

A BILL

FOR

AN ACT TO ESTABLISH THE NIGERIAN PORTS AND HARBOUR AUTHORITY TO PROVIDE FOR THE OWNERSHIP, MANAGEMENT AND DEVELOPMENT OF PORTS AND HARBOUR AND RELATED MATTERS AND TO REPEAL THE NIGERIAN PORTS AUTHORITY ACT CAP126 LFN, 2004 AND FOR RELATED MATTERS

Sponsored by Hon. Patrick Asadu

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Commencement

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

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PART I - PURPOSE AND SCOPE OF APPLICATION

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

Purpose of the Act

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

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

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

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

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

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

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

(c) transfer of the ownership of the land and assets relating to ports

1 currently vested in the Nigerian Ports Authority to the Authority

2 (3) Subject to the purposes stated in subsection (1) of this section, the
3 provisions of this Act shall be read and interpreted in connection with the
4 following specific objectives-

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

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

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

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

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

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

23 (g) to evolve and sustain high level of safety and environmental
24 protection; and

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

28 (4) The powers conferred on the Authority by this Act shall be subject
29 to the regulatory powers of the Transport Sector Regulator.

- 1 2. This Act shall apply to-
- 2 (a) all port related activities carried out within the Nigeria maritime
- 3 domain excluding areas of operations covered by the Nigerian Inland
- 4 Waterways Authority and other agencies established by Acts of the National
- 5 Assembly;
- 6 (b) all ports and harbours specified in the First Schedule to this
- 7 Act, and all other ports that may be declared from time to time by the
- 8 Minister;
- 9 (c) any person or government agency with respect to any activity
- 10 or operations in ports and harbours within Nigeria; and
- 11 (d) any other location where a maritime activity is taking place
- 12 within the maritime domain of Nigeria.

Scope of
Application

13 PART II - ESTABLISHMENT OF THE NIGERIAN PORTS AND HARBOURS

14 AUTHORITY AND ITS GOVERNING BOARD, ETC

- 15 3.-(1) There is established a body to be known as the Nigerian
- 16 Ports and Harbours Authority (in this Act referred to as "the Authority").
- 17 (2) The Authority shall be a body corporate with perpetual
- 18 succession and a common seal and may sue and be sued in its corporate
- 19 name.
- 20 (3) The ownership of all ports and harbours shall be vested in the
- 21 Authority for and on behalf of the Federal Government of Nigeria.
- 22 (4) The Authority shall be structured into such Departments as the
- 23 Board may from time to time approve for the effective discharge of its
- 24 functions under this Act.
- 25 (5) The common seal of the Authority shall be kept in the custody
- 26 of the Board Secretary.
- 27 4.-(1) Subject to sub section 2 of this section, the Minister shall
- 28 convey to the Authority in writing, the general policy direction of the
- 29 Government for the transport sector.
- 30 (2) In the execution of his functions and in relating with the

Establishment
of the Nigerian
Ports and Harbours
Authority

Relationship
of the Authority
with the Minister

1 Authority, the Minister shall ensure that the independence of the Authority,
2 with regards to the discharge of the Authority's functions and operations under
3 this Act, is protected and not compromised in any manner.

4 (3) Prior to the formulation or review of policies relating to the
5 Authority, the Minister shall ensure consultation with the Authority, as may be
6 necessary.

Establishment
and membership
of the Board

7 5.-(1) There is established for the Authority, a governing body (in this
8 Act referred to as "the Board") which shall have power to perform the functions
9 provided for it under this Act;

10 (2) The Board shall consist of-

11 (a) a non-Executive Chairman;

12 (b) the Managing Director of the Authority;

13 (c) the three (3) Executive Directors of the Authority; and

14 (d) four (4) persons appointed as non-Executive Directors.

15 (3) The Chairman and members of the Board referred to in paragraph

16 (d) of subsection (2) of this section shall be appointed by the President
17 on the recommendation of the Minister.

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

21 (5) persons to be appointed into the Board shall possess requisite
22 qualifications in:

23 (i) Maritime Law;

24 (ii) Shipping;

25 (iii) Finance;

26 (iv) Port Management;

27 (v) Transportation, or

28 (vi) Engineering.

29 (6) The supplementary provisions set out in the third Schedule to this
30 Act shall have effect with respect to the proceedings of the Board and the other

1 matters mentioned therein.

2 (7) appointment into the Board shall reflect representations from
3 the six geo-political zones.

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

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

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

10 7.-(1) Notwithstanding the provision of section 5 of this Act, a Cessation of
membership
11 member of the Board shall cease to hold office as a member of the Board if
12 he-

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

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

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

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

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

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

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

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

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

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

3 (a) hold office for the remainder of the term of office of his
4 predecessor; and

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

Remuneration
of Board of
Members

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

Powers of the
Board

9 9. The Board shall have the power to -

10 (a) provide general guidelines relating to the functions of the
11 Authority;

12 (b) superintend the implementation of the policies of the Authority;

13 (c) determine the terms and conditions of service of the employees of
14 the Authority;

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

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

20 PART III - FUNCTIONS AND POWERS OF THE AUTHORITY

Functions of
the Authority

21 10.-(1) The Authority shall-

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

24 (b) develop a plan for and maintain national strategic port planning
25 and implement same;

26 (c) provide and maintain aids to navigation, lighting and mooring in
27 ports and harbours;

28 (d) provide pilotage services, waste reception facilities and other
29 ports infrastructure;

30 (e) provide and enforce technical regulations on operations,

- 1 construction and installations within the ports and harbours;
- 2 (f) develop channels and approaches to ports and harbours;
- 3 (g) set overall policy for port security, health and safety,
4 environmental protection and coastal conservancy;
- 5 (h) encourage and facilitate private sector participation and
6 investment in the provision of port services and facilities;
- 7 (i) approve the establishment and planning of off-shore cargo-
8 handling facilities and related services;
- 9 (j) represent Nigeria in regional and international on matters
10 relating to and connected with ports and harbours;
- 11 (k) negotiate, supervise, implement and ensure compliance with
12 international maritime obligations under applicable international
13 conventions and protocols;
- 14 (l) provide landlord services in ports and harbours, in an
15 economically, socially and environmentally sustainable manner;
- 16 (m) in co-operation with other relevant bodies, ensure that the ports
17 are effectively integrated with other systems of infrastructure within and
18 outside the ports;
- 19 (n) facilitate the sustainable growth of trade through the ports;
- 20 (o) provide or arrange for the provision of facilities, services,
21 accommodation and land in the harbours for vessels, goods and passengers;
- 22 (p) direct and control the movement of vessels within ports and
23 harbours, and provide or arrange for the provision of pilotage services;
- 24 (q) provide for and maintain all coastal and channel management
25 services;
- 26 (r) develop and deploy resources in ports to enhance port security;
- 27 (s) engage in any business activity, either alone or in partnership
28 with other persons, as may be approved by the Board;
- 29 (t) in co-operation with relevant Agencies provide or arrange road
30 and rail access to ports and facilitate the integration of infrastructure and

1 logistics systems in the ports;

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

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

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

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

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

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

17 (3) The Authority shall perform its functions in a manner that is-

18 (a) safe and secure;

19 (b) environmentally sustainable;

20 (c) effective and efficient; and

21 (d) commercially viable.

General Powers
of the Authority

22 **11.-(1)** The Authority shall have power to-

23 (a) develop, whether by itself or in partnership with others, own and
24 control ports;

25 (b) advise government on and implement national port policies and
26 development strategies;

27 (c) enter into contracts, agreements or leases and all other such
28 obligations or arrangements;

29 (d) grant permits, licences and approvals for services and facilities
30 provided by the Authority on such terms and conditions as it may determine;

1 (e) employ agents, consultants or contractors or act as agent of
2 another person;

3 (f) construct, execute, carry out, equip, improve, work and develop
4 ports, docks, harbours, piers, wharves, canals, water courses, embankments
5 and jetties;

6 (g) invest and utilize the monies of the Authority not immediately
7 required on such securities, real estate or in such investments and manner as
8 may, from time to time, be expedient;

9 (h) erect, construct, lay down, enlarge, maintain and alter any
10 building, erection and work which may seem directly or indirectly necessary
11 or convenient for any of its purposes;

12 (i) act as consultants and advisers in relation to ports and port
13 operations in Nigeria or in any part of the world;

14 (j) carry on the business of carrier by land or sea, stevedore,
15 wharfing, warehouseman or lightman or any other business necessary or
16 expedient for the functions of the Authority;

17 (k) acquire any undertaking of any registered business that affords
18 facilities for the loading, unloading or warehousing of any goods in any port
19 in Nigeria;

20 (l) win sand from ports and their approaches for such purposes as it
21 may deem fit;

22 (m) do anything for the purpose of advancing the -

23 (i) skills of persons employed; or

24 (ii) efficiency of the equipment or the manner in which such
25 equipment is operated, including the provision by others of the facilities for
26 training, education and research;

27 (n) provide residential accommodation, houses, hostels and other
28 like accommodation for its employees on essential duties on terms and
29 conditions to be determined, from time to time, by the authority;

30 (o) regulate and provide bunkering and chandelling services;

1 (p) provide or arrange for capital and maintenance dredging, aids to
2 navigation, hydrographic services and wreck removal;

3 (q) in collaboration with relevant agencies, plan and provide services
4 in all off-shore cargo handling facilities;

5 (r) concession terminal operations and related services to third parties
6 in accordance with the provisions of extant regulations;

7 (s) provide, for the approaches to all ports and territorial waters of
8 Nigeria, such as pilotage services and lights, marks and other navigational
9 services and aids, including cleaning deepening and improving of channels,
10 approaches and its waterways;

11 (t) provide and use appliances for the towage or protection or salvage
12 of life and property or for the prevention of fire within Nigeria maritime
13 domain and on vessels on the high seas;

14 (u) supply water to vessels; and

15 (v) do such other things which are necessary to ensure the efficient
16 performance of the functions of the Authority under this Act.

17 (2) The Authority shall have power to make bye-laws for the control
18 and management of the wharves and premises and, in particular may, without
19 prejudice to the generality of the foregoing, make bye-laws for regulating
20 declaring and defining the wharves, docks, piers and places vested in or in the
21 possession of the Authority on or from which goods shall be landed and
22 shipped.

Special Powers
of the Authority

23 12.-(1) The Authority may-

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

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

29 (c) participate-

30 (i) in the formation of or be a member of any company for the purpose

1 of carrying out all or any of its functions under this Act;

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

4 (iii) in the formation of any joint venture or partnership and other
5 similar arrangements.

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

9 13.-(1) There shall be for the Authority, a Managing Director who
10 shall be-

Managing
Director of the
Authority

11 (a) appointed by the President on the recommendation of the
12 Minister;

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

14 (c) responsible for the-

15 (i) execution of the policy and the day-to-day administration of the
16 Authority; and

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

21 (2) The Managing Director shall hold office-

22 (a) for a term of four (4) years and may be re-appointed for a
23 further term of four years and no more; and

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

26 (3) Despite the provisions of sub-section (2) of this section, the
27 Managing Director may-

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

30 (b) be removed by the President for inability to discharge the

1 functions of his office whether arising from infirmity of mind or body or any
2 other or for misconduct or corruption.

Executive
Director of the
Authority

3 14.-(1) The President shall appoint for the Authority, three Executive
4 Directors to assist the Managing Director in the performance of his functions
5 under this Act.

6 (2) The Executive Directors shall each hold office-

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

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

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

Secretary to the
Board of the
Authority

14 15.-(1) The Board shall have a Secretary who shall be the Head of the
15 Legal Department of the Authority.

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

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

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

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

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

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

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

Other staff of
the Authority

29 16.-(1) The Authority may, subject to the approval of the Board,
30 appoint such other staff as it may deem necessary from time to time-

1 (a) for the proper and effective discharge of the duties and
2 functions of the Authority; and

3 (b) on such terms and conditions as may be determined by the
4 Board from time to time.

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

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

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

11 PART V - FINANCIAL PROVISIONS

12 17.-(1) There is established for the Authority a fund ("the Fund")
13 comprising

Fund of the
Authority

14 (a) all charges, dues, levies, fees, and penalties collected by the
15 Authority under this Act or regulations made hereunder;

16 (b) technical Assistance, gifts, aids, and testamentary disposition;

17 (c) other financial assets that may from time to time be vested in or
18 accrue to the Authority in the course of performing its functions under this
19 Act;

20 (d) monies collected or received by the Authority for services
21 rendered or facilities provided;

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

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

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

27 18.-(1) Without limiting the power of the Authority to set aside
28 from its revenue appropriate amounts for replacement, contingencies and
29 other purposes, the Authority shall establish and maintain a general reserve
30 fund arising out of its operating surplus.

Reserve Funds

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

Application
of Authority's
monies

5 19.-(1) Subject to section 25 of this Act and subsections (2) and (3) of
6 this section, the revenue of the Authority for any financial year shall be applied
7 as approved by the Minister.

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

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

Financial Year

13 20. The financial year of the Authority shall commence on 1st
14 January of each year and end on 31st December of the same year.

Power to borrow
and invest money

15 21.-(1) The Authority may, with the approval of the Minister and in
16 accordance with the applicable laws governing borrowings by public bodies,
17 borrow such sums of money or raise capital, otherwise, than from the
18 Government as the Authority may require in the exercise of its function; and

19 (2) The Authority may invest all or any part of its monies in such
20 manner as may be approved by the Minister.

Inspection of
accounts and
records

21 22.-(1) The accounts and records of the Authority shall during
22 official working hours be opened for inspection to-

23 (a) any member of the Board; or

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

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

Statement of
Accounts

27 23.-(1) The Authority shall keep proper and regular accounts and
28 other records of monies received and paid by it and of the several purposes for
29 which such monies have been received or paid, and of its assets and liabilities.

30 (2) The Authority shall take all necessary steps to ensure that all

1 payments out of its Funds and bank accounts are correctly made and
2 properly authorised and that adequate control is maintained over the assets
3 in its custody and over the expenditure incurred.

4 24.-(1) The accounts of the Authority shall be audited annually by Audit
5 auditors appointed by the Authority based on the guidelines issued from
6 time to time by the Auditor-General of the Federation.

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

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

15 (4) The Authority shall, not later than two months after its financial
16 statement of accounts has been audited in accordance with the requirements
17 of this Act, forward a copy of its audited financial statement to the Minister
18 together with any report or observations made by the auditors on the
19 financial statement of accounts.

20 (5) The audit report shall in addition to the standard auditing
21 requirements state-

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

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

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

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

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

4 (7) The remuneration of the auditors shall be paid out of the Funds of
5 the Authority.

Annual and
other Reports

6 25.-(1) The Board shall, not later than 2 months after the end of each
7 financial year, make a report to the Minister on its activities and performance
8 during that year.

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

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

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

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

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

19 (e) an assessment of its performance and practices in relation to its
20 functions in accordance with applicable performance indicators; and

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

22 (3) The Board may-

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

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

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

Estimates of
revenue and
expenditure

28 26.-(1) The Authority shall, within 2 months after the end of each
29 financial year, make a report to the Minister on its activities during that year
30 and its proposed undertakings for the ensuing year and the report shall contain

1 such information with respect to the proceedings and policy of the Authority
2 as the Minister may require.

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

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

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

13 27.-(1) It shall be the general duty of the Authority to-

Conduct of
affairs

14 (a) conduct its affairs in a manner to ensure that its revenue is
15 sufficient to-

16 (i) meet all charges which are chargeable to its revenue account;
17 and

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

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

20 PART VI - DECLARATION OF PORTS

21 28.-(1) The Minister may by order-

Declaration of
Ports

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

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

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

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

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

3 (2) The places specified in the First Schedule to this Act, shall be
4 deemed to be ports, and the limits of and approaches to any port shall until other
5 provision is made in accordance with paragraph (b) of subsection (1) of this
6 section, be the limits declared and in force immediately before the
7 commencement of this Act and shall include-

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

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

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

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

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

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

19 (4) Any Order made by the Minister under subsection (1) of this
20 section shall contain the following information-

21 (a) the name of the port;

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

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

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

27 PART VII - THE AUTHORITY'S LANDLORD POWERS.

28 **29.** The Authority's Landlord technical powers shall include-

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

- 1 (b) to impose corresponding obligations regarding standards and
2 codes on all providers and users of marine and port services and facilities;
- 3 (c) implementing regulations, standards and codes regarding
4 port security and safety and ensuring compliance with such regulations,
5 standards and codes;
- 6 (d) prescribing the limits within, and the levels to which dredging
7 may be carried out;
- 8 (e) monitoring and ensuring compliance by all service providers
9 with applicable laws and regulations;
- 10 (f) providing vessel traffic control and aids to navigation;
- 11 (g) ensuring that orderly, efficient and reliable transfer of cargo and
12 passengers between sea and land is provided by operators;
- 13 (h) ensuring that safe, adequate and secure warehousing and
14 storage is provided by operators within the ports;
- 15 (i) monitoring the performance of terminal operators;
- 16 (j) ensuring that operators use port facilities to their fullest capacity
17 in the most efficient manner;
- 18 (k) collecting from concessionaires, licensees and other port
19 service providers data and information needed for accurate planning,
20 reporting and monitoring; and
- 21 (l) carrying out such other activities as are necessary or convenient
22 in connection with its landlord functions.
- 23 **30.** Subject to section 31 of this Act, the Authority may provide or
24 cause to provide any port services or facilities, notwithstanding that a
25 concession has been granted to any person if-
- 26 (a) the person has failed or is not discharging his obligation
27 satisfactorily under the concession Agreement;
- 28 (b) the person has abandoned; or
- 29 (c) upon termination of the concession for any reason whatsoever.

Power to acquire
land and deal
with assets

1 31.-(1) The Authority may acquire land or immovable or movable
2 property for its use.

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

6 (3) The Authority may acquire by purchase, gift or otherwise,
7 moveable or immovable property and any interest in such property and with the
8 approval of the Minister, may dispose of or deal with any movable property or
9 any interest acquired in the movable property upon such terms and conditions
10 as the Authority may deem fit.

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

Power to enter
into leases,
concession
agreement, etc.

14 32.-(1) Subject to the provisions of section 34 of this Act, the
15 Authority may enter into leases, concession agreements, operating
16 agreements, or other arrangements with private parties for the occupation of its
17 land for the purpose of enabling such parties to operate or perform port related
18 activities or services.

19 (2) Subject to the provisions of this Act, the Authority may lease or
20 concede its premises to terminal operators, shipping companies, shipbuilding
21 companies or any other licensed operator.

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

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

24 33.-(1) An authorised employee or agent of the Authority may enter
25 and remain on any land for the purposes of erecting of beacons, buoys and
26 moorings, to survey or perform any of their duties under this Act.

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

6 PART VIII - CONCESSION

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

Prohibition on
operating in ports
without concession,
licence or permit

9 35.-(1) The Authority may grant a concession subject to laws
10 relating to or governing concessions on such conditions as the Authority
11 may impose and as may be specified in the concession agreement,
12 authorising any person to provide any marine service or facility or any port
13 service or facility.

Power to grant
concessions

14 (2) A concession granted under this Act shall be for a term agreed
15 upon by the parties provided that no concession can be granted which
16 duration is above ten (10) years without the approval of the President.

17 PART IX - TARIFF REGIME OF THE AUTHORITY

18 36. In this Part-

Tariff

19 "Prescribed goods and services" means any goods or services made,
20 produced, supplied or provided by or within the port industry which include-

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

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

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

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

27 (e) providing access to land in connection with the provision of
28 services of any of the kinds mentioned above on a non-discriminatory basis;

29 and

30 (f) any other port services as may be prescribed from time to time

1 by the Authority.

2 "Prescribed tariff" means the tariff or tariff-range howsoever designated for the
3 provision, supply or sale of any equipment, goods or services in the port
4 industry or particular factors used in tariff-fixing or terms and conditions
5 relating to the tariff at which particular goods or services are provided, supplied
6 or sold.

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

8 37.-(1) Subject to the provisions of this Act, the Authority shall have
9 power to-

10 (a) approve Prescribed Tariffs for services to be provided and
11 provided by concessionaires; and

12 (b) charge tariffs for services provided by the itself (the Authority).

13 (2) Tariff in relation to the provision of port and other services shall
14 include-

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

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

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

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

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

21 (f) charges for embarkation and disembarkation of persons;

22 (g) charges for use of ferry services;

23 (h) pollution dues and fines for the provision of waste disposal and
24 waste management services in the ports; and

25 (i) charges for offshore stevedoring services.

26 (3) Tariff in relation to the provision and maintenance of port
27 infrastructure, port terminals and port facilities shall include-

28 (a) rentals, water, electricity and telecommunication charges as may
29 apply;

30 (b) port dues for the provision and maintenance of entrance channels,

Presumption
of Due payable
for Service

1 breakwaters, basins, aids to navigation and maintenance dredging within the
2 port limits;

3 (c) harbour access charges;

4 (d) cargo dues of cargo within the ports;

5 (e) tariffs for granting concessions and permits;

6 (f) charges for shipping and transshipping of goods and persons; and

7 (g) any other services provided by the Authority in the execution
8 of its duties.

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

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

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

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

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

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

26 (10) Prescribed goods and services" means any goods or services
27 made, produced, supplied or provided by or within the port industry which
28 include-

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

- 1 (b) providing berths for vessels at any Nigerian port;
- 2 (c) providing port facilities for loading and of unloading vessels at a
3 declared port;
- 4 (d) providing for storage of goods at a declared port;
- 5 (e) providing access to land in connection with the provision of
6 services of any of the kinds mentioned above on a non-discriminatory basis;
- 7 and
- 8 (f) any other port services as may be prescribed from time to time by
9 the Authority.

Harbour dues,
fees, rates and
persons liable
to pay

10 **38.-(1)** Subject to the provisions of this Part and the approval of the
11 Minister, the Authority may levy such harbour dues, fees and rates on every
12 vessel-

13 (a) entering or leaving a port or the approach to a port or Nigeria
14 Maritime domain in respect of the passengers, animals or cargo carried on the
15 vessel; or

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

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

19 (3) The following persons shall be liable for the payment of harbour
20 dues and rates-

21 (a) the vessel agent;

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

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

1 arrival of the vessel; or

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

Ship and pilotage
dues

4 42.-(1) Subject to the provisions of this Part, the Authority shall levy
5 on any vessel or structure-

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

7 (b) ship dues and rates for buoyage, anchorage, mooring buoy, buoys
8 for pollution control, berthing and other services rendered to a vessel; and

9 (c) pilotage dues.

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

12 (3) The following persons are liable to pay ship dues and rates
13 charged in respect of light, conservancy, buoyage, anchorage, mooring buoy,
14 berthing and other services rendered to a vessel-

15 (i) the master or owner;

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

18 (4) The following persons shall be liable to pay pilotage fees and rates
19 charged on a ship under this Act-

20 (a) the master or owner; and

21 (b) in the case of-

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

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

Consignee or
agent may retain
ship's due out
of owner's
money

28 43. When any vessels' dues are paid by a person who is made liable
29 under the provisions of this Act not being the master or owner of the vessel, that
30 person may retain, out of any money in his hands received on account of the

1 vessel or its owner-

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

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

5 44. Subject to the provisions of this Part, the Authority shall levy Levy of rates
6 such rates made by regulations pursuant to this Act, prescribe for the use of
7 any facility, work or appliance provided or any service to be performed in
8 respect of any vessel or goods and for any of the following-

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

11 (b) the carriage of passengers or animals;

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

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

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

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

19 (g) for water supplied by the Authority;

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

21 (i) for monitoring port environmental pollution control;

22 (j) for performing any transshipment operation; or

23 (k) for any offshore Stevedoring Services.

24 45. In the case of goods to be discharged, the rate(s) payable for
25 discharge of goods shall be paid immediately on the discharge of the goods;
26 and in the case of goods to be removed from the premises of the Authority or
27 to be shipped, the rate(s) payable shall be paid before the goods are removed
28 or loaded on board a vessel.

29 46.-(1) Where the master or owner of a vessel, or his agent or the
30 person by whom the goods are discharged, at or before the time of discharge

Lien for freight
preserved after
landing if notice
is given

1 from the vessel of any goods at any wharf or other premises of the Authority,
2 gives notice in writing that those goods are to remain subject to a lien for
3 freight, primage or general average or charges to an amount to be mentioned in
4 the notice, the goods shall continue to be liable to the same lien, if any, for the
5 charges as they were subject before the landing of the goods.

6 (2) The Authority or concessionaire shall retain the goods at the risk
7 and expenses of the owner of the goods until the lien is discharged in
8 accordance with the provision of this Act, or until the goods are sold by the
9 Authority or concessionaire in accordance with the provisions of section 47 of
10 this Act.

Discharge of lien
by payment or
release

11 47. The Authority or concessionaire may permit goods liable to a lien
12 to be removed on production of-

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

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

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

16 48.-(1) Where the rates payable in respect of any goods are not paid
17 or the lien for freight, primage, general average or charges after the issuance of
18 notice under the provisions of this Act is not discharged, the Authority shall sell
19 by public auction-

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

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

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

28 (3) The Authority shall, before putting up goods for sale under
29 subsection (1) of this section, give 21 days' notice of the sale in at least two
30 widely read national daily newspapers unless the goods are of a perishable

1 nature and in the opinion of the Authority, the immediate sale is necessary
2 and advisable, in which case the notice is to be given as the urgency of the
3 case admits.

4 (4) Where the address of the owner of the goods or of his agent is
5 on the manifest of the cargo, or in any of the documents which have come
6 into the custody of the Authority is known and is within Nigeria, notice shall
7 also be given to the owner of the goods by letter delivered at that address by
8 hand or by post.

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

13 (6) Lien on goods for rates shall have priority over all other liens
14 and claims against the goods.

15 **49.**-(1) The proceeds of any sale made in accordance with the
16 provisions of this Act shall be applied in the following order-

Application of
proceeds of sale

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

19 (b) the expenses of the sale;

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

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

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

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

29 **50.**-(1) The Authority may make regulations-

Power of the
Authority to
prescribe dues,
fees and rates

- 1 (a) for the levying of dues, fees and rates for the purposes of this Act;
- 2 (b) prescribing the conditions on which any work or service will be
- 3 levied;
- 4 (c) prescribing the officer and department to whom any information
- 5 required under this Part, shall be delivered and the place of the delivery and the
- 6 time within which it shall be made;
- 7 (d) prescribing the officer and department to whom dues, fees or rates
- 8 shall be paid, the place of payment and the time within which payment shall be
- 9 made;
- 10 (e) providing for the exemption of any vessel, cargo, passenger or
- 11 animal from all or any dues, fees or rates or part thereof; and
- 12 (f) for any other matter which is necessary to give effect to the
- 13 provisions of this Part.

14 (2) The regulations made under this section may prescribe different

15 dues, fees or rates for different ports, vessels, cargo, passengers or animals.

Restriction on
categories of
levies or charges

16 **51.** The Authority or any other person authorised to own and operate

17 a port, or a concessionaire shall not create any new category or description of

18 fees, levies, rates, charges or surcharge on port users without the approval of

19 the Minister.

Assignment of
power to collect
dues

20 **52.** A Concessionaire shall with the approval of the Authority in

21 writing, collect dues and fees directly from the port users for services

22 rendered.

Power of entry
to ascertain
dues

23 **53.** The Authority may, either alone or with any other person, enter

24 into any vessel within the limits of any port, in order to ascertain the dues, fees

25 or rates payable.

Weighing and
measuring of
goods in case
of disputes

26 **54.** Where any difference arises between the Authority and the master

27 of any vessel or the owner of any goods, concerning the weight or quantity of

28 the goods or vessel's draught in respect of which any dues, fees or rates are

29 payable, the Authority-

30 (a) shall cause all the goods or vessel's draught to be weighed and

1 measured; and

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

4 55.-(1) Where the weight or measurement of the goods or vessel's
5 draught referred to in this Act are more than that shown by the particulars
6 delivered by the master, the expenses of the weighing or measuring in
7 addition to a 100 percent penalty for the under-declared weight or
8 measurement shall be paid to the Authority by the master, and shall be
9 recoverable in the same manner as dues leviable under this Part.

Payment of cost
of weighing and
measurement

10 (2) Where the weight or quantity of the goods or vessel's draught is
11 the same as that shown by the particulars delivered by the master the
12 Authority shall pay all the expenses of the weighing or measuring and of any
13 unreasonable delay of the vessel.

14 56.-(1) Where the agent of a vessel in respect of which any dues,
15 fees or rates are payable fail refuses or neglects to pay the dues, fees or rates
16 on demand, the Authority may distrain the vessel and the tackle, apparel and
17 furniture thereof until the amount of the dues, fees or rates is paid.

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

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

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

25 57.-(1) Where the Authority gives to the proper officer or office of
26 the Nigerian Customs Service a notice stating that an amount, specified in
27 the notice, is due in respect of dues or fees or rates leviable under this Act
28 against any vessel or against the master or owner of the vessel, the officer
29 shall not give any discharge or clearance to the vessel until the relevant
30 office of the Nigerian Customs Service has been notified in writing by the

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

1 Authority that-

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

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

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

Recovery of
dues, fees and
rates

8 **58.** Notwithstanding anything contained under the provisions of
9 sections 53 to 56 of this Act, the Authority may recover by civil suit any dues,
10 fees and rates, expenses, costs or in the case of sale, the balance of any amount
11 due when the proceeds of sale are insufficient.

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

12 **59.**-(1) The Authority shall keep and maintain at its office in each port
13 a book specifying the current dues, fees and rates and shall allow any person to
14 inspect the book at all reasonable times without the payment of a fee.

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

Exemptions

19 **60.** The provisions of this Part shall not apply to any-

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

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

22 (c) vessel belonging to the armed forces of a foreign country
23 extending reciprocal treatment to vessels belonging to the armed forces of the
24 Federation; or

25 (d) vessels bringing in aid or engaged in humanitarian and charitable
26 causes.

Application of
this Part

27 **61.** The provisions of this Part of this Act shall apply to all types of
28 vessels, cargo or shipments including cargo owned by the Federal, State and
29 Local Governments of Nigeria except as provided under Section 59 of this Act.

PART X - PILOTAGE AND HARBOUR MASTER

1
2 62.-(1) Subject to the provision of subsection (2) of this section and
3 other provisions of this Act, only a licensed pilot, certified by the Authority
4 shall navigate any vessel entering, leaving or moving in a pilotage district
5 within a port.

Requirement for
pilotage

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

9 63.-(1) The pilot's function shall be to advise the master of a vessel
10 to safely navigate in the port, direct its movements and to determine and
11 control the movements of the tugs assisting the vessel under pilotage.

Functions of a
pilot

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

14 64.-(1) The master of the vessel shall at all times remain in
15 command of the vessel and neither the master nor any person under the
16 master's command may, while the vessel is under pilotage, in any way
17 interfere with the navigation or movement of the vessel or prevent the pilot
18 from carrying out his duties, except in an emergency, where the master may
19 intervene to preserve the safety of the vessel, cargo or crew and take
20 whatever action he considers reasonably necessary to avert the danger.

Duties of the
master in relation
to pilotage

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

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

28 65. Subject to the provisions of this Part, the Authority-

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

30 (b) may do such other things in relation to pilots in a pilotage

Authority's powers
in relation to pilot

1 district as are necessary or expedient for carrying into effect the Authority's
2 powers and duties under this Part.

Certification
and licensing
of pilots

3 66.-(1) A person shall not perform the duties of a pilot in a port
4 without appropriate training and qualification and without a licence by the
5 Authority to do so.

6 (2) The Government Agency responsible for maritime safety
7 administration-

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

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

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

Establishment
of pilotage
districts

16 67.-(1) The Minister may, by regulation published in the Gazette,
17 establish a pilotage district-

18 (a) in any port;

19 (b) in the approach to any port;

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

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

22 (2) Regulations made under subsection (1) of this section may-

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

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

27 (3) Until other provisions are made by regulations pursuant to this
28 section, any pilotage district defined by regulations or Order in force
29 immediately before the commencement of this Act, shall be deemed to be a
30 pilotage district for the purposes of this Act and every area in which pilotage

1 was made compulsory under the existing regulations or Order shall be
2 deemed to have been defined as a compulsory pilotage district under this
3 section.

4 68.-(1) The Minister shall by order, establish, a Pilotage Board for
5 every compulsory Pilotage district and shall for a Pilotage district in which
6 or in any part of which Pilotage is compulsory, establish a Pilotage Board.

Establishment
and Membership
of Pilotage Boards

7 (2) A Pilotage Board shall consist of-

- 8 (a) the Harbour Master of the Pilotage District, as Chairman; and
9 (b) not less than two or more than four persons appointed by the
10 Authority, with the approval of the Minister.

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

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

16 (5) A Pilotage Board shall-

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

19 (b) license pilots for the Pilotage district on behalf of the Authority;
20 and

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

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

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

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

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

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

3 (11) Minutes shall be kept of the proceedings of a Pilotage Board and
4 the minute shall be signed by the person who presided at the meeting.

5 (12) A Pilotage board may and shall, when directed by the Minister,
6 hold an inquiry into the conduct of-

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

8 (b) a Pilot in charge of a vessel which-

9 (i) touches the ground; or

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

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

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

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

18 (15) The Minister may, after considering the appeal-

19 (a) affirm or reverse the finding; or

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

22 (c) in the case of a recommendation to the Authority under section
23 48(2) of this Act, support, comment on, or oppose the recommendation.

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

25 **69.-(1)** A vessel, other than an exempted vessel, shall, while
26 navigating in a pilotage district in which pilotage is compulsory, be under the
27 pilotage of-

28 (a) the Authority's pilot; or

29 (b) a pilot certified and authorised by the Authority.

30 (2) A vessel being moved within a port or entering or leaving a port,

1 which is or forms part of a pilotage district, shall be deemed to be a vessel
2 navigating in a pilotage district.

3 (3) For the purposes of subsection (1) of this section, the following
4 vessels are exempted from application under this section-

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

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

7 (c) pleasure yachts;

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

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

10 (f) vessels exempted from compulsory pilotage by regulations
11 made under this Act.

12 70. A pilot may require the master of any vessels which he is
13 piloting to declare her draught of water, length and beam, and such other
14 information as may be required for its safe piloting and the master shall
15 comply.

declaration as to
draught of vessels

16 71. Every pilot shall be provided with his licence and shall on
17 request, produce it to the master of the vessel.

Pilot to produce
license

18 72. The master or owner of a vessel for which pilotage is
19 compulsory shall be liable for any loss or damage caused by the vessel or by
20 any navigation in the same manner as he would if pilotage were not
21 compulsory.

Liability of the
master or owner
under pilotage

22 73. The Authority or the pilot shall not be liable for any loss or
23 damage caused by anything done or omitted to be done by the pilot in good
24 faith whilst performing his functions under this Act.

Liability of pilot

25 74.-(1) Every pilot shall give a bond in favour of the Authority in
26 such sum as the Authority considers reasonable for the proper performance
27 of his duties under this Part or regulations made under this Act.

Limitation of
pilot's liability
when bond is
given

28 (2) A pilot who has given a bond in accordance with the
29 regulations made under this Act, shall not be liable for loss or damage caused
30 by anything done or omitted to be done by the pilot beyond the penalty of the

1 bond and the amount payable by or to him for pilotage services in respect of the
2 voyage in which he was engaged when the loss or damage occurred.

3 (3) Where any proceeding is taken against a pilot for any neglect or
4 want of skill in respect of which his liability is limited as provided by this
5 section, and other claims are made in respect of the same neglect or want of
6 skill, the court in which the proceeding is taken may determine the amount of
7 the pilot's liability.

8 (4) On payment into court by the pilot of the amount determined
9 under subsection (3) and (4) of this section, the court may-

10 (a) distribute that amount rateably among the several claimants;

11 (b) stay any proceeding pending in any other court in relation to the
12 same matter;

13 (c) proceed in such manner and subject to such directions as to-

14 (i) making persons interested parties to the proceeding;

15 (ii) the exclusion of claimants who do not come in within a certain
16 time;

17 (iii) requiring security from such pilot, and payment of any costs; as
18 the court may deem fit.

Appointment
of a Harbour
Master

19 75.-(1) The Authority shall appoint a harbour master for every
20 pilotage district.

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

Delegation of
functions by
Harbour Master

23 76.-(1) Subject to the provisions of this Part and the approval and
24 directives of the Authority, a Harbour Master may authorize a person approved
25 by the Authority to exercise his function.

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

Functions and
general powers
of Harbour Master

29 77.-(1) A Harbour Master shall perform such functions as are
30 conferred on him by this Act and any regulation made hereunder.

- 1 (2) A Harbour Master shall-
- 2 (a) ensure compliance with laws and regulations on nautical safety
- 3 and international conventions aboard a vessel, including fishing vessels and
- 4 other categories of vessels regardless of flag and affiliation;
- 5 (b) provide for verification of vessel documents and of necessary
- 6 qualifications of the crew;
- 7 (c) regulate, restrict or prohibit the movements of vessels in the
- 8 port and in the approach to the port;
- 9 (d) register a vessel's arrival in and departure from the port;
- 10 (e) direct a pilot service and when necessary assign a pilot to a
- 11 vessel in regions not requiring compulsory Pilotage;
- 12 (f) direct where any vessel may be berthed, moored or anchored
- 13 and the method of anchoring, when dealing with public quays;
- 14 (g) give directions to a vessel and/or a terminal to ensure safe
- 15 transport, loading and discharging of dangerous goods in the port;
- 16 (h) ensure the preservation of law and order in the harbour and
- 17 berths;
- 18 (i) coordinate the prevention of marine or other incidents, in the
- 19 event of any risk of loss of human life or damage to any property;
- 20 (j) direct the removal of any vessel from any place in the port area
- 21 to any other place and the time within which such removal is to be effected;
- 22 and
- 23 (k) declare berth, locations, anchorages and fairways which may
- 24 be used by vessels and the areas which are prohibited or restricted.

25 78.-(1) The master of a vessel shall comply with any directive

26 given under this part by the Harbour Master.

Failure to comply
with the directives
of the Harbour
Master

27 (2) A person who contravenes the provision of subsection (1) of

28 this section shall pay a penalty not exceeding N500,000.00 and in the case of

29 a continuing breach, a further amount not exceeding N50,000.00 for every

30 day or a part thereof during which the breach continues.

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

Liability of
 Harbour Master

4 79. The Authority or the Harbour Master shall not be liable for loss or
 5 damage caused by anything done or omitted to be done by the Harbour Master
 6 in good faith while performing his functions under this Act.

7 PART XI - PROVISIONS ON PIERS, WHARVES AND SAFETY MATTERS

Restriction on
 piers, jetties and
 wharves

8 80.-(1) A person shall not erect, re-erect, alter, extend, own or occupy
 9 a pier or a jetty, or a wharf in a port or in the approach to a port or any place
 10 within any port except in accordance with a concession or permit granted by the
 11 Authority.

12 (2) A person who contravenes the provisions of subsection (1) of this
 13 section commits an offence and is liable on conviction to a fine of not
 14 exceeding N800, 000.00 for each day of default.

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

Licences for
 erection of piers,
 jetties and wharves

17 81.-(1) The Authority may-

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

20 (b) renew license granted under paragraph (a) of subsection (1) of
 21 this section.

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

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

Removal of
 piers, jetties and
 wharves

29 82.-(1) An authorised employee of the Authority may remove or
 30 cause to be removed, a pier or jetty or wharf in any port or in the approach to any

1 port or any portion of the port within its zone where the pier, jetty or wharf is
2 erected or operated in contravention of the provisions of this Act or
3 regulations hereunder.

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

6 83.-(1) The Authority may, with the approval of the Minister, make
7 regulations for the management of any port and for the maintenance of good
8 order therein, and in particular and without prejudice to the generality of the
9 foregoing power, may make regulations for all or any of the following
10 purposes-

Power to make
Regulations

11 (a) regulating traffic within the limits of the port or the approach
12 to a port;

13 (b) regulating the berths and stations to be occupied by ships and
14 the removal of ships from one berth, station or anchorage to another berth,
15 station or anchorage, and the time within which the removal shall be
16 effected;

17 (c) regulating vessels while taking in or discharging ballast or
18 cargo;

19 (d) keeping free passages of such width as is deemed necessary
20 within any port and along or near to the piers, jetties, landing places,
21 wharves, quays, docks, moorings and other similar works in or adjoining the
22 port and for marking out the spaces to be kept free;

23 (e) regulating the anchoring, fastening, mooring and unmooring
24 and warping of all vessels and the use of warps, mooring buoys, chains and
25 other moorings;

26 (f) regulating traffic, preventing obstruction and keeping order on
27 piers, jetties and wharves and ensuring the safety of piers, jetties and
28 wharves and any cargo on them;

29 (g) regulating the use of fires and lights and the signals to be used
30 and measures to be taken, by day and by night, in case of fire in a port;

- 1 (h) enforcing and regulating the use of navigating lights or signals
2 and of signal lights by vessels;
- 3 (i) regulating the flags and signals to be used by vessels arriving at,
4 lying in and departing from a port;
- 5 (j) regulating the manner in which vessels arriving a port, shall be
6 boarded by the Harbour Master, and the information to be supplied to him by
7 the master;
- 8 (k) regulating the use by vessels of whistles, sirens and other like
9 instruments;
- 10 (l) prohibiting chipping, scaling or noisy repairs on vessel, except at
11 such anchorages or places and at such times as may be prescribed or as the
12 Harbour Master may appoint;
- 13 (m) prohibiting or regulating the erection, maintenance and working
14 of fishing stakes, prescribing the nature of the nets or stakes which may be
15 used, and providing for the licensing of persons authorised to erect and
16 maintain fishing stakes and nets, and prescribing the fees which shall be paid
17 for the licence;
- 18 (n) regulating, whether by way of prohibition or otherwise, the
19 floating of timber, casks or other objects in any port or in the approach to any
20 port and the casting or depositing of any dead body, ballast, rubbish, or other
21 thing into any port or in the approach to any port, in contravention of this Act
22 and for the redemption on payment of expenses and a penalty, within a time
23 limit to be fixed, of anything forfeited;
- 24 (o) providing for the forfeiture of anything found in any port or in the
25 approach to any port in contravention of this Act;
- 26 (p) prescribing the duties of masters of vessels carrying gunpowder
27 or other explosive or dangerous cargo, and of persons engaged in or
28 supervising the shipping, unshipping, landing and transporting of the cargo;
- 29 (q) regulating the placement and maintenance of moorings or buoys;
- 30 (r) regulating and licensing weighing and metering of goods; and

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

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

7 **84.-(1)** The Authority may-

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

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

12 (b) search for, raise, remove or destroy any sunken, stranded or
13 abandoned vessel or wreck and any other obstruction within the port limits,
14 and recover the costs incurred in connection with such searching, raising,
15 removal or destruction from the owner of the vessel or any other person who
16 had the beneficial use of the vessel at the time it sank, became stranded or
17 was abandoned;

18 (c) search for and remove any wreck or obstruction which may
19 endanger the safety of any vessel entering or leaving the port, and recover
20 the costs of such search and removal from the owner of the wreck or
21 obstruction, or from any person responsible for the presence of such wreck
22 or obstruction;

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

1 (3) The Authority may after written demand for any costs
 2 contemplated in subsection (2) of this section, and on non-payment of the
 3 costs, sell the relevant vessel or wreck and out of the proceeds of the sale defray
 4 such unpaid costs, rendering the surplus, if any, to the person entitled to it, or
 5 recovering any unpaid balance from the owner or other person referred to in
 6 subsection (2) of this section or institute an admiralty action under the
 7 Admiralty Jurisdiction Act, CAPA5, Laws of the Federation of Nigeria 2004 to
 8 recover the costs.

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

11 PART XII - LIABILITY AND LEGAL PROCEEDINGS IN RELATION TO
 12 THE AUTHORITY

Liability for
acts of others

13 85. The Authority shall not be liable for any injury, loss, damage or
 14 cost sustained by any person as a result of any default, negligence, breach or
 15 other wrongful act or omission of a licensee or concessionaire under this Act or
 16 an agent or employee of the licensee or concessionaire.

Limitation of
Authority's
liability

17 86.-(1) Where the Authority is not at actual fault or privity, it shall not
 18 be liable for any loss, damage or destruction caused to any vessel or goods or
 19 other things on board any vessel in aggregate amount exceeding N1,000.00 for
 20 each ton of the vessel's tonnage.

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

Liability for loss
or damage to
cargo

23 87. Nothing in this Part shall impose on the Authority or any person
 24 duly authorized by it any liability for the loss or destruction of or damage to any
 25 goods arising from-

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

28 (b) an act of God;

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

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

- 1 (e) quarantine restrictions;
- 2 (f) any act, omission or default of the owner or carrier of such
3 goods;
- 4 (g) strikes, lockouts or stoppages or restraints of labour from
5 whatever cause, whether partial or general;
- 6 (h) riots and civil commotion;
- 7 (i) saving or attempting to save life or property;
- 8 (j) a declaration of goods as overtime or abandoned goods or the
9 sale, auction, destruction or any kind of disposal made pursuant to the
10 declaration;
- 11 (k) an act or omission of the consignor, consignee or depositor or
12 of the servant or agent of any such person;
- 13 (l) insufficient or improper packing, defective or insufficient
14 marks or leakage from defective drums, containers or packages;
- 15 (m) any inherent wastage in bulk or weight, latent or inherent
16 defect or natural deterioration;
- 17 (n) any deficiency in the contents of unbroken packages; or
- 18 (o) the dangerous nature of such goods.

19 **88.** In an action or suit against the Authority, no execution or
20 attachment or process in the nature thereof shall be issued against it, but any
21 sums of money which may, by the judgment of the court, be awarded against
22 the Authority shall, subject to any directives given, be paid from the funds of
23 the Authority.

Restriction on
execution against
the property of
the Authority

24 **89.-(1)** No suit shall be commenced against the Authority before
25 the expiration of a period of one month after written notice of intention to
26 commence the suit have been served on the Authority by the intending
27 plaintiff or his agent and the notice shall clearly and explicitly state the-

Legal proceedings

- 28 (a) cause of action;
- 29 (b) particulars of the claim;
- 30 (c) name and place of abode of the intending plaintiff; and

1 (d) relief which it claims.

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

9 (3) For the purposes of this section-

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

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

16 (a) delivering it to the Managing Director;

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

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

Restriction on
execution against
property of the
Authority

20 90. In any action or suit against the Authority, no execution shall be
21 levied or attachment process issued against the Authority unless not less than
22 thirty days' notice of the intention to execute or attach has been given to the
23 Authority.

24 PART XII - OFFENCES AND PENALTIES

Removal or
damage to
property of the
Authority

25 91. A person who removes, destroys or damages any infrastructure,
26 equipment and marine environment property belonging to or in the custody or
27 possession of the Authority or hinders or prevents such property from being
28 used or operated in the manner in which it is intended to be used or operated,
29 commits an offence and is liable on conviction to a fine of not less than
30 N800,000.00 and shall make good any loss, destruction or damage suffered by

1 the Authority, including the expenses of any inspection or survey carried out
2 by the Authority to ascertain the loss, destruction or damage.

3 92. A person who establishes, installs, maintains, provides or
4 operates any marine service or facility or any port service or facility without
5 an approval from the Authority commits an offence and is liable on
6 conviction to a fine of not less than N 1,000,000.00 or to imprisonment for a
7 term of not less than three years or to both and in the case of a continuing
8 offence, to a further fine of not less than N 120,000.00 for every day or part
9 thereof during which the offence continues.

Unlawful
operation of port
services of
facilities

10 93. An owner, agent or a master of any vessel or consignor or
11 consignee of any goods who evades or attempts to evade, neglects or omits
12 to pay any dues, rates, charges or fees payable under this Act commits an
13 offence and is liable on conviction to a fine of not less than N800,000.00 or
14 to imprisonment for a term of not less than 6 months or to both and shall in
15 addition be liable to pay to the Authority a penalty double the amount of the
16 dues, rates, charges or fees evaded or attempted to evade, neglected or
17 omitted to pay.

Evasion of dues

18 94. A person who makes any statement whether knowingly or
19 recklessly which is false in any return, claim or other document which is
20 requested or authorised to be made by or under this Act or any regulations
21 pursuant to this Act commits an offence and is liable on conviction to a fine
22 of not less than N 800,000.00 or to imprisonment for a term of not less than
23 twelve months or to both.

Giving false
statement in
returns

24 95.-(1) A person who wilfully and without lawful authority loosens
25 or removes from its moorings or from its fastenings alongside any wharf or
26 dock, any vessel in the port without permission or lawful authority from the
27 master or owner of such vessel or person in charge of such wharf or dock
28 commits an offence.

29 (2) A person who wilfully and without lawful authority lifts,
30 injures, makes a vessel fast to, loosens or sets adrift any moorings, buoys,

1 beacons or sea or land marks commits an offence.

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

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

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

14 (6) A person who uses a vessel or permits a vessel to be used in the
15 port when the vessel is-

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

19 (b) loaded with goods or passengers or with both goods and
20 passengers as to-

21 (i) exceed the number of passengers allowed by the vessel's safety
22 certificate to be carried or received on the vessel; and

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

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

1 port by concessionaires including the determination of performance standards
2 and quality standards of the facilities and services provided by them.

3 (2) The Authority may issue guidelines and directives for the
4 management and maintenance of all ports and for the maintenance of good
5 order in the ports including but not limited to-

- 6 (a) controlling traffic within the limits of the ports;
- 7 (b) using berths and stations;
- 8 (c) anchoring, mooring, etc.;
- 9 (d) preventing obstructions and keeping order on piers;
- 10 (e) using fires and related signals in case of fire;
- 11 (f) using of whistles and sirens;
- 12 (g) chipping, scaling or noisy repairs;
- 13 (h) floating timber and other objects;
- 14 (i) explosives;
- 15 (j) placing and maintaining moorings;
- 16 (k) weighing and metering;
- 17 (l) pilotage;
- 18 (m) harbour; and
- 19 (n) any construction whatsoever.

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

22 (4) Subject to the provisions of this Act, the Authority shall control-

- 23 (a) the navigation within port limits and the approaches to ports;
- 24 (b) the entry of vessels into ports, their stay, movements or operations
25 in and departures from ports;
- 26 (c) the loading, unloading and storage of cargo and the embarkation
27 and disembarkation of passengers;
- 28 (d) off-shore cargo-handling facilities, including navigation in the
29 vicinity of such facilities;

1 any other person which has been obtained by him in the performance of his
2 duties or the exercise of his functions except for the purpose of the
3 performance of his duties or the exercise of his functions or when lawfully
4 required to do so by any court or under the provisions of any written law.

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

9 **114.-(1)** Where an offence under this Act or regulations made
10 pursuant to it has been committed by a company or other body of persons,
11 any person who at the time of the commission of the offence was a director,
12 manager or partner in the corporate body or other body of persons who acted
13 in such capacity may be charged with the same offence.

Offences by
companies

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

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

Penalties to be
paid to the
Authority

24 PART XIV - MISCELLANEOUS

25 **116.** Notwithstanding the provisions of any other laws, wharves
26 shall not be regarded as a hereditament or tenement to be valued for rating
27 purposes and the Authority shall not be required to pay any rates in respect of
28 wharves or any property situated in the wharves.

Exemption of
Authority's land

29 **117.-(1)** The Authority shall have the power to issue guidelines and
30 standards with respect to the operation of port facilities and services in the

Power to issue
guidelines

Wilfully sinking
vessels

1 109. A person who willfully sinks any vessel in a port or in the
2 approach to the port, without the permission in writing of the Harbour Master,
3 commits an offence and is liable on conviction to a fine of not less than
4 N50,000,000.00 or imprisonment for a term of not less than 15 years or to both
5 and shall in addition, pay to the Authority, the expenses incurred by the
6 Authority in salvaging the vessel.

Demanding of
improper amounts
by an employee

7 110. An employee of the Authority, who, with intent to defraud,
8 demands or receives from any person liable to pay any dues, fees or rates
9 imposed under this Act, in respect of any matter, any other amount than is
10 authorised to be levied by the regulations for the time being in force in respect
11 of that matter, commits an offence and is liable on conviction to a fine of not
12 less than N500,000.00 or imprisonment for a term of not less than 12 months or
13 to both and shall in addition, pay to the Authority ten(10) times the amount that
14 would have been paid.

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

15 111. An employee of the Authority shall be deemed to be a person
16 employed in the Public Service of the Federation for the purpose of sections 98,
17 99 and 100 of the Criminal Code.

Obstructing the
authority in the
performance of
its duties

18 112. A person who-
19 (a) hinders or obstructs the Authority or assaults any of its
20 employees, agents or contractors in the performance and execution of their
21 duties or of anything which they are empowered or required to do pursuant to
22 the provisions of this Act; or

23 (b) removes any mark set up for the purpose of indicating any level or
24 direction necessary for the execution of works authorised by this Act:

25 Commits an offence and is liable on conviction to a fine of not less
26 than N800,000.00 or to imprisonment for a term of not less than twelve months
27 or to both.

Preservation of
secrecy

28 113.-(1) A person who is or has been a member, an officer, employee,
29 adviser or agent of the Authority or a member of a committee of the Authority
30 shall not disclose any information relating to the affairs of the Authority or of

1 107.-(1) A person who-

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

5 (b) fails to comply with any provision of this Act or regulations
6 made pursuant to this Act:

7 Commits an offence and, unless another penalty is established for
8 such offence in this Act, shall, in addition to the forfeiture of any article
9 seized, is liable on conviction, to a fine of not less than N1,000,000.00 or to
10 imprisonment for a term of not less than twelve months or to both and in the
11 case of a continuing offence to a further fine of not less than N200,000.00 for
12 every day during which the offence continues.

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

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

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

27 108. A person who wilfully sets adrift, cuts, breaks or unfastens
28 the moorings of a vessel commits an offence and is liable on conviction to a
29 fine of not less than N10,000,000.00 or to imprisonment for a term of not
30 less than 5 years or to both.

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

Unlawful
loosening moorings

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

Illegal piloting

4 **104.**-(1) A person who offers his services as a pilot-

5 (a) without the permission of the Authority and without being duly
6 licensed; or

7 (b) while his license as a pilot is cancelled, suspended or revoked:

8 Commits an offence.

9 (2) Any pilot who-

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

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

13 (c) acts as a pilot while under the influence of alcohol or drugs:

14 Commits an offence.

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

Failure of
compliance by
master

18 **105.** Any master who contravenes any of the provisions of this Act
19 commits an offence and is liable on conviction, to a fine of not less than
20 N500,000.00 or to imprisonment for a term of not less than twelve months or to
21 both.

Person
endangering
life or property

22 **106.** Where a person taking part in the loading, unloading or
23 warehousing of goods in any port endangers the safety, life, limb, body or
24 property of a person-

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

27 (b) by any rash or negligent act:

28 Commits an offence and is liable on conviction, to a fine of not less than
29 N500,000.00 or to imprisonment for a term not less than six months or to both.

1 exhibited; or

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

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

9 (3) Any owner or person, on whom a notice under this section is
10 served, who fails, without reasonable cause, to comply with the directions
11 contained in the notice, commits an offence and is liable on conviction for
12 each offence to a fine of not exceeding N50,000.00 and a further fine of not
13 less than N50,000.00 for every day during which the offence continues.

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

18 (a) enter into the place where the fire or light is, and extinguish the
19 fire or light from doing no further damage than is necessary; and

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

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

Obstructing
authorised entry

26 **103.** Where-

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

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

Navigation
without pilot

1 of not less than the sum of N 70, 000.00.

Throwing
ballast and
waste into port
waters

2 98. A person who throws or empties into any port waters any ballast
3 or waste however described commits an offence and is, in addition to other
4 penalties provided in any applicable laws, liable on conviction, in the case of-

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

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

Giving false
information as
to draught of
vessel and cargo

9 99.-(1) An owner, agent or a master of a vessel entering or leaving or
10 within the port or the approaches to a port who makes any negligent
11 misstatement or gives false information of the type of vessel, its draught,
12 length, beam or height to the Authority:

13 Commits an offence and is liable on conviction to a fine of not less
14 than N 5,000,000.00 or to imprisonment for a term of not less than 6 months or
15 to both.

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

Removal or
damage to
lighthouses,
buoys and
beacons

19 100. A person who wilfully or negligently-

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

22 (b) rides by, makes fast to or runs foul of any lighthouse, buoy or
23 beacon or other lights placed by the Authority, commits an offence and is liable
24 on conviction to a fine of not less than N1,000,000.00 and shall in addition
25 make good any loss, destruction or damage caused by the contravention.

Prohibition of
false lights at
the lighthouses

26 101.-(1) When any fire or light is burned or exhibited at any place or
27 in a manner as to be likely mistaken for a light proceeding from a lighthouse,
28 buoy, beacon or other light placed by the Authority, the Authority may serve a
29 notice on the-

30 (a) owner or occupier of the place where the fire or light is burned or

1 96.-(1) Where a vessel-

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

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

9 (2) Where the master fails to comply with the provisions of
10 subsection (1) of this section, the master shall in addition to the fine, be
11 liable to pay damages assessed in relation to the registered tonnage of the
12 vessel for every hour that the vessel remains at the port or approach to port
13 after the time for departure required by such notice has expired.

14 (3) Where a vessel-

15 (a) enters any port or any approach to the port without permission
16 from the Authority; or

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

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

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

25 97.-(1) Every vessel lying alongside a wharf or within any dock
26 shall be kept equipped, provided and loaded or ballasted to enable it be
27 removed safely whenever it is necessary in the judgment of the Harbour
28 Master.

29 (2) Any master or owner of a vessel who contravenes the provision
30 of subsection (1) of this section commits an offence and is liable to a penalty

Offences by
master of vessel

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

1 (e) pollution and the protection of the environment within the port
2 limits;

3 (f) enhancement of safety and security within the port limits; and

4 (g) merchant shipping and particularly in respect of safety at sea
5 and the prevention of pollution within the ports limits of the ports.

6 (5) Guidelines issued by the Authority shall be duly notified and
7 published and the Authority may recommend to the Minister to issue the
8 guidelines as regulations.

9 **118.** The Authority shall register as an agent of the Federal Inland Revenue Service or any Tax Authority for the purpose of collection of
10 Withholding Tax and Value Added Tax. Power to collect taxes

12 **119.** The owner of any vessel intending to enter any port or
13 harbour in Nigeria for any purpose shall, before the departure of the vessel
14 for Nigeria, submit to the Authority a statement in writing setting out the
15 following information- Advance vessel and cargo information

16 (a) the name and full documentation of the vessel including
17 International Maritime Organization (IMO) numbers where applicable;

18 (b) name of the port or ports of sailing;

19 (c) estimated time of departure for Nigeria;

20 (d) name of the port or ports of discharge in Nigeria;

21 (e) estimated date of arrival;

22 (f) detailed information including tonnage of the cargo carried in
23 the vessel; and

24 (g) type of cargo on board the vessel.

25 **120.** A vessel shall not enter a port or harbour or an approach to a
26 port or harbour in Nigeria without prior permission or approval of the
27 Authority. Prohibition of entry into Nigerian Ports and Harbours without permit

28 **121.-(1)** Where any damage is done to any property of the
29 Authority by any vessel, equipment or float of timber, the cost of making
30 good the damage, including the expenses of any inspection or survey carried Damage to property of the Authority

1 out by the Authority to ascertain the damage, may be recovered by the
2 Authority as a debt from the master, owner or person in charge of the vessel,
3 equipment or float of timber.

4 (2) The Authority may detain any vessel, equipment or float of timber
5 responsible for causing the damage to its property until the costs of making
6 good such damage and the expenses described in subsection (1) of this section
7 have been paid to the Authority.

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

Repeals

12 122.-(1) Save as is provided in this Act, the Nigerian Ports Authority
13 Act, CAPN126, Laws of the Federation of Nigeria, 2004 is repealed.

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

Savings

16 123.-(1) From the commencement of this Act, all assets, liabilities,
17 rights and obligations of the Nigerian Ports Authority established under the
18 repealed Act in subsection (1) of section 121 of this Act shall vest in the
19 Authority established under Part I of this Act and in the manner provided under
20 the Second Schedule to this Act.

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

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

- 1 **124. In this Act-** Interpretation
- 2 "Authority" means the Nigerian Ports and Harbours Authority established
- 3 under section 3 of this Act;
- 4 "Aid to navigation" means a device used for the safety of navigation
- 5 including lighthouses, radio navigational aids, buoys, beacons and any other
- 6 device or system used to assist the safe and efficient navigation of vessels;
- 7 "Beacon" means a prominent specially constructed object forming a
- 8 conspicuous mark as a fixed aid to navigation;
- 9 "Board" means the Board of the Authority established under section 4 of this
- 10 Act;
- 11 "B buoy" includes a floating object of any size, shape and colour which is
- 12 moored to the seabed and serves as an aid to navigation or for other specific
- 13 purposes;
- 14 "Cargo" or "Goods" includes any substance or article, livestock, minerals,
- 15 wares and merchandise of every description and any container or other item
- 16 used to contain any substance or article;
- 17 "Chairman" means the Chairman of the Board of the Authority appointed
- 18 under section 4 (3) of this Act;
- 19 "Channel" includes a terminal, the seabed, course, swinging basin, turning
- 20 circle, an area alongside a berth or dock, fairway, anchorage and berth;
- 21 "Channel operator" means in the case of any port waters, a person who
- 22 manages channels in those waters.
- 23 "concession" means an arrangement between the Authority and a third party
- 24 pursuant to which such third party shall be authorized to provide a port
- 25 service or operate a port facility in accordance with this Act and the term
- 26 includes the meaning assigned to it in the ICRC Act;
- 27 "Concessioned" shall be interpreted accordingly;
- 28 "Concessionaire" means a person granted concession under this Act;
- 29 "Consumer" or "Port user" means any person who uses port services or
- 30 facilities;

- 1 "Council" means the Federal Executive Council of the Federal Republic of
2 Nigeria;
- 3 "Court" means a court of law of competent jurisdiction;
- 4 "Development" or "Works" includes-
- 5 (a) the construction, extension, demolition or removal of a building or
6 substantial alteration of any structure in or on land;
- 7 (b) any change to the natural or existing condition or topography of
8 land;
- 9 (c) the decoration or alteration of the inside or outside of a building or
10 the alteration of works;
- 11 (d) the subdivision or consolidation of land, airspace or buildings;
- 12 (e) the installation, provision or operation of facilities or services;
- 13 (f) the removal of vegetation or topsoil;
- 14 (g) land reclamation and land decontamination; and
- 15 (h) dredging;
- 16 "Dock" includes basins, lock cuts, entrances, graving, docks, keel blocks,
17 included planes, slipway grid irons, quays, warehouses and other works and
18 things appertaining to any dock;
- 19 "Employers of maritime labour" includes terminal operators, stevedoring and
20 cargo handling companies, dock labour and seafarers employers;
- 21 "Equipment" or "Facility" includes any apparatus, machinery or system used
22 or intended to be used for provision of port services;
- 23 "Estimates" means in respect of recurrent revenue the best possible
24 commercial forecast of revenue taking into account the general conditions of
25 world trade and all other relevant factors and in respect of recurrent
26 expenditure the best possible commercial forecast of expenditure likely to be
27 incurred having regard to the estimates of revenue;
- 28 "Federal Government" or "Government" means Government of the Federal
29 Republic of Nigeria;
- 30 "Harbour" includes estuaries, navigable rivers, piers, jetties and other works in

1 or at which vessels can obtain shelter or load and discharge goods or
2 passengers;

3 "ICRC" means Infrastructure Concession Regulatory Commission;

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

5 "Licence" means an authorisation to own a port, provide a port service or
6 operate a port facility, and "Licensed" or "Licensee" shall be interpreted
7 accordingly.

8 "Maritime labour" means dockworkers;

9 "Maritime domain" Is defined as all area and things of, on, under, relating to,
10 adjacent to, or boarding on a sea, ocean, or other navigable waterways,
11 including all maritime-related activities, infrastructure, people, cargo and
12 vessels and other conveyances carried out on the Exclusive Economic Zone
13 and Continental shelf;

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

16 "Minister" means the Minister for the time being charged with the
17 responsibility for marine transport;

18 "Minister of Finance" means the Minister for the time being charged with
19 the responsibility for Finance;

20 "Ministry" means the Federal Ministry for the time being charged with the
21 responsibility for transport;

22 "Nigerian waters" includes inland waters, territorial waters or waters of the
23 Exclusive Economic zone (respectively, together or any combination
24 thereof);

25 "Off-shore cargo handling facility" means an off-shore facility within or
26 beyond the port limits used for the transfer of cargo from a vessel to the land
27 and vice versa;

28 "Owner" in relation-

29 (i) to goods includes any consignor, consignee, shipper or agent for
30 the sale, custody, shipping or landing of such goods;

1 (ii) to any vessel includes any part owner, charterer, consignee or
2 mortgagee in possession of the vessel; and

3 (iii) the legal or beneficial owner in relation to (i) and (ii).

4 "Person" includes a corporate body or partnership and where an individual is
5 required to represent a corporate body or partnership in any circumstance
6 pursuant to this Act or regulations made under this Act, it shall be sufficient if in
7 the case of a-

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

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

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

13 "Pilotage Board" means a Board constituted under this Act made up of nautical
14 professionals to carry out-

15 (a) Examination in connection with the licensing of pilots for a
16 Pilotage District;

17 (b) Licensing of pilots for the Pilotage District on behalf of the
18 Authority; and

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

21 "Pilotage District" means any of the Pilotage Districts as defined by the
22 Nigerian Ports Authority (Pilotage Districts) Order and any subsequent
23 amendment thereto;

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

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

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

5 "Port operator" means a person who owns the business of, or is responsible
6 for the management and operations of ports, terminals, or berths located in a
7 port;

8 "Port repair facilities" includes dry docks, vessels repair facilities,
9 warehouses and railways within a port and any other facilities which are
10 designated as such by the Authority;

11 "Port services" and "Facilities" includes stevedoring, cargo handling,
12 terminal operations, storage of cargo within a port, tug services, floating
13 crane services, berthing services, firefighting, security, radio and radar
14 services, waste disposal, vessel repairs and any other services terminal and
15 facilities for the handling, storage and transportation of goods on land
16 adjoining the fore shore of Nigeria or a floating platform and for the
17 handling of passengers carried by vessels within a port;

18 "Port service provider" includes any person providing services within a port;

19 "Port terminal" means an area, infrastructure, cargo-handling equipment,
20 sheds and other land-based structures used for the loading, storage and
21 discharging of cargo or the embarkation and disembarkation of passengers
22 and include any corresponding wharves, docks, piers, bridges and other
23 infrastructure works, with all necessary and convenient arches, drains,
24 culverts, fences, roads, railways and sea, land and air approaches;

25 "Port undertakings" means the undertakings of the Authority that relate to
26 the provision by the Authority of any facility or service of any description in
27 connection with the exercise and performance of its powers and duties under
28 any written law and includes any movable and immovable property and the
29 rights of the Authority that relate to such facility or service;

30 "Premises" includes houses, buildings, structures, lands, tenements,

- 1 easements and hereditaments of any tenure, whether open or enclosed, whether
2 built on or not, whether public or private, and whether maintained or not under
3 the control of an authority;
- 4 "Prescribe" means a rule, direction, or order laid down, approved or given by
5 this Act or by its subsidiary legislation or regulations or any relevant
6 legislation;
- 7 "President" means the President of the Federal Republic of Nigeria;
- 8 "Regulations" means regulations made under this Act;
- 9 "Revenue" means any monies received by the Authority by way of charges,
10 scales of charges or other duties imposed by or under this Act and includes any
11 monies accruing to the Authority under this Act;
- 12 "Seafarers" includes every person except masters and pilots employed or
13 engaged in any capacity on board any vessel;
- 14 "Tariff" or "Charges" or "Rates" includes port dues, goods dues and pilotage
15 dues and other charges levied by port service providers including those charged
16 by the Authority;
- 17 "Terminal infrastructure" includes terminal buildings, cargo handling
18 equipment, workshops, substations, surfacing, rail sidings and terminal
19 operations and water, lights, power, sewerage, telecommunications and similar
20 services within terminal boundaries;
- 21 "Terminal operations" means services provided at a port terminal, consisting of
22 cargo handling storage and delivery to vessels and services related thereto;
- 23 "This Act" includes the regulations made pursuant to this Act;
- 24 "Ship" means a vessel of any type whatsoever not permanently attached to the
25 sea bed including dynamically supported craft, submersible or any other
26 floating craft which shall include but not limited to Floating Production
27 Storage and Offloading (FPSO) platform as well as Floating, storage and
28 Offloading Platform (FSO) platform;
- 29 "Vessel" means any kind of vessel that is used, or capable of being used, in
30 navigation by water, howsoever propelled or moved, and includes-

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

3 (b) other similar craft, that is used in navigation by water;

4 "Wharf" includes any wall and building adjoining the foreshore, sea-bed or
5 river-bed, a quay, pier, jetty, ramp or other landing place;

6 "Wreck" means any derelict, floatsam, jetsam, or legan including any
7 sunken or stranded ship or part thereof or anything that is on board such a
8 ship that is stranded, sunken or in danger within the limits and approaches of
9 any port;

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

15 125. This Bill may be cited as the Nigerian Ports and Harbours Short title
16 Authority Bill, 2019.

17 FIRST SCHEDULE

18 *[Sections 2 (b), 28 (2)]*

19 PORTS AND HARBOURS

- 20 (i) Lagos Port Complex, Apapa;
21 (ii) Tin Can Island Port Complex;
22 (iii) Kirikiri Lighter Terminal (I & II);
23 (iv) Ikorodu Lighter Terminal;
24 (v) Port Harcourt;
25 (vi) Federal Ocean Terminal, Onne;
26 (vii) Federal Lighter Terminal, Onne;
27 (viii) Warri;
28 (ix) Calabar;
29 (x) Burutu;
30 (xi) Akassa;

- 1 (xii) Bonny;
2 (xiii) Degema;
3 (xiv) Forcados;
4 (xv) Escravos;
5 (xvi) Koko Port;
6 (xvii) Sapele;
7 (xviii) Brass; and
8 (xix) Lekki Deep Sea.

9 SECOND SCHEDULE

10 [Section 123 (1)]

11 TRANSFER PROVISIONS FOR THE NIGERIAN PORTS AND
12 HARBOURS AUTHORITY13 *Transfer of Assets*

14 1.-(1) All Assets and funds which immediately before the
15 commencement of this Act were vested in the Authority shall by virtue of this
16 Act be vested in the Authority.

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

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

29 (4) No action or other proceeding shall be commenced against the
30 Authority in respect of an employee or asset that has been transferred to the

1 Authority, had there been no transfer, the time for commencing the action or
2 other proceeding would have expired.

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

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

8 (b) a party to a contract with the Authority that was entered into
9 before the commencement of this Act.

10 (6) Any guarantee or surety given or made by the Federal
11 Government or any other person in respect of any debt or obligation of the
12 Authority, and which was effective immediately before the transfer of the
13 principal debt or obligation, shall remain fully effective against the
14 guarantor or surety on and after the transfer date in relation to the payment of
15 the debt or the performance of the obligation, as the case may be, by the
16 Authority to which the principal debt or obligation was transferred.

17 *Transfer of Employees*

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

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

27 (3) Until such time as conditions of service are drawn up by the
28 Authority-

29 (a) the terms and conditions of service applicable to employees of
30 the Authority shall continue to apply to every person transferred to the

1 Authority as if every such person were still in the service of the Authority; and
2 (b) the Authority shall continue to contribute towards any pension
3 scheme to which the Authority was contributing in respect of persons in the
4 employ of the Authority prior to the transfer date.

5 (4) Nothing in this paragraph shall operate so as to prevent any
6 employee of the Authority from resigning or being dismissed from service.

7 THIRD SCHEDULE

8 [Sections 5(6), 16 (2)]

9
10 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD OF THE
11 NIGERIAN PORTS AND HARBOUR AUTHORITY

12 *Proceedings of the Board*

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

16 2. The Chairman shall preside at every meeting of the Board and in
17 his absence; the members present at that meeting shall appoint one of their
18 numbers to preside at the meeting. Minutes shall be taken of each meeting of
19 the Board and any committee by the secretary.

20 3. The quorum for any meeting of the Board shall be at least 5
21 members of the Board.

22 4. The Board shall meet to transact its business pursuant to this Act
23 whenever it is summoned by the Chairman on at least 7 days written notice. The
24 Chairman shall, if so required by notice given to him by not less than 4
25 members of the Board specifying, amongst others, an agenda for the meeting,
26 summon a meeting of the Board which shall be held no later than 14 days from
27 the date on which the notice is served on him to discuss the items specified in
28 the notice. The Board shall for the purposes of this Act meet not less than 4
29 times in each calendar year.

30 5. A member of the Board who directly or indirectly has an interest of

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

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

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

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

14 7. Decisions at a meeting of the Board shall be taken by a majority
15 save that decisions on the establishment of any subsidiary or participation
16 in a joint venture or partnership of any description or the granting of a
17 concession shall require a majority of at least 75%.

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

20 *Committees*

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

25 2. A committee appointed under paragraph (1) shall-

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

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

1 3. The quorum of any Committee set up by the Board shall be/may
2 be determined from time to time by the Board.

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

5 *Miscellaneous*

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

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

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

17 4. Subject to the other provisions of this Act, the validity of any
18 proceedings, act or decision of the Board or of any of its Committees shall not
19 be affected by-

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

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

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

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

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

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FOURTH SCHEDULE

[Section 7(1) (g)]

CONFLICT OF INTEREST

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

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

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

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

5. Each member of the Board or staff of the Authority shall declare

1 on appointment or at the commencement of employment and annually
2 thereafter, for as long as he serves the Authority, any interest or investment that
3 he-

4 (a) knowingly has; or

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

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

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

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

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

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

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

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

30 9. The Board may at any time review and reverse its determination

1 under paragraph 7 of this Schedule and direct the application of the
2 prohibitions contained in this Schedule to the member of the Board or staff
3 of the Authority concerned. The Board shall not be under an obligation to
4 disclose the reason or basis for its review to the member of the Board or staff
5 of the Authority concerned.

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

13 11. For the purposes of this Schedule-

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

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

EXPLANATORY MEMORANDUM

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

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

