

A BILL

FOR

AN ACT TO AMEND THE NIGERIAN PORTS AUTHORITY ACT, CAP N126,
LFN, 1999

Sponsored by Hon. Ossai Nicholas Ossai

[] Commencement

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

1 1. The Nigerian Ports Authority Act, Cap N126, Laws of the
2 Federation of Nigeria, 1999 (hereinafter referred to as the "Principal Act") is
3 amended as set out hereunder.

4 2. Section 1 of the Principal Act is amended by adding Sub-
5 sections 3, 4, 5, and 6 of Section 1, which reads thus:

6 “(3) The ownership of all ports and harbours shall be vested in the
7 Authority for and on behalf of the Federal Government of Nigeria.

8 (4) The Authority shall be structured into such Departments as the
9 Board may from time to time approve for the effective discharge of its
10 functions under this Act.

11 (5) The common seal of the Authority shall be kept in the custody
12 of the Board Secretary.

13 (6) The Headquarters of the Authority shall be in Lagos, Nigeria.”

14 3. Section 2 of the Principal Act is amended by deleting the entire
15 Section and substituting same with a new Section 2, which reads, thus:

16 “2. Establishment and membership of the Board;

17 (1) There is established for the Authority, a governing body (in this
18 Act referred to as "the Board") which shall have overall control of the
19 Authority.

20 (2) The Board shall consist of-

21 (a) A non-Executive Chairman;

- 1 (b) The Managing Director of the Authority;
- 2 (c) The three Executive Directors of the Authority; and
- 3 (d) Six persons appointed from each of the six geo-political zones.
- 4 (3) The Chairman and Members of the Board referred to in paragraph
- 5 (d) of Subsection (2) of this Section shall be appointed by the
- 6 President on the recommendation of the Minister.
- 7 (4) Members of the Board referred to in Subsection (2) of this Section
- 8 shall be persons of integrity possessing cognate experience in relevant fields
- 9 and versed in areas of Ports, Harbours and Environmental Management.
- 10 (5) In managing the affairs of the Authority, the Board shall, in
- 11 addition to any relevant general guidance on the governance of public bodies,
- 12 have regard to the generally accepted principles of good corporate governance.
- 13 (6) The Board shall have a Secretary who shall be the Head of the
- 14 Legal Department of the Authority.
- 15 (7) The supplementary provisions set out in the First Schedule of this
- 16 Act shall have effect with respect to the proceedings of the Board and the other
- 17 matters mentioned therein.”
- 18 4. Section 3 of the Principal Act is amended in line one by inserting
- 19 the phrase, “shall be appointed on part-time basis” after the word “Members”.
- 20 5. Section 4 of the Principal Act is amended by deleting the entire
- 21 Section and substituting same with a new Section 4, which reads, thus:
- 22 “4. Cessation of Membership;
- 23 (1) Notwithstanding the provision of Section 3 of this Act, a Member
- 24 of the Board shall cease to hold office as a Member of the Board if he-
- 25 (a) Resigns his appointment as a Member of the Board by a notice in
- 26 writing, under his hand, addressed to the President;
- 27 (b) Becomes incapable of carrying on the functions of his office either
- 28 arising from infirmity of mind or body;
- 29 (c) Becomes bankrupt or makes a compromise with his creditors;

1 (d) Is convicted of a felony or any offence that involves dishonesty
2 or corruption;

3 (e) Is found to have been unqualified for appointment as a Director;

4 (f) Has been absent from five consecutive meetings of the Board
5 without consent of the Chairman except where he shows good reasons for
6 such absence;

7 (g) Is guilty of serious misconduct in relation to his duties as a
8 Director; or

9 (h) Is suspended or removed from office by the President on the
10 recommendation of the Minister where it is found that it is not in the interest
11 of the Authority or public for person to continue in office.

12 (2) Where a vacancy occurs in the Membership of the Board, it
13 shall be filled by the appointment of a successor to:

14 (a) Hold office for the remainder of the term of office of his
15 predecessor; and

16 (b) Represent the same interest as his predecessor.”

17 6. Section 5 of the Principal Act is amended by deleting the entire
18 Section and substituting same with a new Section 5, which reads, thus:

19 “5. Remuneration of Board Members;

20 All payments, allowances and benefits payable to Members of the board
21 shall be in accordance with the extant Federal Government guidelines.”

22 7. Section 7 of the Principal Act is amended by deleting the entire
23 Section and substituting same with a new Section 7, which reads thus:

24 “7. Functions of the Authority;

25 (1) The Authority shall-

26 (a) Develop a plan for, undertake and supervise the dredging and
27 maintenance of channels within the ports limit and its approaches in Nigeria;

28 (b) Develop a plan for and maintain national strategic port
29 planning and implement same;

- 1 (c) Provide and maintain aids to navigate, lighting and mooring in
2 ports harbours;
- 3 (d) Provide pilotage services, waste reception facilities and other
4 ports infrastructure;
- 5 (e) Provide and enforce technical regulations on operations,
6 construction and installations within the ports and harbours;
- 7 (f) Develop channels and approaches to ports and harbours;
- 8 (g) Set overall policy for port security, health and safety,
9 environmental protection and coastal conservancy;
- 10 (h) Encourage and facilitate private sector participation and
11 investment in the provision of ports services and facilities;
- 12 (i) Approve the establishment and planning of off-shore cargo-
13 handling facilities and related services;
- 14 (j) Represent Nigeria in regional and international fora on matters
15 relating to and connected with Ports and Harbours;
- 16 (k) Negotiate, supervise, implement and ensure compliance with
17 International Maritime Obligations under applicable international conventions
18 and protocols;
- 19 (l) Provide landlord services in ports and harbours, in an
20 economically, socially and environmentally sustainable manner;
- 21 (m) In co-operation with other relevant bodies, ensure that the Ports
22 are effectively integrated with other systems of infrastructure within and
23 outside the ports;
- 24 (n) Facilitate the sustainable growth of trade through the ports;
- 25 (o) Provide or arrange for the provision of facilities, services,
26 accommodation and land in the harbours for vessels, goods and passengers;
- 27 (p) Direct and control the movement of vessels within ports and
28 harbours, and provide or arrange for the provision of pilotage services;
- 29 (q) Provide for and maintain all coastal and channel management
30 services;

- 1 (r) Develop and deploy resources in ports to enhance port security;
- 2 (s) Engage in any business activity, either alone or in partnership
3 with other persons, as may be approved by the Minister;
- 4 (t) In co-operation with relevant agencies provide or arrange road
5 and rail access to Ports and facilitate the integration of infrastructure and
6 logistics systems in the Ports;
- 7 (u) Provide requisite assistance, including search, rescue and
8 salvage operations to any vessels entering or leaving any port and with the
9 approaches to the ports for the purpose of saving life and property;
- 10 (v) Develop implementation and operational strategies suitable to
11 the peculiarities and economic viability of the ports with due regard to the
12 consequences of its activities on the environment and the heritage, whether
13 natural or man-made;
- 14 (w) Grant concessions to private entities in accordance with the
15 laid down processes;
- 16 (x) Ensure compliance of private operators with its overall policy
17 on health and safety, environmental protection, coastal conservancy; and
- 18 (y) Perform such other functions as may be necessary to give effect
19 to the provisions of the Act.”
- 20 (2) The Authority shall take steps to ensure the effective planning
21 and management of the ports and harbours.
- 22 (3) The Authority shall perform its functions in a manner that is:
23 (a) Safe and secure;
24 (b) Environmentally sustainable;
25 (c) Effective and efficient; and
26 (d) Commercially sound.”
- 27 8. Section 8 of the Principal Act is amended by deleting the entire
28 Section and substituting same with a new Section 8, which reads thus:
29 “8. General Powers of the Authority;
30 (1) The Authority shall have power to-

- 1 (a) Develop, whether by itself or in partnership with others, own and
2 control ports;
- 3 (b) Advise Government on and implement national ports policies and
4 development strategies;
- 5 (c) Enter into Contracts, Agreements or Leases and all other such
6 obligations or arrangements;
- 7 (d) Grant permits, licences and approval for services and facilities
8 provided for the Authority on such terms and conditions as it may determine;
- 9 (e) Employ agents, consultants or contractors or act as agent of
10 another person;
- 11 (f) Construct, execute, carry out, equip, improve, work and develop
12 ports, docks, harbours, piers, wharves, canals, water courses, embankments
13 and jetties;
- 14 (g) Invest and utilize the monies of the Authority not immediately
15 required on such securities, real estate or in such investments and manner as
16 may, from time to time, be expedient;
- 17 (h) Erect, construct, lay down, enlarge, maintain and alter any
18 building, erection and work which may seem directly or indirectly necessary or
19 convenient for any of its purposes;
- 20 (i) Act as consultants and advisers in relation to ports and port
21 operations in Nigeria or in any part of the world;
- 22 (j) Carry on the business of carrier by land and sea, stevedore,
23 wharfing, warehouseman or lightman or any other business necessary or
24 expedient for the functions of the Authority;
- 25 (k) Acquire any undertaking of any registered business that affords
26 facilities for the loading, unloading or warehousing of any goods in any port in
27 Nigeria.
- 28 (l) Win sand from ports and their approaches for such purposes as it
29 may deem fit;
- 30 (m) Do anything for the purpose of advancing the-

- 1 (i) Skills of persons employed; or
- 2 (ii) Efficiency of the equipment or the manner in which such
3 equipment is operated, including the provision by others of the facilities for
4 training, education and research;
- 5 (n) Provide residential accommodation, houses, hostels and other
6 like accommodation for its employees on essential duties on terms and
7 conditions to be determined, from time to time, by the Authority;
- 8 (o) Regulate and provide bunkering and chandelling services;
- 9 (p) Provide or arrange for maintenance dredging, aids to
10 navigation, hydrographic services and wreck removal;
- 11 (q) In collaboration with relevant agencies, plan and provide
12 services in all off-shore cargo handling facilities;
- 13 (r) Concession terminal operations and related services to third
14 parties in accordance with the provisions of the Infrastructure Concession
15 Regulatory Commission Act;
- 16 (s) Provide, for the approaches to all ports and territorial waters of
17 Nigeria, such as pilotage services and lights, marks and other navigational
18 services and aids, including cleaning, deepening and improving of channels,
19 approaches and its waterways;
- 20 (t) Provide and use appliances for the towage or protection or
21 salvage of life and property or for the prevention of fire within Nigeria
22 Maritime domain and on vessels on the high seas;
- 23 (u) Supply water to vessels; and
- 24 (v) Establish and maintain subsidiaries, whether wholly or jointly
25 with other persons or organisations for the purpose of carrying out any of its
26 functions under this Act;
- 27 (w) Appoint directors and agents for the subsidiaries established
28 pursuant to the provisions of paragraph (w) of this section;
- 29 (x) Participate in the formation of or be a member of any company
30 for the purpose of carrying out all or any of its functions under this Act;

1 (y) Participate with the approval of the Board in the formation of any
2 company for such other purposes as may be approved by the Minister;

3 (z) Participate in the formation of any joint venture or partnership and
4 other similar arrangements.

5 (zi) Do such other things which are necessary to ensure the efficient
6 performance of the functions of the Authority under this Act.

7 (2) The Authority shall have power to make bye-laws for the control
8 and management of the wharves and premises and, in particular may, without
9 prejudice to the generality of the foregoing, make bye-laws for regulating,
10 declaring and defining the wharves, docks, piers and places vested in or in the
11 possession of the Authority on or from which goods shall be landed and
12 shipped.

13 (3) The Authority may levy such port dues and such general charges
14 upon goods or cargo loaded and discharged in the ports as it may deem
15 necessary for the maintenance, improvement or development of ports.

16 (4) The Authority may perform or exercise any of its functions or
17 powers under this Act, other than the power to make regulations, through an
18 officer or agent of the Authority or through any other person authorised by the
19 Authority in that behalf. (J

20 9. Section 9 of the Principal Act is amended by deleting the entire
21 Section and substituting same with a new Section 9, which reads thus:

22 "9. Powers of the Board;

23 The Board shall have the power to-

24 (a) Provide general policy guidelines relating to the functions of the
25 Authority;

26 (b) Manage and superintend the policies of the Authority;

27 (c) Determine the terms and conditions of services of the employees
28 of the Authority;

29 (d) Fix the remuneration, determine the job description,
30 qualifications, allowances and benefits of staff and employees of the Authority

1 in accordance with extant Federal Government regulations; and

2 (e) Do such things which in its opinion are necessary to ensure the
3 efficient performance of the functions of the Authority under this Act.”

4 10. Section 10 of the Principal Act is amended by deleting the
5 entire Section and substituting same with a new Section 10, which reads
6 thus:

7 “10. Managing Director and Executive Directors of the Authority

8 (1) There shall be for the Authority, a Managing director who shall
9 be-

10 (a) Appointed by the President on the recommendation of the
11 Minister;

12 (b) The Chief Executive and Accounting Officer of the Authority;
13 and

14 (c) Responsible for the-

15 (i) Execution of the policy and the day-to-day administration of the
16 Authority, and

17 (ii) Direction, supervision and control of all other employees of the
18 authority and subject to such restrictions as the Board may impose, for
19 disposing all questions relating to the services of the employees, their pay,
20 allowances and benefits.

21 (2) The Managing Director shall hold office-

22 (a) For a term of four years and may be re-appointed for a further
23 term of four years and no more; and

24 (b) On such terms and conditions, as may be specified in his letter
25 of appointment.

26 (3) Despite the provisions of sub-section (2) of this section, the
27 Managing Director may-

28 (a) Resign his appointment by notice in writing under his hand,
29 addressed to the President through the Board; or

30 (b) Be removed by the President for inability to discharge the

1 functions of his office whether arising from infirmity of mind or body or any
2 other or for misconduct or corruption.

3 (4) Executive Directors of the Authority-

4 (a) The President shall appoint for the Authority, three Executive
5 Directors to assist the Managing Director in the performance of his functions
6 under this Act;

7 (b) The Executive Director shall each hold office:

8 (i) for a term of four years and may be re-appointed for a further term
9 of four years and no more; and

10 (ii) on such terms and conditions as may be specified in his letter of
11 appointment.

12 (c) An Executive Director shall perform such functions as may be
13 assigned to him in his letter of appointment or by the Managing Director or the
14 Board from time to time.”

15 **II. Section 11 of the Principal Act is amended by deleting the entire**
16 **Section and substituting same with new Section 11, which reads thus:**

17 “11. Secretary of the Authority;

18 (1) The Authority shall have a Secretary who shall be the Head of the
19 Legal Department.

20 (2) The Secretary shall be a legal practitioner of not less than 15 years
21 post-call experience.

22 (3) The Secretary shall report to the Managing director and be
23 responsible for:

24 (a) Making arrangement for meetings of the Board and preparing the
25 agenda and minutes of such meetings;

26 (b) Communicating the decisions of the Board to Members of the
27 Board and keeping records of the Boards meeting and proceedings;

28 (c) Keeping the corporate seal and records of the Authority

29 (d) Arranging for payments of fees and allowances of meetings and all
30 other matters affecting members of the Board; and

1 (e) Such other duties affecting the Authority as the Board may
2 direct from time to time.”

3 **12.** Section 12 of the Principal Act is amended by deleting the
4 entire Section and substituting same with a new Section 12, which reads
5 thus:

6 “12. Other Staff of the Authority;

7 (1) The Authority may, subject to the approval of the Board,
8 appoint such other staff as it may deem necessary from time to time-

9 (a) For the proper and effective discharge of the duties and
10 functions of the Authority; and

11 (b) On such terms and conditions as may be determined by the
12 Board from time to time,

13 (2) Service in the Authority shall be approved service for the
14 purposes of the Pension Reforms Act, 2004.

15 (3) Nothing in Subsection (2) of this Section shall exclude the
16 Authority from employing staff on non-pensionable terms and conditions.”

17 **13.** Section 13 of the Principal Act is amended by deleting the
18 entire Section and substituting same with a new Section 13, which reads
19 thus:

20 “13. Fund of the Authority;

21 (1) There is established for the Authority a fund (“the Fund”)
22 comprising:

23 (a) All charges, dues, levies, fees and penalties collected by the
24 Authority under this Act or regulation made hereunder;

25 (b) Technical Assistance; gifts, aids and testamentary disposition;

26 (c) Other financial assets that may from time to time be vested in or
27 accrue to the Authority in the course of performing its functions under this
28 Act;

29 (d) Monies collected or received by the Authority for services
30 rendered or facilities provided;

1 (e) Monies borrowed and capital raised by the Authority under this

2 Act or any other enactments; and

3 (f) Such other sums of monies as may be received by the Authority.

4 (2) The Funds shall be managed in accordance with extant Financial
5 Regulations applicable in the Public Service and rules made by the Board.”

6 **14.** Section 15 of the Principal Act is amended by deleting the entire
7 Section and substituting same with a new Section 15, which reads thus:

8 “15. Application of Authority's Monies;

9 (1) Subject to Sub-sections (2) and (3) of this Section, the revenue of
10 the Authority for any financial year shall be applied as approved by the
11 Minister.

12 (2) The Authority shall submit to the Minister a three year plan on use
13 of monies from the Funds, including the concession fees generated.

14 (3) The plan referred to in Subsection (2) of this Section shall be
15 reviewed annually by the Minister.”

16 **15.** Section 16 of the Principal Act is amended by deleting the entire
17 Section and substituting same with a new Section 16, which reads thus:

18 “16. Financial year;

19 The financial year of the Authority shall commence on the 1st of January and
20 end on 31st December of the same year.”

21 **16.** Section 17 of the Principal Act is amended by deleting the entire
22 Section and substituting same with a new Section 17, which reads thus:

23 “17. Power to Borrow and Invest Money;

24 (1) The Authority may, with the approval of the Minister and in
25 accordance with the applicable laws governing borrowings by public bodies,
26 borrow such sum of money or raise capital, otherwise, than from the
27 Government as the Authority may require in the exercise of its function; and

28 (2) The Authority may invest all or any part of its monies in such
29 manner as may be approved by the Minister.”

30 **17.** Section 18 of the Principal Act is amended by deleting the entire

1 Section and substituting same with a new Section 18, which reads thus:

2 “18. Inspection of Accounts and Records;

3 (1) The accounts and records of the Authority shall during official
4 working hours be opened for inspection to-

5 (a) Any member of the Board; or

6 (b) Any other person specially authorized to do so by the Minister.

7 (2) The books of accounts shall be kept at the Head Office of the
8 Authority.”

9 18. Section 19 of the Principal Act is amended by deleting the
10 entire Section and substituting same with a new Section 19, which reads
11 thus:

12 “19. Statement of Accounts;

13 (1) The Authority shall keep proper and regular accounts and other
14 records of monies received and paid by it and of the several purposes for
15 which such monies have been received or paid, and of its assets, credits and
16 liabilities.

17 (2) The Authority shall take all necessary steps to ensure that all
18 payments out of its Funds and Bank Accounts are correctly made and
19 properly authorised and that adequate control is maintained over the assets
20 in its custody and over the expenditure incurred.”

21 19. Section 20 of the Principal Act is amended by deleting the
22 entire Section and substituting same with a new Section 20, which reads
23 thus:

24 “20. Audit;

25 (1) The accounts of the Authority shall be audited annually by
26 auditors appointed by the Authority based on the guidelines issued from
27 time to time by the Auditor-General of the Federation.

28 (2) The Authority shall not later than 3 months after the close of
29 each financial year, prepare and submit its financial statements in respect of

1 ~~that year to the auditors who shall audit and report on the financial statements.~~

2 (3) The auditor shall not later than 2 months after the accounts have
3 been submitted for audit, forward the audit report to the Authority and submit
4 such periodical and special reports as the Minister or the Authority may
5 require.

6 (4) The Authority shall not later than 2 months after the financial
7 statements of the Authority have been audited in accordance with the
8 requirement of this Act, forward a
9 copy of the audited financial statements to the Minister, together with any
10 report or observations made by the auditor or auditors on the Statement of
11 Accounts.

12 (5) The audit report shall in addition to the standard auditing
13 requirements state-

14 (a) whether the financial statements show fairly the financial
15 transactions and the state of affairs of the Authority;

16 (b) whether proper accounting and other records have been kept,
17 including records of all assets of the Authority whether purchased, donated or
18 otherwise acquired;

19 (c) whether the receipts, expenditure and investment of monies, the
20 acquisition and disposal of assets by the Authority during the year have been in
21 compliance with the provisions of this Act; and

22 (d) such other matters arising from the audit.

23 (6) A firm shall not be qualified for appointment as auditors under
24 subsection (1) this section unless it is registered under the Companies and
25 Allied Matters Act and any other applicable law.

26 (7) The remuneration of the auditors shall be paid out of the Funds of
27 the Authority.”

28 **20.** Section 21 of the Principal Act is amended by deleting the entire
29 Section and substituting same with a new Section 21, which reads thus.

30 “21. Annual and other Reports;

1 (1) The Board shall, not later than 2 months after the end of each
2 financial year, make a report to the Minister on its activities and
3 performance during that year.

4 (2) The annual report for each year shall include-

5 (a) a general survey of developments in respect of matters relating
6 to its functions;

7 (b) an assessment of the extent to which its main objectives and
8 priorities for the year as set out in the annual plan have been achieved;

9 (c) a summary of the significant activities carried out by it during
10 the year;

11 (d) a summary of the allocation of its financial resources to its
12 various activities during the year, including, without limitation, the
13 emoluments of its directors;

14 (e) an assessment of its performance and practices in relation to its
15 functions in accordance with applicable performance indicators; and

16 (f) its budget for the next financial year.

17 (3) The Board may-

18 (a) prepare other reports in respect of matters relating to any of its
19 functions; and

20 (b) arrange for any such report to be published.

21 (4) The Board shall cause the annual report of the Authority to be
22 published at the end of each financial year.”

23 **21.** Section 22 of the Principal Act is amended by deleting the
24 entire Section and substituting same with a new Section 22, which reads
25 thus:

26 “22. Estimates of Revenue and Expenditure;

27 (1) The Authority shall, within 2 months after the end of each
28 financial year, make a report to the Minister on its activities during that year
29 and its proposed undertakings for the ensuing year and the report shall
30 contain such information with respect to the proceedings and policy of the

1 Authority as the Minister may require.

2 (2) The Authority shall submit to the Minister such financial and
3 statistical returns or such other reports on the financial position of the Authority
4 as the Minister may require.

5 (3) The Authority shall not later than four (4) months to the end of the
6 financial year, prepare and forward to the Minister for consideration and
7 presentation to the National Assembly for approval, a statement of estimated
8 income and expenditure for the following financial year.

9 (4) The Authority may during the year for which estimates have been
10 approved under this section, cause supplementary estimates to be prepared.”

11 **22.** Section 23 of the Principal Act is amended by deleting the entire
12 Section 23 and substituting same with a new Section 23, which reads thus:

13 “23. Conduct of Affairs;

14 It shall be the general duty of the Authority to-

15 (a) conduct its affairs in a manner to ensure that its revenue is
16 sufficient to-

17 (1) meet all charges which are chargeable to its revenue account, and

18 (2) generate a proportion of the capital it requires;

19 (b) conduct its business in a cost effective and efficient manner.”

20 **23.** Section 24 of the Principal Act is amended by deleting the entire
21 Section 24 and substituting same with a new Section 24, which reads thus:

22 “24. Power to acquire land and deal with assets;

23 (1) The Authority may acquire land or immovable or movable
24 property for its use.

25 (2) The Authority may reclaim, excavate, enclose, raise or develop
26 any of the lands acquired by or vested in it, constantly keeping in view the
27 impact of its activities on the environment.

28 (3) The Authority may acquire by purchase, gift or otherwise,
29 movable or immovable property and any interest in such property and with the
30 approval of the Minister, may dispose of or deal with any movable property or

1 any interest acquired in the movable property upon such terms and
2 conditions as the Authority may deem fit.

3 (4) The Authority may dispose of or transfer any of its immovable
4 property vested in it as public property by the Federal Government only with
5 the express written consent of the President.”

6 24. Section 25 of the Principal Act is amended by deleting the
7 entire Section 25 and substituting same with a new Section 25, which reads
8 thus:

9 “25. Power to enter into Leases, Concession Agreements etc.

10 (1) Subject to the provisions of section 26 of this Act, the Authority
11 may enter into leases, concession agreements, operating agreements, or
12 other arrangements with private parties for the occupation of its land for the
13 purpose of enabling such parties to operate or perform port related activities
14 or services.

15 (2) Subject to the provisions of this Act, the Authority may lease or
16 concede its premises to terminal operators, shipping companies,
17 shipbuilding companies or any other licensed operator.

18 (3) The exercise of the Authority's power under this section shall at
19 all times be conducted in a competitive and transparent manner.”

20 25. Section 26 of the Principal Act is amended by deleting the
21 entire section and replacing it with another section 26, which shall read thus:

22 “26. Power to enter land to erect beacons, conduct surveys and
23 remove obstruction to make lighthouses and beacons visible;

24 (1) An authorised employee or agent of the Authority may enter
25 and remain on any land for the purposes of erecting of beacons, buoys and
26 moorings, to survey or perform any of their duties under this Act.

27 (2) An authorised employee of the Authority may, with all proper
28 assistance where required, enter on any land and cut and remove all trees,
29 Underwood and vegetation, which may interfere with the visibility of any
30 lighthouse or beacon from any point or place.

1 (3) Provided that the authorised employee or agents shall enter any
2 land, building or an enclosed court or garden attached to a dwelling house with
3 the consent of the owner or occupier thereof which consent shall not be
4 unreasonably withheld and unless at least fourteen (14) days' notice of the
5 intended entry have been given to the owner or occupier."

6 26. Section 27 of the Principal Act is amended by deleting the entire
7 section and substituting same with a new section 27 which reads thus:

8 "27. Prohibition on operating in ports without concession, licence or
9 permit;

10 A person shall not provide in a port, any marine or port service or facility unless
11 he is authorized to do so by the Authority."

12 27. Section 28 of the Principal Act is amended by deleting the entire
13 section and substituting same with another section 28, which reads thus:

14 "28. Power to grant concessions;

15 (1) The Authority may grant a concession subject to laws relating to or
16 governing concessions on such conditions as the Authority may impose and as
17 may be specified in the concession agreement, authorising any person to
18 provide any marine service or facility or any port service or facility.

19 (2) A concession granted under this Act shall be for a term agreed
20 upon by the parties provided that no concession can be granted which duration
21 is above five years without the approval of the President."

22 28. Section 30, Sub-section 1 of the Principal Act is amended by
23 adding (d) and (e) to Sub-section 1. Therefore the new Section 30, Sub-sections
24 1(d) and (e) will read thus:

25 "(d) Declare any place in Nigeria to be an Inland Port or container
26 depot; and

27 (e) Make any variations in the limits of any Port or the approaches to
28 the Port."

29 29. Section 30 of the Principal Act is further amended by adding Sub-
30 sections 3,4,5 and 6 to Section 3D, which reads thus:

1 **“30(3) The Minister may exercise his powers to declare a port**
2 **within the meaning of this Act or to specify the limits of any port, if he is**
3 **satisfied that such a place, if declared to be a port, is-**

4 **(a) likely to remain financially self-sufficient;**

5 **(b) of strategic significance to Nigeria's trade; or**

6 **(c) linked to a major rail line or highway.**

7 **(4) Declaration of a port made pursuant to the provision of**
8 **subsection (3) of this section shall be based upon a feasibility study and**
9 **satisfactory Environmental Impact Assessment (EIA).**

10 **(5) Any Order made by the Minister under subsection (1) of this**
11 **section shall contain the following information:**

12 **(a) the name of the port;**

13 **(b) the navigable waters and the limits; and**

14 **(c) any other provision that the Minister considers appropriate to**
15 **include in the Order.**

16 **(6) Any place in the Federation which is for the time being declared**
17 **or deemed to be a port within the meaning of this Act is a Federal port.”**

18 **30. Section 31 of the Principal Act is amended by deleting the**
19 **entire Section and substituting same with a new Section 31, which reads**
20 **thus:**

21 **“31. Appointment of a Harbour Master;**

22 **(1) The Authority shall appoint a harbour master for every pilotage**
23 **district.**

24 **(2) The Authority shall ensure that a qualified Harbour Master is at**
25 **all times engaged for every pilotage district.**

26 **(3) A Harbour Master's qualification may subject to the exercise of**
27 **his functions to any directives given from time to time by the Authority.”**

28 **31. Section 32 Sub-section 2 of the Principal Act is amended by**
29 **deleting the entire Section and substituting same with a new Sub-section 2 of**
30 **Section 32, which reads thus:**

1 “~~32(2)~~ ¹for the breach of any regulation made under Sub-section 1 of
2 this Section, the Authority may prescribe a penalty not exceeding N1,000,000
3 and in the case of continuous breach, a further fine not exceeding N50,000 a
4 day for everyday during which the breach continuous.”

5 32. Section 33 Sub-sections (1) and (2) of the Principal Act is
6 amended by deleting the entire Section and substituting same with another
7 Sub-sections (1), (2) and (3) of Section 33, which reads thus:

8 “33. Restriction on piers, jetties and wharves;

9 (1) A person shall not erect, re-erect, alter, extend, own or occupy a
10 pier or a jetty, or a wharf in a port or in the approach to a port or any place within
11 any port except in accordance with a concession or permit granted by the
12 Authority.

13 (2) A person who contravenes the provisions of subsection (1) of this
14 section commits an offence and is liable on conviction to a fine of not
15 exceeding N800,000.00.

16 (3) The Authority shall make regulations for the management and
17 control of wharves and premises and the maintenance of good order therein.”

18 33. Sub-sections 2 and 3 of Section 34 of the Principal Act is amended
19 by deleting sub-sections 2 and 3 and substituting same with another Sub-
20 sections 2 and 3, which reads thus:

21 “34(2) The grant or renewal of a license under subsection (1) of this
22 section may be made only in accordance with the provisions of this Act and
23 regulations issued from time to time by the Authority.

24 (3) Subject to the provisions of subsection (2) of this section, a licence
25 granted under this section shall be subject to the conditions as may be
26 prescribed by the Authority and may subject to the approval of the Minister,
27 contain special conditions not inconsistent with the provisions of this Act.”

28 34. Sub-section 2 of Section 37 of the Principal Act is ~~amended~~ by
29 deleting the figure “(N5,000” and substituting with “N1,000,000” and deleting
30 another figure “N500” and substituting with “N500,000.”

1 **35.** Sub-section 2 of Section 40 of the Principal Act is amended by
2 substituting the figure "N5,000" with "N1,000,000" and substituting
3 another figure "N500 with "N50,000."

4 **36.** Section 49 of the Principal Act is amended by deleting the
5 entire Section 49.

6 Section 50 of the Principal Act will now be re-numbered as section
7 49.

8 **37.** Section 50 Sub-section (1)(c) of the Principal Act is amended by
9 substituting the figure "N2,000" with "N300,00.

10 **38.** Section 51 of the Principal Act is amended by re-numbering it
11 as Section 50, and a new Section 51 is hereby introduced to read thus:

12 "51. Certification and licensing of pilots;

13 (1) A person shall not perform the duties of a pilot in a port without
14 appropriate training and qualification and without a licence by the Authority
15 to do so.

16 (2) The Government Agency responsible for maritime safety
17 administration-

18 (a) May recommend to the Authority the minimum qualifications
19 for any person to be qualified as a pilot, including the content and nature of
20 examinations, if any, to be undertaken; and

21 (b) Shall consult with the Authority regarding the content of the
22 minimum qualifications referred to in this subsection before any
23 recommendation is made.

24 (3) The licence issued to a pilot shall indicate the limits within
25 which he is qualified to act."

26 **39.** Section 51 sub-section 2(c) of the Principal Act is also
27 amended in line two by substituting the figure "50(2)" with "49(2)" after the
28 word "section."

29 **40.** Section 65 of the Principal Act is amended by adding Sub-
30 sections (j) and (k) to Section 65, which shall read thus:

1 “(j) For performing any transshipment operation, or (k) For any off
2 shore stevedoring services.”

3 41. Section 78 of the Principal Act is amended by re-numbering the
4 entire provisions of Section 78 as sub-section (1) of section 78, and a new Sub-
5 section (2) of section 78 will be introduced, which reads thus:

6 “78. Book specifying dues, fees and rates to be kept at port (1) The
7 Authority shall keep and maintain at its office in each port a book specifying
8 the current dues, fees and rates and shall allow any person to inspect the book at
9 all reasonable times without the payment of a fee.

10 (2) Any person providing Port Services, including a concessionaire,
11 shall keep and maintain at its office in the Port a book specifying the current
12 dues, fees and rates and shall allow any person to inspect the book at all
13 reasonable times without the payment of a fee.”

14 42. Section 79 of the Principal Act is amended by adding Sub-section
15 (c) and (d) to section 78, which reads thus:

16 “(c) Government owned vessel not engaged in commercial activities.

17 (d) Vessels bring in aid or engaged in humanitarian and charitable
18 causes.”

19 43. Section 80 of the Principal Act is amended by deleting the entire
20 Section and replacing it with another proviso, which reads thus:

21 “Application of this part;

22 The provisions of this Part shall apply to all types of vessels, cargo or shipments
23 including cargo owned by the Federal, State and Local Governments of Nigeria
24 except otherwise provided for in this Act.”

25 44. Section 85 of the Principal Act is amended by substituting the
26 figures “N5,000” with “N300,000” and “N1,000” with “N100,000” and “N500”
27 with N50,000.”

28 45. Section 87 Sub-section (1)(b) of the Principal Act is amended by
29 substituting the figure “(N10,000)” with “(N200,000).”

30 46. Section 92 Sub-section (2) of the Principal Act is amended by

1 deleting the entire Sub-section and substituting same with another, which
2 reads thus:

3 “92(2) No suit against the Authority or any employee of the
4 Authority for any act done in pursuance or intended execution of any Act or
5 Law, or of any public duty or authority, or in respect of any alleged neglect or
6 default in the execution of such Act or Law, duty or authority shall lie or be
7 instituted in any court, unless it is commenced within twelve months after
8 the act, neglect or default complained of or in the case of a continuing
9 damage or injury, within twelve months next after the ceasing thereof.”

10 47. Section 93 of the Principal Act is amended by adding Sub-
11 section (c) after (b) and the newly added Sub-section (c) will read thus:

12 “(c) Electronic means through the e-mail or website of the
13 Authority.”

14 48. Section 94 of the Principal Act is amended by deleting the
15 entire Section and substituting same with a new proviso, which reads thus:

16 “94. Restriction on execution against property of the Authority In
17 any action or suit against the Authority, no execution shall be levied or
18 attachment process issued against the Authority unless not less than thirty
19 days’ notice of the intention to execute or attach has been given to the
20 Authority.”

21 49. Section 97 of the Principal Act is amended by substituting the
22 phrase “not exceeding N5,000” after the word “fine” with the phrase “of not
23 less than N1,000,000.”

24 50. Section 98 Sub-section 3 of the Principal Act is amended by
25 substituting the phrase “not exceeding N5,000” after the word “fine” with
26 the phrase of not exceeding N50,000 and a further fine of not less than
27 N50,000 for every day during which the offence continues.”

28 51. Section 99 of the Principal Act is amended by deleting the
29 entire Section and substituting it with a new proviso, which reads thus:

30 “99. obstructing authorised entry;

1 A person who wilfully obstructs any person doing any of the acts authorised by
2 the provisions of this Act commits an offence and is liable on conviction to a
3 fine of N800,000.00 or to imprisonment for a term of not less than 12 months or
4 to both.”

5 52. Section 100 Sub-section 1 of the Principal Act is amended by
6 substituting the figure “N10,000” with N800,000.”

7 53. Section 101 (b) in the last paragraph of the Principal Act is
8 amended by deleting the entire last paragraph that reads thus:

9 “Is guilty of an offence and liable on conviction, to imprisonment for
10 a term of three years.”

11 And substituting same with a new proviso which reads thus,
12 “commits an offence and is liable on conviction, to a fine of not less than
13 N500,000 or to imprisonment for a term of not less than six months or to both.”

14 54. Section 102 of the Principal Act is amended by deleting the entire
15 Section and substituting same with another proviso, which reads thus:

16 “102. Illegal piloting;

17 (1) A person who offers his services as a pilot:

18 (a) Without the permission of the Authority and without being duly
19 licensed; or

20 (b) While his license as a pilot is cancelled, suspended or revoked,
21 commits an offence.

22 (2) Any pilot who:

23 (a) lends his licence to, or allows his licence to be used by, any other
24 person; or

25 (b) pilots outside the limits specified in his licence; or

26 (c) acts as a pilot while under the influence of alcohol or drugs;
27 commits an offence.

28 (3) A person who contravenes the provisions of this section is liable
29 on conviction, to a fine of not less than N800,000.00 or to imprisonment for a
30 term of not less than twelve months or to both.”

1 **55.** Section 103 (a) of the Principal Act is amended by substituting
2 figure "N10,000" with "N500,000".

3 **56.** Section 104 of the Principal Act is amended by substituting the
4 figure "N10,000" with "N500,000."

5 **57.** Section 105 of the Principal Act is amended by substituting the
6 figure "N10,000" with "N500,000" and substituting the phrase "not
7 exceeding twelve months" after the word "term" and replacing same with
8 another phrase, which reads thus:
9 "of not less than 5 years."

10 **58.** Section 106 of the Principal Act is amended by substituting the
11 figure "N10,000" with "N10,000,000" and substituting the phrase "not
12 exceeding twelve months" after the word "term" and replacing same with
13 another phrase, which reads thus:
14 "of not less than 5 years or to both."

15 **59.** Section 107 of the Principal Act is amended by substituting the
16 figure "N100,000" with "N50,000,000."

17 **60.** Section 108 of the Principal Act is amended by substituting the
18 figure "N10,000" with "N500,000".

19 **61.** This Bill may be cited as the Nigerian Ports Authority
20 (Amended) Bill, 2016.

EXPLANATORY MEMORANDUM

This Bill seeks to introduce concession arrangements for the encouragement of private sector participation and promotion of competitive market through the review, update and overhaul of the entire Nigerian Ports Authority Act of 1999 to drive the commercial activities in Nigerian Ports and to meet the present day challenges in the maritime industry.