

**A BILL**

FOR

AN ACT TO REPEAL THE NIGERIA CUSTOMS SERVICE BOARD ACT, 1992 AND ENACT THE NIGERIA CUSTOMS SERVICE COMMISSION TO BE CHARGED WITH THE RESPONSIBILITY FOR ADMINISTRATION OF THE NIGERIA CUSTOMS SERVICE AND FOR RELATED MATTERS

*Sponsors:*

Hon. Jerry Alagbaoso

Hon. Albert Abiodun Adeogun

Hon. Yuguda Killa

Hon. Suleiman Kangiwa

Hon. Sabo Garba

Hon. Ossy Prestige

[ ] Commencement

BE IT ENACTED by the National Assembly of the Federal

Republic of Nigeria as follows:

1 PART I - REPEAL OF THE NIGERIA CUSTOMS SERVICE BOARD ACT AND  
2 ENACTMENT OF THE NIGERIA CUSTOMS COMMISSION

3 1.-(1) The Nigeria Customs Service Board Act, CAP. No.45, Laws  
4 of the Federation of Nigeria 1992, is hereby repealed.

5 (2) There is hereby established a Nigeria Customs Service  
6 Commission (in this Act referred to as the "the Commission") which shall be  
7 autonomous from the Federal Ministry of Finance and shall be responsible  
8 for the management and administration of officers and men of Nigeria  
9 Customs Service as well as supervise the administration of all Customs  
10 Acts.

11 (3) The Commission:

12 (a) Shall be a body corporate with perpetual succession and a  
13 common Seal; and

Repeal of the  
Nigeria Customs  
Service Board Act,  
Cap. N.45, LFN,  
1992

1 (b) May sue or be sued in its corporate name.

2 (4) The headquarters of the Commission shall be at the federal Capital  
3 Territory, Abuja.

4 (5) Accordingly:

5 (a) Any reference in the Customs and Excise Management Act and  
6 any other Customs Act of the Nigeria Customs Service Board, shall be  
7 construed as a reference to the Nigeria Customs Service Commission  
8 established under this Bill.

Membership of  
the Commission

9 2.-(1) The Management of the Commission shall be vested in the  
10 following members, whose appointment shall be in line with the Federal  
11 Character provision of the Constitution:

12 (a) a Chairman who shall be the Chief Executive of the Commission;

13 (b) The Comptroller - General of Customs who shall be the Deputy  
14 Chairman;

15 (c) All the Deputy Comptrollers - General;

16 (d) One representative each of:

17 (i) Ministry of Finance;

18 (ii) Ministry of National Planning;

19 (iii) Ministry of Interior;

20 (iv) Ministry of Transportation;

21 (v) Ministry of Science and Technology;

22 (vi) Manufacturers' Association of Nigeria;

23 (vii) Nigerian Association of Chambers of Commerce, Industries,  
24 Mines and Agriculture;

25 (e) The Chairman of the Federal Inland Revenue Service; and

26 (f) A Legal Adviser to the Commission to be nominated by the Federal  
27 Ministry of Justice.

28 (2) The Chairman and other members of the Commission shall:

29 (a) be appointed by the President, but it is only the chairman that will  
30 be subject to the confirmation by the Senate;

1 (b) be persons of proven integrity and ability.

2 (3) The members of the Commission referred to in paragraph (d)  
3 Subsection (l) of this section shall be part-time members.

4 (4) The supplementary provisions set out in the Schedule to this  
5 Bill shall have effect with respect to the proceedings of the Commission and  
6 the other matters contained therein.

7 3.-(1) Subject to the provisions of Section 4 of this Bill, a member  
8 of the Commission, other than ex-officio members shall each hold office:

9 (a) for a term of four years and no more; and

10 (b) on such terms as to remuneration; salaries and allowances as  
11 may be prescribed by the National Assembly but not exceeding the amount  
12 as may be determined by the Revenue Mobilization Allocation and Fiscal  
13 Commission.

14 4.-(1) Notwithstanding the provisions of section 3 of this Bill, a  
15 person shall cease to hold office as member of the Commission if:

16 (a) he becomes bankrupt, suspends payment or compounds with  
17 his creditors;

18 (b) he is convicted of a felony or any offence involving dishonesty  
19 or fraud;

20 (c) he becomes of unsound mind, or is incapable of carrying out his  
21 duties;

22 (d) he is guilty of serious misconduct in relation to his duties; or

23 (e) in the case of a person possessed of professional qualifications  
24 he is disqualified or suspended, other than at his own request, from  
25 practicing his profession in any part of the world by an order of a competent  
26 authority made in respect of that member.

27 (2) A member of Commission may be removed by the President if  
28 he is satisfied that it is not in the interest of the Commission or the interest of  
29 the public that the member should continue in office.

30 (3) Where a vacancy occurs in the membership of the commission,

1 it shall be filled by the appointment of a successor to hold office for the  
2 remainder of the term of office of his predecessor, so however, that the  
3 successor shall represent the same interest and shall be appointed by the  
4 President.

5 5.-(1) Notwithstanding the provisions of section 4 of this Bill, the  
6 Chairman and any other member, may at any time be removed from that office  
7 by the President, acting on an address by two-thirds majority of the Senate  
8 praying that he (for the office of the chairman only) be removed for inability to  
9 discharge the functions of the office (whether arising from infirmity of mind or  
10 body or any other cause or for misconduct).

11 (2) A member may resign his appointment by one month notice in  
12 writing under his hand, addressed to the President through the Chairman of the  
13 Commission and that member shall on the date of the receipt of the notice by  
14 the President cease to be a member of the Commission.

#### 15 PART II - FUNCTIONS AND POWERS OF THE COMMISSION

16 6.-(1) The Commission shall be responsible for:

17 (a) formulating the general policy guidelines for the Nigeria Customs  
18 Service (in this Bill referred to as the Service); and

19 (b) Ensure compliance to the Customs and Excise Management Act,  
20 and, accordingly, the Commission shall:

21 (i) monitor and ensure proper administration of other customs and  
22 excise laws; and

23 (ii) supervise the collection of the revenues of Customs and excise  
24 and ensure accountability for them in line with existing regulations and  
25 requirements stipulated by the Federal Inland Revenue and the treasury single  
26 account or any method as may be introduced by government from time to time.

27 7.-(1) The Commission shall:

28 (a) be responsible for the appointment and promotion of persons to  
29 offices (other than the office of Comptroller-General of Customs) in the  
30 Nigeria Customs Service;

Functions of  
the Commission

Powers of the  
Commission

1 (b) dismiss and exercise disciplinary control over Persons (other  
2 than the Comptroller-General of Customs) in the Nigeria Customs Service;

3 (c) formulate policies and guidelines for the appointment,  
4 promotion, discipline and dismissal of officers of the Nigeria Customs  
5 Service;

6 (d) identify factors inhibiting or undermining discipline in the  
7 Nigeria Customs Service;

8 (e) formulate and implement policies aimed at the efficiency and  
9 discipline to the Nigeria Customs Service;

10 (f) perform such other functions which in the opinion of the  
11 Commission are required to ensure the optimal efficiency of the Nigeria  
12 Customs Service; and

13 (g) carry out such other functions as the President may, from time  
14 to time, direct.

15 (2) The Commission shall not be subject to the direction, control or  
16 supervision of any other authority or person in the performance of its  
17 functions other than as is prescribed in this Bill;

18 (a) pay the staff of the Commission such remuneration and  
19 allowances as contained in the special welfare packages of the service;

20 (b) enter into such contracts as may be necessary or expedient for  
21 the discharge of its functions and Nigeria Customs Service; and

22 (c) do such other things as are necessary and expedient for the  
23 efficient performance of the functions of the Commission as well as the  
24 Nigeria Customs Service;

25 8. The Commission may, subject to such conditions as it may think  
26 fit, delegate any of its powers under this Bill;

27 (a) to any officer in the service of the Nigeria Customs Service; or

28 (b) to a committee consisting of such number of persons, one of  
29 whom shall be named as Chairman, as may be prescribed by the

30 Commission.



1 (c) For the general direction and control of all employees of the  
2 Commission subject to the directives of the Commission;

3 PART V - FINANCIAL PROVISIONS

4 11.-(1) The Commission shall establish and maintain a fund from  
5 which shall be defrayed all expenditure incurred by the Commission.

6 (2) There shall be paid and credited to the fund established  
7 pursuant to Subsection (1) of this section:

8 (a) Such monies as may, from time to time, be granted or lent to or  
9 deposited with the Commission by the Federal Government or any other  
10 body or institution whether local or foreign;

11 (b) All monies raised for the purposes of the functions of the  
12 Commission by way of gifts, loan, grants-in-aid, testamentary dispositions  
13 or otherwise; and

14 (c) Proceeds from all other assets that may, from time to time,  
15 accrue to the Commission.

16 (3) The fund shall be managed in accordance with the rules made  
17 by the Commission, and without prejudice to the generality of the power to  
18 make rules under this sub-section; the rules shall in particular contain  
19 provisions:

20 (a) Specifying the manner in which the assets or the fund of the  
21 Commission are to be held, and regulating the making of payments into and  
22 out of the Fund; and

23 (b) Requiring the keeping of proper accounts and records for the  
24 purpose of the Fund in such form as may be specified in the accounting rules.

25 12. The Commission shall apply the proceeds of the Fund  
26 established pursuant to Section 11 of this Bill.

27 (a) The cost of administration of the Commission;

28 (b) The payment of salaries, allowances and benefits of members  
29 of the Commission or any Committee set up by the Commission;

30 (c) The payment of salaries, remuneration, allowances, benefits,

1 pensions and gratuities payable to serving and retired officers of the Nigeria  
2 Customs Service and retired officers and employees of the Commission;

3 (d) The payment for all contracts, including mobilization,  
4 fluctuations, variations, legal fees and cost on contract administration;

5 (e) The payment for all purchases by the Commission; and

6 (f) Undertake such other activities as are connected with all or any of  
7 the functions of the Commission under this Act.

8 13.-(1) The Commission may accept gifts of land, money or other  
9 property on such terms and conditions, if any, as may be specified by the person  
10 or organization making the gift.

11 (2) The Commission shall not accept any gift if the conditions  
12 attached thereto are inconsistent with the functions of the Commission under  
13 this Bill.

14 14.-(1) The Commission shall, not later than 30th September in each  
15 year, submit to the President an estimate of the expenditure and income of the  
16 Commission during the next succeeding year.

17 (2) The Commission shall cause to be kept proper accounts and  
18 records of the Commission in respect of each year in relation thereto and shall  
19 cause the accounts to be audited not later than 6 months after the end of each  
20 year by auditors appointed from the list and in accordance with the guidelines  
21 supplied by the Auditor-General of the Federation.

22 15. The Commission shall, at the end of every quarter in each year  
23 submit to the President a report on the activities and administration of the  
24 Commission.

25 16.-(1) The Commission shall prepare and submit to the Budget  
26 Office, not later than 30th June in each year, a report in such form as the Office  
27 may direct on the activities of the Commission during the immediate preceding  
28 year, and shall include in the report a copy of the audited accounts of the  
29 Commission for that year and the auditor's report thereon. This is without  
30 prejudice to the oversight functions of the National Assembly on the



1 Commission and the Nigeria Customs service.

2 (2) The Minister or any officer in charge of the budget office, upon  
3 receipt of the report referred to in Subsection (1) of this section, cause a copy  
4 of the report and the audited accounts of the Commission and the auditor's  
5 report thereon to be submitted to each House of the National Assembly not  
6 later than 2 months after the receipt of the report.

7 PART VI - LIMITATION OF ACTIONS

8 17.-(1) Notwithstanding anything to the contrary contained in  
9 other law, no action shall be instituted against the Commission in respect of  
10 any act, neglect, or default done or omitted to be done by any officer, servant  
11 or agent of the Commission in his capacity as an officer, servant or agent of  
12 the Commission with regard to the regulations made pursuant to section  
13 9(1)(b) of this Bill unless it is commenced within three months next after the  
14 act or negligence complained of or in the case of a continuing damage or  
15 injury, within three months next after the ceasing thereof.

16 (2) No suit shall be commenced against the Commission before the  
17 expiration of a period of one month of intention to commence the suit shall  
18 have been served on the Commission by the intending plaintiff or his  
19 authorised agent and the notice shall clearly and explicitly state:

- 20 (a) the cause of action;  
21 (b) the particulars of the claim;  
22 (c) the name and place of abode of the intending plaintiff; and  
23 (d) the relief which he claims.

24 PART VII - MISCELLANEOUS

25 18.-(1) The Commission may, subject to such conditions as it may  
26 think fit, delegate any of its powers under this Act:

Delegation of  
power

- 27 (a) to the Service;  
28 (b) to any officer in the Service; or  
29 (c) to a committee consisting of such number of persons, one of

1 whom shall be named as chairman, as may be prescribed by the Commission;

2 (2) Notwithstanding subsection (1) of this section or any other  
3 provision of this Act, the Commission shall not delegate any of its powers  
4 aforesaid in respect of any office on Grade Level 12 and below.

Application of  
the Pensions Act

5 19.-(1) It is hereby declared that service in the employment of the  
6 Commission or officers and men of the Nigeria Customs Service shall be  
7 pensionable under the Pensions Act, and accordingly, employees of the  
8 Commission and of the Nigeria Customs Services shall, in respect of their  
9 Service, be entitled to pensions, gratuities and other retirement benefits as are  
10 prescribed thereunder.

11 (2) Notwithstanding the provisions of subsection (1) of this section,  
12 nothing in this Act shall prevent the appointment of a person to any office on  
13 terms which preclude the grant of a pension and gratuity in respect of that  
14 office.

15 (3) For the purposes of the application of the Pensions Act, any power  
16 exercisable thereunder, is hereby vested in and shall be exercisable by the  
17 Commission and not by any other person or authority.

18 (4) Subject to subsection (2) of this section, the Pensions Act shall in  
19 its application by virtue of subsection (3) of this section to any office, have  
20 effect as if the office were in the civil service of the Federation within the  
21 meaning of the Constitution of the Federal Republic of Nigeria 1999.

Staff Regulations

22 20.-(1) Subject to the provisions of this Bill, the Commission may,  
23 make regulations relating generally to the conditions of service, including the  
24 power to fix salaries and allowances of the staff of the Commission and of the  
25 Customs Service, and, without prejudice to the generality of the foregoing,  
26 such regulations may provide for:

27 (a) the composition of the members of any committee appointed  
28 pursuant to section 2 of this Act;

29 (b) the appointment, promotion and disciplinary control, including  
30 dismissal of staff of the Commission and of the Customs Service (except the

1 Comptroller-General);

2 (c) appeals by such staff against dismissal or other disciplinary  
3 measures, and until such regulations are made, any instrument relating to the  
4 conditions of service of the civil service of the Federation shall, with such  
5 modifications as may be necessary, be applicable to the staff of the  
6 Commission and of the Service.

7 (2) Any regulations made under subsection (1) of this section need  
8 not be published in the Gazette but the Commission shall cause them to be  
9 brought to the notice of all affected persons in such manner as it may, from  
10 time to time, determine.

11 21. Any person who, immediately before the enactment of this Bill  
12 into an Act, is the holder of any office in the Service shall, on the  
13 commencement of this Act, continue in office and be deemed to have been  
14 appointed to that office by the Commission under this Act.

Transitional  
Provisions

15 22. In this Act, unless the context otherwise requires:

Interpretation

16 "Commission" means the Nigerian Customs Service Commission  
17 established by section 1 of this Act;

18 "Minister" means the Minister charged with the responsibility for matters  
19 relating to finance; and Ministry shall be construed accordingly;

20 "Service" means the Nigerian Customs Service.

21 23. This Bill may be cited as the Nigerian Customs Service  
22 Commission (Establishment) Bill, 2017.

Short Title

23 SCHEDULE

24 SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION, ETC

25 *Proceedings of the Commission*

26 1.-(1) Subject to this Bill and Section 27 of the Interpretation Act,  
27 the Commission may make standing orders regulating its proceedings or  
28 those of any of the Committees which may be set up by the Commission.

29 (2) The quorum of the Commission shall be the Chairman or the  
30 person presiding at the meeting and 4 other members of the Commission,

1 and the quorum of any Committee of the Commission shall be as determined  
2 by the Commission.

3 2.-(1) The Commission shall meet whenever it is summoned by the  
4 Chairman on the instruction of the Chairman and if the Chairman is required to  
5 do so by notice given to him by not less than 4 other Members, he shall summon  
6 a meeting of the Commission to be held within 14 days from the date on which  
7 the notice is given.

8 (2) At any meeting of the Commission, the Chairman shall preside but  
9 if he is absent, the members present at the meeting shall appoint one of their  
10 members to preside at the meeting.

11 (3) when the Commission desires to obtain the advice of any person  
12 on a particular matter, the Commission may co-opt him to the Commission for  
13 such period as it deems fit, but a person who is in attendance by virtue of this  
14 sub-paragraph shall not be entitled to vote at any meeting of the Commission  
15 and shall not count towards a quorum.

#### 16 *Committees*

17 3.-(1) The Commission may appoint one or more Committees to carry  
18 out, on behalf of the Commission, such functions as the Commission may  
19 determine.

20 (2) A Committee appointed under this paragraph shall consist of such  
21 number of persons as may be determined by the Commission and a person shall  
22 hold office on the Committee in accordance with the terms of his appointment

23 (3) A decision of a Committee of the Commission shall be of no effect  
24 until it is confirmed by the Commission.

#### 25 *Miscellaneous*

26 4.-(1) The fixing of the seal of the Commission shall be authenticated  
27 by the signatures of the Chairman or any other member of the Commission  
28 generally or specifically authorized by the Commission to act for that purpose  
29 and the Secretary.

30 (2) Any contract or instrument which, if made or executed by a person

1 not being a body corporate, would not be required to be under seal may be  
2 made or executed on behalf of the Commission by the Secretary or any  
3 person generally or specifically authorized by the Commission to act for that  
4 purpose.

5 (3) A document purporting to be duly executed under the seal of the  
6 Commission shall be received in evidence and shall, unless and until the  
7 contrary is proved, be presumed to be so executed.

8 5. The validity of any proceedings of the Commission or of a  
9 Committee shall not be adversely affected by:

10 (a) a vacancy in the membership of the Commission or Committee;

11 (b) a defect in the appointment of a member of the Commission or  
12 Committee; or

13 (c) reason that a Person not entitled to do so took part in the  
14 proceedings of the Commission or Committee.

#### EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Nigeria Customs Service Board Act and establish the Nigeria Customs Service Commission, which shall be charged with the responsibility of management and administration of the Nigeria Customs Service and the Customs and Excise Management Act (and other Customs and Excise Acts) and to dismiss and exercise disciplinary control over any person holding office in the Nigeria Customs Service (other than the Comptroller-General of Customs) and for related purposes.

Dear Sir,

I have the honor to acknowledge the receipt of your letter of the 15th inst. in relation to the above mentioned matter.

The same has been referred to the proper authorities for their consideration.

I am, Sir, very respectfully,  
Yours truly,  
[Signature]