

# A BILL

## FOR

AN ACT TO REPEAL THE NATIONAL INLAND WATERWAYS AUTHORITY ACT CAP. N47, LFN 2004 AND TO ENACT THE NATIONAL INLAND WATERWAYS AUTHORITY ACT TO PROVIDE FOR THE MANAGEMENT, REGULATION AND DEVELOPMENT OF THE NATIONAL INLAND WATERWAYS AND TO PROMOTE PRIVATE SECTOR PARTICIPATION IN THE DEVELOPMENT OF THE NATIONAL INLAND WATERWAYS IN NIGERIA AND FOR OTHER RELATED MATTERS

*Sponsored by Hon. Pat Asadu*

[ ] Commencement

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

### PART I - OBJECTIVES AND APPLICATION

#### 1. The objectives of this Act are to:

Objectives

(a) develop and improve the National Inland Waterways for water transportation and navigation purposes;

(b) increase and promote private sector investment and participation in the management and operation of the assets of the National Inland Waterways Authority;

(c) provide for the technical and safety regulations of the National Inland Waterways;

(d) promote intermodalism in the transport sector;

(e) provide an alternative mode of transportation for the evacuation of goods and persons; and implement the National Transport Policy as it concerns National Inland Waterways in Nigeria.

2. This Act applies to all National inland waterways listed in Schedule I and to any other National Inland Waterways as may be declared by the National Assembly and to any person or Government Agency with

Application and  
Scope

## PART VI - FINANCIAL PROVISIONS

20. Fund of the Authority
21. Application of the Authority's monies
22. Power to borrow and accept gifts
23. Annual Budget
24. Financial Year
25. Accounts and records to be open for inspection
26. Statements of accounts and audit
27. Report of Auditors
28. Annual Report
29. Financial and Statistical Returns
30. Other Reports

## PART VII - CONCESSIONS, LEASES, ETC.

31. Power to grant concessions and leases
32. Special powers in emergency
33. Prohibition of operation in National Inland Waterways without concession, licence or permit

PART VIII - POLICY AND REGULATION OF NATIONAL  
INLAND WATERWAYS

34. The role of the Minister
35. Formulation of Policy

## PART IX - PROVISIONS RELATING TO LAND AND ASSETS

36. Power to acquire land
37. Power to enter land to erect beacons, conduct surveys and remove obstructive lighthouses and beacons

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38. Safety on land within National Inland Waterways
39. Removal of wrecks and vessels

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40. Restriction on execution against the property of the Authority
41. Legal Proceedings

42. Master, owner or person in charge of vessel answerable for damage
43. Detention of vessels causing damage
44. Power of distrain for non-payment of dues and rates
45. Monitoring and Enforcement
46. Power to Seal Premises and stop activities

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47. Damage to property of the Authority
48. Unlawful operation of National Inland Waterways services or facilities
49. Evasion of dues, fees, fines and charges
50. Offences by master of vessel
51. Penalty for throwing ballast and other waste into National Inland Waterways
52. Penalty for giving false information as to draught of vessel and cargo
53. Penalty for wilfully sinking vessels
54. Obstructing the Authority in the performance of its duties
55. Preservation of secrecy.
56. Offences against the Schedule III to this Act
57. General penalties
58. Jurisdiction

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59. Mandatory compliance requirements by Government Agencies, Bodies, etc.
60. Service of Notices, Summons, etc
61. Regulations
62. Repeal
63. Savings
64. Interpretation
65. Short Title

#### SCHEDULES



# A BILL

## FOR

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CAP. N47, LFN 2004 AND TO ENACT THE NATIONAL INLAND WATERWAYS  
AUTHORITY ACT TO PROVIDE FOR THE MANAGEMENT, REGULATION AND  
DEVELOPMENT OF THE NATIONAL INLAND WATERWAYS AND TO  
PROMOTE PRIVATE SECTOR PARTICIPATION IN THE DEVELOPMENT OF THE  
NATIONAL INLAND WATERWAYS IN NIGERIA AND FOR OTHER RELATED  
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#### 1. The objectives of this Act are to:

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Inland Waterways Authority;

(c) provide for the technical and safety regulations of the National  
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(d) promote intermodalism in the transport sector;

(e) provide an alternative mode of transportation for the evacuation  
of goods and persons; and implement the National Transport Policy as it  
concerns National Inland Waterways in Nigeria.

2. This Act applies to all National inland waterways listed in  
Schedule I and to any other National Inland Waterways as may be declared

Application and  
Scope

by the National Assembly and to any person or Government Agency with

1 activities or operations connected with National Inland Waterways in Nigeria.

2 PART II - ESTABLISHMENT OF THE NATIONAL INLAND WATERWAYS

3 AUTHORITY

Establishment of  
the National  
Inland Waterways  
Authority

4 3.-(1) There is established a body to be known as the National Inland  
5 Waterways Authority (hereinafter referred to as "the Authority").

6 (2) The Authority shall be a body corporate with perpetual succession  
7 and a common seal, capable of suing and being sued in its corporate name.

8 (3) The Authority shall have all the powers of a body corporate,  
9 including the power to enter into contracts and incur obligations, to acquire,  
10 hold, mortgage, purchase, sell, lease and deal howsoever with property,  
11 whether movable or immovable, real or personal and do all acts and things  
12 which a natural person may by law do which are necessary or convenient for  
13 the discharge of its functions.

14 PART III - FUNCTIONS AND POWERS OF THE AUTHORITY

Functions of  
the Authority

15 4.-(1) The Authority shall:

16 (a) ensure the development and operations of National Inland  
17 Waterways in Nigeria in collaboration with the relevant stakeholders by  
18 granting concessions, leases, management contracts, entering into joint  
19 venture contracts or granting permits to render services connected with  
20 National Inland Waterways development and operations;

21 (b) ensure the efficient management and administration of the  
22 National Inland Waterways;

23 (c) manage and administer the Authority's assets safely and efficiently  
24 with a view to maximizing their economic potential;

25 (d) organise and integrate the nation's National Inland Waterways  
26 operations for efficient utilization for transportation;

27 (e) ensure the development of infrastructural facilities for a National  
28 Inland Waterways network connecting the creeks and the rivers with the  
29 economic centres using the river-ports as nodal points for intermodal  
30 exchange;

- 1           (f) undertake capital and maintenance dredging within the  
2       National Inland Waterways;
- 3           (g) design and maintain ferry routes within the National Inland  
4       Waterways;
- 5           (h) survey, remove and retrieve derelicts, wrecks and other  
6       obstructions from the National Inland Waterways;
- 7           (i) install and maintain lights, buoys and all aids to navigation  
8       along water channels and banks on the National Inland Waterways;
- 9           (j) issue and regulate the use of permits for inland navigation, piers,  
10      jetties, dockyards and wharves;
- 11          (k) examine and certify all non - convention vessels, including rig  
12      platforms that operate on the National Inland Waterways
- 13          (l) register all vessels including non-convention vessels, dredgers  
14      and boats of all types that operate on the National Inland Waterways.
- 15          (m) grant permits for seismic survey, reclamation, shore protection  
16      work and removal within the declared right of way of National Inland  
17      Waterways with the approval of the Minister;
- 18          (n) grant permits to private National Inland Waterways operators;
- 19          (o) approve the design and construction of inland river crafts and  
20      also inspect, regulate, approve and issue licences and permits for vessels  
21      designed for National Inland Waterways operations;
- 22          (p) approve and regulate:
- 23           (i) the use of all Jetties, dockyards, piers, river ports and other  
24      associated structures and platforms within the National Inland Waterways;
- 25           (ii) advertising within the right-of-way of the National Inland  
26      Waterways;
- 27           (iii) land reclamation within the right-of-way.
- 28          (q) construct, administer and maintain inland river-ports and  
29      jetties;
- 30          (r) provide hydraulic structures for rivers and dams, bed and bank

1 stabilisation, barrages and buoys in order to regulate and stabilize river water  
2 upstream for the purpose of navigation;.

3 (s) produce, publish and broadcast navigational leaflets, aids to  
4 navigation, bulletin and notices, hydrological year books, river charts and river  
5 maps;

6 (t) carry out consultancy and contractual services in relation to its  
7 activities under this Act;

8 (u) subject to the provisions of the Environmental Impact Assessment  
9 Act, carry out environmental impact assessment of navigation and other  
10 dredging activities within the National Inland Waterways and its right-of-way;

11 (v) erect and maintain gauges, kilometre boards, horizontal and  
12 vertical control marks;

13 (w) advise government on all border matters that relate to the National  
14 Inland Waterways;

15 (x) acquire, lease and hire properties in connection with its activities  
16 under this Act;

17 (y) control and clear water hyacinth and other aquatic weeds along the  
18 National Inland Waterways;

19 (z) implement the transport policy of the Federal Government of  
20 Nigeria pertaining to the National Inland Waterways;

21 (aa) monitor and enforce compliance with the provisions of this Act  
22 and regulations made by the Authority; and

23 (bb) perform such other functions as are considered reasonably  
24 necessary to give full force and effect to the provisions of this Act.

25 (2) Without prejudice to the provisions of subsection (1) of this  
26 section, the Authority shall perform its functions and exercise its powers in  
27 such a manner as the Authority considers best to achieve the objectives of this  
28 Act.

29 (3) Notwithstanding the provision of any enactment, for the purpose  
30 of safety, regulation, maintenance and safe navigation of the Nigerian National



inland waterways, any holder of a quarry lease or license for sand dredging for whatever purpose within the Nigerian National Inland Waterways and its Declared Right of Way shall obtain the consent of the Authority.

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

(5) The Authority shall be entitled to payment of dues, charges, levies, royalties and fees arising from the discharge of its functions or the exercise of its powers under this Act.

5. An authorised employee of the Authority may demolish or cause to be demolished a pier, jetty or wharf in any National Inland Waterways or in the approach to any National Inland Waterways where the pier, jetty or wharf is erected or operated in contravention of the provisions of this Act or regulations made there-under.

Demolishing of  
piers, jetties and  
wharves

6. The provisions of this Part shall apply to all persons including Federal, State and Local Government Agencies.

Application of  
Part III

#### PART IV - GOVERNING BOARD, MANAGEMENT AND STAFF OF THE AUTHORITY

7. -(1) There is established a Governing Board of the Authority (hereinafter referred to as 'the Board') responsible for supervising the affairs of the Authority.

Establishment  
of the Governing  
Board of the  
Authority

(2) The Board shall consist of the following members:

(a) a non-executive Chairman;

(b) the Managing Director of the Authority;

(c) the two Executive Directors of the Authority;

(d) two members representing public interest; and

(e) a representative of each of the following:

(i) Federal Ministry of Transport;

(ii) Federal Ministry of Water Resources;

(iii) Federal Ministry of Agriculture and Rural Development

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(2) The Board shall consist of the following members:

(a) a non-executive Chairman;

(b) the Managing Director of the Authority;

(c) the two Executive Directors of the Authority;

(d) two members representing public interest; and

(e) a representative of each of the following:

(i) Federal Ministry of Transport;

(ii) Federal Ministry of Water Resources;

(iii) Federal Ministry of Agriculture and Rural Development

1 (Federal Department of Fisheries);

2 (iv) Nigerian Ports Authority (NPA); and

3 (v) Nigerian Maritime Administration and Safety Agency.

4 (3) The Board shall:

5 (a) be responsible for the determination of the policy of the Authority  
6 and superintend over the implementation of the policy; and

7 (b) review and approve the strategic plans of the Authority.

8 (4) The Board shall adhere to the provisions of this Act and to any  
9 relevant general guidelines on the governance of public bodies and to such  
10 other generally accepted principles of good corporate governance as may be  
11 applicable to the Authority.

12 (5) The supplementary provisions set out in Schedule III to this Act  
13 shall have effect with respect to the proceedings of the Board and other matters  
14 contained therein.

15 (6) The remunerations and allowances payable to members of the  
16 Board shall be as determined by the relevant extant laws of the Federation.

Appointment  
and qualification  
of members of  
the Board

17 8. -(1) The chairman and members of the Board, other than ex-officio  
18 members, shall be:

19 (a) appointed by the President on the recommendation of the  
20 Minister; and

21 (b) persons of proven integrity with relevant cognate experience.

22 (2) The Minister shall take into consideration the functions of the  
23 Authority under this Act when recommending persons for appointment to the  
24 Board.

25 (3) A person shall not be appointed or remain in office as a member of  
26 the Board if that person:

27 (a) is not a citizen of Nigeria;

28 (b) is a serving member of the National Assembly, State House of  
29 Assembly or any Local Government Council;

30 (c) is incapacitated by any physical illness;

(d) has been certified to be of unsound mind;

(e) is an undischarged bankrupt;

(f) has been convicted in Nigeria or elsewhere of a felony;

(g) has at any time been removed from office on account of misconduct; or

(h) at the relevant time, is a director of or acts in any executive capacity in one or more companies or bodies, however constituted, with responsibility for managing or regulating or providing any services to or within any National inland waterways or creeks in Nigeria.

(4) The conflict of interest provisions contained in the Schedule IV to this Act shall be applicable to all Directors of the Authority.

9. -(1) Notwithstanding the provisions of section 7 of this Act, the office of the Chairman or a member of the Board shall become vacant where: Vacancy on the Board

(a) he resigns his office by notice in writing under his hand addressed to the President through the Minister;

(b) he completes his tenure;

(c) he dies;

(d) he becomes of unsound mind or incapable of carrying out his duties;

(e) he becomes bankrupt;

(f) he is found guilty of gross misconduct relating to his duties;

(g) in the case of an ex-officio member, he ceases to hold the office on the basis of which he became a member of the Board; or

(h) the President is satisfied that it is not in the interest of the Authority or of the public for the person appointed to continue in office.

(2) Subject to the provisions of subsection (1) of this section, a vacancy in the Board shall be filled by the appointment of another person to the vacant office by the President on the recommendation of the Minister as soon as it is reasonably practicable after the occurrence of such vacancy.

(2) Where a vacancy exists upon the death, removal or resignation

Appointment  
and Tenure of  
Managing Director  
and Executive  
Directors

1 of a member, any person appointed as his replacement shall hold office for the  
2 unexpired term of office of his predecessor.

3 10. -(1) There shall be, for the Authority, a Managing Director to be  
4 appointed by the President on the recommendation of the Minister;

5 (2) The Managing Director:

6 (a) shall hold office for a period of four years, on such terms and  
7 conditions, as may be specified in his letter of appointment; and

8 (b) may be reappointed for a further period of four years and no more.

9 (3) The Managing Director shall be the Chief Executive Officer of the  
10 Authority and shall be responsible for:

11 (a) the execution of the policy and the day-to-day administration of  
12 the Authority;

13 (b) the supervision of all other employees of the Authority and subject  
14 to such restrictions as the Board may impose, for disposing all questions  
15 relating to the service of the employees, their pay, allowances and privileges;  
16 and

17 (c) matters concerning the accounts and records of the Authority.

18 (4) The President shall appoint for the Authority, two Executive  
19 Directors to assist the Managing Director in the performance of his functions  
20 under this Act.

21 (5) An Executive Director:

22 (a) shall hold office for a period of four years, on such terms and  
23 conditions as may be specified in his letter of appointment;

24 (b) may be reappointed for a further period of four years and no more;  
25 and

26 (c) Shall perform such functions as may, from time to time, be  
27 assigned to him by the Managing Director and the Board.

Removal of  
Managing  
Director or  
Executive Director

28 11.-(1) The Managing Director or an Executive Director shall only be  
29 suspended or removed from office by the President if he:

30 (a) is found to be unqualified for appointment as Managing Director



1 or an Executive Director contrary to the provisions of this Act;

2 (b) has demonstrated the inability to effectively perform the duties  
3 of his office;

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

7 (d) is guilty of serious misconduct in relation to his duties as  
8 Managing Director or an Executive Director;

9 (e) is disqualified or suspended from practicing his profession in any  
10 part of the world by a competent authority; or

11 (f) is in breach of the conflict of interest Rules set out in the  
12 Schedule IV to this Act.

13 (2) The Managing Director or Executive Director shall not be  
14 removed from office under the provision of subsection (1) of this section,  
15 unless the Minister has duly served on the Managing Director or an  
16 Executive Director a prior written notification of the intention to suspend or  
17 remove him from office and the reasons for such suspension or removal.

18 (3) The Managing Director or Executive Director shall, upon  
19 receipt of the notice referred to in sub-section (2) of this section, be given an  
20 opportunity to make written submissions to the Minister within fourteen  
21 days from the date of the receipt of the notice.

22 (4) The Managing Director or Executive Director may, within the  
23 days specified in the notice, deliver a written submission to the Minister.

24 (5) The Minister shall, upon the receipt of the submission referred  
25 to in subsection (4) of this section, provide the Managing Director or  
26 Executive Director the opportunity to make oral representations on the  
27 submissions made before taking decision on whether or not to recommend  
28 suspension or removal from office.

29 12. -(1) The Board shall have a Secretary who shall be the Head of  
30 the Legal Department.

Appointment of  
Board's Secretary

1 (2) The Secretary shall be a legal practitioner with not less than ten  
2 years post call experience.

3 (3) The Secretary shall report to the Managing Director and be  
4 responsible for:

5 (a) making arrangements for meetings of the Board and preparing the  
6 agenda and minutes of such meetings;

7 (b) communicating the decisions of the Board to members of the  
8 Board and keeping records of the Board's meetings and proceedings;

9 (c) keeping the seal and corporate records of the Authority;

10 (d) arranging for payments of fees and allowances of meetings and all  
11 other matters affecting members of the Board; and

12 (e) such other duties affecting the Authority as the Board may from  
13 time to time direct.

Remuneration of  
management and  
other staff

14 13. The fees and allowances payable to the Managing Director,  
15 Executive Directors and other staff of the Authority shall be determined by the  
16 Board in consultation with the relevant government agencies and in  
17 accordance with extant Federal Government guidelines.

Employment  
and Conditions  
of Service

18 14. -(1) The Authority shall have powers to employ such number of  
19 persons as it may deem necessary for the effective discharge of its duties,  
20 functions, and regulations made under this Act.

21 (2) The Authority shall be responsible for determining the job  
22 description, title, terms, qualifications and salaries including allowances of the  
23 employees subject to the approval of the National Income, Salaries and Wages  
24 Commission

25 (3) Employees of the Authority shall be subject to the Conflicts of  
26 Interest provisions contained in the Schedule IV to this Act.

27 (4) Service in the Authority shall be approved service for the purpose  
28 of the Pension Reform Act, and accordingly, an officer and other persons  
29 employed in the Authority shall in respect of their service in the Authority be  
30 entitled to pensions, gratuities and other retirement benefits as are applicable

1 in the Authority.

2 (5) Nothing in subsection (4) of this section shall exclude the  
3 Authority from employing staff on non-pensionable terms and conditions.

4 PART V - DECLARATION OF NAVIGABLE WATERWAYS

5 15. All rivers and their tributaries, distributaries, creeks, lakes,  
6 lagoons and intra-coastal waterways specified in the Schedule I to this Act  
7 are declared Federal navigable waterways.

Federal  
Navigable  
Waterways

8 16. All navigable waterways, inland waterways, river-ports and  
9 internal waters of Nigeria, excluding all direct approaches to the ports listed  
10 in the Schedule II to this Act and all other waters declared to be approaches  
11 to ports under or pursuant to the Nigerian Ports Authority Act, up to 250  
12 metres beyond the upstream edge of the quay of such ports, shall be under  
13 the exclusive management, direction and control of the Authority.

Area under  
control of the  
Authority

14 17.-(1) The right of land usage for improvement of navigability  
15 and provision of infrastructure shall cover areas on both banks of the  
16 waterways which would be submerged in a flood of 100 years return period.

Conditions  
pertaining to right  
of land usage for  
improvement

17 (2) In case of waterways with steep banks where such flood has no  
18 overbank flow, the right of way shall include the areas of land along the  
19 waterway measured 100 metres perpendicular from the edge of the channel.

20 18.-(1) The Authority shall, subject to the provisions of the Lands  
21 (Title Vesting etc.) Act, Cap L7, Laws of the Federation of Nigeria, 2004,  
22 have the right to all land within the right-of-way of declared waterways and  
23 shall use such land for navigational purposes and for any of its functions  
24 under this Act.

Use of land or  
moveable  
property

25 (2) The Authority shall have the powers to determine and approve  
26 the use to which any land or immovable property within the right of way  
27 may be put to.

28 (3) A person, any state of the Federation or any Local Government  
29 Area shall not:

30 (a) obstruct a declared waterway;

- 1 (b) take sand, gravel or stone from any declared waterways;  
2 (c) erect structures within the right of-way or divert water from a  
3 declared waterway; or  
4 (d) carry out any of the activities as specified in this Act, without the  
5 written consent, approval or permission of the Authority.

Prohibition and  
sale of land

- 6 19. The Authority shall not without the written approval of the  
7 President concession or lease its land or property for more than five years. \

8 PART VI - FINANCIAL PROVISIONS

Fund of the  
Authority

- 9 20. -(1) There is established for the Authority a fund ("the Fund")  
10 which shall consist of all:

- 11 (a) monies accruing to the Authority through appropriation made to it  
12 by the National Assembly;  
13 (b) charges, dues, levies, royalties and fees collected by the Authority;  
14 (c) concession fees paid to the Authority;  
15 (d) annual fees for licences and permits issued by the Authority;  
16 (e) gifts, grants, aids and subventions;  
17 (f) assets that may from time to time be vested in or accrue to the  
18 Authority in the course of performing its functions under this Act;  
19 (g) sums collected or received by the Authority for services rendered;  
20 (h) monies borrowed and capital raised by the Authority under this  
21 Act or any other enactment; and  
22 (i) such other sums as maybe received by the Authority from other  
23 sources.

- 24 (2) For the purpose of regulation, development and maintenance of  
25 the inland waterways, all companies or government agencies and departments  
26 whose operations and services are within the National Inland Waterways  
27 including those related to electric power generation and distribution,  
28 refineries, oil and gas pipelines, exploration, exploitation and transportation,  
29 telecommunication facilities shall pay annual dues to the authority in  
30 accordance with the approved Tariff.

1                   21.-(1) The Authority shall have the power to expend the funds  
2                   which accrue to it under this Act in the cause of performing its functions.

Application of  
the Authority's  
monies

3                   (2) Any excess of the Authority's revenue for any year over the  
4                   approved expenditure for that year shall, subject to its approved annual  
5                   budget, be remitted to the Consolidated Revenue Fund.

6                   22.-(1) The Authority may, with the prior consent of its Board and  
7                   in accordance with the applicable laws, rules and regulations governing  
8                   borrowings by public bodies, borrow such sum of money or raise capital,  
9                   otherwise than from the Government as the Authority may require in the  
10                  exercise of its functions under this Act.

Power to borrow  
and accept gifts

11                  (2) The Authority may accept gifts, grants of money, aid or other  
12                  property from national, bilateral and multi-lateral organisations or agencies  
13                  upon such terms and conditions, if any, as may be agreed upon, provided that  
14                  such gifts are not inconsistent with the objectives and functions of the  
15                  Authority.

16                  23.-(1) The Authority shall not later than four months to the end of  
17                  the financial year, prepare and present to the minister for consideration and  
18                  presentation to the National Assembly for approval, a statement of estimated  
19                  income and expenditure for the following financial year.

Annual Budget

20                  (2) Notwithstanding the provisions of subsection (1) of this  
21                  section, the Authority may also in any financial year, submit supplementary  
22                  or adjusted statements of estimated income and expenditure to the Minister  
23                  for approval.

24                  24. The financial year of the Authority shall commence on 1st  
25                  January of each year and end on 31st December of that year.

Financial Year

26                  25. -(1) The accounts and records of the Authority shall, during  
27                  office hours be open for inspection by:

Accounts and  
records to be  
open for  
inspection

28                  (a) a member of the Board;

29                  (b) a person authorized to inspect the accounts by the Minister;

30                  (c) a authorised person from the Commission; and

Statements of  
accounts and  
audit

1 (d) the National Assembly.

2 (2) The account books of the Authority shall be kept at the Head  
3 Office of the Authority,

4 26. -(1) The Authority shall keep proper and regular accounts and  
5 other records of monies received and paid by the Authority and of the several  
6 purposes for which such monies have been received or paid and of the assets,  
7\* credits and liabilities.

8 (2) The Authority shall do all things necessary to ensure that all  
9 payments out of its money are correctly made and properly uthorized and that  
10 adequate control is maintained over the assets of or in the custody of the  
11 Authority and over the expenditure incurred by the Authority.

12 (3) The Board shall have the power to appoint external auditors,  
13 provided that, such auditors are on the list of auditors approved from time to  
14 time by the Auditor-General of the Federation.

15 (4) A firm shall not be qualified for appointment as auditors under  
16 subsection (3) of this section unless it is an approved company or auditor under  
17 the Companies and Allied Matters Act and any other applicable laws.

18 (5) The remuneration of the auditor shall be paid out of the funds of  
19 the Authority.

20 (6) The Authority shall, not later than six weeks after the close of its  
21 financial year, prepare and submit the financial statements in respect of that  
22 year to the auditor who shall audit and report on them.

23 (7) The Board shall, not later than three months after the end of each  
24 financial year, cause its audited financial statements to be made available to the  
25 Minister together with any report or observations made by the auditors on the  
26 said financial statements.

27 (8) The financial statements of the Authority shall be published  
28 annually in at least three national daily newspapers within one-month of such  
29 statements becoming available to the Minister.

1                   27.-(1) The report of the auditor shall, in addition to complying      Report of  
2                   with auditing requirements under prevailing professional practice and      Auditors  
3                   applicable law state:

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

6                   (b) whether proper accounting and other procedures have been  
7                   followed and records kept including records of all assets of the Authority  
8                   whether purchased, donated or otherwise;

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

12                  (d) such other matters arising from the audit as the auditor  
13                  considers appropriate.

14                  (2) The auditor shall, not later than three months after the accounts  
15                  have been submitted to it for audit, send a report of its audit to the Authority,  
16                  and submit such periodical and special report to the Authority as may appear  
17                  to it necessary or as the Minister or the Authority may require.

18                  (3) The Authority shall, not later than one month after its financial  
19                  statements have been audited in accordance with this Act or three months  
20                  after the end of the previous financial year, whichever occurs first, send a  
21                  copy of the audited financial statements to the Minister and the Commission  
22                  together with any report or observations made by the auditor or auditors on  
23                  the statement of accounts.

24                  28.-(1) The Board shall, not later than 4 months after the end of      Annual Report  
25                  each financial year, make a report to the Minister on its activities and  
26                  performance during that year.

27                  (2) The annual report for each year shall include:

28                  (a) a general survey of developments in respect of matters relating  
29                  to its functions;

30                  (b) an assessment of the extent to which its objectives and priorities

1 for the year as set out in the annual estimate and twenty-five years action plans  
2 indicated in subsection (3) of section 23 of this Act have been achieved;

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

5 (d) a summary of the allocation of its financial resources to its various  
6 activities during the year, including, without limitation, the emoluments of its  
7 directors; and

8 (e) an assessment of its performance and practices in relation to its  
9 functions in accordance with applicable internationally recognized  
10 performance indicators.

Financial and  
Statistical Returns

11 29. -(1) The Authority shall submit to the Minister such financial and  
12 statistical returns or such other report on the financial position of the Authority  
13 as the Minister may from time to time require.

14 (2) The Minister may at any time within one month of receipt of such  
15 report, allow or amend any item of capital expenditure appearing in such  
16 estimates, or any portion thereof, or return the same to the Authority for  
17 amendment.

Other Reports

18 30. The Authority's Board may:

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

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

22 PART VII - CONCESSIONS, LEASES, ETC.

Power to grant  
concessions and  
leases

23 31. -(1) The Authority may grant a concession, lease, contract or  
24 permit subject to such terms and conditions as the Authority may specify,  
25 authorising any person to provide any service or facility or any National Inland  
26 Waterways service or facility.

27 (2) The terms and conditions of a concession, lease, contract or permit  
28 granted under this Act shall be agreed to in writing between the parties thereto.

29 (3) Every exercise of the power to grant concessions under this  
30 section shall be subject to rules providing for competitive and transparent d by



1 public tender for concessions as may be approved by any relevant  
2 government agency.

3 32. -(1) On the occurrence of any industrial unrest, strike, lock-out  
4 or other events which give rise to an emergency and create a real and  
5 imminent threat to the national interest or public safety, the Authority may,  
6 with the approval of the Minister:

Special powers  
in emergency

7 (a) suspend any concession, take temporary possession (either by  
8 itself or through an authorised agent) of any undertaking of such  
9 concessionaire and operate it in such a manner as it deems fit; or

10 (b) withdraw either partially or totally the use of any National  
11 Inland Waterways service or facility from any person or class of persons or  
12 from the public in general.

13 (2) Where the Authority takes possession of any National Inland  
14 Waterways' operations under subsection (1) of this section, adequate  
15 compensation shall be paid, in the amount agreed between the Authority and  
16 the affected concessionaire.

17 33. -(1) A person shall not provide any National Inland Waterways  
18 service or facility unless he is authorised to do so under a concession, lease,  
19 contract or permit granted by the Authority.

Prohibition of  
operation in  
National Inland  
Waterways without  
concession, licence  
or permit

20 (2) Subject to the express provisions to the contrary in this Act, a  
21 concession, lease, contract or permit granted under this section may be  
22 granted to a person or class of persons and every concession, lease, contract  
23 or permit shall be in such form and for such period and may contain such  
24 conditions as may be agreed upon by the parties.

## 25 PART VIII - POLICY AND REGULATION OF NATIONAL INLAND

### 26 WATERWAYS

27 34. The general responsibilities and functions of the Minister under  
28 this Act shall include to:

The role of the  
Minister

29 (a) formulate, modify and issue policies for the management and  
30 operation of National Inland Waterways to ensure the attainment of the in

1 objectives referred to in section 1 of this Act;

2 (b) facilitate the establishment of international protocols on National  
3 Inland Waterways;

4 (c) facilitate the conclusion of agreements with foreign governments  
5 and international organisations for the improvement and development of  
6 National Inland Waterways;

7 (d) encourage co-operation within the ECOWAS region for the  
8 adoption of common standards, safety practices and interconnection of  
9 National Inland Waterways;

10 (e) receive and review records and reports submitted by the  
11 Authority;

12 (f) upon consultation with the Authority, declare new National Inland  
13 Waterways as may be provided for from time to time in accordance with the  
14 Master Plan developed by the Authority.

Formulation of  
Policy

15 35. Prior to the formulation or review of policies for the National  
16 Inland Waterways sector, the Minister shall consult with and have due regard to  
17 the representations of relevant stakeholders in the sector, including, but not  
18 limited to, the Authority, the Commission, industry participants and the general  
19 public.

20 PART IX - PROVISIONS RELATING TO LAND AND ASSETS

Power to acquire  
land

21 36. The Authority shall have the power to acquire land by purchase for  
22 the purposes of the Authority and all such purchases shall be made subject to  
23 applicable law.

Power to enter  
land to erect  
beacons, conduct  
surveys and  
remove obstruction  
to visibility of  
lighthouses and  
beacons

24 37. -(1) The Authority's employees or agents may enter and remain on  
25 any land to erect beacons, buoys and moorings, to conduct surveys or to  
26 perform any of their duties under this Act.

27 (2) Any 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.

(3) Notwithstanding the provisions of subsection (1) and (2) of this section, employees or agents shall not enter any land, building or any enclosed court or garden attached to a dwelling house except with the consent of the occupier thereof which consent shall not be unreasonably withheld and unless at least fourteen (14) days' notice of the intended entry shall have been given such owner or occupier.

#### PART X - TECHNICAL AND SAFETY MATTERS

38. Subject to the provisions of this Act, the Authority shall, for the purpose of ensuring safety of navigation and shipping in National Inland Waterways within its jurisdiction:

Safety on land  
within National  
Inland Waterways

(a) control the entry, stay, movement and operations of vessels within the National Inland Waterways and their departure and all other traffic matters;

(b) regulate the loading, discharge and storage of cargo and the embarkation and disembarkation of passengers;

(c) provide or procure River guide services, certify pilots, and regulate the safe provision of River guide services by certified pilots;

(d) provide or procure tug services, certify tug service providers and regulate the safe provision of tug services by licensed tug service providers;

(e) provide, operate and maintain adequate and efficient aids to navigation and at such other places as the Authority may determine;

(f) undertake dredging and maintenance of channels;

(g) remove or cause to be removed any obstruction or object that may pose a danger to shipping or navigation; and

(h) ensure the isolation of dangerous and harmful cargo to secure safety of life and protection against injury.

39.-(1) The Authority may:

Removal of  
wrecks and  
vessels

(a) with the consent of the Admiralty Marshal order that a vessel which has been arrested or attached by an Order of Court or another the

1 competent authority be moved to another place within the National Inland  
2 Waterways and, if necessary, move such vessel to that place;

3 (b) search for, raise, remove or destroy any sunken, stranded or  
4 abandoned vessel or wreck within the National Inland Waterways limits and  
5 recover the costs incurred in connection with such searching, raising, removal  
6 or destruction from the owner.. of the vessel or any other person who had the  
7 beneficial use of the vessel at the time it sank, became stranded or was  
8 abandoned; and

9 (c) Search for and remove any wreck or obstruction which may  
10 endanger the safety of any vessel entering or leaving the National Inland  
11 Waterways, and recover the costs of such search and removal from the owner of  
12 the wreck or obstruction, or from any person responsible for the presence of  
13 such wreck or obstruction.

14 (2) The Authority may give notice to the owner or the person legally  
15 responsible for any vessel within National Inland Waterways limits which is  
16 not seaworthy, directing such owner or person to remove or otherwise dispose  
17 of such vessel or part thereof, which is likely to become an obstruction, wreck  
18 or derelict or a threat to the environment or public safety and to recover from  
19 that owner or person all costs incurred for the removal or disposal should the  
20 owner or person fail to comply with such notice within the time specified  
21 therein.

22 (3) The Authority may, after a written demand for any costs  
23 contemplated in subsection (2) of this section, and on non-payment thereof,  
24 sell the relevant vessel or wreck and out of the proceeds of the sale defray such  
25 unpaid costs, rendering the surplus, if any, to the person entitled to it, or  
26 recovering any unpaid balance from the owner or other person referred to in  
27 subsection (2) of this section or institute an admiralty action under the  
28 Admiralty Jurisdiction Act to recover such costs.

Restriction on  
execution against  
the property of the  
Authority

29 PART XI - LIABILITY, LEGAL PROCEEDINGS AND ENFORCEMENT

30 40. In an action or suit against the Authority, any sums of money

1 which may, by the judgment of the court, be awarded against the Authority  
2 shall be paid from the Fund of the Authority and where the Authority fails to  
3 make payment within 30 days of demand, execution or attachment or  
4 process in the nature thereof may be issued against the Authority, subject to  
5 any right of stay or to restrict execution under the general law.

6 41. -(1) No suit against the Authority or any servant of the Legal Proceedings  
7 Authority for any act done in pursuance or intended execution of any Act or  
8 Law, or of any public duty or authority) or in respect of any alleged neglect  
9 or default in the execution of such Act or Law, duty or 'authority shall lie or  
10 be, instituted in any court, unless it is commenced within twelve months  
11 next after the act, neglect or default complained of or, in the case of a  
12 continuing damage or injury, within twelve months next after the ceasing  
13 thereof.

14 (2) No suit shall be commenced against the Authority before the  
15 expiration of a period of one month after written notice of intention to  
16 commence the Suit has been served on the Authority by the intending  
17 plaintiff or his agent and the notice shall clearly and explicitly state the:

18 (a) cause of action;

19 (b) name and place of abode of the intending Plaintiff; and (c) relief  
20 which he claims.

21 (3) For the purpose of this Act, "suit" means a civil proceeding  
22 commenced by writ of summons or such other manner as may be prescribed  
23 by rules of court and includes an action but not criminal proceeding.

24 (4) The notice and any summons, or other documents required or  
25 authorised to be served on the Authority in connection with a suit by or  
26 against it, may be served by:

27 (a) delivering it to the Managing Director;

28 (b) sending it by registered post addressed to the Managing  
29 Director at the head office of the Authority; or

30 (c) electronic means through the e-mail or website of the Authority.

1 (5) A person connected with the direct working of the Authority shall  
2 not be removed under arrest whether in execution of a warrant or otherwise  
3 when his immediate removal from duty might result in danger to life or goods,  
4 unless the immediate officer in-charge of the work in which the person is  
5 engaged has been given an opportunity of providing a substitute.

6 (6) In a suit pending before a court, the Authority may be represented  
7 by an appropriate employee.

Master, owner or  
person in charge  
of vessel  
answerable for  
damage

8 42. Where damage is done to any property of the Authority by any  
9 vessel or float of timber, the cost of making good the damage, including the  
10 expenses of any inspection or survey carried out by the Authority to ascertain  
11 such damage, may be recovered by the Authority as a debt from the master,  
12 owner or person in charge of the vessel or float of timber, as the case may be.

Detention of  
vessels causing  
damage

13 43. The Authority may:

14 (a) detain any vessel or equipment causing damage until the costs of  
15 making good such damage and the expenses described in section 49 of this Act  
16 have been paid to the Authority or into court pending the outcome of litigation  
17 in respect of it;

18 (b) require the master, owner or person in charge of the vessel or  
19 equipment to deposit such sum of money or furnish such security as may be  
20 required by the Authority in order to meet such costs and expenses.

Power of  
distrain for non-  
payment of dues  
and rates

21 44. -(1) Where the agent of a vessel in respect of which any dues or  
22 rates are payable refuses or neglects to pay the dues or rates on demand, the  
23 Authority may distrain the vessel and the tackle, apparel and furniture therein  
24 until the amount of the dues or rates is paid.

25 (2) Where after 14 days commencing from the date of distraint any  
26 dues or rates; or any of the expenses of distraint of the vessel and its tackle,  
27 apparel and furniture, remain unpaid, the Authority may cause the vessel or  
28 tackle, apparel and furniture distrained to be sold. The Authority shall retain the  
29 amount of dues, rates or expenses which are owed by the vessel out of the

1 proceeds of the sale and shall deliver the balance to the master of the vessel,  
2 on demand.

3 45. -(1) The Authority may in writing authorise any of its officials  
4 or appoint external inspectors on its behalf to exercise the functions of  
5 monitoring and enforcement vested under this Act.

Monitoring and  
Enforcement

6 (2) The Authority may direct its authorised officials or appointed  
7 inspectors to investigate the activities of a concessionaire, licensee, permit  
8 holder or any other person pursuant to its powers under this Act.

9 (3) In exercising any of the powers specified in subsection (2) of  
10 this section and notwithstanding any other provision of this Act, an  
11 authorized official of the Authority or its appointed inspector:

12 (a) shall on demand produce to any person against whom he is  
13 acting, the instrument issued to him by the Authority to act in that capacity;  
14 and

15 (b) may during office hours and with prior notice, enter any  
16 affected persons' or licensee's premises to:

17 (i) inspect and make copies of or extracts from books, records,  
18 documents or other information storage systems;

19 (ii) demand the production of and inspect the relevant licence,  
20 permit, certificate or authority; and

21 (iii) inspect any facility on the premises,

22 Provided that the official or appointed inspector shall have in his possession  
23 for the purposes of entering any affected person's premises a warrant for that  
24 purpose obtained from a magistrate or judge prior to the entry.

25 (4) Persons employed by the Authority, with the assistance of the  
26 relevant law enforcement agencies shall have the power to enforce the  
27 provision of this act and any regulations made hereunder including the  
28 power to arrest, seize and prosecute.

29 46. Where an operator within the declared right of way of the  
30 Nigerian National Inland Waterways fails to comply with the prescribed

Power to Seal  
Premises and  
stop activities

1 regulation or approved tariff under this Act, the Authority with the assistance of  
2 the relevant law enforcement agencies shall have power to seal such premises  
3 or site pending the determination of a law suit in effect.

4 PART XII - OFFENCES AND PENALTIES

Damage to  
property of the  
Authority

5 47. Any person who wilfully removes, destroys or damages any  
6 property belonging to or in the custody or possession of the Authority or  
7 hinders or prevents such property from being used or operated in the manner in  
8 which it is intended to be used or operated, is guilty of an offence and shall be  
9 liable on conviction to a fine of not less than N1,000,000.00 and shall make  
10 good any loss, destruction or damage suffered by the Authority, including the  
11 expenses of any inspection or survey carried out by the Authority to ascertain  
12 the loss, destruction or damage.

Unlawful operation  
of National Inland  
Waterways  
services or  
facilities

13 48.-(1) A person shall not erect, re-erect, alter, extend, own or occupy  
14 a pier, jetty or wharf in any place within the National Inland Waterways except  
15 in accordance with a permit granted by the Authority.

16 (2) A person shall not establish, install, maintain, provide or operate  
17 any marine service or facility or any National Inland Waterways service or  
18 facility without a permit from the Authority.

19 (3) Any violation of the provisions of subsections (1) and (2) of this  
20 section shall be an offence liable on conviction to a fine of not less than  
21 N1,000,000.00 or to imprisonment for a term not less than three years or to both  
22 and in the case of a continuing offence, to a further fine of not less than  
23 N120,000.00 for each day or any part thereof during which the offence  
24 continues.

Evasion of dues,  
fees, fines and  
charges

25 49. The operator of river ports, dockyards, jetties, piers, or owner,  
26 agent, or master of any vessel or consignor or consignee of any goods, who by  
27 any means whatsoever, evades or attempts to evade, or neglects or omits to pay  
28 any dues, rates, charges or fees payable under this Act shall.

29 (a) be liable to pay to the Authority a penalty ten times the amount of  
30 the dues, rates, charges or fees he evaded or attempted to evade, or neglected or



omitted to pay; and

(b) have his licence, permit or authorization to operate withdrawn by the Authority for a period not exceeding twelve months.

50. -(1) A vessel shall not enter or approach the National Inland Waterways in Nigeria except with the prior approval of the Authority.

Offences by  
master of vessel

(2) Where a vessel:

(a) enters any National Inland Waterways or any approach to the National inland waterways without having first being issued with the requisite permit by the Authority; or

(b) fails to leave any National Inland Waterways or any approach to the National inland waterways or to leave any berth at the National inland waterways when required to do so by the Authority, the master is guilty of an offence and shall be liable on conviction to a fine of not less than N200,000.00 or to imprisonment for a term not exceeding three months or to both.

(3) Where the master fails to comply with the provision of subsection (1)(b) of this section, the master shall in addition to the fine be liable to pay by way of damages assessed at the rate of N35.00 per registered tone for every hour that such vessel remains at the National Inland Waterways or its approach after the time for departure required by such notice has expired.

(4) Where an offence under subsection (1) of this section is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of the owner of a vessel, the owner or his agent shall be guilty and liable on conviction in the case of:

(a) an individual, to a fine of N300,000.00 for each day or a part thereof during which the offence continues or to imprisonment for a term of twelve months; and

(b) a body corporate, to a fine of N500,000.00 and a further fine of

	1	N200,000.00 for each day or part thereof of during which the offence
	2	continues.
Penalty for throwing ballast and other waste into National Inland Waterways	3	51. Any person who throws or empties into any National Inland
	4	Waterways any ballast or other waste however described commits an offence
	5	and shall be liable on conviction to a fine of not less than N100, 000.00.
Penalty for giving false information as to draught of vessel and cargo	6	52. -(1) The owner, agent or master of a vessel entering or leaving or
	7	within the National Inland Waterways or approach to any National Inland
	8	Waterways who negligently makes any representation or gives false
	9	information of the type of vessel, its draught, length, beam or height to the
	10	Authority shall be guilty of an offence and shall be liable on conviction to a fine
	11	of not less than N1,000,000.00 or to imprisonment for a term not less than
	12	twelve months or to both.
	13	(2) For the purposes of this section, "height of vessel" shall be the
	14	height of the vessel measured vertically from its waterline to the highest point
	15	including its cargo, structure or equipment on board.
Penalty for wilfully sinking vessels	16	53. Any person who wilfully sinks any vessel in the National Inland
	17	Waterways or its approach without the permission of the Authority, shall be
	18	guilty of an offence and liable on conviction to a fine of not less than
	19	N1,000,000.00 and shall in addition pay to the Authority, expenses it incurred
	20	in removing the vessel.
Obstructing the Authority in the performance of its duties	21	54. Any person who at any time hinders, obstructs the Authority or
	22	hinders or obstructs officials, agents or contractors of the Authority in the
	23	performance and execution of their duty or of anything which they are
	24	empowered or required to do by virtue of or in consequence of this Act, or
	25	removes any mark set up for the purpose of indicating any level or direction
	26	necessary to the execution of works authorised by this Act, shall be guilty of an
	27	offence and shall be liable on conviction to a fine of not less than N500,000.00
	28	or to imprisonment for a term not less than six months or to both.
Preservation of secrecy	29	55. -(1) A person who is or has been a member, an officer, an
	30	employee, an adviser or an agent of the Authority or a member of the Board

1 shall not disclose any information relating to the affairs of the Authority or  
2 of any other person which has been obtained by him in the performance of  
3 his duties or the exercise of his functions except for the purpose of the  
4 performance of his duties or the exercise of his functions or when lawfully  
5 required to do so by any court or under the provisions of any written law.

6 (2) A person who contravenes the provision of subsection (1) of  
7 this section is guilty of an offence and liable on conviction to a fine of not  
8 less than N300,000.00 or to imprisonment for a term of not less than 4  
9 months or to both.

10 56. Where a Director or member of staff of the Authority  
11 contravenes the provisions of the Schedule III to this Act, or gives false  
12 information under the Schedule, he shall be liable, on conviction, to the  
13 payment of a fine not exceeding N5,000,000.00 or imprisonment for a term  
14 not exceeding twelve months or to both.

Offences against  
the Schedule III  
to this Act

15 57. Where no specific penalty is prescribed in this Act or  
16 regulations made pursuant to this Act for any offence, a person found guilty  
17 of any such offence shall be liable to a fine of not less than N250,000.00 or to  
18 imprisonment for a term of not less than six months or to both.

General penalties

19 58. The Federal High Court shall have exclusive jurisdiction over  
20 all matters arising out of or pursuant to this Act or regulations made pursuant  
21 to this Act and all references to "Court" or "Judge" in this Act shall be  
22 understood and deemed to refer to the Federal High Court or a Judge of the  
23 Federal High Court.

Jurisdiction

#### 24 PART XIII - MISCELLANEOUS

25 59.-(1) Notwithstanding the provisions of any other law, any  
26 person or bodies or Government Agency permitted or authorised under any  
27 applicable law to operate or perform any duty within the declared right of  
28 way of the National Inland Waterways shall prior to commencing work  
29 comply with the provisions of this Act and notify the Authority.

Mandatory  
compliance  
requirements by  
Government  
Agencies,  
Bodies, etc.

30 (2) The notice shall contain the:

- 1 (a) name of the agency;
- 2 (b) purpose of its intended presence in the National Inland
- 3 Waterways;
- 4 (c) estimated duration of its presence in the National Inland
- 5 Waterways; and
- 6 (d) particulars of its officers including, the number of its officers, the
- 7 names and designation of such officers and the names of their immediate
- 8 supervising officers involved in the task.

Service of Notices,  
Summons, etc.

9 **60.** A notice, summons or other document required or authorized to

10 be served on the Authority under the provisions of this Act or any other law or

11 enactment may be served by delivering it to the registered address of the

12 Authority or by sending it by registered post addressed to the Managing

13 Director of the Authority at its Headquarters.

Regulations

14 **61.**-(1) The Authority may with the approval of the Minister make

15 regulations generally for the purpose of giving effect to the provisions of this

16 Act.

17 (2) All regulations made by the Authority shall be published in the

18 Official Gazette.

Repeal

19 **62.** The National Inland Waterways Authority Act, CAPN47, Laws of

20 the Federation of Nigeria, 2004 is repealed.

Savings

21 **63.** -(1) Save as otherwise provided under this Act, all regulations,

22 orders and other subsidiary legislations made under the repealed Act and in

23 force immediately before the coming into force of this Act, shall, so far as they

24 are not inconsistent with the provisions of this Act, continue to be in force and

25 have effect as if made under this Act.

26 (2) Subject to the provision of subsection (1) of this section:

27 (a) the rights, interests, obligations and liabilities of the Authority

28 under the repealed Act existing before the commencement of this Act under

29 any contract or instrument or at law or in equity shall by virtue of this Act be

1 deemed to have been assigned to and vested in the Authority established  
2 under this Act;

3 (b) any contract or instrument as is mentioned in paragraph (a) of  
4 this subsection shall be of the same force and effect against or in favour of  
5 the Authority established under this Act and shall be enforceable as fully and  
6 effectively as if instead of the Authority established under the repealed Act,  
7 the Authority had been named therein or had been a party thereto; and

8 (c) All persons shall, as from the commencement of this Act, have  
9 the same rights, powers and remedies against the Authority established  
10 under this Act as they had against the Authority established under the  
11 repealed Act before the commencement of this Act.

12 (3) Any proceeding or cause of action pending or existing before  
13 the commencement of this Act by or against the Authority established under  
14 the repealed Act in respect of any rights, interests, obligation or liability of  
15 the Authority under the repealed Act may be continued, or if the case so  
16 requires be commenced and the determination of a court of law, tribunal or  
17 other authority or person may be enforced by or against the Authority  
18 established under this Act to the same extent that such cause of action or  
19 determination might have been continued or commenced or enforced by or  
20 against the Authority established under the repealed Act.

21 **64. In this Act:**

22 "Authority" means the Authority established under section 3 of this Act;

23 "Baseline" means the low water mark along the coast of Nigeria;

24 "Beacon" means a prominent specially constructed object forming a  
25 conspicuous mark as a fixed aid to navigation;

26 "Board" in relation to the Authority means its board of directors;

27 "Buoy" means an anchored float serving as a navigation mark to show  
28 hazards or for mooring and shall include a floating object of any size, shape  
29 and colour which is moored to the bed of the body of water in which it stands  
30 and serves as an aid to navigation or for other specific purposes;

Interpretation

- 1 "Cargo" or "Goods" includes any substance or article, livestock, minerals,  
2 wares and merchandise of every description and any container or other item  
3 used to transport any substance or article;
- 4 "Chairman" means the Chairman of the Board of Directors appointed under  
5 this Act;
- 6 "Channel" means a passage for water which includes a terminal, the bed,  
7 course, swinging basin, turning circle, an area alongside a berth or dock,  
8 fairway, anchorage and berth;
- 9 "Channel operator" means a person who manages channels in National Inland  
10 Waterways;
- 11 "Commission" means the National Transport Commission as established by  
12 the National Transport Commission Act;
- 13 "Concession" means an arrangement between the Authority and another party  
14 to provide National Inland Waterways service or operate National Inland  
15 Waterways facility in accordance with this Act and the word "concessioned" is  
16 to be interpreted accordingly;
- 17 "Concessionaire" means a person granted a concession under this Act;
- 18 "Consumer" or "National Inland Waterways user" means any person who uses  
19 National Inland Waterways services or facilities;
- 20 "Court" means the Federal High Court;
- 21 "Development" or "works" means the conversion of land to a new purpose and  
22 include:
- 23 (a) The construction, extension, demolition or removal of a building  
24 or substantial alteration of any structure in or on land;
- 25 (b) Any change to the natural or existing condition or topography of  
26 land;
- 27 (c) The decoration or alteration of the inside or outside of a building or  
28 the alteration of works;
- 29 (d) The subdivision or consolidation of land, airspace or buildings;
- 30 (e) The installation, provision or operation of facilities or services;

(f) The removal of vegetation or topsoil;

(g) Land reclamation and land decontamination; and

(h) Dredging;

"Dock" means an enclosed area of water for the loading, unloading and repairs of vessel which includes basins, locks, cuts, entrances, graving, keel blocks including planes, slipways grid irons, quays, warehouses and other works and things appertaining to any dock;

"Equipment" includes any apparatus, machinery or system used or intended to be used for the provision of National Inland Waterways services;

"Estimates" means an appropriate judgement of the amount, value, etc. of something which include recurrent revenue the best possible commercial forecast of revenue taking into account the general conditions of world trade and all other relevant factors and in respect of recurrent expenditure the best possible commercial forecast of expenditure likely to be incurred having regard to the estimates of revenue;

"Federal Government" or "Government" means the government of the Federal Republic of Nigeria;

"Gazette" means the Federal Gazette;

"Government Agency" means an agency of the Federal Government of Nigeria or of any State in Nigeria;

"Harbour" includes estuaries, navigable rivers, piers, jetties and other works in or at which vessels can obtain shelter or load and discharge goods or passengers;

"Holder of a quarrying lease" means a holder of a quarry lease as defined in the Nigerian Minerals and Mining Act 2007

"National Inland Waterways" means any navigable river, creeks, lakes, tide, lands, lagoon, below the low water baseline, or channel leading into such place having facilities for vessels to moor and load or discharge including, cargo handling facilities harbour, berths, jetties, pontoons or buoys and wharves within the limits of the National Inland Waterways in any place in

- 1 Nigeria and includes any place declared to be National Inland Waterways  
2 under this Act;
- 3 "National Inland Waterways dues" means dues levied in respect of a vessel for  
4 entering, using, leaving or moving or sailing in the National Inland Waterways:
- 5 "National Inland Waterways infrastructure" means the basic infrastructure of  
6 the National Inland Waterways, including channels, basins, quay walls, jetties,  
7 roads, railways, and infrastructure used for the provision of water, lights,  
8 power, sewerage, telecommunications and similar services;
- 9 "National Inland Waterways Operator" means a person who owns the business  
10 of, or is responsible for the management and operation of National Inland  
11 Waterways; terminals, or berths located in the National Inland Waterways but  
12 does not include the Authority established under this Act;
- 13 "National Inland Waterways repair facilities" includes dry docks, vessels  
14 repair facilities, warehouses, railways within the National Inland Waterways  
15 and any other facilities which are designated as such by the Authority;
- 16 "National Inland Waterways services" and "facilities" includes stevedoring,  
17 cargo handling, terminal operations, storage of cargo within National Inland  
18 Waterways, tug services, floating crane services, berthing services, fire -  
19 fighting, security, radio and radar services, waste disposal, vessel repairs, tank  
20 farms and any other terminal services and facilities for the handling, storage  
21 and transportation of goods on land adjoining the foreshore of Nigeria or a  
22 floating platform for the handling of passengers carried by vessels within the  
23 declared right-of-way of the Authority;
- 24 "National Inland Waterways service provider" means a person providing  
25 services within the declared right-of-way of the Authority;
- 26 "National Inland Waterways terminal" means an area, infrastructure, cargo-  
27 handling equipment, sheds and other land-based structures used for the  
28 loading, storage and discharge of cargo or the embarkation and disembarkation  
29 of passengers and includes any corresponding wharves, docks, piers, bridges  
30 and other infrastructure works, with all necessary and convenient arches,



1 drains, culverts, fences, roads, railways, land and air approaches;

2 "National Inland Waterways undertakings" means the undertakings of the  
3 Authority that relate to the provision of any facility or service of any  
4 description in connection with the exercise and performance of its powers  
5 and duties under any written law and includes any movable and immovable  
6 property and the rights of the Authority that relate to such facility or  
7 services;

8 "Land" means the part of the earth surface not covered by water which  
9 includes the river bed below the high water mark;

10 "Licence" means an authorisation to operate on the National Inland  
11 Waterways, provide National Inland Waterways service or operate the  
12 National Inland Waterways facility, issued by the Authority under this Act.;

13 "Licensee for sand dredging" means holder of a license granted by the  
14 Minister under the Nigerian Minerals and Mining Act 2007;

15 "Master" means every person, except a pilot having for the time being the  
16 command or charge of any vessel or ship;

17 "Minister" means the Federal Minister charged with the responsibility for  
18 National Inland Waterways transportation;

19 "Ministry" means the Federal Ministry charged with the responsibility for  
20 National Inland Waterways transportation;

21 "Person" means a corporate body or partnership and where an individual is  
22 required to represent a corporate body or partnership in any circumstance  
23 pursuant to this Act or its subsidiary legislation it shall be sufficient if in the  
24 case of:

25 (a) a body corporate, it is represented by a duly authorized person  
26 or employee; and

27 (b) a partnership, it is represented by a partner or a duly authorized  
28 employee of the partnership.

29 "Pier" means a structure built out into the National Inland Waterways used  
30 as a landing stage, or promenade which includes any stage, stairs, landing

- 1 places, landing stage, jetty, floating barge or pontoon and any bridge or other  
2 works connected therewith;
- 3 "Premises" means a piece of land, and the building on it, or part of a building  
4 used for commercial purposes which includes houses, structures, tenements,  
5 easements and hereditaments of any tenure, whether open or enclosed, built on  
6 or not, public or private, and maintained or not under the jurisdiction of the  
7 Authority;
- 8 "Prescribe" means a rule, direction, or order laid down, approved or given by  
9 this Act or by its subsidiary legislation or regulations or any relevant  
10 legislation;
- 11 "President" means the President of the Federal Republic of Nigeria;
- 12 "Repealed Act" means the National Waterways Authority Act, CAPN47, Laws  
13 of the Federation of Nigeria, 2004;
- 14 "Regulations" means an order issued by the Authority under this Act;
- 15 "relevant stakeholders" include private sector, states and local governments;
- 16 "Revenue" means any monies received by the Authority by way of charges,  
17 scales of charges or other duties imposed by or under this Act and includes any  
18 monies accruing to the Authority under this Act;
- 19 "River guide" means a person providing pilotage to navigation in river craft  
20 who has conduct thereof;
- 21 "Sand" means a substance consisting of fine loose grain of rock or minerals  
22 found on river bed being an essential element to National Inland Waterways  
23 navigation;
- 24 "Sand Dredging" means the scooping up of fine loose grains of rock or  
25 minerals and objects from the bed of a river or within the water channel;
- 26 "Service provider" means any provider of services in or in respect of the  
27 National Inland Waterways;
- 28 "Seafarers" include every person except masters and pilots employed or  
29 engaged in any capacity on board any ship;
- 30 "Ship" includes every description of vessel used in navigation;

"Tariff" or "charges" or "rates" means list of fees, fares, or other prices charged by the government which include National Inland Waterways dues, dues on goods, river guide dues and other charges levied by National Inland Waterways service providers;

"Terminal infrastructure" means a building or complex containing facilities needed by transportation operators and passengers at either end of a travel or shipping route by National Inland Waterways which includes terminal buildings, cargo handling equipment, workshops, substations, surfacing, rail sidings and terminal operations and water, lights, power, sewerage, telecommunications and similar services within the terminal boundaries;

"Terminal operations" means services provided at the National Inland Waterways terminal, consisting of cargo handling storage and delivery to vessels and services related thereto;

"Vessel" means any kind of vessel that is used, or capable of being used, in navigation by water, however propelled or moved, and includes:

(a) a ship, a barge, lighter, floating platforms, restaurant or other floating vessel, and an air-cushion vehicle, or

(b) other similar craft that is used in navigation on water.

"Wharf" means a structure built alongside or out into the water at a landing place for vessels with a protective covering or enclosure which includes any wall and building adjoining the foreshore, creek-bed, lagoon-bed, lake-bed or river-bed, quay, pier, jetty, ramp or other landing place.

65. This Bill may be cited as the National Inland Waterways Authority Bill, 2016.

- 1 SCHEDULE I
- 2 DECLARED FEDERAL NATIONAL INLAND WATERWAYS
- 3 [Sections 2, 15]
- 4 1. The River Niger from the Nigeria/Niger/Benin border, through the
- 5 rivers Nun and Forcados distribution to the Atlantic Ocean.
- 6 2. The River Benue from the Nigeria/Cameroun border to the
- 7 confluence with River Niger at Lokoja.
- 8 3. The Cross River from the Nigeria/Cameroun border to the Atlantic
- 9 Ocean, and all its distributaries.
- 10 4. Rivers Sokoto, Kaduna, Gerinya, Gongola, Taraba, Donga,
- 11 Katsina-Ala, Anambra, Ogun, Oluwa, Osse, Benin, Imo and Qua-Iboe.
- 12 5. The intra-coastal route from Badagry, along the Badagry Creek to
- 13 Lagos, through Lagos Lagoon to Epe, Lekki Lagoon on Iwopin, along Omu
- 14 Creek, Talifa River to Atijere, Akata, Aboto, Oluwa River to Okitipupa and
- 15 onto Gbekebo, Arogbo, Ofunama, Benin Creek to Warri. Also the canal
- 16 running from Araromi through Aiyetoro, Imelumo to Benin River and from
- 17 Aiyetoro through Mahin Lagoon to Igbokoda.
- 18 6. The waterway from Warri along the Forcados River, through
- 19 Fukana, Siama, Bomadi, Angalabiri, Patani, Torofani, down River Nun to
- 20 Agberi, Kaima, Sabagreia, Gbaran Creek, Agudama, Ekpetiona into Ekole
- 21 Creek to Tanaka, Yenegoa, Sangata to Mbiakpaba, onto Okokokiri, Ofokpota,
- 22 Olagaga, Nembe, Adema, Agoribiri Creek to Egbema, Degema, Somobreiro
- 23 River to Hanya Town, Ogbakiri to Port Harcourt.
- 24 7. The waterway from Port Harcourt, through Amadi Creek down
- 25 Bonny River, into Opobo Channel Adoni River, through Andoni Flats. Tellifer
- 26 Creek, Imo River, Shooter Creek, Qua Iboe Creek, Qua Iboe River, Stubbs
- 27 Creeks, Widenham Creek, Effiat-Mbo Creek, Cross River estuary to Oran and
- 28 Calabar.
- 29 8. Rivers Benin, Ethiope, Ossiomo, Onne, Abba, Asumini, Olomum,
- 30 Siluko, Talifa, Forcados, Penington, Escravos, Warri, Ramos, Dodo, Bonny,

1 Middleton, Fishtown, Sengana, Brass of Nicholas, Santa Barbara, San  
2 Batholomew, Sambriero, New Calabar, Mob, Rio del Rey, Uruan,  
3 Akwayafe.

4 9. Creeks Odiam, Agamama Tora, Nembe, Krakama, Buguma,  
5 Bille, Finima, New Calabar, Ekole, Cawthorne Channel, Ikane-Bakassi,  
6 Omu, Kwato (Gwato), Adagbrassa, Chananomi, Okpoko, Jones Kulama,  
7 Ikebiri, Nikorogba, Sagbama, Egbedi, Kolo, Laylor and Hughes Channel.

8 10. Lakes Mahin, Oguta and Osiam Ehoma.

9 11. The Orashi River from Oguta Lake to Ebocha, Omoku,  
10 Kreigani, Moiama, Okariki, Egbema and Sombreiro River.

11 12. The part of Lake Chad that is within the boundaries of Nigeria.

12 SCHEDULE II

13 [Sections 16]

14 RIVER PORTS WHOSE APPROACHES ARE EXEMPTED FROM THE CONTROL  
15 OF THE AUTHORITY

16 1. Lagos

17 2. Port Harcourt

18 3. Warri

19 4. Calabar

20 5. Burutu

21 6. Akassa

22 7. Bonny

23 8. Degema

24 9. Forcados

25 10. Koko Town

26 11. Federal Lighter Terminal Onne

## SCHEDULE III

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD OF THE  
AUTHORITY

[Sections 7(5), 56]

*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 the absence of the Chairman, the members present at that meeting shall appoint one of their members to preside at the meeting and minutes shall be taken of each meeting of the Board and any Committee by the Secretary.

3. The quorum for any meeting of the Board shall be at least 5 Directors.

4. The Board shall meet to transact its business pursuant to this Act whenever it is summoned by the Chairman on at least 7 days written notice and the Chairman shall, if so required by notice given to him by not less than 4 other members of the Board specifying, amongst others, an agenda for the meeting, summon a meeting of the Board which shall be held not later than 14 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 not less than 4 times in each calendar year.

5. A member of the Board who directly or indirectly has a personal interest (including but not limited to financial interests) in any matter being deliberated upon by the Board, or is personally interested in any contract made or proposed to be made by the Authority shall, so soon after the facts of the matter of his interests have come to his knowledge, disclose his interest and the nature thereof at a meeting of the Board.

6. A disclosure under paragraph 5 of this Schedule shall be recorded in the minutes of the Board meeting and the member concerned shall:

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

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

7. Decisions at meetings of the Board shall be taken by a simple majority.

8. In the case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

#### *Committees*

9. Subject to its standing orders, the Board may appoint such number of standing or ad hoc Committees as it thinks fit to consider and report on any matter with which the Authority is concerned.

10. A Committee appointed under paragraph 9 shall:

(a) consist of such number of persons who may not necessarily be members of the Board as may be determined by the Board, provided that the appointment of a non-Board member as a Committee member shall be subject to such terms as would be indicated in his letter of appointment; and

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

11. The quorum of any Committee set up by the Board shall be determined from time to time by the Board.

12. A decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.

#### *Miscellaneous*

13. The fixing of the seal of the Authority shall be authenticated by the signature of the Secretary and that of the Chairman or any other member of the Board generally or specifically authorised by the Board to act for that purpose.

14. Any contract or instrument which, if made by a person not

1 being a body corporate, would not be required to be under seal may be made or  
2 executed on behalf of the Authority by any person generally or specially  
3 authorised by the Board to act for that purpose.

4 15. Any document purporting to be a contract, instrument or other  
5 document duly signed or sealed on behalf of the Authority shall be received in  
6 evidence and shall, unless the contrary is proved, be presumed without further  
7 proof to have been so signed or sealed.

8 16. Subject to the provisions of this Act, the validity of any  
9 proceedings, act or decision of the Board or of any of its Committees shall not  
10 be affected by:

11 (a) any vacancy in the membership of the Board or Committee;

12 (b) any defect or irregularity in the appointment of a member of the  
13 Board or Committee;

14 (c) the fact that any person not entitled to do so took part in the  
15 proceedings of the Board or Committee.

16 17. A member of the Board or a Committee shall not be personally  
17 liable for any act or omission done or made in good faith while engaged in the  
18 business of the Authority.

19 18. A person shall not by reason only of his membership of the Board  
20 be treated as holding an office of emolument under the Government of the  
21 Federation or the Government of any State of the Federation.

#### 22 SCHEDULE IV

#### 23 CONFLICTS OF INTEREST

24 [Sections 8(4), 10(1) (f), 14(3)]

25 1. Subject to the further provisions of this Schedule, no Director or  
26 member of staff of the Authority shall have a direct or indirect financial interest  
27 or investment in any shipping, stevedoring, pilotage or terminal operations  
28 throughout the tenure of his office or employment with the Authority.

29 2. Subject to paragraphs 3 and 4 of this Schedule, each Director or  
30 member of staff of the Authority shall on an annual basis present a written of



1 declaration no later than the third month of each year affirming the non-  
2 existence of any such interest as is specified in Paragraph 1 and shall pledge  
3 to disclose and inform the Authority of any such relationship or interest that  
4 arises or is likely to arise during his tenure or employment with the  
5 Authority.

6 3. Directors and members of staff of the Authority as at the  
7 commencement date of this Act shall be entitled to a maximum of 6 months  
8 from the said commencement date within which to divest themselves of  
9 their direct or indirect financial interests or investment in any shipping,  
10 stevedoring, pilotage or terminal operations, if any.

11 4. All newly-appointed Directors and members of staff of the  
12 Authority after the commencement of this Act shall be entitled to a  
13 maximum of 3 months from their respective dates of appointments within  
14 which to divest themselves of their direct or indirect financial interests or  
15 investments in any shipping, stevedoring, pilotage or terminal operations, if  
16 any.

17 5. Each Director or staff of the Authority shall declare on  
18 appointment or at the commencement of employment and annually  
19 thereafter, for as long as he serves the Authority, any interest or investment  
20 that he:

21 (a) knowingly has; or

22 (b) knows any member of his immediate family to have in any  
23 aspect of the National Inland Waterways industry.

24 6. Subject to Paragraph 7 of this Schedule, the Board shall from  
25 time to time waive the application of the prohibitions specified in  
26 Paragraphs 1 and 2 of this Schedule to any Director or member of staff of the  
27 Authority if the Board reasonably determines that the financial interest of  
28 the relevant person is immaterial nature or is minimal.

29 7. The Board in determining whether or not the interest of a  
30 Director or member of staff of the Authority is minimal or immaterial shall

1 consider factors including but not limited to the:

2 (a) revenues, investments, profits and managerial efforts of the  
3 relevant company or other entity in regard to its National Inland Waterways  
4 activities compared with other aspects of the Authority's or such entity's  
5 businesses;

6 (b) extent to which the Authority regulates and oversees the activity of  
7 such company or entity;

8 (c) degree to which the economic interests of such company or other  
9 entity may be affected by an action of the Authority; and

10 (d) perceptions held or likely to be held by the public regarding the  
11 relevant person's financial interest or investment in that company or other  
12 entity.

13 8. The Board may at any time review and reverse its determination  
14 under paragraph 6 of this Schedule and direct the application of the  
15 prohibitions contained in this Schedule to the affected Director or member of  
16 staff of the Authority and the Board shall not be under an obligation to disclose  
17 the reason or basis for its review to the affected Director or member of staff.

18 9. In any case in which the Board exercises the waiver or the review  
19 thereof as specified in paragraphs 6 and 8 of this Schedule, the Board shall so  
20 soon thereafter publish the details thereof and such publication shall include  
21 information regarding the identity of the person who has been granted the  
22 waiver or whose grant of waiver has been reviewed, the position held by such  
23 person and the nature of the financial interests which are the subject of the  
24 waiver or the review thereof.

25 10. For the purpose of this Schedule:

26 (a) "company" includes partnerships and undertakings; and

27 (b) "immediate family" means a person's spouse, a partner living with  
28 that person as if they were married to each other and children who are under the  
29 age of 18.

## EXPLANATORY MEMORANDUM

*(This Memorandum does not form part of this Act but is  
intended to explain its purport)*

This Bill repeals the National Inland Waterways Act, CAP N47, Laws of the Federation of Nigeria, 2004 and enacts the National Inland Waterways Act to provide for the management, regulation and development of National Inland Waterways in Nigeria and establish the National Inland Waterways Authority to manage and regulate National Inland Waterways and to involve private sector participation in the National Inland Waterways operations in Nigeria.