

A BILL

FOR

AN ACT TO REPEAL THE NATIONAL INLAND WATERWAYS AUTHORITY ACT, CAP. N47, LFN 2004 AND TO ENACT THE NIGERIAN INLAND WATERWAYS ACT, ESTABLISH THE NIGERIAN INLAND WATERWAYS AUTHORITY TO PROVIDE FOR THE MANAGEMENT, REGULATION AND DEVELOPMENT OF THE NIGERIAN INLAND WATERWAYS AND TO PROMOTE PRIVATE SECTOR PARTICIPATION IN THE DEVELOPMENT OF THE NIGERIAN INLAND WATERWAYS IN NIGERIA AND FOR OTHER RELATED MATTERS, 2019

Sponsored by Hon. Patrick Asadu

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria-

- 1 PART I - OBJECTIVES AND APPLICATION OF THE BILL
- 2 1. The objectives of this Bill are to-
- 3 (a) develop and improve the National Inland Waterways for water
- 4 transportation and navigation purposes;
- 5 (b) establishment of the Nigerian Inland Waterways Authority;
- 6 (c) increase and promote private sector investment and
- 7 participation in Nigerian Inland waterways;
- 8 (d) provide for the management and operation of the assets of the
- 9 Nigerian Inland Waterways Authority;
- 10 (e) provide for the technical and safety regulations of the Nigerian
- 11 Inland Waterways as contained in the Act;
- 12 (f) implement the National Transport Policy as it concerns
- 13 National Inland Waterways in Nigeria;
- 14 (g) provide an alternative mode of transportation for the
- 15 evacuation of goods and persons; and

Objectives of the Bill

1 (h) implement the National Transport Policy as it concerns Nigerian
2 Inland Waterways in Nigeria.

Application of
the Bill

3 2. This Bill applies to all Nigerian inland waterways listed in
4 Schedule I and to any other Nigerian Inland Waterways as may be declared by
5 the National Assembly and to any person or Government Agency with
6 activities or operations related to with Nigerian Inland Waterways.

7 PART II - ESTABLISHMENT OF THE NIGERIAN INLAND

8 WATERWAYS AUTHORITY

Establishment
of the Nigerian
Inland Waterways
Authority

9 3.-(1) There is established a body to be known as the Nigerian Inland
10 Waterways Authority (hereinafter referred to as "the Authority").

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

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

19 PART III - FUNCTIONS AND POWERS OF THE AUTHORITY

Functions of
the Authority

20 4.-(1) The Authority shall-

21 (a) ensure the development, management and operations of Nigerian
22 Inland Waterways and encourage and facilitate private sector participation and
23 investment in the provision of services and facilities in the Nigerian Inland
24 Waterways by granting concessions, leases, management contracts, entering
25 into joint venture contracts, permits or any other agreement for achieving this
26 purpose;

27 (b) ensure the efficient management and administration of the
28 Nigerian Inland Waterways;

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

- 1 (d) organise and integrate the nation's Nigerian Inland Waterways
2 operations for efficient utilization for transportation;
- 3 (e) ensure the development of infrastructural facilities for a
4 Nigerian Inland Waterways network connecting the creeks and the rivers
5 with the economic centres using the river-ports as nodal points for
6 intermodal exchange;
- 7 (f) undertake capital and maintenance dredging within the
8 Nigerian Inland Waterways;
- 9 (g) design and maintain ferry routes within the Nigerian Inland
10 Waterways;
- 11 (h) survey, remove and retrieve derelicts, wrecks and other
12 obstructions from the Nigerian Inland Waterways;
- 13 (i) install and maintain lights, buoys and all aids to navigation
14 along water channels and banks on the Nigerian Inland Waterways;
- 15 (j) issue and regulate the use of permits for inland navigation, piers,
16 jetties, dockyards and wharves;
- 17 (k) examine and certify all inland waterways vessels including
18 non- convention vessels, including rig platforms that operate on the
19 Nigerian Inland Waterways;
- 20 (l) register all inland waterways vessels including non-convention
21 vessels, dredgers and boats of all types that operate on the Nigerian Inland
22 Waterways;
- 23 (m) grant permits for seismic survey, reclamation, shore protection
24 work and removal within the declared waterways and its right of way;
- 25 (n) grant permits to private Nigerian Inland Waterways operators;
- 26 (o) approve the design and construction of inland river crafts and
27 also inspect, regulate, approve and issue licences and permits for vessels
28 designed for Nigerian Inland Waterways operations;
- 29 (p) approve and regulate-
- 30 (i) the use of all Jetties, dockyards, piers, river ports and other

- 1 associated structures and platforms within the Nigerian Inland Waterways,
2 (ii) advertising within the right-of-way of the Nigerian Inland
3 Waterways,
4 (iii) land reclamation within the right-of-way;
5 (q) construct, administer and maintain inland river-ports and jetties;
6 (r) provide hydraulic structures for rivers and dams, bed and bank
7 stabilisation, barrages and buoys in order to regulate and stabilize river water
8 upstream for the purpose of river training works and navigation;
9 (s) produce, publish and broadcast navigational leaflets, aids to
10 navigation, bulletin and notices, hydrological year books, river charts and river
11 maps;
12 (t) carry out consultancy and contractual services in relation to its
13 activities under this Bill;
14 (u) subject to the provisions of the Environmental Impact Assessment
15 Act, carry out environmental impact assessment of navigation and other
16 dredging activities within the Nigerian Inland Waterways and its right-of-way;
17 (v) erect and maintain gauges, kilometre boards, horizontal and
18 vertical control marks;
19 (w) advise government on all border matters that relate to the National
20 Inland Waterways;
21 (x) acquire, lease and hire properties in connection with its activities
22 under this Bill;
23 (y) control and clear water hyacinth and other aquatic weeds along the
24 Nigerian Inland Waterways;
25 (z) implement the transport policy of the Federal Government of
26 Nigeria pertaining to the Nigerian Inland Waterways;
27 (aa) monitor and enforce compliance with the provisions of this Bill
28 and regulations made by the Authority; and
29 (bb) perform such other functions as are considered reasonably
30 necessary to give full force and effect to the provisions of this Bill.

1 (2) Without prejudice to the provisions of subsection (1) of this
2 section, the Authority shall perform its functions and exercise its powers in
3 such a manner as the Authority considers best to achieve the objectives of
4 this Act and in line with global best practices.

5 (3) For the purpose of safety regulation, maintenance and safe
6 navigation of the Nigerian Inland waterways, any holder of a quarry lease or
7 license for sand dredging for whatever purpose within the Nigerian Inland
8 Waterways and its Declared Right of Way shall obtain the permission of the
9 Authority, notwithstanding the provision of any other enactment.

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

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

16 (6) Where the Authority may provide a facility or service, or
17 discharge a function, the Agency may do so:

18 (a) itself;

19 (b) in cooperation with another person; or

20 (c) by arranging for another person to do so on its behalf.

21 (7) In subsection (6) of this section, person includes Federal
22 Government of Nigeria, a State Government, or the Federal Capital
23 Territory, the Government or an Agency of a foreign country or any natural
24 juristic person.

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

Demolishing of
piers, jetties and
wharves

- 1 8.-(1) The chairman and members of the Board, other than
2 Managing Director, shall be- Appointment and
qualification of
members of the
Board
- 3 (a) appointed by the President; and
- 4 (b) persons of proven integrity with relevant cognate experience in
5 any of the following areas-
- 6 (i) law;
- 7 (ii) maritime administration;
- 8 (iii) shipping;
- 9 (iv) finance;
- 10 (v) port management;
- 11 (vi) marine and maritime transport;
- 12 (vii) public administration;
- 13 (viii) business administration;
- 14 (ix) infrastructure asset management; or
- 15 (x) engineering.
- 16 (2) The President shall take into consideration the functions of the
17 Authority under this Bill when recommending persons for appointment to
18 the Board.
- 19 (3) A person shall not be appointed or remain in office as a member
20 of the Board if that person-
- 21 (a) is not a citizen of Nigeria;
- 22 (b) is a serving member of the National Assembly, State House of
23 Assembly or any Local Government Council;
- 24 (c) is incapacitated by any physical illness;
- 25 (d) has been certified to be of unsound mind;
- 26 (e) is an undischarged bankrupt;
- 27 (f) has been convicted in Nigeria or elsewhere of a felony;
- 28 (g) has at any time been removed from office on account of
29 misconduct; or
- 30 (h) at the relevant time, is a director of or acts in any executive

1 capacity in one or more companies or bodies, however constituted, with
2 responsibility for managing or regulating or providing any services to or within
3 any Nigerian Inland waterways or creeks in Nigeria.

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

Tenure of
Members of the
Board

6 9.-(1) A member of the Board, other than the Managing Director shall
7 hold office-

8 (a) for a term of four (4) years in the first instance and may be
9 reappointed for a further term of four (4) years and no more; and

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

12 *Vacancy on the Board*

13 (2) Notwithstanding the provisions of section 7 of this Bill, the office
14 of the Chairman or a member of the Board shall become vacant where-

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

17 (b) he completes his tenure;

18 (c) he dies;

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

21 (e) he becomes bankrupt;

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

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

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

27 (i) subject to the provisions of subsection (1) of this section, a vacancy
28 in the Board shall be filled by the appointment of another person to the vacant
29 office by the President on the recommendation of the Minister as soon as it is
30 reasonably practicable after the occurrence of such vacancy; or

1 (j) where a vacancy exists upon the death, removal or resignation
2 of a member, any person appointed as his replacement shall hold office for
3 the unexpired term of office of his predecessor.

4 10. -(1) There shall be, for the Authority, a Managing Director to be
5 appointed by the President.

Appointment
and Tenure of
Managing Director

6 (2) The Managing Director-

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

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

11 (c) shall be a person who possess a degree and cognate experience
12 of not less than twenty (20) years in any of the following areas-

13 (i) law,

14 (ii) maritime administration,

15 (iii) shipping,

16 (iv) finance,

17 (v) port management,

18 (vi) marine and maritime transport,

19 (vii) public administration,

20 (viii) business administration,

21 (ix) infrastructure asset management, or

22 (x) engineering.

23 (3) The Managing Director shall be the Chief Executive Officer of
24 the Authority and Accounting Officer of the Authority and shall be
25 responsible for-

26 (a) the execution of the policy and the day-to-day administration of
27 the Authority;

28 (b) the organization, control and management of the day-to-day
29 administration of the Authority;

30 (c) the implementation of the Authority's functions and ensuring

1 the Authority achieves its goals;

2 (d) the direction, supervision of all other employees of the Authority
3 and subject to such directions and restriction imposed on him by the Board; and

4 (e) ensuring the maintenance of accounting records in accordance
5 with applicable laws governing corporate bodies and generally accepted
6 accounting principles in Nigeria.

Removal of
Managing
Director

7 **11.-(1)** The Managing Director shall only be suspended or removed
8 from office by the President where he-

9 (a) is found to be unqualified for appointment as Managing Director
10 contrary to the provisions of this Bill;

11 (b) has demonstrated the inability to effectively perform the duties of
12 his office;

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

16 (d) is guilty of serious misconduct in relation to his duties as
17 Managing Director;

18 (e) is disqualified or suspended from practising his profession in any
19 part of the world by a competent authority; or

20 (f) is in breach of the conflict of interest Rules set out in the Schedule
21 IV to this Bill.

22 (2) The Managing Director shall not be removed from office under the
23 provision of subsection (1) of this section, unless the Minister has duly served
24 on the Managing Director a prior written notification of the intention to
25 suspend or remove him from office and the reasons for such suspension or
26 removal.

27 (3) The Managing Director shall, upon receipt of the notice referred to
28 in subsection (2) of this section, be given an opportunity to make written
29 submissions to the Minister within fourteen days from the date of the receipt of
30 the notice.

1 (4) The Managing Director may, within the days specified in the
2 notice, deliver a written submission to the Minister.

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

8 12.-(1) The Board shall have a Secretary who shall be the Head of
9 the Legal Department.

Appointment of
Board's Secretary

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

12 (3) The Secretary shall report to the Managing Director and be
13 responsible for-

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

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

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

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

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

23 13. The fees and allowances payable to the Managing Director,
24 and other staff of the Authority shall be determined by the Board in
25 consultation with the relevant government agencies and in accordance with
26 extant Federal Government guidelines.

Remuneration of
management and
other staff

27 14.-(1) The Authority shall have powers to employ such number of
28 persons as it may deem necessary for the effective discharge of its duties,
29 functions, and regulations made under this Bill.

Employment and
Conditions of
Service

30 (2) The Authority shall be responsible for determining the job

1 description, title, terms, qualifications and salaries including allowances of the
 2 employees subject to the approval of the National Income, Salaries and Wages
 3 Commission.

4 (3) Employees of the Authority shall be subject to the Conflicts of
 5 Interest provisions contained in the Schedule IV to this Bill.

6 (4) Service in the Authority shall be approved service for the purpose
 7 of the Pension Reform Act, and accordingly, an officer and other persons
 8 employed in the Authority shall in respect of their service in the Authority be
 9 entitled to pensions, gratuities and other retirement benefits as are applicable in
 10 the Authority.

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

13 (6) The Power of the Authority under the Section shall be exercised in
 14 accordance with extant laws and Federal Government Guidelines.

15 **PART V - DECLARATION OF NAVIGABLE WATERWAYS**

Federal Navigable
 Waterways

16 **15.** Pursuant to item 36 of the Exclusive Legislative list of the 1999
 17 Constitution of Nigeria as amended, all inland waterways, river-ports, internal
 18 waters, rivers and their tributaries, distributaries, creeks, lakes, lagoons and
 19 intra-coastal waterways of Nigeria, excluding all direct approaches to the ports
 20 listed in the schedule II to this Bill and all other waters declared to be
 21 approaches to the ports under or pursuant to the Nigerian Ports Authority Act,
 22 up to 250 meters beyond the upstream edge of the quay of such ports, shall be
 23 under the exclusive management, direction and control of the Authority.

Area under of
 the Authority

24 **16.** Pursuant to item 36 of the Exclusive Legislative list of the 1999
 25 Constitution of Nigeria as amended, all rivers and their tributaries,
 26 distributaries, creeks, lakes, lagoons and intra-coastal waters including those
 27 specified in the schedule I to this Bill are declared Federal Navigable
 28 Waterways.

Conditions
 pertaining to
 right of land
 usage for
 improvement

29 **17.-(1)** The right of land usage for improvement of navigability and
 30 provision of infrastructure shall cover areas on both banks of the waterways

1 which would be submerged in a flood of 100 years return period.

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

5 18.-(1) The Authority shall, subject to the provisions of the Lands
6 (Title Vesting etc.) Act, Cap L7, Laws of the Federation of Nigeria, 2004,
7 have the right to all land within the right-of-way of declared waterways and
8 shall use such land for navigational purposes and for any of its functions
9 under this Bill.

Use of land or
moveable property

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

13 (3) Any person, corporate body, State, agency or Local
14 Government Area shall not-

15 (a) obstruct a declared waterway;

16 (b) excavate or take sand, gravel or stone from any declared
17 waterways;

18 (c) erect structures within the right of-way or divert water from a
19 declared waterway; or

20 (d) carry out any of the activities as specified in this Bill, without
21 the written consent, approval or permission of the Authority.

22 19. The Authority shall not without the written approval of the
23 President concession or lease its land or property for more than ten years.

Prohibition and
sale of land

24 PART VI - FINANCIAL PROVISIONS

25 20.-(1) The Authority shall maintain a fund which shall consist of
26 all-

Fund of the
Authority

27 (a) (i) 25% of the ports development levy annually;

28 (ii) 15% of the ecological fund annually;

29 (iii) 1% of sums accruable to Federal government from oil and Gas
30 within the Declared waterways and its rights of way annually;

1 (iv) 2.5% of concession fees annually paid to the Federal Government
2 by companies operating power plants within the Declared Waterways and its
3 right of way annually;

4 (b) concession and royalty fees paid to the Authority;

5 (c) annual fees for licences and permits issued by the Authority;

6 (d) gifts, grants, aids and subventions;

7 (e) assets that may from time to time be vested in or accrue to the
8 Authority in the course of performing its functions under this Bill;

9 (f) all other sums, charges, dues and fees collected or received by the
10 Authority for services rendered;

11 (g) monies borrowed and capital raised by the Authority under this
12 Bill or any other enactment;

13 (h) such other sums as may be received by the Authority from other
14 sources.

15 (2) For the purpose of development and maintenance of the Inland
16 waterways, all telecommunication companies whose facilities are within the
17 Nigerian Inland Waterways and its right of ways shall pay annual dues to the
18 Authority in accordance with the Authority's approved Tariff.

19 (3) Any sums, charges, dues, levies and fees to be collected or
20 received by the Authority under subsections (1) (c), (d), (g) and subsection (2)
21 of this section, shall be related to the services provided by the Authority or the
22 use of its facilities or assets or the inland waterways and its right of ways.

Application of
the Authority's
monies

23 21.-(1) The Authority shall have the power to expend the funds which
24 accrue to it under this Bill in the cause of performing its functions.

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

Power to borrow
and accept gifts

28 22.-(1) The Authority may, with the prior consent of its Board and in
29 accordance with the applicable laws, rules and regulations governing
30 borrowings by public bodies, borrow such sums of money or raise capital,

1 otherwise than from the Government as the Authority may require in the
2 exercise of its functions under this Bill.

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

8 **23.** The Authority shall not later than four months to the end of the Annual budget
9 financial year, prepare and present to the minister for consideration and
10 presentation to the National Assembly for approval, a statement of estimated
11 income and expenditure for the following financial year.

12 **24.** The financial year of the Authority shall commence on 1st Financial Years
13 January of each year and end on 31st December of that year.

14 **25.**-(1) The accounts and records of the Authority shall, during Accounts and
15 office hours be open for inspection by the Auditor-General of the records to be open
16 Federation. for inspection

17 (2) The account books of the Authority shall be kept at the Head
18 Office of the Authority.

19 **26.**-(1) The Authority shall keep proper and regular accounts and Statements of
20 other records of monies received and paid by the Authority and of the several accounts and audit
21 purposes for which such monies have been received or paid and of the assets,
22 credits and liabilities.

23 (2) The Authority shall do all things necessary to ensure that all
24 payments out of its money are correctly made and properly authorised and
25 that adequate control is maintained over the assets of or in the custody of the
26 Authority and over the expenditure incurred by the Authority.

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

30 (4) A firm shall not be qualified for appointment as auditors under

1 subsection (3) of this section unless it is an approved company or auditor under
2 the Companies and Allied Matters Act and any other applicable laws.

3 (5) The remuneration of the auditor shall be paid out of the funds of
4 the Authority.

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

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

Report of
Auditors

12 27.-(1) The report of the auditor shall, in addition to complying with
13 auditing requirements under prevailing professional practice and applicable
14 law state-

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

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

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

23 (d) such other matters arising from the audit as the auditor considers
24 appropriate.

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

29 (3) The Authority shall, not later than one month after its financial
30 statements have been audited in accordance with this Bill or three months after

1 the end of the previous financial year, whichever occurs first, send a copy of
2 the audited financial statements to the Minister and the Commission
3 together with any report or observations made by the auditor or auditors on
4 the statement of accounts.

5 . 28.-(1) The Board shall, not later than 4 months after the end of Annual report
6 each financial year, make a report to the Minister on its activities and
7 performance during that year.

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

9 (a) a general survey of developments in respect of matters relating
10 to its functions;

11 (b) an assessment of the extent to which its objectives and priorities
12 for the year as set out in the annual estimate and twenty-five years action
13 plans indicated in subsection (3) of section 23 of this Bill have been
14 achieved;

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

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

20 (e) an assessment of its performance and practices in relation to its
21 functions in accordance with applicable internationally recognized
22 performance indicators.

23 29.-(1) The Authority shall submit to the Board such financial and Financial and
24 statistical returns or such other report on the financial position of the statistical returns
25 Authority as the Board may from time to time require.

26 (2) The Board may at any time within one month of receipt of such
27 report, allow or amend any item of capital expenditure appearing in such
28 estimates, or any portion thereof, or return the same to the Authority for
29 amendment.

Other reports 1 30. The Authority may prepare other reports in respect of matters
2 relating to any of its functions.

3 PART VII - CONCESSIONS, LEASES, ETC.

Power to grant 4 31.-(1) The Authority may grant a concession, lease, contract or
concessions and 5 permit subject to such terms and conditions as the Authority may specify,
leases 6 authorising any person to provide any service or facility or any Nigerian Inland
7 Waterways service or facility.

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

10 (3) Every exercise of the power to grant concessions under this
11 section shall be subject to rules providing for competitive and transparent
12 public tender for concessions as may be approved by any relevant government
13 agency as well as any rules or regulations as may be provided by the regulator
14 for this sector under this Bill or any other law.

Special powers 15 32.-(1) On the occurrence of any industrial unrest, strike, lock-out or
in emergency 16 other events which give rise to an emergency and create a real and imminent
17 threat to the national interest or public safety, the Authority may, with the
18 approval of the Board-

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

22 (b) withdraw either partially or totally the use of any Nigerian Inland
23 Waterways service or facility from any person or class of persons or from the
24 public in general.

25 (2) Where the Authority takes possession of any Nigerian Inland
26 Waterways' operations under subsection (1) of this section, adequate
27 compensation shall be paid, in the amount agreed between the Authority and
28 the affected concessionaire.

Prohibition of 29 33.-(1) A person shall not provide any Nigerian Inland Waterways
operation in 30 service or facility unless he is authorised to do so under a concession, lease,
Nigerian Inland
Waterways without
concession, licence
or permit

1 contract or permit granted by the Authority.

2 (2) Subject to the express provisions to the contrary in this Bill, a
3 concession, lease, contract or permit granted under this section may be
4 granted to a person or class of persons and every concession, lease, contract
5 or permit shall be in such form and for such period and may contain such
6 conditions as may be agreed upon by the parties.

7 PART VIII - POLICY AND REGULATION OF NATIONAL INLAND
8 WATERWAYS

9 34. The general responsibilities and functions of the Minister under
10 this Bill shall include to- The role of the
Minister

11 (a) supervise the implementation of the national policy on inland
12 waterways in Nigeria;

13 (b) facilitate the establishment of international protocols on
14 Nigerian Inland Waterways;

15 (c) facilitate the conclusion of agreements with foreign
16 governments and international organisations for the improvement and
17 development of Nigerian Inland Waterways;

18 (d) encourage co-operation within the ECOWAS region for the
19 adoption of common standards, safety practices and interconnection of
20 Nigerian Inland Waterways;

21 (e) receive and review records and reports submitted by the
22 Authority;

23 (f) upon consultation with the Authority and as may be provided for
24 from time to time in accordance with the Master Plan developed by the
25 Authority, propose to the National Assembly to declare any waterways to be
26 designated as Nigerian Inland Waterways under this Bill pursuant to item 36
27 of Exclusive Legislative List of the 1999 Constitution of Nigeria as
28 amended.

29 35. Prior to the formulation or review of policies for the Nigerian
30 Inland Waterways sector, the Minister shall consult with and have due Formulation of
policy

1 regard to the representations of relevant stakeholders in the sector, including,
2 but not limited to, the Authority, the Commission, industry participants and the
3 general public.

4 PART IX - PROVISIONS RELATING TO LAND AND ASSETS

Power to acquire
land

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

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

8 37.-(1) The Authority's employees or agents may enter and remain on
9 any land to erect beacons, buoys and moorings, to conduct surveys or to
10 perform any of their duties under this Bill.

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

15 (3) Notwithstanding the provisions of subsection (1) and (2) of this
16 section, employees or agents shall not enter any land, building or any enclosed
17 court or garden attached to a dwelling house except with a notice of not less
18 than fourteen (14) days and prior attention of the consent of the occupier
19 thereof, which consent shall not be unreasonably withheld.

20 PART X - TECHNICAL AND SAFETY MATTERS

Safety on land
within National
Inland Waterways

21 38. Subject to the provisions of this Bill, the Authority shall, for the
22 purpose of ensuring safety of navigation and shipping in Nigerian Inland
23 Waterways:

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

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

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

30 (d) provide or procure tug services, certify tug service providers and

1 regulate the safe provision of tug services by licensed tug service providers;

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

4 (f) undertake dredging and maintenance of channels;

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

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

9 39.-(1) The Authority may arrest a vessel for breach of inland
10 waterways regulations and move the vessel to another place within the
11 Nigerian Inland Waterways.

Removal of wrecks
and vessels in
Nigerian Inland
Waterways

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

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

27 (4) The Authority shall act as the Assistant receiver of Wrecks
28 within the Nigerian Inland Waterways.

1 PART XI - LIABILITY, LEGAL PROCEEDINGS AND ENFORCEMENT

Restriction on
execution against
the property of
the Authority

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

Legal proceedings

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

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

19 (a) cause of action;

20 (b) name and place of abode of the intending Plaintiff; and

21 (c) relief which he claims.

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

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

28 (a) delivering it to the Managing Director;

29 (b) sending it by registered post addressed to the Managing Director

30 at the head office of the Authority; or

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

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

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

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

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

16 43. The Authority may-

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

Detention of
vessels causing
damage

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

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

Power of distrain
for non-payment
of dues and rates

28 (2) Where after 14 days commencing from the date of distraint any
29 dues or rates; or any of the expenses of distraint of the vessel and its tackle,
30 apparel and furniture, remain unpaid, the Authority may cause the vessel or

1 tackle, apparel and furniture distrained to be sold. The Authority shall retain the
2 amount of dues, rates or expenses which are owed by the vessel out of the
3 proceeds of the sale and shall deliver the balance to the master of the vessel, on
4 demand.

Monitoring and
enforcement

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

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

11 (3) In exercising any of the powers specified in subsection (2) of this
12 section and notwithstanding any other provision of this Bill, an authorized
13 official of the Authority or its appointed inspector-

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

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

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

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

22 (iii) inspect any facility on the premises:

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

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

Power to seal
premises and
stop activities

30 46. Where an occupant or operator within the declared right of way of

1 the Nigerian Inland Waterways fails to comply with the prescribed
2 regulation or approved tariff under this Bill, after been giving notice in
3 writing, the Authority with the assistance of any relevant law enforcement
4 agency shall have power to seal such premises or site.

5 PART XII - OFFENCES AND PENALTIES

6 47. -(1) Any person who wilfully removes, destroys or damages
7 any property belonging to or in the custody or possession of the Authority or
8 hinders or prevents such property from being used or operated in the manner
9 in which it is intended to be used or operated, shall pay an amount for each
10 month in effect as may be provided in the Authority's approved tariff and
11 shall make good any loss, destruction or damage suffered by the Authority,
12 including the expenses of any inspection or survey carried out by the
13 Authority to ascertain the loss, destruction or damage.

Damage and
Trespass to
property of the
Authority

14 (2) Any person that obstructs, takes or erects structures on a
15 declared waterway is in contravention of Section 18 (3) of this Bill and, shall
16 pay an amount for each month in effect as may be provided in the Authority's
17 approved tariff and the cost of removing such structures in addition to
18 forfeiting such structures.

19 48.-(1) A person shall not erect, re-erect, alter, extend, own or
20 occupy a pier, jetty or wharf in any place within the Nigerian Inland
21 Waterways except in accordance with a permit granted by the Authority.

Unlawful
operation of
Nigerian Inland
Waterways
services or
facilities

22 (2) A person shall not establish, install, maintain, provide or
23 operate any marine service or facility or any Nigerian Inland Waterways
24 service or facility without a permit from the Authority.

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

Evasion of dues,
fees, fines and
charges

1 49. The operator of river ports, dockyards, jetties, piers, or owner,
2 agent, or master of any vessel or consignor or consignee of any goods, who by
3 any means whatsoever, evades or attempts to evade, or neglects or omits to pay
4 any dues, rates, charges or fees payable under this Bill shall-

5 (a) be liable to pay to the Authority a penalty ten times the amount of
6 the dues, rates, charges or fees he evaded or attempted to evade, or neglected or
7 omitted to pay; and

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

Offences by
master of vessel

10 50.- (1) A vessel shall not enter or approach the Nigerian Inland
11 Waterways in Nigeria except with the prior approval of the Authority.

12 (2) Where a vessel-

13 (a) enters any Nigerian Inland Waterways or any approach to the
14 Nigerian Inland waterways without having first being issued with the requisite
15 permit by the Authority; or

16 (b) fails to leave any Nigerian Inland Waterways or any approach to
17 the Nigerian Inland waterways or to leave any berth at the Nigerian Inland
18 waterways when required to do so by the Authority,

19 the master is guilty of an offence and shall be liable on conviction to a fine of
20 not less than N200,000.00 or to imprisonment for a term not exceeding three
21 months or to both. Where the master fails to comply with the provision of
22 subsection (1)(b) of this section, the master shall in addition to the fine be liable
23 to pay by way of damages assessed at the rate of N35.00 per registered tonne
24 for every hour that such vessel remains at the Nigerian Inland Waterways or its
25 approach after the time for departure required by such notice has expired.

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

30 (a) an individual, to a fine of N300,000.00 for each day or a part

1 thereof during which the offence continues or to imprisonment for a term of
2 twelve months; and

3 (b) a body corporate, to a fine of N500,000.00 and a further fine of
4 N200,000.00 for each day or part thereof of during which the offence
5 continues.

6 **51.** Any person who throws or empties into any Nigerian Inland
7 Waterways any ballast or other waste however described commits an
8 offence and shall be liable on conviction to a fine of not less than
9 N100,000.00.

Penalty for
throwing ballast
and other waste
into Nigerian
Inland Waterways

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

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

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

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

Penalty for
wilfully sinking
vessels

25 **54.** Any person who at any time hinders, obstructs the Authority or
26 hinders or obstructs officials, agents or contractors of the Authority in the
27 performance and execution of their duty or of anything which they are
28 empowered or required to do by virtue of or in consequence of this Bill, or
29 removes any mark set up for the purpose of indicating any level or direction
30 necessary to the execution of works authorised by this Bill, shall be guilty of

Obstructing the
Authority in the
performance of
its duties

1 an offence and shall be liable on conviction to a fine of not less than
2 N500,000.00 or to imprisonment for a term not less than six months or to both.

Preservation
of secrecy

3 55.-(1) A person who is or has been a member, an officer, an
4 employee, an adviser or an agent of the Authority or a member of the Board
5 shall not disclose any information relating to the affairs of the Authority or of
6 any other person which has been obtained by him in the performance of his
7 duties or the exercise of his functions except for the purpose of the performance
8 of his duties or the exercise of his functions or when lawfully required to do so
9 by any court or under the provisions of any written law.

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

Offences against
the Schedule III
to this Bill

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

General penalties

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

Jurisdiction

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

27 PART XIII - MISCELLANEOUS

Mandatory
compliance
requirements by
Governance
Agencies,
Bodies, etc.

28 59.-(1) Notwithstanding the provisions of any other law, any person
29 or bodies or Government Agency permitted or authorised under any applicable
30 law to operate or perform any duty within the declared right of way of the

1 Nigerian Inland Waterways shall prior to commencing work comply with
2 the provisions of this Bill and notify the Authority.

3 (2) The notice shall contain the -

4 (a) name of the agency;

5 (b) purpose of its intended presence in the Nigerian Inland
6 Waterways;

7 (c) estimated duration of its presence in the Nigerian Inland
8 Waterways; and

9 (d) particulars of its officers including, the number of its officers,
10 the names and designation of such officers and the names of their immediate
11 supervising officers involved in the task.

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

Service of Notices,
Summons, etc.

17 **61.**-(1) The Authority may with the approval of the Minister make
18 regulations generally for the purpose of giving effect to the provisions of this
19 Bill.

Regulations

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

22 **62.** The National Inland Waterways Authority Act, Cap. N47,
23 Laws of the Federation of Nigeria, 2004 is repealed.

Repeal

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

Savings

29 (2) Subject to the provision of subsection (1) of this section-

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

1 under the repealed Act existing before the commencement of this Bill under
2 any contract or instrument or at law or in equity shall by virtue of this Bill be
3 deemed to have been assigned to and vested in the Authority established under
4 this Bill;

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

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

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

Interpretation

23 **64.** In this Bill:

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

26 "Authority" means the Authority established under section 3 of this Bill;

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

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

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

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

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

8 "Chairman" means the Chairman of the Board of Directors appointed under
9 this Bill;

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

13 "Channel operator" means a person who manages channels in Nigerian
14 Inland Waterways;

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

19 "Concessionaire" means a person granted a concession under this Bill;

20 "Consumer" or "Nigerian Inland Waterways user" means any person who
21 uses Nigerian Inland Waterways services or facilities;

22 "Conservancy activities" means all services for the preservation of the
23 Inland Waterways, channels, including capital and maintenance dredging,
24 Channel marking, aids to navigation, system used and efficient navigation
25 of non-conventional vessels and regulation of water front infrastructure that
26 are below high-water mark;

27 "Court" means the Federal High Court;

28 "Development" or "works" means the conversion of land to a new purpose
29 and includes-

30 (a) all waters of landward side of the baseline of the territorial sea;

- 1 (b) any change to the natural or existing condition or topography of
2 land;
- 3 (c) the decoration or alteration of the inside or outside of a building or
4 the alteration of works;
- 5 (d) the subdivision or consolidation of land, airspace or buildings;
- 6 (e) the installation, provision or operation of facilities or services;
- 7 (f) the removal of vegetation or topsoil;
- 8 (g) land reclamation and land decontamination; and
- 9 (h) dredging.
- 10 "Dock" means an enclosed area of water for the loading, unloading and repairs
11 of vessel which includes basins, locks, cuts, entrances, graving, keel blocks
12 including planes, slipways grid irons, quays, warehouses and other works and
13 things appertaining to any dock;
- 14 "Equipment" includes any apparatus, machinery or system used or intended to
15 be used for the provision of Nigerian Inland Waterways services;
- 16 "Estimates" means an appropriate judgement of the amount, value, etc. of
17 something which include recurrent revenue the best possible commercial
18 forecast of revenue taking into account the general conditions of world trade
19 and all other relevant factors and in respect of recurrent expenditure the best
20 possible commercial forecast of expenditure likely to be incurred having
21 regard to the estimates of revenue;
- 22 "Federal Government" or "Government" means the government of the Federal
23 Republic of Nigeria;
- 24 "Gazette" means the Federal Gazette;
- 25 "Government Agency" means an agency of the Federal Government of Nigeria
26 or of any State in Nigeria;
- 27 "Harbour" includes estuaries, navigable rivers, piers, jetties and other works in
28 or at which vessels can obtain shelter or load and discharge goods or
29 passengers;
- 30 "Holder of a quarrying lease" means a holder of a quarry lease as defined in the

- 1 Nigerian Minerals and Mining Act, 2007;
- 2 "Land" means the part of the earth surface not covered by water which
3 includes the river bed below the high-water mark;
- 4 "Licence" means an authorisation to operate on the Nigerian Inland
5 Waterways, provide Nigerian Inland Waterways service or operate the
6 Nigerian Inland Waterways facility, issued by the Authority under this Bill;
- 7 "Licensee for sand dredging" means holder of a license granted by the
8 Minister under the Nigerian Minerals and Mining Act, 2007;
- 9 "Master" means every person, except a pilot, having for the time being the
10 command or charge of any vessel or ship;
- 11 "Minister" means the Federal Minister charged with the responsibility for
12 Nigerian Inland Waterways transportation;
- 13 "Ministry" means the Federal Ministry charged with the responsibility for
14 Nigerian Inland Waterways transportation;
- 15 "Nigerian Inland Waterways" means any river, creek, lake, tide, lagoon,
16 below the low water baseline, or channel leading into such place having
17 facilities for vessels to moor and load or discharge including, cargo handling
18 facilities harbour, berths, jetties, pontoons or buoys and wharves within the
19 limits of the Nigerian Inland Waterways in any place in Nigeria and includes
20 any place declared to be Nigerian Inland Waterways under this Bill;
- 21 "Nigerian Inland Waterways dues" means dues levied in respect of a vessel
22 for entering, using, leaving or moving or sailing in the Nigerian Inland
23 Waterways;
- 24 "Nigerian Inland Waterways infrastructure" means the basic infrastructure
25 of the Nigerian Inland Waterways, including channels, basins, quay walls,
26 jetties, roads, railways, and infrastructure used for the provision of water,
27 lights, power, sewerage, telecommunications and similar services;
- 28 "Nigerian Inland Waterways Operator" means a person who owns the
29 business of, or is responsible for the management and operation of Nigerian
30 Inland Waterways, terminals, or berths located in the Nigerian Inland

1 Waterways but does not include the Authority established under this Bill;
2 "Nigerian Inland Waterways repair facilities" includes dry docks, vessels
3 repair facilities, warehouses, railways within the Nigerian Inland Waterways
4 and any other facilities which are designated as such by the Authority;

5 "Nigerian Inland Waterways services" and "facilities" includes stevedoring,
6 cargo handling, terminal operations, storage of cargo within Nigerian Inland
7 Waterways, tug services, floating crane services, berthing services, fire-
8 fighting, security, radio and radar services, waste disposal, vessel repairs, tank
9 farms and any other terminal services and facilities for the handling, storage
10 and transportation of goods on land adjoining the foreshore of Nigeria or a
11 floating platform for the handling of passengers carried by vessels within the
12 declared right-of-way of the Authority;

13 "Nigerian Inland Waterways service provider" means a person providing
14 services within the declared right-of-way of the Authority;

15 "Nigerian Inland Waterways terminal" means an area, infrastructure, cargo-
16 handling equipment, sheds and other land-based structures used for the
17 loading, storage and discharge of cargo or the embarkation and disembarkation
18 of passengers and includes any corresponding wharves, docks, piers, bridges
19 and other infrastructure works, with all necessary and convenient arches,
20 drains, culverts, fences, roads, railways, land and air approaches;

21 "Nigerian Inland Waterways undertakings" means the undertakings of the
22 Authority that relate to the provision of any facility or service of any
23 description in connection with the exercise and performance of its powers and
24 duties under any written law and includes any movable and immovable
25 property and the rights of the Authority that relate to such facility or services;

26 "Person" means a corporate body or partnership and where an individual is
27 required to represent a corporate body or partnership in any circumstance
28 pursuant to this Bill or its subsidiary legislation it shall be sufficient if in the
29 case of-

30 (a) a body corporate, it is represented by a duly authorized person or

1 employee, and

2 (b) a partnership, it is represented by a partner or a duly authorized
3 employee of the partnership;

4 "Pier" means a structure built out into the Nigerian Inland Waterways used
5 as a landing stage, or promenade which includes any stage, stairs, landing
6 places, landing stage, jetty, floating barge or pontoon and any bridge or other
7 works connected therewith;

8 "Premises" means a piece of land, and the building on it, or part of a building
9 used for commercial purposes which includes houses, structures,
10 tenements, easements and hereditaments of any tenure, whether open or
11 enclosed, built on or not, public or private, and maintained or not under the
12 jurisdiction of the Authority;

13 "Prescribe" means a rule, direction, or order laid down, approved or given by
14 this Bill or by its subsidiary legislation or regulations or any relevant
15 legislation;

16 "President" means the President of the Federal Republic of Nigeria;

17 "Repealed Act" means the National Waterways Authority Act, Cap. N47,
18 Laws of the Federation of Nigeria, 2004;

19 "Regulations" means an order issued by the Authority under this Bill;

20 "relevant stakeholders" include private sector, States and Local
21 Governments;

22 "Return period" means the highest level of flood expected to occur ones in a
23 100 year;

24 "Revenue" means any monies received by the Authority by way of charges,
25 scales of charges or other duties imposed by or under this Bill and includes
26 any monies accruing to the Authority under this Bill;

27 "River guide" means a person providing pilotage to navigation in river craft
28 who has conduct thereof;

29 "Sand" means a substance consisting of fine loose grain of rock or minerals

- 1 found on river bed being an essential element to National Inland Waterways
2 navigation;
- 3 "Sand Dredging" means the scooping up of fine loose grains of rock or
4 minerals and objects from the bed of a river or within the water channel;
- 5 "Service provider" means any provider of services in or in respect of the
6 Nigerian Inland Waterways;
- 7 "Seafarers" include every person except masters and pilots employed or
8 engaged in any capacity on board any ship or vessel;
- 9 "Ship" includes every description of vessel used in navigation;
- 10 "Tariff" or "charges" or "rates" means list of fees, fares, or other prices charged
11 by the government which include Nigerian Inland Waterways dues, dues on
12 goods, river guide dues and other charges levied by Nigerian Inland Waterways
13 service providers;
- 14 "Terminal infrastructure" means a building or complex containing facilities
15 needed by transportation operators and passengers at either end of a travel or
16 shipping route by Nigerian Inland Waterways which includes terminal
17 buildings, cargo handling equipment, workshops, substations, surfacing, rail
18 sidings and terminal operations and water, lights, power, sewerage,
19 telecommunications and similar services within the terminal boundaries;
- 20 "Terminal operations" means services provided at the Nigerian Inland
21 Waterways terminal, consisting of cargo handling storage and delivery to
22 vessels and services related thereto;
- 23 "Transport sector regulator" means anybody set up by an Act to regulate the
24 sector;
- 25 "Vessel" means any kind of vessel that is used, or capable of being used, in
26 navigation by water, however propelled or moved, and includes-
- 27 (a) a ship, a barge, lighter, floating platforms, restaurant or other
28 floating vessel, and an air cushion vehicle, or
- 29 (b) other similar craft that is used in navigation on water;
- 30 "Wharf" means a structure built alongside or out into the water at a landing

1 place for vessels with a protective covering or enclosure which includes any
2 wall and building adjoining the foreshore, creek-bed, lagoon-bed, lake-bed
3 or river-bed, quay, pier, jetty, ramp or other landing place;

4 65. This Bill may be cited as the National Inland Waterways Short title
5 Authority Bill, 2019.

6 SCHEDULES

7 SCHEDULE I

8 *[Sections 2, 15]*

9 DECLARED FEDERAL NATIONAL INLAND WATERWAYS

10 1. The River Niger from the Nigeria/Niger/Benin border, through
11 the rivers Nun and Forcados distribution to the Atlantic Ocean.

12 2. The River Benue from the Nigeria/Cameroun border to the
13 confluence with River Niger at Lokoja.

14 3. The Cross River from the Nigeria/Cameroun border to the
15 Atlantic Ocean, and all its distributaries.

16 4. Rivers Sokoto, Kaduna, Gerinya, Gongola, Taraba, Donga,
17 Katsina-Ala, Anambra, Ogun, Oluwa, Osse, Benin, Imo and Qua-Iboe.

18 5. The intra-coastal route from Badagry, along the Badagry Creek
19 to Lagos, through Lagos Lagoon to Epe, Lekki Lagoon on Iwopin, along
20 Omu Creek, Talifa River to Atijere, Akata, Aboto, Oluwa River to Okitipupa
21 and onto Gbekebo, Arogbo, Ofunama, Benin Creek to Warri. Also the canal
22 running from Araromi through Aiyetoro, Imelumo to Benin River and from
23 Aiyetoro through Mahin Lagoon to Igbokoda.

24 6. The waterway from Warri along the Forcados River, through
25 Okwagbe, Fukana, Siama, Bomadi, Angalabiri, Patani, Torofani, down
26 River Nun to Agberi, Kaima, Sabagreia, Gbaran Creek, Agudama,
27 Ekpetiona into Ekole Creek to Tanaka, Yenegoa, Sangata to Mbiakpaba,
28 onto Okokokiri, Ofokpota, Olagaga, Nembe, Adema, Agoribiri Creek to
29 Egbema, Degema, Somobreiro River to Hanya Town, Ogbakiri to Port
30 Harcourt.

1 10. Koko Town

2 11. Federal Lighter Terminal, Onne.

3 SCHEDULE III

4 *[Sections 7(5), 56]*

5 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD OF THE
6 AUTHORITY

7 *Proceedings of the Board*

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

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

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

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

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

1 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
6 in evidence and shall, unless the contrary is proved, be presumed without
7 further proof to have been so signed or sealed.

8 16. Subject to the provisions of this Bill, the validity of any
9 proceedings, act or decision of the Board or of any of its Committees shall
10 not 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; or

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
18 the business of the Authority.

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

22 SCHEDULE IV

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

24 CONFLICTS OF INTEREST

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

30 2. Retained Subject to paragraphs 3 and 4 of this Schedule, each

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

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

11 4. Retained All newly-appointed Directors and members of staff of
12 the Authority after the commencement of this Bill 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. Retained Each Director or staff of the Authority shall declare on
18 appointment or at the commencement of employment and annually thereafter,
19 for as long as he serves the Authority, any interest or investment that he:

20 (a) knowingly has; or

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

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

28 7. The Board in determining whether or not the interest of a Director
29 or member of staff of the Authority is minimal or immaterial shall consider
30 factors including but not limited to the-

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

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

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

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

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

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

EXPLANATORY MEMORANDUM

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

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