

NATIONAL INLAND WATERWAYS AUTHORITY BILL, 2016

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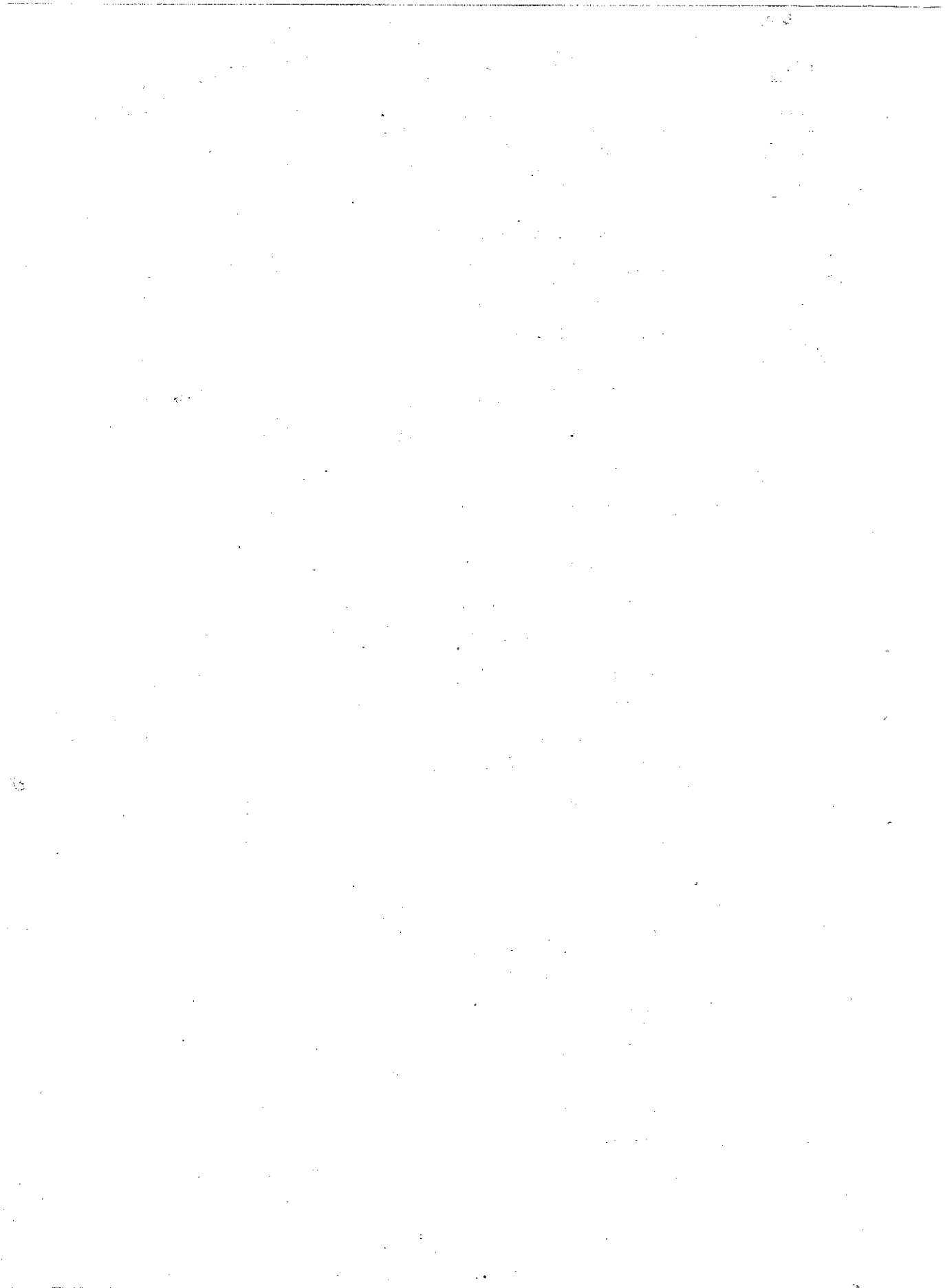
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SCHEDULES



A BILL

FOR

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

[] Commencement

Sponsored by Senator Andy Uba

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

PART I - OBJECTIVES AND APPLICATION

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1. The objectives of this Act are to:

Objectives of the Act

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

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

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

(d) promote intermodalism in the transport sector;

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

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

Application of the Act

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

2 PART II - ESTABLISHMENT OF THE NATIONAL INLAND WATERWAYS

3 AUTHORITY

Establishment of
the National
Inland Waterways
Authority

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

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

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

14 PART III - FUNCTIONS AND POWERS OF THE AUTHORITY

Functions of
the Authority

15 4.-(1) The Authority shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Demolishing of
 piers, jetties and
 wharves

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

Application of
 Part III

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

19 7. -(1) There is established a Governing Board of the Authority
 20 (hereinafter referred to as 'the Board') responsible for supervising the affairs
 21 of the Authority.

Establishment
 of the Governing
 Board of the
 Authority

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

- 23 (a) a non-executive Chairman;
- 24 (b) the Managing Director of the Authority;
- 25 (c) the two Executive Directors of the Authority;
- 26 (d) two members representing public interest; and
- 27 (e) a representative of each of the following:
- 28 (i) Federal Ministry of Transport;
- 29 (ii) Federal Ministry of Water Resources;
- 30 (iii) Federal Ministry of Agriculture and Rural Development

- 1 (Federal Department of Fisheries);
- 2 (iv) Nigerian Ports Authority (NPA); and
- 3 (v) Nigerian Maritime Administration and Safety Agency.
- 4 (3) The Board shall:
- 5 (a) be responsible for the determination of the policy of the Authority
- 6 and superintend over the implementation of the policy; and
- 7 (b) review and approve the strategic plans of the Authority.
- 8 (4) The Board shall adhere to the provisions of this Act and to any
- 9 relevant general guidelines on the governance of public bodies and to such
- 10 other generally accepted principles of good corporate governance as may be
- 11 applicable to the Authority.
- 12 (5) The supplementary provisions set out in Schedule III to this Act
- 13 shall have effect with respect to the proceedings of the Board and other matters
- 14 contained therein.
- 15 (6) The remunerations and allowances payable to members of the
- 16 Board shall be as determined by the relevant extant laws of the Federation.
- 17 **8. -**(1) The chairman and members of the Board, other than ex-officio
- 18 members, shall be:
- 19 (a) appointed by the President on the recommendation of the
- 20 Minister; and
- 21 (b) persons of proven integrity with relevant cognate experience.
- 22 (2) The Minister shall take into consideration the functions of the
- 23 Authority under this Act when recommending persons for appointment to the
- 24 Board.
- 25 (3) A person shall not be appointed or remain in office as a member of
- 26 the Board if that person:
- 27 (a) is not a citizen of Nigeria;
- 28 (b) is a serving member of the National Assembly, State House of
- 29 Assembly or any Local Government Council;
- 30 (c) is incapacitated by any physical illness;

Appointment
and qualification
of members of
the Board

- 1 (d) has been certified to be of unsound mind;
- 2 (e) is an undischarged bankrupt;
- 3 (f) has been convicted in Nigeria or elsewhere of a felony;
- 4 (g) has at any time been removed from office on account of
- 5 misconduct; or
- 6 (h) at the relevant time, is a director of or acts in any executive
- 7 capacity in one or more companies or bodies, however constituted, with
- 8 responsibility for managing or regulating or providing any services to or
- 9 within any National inland waterways or creeks in Nigeria.

10 (4) The conflict of interest provisions contained in the Schedule IV

11 to this Act shall be applicable to all Directors of the Authority.

12 9. -(1) Notwithstanding the provisions of section 7 of this Act, the

13 office of the Chairman or a member of the Board shall become vacant where:

Vacancy on the
Board

- 14 (a) he resigns his office by notice in writing under his hand
- 15 addressed to the President through the Minister;
- 16 (b) he completes his tenure;
- 17 (c) he dies;
- 18 (d) he becomes of unsound mind or incapable of carrying out his
- 19 duties;
- 20 (e) he becomes bankrupt;
- 21 (f) he is found guilty of gross misconduct relating to his duties;
- 22 (g) in the case of an ex-officio member, he ceases to hold the office
- 23 on the basis of which he became a member of the Board; or
- 24 (h) the President is satisfied that it is not in the interest of the
- 25 Authority or of the public for the person appointed to continue in office.

26 (2) Subject to the provisions of subsection (1) of this section, a

27 vacancy in the Board shall be filled by the appointment of another person to

28 the vacant office by the President on the recommendation of the Minister as

29 soon as it is reasonably practicable after the occurrence of such vacancy.

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

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

Appointment
and Tenure of
Managing Director
and Executive
Directors

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

5 (2) The Managing Director:

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

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

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

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

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

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

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

21 (5) An Executive Director:

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

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

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

Removal of
Managing
Director or
Executive Director

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Remuneration of
management and
other staff

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

Employment
and Conditions
of Service

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

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

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

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

1 in the Authority.

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

4 PART V - DECLARATION OF NAVIGABLE WATERWAYS

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

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

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

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

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

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

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

30 (a) obstruct a declared waterway;

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

Prohibition and
sale of land

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

8 PART VI - FINANCIAL PROVISIONS

Fund of the
Authority

- 9 20. -(1) There is established for the Authority a fund ("the Fund")
10 which shall consist of all:
11 (a) monies accruing to the Authority through appropriation made to it
12 by the National Assembly;
13 (b) charges, dues, levies, royalties and fees collected by the Authority;
14 (c) concession fees paid to the Authority;
15 (d) annual fees for licences and permits issued by the Authority;
16 (e) gifts, grants, aids and subventions;
17 (f) assets that may from time to time be vested in or accrue to the
18 Authority in the course of performing its functions under this Act;
19 (g) sums collected or received by the Authority for services rendered;
20 (h) monies borrowed and capital raised by the Authority under this
21 Act or any other enactment; and
22 (i) such other sums as maybe received by the Authority from other
23 sources.
24 (2) For the purpose of regulation, development and maintenance of
25 the inland waterways, all companies or government agencies and departments
26 whose operations and services are within the National Inland Waterways
27 including those related to electric power generation and distribution,
28 refineries, oil and gas pipelines, exploration, exploitation and transportation,
29 telecommunication facilities shall pay annual dues to the authority in
30 accordance with the approved Tariff.

- 1 **21.**-(1) The Authority shall have the power to expend the funds
2 which accrue to it under this Act in the cause of performing its functions. Application of
the Authority's
monies
- 3 (2) Any excess of the Authority's revenue for any year over the
4 approved expenditure for that year shall, subject to its approved annual
5 budget, be remitted to the Consolidated Revenue Fund.
- 6 **22.**-(1) The Authority may, with the prior consent of its Board and Power to borrow
and accept gifts
7 in accordance with the applicable laws, rules and regulations governing
8 borrowings by public bodies, borrow such sum of money or raise capital,
9 otherwise than from the Government as the Authority may require in the
10 exercise of its functions under this Act.
- 11 (2) The Authority may accept gifts, grants of money, aid or other
12 property from national, bilateral and multi-lateral organisations or agencies
13 upon such terms and conditions, if any, as may be agreed upon, provided that
14 such gifts are not inconsistent with the objectives and functions of the
15 Authority.
- 16 **23.**-(1) The Authority shall not later than four months to the end of Annual Budget
17 the financial year, prepare and present to the minister for consideration and
18 presentation to the National Assembly for approval, a statement of estimated
19 income and expenditure for the following financial year.
- 20 (2) Notwithstanding the provisions of subsection (1) of this
21 section, the Authority may also in any financial year, submit supplementary
22 or adjusted statements of estimated income and expenditure to the Minister
23 for approval.
- 24 **24.** The financial year of the Authority shall commence on 1st Financial Year
25 January of each year and end on 31st December of that year.
- 26 **25.** -(1) The accounts and records of the Authority shall, during Accounts and
records to be
open for
inspection
27 office hours be open for inspection by:
- 28 (a) a member of the Board;
- 29 (b) a person authorized to inspect the accounts by the Minister;
- 30 (c) a authorised person from the Commission; and

1 (d) the National Assembly.

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

Statements of
accounts and
audit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Financial and
Statistical Returns

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

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

Other Reports

18 30. The Authority's Board may:

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

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

22 PART VII - CONCESSIONS, LEASES, ETC.

Power to grant
concessions and
leases

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

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

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

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

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

Special powers
in emergency

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

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

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

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

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

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

25 PART VIII - POLICY AND REGULATION OF NATIONAL INLAND

26 WATERWAYS

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

The role of the
Minister

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

1 objectives referred to in section 1 of this Act;

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

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

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

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

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

Formulation of
Policy

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

20 PART IX - PROVISIONS RELATING TO LAND AND ASSETS

Power to acquire
land

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

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

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

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

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

7 PART X - TECHNICAL AND SAFETY MATTERS

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

Safety on land
within National
Inland Waterways

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

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

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

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

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

23 (f) undertake dredging and maintenance of channels;

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

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

28 39.-(1) The Authority may:

Removal of wrecks
and vessels

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

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

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

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

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

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

29 **PART XI - LIABILITY, LEGAL PROCEEDINGS AND ENFORCEMENT**

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

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

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

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

18 (a) cause of action;

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

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

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

27 (a) delivering it to the Managing Director;

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

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

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

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

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

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

Detention of
vessels causing
damage

13 **43.** The Authority may:

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

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

Power of
distrain for non-
payment of dues
and rates

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

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

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

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

Monitoring and
Enforcement

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

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

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

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

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

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

21 (iii) inspect any facility on the premises,

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

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

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

Power to Seal
Premises and
stop activities

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

4 PART XII - OFFENCES AND PENALTIES

Damage to
property of the
Authority

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

Unlawful operation
of National Inland
Waterways
services or
facilities

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

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

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

Evasion of dues,
fees, fines and
charges

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

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

1 omitted to pay; and

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

4 50. -(1) A vessel shall not enter or approach the National Inland
5 Waterways in Nigeria except with the prior approval of the Authority.

Offences by
master of vessel

6 (2) Where a vessel:

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

10 (b) fails to leave any National Inland Waterways or any approach to
11 the National inland waterways or to leave any berth at the National inland
12 waterways when required to do so by the Authority,

13 the master is guilty of an offence and shall be liable on conviction to a fine of
14 not less than N200,000.00 or to imprisonment for a term not exceeding three
15 months or to both.

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

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

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

29 (b) a body corporate, to a fine of N500,000.00 and a further fine of
30

1 N200,000.00 for each day or part thereof of during which the offence
2 continues.

Penalty for
throwing ballast
and other waste
into National
Inland Waterways

3 51. Any person who throws or empties into any National Inland
4 Waterways any ballast or other waste however described commits an offence
5 and shall be liable on conviction to a fine of not less than N100, 000.00.

Penalty for giving
false information
as to draught of
vessel and cargo

6 52. -(1) The owner, agent or master of a vessel entering or leaving or
7 within the National Inland Waterways or approach to any National Inland
8 Waterways who negligently makes any representation or gives false
9 information of the type of vessel, its draught, length, beam or height to the
10 Authority shall be guilty of an offence and shall be liable on conviction to a fine
11 of not less than N1,000,000.00 or to imprisonment for a term not less than
12 twelve months or to both.

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

Penalty for
wilfully sinking
vessels

16 53. Any person who wilfully sinks any vessel in the National Inland
17 Waterways or its approach without the permission of the Authority, shall be
18 guilty of an offence and liable on conviction to a fine of not less than
19 N1,000,000.00 and shall in addition pay to the Authority, expenses it incurred
20 in removing the vessel.

Obstructing the
Authority in the
performance of
its duties

21 54. Any person who at any time hinders, obstructs the Authority or
22 hinders or obstructs officials, agents or contractors of the Authority in the
23 performance and execution of their duty or of anything which they are
24 empowered or required to do by virtue of or in consequence of this Act, or
25 removes any mark set up for the purpose of indicating any level or direction
26 necessary to the execution of works authorised by this Act, shall be guilty of an
27 offence and shall be liable on conviction to a fine of not less than N500,000.00
28 or to imprisonment for a term not less than six months or to both.

Preservation of
secrecy

29 55. -(1) A person who is or has been a member, an officer, an
30 employee, an adviser or an agent of the Authority or a member of the Board

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

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

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

Offences against
the Schedule III
to this Act

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

General penalties

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

Jurisdiction

24 PART XIII - MISCELLANEOUS

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

Mandatory
compliance
requirements by
Government
Agencies,
Bodies, etc.

30 (2) The notice shall contain the:

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

Service of Notices,
Summons, etc.

9 **60.** A notice, summons or other document required or authorized to
10 be served on the Authority under the provisions of this Act or any other law or
11 enactment may be served by delivering it to the registered address of the
12 Authority or by sending it by registered post addressed to the Managing
13 Director of the Authority at its Headquarters.

Regulations

14 **61.-(1)** The Authority may with the approval of the Minister make
15 regulations generally for the purpose of giving effect to the provisions of this
16 Act.

17 (2) All regulations made by the Authority shall be published in the
18 Official Gazette.

Repeal

19 **62.** The National Inland Waterways Authority Act, CAPN47, Laws of
20 the Federation of Nigeria, 2004 is repealed.

Savings

21 **63. -(1)** Save as otherwise provided under this Act, all regulations,
22 orders and other subsidiary legislations made under the repealed Act and in
23 force immediately before the coming into force of this Act, shall, so far as they
24 are not inconsistent with the provisions of this Act, continue to be in force and
25 have effect as if made under this Act.

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

27 (a) the rights, interests, obligations and liabilities of the Authority
28 under the repealed Act existing before the commencement of this Act under
29 any contract or instrument or at law or in equity shall by virtue of this Act be

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

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

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

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

21 64. In this Act:

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

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

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

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

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

Interpretation

1 "Cargo" or "Goods" includes any substance or article, livestock, minerals,
2 wares and merchandise of every description and any container or other item
3 used to transport any substance or article;

4 "Chairman" means the Chairman of the Board of Directors appointed under
5 this Act;

6 "Channel" means a passage for water which includes a terminal, the bed,
7 course, swinging basin, turning circle, an area alongside a berth or dock,
8 fairway, anchorage and berth;

9 "Channel operator" means a person who manages channels in National Inland
10 Waterways;

11 "Commission" means the National Transport Commission as established by
12 the National Transport Commission Act;

13 "Concession" means an arrangement between the Authority and another party
14 to provide National Inland Waterways service or operate National Inland
15 Waterways facility in accordance with this Act and the word "concessioned" is
16 to be interpreted accordingly;

17 "Concessionaire" means a person granted a concession under this Act;

18 "Consumer" or "National Inland Waterways user" means any person who uses
19 National Inland Waterways services or facilities;

20 "Court" means the Federal High Court;

21 "Development" or "works" means the conversion of land to a new purpose and
22 include:

23 (a) The construction, extension, demolition or removal of a building
24 or substantial alteration of any structure in or on land;

25 (b) Any change to the natural or existing condition or topography of
26 land;

27 (c) The decoration or alteration of the inside or outside of a building or
28 the alteration of works;

29 (d) The subdivision or consolidation of land, airspace or buildings;

30 (e) The installation, provision or operation of facilities or services;

- 1 (f) The removal of vegetation or topsoil;
- 2 (g) Land reclamation and land decontamination; and
- 3 (h) Dredging;
- 4 "Dock" means an enclosed area of water for the loading, unloading and
5 repairs of vessel which includes basins, locks, cuts, entrances, graving, keel
6 blocks including planes, slipways grid irons, quays, warehouses and other
7 works and things appertaining to any dock;
- 8 "Equipment" includes any apparatus, machinery or system used or intended
9 to be used for the provision of National Inland Waterways services;
- 10 "Estimates" means an appropriate judgement of the amount, value, etc. of
11 something which include recurrent revenue the best possible commercial
12 forecast of revenue taking into account the general conditions of world trade
13 and all other relevant factors and in respect of recurrent expenditure the best
14 possible commercial forecast of expenditure likely to be incurred having
15 regard to the estimates of revenue;
- 16 "Federal Government" or "Government" means the government of the
17 Federal Republic of Nigeria;
- 18 "Gazette" means the Federal Gazette;
- 19 "Government Agency" means an agency of the Federal Government of
20 Nigeria or of any State in Nigeria;
- 21 "Harbour" includes estuaries, navigable rivers, piers, jetties and other works
22 in or at which vessels can obtain shelter or load and discharge goods or
23 passengers;
- 24 "Holder of a quarrying lease" means a holder of a quarry lease as defined in
25 the Nigerian Minerals and Mining Act 2007
- 26 "National Inland Waterways" means any navigable river, creeks, lakes, tide,
27 lands, lagoon, below the low water baseline, or channel leading into such
28 place having facilities for vessels to moor and load or discharge including,
29 cargo handling facilities harbour, berths, jetties, pontoons or buoys and
30 wharves within the limits of the National Inland Waterways in any place in

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

- 1 drains, culverts, fences, roads, railways, land and air approaches;
- 2 "National Inland Waterways undertakings" means the undertakings of the
3 Authority that relate to the provision of any facility or service of any
4 description in connection with the exercise and performance of its powers
5 and duties under any written law and includes any movable and immovable
6 property and the rights of the Authority that relate to such facility or
7 services;
- 8 "Land" means the part of the earth surface not covered by water which
9 includes the river bed below the high water mark;
- 10 "Licence" means an authorisation to operate on the National Inland
11 Waterways, provide National Inland Waterways service or operate the
12 National Inland Waterways facility, issued by the Authority under this Act;
- 13 "Licensee for sand dredging" means holder of a license granted by the
14 Minister under the Nigerian Minerals and Mining Act 2007;
- 15 "Master" means every person, except a pilot having for the time being the
16 command or charge of any vessel or ship;
- 17 "Minister" means the Federal Minister charged with the responsibility for
18 National Inland Waterways transportation;
- 19 "Ministry" means the Federal Ministry charged with the responsibility for
20 National Inland Waterways transportation;
- 21 "Person" means a corporate body or partnership and where an individual is
22 required to represent a corporate body or partnership in any circumstance
23 pursuant to this Act or its subsidiary legislation it shall be sufficient if in the
24 case of:
- 25 (a) a body corporate, it is represented by a duly authorized person
26 or employee; and
- 27 (b) a partnership, it is represented by a partner or a duly authorized
28 employee of the partnership.
- 29 "Pier" means a structure built out into the National Inland Waterways used
30 as a landing stage, or promenade which includes any stage, stairs, landing

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

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

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

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

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

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

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

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

23 **65.** This Act may be cited as the National Inland Waterways Authority Act, 2016. Short title

24

1 SCHEDULE I

2 DECLARED FEDERAL NATIONAL INLAND WATERWAYS

3 [Sections 2, 15]

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

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

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

8 10. Lakes Mahin, Oguta and Osiam Ehoma.

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

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

12 **SCHEDULE II**

13 **[Sections 16]**

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

- 16 1. Lagos
- 17 2. Port Harcourt
- 18 3. Warri
- 19 4. Calabar
- 20 5. Burutu
- 21 6. Akassa
- 22 7. Bonny
- 23 8. Degema
- 24 9. Forcados
- 25 10. Koko Town
- 26 11. Federal Lighter Terminal Onne

1 SCHEDULE III

2 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD OF THE
3 AUTHORITY

4 [Sections 7(5), 56]

5 *Proceedings of the Board*

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

9 2. The Chairman shall preside at every meeting of the Board and in
10 the absence of the Chairman, the members present at that meeting shall appoint
11 one of their members to preside at the meeting and minutes shall be taken of
12 each meeting of the Board and any Committee by the Secretary.

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

15 4. The Board shall meet to transact its business pursuant to this Act
16 whenever it is summoned by the Chairman on at least 7 days written notice and
17 the Chairman shall, if so required by notice given to him by not less than 4 other
18 members of the Board specifying, amongst others, an agenda for the meeting,
19 summon a meeting of the Board which shall be held not later than 14 days from
20 the date on which the notice is served on him to discuss the items specified in
21 the notice and the Board shall for the purposes of this Act meet not less than 4
22 times in each calendar year.

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

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

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

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

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

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

10 *Committees*

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

14 10. A Committee appointed under paragraph 9 shall:

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

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

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

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

25 *Miscellaneous*

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

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

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

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

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

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

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

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

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

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

22 SCHEDULE IV

23 CONFLICTS OF INTEREST

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

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

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

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

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

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

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

21 (a) knowingly has; or

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

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

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

1 consider factors including but not limited to the:

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

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

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

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

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

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

25 **10.** For the purpose of this Schedule:

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

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

30

EXPLANATORY MEMORANDUM

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

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

