

NIGERIAN AIRSPACE MANAGEMENT AGENCY (ESTABLISHMENT, ETC.)

BILL, 2019

ARRANGEMENT OF SECTIONS

Section:

PART I - OBJECTIVE AND APPLICATION

1. Objective
2. Application

PART II - NIGERIAN AIRSPACE MANAGEMENT AGENCY

5. Establishment of the Nigerian Airspace Management Agency
6. Establishment and membership of the Governing Board.
7. Tenure of office
8. Cessation of office
9. Allowances of Board Members

PART III - FUNCTIONS AND POWERS

8. Functions of the Agency
9. Powers of the Agency
10. Functions and powers of the Board

PART IV - MANAGEMENT AND STAFF OF THE AGENCY

11. Managing Director of the Agency
12. Appointment of Secretary to the Board
13. Other Staff of the Agency
14. Conflict of Interest, Insider Dealing and Confidentiality
15. Service in the Agency to be pensionable
16. Appointment of Experts
17. Delegation of Powers

PART V - FINANCIAL PROVISIONS

18. Funds of the Agency
19. Duty to be financially prudent
20. Collection of unpaid or overdue charges
21. Expenditure of the Agency

22. Power to accept gifts
23. Annual Estimate and Expenditure
24. Annual Reports
25. Power to Borrow
26. Power to Invest Funds
27. Exemption from tax

PART VI - GENERAL POWERS OF THE AGENCY

28. Power to obtain Information
29. Penalties for refusal to give information
30. Restriction on disclosure of information
31. Power to enter land to make a survey, etc.
32. Compensation for damages, etc.
33. Grant of Aircraft Flight Clearance
34. Conditions for the grant of Aircraft Flight Clearance

PART VII - AIR TRAFFIC INCIDENT INVESTIGATION REPORT

35. Air Traffic Incident Investigation and Report not to be Admissible in Evidence
36. Air Traffic Incident Investigation Report not admissible in evidence

PART VIII - PROVISIONS RELATING TO THE ACQUISITION OF LAND

37. Power to acquire Land
38. Establishment of Staff Housing Scheme
39. Calibration of Navigational Aids and Equipment

PART IX - LEGAL PROCEEDINGS

40. Service of Notice
41. Service of documents
42. Limitation of suits against the Agency
43. Restriction on Execution of an Order against the Property of the Agency
44. Arrest of Employee of the Agency on Essential Duty
45. Indemnity of officers

PART X - OFFENCES AND PENALTIES

46. Obstruction of services
47. Damage or theft to Air Navigation Equipment or Facilities
48. Offences by a body corporate or unincorporated body
49. Prevention of further violation of the provisions of this Act

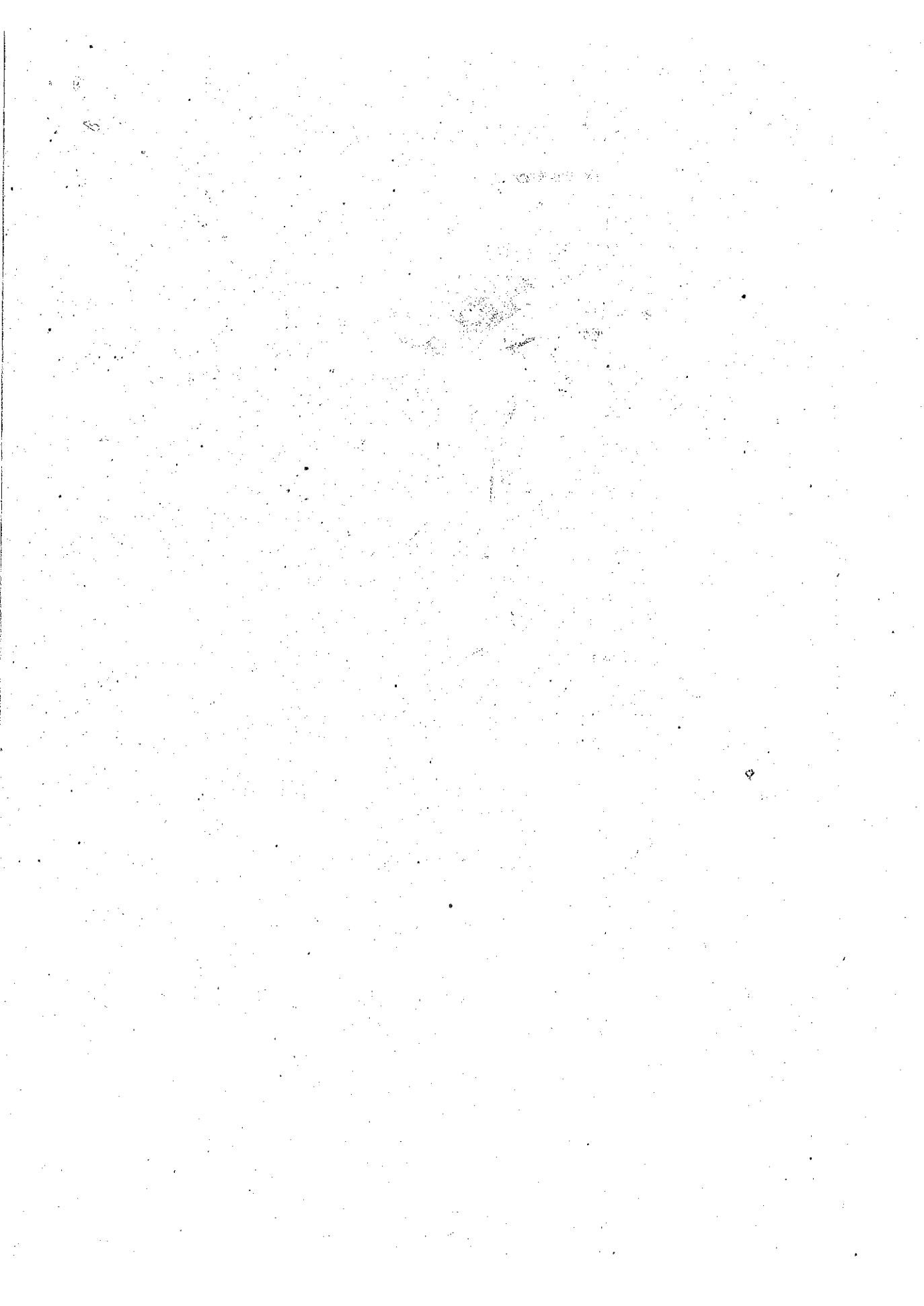
PART XI - JURISDICTION

50. Jurisdiction

PART XII - MISCELLANEOUS

51. Power of Minister to give Directives
52. Designation of Essential Services
53. Regional co-operation in the provision of air navigation services
54. Repeal and Saving Provisions.
55. Transitional Provisions
56. Interpretation
57. Short title

SCHEDULE



1 immovable for the purpose of carrying out any of its function under this Act.

2 (3) The Agency shall be the sole body responsible for providing air
3 navigation services in Nigeria and any other place in which Nigeria has
4 responsibility for providing air Navigation Services and other related matters.

Establishment
and membership
of the Governing
Board

5 4.-(1) There is established for the Agency a Governing Board (in this
6 Act referred to as "the Board).

7 (2) The Board shall consist of:

8 (a) a part time chairman;

9 (b) one representative not below the rank of a Director from each of
10 the following Ministries and Institutions, the:

11 (i) Federal Ministry in charge of Aviation,

12 (ii) Nigerian Air Force, and

13 (iii) Federal Ministry in charge of Communications; and

14 (c) 1 representative of airline operators in Nigeria;

15 (d) 2 other persons to represent public interest; and

16 (e) the Managing Director of the Agency.

17 (3) The chairman and members of the Board, other than the ex-officio
18 members, shall be:

19 (a) appointed by the President on the recommendation of the
20 Minister; and

21 (b) persons with proven integrity and ability.

22 (4) The Chairman shall be a person with at least 10 years cognate
23 experience in matters relating to aviation.

24 (5) In the absence of the Governing Board, the functions of the Board
25 shall be performed by an Interim Board made up of the Minister, Permanent
26 Secretary of the Ministry and the Managing Director of the Agency.

27 (6) The Supplementary Provisions set out in the Schedule to this Act,
28 shall have effect with respect to proceedings of the Board and any other matter
29 contained in it.

1 5. The Chairman and members of the Board other than the ex- Tenure of office
2 officio members shall:

3 (a) hold office for a term of 4 years on such terms and conditions as
4 may be specified in the letter of appointment; and

5 (b) be eligible for re-appointment for another term of 4 years and
6 no more.

7 6.-(1) Notwithstanding the provisions of section 5 of this Act, a Cessation of
8 person shall cease to hold office as a member of the Board where:

9 (a) his term of office expires;

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

12 (c) he dies;

13 (d) he becomes incapable of carrying out his duties due to physical
14 or mental illness;

15 (e) he has been declared bankrupt;

16 (f) he has been convicted of a felony or any offence involving
17 dishonesty;

18 (g) he is found guilty of a gross misconduct relating to his duties;

19 (h) in the case of a person possessed of professional qualification,
20 is disqualified or suspended from practicing his profession in any part of the
21 world by an order of a competent authority; or

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

24 (2) Notwithstanding the provisions of subsection (1) of this
25 section, a member of the Board may be suspended or removed from office
26 by the President if he is satisfied that it is not in the interest of the Agency and
27 public that such member should continue in office.

28 (3) Where a vacancy occurs in the membership of the Board, it
29 shall be filled by an appointment by the President of a successor to hold
30 office for the remainder of the term of office of his predecessor and the

1 successor shall represent the same interest as that member whose exit created
2 the vacancy.

Allowances of
Board Members

3 7. There shall be paid to every member of the Board such allowances
4 and expenses as the Federal Government may, from time to time, direct.

5 PART III - FUNCTIONS AND POWERS

Functionss of
the Agency

6 8.-(1) The functions of the Agency shall be to:

7 (a) provide air traffic services in Nigeria and any other place where
8 Nigeria has responsibility for provision of Air Navigation Services, including
9 air traffic control, visual and non-visual aids, aeronautical telecommunication,
10 telecommunication, communication, calibration services and electricity
11 supplies relating thereto, to enable public transport, private, business and
12 military aircraft to fly, as far as practicable and as safely as possible;

13 (b) provide at all Nigerian airports and aerodromes air navigation
14 services necessary for the operation of aircraft taking-off and landing and
15 integrate them into the overall flow of air traffic within the Nigerian airspace;

16 (c) carry out obstruction evaluation necessary to minimise or prevent
17 Interference with the use or effectiveness of all apparatus used in connection
18 with air navigation and for prohibiting the use of such apparatus and the display
19 of any sign, light, tower and masts liable to endanger aircraft and endanger the
20 use of the Nigerian airspace;

21 (d) generally secure the safety, efficiency and regularity of air
22 navigation;

23 (e) require any person engaged or employed in connection with air
24 navigation, to supply meteorological information for the purpose of air
25 navigation or as may be deemed necessary from time to time;

26 (f) provide adequate personnel for providing effective security for
27 navigational aids facilities outside the airport perimeters;

28 (g) create conditions for the development, in the most efficient and
29 economic manner, of air navigation services;

30 (h) procure, install and maintain adequate aeronautical

1 telecommunication, communication, navigation and surveillance,
2 telecommunication facilities for air traffic management and other allied
3 services at all Nigerian airports and aerodromes;

4 (i) provide enhanced operational techniques and equipment to
5 improve air traffic safety and overall performance of air traffic
6 management;

7 (j) provide seamless engineering and infrastructure technology for
8 implementation of aviation system block upgrade, to ensure global
9 interoperability and safety in the Nigerian airspace;

10 (k) ensure effective co-ordination in the use of Nigerian airspace in
11 line with established standard and procedure;

12 (l) ensure the co-ordination at all levels of decisions-making
13 relating to airspace management and air traffic control in Nigeria;

14 (m) ensure innovative airspace design development and utilization
15 to meet air traffic capacity within the Nigerian airspace in order to improve
16 flight efficiency and reduce flight time;

17 (n) provide and manage on commercial basis, air traffic and air
18 navigation services to private and state owned airports;

19 (o) hold meetings at regular interval with the armed forces on
20 Nigeria's International obligations as it relates to civil and military co-
21 ordination;

22 (p) promote familiarisation visit by civil and military personnel to
23 any air traffic service unit;

24 (q) maintain permanent liaison with the civil air traffic services
25 units and all relevant defence units, in order to ensure daily integration or
26 segregation of civil and military air traffic operation within the same or
27 adjacent portions, employing civil or military radars as necessary;

28 (r) preclude the need for civil aircraft to obtain special air defence
29 clearance;

30 (s) take any necessary step to reasonably prevent the penetration of

1 controlled airspace by any aircraft, civil or military without co-ordination with
2 the air traffic control unit concerned;

3 (t) encourage research and development relating to improving air
4 safety in all aspects of the Nigerian airspace;

5 (u) undertake systems engineering development, implementation for
6 communications, navigation and surveillance, air traffic management and
7 telecommunications and other allied services;

8 (v) conduct investigation into any air traffic incidents with a view to
9 determining the cause and take necessary measures to prevent such re-
10 occurrence;

11 (w) charge for all services provided by the Agency;

12 (x) co-ordinate the implementation of aeronautical search and rescue
13 services; and

14 (y) discharge the operational, technical and financial air traffic
15 service commitments arising from Nigeria's membership to any international
16 organisations and other air navigation agencies.

17 (2) Further to the provisions of subsection (1) of this section, the
18 Agency shall:

19 (a) conduct routine safety survey of safety activities and where
20 necessary make any improvement to conform compliance with applicable
21 Safety Management System;

22 (b) ensure that the necessary safety measure is put in place to prevent
23 compromise of air navigation safety standards within and outside the airport;

24 (c) ensure the continued operations and availability of airborne and
25 ground components of the Air Traffic Management system through
26 cooperation with relevant parties;

27 (d) cooperate with anybody through partnership or joint venture for
28 the purpose of providing aeronautical telecommunication and
29 telecommunications services within the airports and to discharge any other
30 function of the Agency;

1 (e) deploy terrestrial and satellite communication facilities for air
2 navigation services;

3 (f) conduct hazard identification and risk assessment and
4 mitigation processes which may include a determination of the scope,
5 boundaries and interfaces of the constituent part being considered, as well as
6 the identification of the functions that the constituent part is to perform and
7 the environment of operations in which it is intended to operate;

8 (g) maintain a data bank that will provide accurate, dependable and
9 reliable information to the entire Aviation sector for effective planning and
10 advisory to industry users and stakeholders to build capacity for safe air
11 transportation;

12 (h) carry out the design, regular and periodic review of national
13 airspace architecture including appropriate instrument approach procedures
14 for aircraft operations to enhance airspace capacity;

15 (i) undertake the publication and distribution of aeronautical
16 information and any other guidance material in the form of Aeronautical
17 Information Publications (AIPs), Notices to Airmen (NOTAM),
18 Aeronautical Information Circulars (AICs) etc;

19 (j) produce charts that will provide flight crew with detailed
20 information on the airport Or aerodrome to facilitate the ground movement
21 of aircraft between the taxiways and the aircraft stands and the parking or
22 docking of aircraft within the airport or aerodrome;

23 (k) grant over flights and landing permits to qualified aircraft
24 operators in collaboration with the relevant Government Agency; and

25 (l) undertake the classification and allocation of the use of the
26 Nigerian airspace for aircraft operations in collaboration with the relevant
27 Government Agency.

28 (3) A person other than the Agency shall not provide air navigation
29 services in respect of the Nigerian airspace or any other airspace which
30 Nigeria has responsibility to provide such services.

1 (4) Notwithstanding the provision of subsection (3) of this section, a
2 person may provide air navigation services where the person is acting:

3 (a) under the authority of the Minister on the recommendation of the
4 Agency; or

5 (b) has this approval of the Agency to carry out such navigation
6 services.

7 (5) The Agency may with the approval of the Minister, introduce or
8 increase, terminate, or reduce air navigation services, and close or relocate
9 facilities used by it in connection with navigation services within the Nigerian
10 airspace or any other airspace which Nigeria has responsibility for the
11 provision of air traffic control services.

12 (6) A person shall not commence construction or reconstruction of an
13 aerodrome in Nigeria without the necessary input of the Agency in line with its
14 functions under this Act.

15 (7) Any person who contravenes the provisions of subsection (6) of
16 this section commits an offence and shall be liable to a fine not exceeding
17 N5,000,000.00 in the case of a corporate body or N2,000,000.00 in the case of
18 an individual.

19 (8) The functions of the Agency in this Act is vested in the Managing
20 Director of the Agency who may exercise them directly or through the
21 Directors or any other staff of the Agency he may deem fit.

Powers of the
Agency

22 9. Subject to the provision of this Act, the Agency shall have powers
23 to:

24 (a) make, alter and revoke rules, bye-law and guidelines for the
25 purpose of giving effect to the provisions of this Act;

26 (b) charge cost and sustainability recovery charges for services
27 rendered by the Agency to upsets;

28 (c) cooperate and collaborate with the relevant authority within and
29 outside Nigeria to ensure coordinated search and rescue operations for missing
30 aircraft and aircraft in distress; and

1 (d) do anything, Which in its opinion is calculated at facilitating the
2 execution of its functions under the provisions of this Act.

3 **10. The Board shall:**

4 (a) provide the general policies and guidelines relating to major
5 expansion programmes of the Agency;

6 (b) consider terms and conditions of service including
7 remuneration of the employees of the Agency; and

8 (c) do such other things which in the opinion of the Board is
9 considered necessary or expedient to ensure the performance of the Board's
10 functions under this Act.

11 **PART IV - MANAGEMENT AND STAFF OF THE AGENCY**

12 **11.-(1) There shall be appointed for the Agency:**

13 (a) a Managing Director by the President on the recommendation
14 of the Minister; and

15 (b) on such terms and conditions as may be specified in the letter of
16 appointment or as may be determined, from time to time, by the Government
17 of the Federation.

18 **(2) The Managing Director shall be:**

19 (a) the chief executive and accounting officer of the Agency;

20 (b) responsible to the Board for the day-to-day administration of
21 the Agency;

22 (c) appointed for a term of 5 years in the first instance and may be
23 re-appointed for a further term of 5 years and no more subject to satisfactory
24 performance;

25 (d) a person who possesses relevant and adequate professional
26 qualification in a senior management cadre; and

27 (e) a person who has been qualified in air navigation services for a
28 period of not less than 15 years, 5 of which shall be in the senior
29 management cadre in an air navigation services provider environment.

30 **(3) Without prejudice to the foregoing provisions of this section,**

Functions and
powers of the
Board

Managing
Director of the
Agency

1 the Managing Director may be removed from office by the President where he:
2 (a) has demonstrated inability to effectively perform the duties of his
3 office;
4 (b) has been absent from 5 consecutive meetings of the Board without
5 the consent of the Chairman or good reason for such absence;
6 (c) is guilty of serious misconduct;
7 (d) is disqualified or suspended from practicing his profession in any
8 part of the world by an order of competent authority; or
9 (e) is guilty of conflict of interest as stipulated under section 14 of this
10 Act.

Appointment
of Secretary to
the Board

11 **12.** There shall be appointed for the Board a secretary who shall:
12 (a) be a legal practitioner and shall have been so qualified for a period
13 of not less than 12 years;
14 (b) have power to conduct the correspondence and keep the records of
15 the Board; and
16 (c) perform such other functions as the Board or the Managing
17 Director, may assign to him from time to time.

Other Staff of
the Agency

18 **13.**-(1) The Agency shall appoint such number of employees which in
19 their opinion is expedient and necessary for the proper and efficient
20 performance of its function under this Act.
21 (2) The staff of the Agency appointed under subsection (1) of this
22 section shall be appointed on such terms and conditions of service as the
23 Agency may determine in accordance with the approved Government Policy.
24 (3) Notwithstanding the provisions of subsections (1) and (2) of this
25 section, the Agency shall have power to appoint either directly or on
26 secondment from any public service in the Federation, such number of
27 employees as may in the opinion of the Board be required to assist the Agency
28 in the discharge of any function under this Act.
29 (4) Nothing in subsection (3) of this section shall preclude the Agency
30 from appointing such number of persons from outside the public service of the

1 Federation or of the State, where it deems it necessary so to do.

2 (5) The Agency may subject to the approval of the Board, make
3 regulations relating generally to the terms and conditions of service of its
4 employees providing for:

5 (a) the appointment, promotion and staff discipline;

6 (b) remuneration, allowances, benefits and pension of the
7 employees of the Agency;

8 (c) appeals by employees against disciplinary measures; and

9 (d) such other matters to ensure the efficient performance of the
10 functions of the Agency under this Act.

11 14.-(1) The Members of the Governing Board, the Managing
12 Director, Directors and the employees of the Agency shall not control,
13 manage or operate any aviation enterprise while in office.

14 (2) Any of the persons specified in subsection (1) of this section,
15 having a financial or other interest in any aviation enterprise shall make full
16 disclosure of such interest to their respective appointing authorities.

17 (3) Any of the persons mentioned in subsection (1) of this section is
18 prohibited from participating in any action or decision that may, whether
19 directly or indirectly affect their financial interest in any aviation enterprise.

20 (4) A member of the Board, the Managing Director or any other
21 officer or employee of the Agency shall:

22 (a) not for his personal gain, make use of any information which
23 has come to his knowledge in the exercise of his powers or is obtained by
24 him in the ordinary course of his duty as a member of the Board, the
25 Managing Director, officer or employee of the Agency;

26 (b) treat as confidential any information which has come to his
27 knowledge in the exercise of his powers or is obtained by him in the
28 performance of his duties under this Act; and

29 (c) not disclose any information referred to under paragraphs (a)
30 and (b) of this subsection, except when required to do so by a court of

Conflict of
interest, insider
dealing and
confidentiality

1 competent jurisdiction or in such other circumstances as may be prescribed by
2 the Board, from time to time.

3 (5) Any person who contravenes the provisions of subsection (4) of
4 this section, commits an offence and is liable on conviction to a fine of not less
5 than N200,000.00 or to a term of not less than 6 months imprisonment or to
6 both.

Service in the
Agency to be
pensionable

7 15.-(1) Service in the Agency shall be the approved service for the
8 purposes of the Pension Reform Act.

9 (2) Officers and other persons employed in the Agency shall be
10 entitled to pensions, severance and other retirement benefits, as are enjoyed by
11 persons holding equivalent grades in the Civil Service of the Federation.

12 (3) Nothing in subsections (1) and (2) of this section shall prevent the
13 appointment of a person to any office on terms which preclude the grant of
14 pension and severance package in respect of that office.

15 (4) For the purpose of the application of the provisions of the Pension
16 Reform Act, any power exercisable under the Act by the Minister or other
17 authority of the Government of the Federation, other than the power to make
18 regulations is hereby vested in and shall be exercisable by the Board and not by
19 any other person or authority.

Appointment
of Experts

20 16. In exercising and performing the powers, functions and duties
21 conferred on it under this Act, the Agency may appoint, contract, liaise or co-
22 operate with experts, including specialised agencies, academic or technical
23 institutes in order to assist it in carrying out its functions.

Delegation of
Powers

24 17.-(1) For the effective discharge of the functions conferred on the
25 Managing Director under this Act, the Managing Director may discharge any
26 of the functions through the directors in charge of any of the following
27 Directorates:

- 28 (a) Operations;
29 (b) Safety, Electronics and Engineering Services;
30 (c) Finance, Accounts and Commercial Services;

- 1 (d) Human Resources:
 2 (e) Legal and Compliance Services;
 3 (f) Administration; or
 4 (g) any other Directorate as may be established from time to time
 5 by the Agency.

6 (2) Notwithstanding the provisions of subsection (1) of this
 7 section, the Agency shall with the approval of Board have the powers to:

8 (a) Set up special units, technical Committee, working groups and
 9 task forces to assist the Agency in the performance of its duties and functions
 10 under this Act; and

11 (b) make Changes to its structure, including the review or merging
 12 of Directorates.

13 PART V - FINANCIAL PROVISIONS

14 18.-(1) There shall be established and maintained by the Agency, a Funds of the
 15 fund into which shall be paid and credited: Agency

- 16 (a) all subventions and budgetary allocations from the Government
 17 of the Federation;
 18 (b) all fees and funds accruing from:
 19 (i) over flight and enroute international charges,
 20 (ii) domestic enroute charges,
 21 (iii) charges on Class B messages,
 22 (iv) 23 percent of the air ticket sales charges,
 23 (v) 23 percent of the cargo sales charges,
 24 (vi) 23 percent of charter sales charges,
 25 (vii) terminal navigation charges,
 26 (viii) sales of information,
 27 (ix) violation of airspace fines,
 28 (x) rentage of property, plant and equipment,
 29 (xi) calibration fees,
 30 (xii) obstacle evaluation fees,

- 1 (xiii) telecommunications services,
 2 (xiv) provision of air traffic services at private and state aerodromes,
 3 (xv) hajj or pilgrimage operations,
 4 (xvi) cartographic survey and cartography charges.
 5 (xvii) ariel operations charges, and
 6 (xviii) consultancy services;
- 7 (c) Sums accruing to the Agency by way of gifts, endowments,
 8 bequests, grants or other contributions by persons and organisations;
 9 (d) return on investments;
 10 (e) foreign aids and assistance from bilateral agencies;
 11 (f) any other fund that may be approved for the development of Civil
 12 Aviation in Nigeria; and
 13 (g) other sums which may, from time to time, accrue to the Agency.

14 (2) The owner and operators of an aircraft shall jointly and severally
 15 be liable for any charges for air navigational services rendered by the Agency in
 16 respect of their aircraft.

Duty to be
financially
prudent

17 **19.-(1)** The Managing Director shall conduct the Agency's affairs
 18 with prudence and due diligence to ensure that the Agency does not become
 19 insolvent.

20 (2) Where the Agency suffers any financial loss as a result of any
 21 waiver granted by any person, body or institution, the Agency shall be
 22 compensated for the financial loss sustained in complying with the waiver by
 23 the person, body or institution that grants such a waiver.

Collection of
unpaid or overdue
charges

24 **20.-(1)** The Agency may suspend the provision of service to any
 25 aircraft or aerodrome operator who fails to pay overdue charges until payment
 26 of such amount is made or bond or any other security satisfactory to the Agency
 27 for the amount due is deposited with the Agency.

28 (2) In addition to any other remedy provided for in this Act or bye-law,
 29 rules and guidelines made pursuant to this Act in relation to collection of an
 30 unpaid and overdue charges imposed by the Agency for air navigation services,

1 whether or not a Judgment for the collection of the charges has been
2 obtained, the Agency may apply to the Federal High Court, for an order,
3 which the court considers appropriate, authorising the Agency to seize and
4 detain any aircraft belonging to the defaulting air navigation services
5 provider until the charges is paid or a bond or collateral security acceptable
6 to the Agency is provided for the unpaid and overdue amount.

7 (3) An application for an order referred to in subsection (1) of this
8 section, may be made ex-parte if the Court has reason to believe that the
9 person liable to pay the charges is about to leave Nigeria, or remove from
10 Nigeria any aircraft owned or operated by the him.

11 (4) The Agency may release from detention, an aircraft seized and
12 detained under this section, where:

13 (a) the amount in respect of which the seizure is made has been
14 paid; or

15 (b) a bond or other security in a way that is satisfactory to the
16 Agency for the amount in respect of which the seizure was made is
17 discharged.

18 (5) Any person who collects and fails to remit to the Agency any
19 monies due to the Agency pursuant to this Act commits an offence and shall
20 be liable on conviction to a term of 2 years imprisonment or a fine of
21 N5,000,000.00 or both in addition to the refund of total monies owed.

22 21. The Agency may, from time to time, apply the proceeds of the
23 fund established in pursuance of section 18 of this Act:

Expenditure of
the Agency

24 (a) to pay overhead allowances, benefits and other administrative
25 costs of the Agency;

26 (b) for the reimbursement of members of the Board or any
27 Committee set up by the Board or the Agency for such expenses as may be
28 authorised in accordance with the rates approved by the Government of the
29 Federation;

30 (c) for the payment of salaries, fees and other remunerations or

1 allowances, payable to members of the Board, employees, experts or
2 professionals appointed by the Agency;

3 (d) to publicise and promote the activities of the Agency;

4 (e) for the maintenance of any property acquired or vested in the
5 Agency; and

6 (f) to undertake any other activity or matter connected with all or any
7 of the functions of the Agency under this Act.

Power to accept
gifts

8 **22.**-(1) The Agency may accept gifts of land, money or other property
9 on such terms and conditions, if any, as may be specified by the person or
10 organisation making the gift.

11 (2) The Agency shall not accept any gift, where the conditions
12 attached by the person or organisation making the gift are inconsistent with the
13 functions of the Agency under this Act.

Annual Estimates
and Expenditure

14 **23.**-(1) The Agency shall, not later than 30th September in each year,
15 submit to the President, through the Minister, an estimate of the expenditure
16 and income of the Agency during the next succeeding year.

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

Annual Reports

22 **24.**-(1) The Board shall receive and review annual report from the
23 Management of the Agency and submit same to the President, through the
24 Minister, not later than 30th June of each year.

25 (2) The report shall be in such form as the President may direct on the
26 activities of the Agency during the immediate preceding year and shall include
27 the accurate statistical data on traffic of aircraft and passenger movement,
28 over-flights and en-routes, a copy of the audited accounts of the Agency for the
29 year and the auditor's report on it.

1 25.-(1) The Agency may from time to time, obtain loan in form of Power to borrow
2 an overdraft or otherwise, such sums as It may require for the performance
3 of its functions under this Act.

4 (2) The Agency shall not without the approval of the President
5 borrow money which exceeds at any time the limit set by the Government of
6 the Federation.

7 (3) Notwithstanding the provisions of subsection (1) of this
8 section, where the sum to be borrowed is in foreign currency, the Agency
9 shall not borrow the sum without the prior approval of the President.

10 26.-(1) The Agency may invest any of its funds in securities or any Power to invest
11 other profit yielding investment as may be approved by the Board. Funds

12 (2) The Agency may, subject to the provisions of this Act, invest
13 any of its funds as may be financially prudent and maintain a general
14 reserve.

15 27.-(1) The Agency shall be exempted from the payment of Exemption from
16 tenement rates and income tax on any income accruing from investments tax
17 made by the Agency.

18 (2) The provisions of any law relating to the taxation of companies
19 or trust funds shall not apply to the Agency.

20 PART VI - GENERAL POWERS OF THE AGENCY

21 28.-(1) For the purposes of obtaining relevant information for the Power to obtain
22 proper discharge of the functions conferred upon it under this the Act, any information
23 authorised officer of the Agency may by notice in writing:

24 (a) require any person who undertakes the business of carrying
25 passengers or cargo in an aircraft for reward, to furnish him with such
26 information relating to such flights or class of flights, either at the beginning
27 or at the end of the same point or at different points;

28 (b) as may be specified in the notice, furnish the Agency with such
29 information relating to the flight plan, instrument carried on the aircraft and
30 any other information required for the safe landing within and exit of any

1 aircrafts from the Nigerian airspace; and

2 (c) specify the times at which, the form and manner in which, any
3 information required under paragraph (a) or (b) of this subsection shall be
4 made.

5 (2) For the purposes of this section, "authorized officer" means the
6 Managing Director or any other officer of the Agency specifically or generally
7 authorised by the Managing Director to carry out the functions of an authorized
8 officer under this section.

Penalties for
refusal to give
information

9 **29.**-(1) A person or entity who fails to give information as required
10 under section 28 of this Act, commits an offence and is liable on conviction:

11 (a) in the case of an individual, to a fine of not less than N200,000.00
12 or a term of 6 months Imprisonment or to both; and

13 (b) in the case of an entity or body corporate, a fine of not less than
14 N500,000.00.

15 (2) A person or entity who knowingly makes a false statement to any
16 particulars given pursuant to a request made by the Agency under section 28 of
17 this Act, commits an offence and is liable on conviction-

18 (a) in the case of an individual, to a fine of not less than N200,000.00
19 or a term of 6 months imprisonment or to both; and

20 (b) in the case of an entity or body corporate, a fine of not less than
21 N500,000,00.

Restriction on
disclosure of
information

22 **30.**-(1) The estimates, returns or information relating to an air
23 transport undertaking to obtain the foregoing provisions of this Act shall not,
24 without prior consent of the person carrying on the undertaking, which is the
25 subject of the estimate, returns or information, be disclosed except:

26 (a) in accordance with directions given by the Agency, for the purpose
27 of exercising any of its functions under this Act; or

28 (b) for the purpose of any proceedings for which an offence under this
29 Act or any report of those proceedings is required.

30 (2) Any person who discloses any estimates, returns or any

1 information in contravention of the provisions of this section, commits an
 2 offence and is liable on conviction to a fine of not less than N200,000.00 or
 3 to a term of not less than 6 months imprisonment or to both.

4 31.-(1) The Agency may through its authorised officers or agents,
 5 enter any land for the purposes of:

Power to enter
land to make a
survey, etc.

6 (a) discharging its functions under this Act;

7 (b) inspecting and examining lands, buildings and equipment of any
 8 air carrier;

9 (c) inspecting or examining accounts, records and memoranda
 10 required to be kept by air carriers; or

11 (d) the cutting and removal of trees, under wood or structures that
 12 may interfere with survey and any installation which constitute a hazard to
 13 safety of air navigation.

14 (2) The Agency shall, Where practicable, serve on the occupier of
 15 any land which it intends to enter pursuant to subsection (1) of this section, a
 16 notice which shall be in writing, giving a description of the work intended to
 17 be carried out on the land.

18 (3) In the discharge of its function pursuant to subsection (1) of this
 19 section, the officers or agents of the Agency may remain on any of such land
 20 for a reasonable time as to enable them execute and do all such work as may
 21 be necessary.

22 32.-(1) In the exercise of the powers conferred by section 31 of this
 23 Act, the Agency or its officers, or agent shall ensure that buildings, crops,
 24 and economic trees are protected from damages and Agency shall pay
 25 compensation for any damage done to any building, crops and crops and
 26 economic trees.

Compensation
for damages, etc.

27 (2) In the case of dispute as to the amount of compensation payable,
 28 the same shall be determined by the Federal High Court.

29 33.-(1) The Agency may on application made to it by an airline or
 30 airline handling agent, grant an aircraft flight clearance to:

Grant of Aircraft
Flight Clearance

- 1 (a) operate scheduled flight within the Nigerian airspace;
- 2 (b) operate non-scheduled flights within the Nigerian Airspace; or
- 3 (c) overfly the Nigerian airspace.
- 4 (2) Any person who operates an aircraft without flight clearance
- 5 commits an offence under this Act and is liable on conviction to a fine of not
- 6 less than N3,000,000:00 for body corporate and where the contravention is by
- 7 an individual, to a fine not less than N1,000,000:00.

Conditions for
the grant of
Aircraft Flight
Clearance

8 34. The Agency shall by a by-law or guideline published in the

9 Aeronautical Information Publication (AIP), Aeronautical Information

10 Circular (AIC) or Gazette prescribe the terms and conditions for granting

11 aircraft flight clearance.

12 PART VII - AIR TRAFFIC INCIDENT INVESTIGATION REPORT

Air Traffic
incident
investigation
and Report to
be admissible
in evidence

13 35.-(1) The Agency shall investigate air traffic incidents and provide

14 report to appropriate Government Agencies.

15 (2) The reports provided under sub-section (1) of this section shall

16 provide remedial or corrective measures.

Air Traffic
Incident
Investigation
Report and
admissible in
evidence

17 36. Notwithstanding the provisions of the Evidence Act and any

18 other law, the proceedings and other contents of an air traffic incident

19 investigation report including papers, air traffic control (ATC) strips, tape

20 recording, log book, and records used for the investigation shall be treated as

21 confidential materials and shall not be admissible in evidence as to form the

22 basis of liability in any criminal or civil proceedings.

23 PART VIII - PROVISIONS RELATING TO THE ACQUISITION OF LAND

Power to acquire
Land

24 37.-(1) The Agency may subject to Land Use Act, acquire any land for

25 the purpose of discharging its functions under this Act.

26 (2) Where there is any hindrance to the acquisition of any land under

27 this Act including any failure by the Agency to reach an agreement as to the

28 amount to be paid in respect of the acquisition, the Agency may apply to the

29 Minister to request for a declaration under subsection (3) of this section.

30 (3) The Minister on receiving an application from the Agency and

1 after such enquiry as he may deem necessary, may request the Governor, or
2 his equivalent, of the state in which the land situates to declare that the land
3 is required for the service of the Agency and accordingly, for an overriding
4 public interest.

5 (4) Where a declaration is made under subsection (3) of this
6 section, the land to which the declaration relates shall be deemed to be land
7 required for the overriding public interest purpose of the Federation within
8 the meaning of the Land Use Act and the Agency shall acquire the land
9 accordingly.

10 (5) Where a declaration has been made under subsection (3) of this
11 Act in respect of any land and the land has been acquired pursuant to
12 subsection (4) of this section; or the Governor of the State concerned is
13 satisfied that there are no rights subsisting in respect of the land, the
14 Governor may vest the land in the Agency by issuing a Certificate of
15 Occupancy in respect the land, in favour and in the name of the Agency.

16 (6) The compensation, if any, payable under the Land Use Act for
17 the revocation of rights relating to the land and other incidental expenses,
18 where applicable, shall be borne by the Agency.

19 (7) The plan of the land referred to in subsection (2) of this section:

20 (a) containing measurement of the boundaries of the land;
21 (b) showing the relationship of the land to any sufficient
22 identifying mark; and

23 (c) signed by the Surveyor-General; shall be a sufficient
24 description of the land for the purpose of an application under that
25 subsection.

26 (8) The Agency shall not, without the approval in writing of the
27 Governor of the State in which the land situates alienate, mortgage, charge
28 or otherwise demise any immovable property which has been vested in the
29 Agency under this section or in respect of which a right of occupancy has
30 been granted to the Agency.

Establishment
of Staff Housing
Scheme

1 **38.**-(1) The Agency may with the approval of the Minister engage in
2 the establishment of staff housing scheme and other commercially viable
3 ventures.

4 (2) The Agency shall with the approval of the Board issue guidelines
5 for the establishment and management of the staff housing scheme and other
6 commercially viable ventures referred to under subsection (1) of this section.

Calibration of
Navigational
Aids and
Equipment

7 **39.**-(1) The Agency shall establish and operate calibration workshop
8 at designated locations for purposes of carrying out regular calibration of
9 navigational aids and equipment.

10 (2) The Agency shall have power to certify that a calibrated
11 navigational aids or equipment meets the standards as may be specified by
12 relevant national and international organisations.

13 PART IX - LEGAL PROCEEDINGS

Service of
Notice

14 **40.**-(1) Any notice required under this Act or authorised by this Act,
15 shall be served either by:

16 (a) delivering it to the person or his agents or servant;

17 (b) leaving it at the person's proper address; or

18 (c) posting it to the person's principal office through registered post or
19 courier and addressed to the person at his principal office.

20 (2) Where a notice is served by post otherwise than in registered
21 letters, service shall not be deemed to have been effected if it is proved that the
22 notice was not received by the person to whom it was addressed.

23 (3) Any notice required or authorised to be served upon a body
24 corporate shall be deemed to have been duly served if it is served on a director
25 or the secretary to the body corporate.

26 (4) For the purposes of this section, the proper address of any person
27 on whom such a notice is to be served shall in:

28 (a) the case of a body corporate, be the registered or principal address
29 of the body corporate; and

1 information in contravention of the provisions of this section, commits an
 2 offence and is liable on conviction to a fine of not less than N200,000.00 or
 3 to a term of not less than 6 months imprisonment or to both.

4 **31.-(1)** The Agency may through its authorised officers or agents,
 5 enter any land for the purposes of:

Power to enter
land to make a
survey, etc.

6 (a) discharging its functions under this Act;

7 (b) inspecting and examining lands, buildings and equipment of any
 8 air carrier;

9 (c) inspecting or examining accounts, records and memoranda
 10 required to be kept by air carriers; or

11 (d) the cutting and removal of trees, under wood or structures that
 12 may interfere with survey and any installation which constitute a hazard to
 13 safety of air navigation.

14 (2) The Agency shall, Where practicable, serve on the occupier of
 15 any land which it intends to enter pursuant to subsection (1) of this section, a
 16 notice which shall be in writing, giving a description of the work intended to
 17 be carried out on the land.

18 (3) In the discharge of its function pursuant to subsection (1) of this
 19 section, the officers or agents of the Agency may remain on any of such land
 20 for a reasonable time as to enable them execute and do all such work as may
 21 be necessary.

22 **32.-(1)** In the exercise of the powers conferred by section 31 of this
 23 Act, the Agency or its officers, or agent shall ensure that buildings, crops,
 24 and economic trees are protected from damages and Agency shall pay
 25 compensation for any damage done to any building, crops and crops and
 26 economic trees,

Compensation
for damages, etc.

27 (2) In the case of dispute as to the amount of compensation payable,
 28 the same shall be determined by the Federal High Court.

29 **33.-(1)** The Agency may on application made to it by an airline or
 30 airline handling agent, grant an aircraft flight clearance to:

Grant of Aircraft
Flight Clearance

1 (a) operate scheduled flight within the Nigerian airspace;

2 (b) operate non-scheduled flights within the Nigerian Airspace; or

3 (c) overfly the Nigerian airspace.

4 (2) Any person who operates an aircraft without flight clearance
5 commits an offence under this Act and is be liable on conviction to a fine of not
6 less than N3,000,000:00 for body corporate and where the contravention is by
7 an individual, to a fine not less than N1,000,000:00.

Conditions for
the grant of
Aircraft Flight
Clearance

8 34. The Agency shall by a by-elaw or guideline published in the
9 Aeronautical Information Publication (AIP), Aeronautical Information
10 Circular (AIC) or Gazette prescribe the terms and conditions for granting
11 aircraft flight clearance.

12 PART VII - AIR TRAFFIC INCIDENT INVESTIGATION REPORT

Air Traffic
incident
investigation
and Report to
be admissible
in evidence

13 35.-(1) The Agency shall investigate air traffic incidents and provide
14 report to appropriate Government Agencies.

15 (2) The reports provided under sub-section (1) of this section shall
16 provide remedial or corrective measures

Air Traffic
Incident
Investigation
Report and
admissible in
evidence

17 36. Notwithstanding the provisions of the Evidence Act and any
18 other law, the proceedings and other contents of an air-traffic incident
19 investigation report including papers, air traffic control (ATC) strips, tape
20 recording, log book, and records used for the investigation shall be treated as
21 confidential materials and shall not be admissible in evidence as to form the
22 basis of liability in any criminal or civil proceedings.

23 PART VIII - PROVISIONS RELATING TO THE ACQUISITION OF LAND

Power to acquire
Land

24 37.-(1) The Agency may subject to Land Use Act, acquire any land for
25 the purpose of discharging its functions under this Act.

26 (2) Where there is any hindrance to the acquisition of any land under
27 this Act including any failure by the Agency to reach an agreement as to the
28 amount to be paid in respect of the acquisition, the Agency may apply to the
29 Minister to request for a declaration under subsection (3) of this section.

30 (3) The Minister on receiving an application from the Agency and

1 after such enquiry as he may deem necessary, may request the Governor, or
2 his equivalent, of the state in which the land situates to declare that the land
3 is required for the service of the Agency and accordingly, for an overriding
4 public interest.

5 (4) Where a declaration is made under subsection (3) of this
6 section, the land to which the declaration relates shall be deemed to be land
7 required for the overriding public interest purpose of the Federation within
8 the meaning of the Land Use Act and the Agency shall acquire the land
9 accordingly.

10 (5) Where a declaration has been made under subsection (3) of this
11 Act in respect of any land and the land has been acquired pursuant to
12 subsection (4) of this section; or the Governor of the State concerned is
13 satisfied that there are no rights subsisting in respect of the land, the
14 Governor may vest the land in the Agency by issuing a Certificate of
15 Occupancy in respect the land, in favour and in the name of the Agency.

16 (6) The compensation, if any, payable under the Land Use Act for
17 the revocation of rights relating to the land and other incidental expenses,
18 where applicable, shall be borne by the Agency.

19 (7) The plan of the land referred to in subsection (2) of this section:

20 (a) containing measurement of the boundaries of the land;

21 (b) showing the relationship of the land to any sufficient
22 identifying mark; and

23 (c) signed by the Surveyor-General; shall be a sufficient
24 description of the land for the purpose of an application under that
25 subsection.

26 (8) The Agency shall not, without the approval in writing of the
27 Governor of the State in which the land situates alienate, mortgage, charge
28 or otherwise demise any immovable property which has been vested in the
29 Agency under this section or in respect of which a right of occupancy has
30 been granted to the Agency.

1 (b) any other case, be the last known address of the person to be
2 served.

3 (5) Where the name of a person carrying on an air transport
4 undertaking at any premises is not known and any of such notice is sent by
5 post in a registered letter, the letter shall be deemed for the purposes of this
6 section to have been properly addressed if addressed to the premises at
7 which the undertakings carried on.

8 41. A notice, summons or other documents required or authorised
9 to be served on the Agency under the provisions Of this Act or any other law,
10 may be served by delivering it to the office of the Managing Director situate
11 at the headquarters of the Agency.

Service of
documents

12 42.-(1) Subject to the provisions of this Act, the provisions of the
13 Public Officers Protection Act shall apply in relation to any suit instituted
14 against any officer or employee of the Agency.

Limitation of
suits against the
Agency

15 (2) Notwithstanding anything contained in any other law, no suit
16 shall lie or be instituted in any court against the Agency, any member of the
17 Board, the Managing Director or any other officer or employee of the
18 Agency for an act done in pursuance or execution of this Act or any law, or
19 any public duty or authority or in respect of any alleged neglect or default in
20 the execution of this Act or such law, duty or authority, unless:

21 (a) it is commenced within 3 months after the act, neglect or default
22 complained of; or

23 (b) in the case of a continuation of damage or injury, within 6
24 months next after the ceasing of it.

25 (3) A suit shall not be commenced against the Agency, a member of
26 the Board, the Managing Director, officer or employee of the Agency before
27 the expiration of a period of 1 month after written notice of intention to
28 commence the suit have been served upon the Agency by the intending
29 plaintiff or his agent.

30 (4) The notice referred to in subsection (3) of this section shall

1 clearly and explicitly state the cause of action, the particulars of the claim, the
 2 name and place of abode of the intending plaintiff and the relief which he
 3 claims.

Restriction on
 execution of an
 order against the
 property of the
 Agency

4 **43.-(1)** In any action or suit against the Agency, no execution or
 5 attachment in any nature thereof shall be issued or levied against the Agency,
 6 unless:

7 (a) at least 3 months' notice of the intention to execute judgment or
 8 attach the Agency's property has been given to the Agency; and

9 (b) the consent or approval of the Attorney-General of the Federation
 10 obtained.

11 (2) Subject to any direction given by a competent court where notice
 12 of appeal has been given, any sum of money, which may by the Judgment of
 13 any court be awarded against the Agency, shall be paid from the fund of the
 14 Agency.

15 (3) In any proceeding before a court of law or tribunal, the Agency
 16 may, with the consent of the Attorney-General of the Federation, be
 17 represented by its legal officers or any legal practitioner authorised by the
 18 Agency who shall have the right to appear at any stage of a proceedings and
 19 who shall satisfy the court that he is duly authorized by the Agency in that
 20 behalf.

Arrest of
 employees of
 the Agency on
 essential duty

21 **44.-(1)** An employee of the Agency shall not be arrested while on
 22 essential duty.

23 (2) Notwithstanding the provisions of subsection (1) of this section,
 24 where such arrest is unavoidable and might result in danger to life or goods or
 25 safety of airspace in the execution of a warrant or otherwise during the
 26 performance of his lawful duty:

27 (a) the head, of Department in which the person to be arrested is
 28 employed; or

29 (b) the officer in charge of the person to be arrested, shall be given a
 30 reasonable time within which to make provision for the replacement of the

1 officer to be arrested before he is released to the person carrying out the
2 arrest.

3 45. A member of the Board, the Managing Director, any officer or
4 employee of the Agency, shall be indemnified out of the assets of the
5 Agency, against any proceedings, whether civil or criminal, if any of such
6 proceeding:

Indemnity of
officers

7 (a) is brought against him in his personal capacity as a member of
8 the Board, the Managing Director, officer and other employee of the
9 Agency; and

10 (b) arose from the lawful discharge of any of his functions or in the
11 exercise of any of the powers conferred on the Agency under this Act.

12 PART X - OFFENCES AND PENALTIES

13 46.-(1) A person, entity or group of persons shall not obstruct or
14 hinder the provision of civil air navigation services to a flight.

Obstruction of
services

15 (2) Any person or group of persons who contravenes the provisions
16 of subsection (1) of this section commits an offence and shall on conviction
17 be liable:

18 (a) in the case of an individual, to a fine of not less than
19 N200,000.00 or a term of 6 months imprisonment or to both; and

20 (b) in the case of an entity, body corporate or group of persons, a
21 fine of not less than N500,000.00.

22 (3) Where any person or an entity violates any of the provisions of
23 this section, such person or entity shall during the subsistence of the offence
24 be liable to a fine for each day or part of the day the offence continues to:

25 (a) N100,000.00 in the case of a corporation;

26 (b) N50,000.00 in the case of a person acting in the capacity of an
27 officer or representative of the Agency or where the offence was committed;
28 and

29 (c) N25,000.00 in any other case.

Damage of theft
to Air Navigation
equipment
or facilities

1 **47.-(1)** Any person who destroys, vandalises or damages air
2 navigation equipment or facilities, shall be liable to:

3 (a) pay compensation to the Agency for the value of the equipment or
4 facility destroyed, damaged or vandalized; or

5 (b) replace or repair the damaged equipment or facility; as the Agency
6 may determine.

7 (2) Any person who steals or causes to be stolen any air navigation
8 equipment or facility commits an offence and is liable on conviction to a fine of
9 not less than N1,000,000.00 or a term of not less than 1 year imprisonment or
10 to both.

11 (3) Any person who willfully disrupts air navigation services in such
12 manner that is likely to interfere with software, communication or the signals
13 transmitted to aircrafts commits an offence and is liable on conviction to a fine
14 of not less than N10,000,000.00 or a term of not less than 5 years imprisonment
15 or to both.

Offences by a
body corporate
or unincorporated
body

16 **48.-(1)** Where an offence under this Act is committed by a body
17 corporate, a firm or association of individuals, every:

18 (a) director, manager, secretary or other similar officers of the body
19 corporate;

20 (b) partner or officer of the firm;

21 (c) person concerned in the management of the affairs of the
22 association; or

23 (d) person who was purporting to act in any of such capacity
24 aforesaid, who had knowledge or believed to have had knowledge of the
25 offence and who did not exercise due diligence to ensure compliance with this
26 Act; shall be deemed to have committed the offence and shall be proceeded
27 against in accordance with this Act unless he proves that the Act or omission
28 constituting the offence took place without his knowledge, consent,
29 connivance or neglect or he took reasonable steps to prevent the commission of
30 the offence.

1 (b) any other case, be the last known address of the person to be
2 served.

3 (5) Where the name of a person carrying on an air transport
4 undertaking at any premises is not known and any of such notice is sent by
5 post in a registered letter, the letter shall be deemed for the purposes of this
6 section to have been properly addressed if addressed to the premises at
7 which the undertakings carried on.

8 **41.** A notice, summons or other documents required or authorised
9 to be served on the Agency under the provisions Of this Act or any other law,
10 may be served by delivering it to the office of the Managing Director situate
11 at the headquarters of the Agency.

Service of
documents

12 **42.**-(1) Subject to the provisions of this Act, the provisions of the
13 Public Officers Protection Act shall apply in relation to any suit instituted
14 against any officer or employee of the Agency.

Limitation of
suits against the
Agency

15 (2) Notwithstanding anything contained in any other law, no suit
16 shall lie or be instituted in any court against the Agency, any member of the
17 Board, the Managing Director or any other officer or employee of the
18 Agency for an act done in pursuance or execution of this Act or any law, or
19 any public duty or authority or in respect of any alleged neglect or default in
20 the execution of this Act or such law, duty or authority, unless:

21 (a) it is commenced within 3 months after the act, neglect or default
22 complained of; or

23 (b) in the case of a continuation of damage or injury, within 6
24 months next after the ceasing of it.

25 (3) A suit shall not be commenced against the Agency, a member of
26 the Board, the Managing Director, officer or employee of the Agency before
27 the expiration of a period of 1 month after written notice of intention to
28 commence the suit have been served upon the Agency by the intending
29 plaintiff or his agent.

30 (4) The notice referred to in subsection (3) of this section shall

1 clearly and explicitly state the cause of action, the particulars of the claim, the
2 name and place of abode of the intending plaintiff and the relief which he
3 claims.

Restriction on
execution of an
order against the
property of the
Agency

4 **43.-(1)** In any action or suit against the Agency, no execution or
5 attachment in any nature thereof shall be issued or levied against the Agency,
6 unless:

7 (a) at least 3 months' notice of the intention to execute judgment or
8 attach the Agency's property has been given to the Agency; and

9 (b) the consent or approval of the Attorney-General of the Federation
10 obtained.

11 (2) Subject to any direction given by a competent court where notice
12 of appeal has been given, any sum of money, which may by the Judgment of
13 any court be awarded against the Agency, shall be paid from the fund of the
14 Agency.

15 (3) In any proceeding before a court of law or tribunal, the Agency
16 may, with the consent of the Attorney-General of the Federation, be
17 represented by its legal officers or any legal practitioner authorised by the
18 Agency who shall have the right to appear at any stage of a proceedings and
19 who shall satisfy the court that he is duly authorized by the Agency in that
20 behalf.

Arrest of
employees of
the Agency on
essential duty

21 **44.-(1)** An employee of the Agency shall not be arrested while on
22 essential duty.

23 (2) Notwithstanding the provisions of subsection (1) of this section,
24 where such arrest is unavoidable and might result in danger to life or goods or
25 safety of airspace in the execution of a warrant or otherwise during the
26 performance of his lawful duty:

27 (a) the head of Department in which the person to be arrested is
28 employed; or

29 (b) the officer in charge of the person to be arrested, shall be given a
30 reasonable time within which to make provision for the replacement of the

1 officer to be arrested before he is released to the person carrying out the
2 arrest.

3 45. A member of the Board, the Managing Director, any officer or
4 employee of the Agency, shall be indemnified out of the assets of the
5 Agency, against any proceedings, whether civil or criminal, if any of such
6 proceeding:

Indemnity of
officers

7 (a) is brought against him in his personal capacity as a member of
8 the Board, the Managing Director, officer and other employee of the
9 Agency; and

10 (b) arose from the lawful discharge of any of his functions or in the
11 exercise of any of the powers conferred on the Agency under this Act.

12 PART X - OFFENCES AND PENALTIES

13 46.-(1) A person, entity or group of persons shall not obstruct or
14 hinder the provision of civil air navigation services to a flight.

Obstruction of
services

15 (2) Any person or group of persons who contravenes the provisions
16 of subsection (1) of this section commits an offence and shall on conviction
17 be liable:

18 (a) in the case of an individual, to a fine of not less than
19 N200,000.00 or a term of 6 months imprisonment or to both; and

20 (b) in the case of an entity, body corporate or group of persons, a
21 fine of not less than N500,000.00.

22 (3) Where any person or an entity violates any of the provisions of
23 this section, such person or entity shall during the subsistence of the offence
24 be liable to a fine for each day or part of the day the offence continues to:

25 (a) N100,000.00 In the case of a corporation;

26 (b) N50,000.00 in the case of a person acting in the capacity of an
27 officer or representative of the Agency or where the offence was committed;

28 and

29 (c) N25,000.00 in any other case.

Damage of theft
to Air Navigation
equipment
or facilities

1 **47.-(1)** Any person who destroys, vandalises or damages air
2 navigation equipment or facilities, shall be liable to:

3 (a) pay compensation to the Agency for the value of the equipment or
4 facility destroyed, damaged or vandalized; or

5 (b) replace or repair the damaged equipment or facility; as the Agency
6 may determine.

7 (2) Any person who steals or causes to be stolen any air navigation
8 equipment or facility commits an offence and is liable on conviction to a fine of
9 not less than N1,000,000.00 or a term of not less than 1 year imprisonment or
10 to both.

11 (3) Any person who willfully disrupts air navigation services in such
12 manner that is likely to interfere with software, communication or the signals
13 transmitted to aircrafts commits an offence and is liable on conviction to a fine
14 of not less than N10,000,000.00 or a term of not less than 5 years imprisonment
15 or to both.

Offences by a
body corporate
or unincorporated
body

16 **48.-(1)** Where an offence under this Act is committed by a body
17 corporate, a firm or association of individuals, every:

18 (a) director, manager, secretary or other similar officers of the body
19 corporate;

20 (b) partner or officer of the firm;

21 (c) person concerned in the management of the affairs of the
22 association; or

23 (d) person who was purporting to act in any of such capacity
24 aforesaid, who had knowledge or believed to have had knowledge of the
25 offence and who did not exercise due diligence to ensure compliance with this
26 Act; shall be deemed to have committed the offence and shall be proceeded
27 against in accordance with this Act unless he proves that the Act or omission
28 constituting the offence took place without his knowledge, consent,
29 connivance or neglect or he took reasonable steps to prevent the commission of
30 the offence.

1 (2) Where a person is convicted of an offence under subsection (1)
2 of this section, he shall in the case of:

3 (a) an individual, be liable to a fine of not less than N500,000.00 or
4 to a term of 6 months Imprisonment or to both; and

5 (b) corporate body be liable to a fine of not less than
6 N2,000,000.00.

7 49. Where the Agency is satisfied that a person is violating or is
8 about to violate any provision of this Act, the Agency may take action which
9 in the opinion of the Agency is necessary to prevent further violation of any
10 of the provisions of this Act.

Prevention of
further violation
of the provisions
of this Act

11 PART XI - JURISDICTION

12 50.-(1) The Federal High Court shall have jurisdiction to try
13 offences, hear and determine proceedings arising under this Act.

Jurisdiction

14 (2) The Federal High Court shall have jurisdiction to impose any
15 penalty provided for an offence under this Act or any other related law.

16 (3) The penalty imposed on a person convicted of an offence
17 referred to in that subsection may be reduced in such manner as the court
18 deems fit where that person has, before any proceeding, made possible or
19 facilitated the identification of other accused persons and their sponsors or
20 who, after the commencement of the proceedings, has made possible or
21 facilitated the arrest of such persons.

22 (4) In any trial for an offence under this Act, the Court shall have
23 power, to adopt all legitimate measures that it may deem necessary to avoid
24 unnecessary delays and abuse in the conduct of proceedings,

25 PART XII - MISCELLANEOUS

26 51.-(1) The Minister may give directives of a general character
27 with regards to the performance or exercise by the Agency or Board of its
28 functions or powers under this Act and it shall be the duty of the Agency or
29 Board to comply with the directives,

Power of Minister
to give Directives

30 (2) The general directives referred to in subsection (1) of this

1 section shall relate to matters of policy and shall not be inconsistent with the
2 provisions of this Act and shall be in:

3 (a) the interest of the national security;

4 (b) relation to any matter that appears to the Minister that it may likely
5 affect the relations of Nigeria with a country or territory outside Nigeria;

6 (c) order to discharge or facilitate the discharge of any obligation
7 binding on Nigeria by virtue of its being a member of an international
8 organisation or a party to an international agreement;

9 (d) order to obtain or facilitate the attainment of any object, which in
10 his opinion is considered as appropriate in view of Nigeria's being a member of
11 an international organisation or a party to an international agreement; or

12 (e) order to enable Nigeria become a member of an international
13 organisation or a party to an international agreement.

14 (3) The Agency in the exercise of carrying out its functions and
15 powers in accordance with the provisions of this Act shall be guided by such
16 directions.

Designation of
essential services

17 52.-(1) All services which facilitate and maintain the smooth, orderly
18 and safe take off, flight and landing of aircrafts and the disembarkation and
19 evacuation of passengers and cargo respectively in all aerodromes in Nigeria
20 are hereby designated as essential services pursuant to the provisions of section
21 11 (1) of the Constitution of the Federal Republic of Nigeria, 1999.

22 (2) The Minister may by regulations prohibit all or such class or
23 classes of workers, officers and other employees of persons whether corporate
24 or natural, engaged in the provision of the services specified in subsection (1)
25 of this section from taking part in a strike or other industrial action.

26 (3) In this section:

27 "strike" means the cessation of work by a body of persons employed, acting in
28 combination or a concerted refusal or a refusal under a common understanding
29 of persons employed to continue to work for an employer in consequence of a
30 dispute, done as a means of compelling their employer, or the Government of

1 the Federation of Nigeria or any part of it, or to aid other workers in
2 compelling their employer or any persons or body of persons employed, to
3 accept or not to accept terms of employment and physical conditions of
4 work or any government economic policy or pricing of any essential
5 product;

6 "cessation of work~ includes working at less than usual speed or with less
7 than usual efficiency without reasonable operational justification; and

8 "refusal to continue to work" includes a refusal to work at usual speed or
9 with usual efficiency.

10 **53.** The Agency shall encourage national and regional cooperation
11 in the provision of air navigation services and may:

Regional
co-operation in
the provision of
air navigation
services

12 (a) enter into agreements for co-operative endeavours in air
13 navigation services with other bodies; and

14 (b) in conjunction with the Ministry negotiate, agree to and manage
15 such regional co- operative agreements.

16 **54.**-(1) The Nigerian Airspace Management Agency Act, Cap N90,
17 Laws of the Federation of Nigeria, 2004, is repealed.

Repeal and
Saying Provisions

18 (2) Without prejudice to section 6 of the Interpretation Act, the
19 repeal of the Act specified in subsection (1) of this section, shall not affect
20 anything done under or pursuant to the repealed Act.

21 (3) Every regulation, order, requirement, contract, certificate,
22 notice, direction, decision, authorisation, consent, application, ongoing
23 cases in the courts, request or thing made, issued, given or done under the
24 repealed Act shall, if in force at the commencement of this Act, continue to
25 be in force and have effect as if made, issued, given or done under the
26 corresponding provisions of this Act.

27 (4) Every reference to the Agency established under the repealed
28 Act (in this Act referred to as "the former Agency"), Minister, Board,
29 Managing Director or any person under their control, or a document issued
30 in the name of the former Agency, Minister, Board, Board Chairman,

1 Managing Director or employee of the former Agency shall be read, unless the
2 context otherwise requires, as a reference to the Agency, Minister, Board,
3 Board Chairman, Managing Director or an employee of the Agency
4 established under this Act, as the case may be.

5 (5) The statutory function, rights, interests, obligations and liabilities
6 of the Agency established under the, repealed Act, existing before the
7 commencement of this Act, under any contract or instrument or in law or in
8 equity shall, by virtue of this Act, be deemed to have been assigned to and
9 vested in the Agency established under section 3 of this Act; and shall be of the
10 same force and effect against or in favour of the Agency established by this Act
11 and shall be enforceable as fully and effectively as if instead of the Agency
12 existing before the commencement of this Act, the Agency established by this
13 Act has been named in it or had been party to it.

Transitional
Provisions

14 55.-(1) Subject to the provisions of this Act, the Managing Director of
15 the Agency established under the repealed Act is deemed to have been
16 transferred to the Agency established under this Act under the same terms and
17 conditions as Managing Director.

18 (2) Any person who immediately before the commencement of this
19 Act was a staff of the Agency established under the repealed Act shall continue
20 in office and be deemed to have been appointed under this Act for purposes of
21 Pension.

22 (3) Any proceeding or cause of action pending or existing
23 immediately before the commencement of this Act by or against the Agency
24 established under the repealed Act in respect of any right, interest, obligation or
25 liability of the Agency may be continued or commenced, as the case may be,
26 and any determination of a court of law, tribunal or other Commission or
27 person may be enforced by or against the Agency established by this Act to the
28 same extent that such proceeding, cause of action or determination might have
29 been continued, commenced or enforced by or against the Agency established
30 under the repealed Act.

1 (4) As from the commencement of this Act, any disciplinary
2 proceeding pending or existing against any employee of the Agency shall be
3 continued and completed by the Agency established under this Act.

4 (5) All rights, liabilities, assets, funds, resources and other movable
5 or immovable property which immediately before the commencement of
6 this Act, were vested in the former Agency established under the repealed
7 Act, shall by virtue of this Act, and without further assurance be vested in the
8 Agency established under section 3 of this Act.

9 56.-(1) In this Act:

Interpretation

10 "aerodrome" means a defined area of land on land or water including any
11 buildings, installations and equipment intended to be used either wholly or
12 in part for the arrival, departure and surface movement of aircraft;

13 "Agency" means the Nigerian Airspace Management Agency established by
14 section 3 of this Act:

15 "airport" means a defined area on land or water including any building,
16 installation and equipment intended to be used either wholly or in part for
17 the arrival, departure and surface movement of aircraft;

18 "air navigation services" includes air traffic control services, aeronautical
19 communication, telecommunication, navigational aids, surveillance
20 services, calibration, aeronautical information services, flight information
21 services, signals and other facilities furnished, issued or provided in
22 connection with the navigation or movement of aircraft and the control of
23 movement of vehicles in any part of an airport used for the movement of an
24 aircraft;

25 "airport" means any area on land or water including any building,
26 installation and equipment intended to be used either wholly or in part for
27 the arrival, departure and surface movement of aircraft;

28 "Board" means the Governing Board of the Agency as established and
29 constituted under section 4 of this Act and shall include the Interim Board;

30 "cargo" includes mail;

1 "essential duties" are the job duties that are fundamental to the operations of the
2 Agency and in some cases are highly specialised in line with section 52 of this
3 Act; and:

4 (a) shall be performed to ensure public order, health, safety and
5 security, the person in the position is hired for special expertise or ability to
6 perform it, and

7 (b) there are a limited number of other employees available to
8 perform the function, or among whom the function can be distributed;

9 "flight" means a journey by air beginning when the first person boards the
10 aircraft in question with intent to fly and ending when the last person
11 disembarks;

12 "Managing Director" means the Managing Director appointed pursuant to
13 section 11 of this Act;

14 "member" means a member of Board and includes the chairman and Managing
15 Director;

16 "Minister" means the Minister charged with responsibility for matters relating
17 to aviation;

18 "Ministry" means the Ministry charged with responsibility for matters relating
19 to Civil Aviation;

20 "operator" or "air carrier" in relation to an aircraft means the person for the time
21 being having the management of the aircraft;

22 "owner" in respect of section 18 (2) of this Act includes:

23 (a) the person in whose name the aircraft was registered,

24 (b) a person in possession of an aircraft as a purchaser under a
25 conditional sale or hire purchase agreement that reserves to the vendor the title
26 to the aircraft until payment of the purchase price or performance of certain
27 conditions,

28 (c) a person in possession of the aircraft as charter, mortgagor under
29 charter mortgage, and

30 (d) a person in possession of the aircraft under a bonafide lease or

1 agreement of hire;
2 "power" includes functions and duties;
3 "premises" includes lands, plants and ancillary works;
4 "President" means the President and Commander-in-Chief of the Armed
5 Forces of the Federal Republic of Nigeria;
6 "reward" in relation to a flight, includes any form of consideration received
7 or required to be received, wholly or partly in connection with the flight
8 irrespective of the person whom or to whom the consideration has been or is
9 to be given; and
10 "Regulations" in this Act, where the context so permits, is a reference to the
11 Civil Aviation Regulations made pursuant to the Civil Aviation Act.

12 (2) Every other term shall have the same meaning as contained in
13 the Convention on International Civil Aviation, 1944.

14 57. This Bill may be cited as the Nigerian Airspace Management Agency (Establishment, etc.) Bill, 2019.

Short title

16 SCHEDULE

17 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

18 [Section 4 (6)]

19 *Proceedings of the Board*

20 1. Subject to this Act and section 27 of the Interpretation Act, the
21 Board shall have power to regulate its proceedings and may make standing
22 orders with respect to the holding of its meetings, and those of its
23 committees, notices to be given, the keeping of minutes of its proceedings,
24 the custody and production for inspection of such minutes and such other
25 matters as the Board may, from time to time determine.

26 2. There shall be at least 1 ordinary meeting of the Board in each
27 quarter of the year and subject to it, the Board shall meet whenever it is
28 convened by the Chairman, and if the Chairman is requested to do so by
29 notice given to him by not less than 4 other members, he shall convene a
30 meeting of the Board to be held within 30 days from the date on which the

1 notice was given.

2 3. Every meeting of the Board shall be presided over by the Chairman
3 and where the Chairman is unable to attend a particular meeting, the members
4 present at the meeting shall elect 1 of them to preside at the meeting.

5 4. The Minutes of the Board shall be recorded by the Secretary and
6 signed by the Chairman or the person who presided at the meeting, after
7 confirmation by the Board.

8 5. A quorum at a meeting of the Board shall be one-third of the total
9 number of members convening of Meetings of the Board

10 6. The Chairman shall, at any time, if 5 other members request in
11 writing, convene an emergency meeting of the Board, provided that not less
12 than 48 hours' notice is given to members for the meeting.

13 7. If the office of Chairman is at any time vacant, or the Chairman is
14 absent from Nigeria or is in the opinion of the Board permanently or
15 temporarily unable to perform the functions of his office, the Managing
16 Director shall convene such meetings of the Board as are required during the
17 period of vacancy, absence or otherwise.

18 8. The Board shall meet for the conduct of its business at such places
19 and on such days as the Chairman may appoint.

20 9. A question put before the Board at a meeting shall be decided by
21 consensus and where this is not possible, by a majority of the votes of the
22 members present and voting.

23 10. The Chairman shall, in the case of an equality of votes, have a
24 casting vote in addition to his deliberative vote.

25 11. Where the Board seeks the advice of any person on a particular
26 matter, the Board may invite that person to attend its meeting for such period as
27 it may deem fit provided that a person who is invited by virtue of this paragraph
28 shall not be entitled to vote at any meeting of the Board and shall not count
29 towards the quorum.

1 *Committees*

2 12. The Board may appoint one or more committees to carry out
3 on behalf of the Board such of its functions as the Board may determine and
4 report on any matter with which the Board is concerned.

5 13. A committee appointed under paragraph 12 of this Schedule
6 shall be presided over by a member of the Board and shall consist of such
7 number of persons (not necessarily all members of the Board) as, may be
8 determined by the Board, and a person other than a member of the Board
9 shall hold office on the Committee in accordance with the terms of his
10 appointment.

11 14. A person who is not a member of the Board shall hold office on
12 the Committee in accordance with his letter of appointment.

13 15. A decision of a Committee of the Board shall be of no effect
14 until it is confirmed by the Board.

15 *Seal of the Agency*

16 16. The Common Seal of the Agency shall be in the custody of the
17 Legal Adviser and shall be authenticated by the signature of the Managing
18 Director on behalf of the Agency.

19 17. A contract or an instrument which, if made or executed by any
20 person not being a body corporate, would not be required to be under seal,
21 may be made or executed on behalf of the Agency by the Managing Director
22 or by any person generally or specifically authorised to act for that purpose
23 by the Board.

24 18. A document purporting to be a contract, an instrument or other
25 document signed or sealed on behalf of the Agency shall be received in
26 evidence and, unless the contrary is proved, be presumed without further
27 proof, to have been properly signed or sealed.

28 *Conflict of Interest*

29 19. Members of the Board and staff of the Agency shall not

1 control, manage or operate any aviation enterprise during the subsistence of
2 their office.

3 20. Where any of the persons specified in subsection (1) of this
4 section is having financial interest in any aviation enterprise, he shall make full
5 disclosure of such interest to their respective appointing authorities.

6 21. Where any of the persons specified in subsection (1) of this
7 section is appointed into the Board of the Agency, he is prohibited from
8 participating in any action or decision that may, whether directly or indirectly,
9 affect their financial interest in the aviation enterprise in which they have
10 interest.

11 22. Any member of the Board or Committee who has a personal
12 interest in any arrangement entered into or proposed to be considered by the
13 Board or any committee shall:

- 14 (a) disclose his interest to the Board or Committee; and
15 (b) not vote on any question relating to the arrangement.

16 *Miscellaneous*

17 23. The validity of any proceeding of the Board or its Committees
18 shall not be affected by:

- 19 (a) any vacancy in the membership of the Board or its Committees;
20 (b) reason that a person not entitled to do so took part in the
21 proceedings; or
22 (c) any defect in the appointment of a member.

23 24. A resolution of the Board is valid, even though it is not passed at a
24 meeting of the Board, where:

- 25 (a) the notice in writing of the proposed resolution was given to each
26 member; and
27 (b) the resolution is signed or assented to by a majority of members of
28 the Board, including the Managing Director.

EXPLANATORY MEMORANDUM

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

This Act seeks to repeal the Nigerian Airspace Management Agency Act, Cap N90, Laws of the Federation of Nigeria, 2010 and to enact the Nigerian Airspace Management Agency Act for the purposes of providing effective air navigation services, ensuring safety and regularity of air navigation in Nigeria and to any other place which Nigeria has responsibility of providing air navigation services and other related matters.

