, by
15 law, do or suffer which are necessary or convenient for the purposes of this
16 Act;

17 (d) let or hire plant, machinery, craft, equipment or goods.

18 (3) The common seal of the Nigeria Coast Guard Service shall be kept
19 in such custody as the Nigeria Coast Guard Service may direct and shall be
20 used only on the direction of the Nigeria Coast Guard Service.

1 (4) The head office of the Nigeria Coast Guard Service shall be located in
2 the Federal Capital Territory, Abuja.

Application and
scope

3 2.-(1) This Act shall apply to any person, ship, aircraft or any other craft
4 or object in the internal and territorial waters of Nigeria.

5 (2) This Act does not apply to warship or military patrol ship.

6 PART II - OBJECTIVES OF THE NIGERIA COAST GUARD SERVICE

Objectives of
the Nigeria Coast
Guard Service

7 3. The objective of the Nigeria Coast Guard Service is to-

8 (a) provide clear direction and leadership in the establishment of a
9 platform for national maritime security;

10 (b) encourage the development of expertise in local and global maritime
11 security and awareness of marine information and communication
12 technologies for the Nigerian maritime industry;

13 (c) provide security information and mechanism to protect all national
14 maritime and maritime related infrastructures within Nigerian territorial
15 waters; and

16 (d) regulate corporate body or person engage in the provision of
17 maritime security services within Nigerian territorial waters.

18 PART III - FUNCTIONS AND POWERS OF THE NIGERIA COAST

19 GUARD SERVICE

Functions of the
Nigeria Coast
Guard Service

20 4. The Nigeria Coast Guard Service shall-

21 (1) to the exclusion of any other body, ensure the continuation and
22 coordination of the implementation of the Chapter 11 (2) of SOLAS
23 International Ship and Port Facility Security (ISPS) Code of the International
24 Maritime Organisation (IMO).

25 (2) have responsibility for the provision of national maritime
26 infrastructures security;

27 (3) interface with the operations and the activities of security organs of
28 state in the discharge of its functions;

29 (4) monitor, regulate and co-ordinate maritime related communication
30 between persons, objects or craft within Nigerian maritime environment;

1 (5) assist in search and rescue operations of all agencies and
2 organisations;

3 (6) provide security information on oil and gas pipelines, rigs,
4 platforms and all other established or anchored under water, over ground or
5 any other similar or related forms of installation;

6 (7) develop and maintain a database of national maritime
7 infrastructure;

8 (8) establish a security and infrastructure protection mechanism for all
9 sea ports and jetties in Nigeria;

10 (9) pool and co-ordinate resources towards maritime security and
11 necessary industry upgrade, intra and inter industry co-ordination capacity
12 and professional management of information and co-operation between the
13 general maritime community and the national intelligence and security
14 forces community; and

15 (10) carry out such other activity to promote and realise its objectives
16 as specified in this Act.

17 5.-(1) Where the Nigeria Coast Guard Service is required to provide a
18 facility or service or discharge a function, it shall do so-

Mode of
exercise of
Powers

19 (a) by itself;

20 (b) in cooperation with another person or body; or

21 (c) by arranging for another person or body to do so on its behalf and
22 the Nigeria Coast Guard Service is ultimately responsible for the exercise of
23 the delegated power.

24 (2) The Nigeria Coast Guard Service shall, notwithstanding the
25 provisions of any other Act, have power to-

26 (a) receive and consider any report of the commission of an offence in
27 relation to this Act;

28 (b) stop, enter, board, inspect, search any ship or craft within the
29 Nigerian maritime zone or territorial waters;

30 (c) demand the production of any license, permit, record, certificate or

1 other document or make copies of or take extracts of such license, permit,
2 record, certificate or other document in relation to matters provided for under
3 this Act;

4 (d) cause an investigation into any offence which it has reason to believe
5 is being committed or is about to be committed or has been committed in
6 relation to this Act;

7 (e) exercise the right of pursuit in conjunction with other security
8 agencies;

9 (f) exercise through its staff and employees, the right to carry light arms
10 in the execution of its functions and powers under this Act;

11 (g) examine and seize any article, device, goods, ship, craft or any other
12 item related to any offence which has been committed or it has reason to
13 believe has been committed in relation to this Act;

14 (h) dispose of any article, device, goods, ship, craft or any other item
15 related to any offence which has been committed or it has reason to believe has
16 been committed in relation to this Act;

17 (i) arrest any person whom it has reason to believe has committed any
18 offence;

19 (j) refuse entry to or expel any ship which it has reason to believe to that
20 its entry or continuous stay is detrimental to the interest of or will endanger the
21 order of public interest and safety of Nigerian maritime zone; and

22 (k) enter ports, terminals, jetties and ships to monitor and investigate
23 matters related to maritime safety and security.

24 (3) Without prejudice to the generality of subsection (1) of this section,
25 designated officers of the Nigeria Coast Guard Service shall have, for the
26 purposes of this Act, all the powers which any law enforcement Nigeria Coast
27 Guard Service may exercise under any Act applicable to the Nigerian maritime
28 zone.

29 (4) Notwithstanding the provisions of subsection 2 (b) of this section, no
30 ship shall be stopped, entered, boarded, searched or inspected within the area of

1 the territorial waters of Nigeria if the passage of the ship within the territorial
2 waters of Nigeria is an innocent passage.

3 (5) For the purpose of this section, the passage of a ship is regarded
4 as an innocent passage if it is not prejudicial to the safety and security of the
5 maritime zone of Nigeria.

6 6. The following activities are acts prejudicial to the safety and
7 security of the maritime zone of Nigeria—

Acts prejudicial
to safety and
security

8 (a) any threat or act which in any matter is a violation of the
9 provisions of this Act or any other legislation applicable to the Nigeria Coast
10 Guard Service;

11 (b) act of pollution;

12 (c) unauthorized fishing activity;

13 (d) the carrying out of unauthorized research or survey activities;

14 (e) act aimed at interfering with any systems of communication or
15 any other facilities or installations of the Nigeria Coast Guard Service any
16 act which is in contravention of the Coastal and Inland Shipping (Cabotage)
17 Act, 2003 or any similar law; and

18 (f) any other activity not having a direct bearing on passage.

19 7. In the exercising its powers, the Nigeria Coast Guard Service
20 may collaborate with, request for and shall be entitled to receive assistance
21 from other government agencies responsible for the maintenance of security
22 in the maritime zone of Nigeria.

Collaboration
with other
Agencies

23 8. In the performance of its functions, the Nigeria Coast Guard
24 Service may, where appropriate, consult with government, commercial,
25 industrial, consumer and other relevant bodies and organisations.

Consultation with
other Agencies

26 PART IV - GOVERNING BOARD OF THE NIGERIA COAST GUARD SERVICE

27 AND ITS MEMBERSHIP

28 9.-(1) There is established for the Nigeria Coast Guard Service a
29 Governing Board (in this Act referred to as "the Board") to be appointed by
30 the President on the recommendation of the National Security Adviser.

Governing Board
of the Nigeria
Coast Guard
Service

- 1 (2) The Board shall consist of-
- 2 (a) a Chairman; (b) the Director-General;
- 3 (b) the Executive Directors of the Nigeria Coast Guard Service;
- 4 (c) a representative each not below the rank of a Director from-
- 5 (i) Federal Ministry responsible for marine transportation;
- 6 (ii) Federal Ministry of Finance;
- 7 (iii) Federal Ministry of Interior;
- 8 (d) a representative of the Office of the Chief of Defence Staff not below
- 9 the rank of Brigadier-General or its service equivalent;
- 10 (e) a representative of the Office of the National Security Adviser;
- 11 (f) a representative of the office of the Inspector General of Police not
- 12 below the rank of Assistant Inspector General of Police; and
- 13 (g) a representative of the Nigerian National Petroleum Corporation
- 14 not below the rank of Group Executive Director.

15 (2) The Board is responsible for the determination of the general

16 policies of the Nigeria Coast Guard Service with regard to its financial,

17 commercial and operational programmes.

18 (3) In managing the affairs of the Nigeria Coast Guard Service, the

19 Board shall have regard, in addition to any general guidelines on the running of

20 public institutions, to such generally acceptable principles of good corporate

21 governance as is reasonably applicable to the Nigeria Coast Guard Service.

22 *First Schedule*

23 (4) The supplementary provisions set out in the First Schedule to this

24 Act shall apply to the proceedings of the Board and other matters contained

25 therein.

26 (5) The Board shall make standing orders regulating its proceedings

27 and meetings;

Cessation of
Membership

- 28 **10.-(1)** A member ceases to hold office if-
- 29 (a) he has been certified to be of unsound mind;
- 30 (b) he is an undischarged bankrupt;

1 (c) he has been convicted in Nigeria or elsewhere of a criminal
2 offence involving fraud or dishonesty;

3 (d) has, at any time, been removed from an office on account of
4 mistrust or misconduct;

5 (e) his retention on the Board is inimical to public interest or of the
6 Nigeria Coast Guard Service.

7 *Second Schedule*

8 (2) The conflict of interest provisions contained in the Second
9 Schedule to this Act shall apply to members.

10 **11.**-(1) Members, other than ex-officio, shall hold office for a term
11 of four years and may be eligible for re-appointed for a further term of four
12 years and no more.

Tenure of
members

13 (2) A member other than ex-officio may resign his appointment by
14 giving one month written notice to the President through the National
15 Security Adviser.

16 (3) The Director-General and Executive Directors shall give 3
17 months written notice of resignation to the President through the National
18 Security Adviser.

19 **12.**-(1) A member may be suspended or removed by the President
20 on the recommendation of the National Security Adviser.

Removal of
Members by
President

21 (2) In making a recommendation under subsection (1) of this
22 section, the National Security Adviser shall have regard to section 10 of this
23 Act.

24 **13.**-(1) A vacancy occurs in the Board if a member-

Vacancy in the
Board

- 25 (a) dies;
- 26 (b) is medically certified unfit;
- 27 (c) is removed;
- 28 (d) resigns;
- 29 (e) completes his term of office.

30 (2) The President, on the recommendation of the National Security

1 Adviser shall appoint another person into the Board to replace a member whose
2 office became vacant pursuant to subsection (1) of this section and the person
3 shall represent the same interest as that of the former member.

4 (3) A person appointed under subsection (2) of this section shall serve
5 the unexpired term of the former member and may be reappointed for another
6 term of four years and no more.

Remuneration
of members

7 14. All payments, allowances, benefits and expenses payable to a
8 member shall be determined by the Board in accordance with Government
9 guidelines.

Director-General

10 15.-(1) The Director-General shall-

11 (a) subject to Section 10 of this Act, be a person that possess extensive
12 knowledge of security matters or maritime affairs;

13 (b) be appointed by the President on the recommendation of the
14 National Security Adviser; and

15 (c) hold office for a term of five years in the first instance and may be
16 eligible for reappointment for another term of five years and no more,

17 (2) The Director-General is the chief executive and chief accounting
18 officer and responsible for-

19 (a) the implementation of the policies of the Nigeria Coast Guard
20 Service and decisions of the Board;

21 (b) organisation, control and daily management of the affairs of the
22 Nigeria Coast Guard Service;

23 (c) the direction, supervision and control of the employees of the
24 Nigeria Coast Guard Service subject to any direction issued by the Board;

25 (d) ensuring the maintenance of accounting records in accordance
26 with applicable laws and accounting principles; and

27 (e) any other thing incidental or related to the object of this Act.

Executive
Directors

28 16.-(1) Executive Director of the Nigeria Coast Guard Service shall-

29 (a) be appointed by the President on the recommendation of the
30 National Security Adviser;

1 (b) be a person that possess sound knowledge of and ability in the
2 executive function he is appointed to handle;

3 (c) perform such functions as may be determined by the Board
4 from time to time;

5 (d) serve for a term of four years in the first instance and may be
6 eligible for reappointment for a further term of four years and no more.

7 **17.**-(1) The Board may establish such number of departments Departments
8 necessary for the attainment of the objectives of the Nigeria Coast Guard
9 Service and each department shall be headed by an Executive Director.

10 (2) Departments established under subsection (1) of this Section
11 shall include-

12 (a) administration and finance department;

13 (b) operations department; and

14 (c) technical department;

15 **18.**-(1) There shall be appointed by the Board a Secretary to the Secretary to the
16 Board. Board

17 (2) The secretary must possess relevant professional qualifications
18 and experience, and must have been so qualified for period of not less than
19 ten years as-

20 (a) a legal practitioner; or

21 (b) a chartered secretary.

22 (3) The Secretary shall be responsible to the Director-General and
23 the Board and shall perform the following duties-

24 (a) arrange for meetings of the Board, prepare the agenda and write
25 minutes of such meetings;

26 (b) communicate the decisions of the Board to members;

27 (c) keep records of the Board;

28 (d) ensure the payment of the allowances of members for attending
29 meetings; and

30 (e) carry out any other duties as may be assigned to him by the

1 Director General or the Board.

Other staff and
conditions of
service

2 19.-(1) The Nigeria Coast Guard Service may employ such number of
3 staff or employees as it may deem necessary for the efficient performance of its
4 functions.

5 (2) The Board shall determine the job description, title, terms,
6 qualifications, salaries, allowances and other benefits of staff or employees
7 who are subject to the conflict of interest rules in the Second Schedule to this
8 Act.

9 (3) Staff of the Nigeria Coast Guard Service, including the Board
10 Secretary, shall be subject to such terms and conditions as may, from time to
11 time, be stipulated by the Board and as contained in their letters of
12 employment.

Pension Reform
Act, 2004

13 20. Service in the Nigeria Coast Guard Service shall be approved
14 service for the purpose of Pension and staff or employees of the Nigeria Coast
15 Guard Service shall be entitled to retirement benefit as prescribed in the
16 Pension Reform Act.

17 PART V - FINANCIAL PROVISIONS

18 Funding of the Nigeria Coast Guard Service.

19 21.-(1) The Nigeria Coast Guard Service shall establish and maintain
20 a fund into which shall be paid-

21 (a) 1 percent of the value of the gross tonnage of in-bound and out-
22 bound cargo in vessels calling at or departing from any port in Nigeria;

23 (b) the maritime security levy;

24 (c) all other financial assets that may, from time to time, be vested in
25 or accrue to the Nigeria Coast Guard Service in the course of performing its
26 functions under this Act;

27 (d) all other sums collected or received by the Nigeria Coast Guard
28 Service for services rendered or facilities provided by it;

29 (e) gift, grant, aid including financial and material support from
30 multilateral agencies and non-governmental organizations;

1 (f) such other sums that may be received from the Federal
2 Government; and

3 (g) such other sources of revenue or income other than those
4 specified in paragraphs (a) to (f) of this subsection:

5 Provided that the conditions attached to the revenue or income shall not be
6 inimical to the objectives of this Act and the functions and powers of the
7 Nigeria Coast Guard Service.

8 (2) The Nigeria Coast Guard Service shall apply the funds in Sub-
9 section (1) of this Section to-

10 (a) carry out its functions under this Act;

11 (b) train staff and related personnel;

12 (c) its general administration;

13 (d) the payment of salaries, allowances, emoluments and other
14 benefits of the executive members of the Board, the Director General and
15 staff;

16 (e) acquire and maintain any property for the use of the Nigeria
17 Coast Guard Service; and

18 (f) any other expenses that are necessary for the effective discharge
19 of its functions.

20 **22.** The Nigeria Coast Guard Service shall, not later than 30th
21 September in each financial year, prepare and submit to the National
22 Security Adviser, for presentation to the President and consideration by the
23 National Assembly for approval, a statement of estimated income and
24 expenditure for the following financial year.

Budget and
expenditure

25 **23.-(1)** The Nigeria Coast Guard Service may accept gift of land,
26 money or other property on such terms and conditions as is consistent with
27 the functions of the Nigeria Coast Guard Service.

Power to accept
gifts

28 (2) The Nigeria Coast Guard Service shall not accept any gift if the
29 condition attached by the person or organization making it is inconsistent
30 with the functions of the Nigeria Coast Guard Service or are in conflict with

1 national interest.

Account and
records to be
open for inspection

2 24.-(1) The accounts and records of the Nigeria Coast Guard Service
3 shall, at all times, be open for inspection by-

4 (a) a member of the Board; or

5 (b) person specifically authorized by the National Security Adviser to
6 inspect them.

7 (2) The books of accounts and records shall be kept at the head office
8 of the Nigeria Coast Guard Service.

Statements of
accounts and audit

9 Statements of accounts and audit.

10 25.-(1) The Nigeria Coast Guard Service shall keep proper and
11 regular accounts and other records of monies received and paid by it and of
12 several purposes for which such monies were received and expended; and of
13 the assets, credits and liabilities of the Nigeria Coast Guard Service.

14 (2) The Nigeria Coast Guard Service shall ensure that payments out of
15 its money are correctly made and properly authorized and that adequate control
16 is maintained over the assets and the expenditure incurred by the Nigeria Coast
17 Guard Service.

18 (3) The accounts of the Nigeria Coast Guard Service shall be audited
19 annually by a firm of Auditors appointed by the Board from the list of Auditors
20 supplied by the Auditor-General for the Federation.

21 (4) As soon as the accounts of the Nigeria Coast Guard Service and the
22 financial statements have been audited, the Nigeria Coast Guard Service shall
23 forward a copy together with the report or observations made on them by the
24 Auditor to the National Security Adviser.

Annual and
other reports

25 26. The Nigeria Coast Guard Service shall, at the end of each
26 financial year, prepare and submit to the National Security Adviser and Auditor
27 General for the Federation a report in such form as shall accurately reflect all
28 the activities of the Nigeria Coast Guard Service during the preceding year; and
29 the report shall include a copy of the audited accounts of the Nigeria Coast
30 Guard Service.

1 27. The National Security Adviser may give the Nigeria Coast
2 Guard Service written directives regarding the performance of its functions
3 fund particulars of the directives given in any financial year shall be
4 included in the annual report of the Nigeria Coast Guard Service for that
5 year.

Directives by the
National Security
Adviser

6 PART VI - CHARGES AND LEVIES

7 28.-(1) As from the commencement of this Act, there shall be
8 charged and payable a Maritime Security Levy which shall be assessed,
9 collected and administered in accordance with the provisions of this Act.

Maritime Security
Levy

10 (2) The levy in Subsection (1) of this Section 1% of the declared
11 annual profit of any company engaged in maritime related activity in the
12 federation.

13 29.-(1) The Nigeria Coast Guard Service may by regulation
14 impose charges and specify the persons to whom it shall apply, and the times
15 when they shall become due and payable.

Imposition of
charges

16 (2) The charges may include-

17 (a) a charge for a service or facility provided by the Nigeria Coast
18 Guard Service;

19 (b) a fee or other charges in respect of a matter in relation to which
20 expenses have been incurred by the Nigeria Coast Guard Service including,
21 but not limited to a fee or other charges in respect of, or for an application
22 for-

23 (i) the grant, issue, renewal or variation of a certificate, license,
24 approval, permission, permit, registration or exemption under an Act or a
25 regulation, or

26 (ii) the grant or variation of an authorization or the cancellation,
27 suspension, variation or imposition of a condition relating to anything
28 referred to in subparagraph (i) of this subsection.

29 (3) Before making regulations under subsection (1) of this
30 section, the Nigeria Coast Guard Service shall give notice in writing of the

1 proposed regulation to the National Security Adviser in which it shall specify
2 the-

3 (a) day on which the regulation is intended to take effect;

4 (b) basis of a charge or penalty; and

5 (c) reasons for varying a charge or penalty.

6 (4) The National Security Adviser shall, in the exercise of his discretion,
7 after receiving a notice of the proposed regulation, give the Nigeria Coast
8 Guard Service a notice in writing approving, rejecting or recommending an
9 alternative regulation.

10 (5) The Nigeria Coast Guard Service may make regulations under
11 subsection (1) of this section with the approval of the National Security
12 Adviser.

13 (6) Subject to subsection (8) of this section, where a charge imposed
14 under subsection (1) is not paid within the period determined by the Nigeria
15 Coast Guard Service, being a period beginning on the day on which the charge
16 became due and payable, the person liable shall pay to the Nigeria Coast Guard
17 Service, in addition to the charge, a penalty not exceeding 50% of the sum
18 calculated upon the unpaid amount of the charge from the day on which the
19 charge became due.

20 (7) The penalty shall not exceed an amount equivalent to the 50% of the
21 unpaid amount of the charge for each day during which it remains unpaid,
22 calculated from the day on which the charge became due and payable.

23 (8) Unpaid charge and penalty may be recovered as debt due to the
24 Nigeria Coast Guard Service.

25 PART VII - SAFETY AND SECURITY OF SHIP

Inspection of
ships

26 30. The Nigeria Coast Guard Service shall have power to do the
27 following-

28 (a) stop and inspect any ship or vessel within the territorial and inland
29 waters of Nigeria in the discharge of its functions under this Act;

30 (b) interfere, intercept or do any thing it deems necessary to enhance

1 communication capabilities of ships, vessels or crafts within the maritime
2 boundaries and domain of Nigeria:

3 (c) monitor any ship, vessel or craft with regard to ensuring the safety
4 and security of maritime infrastructure in the territorial and inland waters of
5 Nigeria.

6 PART VIII - GENERAL PROVISIONS

7 31. The Nigeria Coast Guard Service, to ensure maritime safety
8 and security, may establish maritime security office in any part of Nigeria or
9 such other places considered necessary for the effective performance of its
10 functions under this Act.

Establishment of
maritime security
offices

11 32. The Nigeria Coast Guard Service shall keep records of the
12 following-

Records to be
kept of ships

13 (a) the number, type, location, mission and capabilities of ship,
14 vessel and craft entering or leaving Nigeria's territorial waters; and

15 (b) any other information that it deems necessary to enable it
16 discharge its functions under this Act.

17 33.-(1) The Nigeria Coast Guard Service shall upon an application
18 made to the court (where it believes that the master or owner of a ship has
19 committed an offence under this Act), to cause a detention order to be issued,
20 on the ship which order shall be in a prescribed form.

Power to detain
ships

21 (2) The power in Sub-section (1) of this section shall be exercised
22 in accordance with the Ship Detention Order Regulations and other relevant
23 laws in that regard.

24 34.-(1) The Nigeria Coast Guard Service may, subject to the
25 approval of the Board make regulations generally-

Regulations

26 (a) prescribing the matters required by this Act to be proscribe-

27 (b) prescribing the manner in which and the persons or bodies by
28 whom charges, levies and related penalties are to be collected; and the
29 manner in which security may be provided for the payment of such charges,
30 levies and related penalties;

1 (c) regulating the detention of ships; and
2 (d) prescribing all matters necessary or expedient for the achievement
3 of the objectives of this Act.

4 (2) The regulations made under subsection (1) of this section may
5 include such incidental, supplementary or transitional provisions as may be
6 reasonably necessary or expedient.

7 (3) In making the regulations, the Nigeria Coast Guard Service shall
8 take into account the need to give effect to the provisions of any international
9 convention or agreement ratified by Nigeria.

10 PART IX - LEGAL PROCEEDINGS

Limitation of
suits against the
Nigeria Coast
Guard Service

11 35.-(1) Notwithstanding anything contained in any other law or
12 enactment, no person shall institute an action against the Nigeria Coast Guard
13 Service, a member of the Board, the Director General or any staff of the Nigeria
14 Coast Guard Service for any act done or omitted to be done in the discharge of
15 any public duty under this Act or any other law or in respect of any alleged
16 neglect or default in execution of any duty under this Act or any such law,
17 unless it is commenced within one (1) year after the act, neglect or default
18 complained of; or in the case of a continuance of damage or injury, within one
19 (1) year after the ceasing of the act.

20 (2) An action shall not commence against the Nigeria Coast Guard
21 Service, a member of the Board, the Director General or a staff of the Nigeria
22 Coast Guard Service before the expiration of a period of one (1) month after a
23 written notice of intention to commence the action had been served on the
24 Nigeria Coast Guard Service by the intending plaintiff or his agent and the
25 notice shall clearly state the-

26 (a) cause of action;

27 (b) particulars of the claim;

28 (c) name and place of residence of the intending plaintiff; and

29 (d) the relief to be sought.

30 (3) The service of court process on the Nigeria Coast Guard Service

1 shall be valid only if such a process is served on the Director-General or
2 Secretary or at the designated office of the Nigeria Coast Guard Service.

3 (4) No arrest shall lie against any staff of the Nigeria Coast Guard
4 Service whilst on duty except with the consent of his immediate superior
5 officer.

6 (5) Where a staff is found guilty of an offence by a competent court
7 and as a result of which the Nigeria Coast Guard Service has made any
8 financial contribution, such a staff shall indemnify the Nigeria Coast Guard
9 Service for the contribution.

10 36. The Nigeria Coast Guard Service shall not be placed under
11 judicial management or liquidation except as authorized by an Act of the
12 National Assembly.

Judicial
management and
liquidation

13 PART X - OFFENCES

14 37.-(1) A person who, willfully removes, destroys or damages any
15 property belonging to or which is in the custody or possession of the Nigeria
16 Coast Guard Service; or hinders or prevents such property from being used
17 or operated in the manner in which it is intended to be used or operated,
18 commits an offence and is liable on conviction to a minimum fine of
19 N1,500,000.

Damage to
property of the
Nigeria Coast
Guard Service

20 (2) Any person convicted under Sub-section (1) of this Section
21 shall, in addition, make good any loss, destruction or damage suffered by the
22 Nigeria Coast Guard Service, including the expenses of any inspection or
23 survey carried out by the Nigeria Coast Guard Service to ascertain such loss,
24 destruction or damage.

25 38.-(1) A person who by any means evades or attempts to evade,
26 neglects or omits to pay any levy, charge or fee payable under this Act
27 commits an offence and is liable on conviction to a minimum fine of
28 N1,000,000 or to imprisonment for a term of six months or to both such
29 imprisonment and fine.

Evasion of fees,
levies, etc.

30 (2) Any person found guilty under Subsection (1) of this Section

1 shall, in addition, pay to the Nigeria Coast Guard Service a penalty double the
2 amount of the levy, charge or fee evaded or attempted to be evaded or neglected
3 or omitted to be paid.

Penalty for
giving false
statement

4 **39.** A person who makes, whether knowingly or recklessly any
5 statement which is false in any material particular in any claim or other
6 document which is requested or authorized to be made by or under this Act or a
7 regulation made under it, commits an offence and is liable on conviction to a
8 minimum fine of N1,000,000 or to imprisonment for a term of twelve months
9 or to both fine and imprisonment.

Non compliance
with direction of
the Nigeria Coast
Guard Service with
direction

10 **40.-(1)** A person who, without lawful excuse, refuses, neglects or fails
11 to comply with any direction lawfully given by the Nigeria Coast Guard
12 Service in the exercise of its powers under this Act; or who fails to comply with
13 any provision of this Act or of any regulation made under it, commits an
14 offence and is liable on conviction to a minimum fine of x1,500,000 or to
15 imprisonment for a term of twelve months or both; and in the case of a
16 continuing offence, to a further fine of x250,000 for every day during which the
17 offence continues.

18 (2) A person commits an offence if he, without lawful excuse, refuses
19 or neglects to obey any direction given under this Act or a regulation made
20 under it.

21 (3) The Nigeria Coast Guard Service may, irrespective of whether any
22 proceeding has been instituted against or any penalty imposed on such person
23 for the refusal or neglect, do or cause to be done an such acts as are, in its
24 opinion) reasonable or necessary to carry out the direction.

25 (4) The Nigeria Coast Guard Service may hire or employ such
26 persons as are necessary to make good whatever loss or damage may have been
27 caused by the refusal or neglect of the person to whom the direction was given.

28 (5) Any expenses incurred by the Nigeria Coast Guard Service in the
29 exercise of its powers under this section is recoverable from the person to
30 whom the direction was given.

- 1 **41.** A person who hinders, obstructs or molests an employee, agent
2 or contractor of the Nigeria Coast Guard Service in the performance of their
3 duty commits an offence and is liable on conviction to a minimum fine of
4 N650,000 or imprisonment for a term of six months or to both such fine and
5 imprisonment.
- 6 **42.**-(1) Except for the purpose of the performance of his duties or
7 when lawfully required to do so by a court or under the provisions of any
8 law, a person who is or has been a member of the Board, the Director
9 General, an employee, an adviser, an agent or a contractor of the Nigeria
10 Coast Guard Service shall not disclose any information related to the affairs
11 of the Nigeria Coast Guard Service or of any other person which has been
12 obtained by him in the performance of his duties or functions.
- 13 (2) A person who contravenes subsection (1) of this section
14 commits an offence and is liable on conviction to a minimum fine of
15 N400,000 or imprisonment for a term of six months or to both such fine and
16 imprisonment.
- 17 **43.**-(1) Where an offence under this Act or the regulations was
18 committed by a company or other body or persons, any such person who, at
19 the time the offence was committed, was a director, manager or partner in
20 the company or body of persons or acted in such capacity may be charged
21 with the same offence.
- 22 (2) If a company or other body of persons is convicted of an offence
23 under this Act, any person charged with the same offence alongside the
24 company or body of persons as an official of such a company shall be guilty
25 of that offence and be liable to the penalty prescribed for the offence unless
26 he proves that the offence was committed without his knowledge or consent
27 and that he exercised all such diligence to prevent the commission of the
28 offence as he ought to have exercised, having regard to the nature of his
29 functions in that capacity in the company and to all the circumstances of the
30 commission of the offence.

Obstructing the
Nigeria Coast
Guard Service in
the performance
of its duties

Preservation of
Secrecy

Offences by
companies and
fines to be paid
to the Nigeria
Coast Guard
Service

1 (3) All sums collected as fines imposed for offences under this Act or
2 the regulations shall be paid to the Nigeria Coast Guard Service.

3 (4) The Federal High Court has exclusive jurisdiction to try any
4 offence under this Act.

Interpretation

5 **44.** In this Act-

6 “Act” means the Nigeria Coast Guard Service Act;

7 “action” includes a suit in a court of competent jurisdiction;

8 “Nigeria Coast Guard Service” means the Nigeria Coast Guard Service
9 established under section 1 of this Act;

10 “Board” means the Governing Board of the Nigeria Coast Guard Service
11 constituted under section 8 of this Act;

12 “competent court” means the Federal High Court;

13 “Customs” means the Nigerian Customs Service;

14 “Immigration” means the Nigerian Immigration Service;

15 “IMO” means the International Maritime Organization;

16 “ISPS” means the International Ships and Ports Facilities Security;

17 “major oil and gas company” means any company engaged in the exploration,
18 exploitation, refining, sale or marketing of crude or refined petroleum products
19 and includes oil services companies;

20 “member” means a member of the Board of the Nigeria Coast Guard Service
21 and includes the chairman;

22 “NSA” means the National Security Adviser to the President;

23 “ONSA” means the Office of the National Security Adviser;

24 “Government” means the Federal Government of Nigeria;

25 “President” means the President of the Federal Republic of Nigeria;

26 “SSS” means the State Security Service.

Short Title

27 **45.** This Bill may be cited as the Nigeria Coast Guard Service
28 (Establishment, etc.) Bill, 2016.

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SCHEDULES

FIRST SCHEDULE

Section 9 (4)

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD OF THE
NIGERIA COAST GUARD SERVICE

Proceedings of the Board

1. Subject to the provisions of this Act and section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or that of any of its committees.

2. The Chairman shall preside at every meeting of the Board & and in his absence, the members present at the meeting shall appoint one of themselves to preside at the meeting; minutes shall be taken by the Secretary for each meeting of the Board and those of any of its committees.

3. The quorum for any meeting of the Board shall be five members.

4. The Board shall meet to transact business whenever it is summoned by the chairman, after the members shall have been given one week written notice; and the Chairman shall, if so required by a notice given to him by no fewer than five members specifying, among other things, an agenda for the meeting, summon a meeting of the Board which shall be held not later than fourteen days from the date on which the notice is served on him, to discuss the items specified in the notice; and the Board shall, for the purposes of this Act, meet no fewer than four times in each calendar year.

5. A member of the Board who directly or indirectly has an interest of a personal nature, including but not limited to financial interests, in any contract made or proposed to be made by the Nigeria Coast Guard Service shall, so soon after the facts of the matter of his interest have come to his knowledge, disclose the interest and its nature at a meeting of the Board.

6. A disclosure under paragraph (5) of this Schedule shall be

1 recorded in the minutes of the Board meeting and the member concerned shall-

2 (a) not, after the disclosure, take part in any deliberation or decision of
3 the Board or vote on the matter; and

4 (b) be excluded for the purpose of constituting a quorum of any
5 meeting of the Board for any deliberation or decision, with regard to the subject
6 matter in respect of which his interest was disclosed.

7 7. The decisions at a meeting of the Board shall be taken by a simple
8 majority vote of members present.

9 8. In the case of an equality of votes, the chairman shall have a casting
10 vote.

11 *Committees*

12 9. Subject to its standing orders, the Board may appoint such number
13 of standing or ad hoc committees as it thinks fit to consider and report on any
14 matter with which the Nigeria Coast Guard Service is concerned.

15 10. A committee appointed under paragraph (9) of this Schedule
16 shall-

17 (a) consist of such number of persons who may not necessarily be
18 members of the Board as may be determined by the Board and the appointment
19 of a non-member of the Board as a member of a committee shall be subject to
20 such terms as would be indicated in his letter of appointment; and

21 (b) be presided over by a member of the Board.

22 *Miscellaneous*

23 11. The quorum of any committee set up by the Board shall be as may
24 be determined, from time to time, by the Board.

25 12. A decision of a committee of the Board shall not take effect until
26 it is confirmed by the Board.

27 13. The fixing of the seal of the Nigeria Coast Guard Service shall be
28 authenticated by the signature of the Secretary and that of the Chairman or any
29 other member of the Board generally or specifically authorized by the Board to
30 act for that purpose.

1 pilotage, oil and gas services terminal operations or any other service by or for
2 the Nigeria Coast Guard Service, or receive therefrom any loan, remuneration
3 or other right, or have any personal interest in any contract made or proposed to
4 be made by the Nigeria Coast Guard Service throughout the term of his office
5 or employment with the Nigeria Coast Guard Service.

6 (2) Subject to paragraphs (3) and (4) of this Schedule, each member of
7 the Board or staff of the Nigeria Coast Guard Service shall, on an annual basis,
8 present a written declaration, not later than the third month of each year,
9 affirming that no such interest as is specified in paragraph (1) of this Schedule
10 shall arise during his term or employment with the Nigeria Coast Guard
11 Service.

12 (3) The members of the Board and staff of the Nigeria Coast Guard
13 Service, as from the commencement of this Act, shall be entitled to a maximum
14 period of six months to divest themselves of any direct or indirect financial
15 interests or investments in any shipping, stevedoring, pilotage or oil and gas
16 services terminal operations or any other similar engagements.

17 (4) All newly appointed members or staff of the Nigeria Coast Guard
18 Service, after the commencement of this Act, shall be entitled to a maximum
19 period of three months from their respective dates of appointment to divest
20 themselves of any direct or indirect financial interests or investments in any
21 shipping, stevedoring or any similar engagement.

22 (5) Each member or staff of the Nigeria Coast Guard Service shall
23 declare, on appointment or at the commencement of employment and annually
24 thereafter, for as long as he is in the employment of the Nigeria Coast Guard
25 Service, any interest or investment that he-

26 (a) knowingly has; or

27 (b) knows any member of his immediate family to have in any aspect
28 of the maritime industry.

29 (6) If a member or staff of the Nigeria Coast Guard Service
30 contravenes the provisions of paragraphs (1) and (2) of this Schedule or gives

1 false information under paragraph (5), he commits an offence and is liable
2 on conviction to a fine of N1,000,000 or imprisonment for a term of one year
3 or to both such fine and imprisonment.

4 (7) Subject to paragraph (8) of this Schedule, the Board may, from
5 time to time, waive the application of the prohibitions specified in
6 paragraphs (1) and (2) of this Schedule to a member or staff of the Nigeria
7 Coast Guard Service if the Board determines that the financial interest of the
8 member or staff is not of a material nature or is minimal.

9 (8) The Board, in determining whether or not the interest of a
10 member or staff of the Nigeria Coast Guard Service is minimal or not of a
11 material nature, shall consider factors including, but not limited to the-

12 (a) revenues, investments, profits and managerial efforts of the
13 relevant company or other entity in regard to its port activities compared
14 with other aspects of the business of the Nigeria Coast Guard Service or
15 those of that company or entity;

16 (b) extent to which the Nigeria Coast Guard Service regulates and
17 oversees the activities of such company or entity;

18 (c) degree to which the economic interests of such company or
19 other entity may be affected by an action of the Nigeria Coast Guard Service;
20 and

21 (d) perceptions held or likely to be held by members of the public
22 regarding the relevant person's financial interest or investment in that
23 company or entity.

24 (9) The Board may at any time, review and reverse its
25 determination under paragraph (7) of this Schedule and direct the
26 application of the prohibitions contained in this Schedule to the affected
27 member or staff of the Nigeria Coast Guard Service; and the Board shall not
28 be under any obligation to disclose the reason or basis for its review to the
29 affected member or staff.

30 (10) In any case in which the Board exercises the waiver or the

1 review as specified in paragraphs (7) and (9) of this Schedule, it shall publish
2 the details thereof and such publication shall include information regarding the
3 identity of the person who has been granted the waiver or whose waiver grant
4 has been reviewed; the position held by such person and the nature of the
5 financial interests which are the subject of the waiver or the review.

6 (11) For the purpose of this Schedule-

7 (a) "company" includes partnerships and undertakings howsoever
8 defined; and

9 (b) "immediate family" means a person's spouse, a partner living with
10 that person as if they were married to each other, and children under the age of
11 18 years.

EXPLANATORY MEMORANDUM

This Act provides, among other things, for the establishment of the Nigeria Coast Guard Service which shall be charged with the responsibility of providing security and safety information and communication facilities for all categories of users of the Nigerian maritime industry.