

ARRANGEMENT OF SECTIONS

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SCHEDULES

Act No. 45

[1st June, 1992] Commencement

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:-

PART 1 – ESTABLISHMENT AND COMPOSITION OF THE BOARD OF CUSTOMS AND EXCISE

1. (1) There is hereby established, under the control of the Federal Ministry of Finance, a board to be known as the Board of Customs and Excise (in this Act referred to as “the Board”) which shall be responsible for the administration of the Customs and Excise Management Act.

Establishment
of the Board
of Customs
and Excise.
Cap. 84 LFN.

**BOARD OF CUSTOMS AND EXCISE
ACT 1992**

(2) Accordingly-

(a) any reference in the Customs and Excise Management Act-

(i) to the Customs, Immigration and Prisons Services Board or to the Board, shall be constructed as a reference to the Board of Customs and Excise established under this Act,

(ii) to Minister, shall be construed as a reference to the Minister charged with responsibility for matters relating to finance;

Cap. 84 LFN.
Cap. 89 LFN.

(b) the Customs and Excise Management Act and the Customs, Immigration and Prisons Services Board Act are amended to the extent set out in Parts 1 and 2, respectively, of the First Schedule to this Act.

Membership
of the Board.

2. (1) The Board shall comprise-

- (a) the Minister of Finance who shall be the Chairman;
- (b) the head of the Department of Customs and Excise who shall be the Deputy Chairman;
- (c) the Director of Administration, Planning and Inspection Services of the Department of Customs and Excise;
- (d) the Director of Revenue and Enforcement Services of the Department of Customs and Excise;
- (e) one person to be appointed from the Federal Ministry of Finance;
- (f) one person to be appointed from the Federal Ministry of Commerce and Tourism;
- (g) one person to be appointed from the Federal Ministry of Industries and Technology;
- (h) one person to be appointed from the Federal Ministry of Transport and Communications;
- (i) the Legal Adviser to the Board of Customs and Excise, who shall also head the Legal Division of the Department of Customs and Excise, to be appointed

from the Federal Ministry of Justice;

- (j) two other persons to be appointed from any two of the following institutions, that is-
- (i) commercial banks,
 - (ii) reputable economic or trade consultancy firms,
 - (iii) the Universities, and
 - (iv) the Nigerian Association of Chambers of Commerce, Industries, Mines and Agriculture.

(2) The Minister of Finance shall appoint the persons mentioned in paragraphs (e) to (h) and (j) of subsection (1) of this section, after due consultation with the appropriate Ministry or institution.

(3) The provisions set out in the Second Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters therein mentioned.

PART II- FUNCTIONS AND POWERS OF THE BOARD

3. The Board shall be responsible for –
- (a) formulating the general policy guidelines for the Department of Customs and Excise (in this Act referred to as “the Department”); and
 - (b) administering the Customs and Excise Management Act and, accordingly, the Board shall-
 - (i) subject to the general control of the Minister, control and manage the administration of the customs and excise laws; and
 - (ii) collect the revenues of customs and excise and account for them in such manner as the Minister shall, from time to time, direct.

Functions of
the Board

Powers of the
Board.

4. (1) The powers, being exercised by the Customs, Immigration and Prisons Services Board to appoint, promote and exercise disciplinary control over staff of the Department, are hereby vested in the Board.

(2) The Board shall have power-

- (a) to appoint persons to hold or act in all the offices in the Department, including power to make appointments on promotion or transfer and to confirm appointments; and
- (b) to dismiss and exercise other disciplinary control over persons appointed pursuant to paragraph (a) of this subsection.

(3) If the Board thinks it expedient that any vacancy in the staff of the Department should be filled by a person holding office in the civil service of the Federal or of a State it shall notify the appropriate Civil Service Commission to that effect and thereafter the Board may, by arrangement with the Civil Service Commission concerned, cause such vacancy to be filled by way of secondment or transfer.

(4) Where a person is seconded under subsection (3) of this section, he shall be notified of the terms and conditions of the secondment, and the secondment shall be without prejudice to any pension rights which but for the secondment would still accrue to him.

(5) A person seconded pursuant to subsection (3) of this section may elect, subject to the approval of the Board, to be transferred to the Department.

(6) A member of staff of the Department may elect to be transferred or seconded to any other civil service in the Federation and such right of transfer or secondment shall not operate to the disadvantage of the member of staff concerned.

PART III-STAFF OR THE BOARD

5. The Board shall appoint-
- (a) an Administrative Secretary who shall be responsible for the day-to-day administrative work of the Board and perform such other functions as the Board may, from time to time, assign to him;
 - (b) such other members of staff as may appear necessary to the Board for the efficient performance of its functions under this Act.

Administrative Secretary and other staff of the Board.

PART V-MISCELLANEOUS

6. (1) The Board may, subject to such conditions as it may think fit, delegate any of its powers under this Act-
- (a) to the Department; or
 - (b) to any officer in the service of the Department; or
 - (c) to a committee consisting of such number of persons, one of whom shall be named as chairman, as may be prescribed by the Board.

Delegation of powers

(2) Notwithstanding subsection (1) of this section or any other provision of this Act, the Board shall not delegate any of its powers aforesaid in respect of any office on Grade Level 08 and above.

7. (1) It is hereby declared that service in the employment of the Board or of the Department shall be pensionable under the Pensions Act, and accordingly, employees of the Board and of the Department shall, in respect of their services, be entitled to pensions, gratuities and other retirement benefits as are prescribed thereunder.

Application of the Pensions Act. Cap. 346 LFN.

(2) Notwithstanding the provisions of subsection (1) of this

section, nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office.

(3) For the purpose of the application of the Pensions Act, any power exercisable thereunder by the Minister or authority of the Federal Military Government (not being the power to make regulations under section 23 thereof) is hereby vested in and shall be exercisable by the Board and not by any other person or authority.

Cap. 62 LFN.

(4) Subject to subsection (2) of this section, the Pensions Act shall in its application by virtue of subsection (3) of this section to any office, have effect as if the office were in the civil service of the Federation within the meaning of the Constitution of the Federal Republic of Nigeria 1979, as amended.

Staff
Regulations

8. (1) Subject to the provisions of this Act, the Board may, with the approval of the Minister, make regulations relating generally to the conditions of service, including the power to fix salaries of the staff of the Board and of the Department, and, without prejudice to the generality of the foregoing, such regulations may provide for-

- (a) the composition of the members of any committee appointed pursuant to section 6 of this Act;
- (b) the appointment, promotion and disciplinary control, including dismissal of staff of the Board and of the Department;
- (c) appeals by such staff against dismissal or other disciplinary measures, and until such regulations are made, any instrument relating to the conditions of service of the civil service of the Federation shall, with such modifications as may be necessary, be applicable to the staff of the Board and of the Department.

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

9. Any person who, immediately before the coming into force of this Act, is holding of any office in the Department shall, on the commencement of this Act, continue in office and be deemed to have been appointed to that office by the Board under this Act.

Transitional provisions.

10. In this Act, unless the context otherwise requires-
"Board" means the Board of Customs and Excise established by section 1 of this Act;

Interpretation.

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

11. This Act may be cited as the Board of Customs and Excise Act 1992.

Citation.

SCHEDULES

Section 1 (2) (b) FIRST SCHEDULE

CONSEQUENTIAL AMENDMENTS TO CAPS. 84 AND 89 LFN.

PART 1-CAP. 84 LFN

1. The Customs and Excise Management Act is amended in section 3 by substituting for subsection (1), the following new subsection, that is-

“(1) The Board referred to under this Act is the Board of Customs and Excise established by the Board of Customs and Excise Act 1992”.

PART 2-CAP. 89 LFN

2. The Customs, Immigration and Prisons Services Board Act is amended as follows, that is-

(a) by substituting for the words “Customs, Immigration and Prisons Services” wherever they occur in the Act, the words “Immigration and Prisons Services”;

(b) for section 1 there shall be substituted the following new section, that is-

1. There is hereby established, under the control of the Ministry, a joint board to be known as the Immigration and Prisons Services Board (in this Act referred to as “the Board”) which shall be responsible for the administration of the Immigration Act and the Prisons Act.”;

“Establishment of the Immigration and Prisons Service Board.

(c) in section 2, by deleting paragraphs (c) to (g);

(d) in section 3 by substituting for paragraph (b), the following new paragraph, that is-

“(b) administering the Immigration Act and the Prisons Act, and accordingly, shall, subject, to the general control of the Minister control and manage the administration of the immigration and prisons laws”;

(e) in section 4-

(i) by substituting for the words “Departments of Customs and Excise and Immigration”, appearing in subsection (1) (c), the words “Department of Immigration”; and

(ii) by deleting subsection (3) (a); and

(f) in the Schedule thereto, by substituting for the word “five” “appearing in paragraph 2, the word “three”

SECOND SCHEDULE

Section 2 (3)

SUPPLEMENTARY PROVISIONS RELATING TO THE
BOARD*Proceedings of the Board*

1. Subject to the provisions of this Schedule and section 27 of the Interpretation Act, the Board may make such standing orders regulating the proceedings of the Board or any committee thereof.
 2. The Chairman, or in his absence the Deputy Chairman, shall preside at every meeting of the Board, but, in the absence of both of them, the members present at the meeting shall elect one of their number present at the meeting to preside at that meeting.
 3. The quorum of the Board shall be five and the quorum of any committee of the Board shall be determined by the Board.
 4. When the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt that person as a member for such period as it thinks fit; but a person who is a member by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.
- Committee*
5. Subject to its standing orders, the Board may appoint such committees as it thinks fit; but the decision of any committee appointed under this paragraph shall be of no effect until it is ratified by the Board.

Cap. 192
LFN.s

Miscellaneous

6. The affixing of the seal of the Board shall be authenticated by the signature of the Chairman and any other person authorized by the Board to act in that behalf.

7. Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be executed on behalf of the Board by the Administrative Secretary or by any person generally or specially authorized to act for that purpose by the Board.

8. Any document purporting to be duly executed under seal or on behalf of the Board shall be received in evidence and presumed to be so executed, unless the contrary is proved.

9. The validity of any proceedings of the Board shall not be affected-

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

10. A member of the Board or a committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or committee shall forthwith disclose his interest to the Board or committee and shall not vote on any question relating to the contract or arrangement.

*Board of Customs And Excise
Act 1992*

MADE at Abuja this 1st day of June, 1992

GENERAL I.B. BABANGIDA,
*President, Commander-in-Chief
Of the Armed Forces,
Federal Republic of Nigeria.*

EXPLANATORY NOTE

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

The Act establishes the Board of Customs and Excise to administer the customs and excise laws, and consequentially amends the Customs and Excise Management Act and the Customs, Immigration and Prisons Services Board Act.