

NIGERIAN PORTS AND HARBOURS AUTHORITY BILL, 2016

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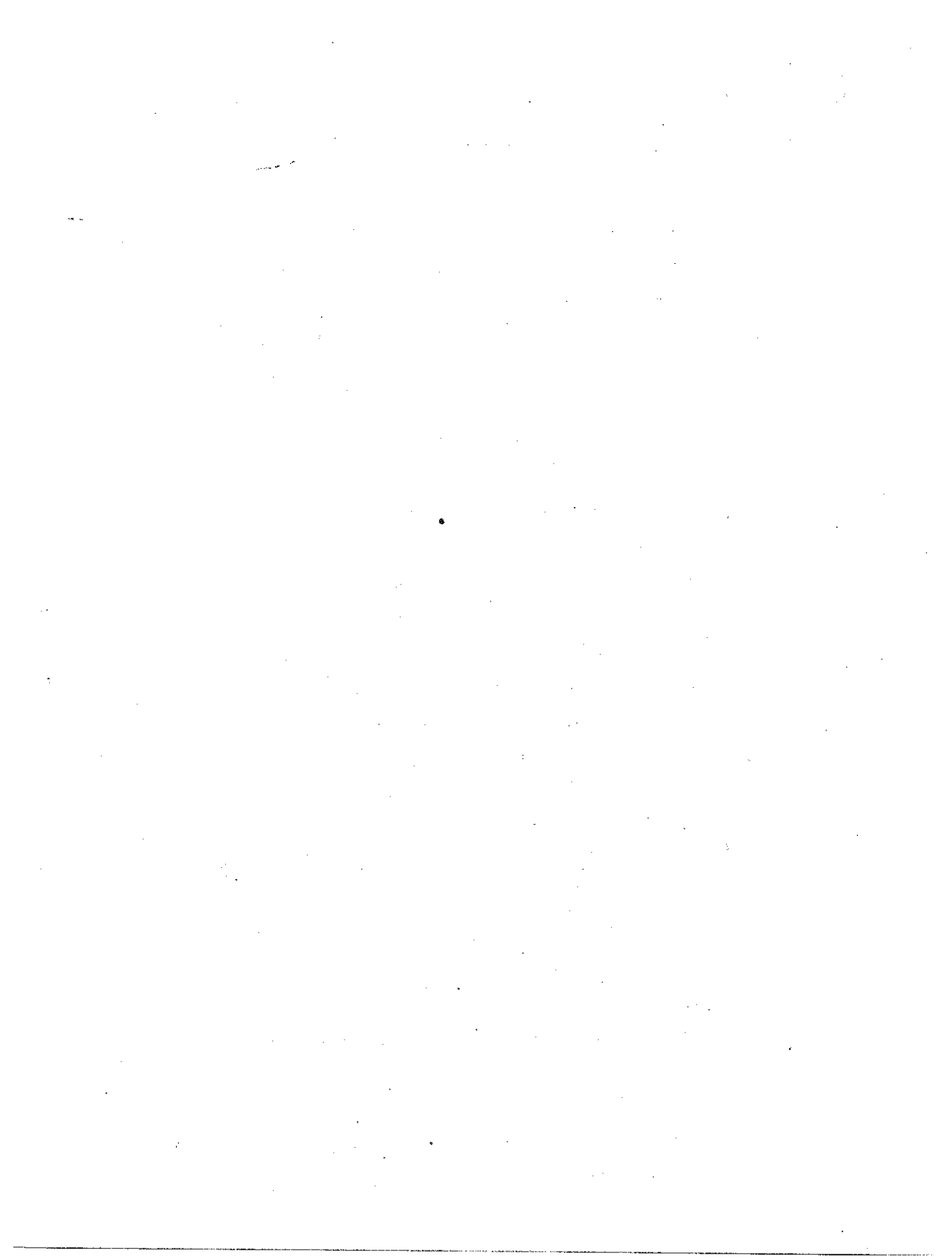
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SCHEDULE



# BILL

## FOR

AN ACT TO REPEAL THE NIGERIAN PORTS AUTHORITY ACT, CAP 126 LFN, 2004 AND TO ESTABLISH THE NIGERIAN PORTS AND HARBOURS AUTHORITY TO PROVIDE FOR THE OWNERSHIP, MANAGEMENT AND DEVELOPMENT OF PORTS AND HARBOURS AND FOR RELATED MATTERS

*Sponsored by Hon. Pat Asadu*

[ ] Commencement

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

### PART I - PURPOSE AND SCOPE OF APPLICATION

1. -(1) The purposes of this Act are to:

Purpose of the Act

(a) provide an appropriate institutional framework for the ownership, management and development of ports and harbours;

(b) ensure the integrity, efficiency and safety of the ports based on the principles of accountability, competition, fairness and transparency;

(c) encourage private sector participation in the provision of port services and port infrastructure; and

(d) promote and safeguard Nigeria's competitiveness and trade objectives.

(2) The purposes stated in sub-section (1) of this section shall be achieved through the:

(a) establishment of an authority which shall be vested with the control and ownership of all ports and harbours on behalf of the Federal Government of Nigeria;

(b) transfer of the technical regulatory powers relating to ports to the Authority; and

(c) transfer of the ownership of the land and assets relating to ports currently vested in the Nigerian Ports Authority to the Authority

(3) Subject to the purposes stated in subsection (1) of this section,

1 the provisions of this Act shall be read and interpreted in connection with the  
2 following specific objectives:

3 (a) the separation of the cargo handling from the landlord functions  
4 and the Technical regulatory functions within ports and foster greater operating  
5 efficiency, accountability and transparency in the management and operation  
6 of ports;

7 (b) provision of safe navigation, development and efficient  
8 management of harbours, channels and waterways and all other conservancy  
9 functions;

10 (c) facilitation of the transfer of technology, information systems  
11 and managerial expertise through private sector participation in port  
12 operations;

13 (d) creation of the means for planning, coordinating, developing  
14 and integrating port policies with other maritime activities, surface and air  
15 transportation systems;

16 (e) introduction and maintenance of appropriate institutional  
17 arrangements to support good governance and accountability in the ports;

18 (f) protection of the rights and interests of port service providers,  
19 commercial port users within Nigeria and ensuring that efficient and effective  
20 port services are available at a reasonable cost to the users;

21 (g) evolve and sustain high level of safety and environmental  
22 protection; and

23 (h) encourage the development of further innovations in the  
24 maritime and shipping sector to promote effective research and development  
25 of the sector;

Scope of  
Application

26 **2. This Act shall apply to:**

27 (a) all port related activities carried out within the Nigeria maritime  
28 domain;

29 (b) all ports and harbours specified in the First Schedule to this Act,  
30 and all other ports that may be declared from time to time by the Minister;



1 (c) any person or government agency with respect to any activity  
2 or operations in ports and harbours within Nigeria; and

3 (d) any other location where a maritime activity is taking place  
4 within the maritime domain of Nigeria.

5 PART II - ESTABLISHMENT OF THE NIGERIAN PORTS AND HARBOURS  
6 AUTHORITY AND ITS GOVERNING BOARD, ETC

7 3. -(1) There is established a body to be known as the Nigerian  
8 Ports and Harbours Authority (in this Act referred to as "the Authority")

Establishment of  
the Nigerian Ports  
and Harbours  
Authority

9 (2) The Authority shall be a body corporate with perpetual  
10 succession and a common seal and may sue and be sued in its corporate  
11 name

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

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

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

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

20 4. -(1) There is established for the Authority, a governing body  
21 (in this Act referred to as "the Board") which shall have overall control of the  
22 Authority.

Establishment  
and membership  
of the Board

23 (2) The Board shall consist of:

24 (a) a non-Executive Chairman;

25 (b) the Managing Director of the Authority;

26 (c) the three Executive Directors of the Authority; and

27 (d) six persons appointed from each of the six geopolitical zones.

28 (3) The Chairman and members of the Board referred to in  
29 paragraph (d) of subsection (2) of this section shall be appointed by the  
30 President on the recommendation of the Minister.

1 (4) Members of the Board referred to in subsection (2) of this  
2 section shall be persons of integrity possessing cognate experiences in relevant  
3 fields and versed in areas of ports, harbours and environmental management.

4 (5) In managing the affairs of the Authority, the Board shall, in  
5 addition to any relevant general guidance on the governance of public bodies,  
6 have regard to the generally accepted principles of good corporate governance.

7 (6) The supplementary provisions set out in the third Schedule to  
8 this Act shall have effect with respect to the proceedings of the Board and the  
9 other matters mentioned therein.

Tenure of  
office

10 5. The Chairman and members of the Board, other than ex-officio  
11 members, shall be appointed on part-time basis and shall each hold office:

12 (a) for a term of four years and may be re-appointed for a further  
13 term of four years and no more; and

14 (b) on such terms and conditions as may be specified in the letter of  
15 appointment.

Cessation of  
membership

16 6. -(1) Notwithstanding the provision of section 5 of this Act, a  
17 member of the Board shall cease to hold office as a member of the Board if he:

18 (a) resigns his appointment as a member of the Board by a notice in  
19 writing, under his hand, addressed to the President;

20 (b) becomes incapable of carrying on the function of his office  
21 either arising from infirmity of mind or body;

22 (c) becomes bankrupt or makes a compromise with his creditors;

23 (d) is convicted of a felony or any offence that involves dishonesty  
24 or corruption;

25 (e) is found to have been unqualified for appointment as a director;

26 (f) has been absent from five consecutive meetings of the Board  
27 without the consent of the Chairman except where he shows good reason for  
28 such absence;

29 (g) is in breach of the conflict of Interest Rules set out in the fourth  
30 Schedule to this Act;

1 (h) is guilty of serious misconduct in relation to his duties as a  
2 director; or

3 (i) is suspended or removed from office by the President on the  
4 recommendation of the Minister where it is found that it is not in the interest  
5 of the Authority or public for the person to continue in office.

6 (2) Where a vacancy occurs in the membership of the Board, it  
7 shall be filled by the appointment of a successor to:

8 (a) hold office for the remainder of the term of office of his  
9 predecessor; and

10 (b) represent the same interest as his predecessor.

11 7. All payments, allowances and benefits payable to members of  
12 the Board shall be in accordance with the extant Federal Government  
13 guidelines.

Remuneration of  
Board Members

14 8. The Board shall have the power to:

Powers of the  
Board

15 (a) provide general policy guidelines relating to the functions of  
16 the Authority;

17 (b) manage and superintend the policies of the Authority;

18 (c) determine the terms and conditions of service of the  
19 employees of the Authority;

20 (d) fix the remuneration, determining the job description,  
21 qualifications, allowances and benefits of staff and employees of the  
22 Authority in accordance with extant Federal Government regulations; and

23 (e) do such things which in its opinion are necessary to ensure the  
24 efficient performance of the functions of the Authority under this Act.

### 25 PART III - FUNCTIONS AND POWERS OF THE AUTHORITY

26 9.-(1) The Authority shall:

Functions of the  
Authority

27 (a) develop a plan for, undertake and supervise the dredging and  
28 maintenance of channels within the Ports limit and its approaches in  
29 Nigeria;

30 (b) develop a plan for and maintain national strategic port

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

1 (q) provide for and maintain all coastal and channel  
2 management services;

3 (r) develop and deploy resources in ports to enhance port  
4 security;

5 (s) engage in any business activity, either alone or in partnership  
6 with other persons, as may be approved by the Minister;

7 (t) in co-operation with relevant Agencies provide or arrange  
8 road and rail access to ports and facilitate the integration of infrastructure  
9 and logistics systems in the ports;

10 (u) provide requisite assistance, including search, rescue and  
11 salvage operations to any vessel entering or leaving any port and within the  
12 approaches to the ports for the purpose of saving life and property;

13 (v) develop implementation and operational strategies suitable to  
14 the peculiarities and economic viability of the ports with due regard to the  
15 consequences of its activities on the environment and the heritage, whether  
16 natural or man-made;

17 (w) grant concessions to private entities in accordance with the  
18 laid down processes;

19 (x) ensure compliance of private operators with its overall policy  
20 on health and safety, environmental protection, coastal conservancy; and

21 (y) perform such other functions as may be necessary to give  
22 effect to the provisions of the Act.

23 (2) The Authority shall take steps to ensure the effective planning  
24 and management of the ports and harbours.

25 (3) The Authority shall perform its functions in a manner that is:

26 (a) safe and secure;

27 (b) environmentally sustainable;

28 (c) effective and efficient; and

29 (d) commercially sound.

General Powers  
of the Authority

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

- 1 (m) do anything for the purpose of advancing the:  
2 (i) skills of persons employed; or  
3 (ii) efficiency of the equipment or the manner in which such  
4 equipment is operated, including the provision by others of the facilities for  
5 training, education and research;
- 6 (n) provide residential accommodation, houses, hostels and other  
7 like accommodation for its employees on essential duties on terms and  
8 conditions to be determined, from time to time, by the authority;
- 9 (o) regulate and provide bunkering and chandelling services;
- 10 (p) provide or arrange for maintenance dredging, aids to  
11 navigation, hydrographic services and wreck removal;
- 12 (q) in collaboration with relevant agencies, plan and provide  
13 services in all off-shore cargo handling facilities;
- 14 (r) concession terminal operations and related services to third  
15 parties in accordance with the provisions of the ICRC Act;
- 16 (s) provide, for the approaches to all ports and territorial waters  
17 of 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) do such other things which are necessary to ensure the  
25 efficient performance of the functions of the Authority under this Act.

26 (2) The Authority shall have power make bye-laws for the control  
27 and management of the wharves and premises and, in particular may,  
28 without prejudice to the generality of the foregoing, make bye-laws for  
29 regulating declaring and defining the wharves, docks, piers and places  
30 vested in or in the possession of the Authority on or from which goods shall

Special Powers  
of the Authority

1 be landed and shipped.

2 11.-(1) The Authority may:

3 (a) establish and maintain subsidiaries, whether wholly or jointly  
4 with other persons or organisations for the purpose of carrying out any its  
5 functions under this Act;

6 (b) appoint directors and agents for the subsidiaries established  
7 pursuant to the provisions of paragraph (a) of this sub-section; and

8 (c) participate:

9 (i) in the formation of or be a member of any company for the  
10 purpose of carrying out all or any of its functions under this Act;

11 (ii) with the approval of the Board in the formation of any company  
12 for such other purposes as may be approved by the Minister; and

13 (iii) in the formation of any joint venture or partnership and other  
14 similar arrangements

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

18 PART IV - STAFF OF THE AUTHORITY

Managing  
Director of the  
Authority

19 12. -(1) There shall be for the Authority, a Managing Director who  
20 shall be:

21 (a) appointed by the President on the recommendation of the  
22 Minister;

23 (b) the chief executive and account officer of the Authority; and

24 (c) responsible for the:

25 (i) execution of the policy and the day-to-day administration of the  
26 Authority, and

27 (ii) direction, supervision and control of all other employees of the  
28 authority and subject to such restrictions as the Board may impose, for  
29 disposing all questions relating to the service of the employees, their pay,  
30 allowances and benefits.



1 (2) The Managing Director shall hold office:

2 (a) for a term of four years and may be re-appointed for a further  
3 term of four years and no more; and

4 (b) on such terms and conditions, as may be specified in his letter  
5 of appointment.

6 (3) Despite the provisions of sub-section (2) of this section, the  
7 Managing Director may:

8 (a) resign his appointment by notice in writing under his hand,  
9 addressed to the President through the Board; or

10 (b) be removed by the President for inability to discharge the  
11 functions of his office whether arising from infirmity of mind or body or any  
12 other or for misconduct or corruption.

13 13.-(1) The President shall appoint for the Authority, three  
14 Executive Directors to assist the Managing Director in the performance of  
15 his functions under this Act.

Executive  
Directors of the  
Authority

16 (2) The Executive Directors shall each hold office:

17 (a) for a term of four years and may be re-appointed for a further  
18 term of four years and no more; and

19 (b) on such terms and conditions, as may be specified in his letter  
20 of appointment.

21 (3) An Executive Director shall perform such functions as may  
22 be assigned to him in his letter of appointment or by the Managing Director  
23 or the Board from time to time.

24 14.-(1) The Board shall have a Secretary who shall be the Head of  
25 the Legal Department of the Authority.

Secretary to the  
Board of the  
Authority

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

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

30 (a) making arrangements for meetings of the Board and f such

- 1 preparing the agenda and minutes of such meetings;  
 2 (b) communicating the decisions of the Board to members of the  
 3 Board and keeping records of the Board's meetings and proceedings;  
 4 (c) keeping the corporate seal and records of the Authority;  
 5 (d) arranging for payments of fees and allowances of meetings and  
 6 all other matters affecting members of the Board; and  
 7 (e) such other duties affecting the Authority as the Board may direct  
 8 from time to time.

Other staff of  
the Authority

9 **15. -(1)** The Authority may, subject to the approval of the Board,  
 10 appoint such other staff as it may deem necessary from time to time:

- 11 (a) for the proper and effective discharge of the duties and functions  
 12 of the Authority; and  
 13 (b) on such terms and conditions as may be determined by the Board  
 14 from time to time,

15 (2) The employees of the Authority shall be subject to the Conflict  
 16 of Interest provisions contained in the Third Schedule to this Act.

17 (3) Service in the Authority shall be approved service for the  
 18 purposes of the Pension Reforms Act, 2004.

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

21 **PART V - FINANCIAL PROVISIONS**

Fund of the  
Authority

22 **16. -(1)** There is established for the Authority a fund ("the Fund")  
 23 comprising:

- 24 (a) all charges, dues, levies, fees, and penalties collected by the  
 25 Authority under this Act or regulations made hereunder;  
 26 (b) technical Assistance, gifts, aids, and testamentary disposition;  
 27 (c) other financial assets that may from time to time be vested in or  
 28 accrue to the Authority in the course of performing its functions under this  
 29 Act;

30 (d) monies collected or received by the Authority for services

1 rendered or facilities provided;

2 (e) monies borrowed and capital raised by the Authority under this  
3 Act or any other enactments; and

4 (f) such other sums of monies as may be received by the Authority.

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

7 17.-(1) Without limiting the power of the Authority to set aside Reserve Funds  
8 from its revenue appropriate amounts for replacement, contingencies and  
9 other purposes, the Authority shall establish and maintain a general reserve  
10 fund arising out of its operating surplus.

11 (2) The management of the reserve funds, the amount to be credited  
12 to and charges to be made against the reserve funds and any other application  
13 of the monies comprised in the reserve funds shall be as the Authority may,  
14 with the approval of the Minister determine.

15 18.-(1) Subject to section 25 of this Act and subsections (2) and Application of  
16 (3) of this section, the revenue of the Authority for any financial year shall be Authority's monies  
17 applied as approved by the Minister.

18 (2) The Authority shall submit to the Minister a three year plan on  
19 use of monies from the Funds referred to in section 25 of this Act, including  
20 the concession fees generated.

21 (3) The plan referred to in subsection (2) of this section shall be  
22 reviewed annually by the Minister.

23 19. The financial year of the Authority shall commence on 1st Financial Year  
24 January of each year and end on 31st December of the same year.

25 20.-(1) The Authority may, with the approval of the Minister and in Power to borrow  
26 accordance with the applicable laws governing borrowings by public and invest money  
27 bodies, borrow such sums of money or raise capital, otherwise, than from  
28 the Government as the Authority may require in the exercise of its function;  
29 and

30 (2) The Authority may invest all or any part of its monies in such as

1 manner as may be approved by the Minister.

Inspection of  
accounts and  
records

2 21. -(1) The accounts and records of the Authority shall during  
3 official working hours be opened for inspection to:

4 (a) any member of the Board; or

5 (b) any other person specially authorized do so by the Minister.

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

Statement of  
accounts

8 22. -(1) The Authority shall keep proper and regular accounts and  
9 other records of monies received and paid by it and of the several purposes for  
10 which such monies have been received or paid, and of its assets, credits and  
11 liabilities.

12 (2) The Authority shall take all necessary steps to ensure that all  
13 payments out of its Funds and bank accounts are correctly made and properly  
14 authorised and that adequate control is maintained over the assets in its custody  
15 and over the expenditure incurred.

Audit

16 23.-(1)The accounts of the Authority shall be audited annually by  
17 auditors appointed by the Authority based on the guidelines issued from time to  
18 time by the Auditor-General of the Federation.

19 (2) The Authority shall not later than 3 months after the close of each  
20 financial year, prepare and submit its financial statements in respect of that year  
21 to the auditors who shall audit and report on the financial statements.

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

26 (4) The Authority shall not later than 2 months after the financial  
27 statements of the Authority have been audited in accordance with the  
28 requirement of this Act, the Authority shall forward a copy of the audited  
29 financial statements to the Minister, together with any report or observations  
30 made by the auditor or auditors on the statement of accounts.

1 (5) The audit report shall in addition to the standard auditing  
2 requirements state:

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

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

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

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

12 (6) A firm shall not be qualified for appointment as auditors under  
13 subsection (3) this section unless it is registered under the Companies and  
14 Allied Matters Act and any other applicable law.

15 (7) The remuneration of the auditors shall be paid out of the Funds  
16 of the Authority.

17 24.-(1) The Board shall, not later than 2 months after the end of  
18 each financial year, make a report to the Minister on its activities and  
19 performance during that year.

Annual and other  
Reports

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

21 (a) a general survey of developments in respect of matters relating  
22 to its functions;

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

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

27 (d) a summary of the allocation of its financial resources to its  
28 various activities during the year, including, without limitation, the  
29 emoluments of its directors;

30 (e) an assessment of its performance and practices in relation to its

1 functions in accordance with applicable performance indicators; and

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

3 (3) The Board may:

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

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

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

Estimates of  
revenue and  
expenditure

9 25.-(1) The Authority shall, within 2 months after the end of each  
10 financial year, make a report to the Minister on its activities during that year  
11 and its proposed undertakings for the ensuing year and the report shall contain  
12 such information with respect to the proceedings and policy of the Authority as  
13 the Minister may require.

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

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

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

Conduct of  
affairs

23 26. It shall be the general duty of the Authority to:

24 (a) conduct its affairs in a manner to ensure that its revenue is  
25 sufficient to:

26 (i) meet all charges which are chargeable to its revenue account, and

27 (ii) generate a proportion of the capital it requires; and

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

29 PART VI - DECLARATION OF PORTS.

Declaration of  
Port

30 27.-(1) The Minister may by order:

1 (a) declare any place in Nigeria and any navigable channel leading  
2 into that place to be a port within the meaning of this Act;

3 (b) specify the limits of any place declared as a port in accordance  
4 with paragraph (a) of subsection (1) of this section;

5 (c) declare any navigable channel leading into a port to be an  
6 approach to that port;

7 (d) declare any place in Nigeria to be an inland port or container  
8 depot; and

9 (e) make any variations in the limits of any port or the approaches  
10 to the Port.

11 (2) The places specified in the First Schedule to this Act, shall be  
12 deemed to be ports, and the limits of and approaches to any port shall until  
13 other provision is made in accordance with paragraph (b) of subsection (1)  
14 of this section, be the limits declared and in force immediately before the  
15 commencement of this Act and shall include:

16 (a) ocean beaches within 100 metres of high-water mark; and

17 (b) the waterways leading to the ports, creeks and swamp-land  
18 below the highest astronomical tide level and all beacons, moles, piers,  
19 slipways, quays and other works extending beyond the natural line of the  
20 high-water level.

21 (3) The Minister may exercise his powers to declare a port within  
22 the meaning of this Act or to specify the limits of any port, if he is satisfied  
23 that such a place, if declared to be a port, is:

24 (a) likely to remain financially self-sufficient;

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

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

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

30 (5) Any Order made by the Minister under subsection (1) of this

1 section shall contain the following information:

2 (a) the name of the port;

3 (b) the navigable waters and the limits; and

4 (c) any other provision that the Minister considers appropriate to  
5 include in the Order.

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

8 PART VII - THE AUTHORITY'S LANDLORD POWERS

Technical Powers

9 28. The Authority's Landlord technical powers shall include:

10 (a) giving directions consistent with the provisions of this Act to any  
11 person granted a concession under this Act;

12 (b) to impose corresponding obligations regarding standards and  
13 codes on all providers and users of marine and port services and facilities;

14 (c) implementing regulations, standards and codes regarding port  
15 security and safety and ensuring compliance with such regulations, standards  
16 and codes;

17 (d) prescribing the limits within, and the levels to which dredging may  
18 be carried out;

19 (e) monitoring and ensuring compliance by all service providers with  
20 applicable laws and regulations;

21 (f) providing vessel traffic control and aids to navigation;

22 (g) ensuring that orderly, efficient and reliable transfer of cargo and  
23 passengers between sea and land is provided by operators;

24 (h) ensuring that safe, adequate and secure warehousing and storage  
25 is provided by operators within the ports;

26 (i) monitoring the performance of terminal operators;

27 (j) ensuring that operators use port facilities to their fullest capacity in  
28 the most efficient manner;

29 (k) collecting from concessionaires, licensees and other port service  
30 providers data and information needed for accurate planning, reporting and



1 monitoring; and

2 (l) carrying out such other activities as are necessary or convenient  
3 in connection with its landlord functions.

4 29. Subject to section 31 of this Act, the Authority may provide or  
5 cause to provide any port services or facilities, notwithstanding that a  
6 concession has been granted to any person if:

Reserved  
operational powers

7 (a) the person has failed or is not discharging his obligation  
8 satisfactorily under the concession Agreement;

9 (b) the person has abandoned; or

10 (c) upon termination of the concession for any reason whatsoever.

11 30. -(1) The Authority may acquire land or immoveable or  
12 movable property for its use.

Power to acquire  
land and deal with  
assets

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

16 (3) The Authority may acquire by purchase, gift or otherwise,  
17 moveable or immovable property and any interest in such property and with  
18 the approval of the Minister, may dispose of or deal with any movable  
19 property or any interest acquired in the movable property upon such terms  
20 and conditions as the Authority may deem fit.

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

24 31.-(1) Subject to the provisions of section 34 of this Act, the  
25 Authority may enter into leases, concession agreements, operating  
26 agreements, or other arrangements with private parties for the occupation of  
27 its land for the purpose of enabling such parties to operate or perform port  
28 related activities or services.

Power to enter  
into leases,  
concession  
agreement, etc.

29 (2) Subject to the provisions of this Act, the Authority may lease or  
30 concede its premises to terminal operators, shipping companies,

1 shipbuilding companies or any other licensed operator.

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

Power to enter  
land to erect  
beacons, conduct  
surveys and  
remove  
obstruction to  
make lighthouses  
and beacons  
visible

4 32.-(1) An authorised employee or agent of the Authority may enter  
5 and remain on any land for the purposes of erecting of beacons, buoys and  
6 moorings, to survey or perform any of their duties under this Act.

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

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

Prohibition on  
operating in  
ports without  
concession,  
licence or permit

#### 16 PART VIII - CONCESSION

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

Power to grant  
concessions

19 34.-(1) The Authority may grant a concession subject to laws relating  
20 to or governing concessions on such conditions as the Authority may impose  
21 and as may be specified in the concession agreement, authorising any person to  
22 provide any marine service or facility or any port service or facility.

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

#### 26 PART IX - TARIFF REGIME OF THE AUTHORITY

Tariff

27 35. In this Part:

28 "Port industry" means the provision of or use of port services and facilities in  
29 ports and harbours within Nigerian waters.

30 "Prescribed goods and services" means any goods or services made, produced,

1 supplied or provided by or within the port industry which include:

2 (a) providing access to channels, harbours and terminals for use  
3 by shipping on a non discriminatory basis;

4 (b) providing berths for vessels at any Nigerian port;

5 (c) providing port facilities for loading and of unloading vessels  
6 at a declared port;

7 (d) providing for storage of goods at a declared port;

8 (e) providing access to land in connection with the provision of  
9 services of any of the kinds mentioned above on a non discriminatory basis;  
10 and

11 (f) any other port services as may be prescribed from time to time  
12 by the Authority.

13 "Prescribed tariff" means the tariff or tariff-range howsoever designated for  
14 the provision, supply or sale of any equipment, goods or services in the port  
15 industry or particular factors used in tariff-fixing or terms and conditions  
16 relating to the tariff at which particular goods or services are provided,  
17 supplied or sold.

18 "Tariff" includes fees, prices, dues, charges and rates.

19 36.-(1) Subject to the provisions of this Act, the Authority may levy  
20 port charges, dues, fees, rates and general tariff on, and prescribe charges or  
21 scale of charges and impose penalties or interest on outstanding charges in  
22 respect of all or any of the services mentioned in this section.

Dues payable  
to the Authority

23 (2) Tariff in relation to the provision of port and other services shall  
24 include:

25 (a) ship and cargo dues for the provision of pilotage;

26 (b) light dues for the provision of aids to navigation along the coast  
27 or channels of the ports and within ports;

28 (c) towage dues for the provision of tug services;

29 (d) berth rent for the use of berthing facilities and services;

30 (e) charges for mooring of vessels and boats;

- 1 (f) charges for embarkation and disembarkation of persons;  
2 (g) charges for use of ferry services;  
3 (h) pollution dues and fines for the provision of waste disposal and  
4 waste management services in the ports; and  
5 (i) charges for offshore stevedoring services.

6 (3) Tariff in relation to the provision and maintenance of port  
7 infrastructure, port terminals and port facilities shall include:

- 8 (a) land rentals;  
9 (b) port dues for the provision and maintenance of entrance channels,  
10 breakwaters, basins, aids to navigation and maintenance dredging within the  
11 port limits;  
12 (c) harbour access charges;  
13 (d) cargo dues for the movement of cargo within the ports;  
14 (e) tariffs for granting concessions and permits;  
15 (f) charges for shipping and transshipping of goods and persons; and  
16 (g) any other services provided by the Authority in the execution of its  
17 duties.

18 (4) The Authority may require any person to provide such security as it  
19 deems fit for the payment of any fee payable to the Authority.

20 (5) Where any request for the rendering of services or the provision of  
21 facilities is withdrawn or cancelled, without prior notice, the fees contemplated  
22 in subsection (1), (2) and (3) of this section, shall remain due and payable as if  
23 the services or facilities had been rendered or provided.

24 (6) Charges prescribed under this section shall be published.

25 (7) The Authority shall not directly levy any charges or dues for  
26 services which are provided by a concessionaire for which the concessionaire  
27 has been authorised to collect charges and levies directly from port users under  
28 section 51 of this Act.

29 (8) The Authority may with the approval of the Minister vary or alter  
30 the charges prescribed under this section from time to time.

1 (9) With respect to charges not listed in this section or otherwise  
 2 provided in the regulations made under this Act, the Authority may in  
 3 compliance with the appropriate guidelines impose such charges as it deems  
 4 necessary and consistent with its functions under the Act.

5 37.-(1) Subject to the provisions of this Part and the approval of the  
 6 Minister, the Authority may levy such harbour dues, fees and rates on every  
 7 vessel:

Harbour dues,  
 fees, rates and  
 persons liable to  
 pay

8 (a) entering or leaving a port or the approach to a port or Nigeria  
 9 maritime domain in respect of the passengers, animals or cargo carried on  
 10 the vessel; or

11 (b) arrested at any berth or place within the port.

12 (2) The Authority may charge such dues as it deems fit in respect of  
 13 every movement of a vessel within a pilotage district.

14 (3) The following persons shall be liable for the payment of  
 15 harbour dues and rates:

16 (a) the vessel agent;

17 (b) in the case of harbour dues or rates payable in respect of  
 18 inbound cargo, passengers or animals, every consignor or agent of the vessel  
 19 who has paid or made himself liable to pay any charge on account of the  
 20 vessel in its port of arrival or discharge; and

21 (c) in the case of harbour dues or rates payable in respect of  
 22 outbound cargo, passengers or animals, every consignee or agent of the  
 23 vessel who has paid or made himself liable to pay any charge on account of  
 24 the vessel in its port of departure.

25 38.-(1) The Master of a vessel arriving in a port shall produce to the  
 26 Authority:

Master to supply  
 information on  
 arrival

27 (a) the vessel's full documentation;

28 (b) a list of all inbound cargo, passengers and animals, the name of  
 29 the consignee of the cargo intended to be discharged;

30 (c) Where:

1 (i) the whole cargo is intended to be discharged, a copy of the manifest  
2 of the cargo, or

3 (ii) only a part of the cargo is intended to be discharged, the written  
4 details of the types, weights and quantities of such cargo.

5 (d) a declaration of any hazardous cargo including its detailed  
6 description and peculiarities; and

7 (e) such other information in relation to the vessel, passengers,  
8 animals and its cargo as may be prescribed by the Authority.

9 (2) The particulars required by subsection (1) of this section shall be  
10 produced in such form and within such time as may be prescribed by the  
11 Authority.

Master to supply  
information  
before departure

12 39. -(1) The master of a vessel shall when applying for the clearance  
13 of his vessel, produce to the Authority:

14 (a) a list of all outbound cargo, passengers and animals;

15 (b) written details of the types, quantities and weights of all cargo  
16 shipped on board in the port; and

17 (c) such other information in relation to the vessel, cargo, passengers  
18 or animals as may be prescribed by the Authority.

19 (2) The particulars required to be produced under subsection (1) of  
20 this section shall be delivered in such form and within such time as may be  
21 prescribed by the Authority.

Time for payment  
of harbour dues

22 40. Harbour dues and rates payable in respect of:

23 (a) inbound cargo, passengers or animals shall be paid before arrival  
24 of the vessel; or

25 (b) outbound cargo, passengers or animals, shall be paid before  
26 loading commences.

Ship and pilotage  
dues

27 41. -(1) Subject to the provisions of this Part, the Authority shall levy  
28 on any vessel or structure:

29 (a) ship dues and rates for lighthouse and conservancy;

30 (b) ship dues and rates for buoyage, anchorage, mooring buoy, buoys

1 for pollution control, berthing and other services rendered to a vessel; and

2 (c) pilotage dues

3 (2) The dues and rates mentioned under this Part shall be  
4 prescribed by regulations issued in accordance with the provisions of this  
5 Act.

6 (3) The following persons are liable to pay ship dues and rates  
7 charged in respect of light, conservancy, buoyage, anchorage, mooring  
8 buoy, berthing and other services rendered to a vessel:

9 (i) the master or owner;

10 (ii) every consignee or agent who has paid or made himself liable  
11 to pay any dues on account of the vessel in her port of arrival or departure.

12 (4) The following persons shall be liable to pay pilotage fees and  
13 rates charged on a ship under this Act:

14 (a) the master or owner; and

15 (b) in the case of:

16 (i) pilotage inwards, every consignee or agent who has paid  
17 or made himself liable to pay any fees on account of the vessel in her  
18 port of arrival or departure, and

19 (ii) pilotage outwards, every consignee or agent who has paid  
20 or made himself liable to pay any fees on account of the vessel in her  
21 port of departure.

22 42. When any vessels' dues are paid by a person who is made liable  
23 under the provisions of this Act not being the master or owner of the vessel,  
24 that person may retain, out of any money in his hands received on account of  
25 the vessel or its owner:

Consignee or  
agent may retain  
ship's dues of  
owner's money

26 (a) the amount of dues paid by him; and

27 (b) any reasonable expenses he may have incurred by reason of that  
28 payment or liability.

29 43. Subject to the provisions of this Part, the Authority shall levy  
30 such rates made by regulations pursuant to this Act, prescribe for the use of

Levy of rates

1 any facility, work or appliance provided or any service to be performed in  
2 respect of any vessel or goods and for any of the following:

3 (a) the landing, loading, shipping, wharfage, crantage, storage,  
4 carriage or demurrage of goods;

5 (b) the carriage of passengers or animals;

6 (c) the use by any vessel or person of any wharf;

7 (d) the use of any gear, tackle, tool, instrument or staging supplied for  
8 the purpose of any vessel using any wharf;

9 (e) the use of any vessel or lighter, or any engine or boat for the  
10 extinction of fire, belonging to or maintained by the Authority;

11 (f) the towing of, and rendering assistance to, any vessel, whether  
12 leaving or entering a wharf within or outside of the port;

13 (g) for water supplied by the Authority;

14 (h) for the removal of waste or refuse from any vessel;

15 (i) for monitoring port environmental pollution control;

16 (j) for performing any transshipment operation; or

17 (k) for any offshore Stevedoring Services.

Rates Payable 18 44.-(1) The following rates shall be paid, in the case of goods:

19 (a) to be discharged, immediately on the discharge of the goods; and

20 (b) to be removed from the premises of the Authority or to be shipped,  
21 before the goods are removed or loaded on board a vessel.

22 (2) Lien on goods for rates shall have priority over all other liens and  
23 claims against the goods.

Lien for freight  
preserved after  
landing if notice  
is given

24 45.-(1) Where the master or owner of a vessel, or his agent or the  
25 person by whom the goods are discharged, at or before the time of discharge  
26 from the vessel of any goods at any wharf or other premises of the Authority,  
27 gives notice in writing that those goods are to remain subject to a lien for  
28 freight, primage or general average or charges to an amount to be mentioned in  
29 the notice, the goods shall continue to be liable to the same lien; if any, for the  
30 charges as they were subject before the landing of the goods.



1 (2) The Authority shall retain the goods at the risk and expenses of  
 2 the owner of the goods until the lien is discharged in accordance with the  
 3 provision of this Act, or until the goods are sold by the Authority in  
 4 accordance with the provisions of section 47 of this Act.

5 46. The Authority may permit goods liable to a lien to be removed  
 6 on production of:

Discharge of Lien  
by payment or  
release

7 (a) a receipt for the amount claimed; or

8 (b) a release notice for the amount of any lien to which goods are  
 9 liable from the person by or on whose behalf a notice has been given.

10 47. -(1) Where the rates payable in respect of any goods are not  
 11 paid or the lien for freight, primage, general average or charges after the  
 12 issuance of notice under the provisions of this Act is not discharged, the  
 13 Authority shall sell by public auction:

Power of  
Authority to sell  
if rates are not  
paid or lien not  
discharge

14 (a) at the expiration of 60 days from the time when the goods were  
 15 placed in its custody; or

16 (b) if the goods are of perishable nature, at such earlier period, not  
 17 less than 24 hours after the discharge of the goods.

18 (2) The Authority may sell the goods in accordance with the  
 19 provision of sub-section (1) of this section, if request is made in writing by or  
 20 on behalf of the person claiming the lien for freight, primage, general  
 21 average or charges under the provisions of this Act.

22 (3) The Authority shall, before putting up goods for sale under  
 23 subsection (1) of this section, give 21 days' notice of the sale in at least two  
 24 widely read national daily newspapers unless the goods are of a perishable  
 25 nature and in the opinion of the Authority, the immediate sale is necessary  
 26 and advisable, in which case the notice is to be given as the urgency of the  
 27 case admits.

28 (4) Where the address of the owner of the goods or of his agent is on  
 29 the manifest of the cargo, or in any of the documents which have come into  
 30 the custody of the Authority is known and is within Nigeria, notice shall also

1 be given to the owner of the goods by letter delivered at that address by hand or  
2 by post.

3 (5) The title of a bonafide purchaser of goods sold under this section  
4 shall not be invalidated by reason of the omission to send a notice under this  
5 section, and the purchaser is not bound to inquire whether the notice has been  
6 sent.

Application of  
proceeds of sale

7 48.-(1) The proceeds of any sale made in accordance with the  
8 provisions of this Act shall be applied in the following order:

9 (a) customs and excise duties and warehouse rent owed in respect of  
10 the goods;

11 (b) the expenses of the sale;

12 (c) rates and expenses due to the Authority in respect of the goods;

13 (d) freight and other claims or lien of which notice has been given  
14 under the provisions of this Act; and

15 (e) surplus, if any, shall be paid to the owner of the goods on demand.

16 (2) Where demand is not made within one year from the sale of the  
17 goods, the surplus of the proceeds of sale shall be paid to the general account of  
18 the Authority and all rights of the owner to the payment shall be extinguished.

Power of the  
authority to  
prescribe dues,  
fees and rates

19 49.-(1) The Authority may make regulations:

20 (a) for the levying of dues, fees and rates for the purposes of this Act;

21 (b) prescribing the conditions on which any work or service will be  
22 levied;

23 (c) prescribing the officer and department to whom any information  
24 required under this Part, shall be delivered and the place of the delivery and the  
25 time within which it shall be made;

26 (d) prescribing the officer and department to whom dues, fees or rates  
27 shall be paid, the place of payment and the time within which payment shall be  
28 made;

29 (e) providing for the exemption of any vessel, cargo, passenger or  
30 animal from all or any dues, fees or rates or part thereof; and

1 (f) for any other matter which is necessary to give effect to the  
2 provisions of this Part.

3 (2) The regulations made under this section may prescribe different  
4 dues, fees or rates for different ports, vessels, cargo, passengers or animals.

5 50. The Authority or any other person authorised to own and  
6 operate a port, or a concessionaire shall not create any new category or  
7 description of fees, levies, rates, charges or surcharge on port users without  
8 the approval of the Minister.

Restriction on  
new categories  
of levies or  
charges

9 51. A Concessionaire shall with the approval of the Authority in  
10 writing, collect dues and fees directly from the port users for services  
11 rendered.

Assignment of  
power to collect  
dues

12 52. The Authority may, either alone or with any other person, enter  
13 into any vessel within the limits of any port, in order to ascertain the dues,  
14 fees or rates payable.

Power of entry  
to ascertain dues

15 53. Where any difference arises between the Authority and the  
16 master of any vessel or the owner of any goods, concerning the weight or  
17 quantity of the goods or vessel's draught in respect of which any dues, fees or  
18 rates are payable, the Authority:

Weighing and  
measuring of  
goods in case of  
disputes

19 (a) shall cause all the goods or vessel's draught to be weighed and  
20 measured; and

21 (b) may, if necessary, detain the vessel and the goods until they  
22 have been weighed or measured.

23 54. -(1) Where the weight or measurement of the goods or vessel's  
24 draught referred to in this Act are more than that shown by the particulars  
25 delivered by the master, the expenses of the weighing or measuring in  
26 addition to a 100 percent penalty for the under-declared weight or  
27 measurement shall be paid to the Authority by the master, and shall be  
28 recoverable in the same manner as dues leviable under this Part.

Payment of cost  
of weighing and  
measurement

29 (2) Where the weight or quantity of the goods or vessel's draught is  
30 the same as that shown by the particulars delivered by the master the ority

1 Authority shall pay all the expenses of the weighing or measuring and of any  
2 unreasonable delay of the vessel.

Power of distraint  
for non-payment  
of dues, fees and  
rates

3 55. -(1) Where the agent of a vessel in respect of which any dues, fees  
4 or rates are payable fail refuses or neglects to pay the dues, fees or rates on  
5 demand, the Authority may distraint the vessel and the tackle, apparel and  
6 furniture thereof until the amount of the dues, fees or rates is paid.

7 (2) After 14 days commencing from the date of a distraint, any dues,  
8 fees, rates or the expenses of such distraint of the vessel and its tackle, apparel  
9 and furniture, remain unpaid, and the Authority may cause the vessel or tackle,  
10 apparel and furniture distrained to be sold.

11 (3) The Authority shall retain the amount of dues, fees and rates or  
12 expenses which are owed by the vessel out of the proceeds of the sale and shall  
13 deliver the balance to the master of the vessel, on demand.

Clearance to be  
withheld until  
dues, fees or rates  
are paid

14 56. -(1) Where the Authority gives to the proper officer or office of the  
15 Nigerian Customs Service a notice stating that an amount, specified in the  
16 notice, is due in respect of dues or fees or rates leviable under this Act against  
17 any vessel or against the master or owner of the vessel, the officer shall not give  
18 any discharge or clearance to the vessel until the relevant office of the Nigerian  
19 Customs Service has been notified in writing by the Authority that:

20 (a) security has been given by the vessel to the satisfaction of the  
21 Authority for the payment of the dues, fees and rates; and

22 (b) the amount of the dues, fees and rates has been paid.

23 (2) In this section, "Proper Officer" of the office of the Nigeria  
24 Customs Service means the officer or office which is responsible for granting  
25 clearance for outbound vessels in the port in respect of which notice is given.

Recovery of dues,  
fees and rates

26 57. Notwithstanding anything contained under the provisions of  
27 sections 60 to 67 of this Act, the Authority may recover by civil suit any dues,  
28 fees and rates, expenses, costs or in the case of sale, the balance of any amount  
29 due when the proceeds of sale are insufficient.

1                   58. -(1) The Authority shall keep and maintain at its office in each  
2 port a book specifying the current dues, fees and rates and shall allow any  
3 person to inspect the book at all reasonable times without the payment of a  
4 fee.

Book specifying  
dues, fees and  
rates to be kept  
at port

5                   (2) Any person providing port services, including a concessionaire,  
6 shall keep and maintain at its office in the port a book specifying the current  
7 dues, fees and rates and shall allow any person to inspect the book at all  
8 reasonable times without the payment of a fee.

9                   59. The provisions of this Part shall not apply to any:

Exemptions

10                   (a) Government owned vessel not engaged in commercial  
11 activities;

12                   (b) vessel belonging to the armed forces of the Federation;

13                   (c) vessel belonging to the armed forces of a foreign country  
14 extending reciprocal treatment to vessels belonging to the armed forces of  
15 the Federation; or

16                   (d) vessels bringing in aid or engaged in humanitarian and  
17 charitable causes.

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

Application of  
this Part

21                   PART X - PILOTAGE AND HARBOUR MASTER

22                   61. -(1) Subject to the provision of subsection (2) of this section  
23 and other provisions of this Act, only a licensed pilot, certified by the  
24 Authority shall navigate any vessel entering, leaving or moving in a pilotage  
25 district within a port.

Requirement for  
pilotage

26                   (2) Pilotage is not compulsory in respect of any vessel or class of  
27 vessels that have been exempted from pilotage under the provisions of this  
28 Act.

29                   62. -(1) The pilot's function shall be to advise the master of a vessel  
30 to safely navigate in the port, direct its movements and to determine and

Functions of a  
pilot

1 control the movements of the tugs assisting the vessel under pilotage.

2 (2) The pilot shall determine and advise the master on the number of  
3 tugs required for pilotage.

Duties of the  
master in relation  
to pilotage

4 63.-(1) The master of the vessel shall at all times remain in command  
5 of the vessel and neither the master nor any person under the master's command  
6 may, while the vessel is under pilotage, in any way interfere with the navigation  
7 or movement of the vessel or prevent the pilot from carrying out his duties,  
8 except in an emergency, where the master may intervene to preserve the safety  
9 of the vessel, cargo or crew and take whatever action he considers reasonably  
10 necessary to avert the danger.

11 (2) Where the master of the vessel intervenes as contemplated in  
12 subsection (1) of this section, he shall immediately inform the pilot and, after  
13 having restored the situation, shall permit the pilot to proceed with the  
14 execution of his duties.

15 (3) The master of the vessel shall ensure that the officers and crew are  
16 at their posts, that a proper lookout is kept and that the pilot is given all  
17 necessary assistance in the execution of his duties.

Authority's  
powers in relation  
to pilot

18 64. Subject to the provisions of this Part, the Authority:

19 (a) shall authorize qualified pilots for a pilotage district; and

20 (b) may do such other things in relation to pilots in a pilotage district  
21 as are necessary or expedient for carrying into effect the Authority's powers  
22 and duties under this Part.

Certification and  
licensing of pilots

23 65.-(1) A person shall not perform the duties of a pilot in a port  
24 without appropriate training and qualification and without a licence by the  
25 Authority to do so.

26 (2) The Government Agency responsible for maritime safety  
27 administration:

28 (a) may recommend to the Authority the minimum qualifications for  
29 any person to be qualified as a pilot, including the content and nature of  
30 examinations, if any, to be undertaken; and

1 (b) shall consult with the Authority regarding the content of the  
2 minimum qualifications referred to in this subsection before any  
3 recommendation is made.

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

6 66. -(1) The Minister may, by regulation published in the Gazette,  
7 establish a pilotage district:

Establishment of  
pilotage districts

8 (a) in any port;

9 (b) in the approach to any port;

10 (c) in the waterways and territorial waters of Nigeria; or

11 (d) in the Exclusive Economic Zone of Nigeria.

12 (2) Regulations made under subsection (1) of this section may:

13 (a) provide that in any pilotage district or in any part thereof  
14 pilotage shall be compulsory; and

15 (b) define the limits of any pilotage district; distinguishing where  
16 pilotage is compulsory.

17 (3) Until other provisions are made by regulations pursuant to this  
18 section, any pilotage district defined by regulations or Order in force  
19 immediately before the commencement of this Act, shall be deemed to be a  
20 pilotage district for the purposes of this Act and every area in which pilotage  
21 was made compulsory under the existing regulations or Order shall be  
22 deemed to have been defined as a compulsory pilotage district under this  
23 section.

24 67.-(1) The Minister shall by order, establish, a Pilotage Board for  
25 every compulsory Pilotage district and shall for a Pilotage district in which  
26 or in any part of which Pilotage is compulsory, establish a Pilotage Board.

Establishment  
and Membership  
of Pilotage Boards

27 (2) A Pilotage Board shall consist of:

28 (a) the Harbour Master of the Pilotage District, as Chairman; and

29 (b) not less than two or more than four persons appointed by the  
30 Authority, with the approval of the Minister.

1 (3) A member of the Pilotage Board may be appointed for a period not  
2 exceeding three years, and may be re-appointed for another term of three years  
3 and no more.

4 (4) A member of the Pilotage Board may at any time resign his  
5 membership by sending his resignation in writing to the Authority.

6 (5) A Pilotage Board shall:

7 (a) hold inquiries concerning conduct of pilots in the discharge of their  
8 duties in the Pilotage district;

9 (b) license pilots for the Pilotage district on behalf of the Authority;  
10 and

11 (c) hold examinations in connection with licensing of pilots for the  
12 Pilotage district.

13 (6) A Pilotage Board shall meet at such time and place as the  
14 Chairman of the Board may, from time to time, appoint.

15 (7) Two members of a Pilotage Board shall form a quorum.

16 (8) The Chairman shall preside at every meeting of a Pilotage Board  
17 and in his absence, the members present shall appoint one of them to preside.

18 (9) Every question which comes before a Pilotage Board at any  
19 meeting shall be decided by a majority of votes.

20 (10) The Chairman or any member presiding at any meeting shall  
21 have a vote and, in the case of a tie, shall have a casting vote.

22 (11) Minutes shall be kept of the proceedings of a Pilotage Board and  
23 the minute shall be signed by the person who presiding at the meeting.

24 (12) A Pilotage board may and shall, when directed by the Minister,  
25 hold an inquiry into the conduct of:

26 (a) a Pilot against whom an allegation of misconduct is made; or

27 (b) a Pilot in charge of a vessel which:

28 (i) touches the ground; or

29 (ii) runs foul of any other vessel; or

30 (iii) runs foul of a wharf, buoy, mole or beacon.



1 (13) A Pilotage Board holding an inquiry under this Act may  
2 summon and examine witnesses on oath and call for any document in any  
3 matter before it.

4 (14) Where a pilot is aggrieved by a decision or recommendation of  
5 a Pilotage Board, he may, within thirty days from the date of the decision or  
6 recommendation, appeal to the Minister.

7 (15) The Minister may, after considering the appeal:

8 (a) affirm or reverse the finding; or

9 (b) subject to the provisions of this Act, alter the nature of the  
10 punishment; or

11 (c) in the case of a recommendation to the Authority under section  
12 48(2) of this Act, support, comment on, or oppose the recommendation.

13 (16) The decision of the Minister on an appeal shall be final.

14 68. -(1) A vessel, other than an exempted vessel, shall, while  
15 navigating in a pilotage district in which pilotage is compulsory, be under  
16 the pilotage of:

17 (a) the Authority's pilot; or

18 (b) a pilot certified and authorised by the Authority;

19 (2) A vessel being moved within a port or entering or leaving a port,  
20 which is or forms part of a pilotage district, shall be deemed to be a vessel  
21 navigating in a pilotage district.

22 (3) For the purposes of subsection (1) of this section, the following  
23 vessels are exempted from application under this section:

24 (a) vessel belonging to the armed forces of Federation;

25 (b) vessels owned or operated by the Authority;

26 (c) pleasure yachts;

27 (d) ferry boats sailing as such exclusively within a port;

28 (e) vessels not exceeding ten tons gross tonnage; and

29 (f) vessels exempted from compulsory pilotage by regulations  
30 made under this Act.

Navigation in a  
pilotage district

Declaration as to draught of vessels	1	69. A pilot may require the master of any vessels which he is piloting
	2	to declare her draught of water, length and beam, and such other information as
	3	may be required for its safe piloting and the master shall comply
Pilot to produce license	4	70. Every pilot shall be provided with his licence and shall on
	5	request, produce it to the master of the vessel.
Liability of the master or owner under pilotage	6	71. The master or owner of a vessel for which pilotage is compulsory
	7	shall be liable for any loss or damage caused by the vessel or by any navigation
	8	in the same manner as he would if pilotage were not compulsory.
Liability of pilot	9	72. The Authority or the pilot shall not be liable for any loss or
	10	damage caused by anything done or omitted to be done by the pilot in good
	11	faith whilst performing his functions under this Act.
Limitation of pilot's liability when bond is given	12	73. -(1) Every pilot shall give a bond in favour of the Authority in
	13	such sum as the Authority considers reasonable for the proper performance of
	14	his duties under this Part or regulations made under this Act.
	15	(2) A pilot who has given a bond in accordance with the regulations
	16	made under this Act, shall not be liable for loss or damage caused by anything
	17	done or omitted to be done by the pilot beyond the penalty of the bond and the
	18	amount payable by or to him for pilotage services in respect of the voyage in
	19	which he was engaged when the loss or damage occurred.
	20	(3) Where any proceeding is taken against a pilot for any neglect or
	21	want of skill in respect of which his liability is limited as provided by this
	22	section, and other claims are made in respect of the same neglect or want of
	23	skill, the court in which the proceeding is taken may determine the amount of
	24	the pilot's liability.
	25	(4) On payment into court by the pilot of the amount determined
	26	under subsection (3) and (4) of this section, the court may:
	27	(a) distribute that amount rateably among the several claimants;
	28	(b) stay any proceeding pending in any other court in relation to the
	29	same matter;
	30	(c) proceed in such manner and subject to such directions as to:

- (i) making persons interested parties to the proceeding;
- (ii) the exclusion of claimants who do not come in within a certain time;
- (iii) requiring security from such pilot, and payment of any costs; as the court may deem fit.

74.-(1) The Authority shall appoint a harbour master for every pilotage district.

Appointment of  
a Harbour Master

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

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

75.-(1) Subject to the provisions of this Part and the approval and directives of the Authority, a Harbour Master may authorize a person approved by the Authority to exercise his function.

Delegation of  
functions by  
Harbour Master

(2) An authorisation under this section may be general or may apply only to the exercise of such functions as are specified in the instrument of authorisation.

76.-(1) A Harbour Master shall perform such functions as are conferred on him by this Act and any regulation made hereunder.

Functions and  
general powers  
of Harbour Master

(2) A Harbour Master shall:

- (a) ensure compliance with laws and regulations on nautical safety and international conventions aboard a vessel, including fishing vessels and other categories of vessels regardless of flag and affiliation;
- (b) provide for verification of vessel documents and of necessary qualifications of the crew;
- (c) regulate, restrict or prohibit the movements of vessels in the port and in the approaches to the port;
- (d) register a vessel's arrival in and departure from the port;
- (e) direct a pilot service and when necessary assign a pilot to a vessel in regions not requiring compulsory Pilotage;

1 (f) direct where any vessel may be berthed, moored or anchored and  
2 the method of anchoring, when dealing with public quays;

3 (g) give directions to a vessel and/or a terminal to ensure safe  
4 transport, loading and discharging of dangerous goods in the port;

5 (h) ensure the preservation of law and order in the harbour and berths;

6 (i) coordinate the prevention of marine or other incidents, in the event  
7 of any risk of loss of human life or damage to any property;

8 (j) direct the removal of any vessel from any place in the port area to  
9 any other place and the time within which such removal is to be effected; and

10 (k) declare berth, locations, anchorages and fairways which may be  
11 used by vessels and the areas which are prohibited or restricted.

Failure to  
comply with  
the directives  
of the Harbour  
Master

12 77. -(1) The master of a vessel shall comply with any directive given  
13 under this part by the Harbour Master.

14 (2) A person who contravenes the provision of subsection (1) of this  
15 section shall pay a penalty not exceeding N500,000.00 and in the case of a  
16 continuing breach, a further amount not exceeding N50,000.00 for every day or  
17 a part thereof during which the breach continues.

18 (3) A person who wilfully obstructs the Harbour Master or a person  
19 acting under his directive shall pay a penalty of an amount not exceeding  
20 N500,000.00.

Liability of  
Harbour Master

21 78. The Authority or the Harbour Master shall not be liable for loss or  
22 damage caused by anything done or omitted to be done by the Harbour Master  
23 in good faith while performing his functions under this Act.

#### 24 PART XI - PROVISIONS ON PIERS, WHARVES AND SAFETY MATTERS

Restriction on  
piers, jetties and  
wharves

25 79.-(1) A person shall not erect, re-erect, alter, extend, own or occupy  
26 a pier or a jetty, or a wharf in a port or in the approach to a port or any place  
27 within any port except in accordance with a concession or permit granted by the  
28 Authority.

29 (2) A person who contravenes the provisions of subsection (1) of this  
30 section commits an offence and is liable on conviction to a fine of not

1 exceeding N 800, 000.00.

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

4 **80.**-(1) The Authority may:

5 (a) on payment of the prescribed fee and in the prescribed form,  
6 grant licenses for the erection of piers, jetties and wharves; and

Licences for  
erection of piers,  
jetties and wharves

7 (b) renew license granted under paragraph (a) of subsection (1) of  
8 this section.

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

12 (3) Subject to the provisions subsection (2) of this section, a license  
13 granted under this section shall be subject to the conditions as may be  
14 prescribed by the Authority and may subject to the approval of the Minister,  
15 contain special conditions not inconsistent with the provisions of this Act.

16 **81.**-(1) An authorised employee of the Authority may remove or  
17 cause to be removed, a pier or jetty or wharf in any port or in the approach to  
18 any port or any portion of the port within its zone where the pier, jetty or  
19 wharf is erected or operated in contravention of the provisions of this Act or  
20 regulations hereunder.

Removal of piers,  
jetties and wharves

21 (2) The provisions of this Part are applicable to any person  
22 including Federal, State and Local Government Agencies.

23 **82.**-(1) The Authority may, with the approval of the Minister, make  
24 regulations for the management of any port and for the maintenance of good  
25 order therein, and in particular and without prejudice to the generality of the  
26 foregoing power, may make regulations for all or any of the following  
27 purposes:

Power to make  
Regulations

28 (a) regulating traffic within the limits of the port or the approach to  
29 a port;

30 (b) regulating the berths and stations to be occupied by ships and

- 1 the removal of ships from one berth, station or anchorage to another berth,  
2 station or anchorage, and the time within which the removal shall be effected;
- 3 (e) regulating vessels while taking in or discharging ballast or cargo;
- 4 (d) keeping free passages of such width as is deemed necessary within  
5 any port and along or near to the piers, jetties, landing places, wharves, quays,  
6 docks, moorings and other similar works in or adjoining the port and for  
7 marking out the spaces to be kept free;
- 8 (e) regulating the anchoring, fastening, mooring and unmooring and  
9 warping of all vessels and the use of warps, mooring buoys, chains and other  
10 moorings;
- 11 (f) regulating traffic, preventing obstruction and keeping order on  
12 piers, jetties and wharves and ensuring the safety of piers, jetties and wharves  
13 and any cargo on them;
- 14 (g) regulating the use of fires and lights and the signals to be used and  
15 measures to be taken, by day and by night, in case of fire in a port;
- 16 (h) enforcing and regulating the use of navigating lights or signals and  
17 of signal lights by vessels;
- 18 (i) regulating the flags and signals to be used by vessels arriving at,  
19 lying in and departing from a port;
- 20 (j) regulating the manner in which vessels arriving a port, shall be  
21 boarded by the Harbour Master, and the information to be supplied to him by  
22 the master;
- 23 (k) regulating the use by vessels of whistles, sirens and other like  
24 instruments;
- 25 (l) prohibiting chipping, scaling or noisy repairs on vessel, except at  
26 such anchorages or places and at such times as may be prescribed or as the  
27 Harbour Master may appoint;
- 28 (m) prohibiting or regulating the erection, maintenance and working  
29 of fishing stakes, prescribing the nature of the nets or stakes which may be  
30 used, and providing for the licensing of persons authorised to erect and

1 maintain fishing stakes and nets, and prescribing the fees which shall be paid  
2 for the licence;

3 (n) regulating, whether by way of prohibition or otherwise, the  
4 floating of timber, casks or other objects in any port or in the approach to any  
5 port and the casting or depositing of any dead body, ballast, rubbish, or other  
6 thing into any port or in the approach to any port, in contravention of this Act  
7 and for the redemption on payment of expenses and a penalty, within a time  
8 limit to be fixed, of anything forfeited;

9 (o) providing for the forfeiture of anything found in any port or in  
10 the approach to any port in contravention of this Act;

11 (p) prescribing the duties of masters of vessels carrying gunpowder  
12 or other explosive or dangerous cargo, and of persons engaged in or  
13 supervising the shipping, unshipping, landing and transporting of the cargo;

14 (q) regulating the placement and maintenance of moorings or  
15 buoys;

16 (r) regulating and licensing weighing and metering of goods; and

17 (s) regulating and licensing porters and carriers and other labourers  
18 employed in the working of port facilities.

19 (2) For the breach of any regulation made under subsection (1) of  
20 this section, the Authority may prescribe a penalty not exceeding  
21 N1,000,000 and in the case of a continuous breach, a further fine not  
22 exceeding N50,000 a day for every day during which the breach continues.

23 83.-(1) The Authority may:

24 (a) with the consent of the Admiralty Marshall, order that a vessel  
25 which has been arrested or attached by an Order of Court be moved to  
26 another safe place within the port and if necessary, move such vessel to that  
27 place;

28 (b) search for, raise, remove or destroy any sunken, stranded or  
29 abandoned vessel or wreck within the port limits, and recover the costs  
30 incurred in connection with such searching, raising, removal or destruction

Wrecks and  
derelicts, vessels  
under arrest or  
detention and  
abandoned  
vessels

1 from the owner of the vessel or any other person who had the beneficial use of  
2 the vessel at the time it sank, became stranded or was abandoned;

3 (c) search for and remove any wreck or obstruction which may  
4 endanger the safety of any vessel entering or leaving the port, and recover the  
5 costs of such search and removal from the owner of the wreck or obstruction, or  
6 from any person responsible for the presence of such wreck or obstruction;

7 (2) The Authority may give notice to the owner or other person legally  
8 responsible for the upkeep of any vessel within the port limits, directing such  
9 owner or person to remove or dispose of such vessel, or part thereof, which is  
10 not seaworthy or is likely to become an obstruction, wreck or derelict or a threat  
11 to the environment or public safety and to recover from that owner or person all  
12 costs incurred for the removal or disposal if the owner or person fails to comply  
13 with the notice within the time specified in it.

14 (3) The Authority may after written demand for any costs  
15 contemplated in subsection (2) of this section, and on non-payment of the  
16 costs, sell the relevant vessel or wreck and out of the proceeds of the sale defray  
17 such unpaid costs, rendering the surplus, if any, to the person entitled to it, or  
18 recovering any unpaid balance from the owner or other person referred to in  
19 subsection (2) of this section or institute an admiralty action under the  
20 Admiralty Jurisdiction Act, CAP A5, Laws of the Federation of Nigeria 2004  
21 to recover the costs.

22 (4) Subject to the provisions of this section, the Authority shall act as  
23 the Assistant Receiver of Wrecks.

#### 24 PART XII - LIABILITY AND LEGAL PROCEEDINGS IN RELATION

#### 25 TO THE AUTHORITY

Liability for acts  
of others

26 34. The Authority shall not be liable for any injury, loss, damage or  
27 cost sustained by any person as a result of any default, negligence, breach or  
28 other wrongful act or omission of a licensee or concessionaire under this Act or  
29 an agent or employee of the licensee or concessionaire.



1                   85.-(1)Where the Authority is not at actual fault or privity, it shall  
2                   not be liable for any loss, damage or destruction caused to any vessel or  
3                   goods or other things on board any vessel in aggregate amount not  
4                   exceeding N1,000.00 for each ton of the vessel's tonnage.

Limitation of  
Authority's  
liability

5                   (2) For the purposes of this Act, the tonnage of a vessel shall be  
6                   ascertained as provided by the Merchant Shipping Act, 2007.

7                   86. Nothing in this Part shall impose on the Authority or any person  
8                   duly authorized by it any liability for the loss or destruction of or damage to  
9                   any goods arising from:

Liability for loss  
or damage to cargo

10                   (a) fire or flood, unless caused by the actual fault or privity of the  
11                   Authority;

12                   (b) an act of God;

13                   (c) an act of war or of public enemies;

14                   (d) arrest or seizure under any legal process;

15                   (e) quarantine restrictions;

16                   (f) any act, omission or default of the owner or carrier of such  
17                   goods;

18                   (g) strikes, lockouts or stoppages or restraints of labour from  
19                   whatever cause, whether partial or general;

20                   (h) riots and civil commotion;

21                   (i) saving or attempting to save life or property;

22                   (j) a declaration of goods as overtime or abandoned goods or the  
23                   sale, auction, destruction or any kind of disposal made pursuant to the  
24                   declaration;

25                   (k) an act or omission of the consignor, consignee or depositor or of  
26                   the servant or agent of any such person;

27                   (l) insufficient or improper packing, defective or insufficient  
28                   marks or leakage from defective drums, containers or packages;

29                   (m) any inherent wastage in bulk or weight, latent or inherent  
30                   defect or natural deterioration;

- 1 (n) any deficiency in the contents of unbroken packages; or  
2 (o) the dangerous nature of such goods.

Restriction on  
execution against  
the property of  
the Authority

3 87. In an action or suit against the Authority, no execution or  
4 attachment or process in the nature thereof shall be issued against it, but any  
5 sums of money which may, by the judgment of the court, be awarded against  
6 the Authority shall, subject to any directives given, be paid from the funds of  
7 the Authority.

Legal Proceedings

8 88. -(1) No suit shall be commenced against the Authority before the  
9 expiration of a period of one month after written notice of intention to  
10 commence the suit have been served on the Authority by the intending plaintiff  
11 or his agent and the notice shall clearly and explicitly state the:

- 12 (a) cause of action;  
13 (b) particulars of the claim;  
14 (c) name and place of abode of the intending plaintiff; and  
15 (d) relief which it claims.

16 (2) No suit against the Authority or any employee of the Authority for  
17 any act done in pursuance or intended execution of any Act or Law, or of any  
18 public duty or authority, or in respect of any alleged neglect or default in the  
19 execution of such Act or Law, duty or authority shall lie or be instituted in any  
20 court, unless it is commenced within twelve months after the act, neglect or  
21 default complained of or in the case of a continuing damage or injury, within  
22 twelve months next after the ceasing thereof.

23 (3) For the purposes of this section:

24 "Suit" means a civil proceeding commenced by writ of summons or in such  
25 other manner as may be prescribed by rules of court and includes an action but  
26 not a criminal proceeding.

27 (4) The notice referred to in section 88(1) of this Act and any  
28 summons or other documents required or authorised to be served on the  
29 Authority in connection with a suit by or against it, may be served by:

- 30 (a) delivering it to the Managing Director;

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

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

4 89. In any action or suit against the Authority, no execution shall  
5 be levied or attachment process issued against the Authority unless not less  
6 than thirty days' notice of the intention to execute or attach has been given to  
7 the Authority.

Restriction on  
execution against  
property of the  
Authority

8 PART XIII - OFFENCES AND PENALTIES

9 90. A person who removes, destroys or damages any  
10 infrastructure, equipment and marine environment property belonging to or  
11 in the custody or possession of the Authority or hinders or prevents such  
12 property from being used or operated in the manner in which it is intended  
13 to be used or operated, commits an offence and is liable on conviction to a  
14 fine of not less than N800,000.00 and shall make good any loss, destruction  
15 or damage suffered by the Authority, including the expenses of any  
16 inspection or survey carried out by the Authority to ascertain the loss,  
17 destruction or damage.

Removal or  
damage to  
property of the  
Authority

18 91. A person who establishes, installs, maintains, provides or  
19 operates any marine service or facility or any port service or facility without  
20 an approval from the Authority commits an offence and is liable on  
21 conviction to a fine of not less than N1,000,000.00 or to imprisonment for a  
22 term of not less than three years or to both and in the case of a continuing  
23 offence, to a further fine of not less than N120,000.00 for every day or part  
24 thereof during which the offence continues.

Unlawful  
operation of port  
services of  
facilities

25 92. An owner, agent or a master of any vessel or consignor or  
26 consignee of any goods who evades or attempts to evade, neglects or omits  
27 to pay any dues, rates, charges or fees payable under this Act commits an  
28 offence and is liable on conviction to a fine of not less than N800,000.00 or  
29 to imprisonment for a term of not less than 6 months or to both and shall in  
30 addition be liable to pay to the Authority a penalty double the amount of the

Evasion of dues

1 dues, rates, charges or fees evaded or attempted to evade, neglected or omitted  
2 to pay.

Giving false  
statement in  
returns

3 93. A person who makes any statement whether knowingly or  
4 recklessly which is false in any return, claim or other document which is  
5 requested or authorised to be made by or under this Act or any regulations  
6 pursuant to this Act commits an offence and is liable on conviction to a fine of  
7 not less than N800,000.00 or to imprisonment for a term of not less than twelve  
8\* months or to both.

Offences in  
connection with  
safety of vessels,  
etc.

9 94. -(1) A person who wilfully and without lawful authority loosens  
10 or removes from its moorings or from its fastenings alongside any wharf or  
11 dock, any vessel in the port without permission or lawful authority from the  
12 master or owner of such vessel or person in charge of such wharf or dock  
13 commits an offence.

14 (2) A person who wilfully and without lawful authority lifts, injures,  
15 makes a vessel fast to, loosens or sets adrift any moorings, buoys, beacons or  
16 sea or land marks commits an offence.

17 (3) A person who without any lawful excuse discharges any gun in  
18 the port except for the purpose of making a signal of distress or for such other  
19 purpose as is allowed under any written law commits an offence.

20 (4) A person who graves, breams or smokes any vessel in the port, or  
21 boils or heats any pitch, tar, resin, dammar, turpentine oil or other such  
22 combustible matter on board any vessel within the port, at any time or within  
23 any limits at or within which such act is prohibited by any order of the Minister,  
24 or contrary to the orders or directives of the Harbour Master or the master of  
25 such vessel commits an offence.

26 (5) A person who does or omits to do any act on board any vessel in  
27 the port which has caused or may cause fire on board such vessel commits an  
28 offence.

29 (6) A person who uses a vessel or permits a vessel to be used in the  
30 port when the vessel is:

1 (a) in such a state that by reason of the defective condition of its  
2 hull, equipment or machinery, or by reason of under-manning or otherwise,  
3 the life of a person is likely to be endangered; or

4 (b) loaded with goods or passengers or with both goods and  
5 passengers as to:

6 (i) exceed the number of passengers allowed by the vessel's safety  
7 certificate to be carried or received on the vessel, and

8 (ii) submerge the appropriate subdivision load line on each side of  
9 the vessel when the vessel has no list and the subdivision load line  
10 appropriate to the space for the time being allotted to passengers on the  
11 vessel is lower than the load line indicating the maximum depth to which the  
12 vessel is for the time being entitled under any law to be loaded,  
13 commits an offence.

14 (7) A person who contravenes the provisions of subsections (1)  
15 ~~-(6)~~ this section is liable on conviction to a fine of not less than  
16 N1,000,000.00 or to imprisonment for a term of not less than six months or  
17 to both.

18 95. -(1) Where a vessel:

19 (a) enters any port or any approach to the port without permission  
20 from the Authority; or

21 (b) fails to leave any port or any approach to the port or to leave any  
22 berth at the port when required to do so by the Harbour Master,  
23 the master commits an offence and is liable on conviction to a fine of not less  
24 than N500,000.00 or to imprisonment for a term not less than twelve  
25 months or to both.

26 (2) Where the master fails to comply with the provisions of  
27 subsection (1) of this section, the master shall in addition to the fine, be  
28 liable to pay damages assessed in relation to the registered tonnage of the  
29 vessel for every hour that the vessel remains at the port or approach to port

Offences by  
master of vessel

1 after the time for departure required by such notice has expired.

2 (3) Where a vessel:

3 (a) enters any port or any approach to the port without permission  
4 from the Authority; or

5 (b) fails to leave any port or any approach to the port or to leave any  
6 berth at the port when required to do so by the Harbour Master,  
7 the owner or his agent commits an offence and is liable on conviction; in the  
8 case of:

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

12 (ii) a body corporate, to a fine of N1,000,000.00 and a further fine of  
13 N500,000.00 for each day or a part during which the offence continues.

Failure for not  
keeping a vessel  
so loaded with  
ballast or  
otherwise as to  
be safely removed

14 96. -(1) Every vessel lying alongside a wharf or within any dock shall  
15 be kept equipped, provided and loaded or ballasted to enable it be removed  
16 safely whenever it is necessary in the judgement of the Harbour Master.

17 (2) Any master or owner of a vessel who contravenes the provision of  
18 subsection (1) of this section commits an offence and is liable to a penalty of  
19 not less than the sum of N70, 000.00.

Throwing ballast  
and waste into  
port waters

20 97. A person who throws or empties into any port waters any ballast  
21 or waste however described commits an offence and is, in addition to other  
22 penalty provided in any applicable laws, liable on conviction, in the case of:

23 (a) oil or chemical waste to a fine of not less than N10,000,000.00 or  
24 such higher fine as the court may determine; and

25 (b) non-oil or bio-degradable waste, a fine of not less than the sum of  
26 N5,000,000.00.

Giving false  
information as  
to draught of  
vessels and  
cargo

27 98. -(1) An owner, agent or a master of a vessel entering or leaving or  
28 within the port or the approaches to a port who makes any negligent  
29 misstatement or gives false information of the type of vessel, its draught,  
30 length, beam or height to the Authority:

1 commits an offence and is liable on conviction to a fine of not less than  
 2 N5,000,000.00 or to imprisonment for a term of not less than 6 months or to  
 3 both.

4 (2) For the purposes of this section, "height of vessel" shall be the  
 5 height of the vessel measured vertically from the waterline of the vessel to  
 6 the highest point of the vessel including its cargo, structure or equipment on  
 7 board.

8 99. A person who wilfully or negligently:

9 (a) removes, alters or damages any lighthouse or light exhibited  
 10 therein or any buoy or beacon or other light placed by the Authority; or

11 (b) rides by, makes fast to or runs foul of any lighthouse, buoy or  
 12 beacon or other lights placed by the Authority,

13 commits an offence and is liable on conviction to a fine of not less than  
 14 N1,000,000.00 and shall in addition make good any loss, destruction or  
 15 damage caused by the contravention.

16 100. -(1) When any fire or light is burned or exhibited at any  
 17 place or in a manner as to be likely mistaken for a light proceeding from a  
 18 lighthouse, buoy, beacon or other light placed by the Authority, the  
 19 Authority may serve a notice on the:

20 (a) owner or occupier of the place where the fire or light is burned  
 21 or exhibited; or

22 (b) person having charge of the fire or light, directing the owner,  
 23 occupier or person, within a reasonable time to be specified in the notice, to  
 24 extinguish or screening the fire or light and to prevent the fire or light or any  
 25 similar fire or light from being burned or exhibited thereafter.

26 (2) The notice may be served either personally or by delivering it  
 27 at the place of abode of the person to be served, or by affixing it in some  
 28 conspicuous spot near the fire or light to which the notice relates.

29 (3) Any owner or person, on whom a notice under this section is  
 30 served, who fails, without reasonable cause, to comply with the directions

Removal or  
 damage to  
 lighthouses,  
 buoys and  
 beacons

Prohibition of  
 false lights at  
 the lighthouses

1 contained in the notice, commits an offence and is liable on conviction for each  
2 offence to a fine of not exceeding N50,000.00 and a further fine of not less than  
3 N50,000.00 for every day during which the offence continues.

4 (4) If any owner or person on whom a notice under this section is  
5 served neglects, for a period of twenty-four hours to extinguish or effectually  
6 screen the fire or light mentioned in the notice, an authorised employee of the  
7 Authority with other assistants, may:

8 (a) enter on the place where the fire or light is, and extinguish the fire  
9 or light from doing no further damage than is necessary; and

10 (b) recover the expenses incurred by him from the owner or person  
11 on whom the notice has been served.

Obstructing  
authorised entry

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

Navigation  
without pilot

16 **102.** Where:

17 (a) a vessel navigates without a pilot in circumstances in which a  
18 pilot is to be engaged under any of the provisions of this Act; or

19 (b) the master refuses to comply with any request made under this  
20 section, or makes or is privy to the making of any false statement in answer to  
21 such request,

22 the master commits an offence and is liable, on conviction, to a fine of not less  
23 than N800,000.00, and shall in addition pay the pilotage fees which would  
24 have been paid if the Authority's pilot had been employed.

Illegal piloting

25 **103.**-(1) A person who offers his services as a pilot:

26 (a) without the permission of the Authority and without being duly  
27 licensed; or

28 (b) while his license as a pilot is cancelled, suspended or revoked,  
29 commits an offence.



1 (2) Any pilot who:

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

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

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

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

10 104. Any master who contravenes any of the provisions of this Act  
11 commits an offence and is liable on conviction, to a fine of not less than  
12 N500, 000.00 or to imprisonment for a term of not less than twelve months  
13 or to both.

Failure of  
compliance by  
master

14 105. Where a person taking part in the loading, unloading or  
15 warehousing of goods in any port endangers the safety, life, limb, body or  
16 property of a person:

Persons  
endangering life  
or property

17 (a) by contravening any of the provisions of this Act or of any  
18 regulation made pursuant to this Act; or

19 (b) by any rash or negligent act,  
20 commits an offence and is liable on conviction, to a fine of not less than  
21 N500,000.00 or to Imprisonment for a term not less than six months or to  
22 both.

23 106. -(1) A person who:

24 (a) without lawful excuse, refuses, neglects or fails to comply with  
25 any directive lawfully given by the Authority in exercise of its powers under  
26 this Act; or

Non-compliance  
with directives  
of the Authority  
or with any  
provision of this  
Act

27 (b) fails to comply with any provision of this Act or regulations  
28 made pursuant to this Act,

29 commits an offence and, unless another penalty is established for such  
30 offence in this Act, shall, in addition to the forfeiture of any article seized, is

1 liable on conviction, to a fine of not less than N1,000,000.00 or to  
2 imprisonment for a term of not less than twelve months or to both and in the  
3 case of a continuing offence to a further fine of not less than N200,000.00 for  
4 every day during which the offence continues.

5 (2) Where any person without lawful excuse refuses or neglects to  
6 obey any directive lawfully given under this Act or regulations made pursuant  
7 to this Act commits an offence, and the Authority may, irrespective of whether  
8 any proceedings have been instituted against or punishment imposed on such  
9 person for the refusal or neglect, do or cause to be done all such acts as in its  
10 opinion are reasonable or necessary for the purpose of carrying out such  
11 directive.

12 (3) The powers conferred by subsection (2) of this section include the  
13 power to hire and employ such persons as are necessary and proper for making  
14 good whatever loss or damage that has been caused by any refusal or neglect of  
15 the person to whom the directive has been given.

16 (4) Any expenses incurred by the Authority in the exercise of its  
17 powers under this section shall be recoverable from the person to whom the  
18 directive has been given.

Unlawful  
loosening  
moorings

19 **107.** A person who wilfully sets adrift, cuts, breaks or unfastens the  
20 moorings of a vessel commits an offence and is liable on conviction to a fine of  
21 not less than N10,000,000.00 or to imprisonment for a term of not less than 5  
22 years or to both.

Wilfully sinking  
vessels

23 **108.** A person who wilfully sinks any vessel in a port or in the  
24 approach to the port, without the permission in writing of the Harbour Master,  
25 commits an offence and is liable on conviction to a fine of not less than  
26 N50,000,000.00 or imprisonment for term as the court may determine or to  
27 both and shall in addition, pay to the Authority, the expenses incurred by the  
28 Authority in salvaging the vessel.

Demanding of  
improper amounts  
by an employee

29 **109.** An employee of the Authority, who, with intent to defraud,  
30 demands or receives from any person liable to pay any dues, fees or rates

1 imposed under this Act, in respect of any matter, any other amount than is  
 2 authorised to be levied by the regulations for the time being in force in  
 3 respect of that matter; commits an offence and is liable on conviction to a  
 4 fine of not less than N500,000.00 or imprisonment for a term of not less than  
 5 12 months or to both and shall in addition, pay to the Authority 10 times the  
 6 amount that would have been paid.

7 **110.** An employee of the Authority shall be deemed to be a person  
 8 employed in the public service of the Federation for the purpose of Sections  
 9 98, 99 and 100 of the Criminal Code.

Application of  
 sections 98, 99  
 and 100 of the  
 Criminal Code

10 **111.** A person who:

11 (a) hinders or obstructs the Authority or assaults any of its  
 12 employees, agents or contractors in the performance and execution of their  
 13 duties or of anything which they are empowered or required to do pursuant  
 14 to the provisions of this Act; or

Obstructing the  
 Authority in the  
 performance of  
 its duties

15 (b) removes any mark set up for the purpose of indicating any level  
 16 or direction necessary for the execution of works authorised by this Act,  
 17 commits an offence and is liable on conviction to a fine of not less than  
 18 N800,000.00 or to imprisonment for a term of not less than twelve months  
 19 or to both.

20 **112.-(1)** A person who is or has been a member, an officer,  
 21 employee, adviser or agent of the Authority or a member of a committee of  
 22 the Authority shall not disclose any information relating to the affairs of the  
 23 Authority or of any other person which has been obtained by him in the  
 24 performance of his duties or the exercise of his functions except for the  
 25 purpose of the performance of his duties or the exercise of his functions or  
 26 when lawfully required to do so by any court or under the provisions of any  
 27 written law.

Preservation of  
 secrecy

28 (2) A person who contravenes the provision of subsection (1) of  
 29 this section commits an offence and is liable on conviction to a fine of not  
 30 less than N300,000.00 or to imprisonment for a term of not less than 6

1 months or to both.

Offences by  
companies

2                   **113.**-(1) Where an offence under this Act or regulations made  
3 pursuant to it has been committed by a company or other body of persons, any  
4 \* person who at the time of the commission of the offence was a director,  
5 manager or partner in the corporate body or other body of persons who acted in  
6 such capacity may be charged with the same offence.

7                   (2) Where a company or other body of persons is convicted of an  
8 offence under this Act, any person charged with the same offence shall on  
9 conviction be liable to the penalty for that offence unless he proves that the  
10 offence was committed without his knowledge or consent and that he exercised  
11 all due diligence to prevent the commission of the offence as he ought to have  
12 exercised, having regard to the nature of his functions in that capacity and to all  
13 the circumstances.

Penalties to be  
paid to the  
Authority

14                   **114.** All penalties imposed for any breach under this Act or  
15 regulations made pursuant to it and all sums collected under this Act shall be  
16 paid into the Fund established under section 16 of this Act.

17                   PART XIV - MISCELLANEOUS

Exemption of  
Authority's land

18                   **115.** Notwithstanding the provisions of any other laws, wharves  
19 shall not be regarded as a hereditament or tenement to be valued for rating  
20 purposes and the Authority shall not be required to pay any rates in respect of  
21 wharves or any property situated in the wharves.

Power to issue  
guidelines

22                   **116.** -(1) The Authority shall have the power to issue guidelines and  
23 standards with respect to the operation of port facilities and services in the port  
24 by concessionaires including the determination of performance standards and  
25 quality standards of the facilities and services provided by them.

26                   (2) The Authority may issue guidelines and directives for the  
27 management and maintenance of all ports and for the maintenance of good  
28 order in the ports including:

29                   (a) controlling traffic within the limits of the ports;

30                   (b) using berths and stations;

- 1 (c) anchoring, mooring, etc.
- 2 (d) preventing obstructions and keeping order on piers;
- 3 (e) using fires and related signals in case of fire;
- 4 (f) using of whistles and sirens;
- 5 (g) chipping, scaling or noisy repairs;
- 6 (h) floating timber and other objects;
- 7 (I) explosives;
- 8 (j) placing and maintaining moorings;
- 9 (k) weighing and metering;
- 10 (l) pilotage;
- 11 (m) harbour; and
- 12 (n) any construction whatsoever.

13 (3) The power to issue Guidelines under section 116 (2) (i) and  
14 (k) shall be subject to the existing law on the subject.

15 (4) Subject to the provisions of this Act, the Authority shall  
16 control:

- 17 (a) navigation within port limits and the approaches to ports;
- 18 (b) the entry of vessels into ports, their stay, movements or  
19 operations in and departures from ports;
- 20 (c) the loading, unloading and storage of cargo and the  
21 embarkation and disembarkation of passengers;
- 22 (d) off-shore cargo-handling facilities, including navigation in  
23 the vicinity of such facilities;
- 24 (e) pollution and the protection of the environment within the  
25 port limits;
- 26 (f) enhancement of safety and security within the port limits; and
- 27 (g) merchant shipping and particularly in respect of safety at sea  
28 and the prevention of pollution at sea within the vicinity of the ports;
- 29 (5) Guidelines issued by the Authority shall be duly notified and  
30 published and the Authority may recommend to the Minister to issue the

- 1 guidelines as regulations.
- Power to collect  
taxes 2 117. The Authority shall register as an agent of the Federal Inland  
3 Revenue Service or any Tax Authority for the purpose of collection of With  
4 Holding Tax and Value Added Tax.
- Advance vessel  
and cargo  
information 5 118. The owner of any vessel intending to enter any port or harbour  
6 in Nigeria for any purpose shall, before the departure of the vessel for Nigeria,  
7 submit to the Authority a statement in writing setting out the following  
8 information:  
9 (a) the name and full documentation of the vessel including  
10 International Maritime Organization (IMO) numbers where applicable;  
11 (b) name of the port or ports of sailing;  
12 (c) estimated time of departure for Nigeria;  
13 (d) name of the port or ports of discharge in Nigeria;  
14 (e) estimated date of arrival;  
15 (f) detailed information including tonnage of the cargo carried in the  
16 vessel; and  
17 (g) type of cargo on board the vessel.
- Prohibition of  
entry into  
Nigerian Ports  
and Harbours  
without permit 18 119. A vessel shall not enter a port or harbour or an approach to a  
19 port or harbour in Nigeria without prior permission or approval of the  
20 Authority.
- Damage to  
property of the  
Authority 21 120. -(1) Where any damage is done to any property of the  
22 Authority by any vessel, equipment or float of timber, the cost of making good  
23 the damage, including the expenses of any inspection or survey carried out by  
24 the Authority to ascertain the damage, may be recovered by the Authority as a  
25 debt from the master, owner or person in charge of the vessel, equipment or  
26 float of timber.  
27 (2) The Authority may detain any vessel, equipment or float of  
28 timber responsible for causing the damage to its property until the costs of  
29 making good such damage and the expenses described in subsection (1) of this  
30 section have been paid to the Authority.

1 (3) The Authority may require from the master, owner or person  
2 in charge of the vessel, equipment or float of timber to deposit such sum of  
3 money or furnish such security in order to meet the costs and expenses for  
4 repairing the damage.

5 **121.** -(1) Save as is provided in this Act, the Nigerian Ports  
6 Authority Act, CAP N126, Laws of the Federation of Nigeria, 2004 is  
7 repealed.

Repeals

8 (2) The Lagos Port Operations (Special Provisions) Act, Cap L3,  
9 LFN, 2004 is repealed.

10 **122.** -(1) From the commencement of this Act, all assets,  
11 liabilities, rights and obligations of the Nigerian Ports Authority established  
12 under the repealed Act in subsection (1) of section 121 of this Act shall vest  
13 in the Authority established under Part I of this Act and in the manner  
14 provided under the Second Schedule to this Act.

Savings

15 (2) Save as is provided under this Act, all regulations, orders and  
16 other subsidiary legislations made under the repealed Act, and in force  
17 immediately before the commencement of this Act, shall, so far as it is not  
18 inconsistent with the provisions of this Act, continue in force as if they had  
19 been made under this Act and shall be treated accordingly.

20 (3) Any Fund established by or under any of the provisions of the  
21 laws repealed by this Act shall, notwithstanding such repeal and as from the  
22 date thereof, continues to be operated as if they had been established under  
23 the relevant provisions of this Act and shall be treated accordingly.

24 **123.**-(1) The Ports (Related Offences, etc.) Act, Cap P23, LFN,  
25 2004 is amended in the following manner:

Consequential  
amendments

26 (a) by the addition of a new subsection (g) under section 1(1) to  
27 read: "Port Health";

28 (b) subsection 1(3) is amended by the deletion of the words "or  
29 any other person as may be authorised under any law or instrument to that  
30 effect" immediately following "...inspection agents";

1 (c) subsection 1(4) is amended by the deletion of the words “or a  
2 traveller or a bona fide owner of goods” immediately following “passenger”  
3 and replacing them with “or any person Licensed by the Authority;

4 (d) subsection 1(4)(a) is amended by the insertion of “or any other  
5 ports in Nigeria” immediately after the words “this Act”;

6 (e) subsection 1(4) is amended by the insertion of a new subsection  
7 1(4)(e) to read: “examine any goods, vessels etc for any purpose whatsoever”;

8 (f) subsection 4(a) is amended by the deletion of N10,000 and  
9 replacement with “N300,000.00”;

10 (g) subsection 4(b) is amended by the insertion of “and” the words  
11 “twelve months”; and

12 (h) subsection 4(c) is amended by the deletion of N1,000.00 and  
13 replacement with “N20,000.00”.

14 (2) The Schedule is amended by the addition of: Kirikiri Lighter  
15 Terminals (I & II), Ikorodu Lighter Terminal, Federal Ocean Terminal Onne,  
16 Federal Lighter Terminal Onne, Warri, Calabar, Burutu, Akassa, Bonny,  
17 Degema, Forcados, Escravos, Koko Town, Sapele, Brass and Lekki Deepsea  
18 Port;

19 (3) The Federal Environmental Protection Agency Act, Cap F10,  
20 LFN 2004 is amended in the following manner by the addition of a new  
21 subsection 27(3) to read:

22 “(3) The powers granted under this section shall be exercised in a  
23 port, vessel, floating craft or any inland water only upon invitation by the  
24 Authority or Nigeria Customs Service and the authorised officer shall only  
25 exercise such powers through the Nigeria Customs Service”.

26 (4) The National Agency for Food and Drug Administration and  
27 Control Act, Cap N1, LFN 2004 is amended in the following manner by the  
28 addition of a new subsection 5(2) to read.

29 “(2) The powers and functions granted under this Section shall be  
30 exercised in a port, vessel, floating craft or any inland water only upon



1 invitation by the Authority or Nigerian Customs Service and the authorised  
2 officer shall only exercise such powers through the Nigerian Customs  
3 Service”.

4 (5) The Utilities Charges Commission Act CAP. U17, LFN, 2004  
5 is amended the First Schedule by deleting the following items:

6 “(a) Ferry Services Organisation; and

7 (b) Nigerian Ports Authority”

8 (6) The National Drug Law Enforcement Agency Act, CAPN30,  
9 LFN 2004 is amended in the following manner:

10 (a) by the addition of a new Subsection 3(3) to read:

11 “(3) The powers and functions granted under this Section shall be  
12 exercised in a port, vessel, floating craft or any inland water only upon  
13 invitation by the Authority or Nigerian Customs Service and the authorised  
14 officer shall only exercise such powers through the Nigerian Customs  
15 Service”.

16 (b) Subsection 8(1)(c) is amended by insertion of the words:  
17 “working in collaboration with the Nigerian Customs Service” at the  
18 beginning of the sentence immediately before the words “detecting”;

19 (c) subsection 8(1)(d) is amended by insertion of the words:  
20 “working in collaboration with the Nigerian Customs Service” at the  
21 beginning of the sentence immediately before the words “maintaining”;

22 **124.** In this Act:

23 “Authority” means the Nigerian Ports and Harbours Authority established  
24 under section 3 of this Act;

25 “Aid to navigation” means a device used for the safety of navigation  
26 including lighthouses, radio navigational aids, buoys, beacons and any other  
27 device or system used to assist the safe and efficient navigation of vessels;

28 “Beacon” means a prominent specially constructed object forming a  
29 conspicuous mark as a fixed aid to navigation;

Interpretation

- 1 "Board" means the Board of the Authority established under section 4 of this  
2 Act;
- 3 "Buoy" includes a floating object of any size, shape and colour which is  
4 moored to the seabed and serves as an aid to navigation or for other specific  
5 purposes;
- 6 "Cargo" or "Goods" includes any substance or article, livestock, minerals,  
7 wares and merchandise of every description and any container or other item  
8 used to contain any substance or article;
- 9 "Chairman" means the Chairman of the Board of the Authority appointed  
10 under section 4 (3) of this Act;
- 11 "Channel" includes a terminal, the seabed, course, swinging basin, turning  
12 circle, an area alongside a berth or dock, fairway, anchorage and berth;
- 13 "Channel operator" means in the case of any port waters, a person who  
14 manages channels in those waters;
- 15 "concession" means an arrangement between the Authority and a third party  
16 pursuant to which such third party shall be authorized to provide a port service  
17 or operate a port facility in accordance with this Act and the term includes the  
18 meaning assigned to it in the ICRC Act;
- 19 "concessioned" shall be interpreted accordingly;
- 20 "Concessionaire" means a person granted concession under this Act;
- 21 "Consumer" or "Port user" means any person who uses port services or  
22 facilities;
- 23 "Council" means the Federal Executive Council of the Federal Republic of  
24 Nigeria;
- 25 "Court" means a court of law of competent jurisdiction;
- 26 "Development" or "Works" includes:
- 27 (a) the construction, extension, demolition or removal of a  
28 building or substantial alteration of any structure in or on land;
- 29 (b) any change to the natural or existing condition or topography  
30 of land;

1 (c) the decoration or alteration of the inside or outside of a  
2 building or the alteration of works;

3 (d) the subdivision or consolidation of land, airspace or  
4 buildings;

5 (e) the installation, provision or operation of facilities or  
6 services;

7 (f) the removal of vegetation or topsoil;

8 (g) land reclamation and land decontamination; and

9 (h) dredging;

10 "Dock" includes basins, lock cuts, entrances, graving, docks, keel blocks,  
11 included planes, slipway grid irons, quays, warehouses and other works and  
12 things appertaining to any dock;

13 "Employers of maritime labour" includes terminal operators, stevedoring  
14 and cargo handling companies, dock labour and seafarers employers;

15 "Equipment" or "Facility" includes any apparatus, machinery or system  
16 used or intended to be used for provision of port services;

17 "Estimates" means in respect of recurrent revenue the best possible  
18 commercial forecast of revenue taking into account the general conditions  
19 of world trade and all other relevant factors and in respect of recurrent  
20 expenditure the best possible commercial forecast of expenditure likely to  
21 be incurred having regard to the estimates of revenue;

22 "Federal Government" or "Government" means Government of the Federal  
23 Republic of Nigeria;

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

27 "ICRC" means Infrastructure Concession Regulatory Commission;

28 "Land" includes the bed of the sea below high water mark;

29 "Licence" means an authorisation to own a port, provide a port service or  
30 operate a port facility, and "Licensed" or "Licensee" shall be interpreted

- 1 accordingly;
- 2 “Maritime labour” means dockworkers;
- 3 “Maritime domain” Is defined as all area and things of, on, under, relating to,  
4 adjacent to, or boarding on a sea, ocean, or other navigable waterways,  
5 including all maritime-related activities, infrastructure, people, cargo and  
6 vessels and other conveyances carried out on the Exclusive Economic Zone  
7 and Continental shelf;
- 8 “Master” includes every person, except a pilot, having for the time being the  
9 command or charge of any vessel or ship;
- 10 “Minister” means the Minister for the time being charged with the  
11 responsibility for marine transport;
- 12 “Minister of Finance” means the Minister for the time being charged with the  
13 responsibility for Finance;
- 14 “Ministry” means the Federal Ministry for the time being charged with the  
15 responsibility for transport;
- 16 “Nigerian waters” includes inland waters, territorial waters or waters of the  
17 Exclusive Economic zone (respectively, together or any combination thereof);
- 18 “Off-shore cargo handling facility” means an off-shore facility within or  
19 beyond the port limits used for the transfer of cargo from a vessel to the land  
20 and vice versa;
- 21 “Owner” in relation:
- 22 (i) to goods includes any consignor, consignee, shipper or agent for  
23 the sale, custody, shipping or landing of such goods; and
- 24 (ii) to any vessel includes any part owner, charterer, consignee or  
25 mortgagee in possession of the vessel; and
- 26 (iii) the legal or beneficial owner in relation to (i) and (ii);
- 27 “Person” includes a corporate body or partnership and where an individual is  
28 required to represent a corporate body or partnership in any circumstance  
29 pursuant to this Act or regulations made under this Act, it shall be sufficient if in  
30 the case of a:

1 (a) Corporate body, it is represented by a duly authorized person;  
2 and

3 (b) Partnership, it is represented by a partner in the partnership or a  
4 duly authorized employee of the partnership.

5 "Pier" includes any stage, stairs, landing places, landing stage, jetty, floating  
6 barge or pontoon and any bridge or other works connected therewith;

7 "Pilotage Board" means a Board constituted under this Act made up of  
8 nautical professionals to carry out:

9 (a) Examination in connection with the licensing of pilots for a  
10 Pilotage District;

11 (b) Licensing of pilots for the Pilotage District on behalf of the  
12 Authority; and

13 (c) Inquiries concerning the conduct of pilots in the discharge of  
14 their duties in a Pilotage District;

15 "Pilotage District" means any of the Pilotage Districts as defined by the  
16 Nigerian Ports Authority (Pilotage Districts) Order and any subsequent  
17 amendment thereto;

18 "Port" means any place in Nigeria, navigable river or channel leading into  
19 such place having facilities for vessels to moor and load or discharge  
20 including offshore cargo handling facilities (artificial islands), inland (dry)  
21 ports, harbour, berths, jetties, pontoons or buoys and wharves within the  
22 limits of the ports and includes any place declared to be a port under this Act  
23 and;

24 "Port dues" means dues levied in respect of a vessel for entering, using,  
25 leaving or moving or sailing in the port;

26 "Port infrastructure" means the basic structure of a port, including  
27 breakwaters, seawalls, channels, basins, quay walls, jetties, roads, railways,  
28 and infrastructure used for the provision of water, lights, power, sewerage  
29 and telecommunications and similar services;

30 "Port operator" means a person who owns the business of, or is responsible

- 1 for the management and operations of ports, terminals, or berths located in a  
2 port;
- 3 “Port repair facilities” includes dry docks, vessels repair facilities, warehouses  
4 and railways within a port and any other facilities which are designated as such  
5 by the Authority;
- 6 “Port services” and “Facilities” includes stevedoring, cargo handling, terminal  
7 operations, storage of cargo within a port, tug services, floating crane services,  
8 berthing services, fire fighting, security, radio and radar services, waste  
9 disposal, vessel repairs and any other services terminal and facilities for the  
10 handling, storage and transportation of goods on land adjoining the fore shore  
11 of Nigeria or a floating platform and for the handling of passengers carried by  
12 vessels within a port;
- 13 “Port service provider” includes any person providing services within a port;
- 14 “Port terminal” means an area, infrastructure, cargo-handling equipment,  
15 sheds and other land-based structures used for the loading, storage and  
16 discharging of cargo or the embarkation and disembarkation of passengers and  
17 include any corresponding wharves, docks, piers, bridges and other  
18 infrastructure works, with all necessary and convenient arches, drains,  
19 culverts, fences, roads, railways and sea, land and air approaches;
- 20 “Port undertakings” means the undertakings of the Authority that relate to the  
21 provision by the Authority of any facility or service of any description in  
22 connection with the exercise and performance of its powers and duties under  
23 any written law and includes any movable and immovable property and the  
24 rights of the Authority that relate to such facility or service;
- 25 “Premises” includes houses, buildings, structures, lands, tenements,  
26 easements and hereditaments of any tenure, whether open or enclosed, whether  
27 built on or not, whether public or private, and whether maintained or not under  
28 the control of an authority;
- 29 “Prescribe” means a rule, direction, or order laid down, approved or given by  
30 this Act or by its subsidiary legislation or regulations or any relevant

1 legislation;

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

3 “Regulations” means regulations made under this Act;

4 “Revenue” means any monies received by the Authority by way of charges,  
5 scales of charges or other duties imposed by or under this Act and includes  
6 any monies accruing to the Authority under this Act;

7 “Seafarers” includes every person except masters and pilots employed or  
8 engaged in any capacity on board any vessel;

9 “Tariff” or “Charges” or “Rates” includes port dues, goods dues and pilotage  
10 dues and other charges levied by port service providers including those  
11 charged by the Authority;

12 “Terminal infrastructure” includes terminal buildings, cargo handling  
13 equipment, workshops, substations, surfacing, rail sidings and terminal  
14 operations and water, lights, power, sewerage, telecommunications and  
15 similar services within terminal boundaries;

16 “Terminal operations” means services provided at a port terminal,  
17 consisting of cargo handling storage and delivery to vessels and services  
18 related thereto;

19 “This Act” includes the regulations made pursuant to this Act;

20 “Vessel” means any kind of vessel that is used, or capable of being used, in  
21 navigation by water, howsoever propelled or moved, and includes:

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

24 (b) Other similar craft, that is used in navigation by water;

25 “Wharf” includes any wall and building adjoining the foreshore, sea-bed or  
26 river-bed, a quay, pier, jetty, ramp or other landing place;

27 “Wreck” means any derelict, floatsam, jetsam, or legan including any  
28 sunken or stranded ship or part thereof or anything that is on board such a  
29 ship that is stranded, sunken or in danger within the limits and approaches of  
30 any port;

1 "Wreck" also refers to a ship that is about or that may reasonably be expected to  
2 become a wreck by reason of collision, stranding or any other incident of  
3 navigation or any other occurrence on board the ship or external to it, resulting  
4 in material damage or imminent threat of material damage to the ship.

Short title

5 125. This Bill may be cited as the Nigerian Ports and Harbours  
6 Authority Bill, 2016.

## FIRST SCHEDULE

[Sections 2 (b), 27 (2) ]

## PORTS AND HARBOURS

- 7  
8  
9  
10 (i) Lagos Port Complex, Apapa;  
11 (ii) Tin Can Island Port Complex;  
12 (iii) Kirikiri Lighter Terminal (I & II);  
13 (iv) Ikorodu Lighter Terminal.  
14 (v) Port Harcourt;  
15 (vi) Federal Ocean Terminal, Onne;  
16 (vii) Federal Lighter Terminal, Onne;  
17 (viii) Warri;  
18 (ix) Calabar;  
19 (x) Burutu;  
20 (xi) Akassa;  
21 (xii) Bonny;  
22 (xiii) Degema;  
23 (xiv) Forcados;  
24 (xv) Escravos;  
25 (xvi) Koko Port;  
26 (xvii) Sapele;  
27 (xviii) Brass; and  
28 (xix) Lekki Deep Sea.



## SECOND SCHEDULE

[Section 122 (1) ]

## TRANSFER PROVISIONS FOR THE NIGERIAN PORTS AND HARBOURS

## AUTHORITY

*Transfer of Assets*

(1) All Assets and funds which immediately before the commencement of this Act were vested in the Authority shall by virtue of this Act be vested in the Authority.

(2) All bonds, hypothecations, securities, deeds, contracts, instruments, documents, and working arrangements with respect to the assets transferred, that subsisted immediately before the commencement of this Act and to which the Authority was a party, shall be as fully effective and enforceable against or in favour of the Authority as if, instead of the Authority the Authority had been named therein.

(3) Any cause of action or proceeding which existed or was pending with respect to the assets transferred by or against the Authority immediately before commencement of this Act, shall be enforced or continued, as the case may be, by or against or in favour of the Authority in the same way that it might have been enforced or continued by or against the Authority had this Act not been passed.

(4) No action or other proceeding shall be commenced against the Authority in respect of an employee or asset that has been transferred to the Authority, had there been no transfer, the time for commencing the action or other proceeding would have expired.

(5) Nothing in this Act and nothing done as a result of a transfer under sub-paragraph (1) of this paragraph shall create any new cause of action in favour of:

(a) a holder of a debt instrument that was issued by the Authority before the commencement of this Act;

(b) a party to a contract with the Authority that was entered into

1 before the commencement of this Act.

2 (6) Any guarantee or surety given or made by the Federal Government  
3 or any other person in respect of any debt or obligation of the Authority, and  
4 which was effective immediately before the transfer of the principal debt or  
5 obligation, shall remain fully effective against the guarantor or surety on and  
6 after the transfer date in relation to the payment of the debt or the performance  
7 of the obligation, as the case may be, by the Authority to which the principal  
8 debt or obligation was transferred.

9 *Transfer of Employees*

10 (1) Upon the Commencement of this Act, such number of persons  
11 employed by the Authority as may be required by the Authority shall be  
12 transferred to the service of the Authority on terms not less favourable than  
13 those enjoyed immediately prior to the transfer.

14 (2) The service rendered by an employee transferred pursuant to sub-  
15 paragraph (1) of this paragraph to the Authority shall be deemed to be service  
16 with the Authority for the purpose of determining employment related  
17 entitlements as specified in the relevant laws of employment in Nigeria.

18 (3) Until such time as conditions of service are drawn up by the  
19 Authority:

20 (a) the terms and conditions of service applicable to employees of the  
21 Authority shall continue to apply to every person transferred to the Authority as  
22 if every such person were still in the service of the Authority; and

23 (b) the Authority shall continue to contribute towards any pension  
24 scheme to which the Authority was contributing in respect of persons in the  
25 employ of the Authority prior to the transfer date.

26 (4) Nothing in this paragraph shall operate so as to prevent any em-  
27 ployee of the Authority from resigning or being dismissed from service.

## THIRD SCHEDULE

[Sections 4 (6), 15 (2)]

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD OF THE  
NIGERIAN PORTS AND HARBOUR AUTHORITY*Proceedings of the Board*

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

2. The Chairman shall preside at every meeting of the Board and in his absence; the members present at that meeting shall appoint one of their numbers to preside at the meeting. 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 members of the Board.

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. The Chairman shall, if so required by notice given to him by not less than 4 members of the Board specifying, amongst others, an agenda for the meeting, summon a meeting of the Board which shall be held no later than 14 days from the date on which the notice is served on him to discuss the items specified in the notice. 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 an interest of a personal nature (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

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

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

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

7 7. Decisions at a meeting of the Board shall be taken by a majority  
8 save that decisions on any of the following matters shall require a majority of at  
9 least 75%:

10 (a) the establishment of any subsidiary or participation in a joint  
11 venture or partnership of any description or the granting of a concession;

12 (b) major agreements involving procurement, sales, loan, service or  
13 otherwise in excess of N10,000,000.00 per transaction or N120,000,000.00 per  
14 annum.

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

#### 17 *Committees*

18 1. Subject to its standing orders, the Board may appoint such  
19 number of standing or *ad hoc* committees as required by the Code of Corporate  
20 Governance and report on any matter with which the Authority is concerned.

21 2. A committee appointed under paragraph (1) shall:

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

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

27 3. The quorum of any Committee set up by the Board shall be as may  
28 be determined from time to time by the Board.

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

*Miscellaneous*

1  
2           1. The fixing of the seal of the Authority shall be authenticated  
3 by the signature of the Chairman and that of the Secretary or any other Board  
4 Member generally or specifically authorised by the Board to act for that  
5 purpose.

6           2. Any contract or instrument which, if made by a person not  
7 being a body corporate, would not be required to be under seal may be made  
8 or executed on behalf of the Authority by any person generally or specially  
9 authorised by the Board to act for that purpose.

10          3. Any document purporting to be a contract, instrument or other  
11 document duly signed or sealed on behalf of the Authority shall be received  
12 in evidence and shall, unless the contrary is proved, be presumed without  
13 further proof to have been so signed or sealed.

14          4. Subject to the other provisions of this Act, the validity of any  
15 proceedings, act or decision of the Board or of any of its Committees shall  
16 not be affected by:

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

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

20           (c) By reason that any person not entitled to do so took part in the  
21 proceedings of the Board or Committee.

22          5. No member of the Board or a Committee shall be personally  
23 liable for any act or omission done or made in good faith while engaged on  
24 the business of the Authority.

25          6. A person shall not by reason only of his membership of the  
26 Board be treated as holding an office of emolument under the Government  
27 of the Federation or the Government of any State of the Federation.

## FOURTH SCHEDULE

[Section 6(1) (g)]

## CONFLICT OF INTEREST

1. Subject to the further provisions of this Schedule, no member of the Board or staff of the Authority shall have a direct or indirect financial interest or investment in any shipping, stevedoring, pilotage, terminal operations or any other services or receive therefrom any loan, remuneration or other rights, or have any personal interest in any contract made or proposed to be made by the Authority, throughout the tenure of his office or employment with the Authority.

2. Subject to paragraphs 3 and 4 of this Schedule, each member of Board or staff of the Authority shall on an annual basis present a written declaration not later than the third month of each year affirming the non-existence of any such interest as is specified in paragraph 1 and shall pledge to disclose and inform the Authority of any such relationship or interest that arises or is likely to arise during his tenure or employment with the Authority.

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

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

5. Each member of the Board or staff of the Authority shall declare on appointment or at the commencement of employment and annually

1 thereafter, for as long as he serves the Authority, any interest or investment  
2 that he:

3 (a) knowingly has; or

4 (b) knows any member of his immediate family to have in any  
5 aspect of the Nigerian ports industry.

6 6. If a member of the Board or staff of the Authority contravenes  
7 the provisions of paragraphs 1 and 2 of this Schedule, or gives false  
8 information under paragraph 5 of this Schedule, commits an offence and  
9 liable on conviction, to the payment of a fine not exceeding N1,000,000.00  
10 or imprisonment for a term not exceeding 1 year or to both.

11 7. Subject to paragraph 1 of this Schedule, the Board may from  
12 time to time waive the application of the prohibitions specified in  
13 paragraphs 1 and 2 of this Schedule to any member of the Board or staff of  
14 the Authority if the Board determines that the financial interest of the person  
15 concerned is not of a material nature or is minimal.

16 8. The Board in determining whether or not the interest of a  
17 member of the Board or staff of the Authority is minimal or not of a material  
18 nature shall consider factors including but not limited to the following:

19 (a) the revenues, investments, profits and managerial efforts of  
20 the relevant company or other entity with regard to its port activities  
21 compared with other aspects of the Authority's or such entity's businesses;

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

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

26 (d) the perceptions held or likely to be held by the public  
27 regarding the concerned person's financial interest or investment in that  
28 company or other entity.

29 9. The Board may at any time review and reverse its  
30 determination under paragraph 7 of this Schedule and direct the application

1 of the prohibitions contained in this Schedule to the member of the Board or  
2 staff of the Authority concerned. The Board shall not be under an obligation to  
3 disclose the reason or basis for its review to the member of the Board or staff of  
4 the Authority concerned.

5           10. In any case in which the Board exercises the waiver or the  
6 review thereof as specified in paragraphs 7 and 9 of this Schedule, the Board  
7 shall so soon thereafter publish the details thereof. Such publication shall  
8 include information regarding the identity of the person who has been granted  
9 the waiver or whose waiver has been reviewed, the position held by such  
10 person and the nature of the financial interests which are the subject of the  
11 waiver or the review thereof.

12           11. For the purposes of this Schedule:

13           (a) "Company" shall include partnerships and undertakings  
14 howsoever defined;

15           (b) "Immediate family" shall mean a person's spouse, a partner  
16 living with that person as if they were married to each other and children who  
17 are under the age of 18 years.

#### EXPLANATORY MEMORANDUM

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

This Act seeks to provide, among other things, for the establishment of the Nigerian Ports and Harbours Authority and to provide for the management and development of ports and harbours in Nigeria.



