

CHAPTER 369

PRIVATISATION AND COMMERCIALISATION ACT

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PARTIALLY AND FULLY COMMERCIALISED ENTERPRISES

CHAPTER 369

PRIVATISATION AND COMMERCIALISATION
ACT

1988 No.25

An Act to make provision for the privatisation and commercialisation of Federal Government enterprises and other enterprises in which the Federal Government has equity interests.

[5th July, 1988]

Commence-
ment

PART I. — PRIVATISATION OF GOVERNMENT ENTERPRISES

Privatisation
of
Government
enterprises.

1. (1) All enterprises specified in the first column of Part I of the First Schedule to this Act shall be privatised to the extent specified in the third column therein and in accordance with the provisions of this Act.

(2) All enterprises specified in Part II of the First Schedule to this Act shall be fully privatised in accordance with the provisions of this Act.

(3) The President, Commander-in-Chief of the Armed Forces may by Order published in the Federal *Gazette* at any time alter, modify, delete from or amend any of the enterprises listed in the First Schedule to this Act so as to alter the category to which any enterprise belongs.

Control, etc.
of privatised
enterprises.

2. Notwithstanding the provisions of any enactment and without prejudice to the generality of section 1 of this Act, the control, management and composition of the Boards of Directors of privatised enterprises shall as from the date of privatisation reflect the ownership structure of the enterprises.

Establish-
ment and
composition
of the Tech-
nical Com-
mittee on
Privatisation
and
Commer-
cialisation.

3. (1) There is hereby established a technical committee to be known as the Technical Committee on Privatisation and Commercialisation (hereinafter in this Act referred to as "the Technical Committee").

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(2) The Technical Committee shall consist of a Chairman and not less than seven other members to be appointed by the President, Commander-in-Chief of the Armed Forces. 1988 No. 33

(3) The members of the Technical Committee shall be drawn from both the private and public sectors of the economy and shall be persons with detailed knowledge and wide experience.

(4) The members of the Technical Committee shall be appointed on such terms and conditions as the President, Commander-in-Chief of the Armed Forces may deem fit in the circumstances.

4. (1) The Technical Committee shall have the following functions, that is, to—

Functions of
the Technical
Committee.

- (a) advise on the capital restructuring needs of enterprises to be privatised or commercialised under this Act in order to ensure a good reception in the Stock Exchange Market for those to be privatised as well as to facilitate good management and independent access to the capital market;
- (b) carry out all activities required for the successful public issues of shares of the enterprises to be privatised including the appointment of issuing houses, stockbrokers, solicitors, trustees, accountants and other experts to the issues;
- (c) approach, through the appointed issuing houses, the Securities and Exchange Commission for a fair price for each issue;
- (d) advise the Federal Government, after consultation with the Securities and Exchange Commission and the Nigerian Stock Exchange, on the allotment pattern for the sale of the shares of the enterprises concerned in accordance with section 7 of this Act;
- (e) oversee the actual sale of shares of the enterprises concerned by the issuing houses in accordance with the guidelines approved by the Federal Government;
- (f) submit to the Federal Government from time to time, for the purpose of approval, proposals on sale of Government shares in such designated enterprises

with a view to ensuring a fair price and even spread in the ownership of the shares;

(g) ensure the success of the privatisation and commercialisation exercise taking into account the need for balance and meaningful participation by Nigerians and foreign interest in accordance with the relevant laws of Nigeria;

(h) ensure the updating of the accounts of all commercialised enterprises with a view to assuring financial discipline.

(2) The Technical Committee shall perform such other functions as may be assigned to it, from time to time, by the President, Commander-in-Chief of the Armed Forces.

(3) Whenever the Technical Committee is of the view that any enterprise is not suitable for disposal by public issue of shares, the Technical Committee shall recommend to the Federal Government the mode of disposal of such enterprise.

(4) The Technical Committee shall seek and obtain the prior approval of the Federal Government for the price of any share issue in respect of any designated enterprise and the pattern of its allotment.

(5) The President, Commander-in-Chief of the Armed Forces may give to the Technical Committee such directions as he may deem necessary and it shall be the duty of the Technical Committee to comply with such directions.

(6) The Technical Committee shall report to the Federal Government through the Office of the President, Commander-in-Chief of the Armed Forces.

5. (1) The Technical Committee shall, not later than twelve months after the commencement of this Act, incorporate into limited liability companies under the Companies and Allied Matters Act all enterprises to be privatised under this Act, where such enterprises are not already incorporated.

(2) Without prejudice to the generality of subsection (1) of this section, the Federal Government, acting on the

Incorporation of enterprises to be privatised.

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advice of the Technical Committee, may direct that any enterprise affected by this Act shall not be incorporated into a public limited liability company in view of its weak financial structure but that the operations of such enterprise shall be wound-up and its assets disposed of by sale or in any other manner approved by the Federal Government.

6. (1) All shares of enterprises to be privatised under this Act shall be offered for sale in the Nigerian Capital Market. Offer for sale and mode of sale of privatised enterprises.

(2) All offers for sale of shares under subsection (1) of this section shall be by public issues except when the Federal Government, on the advice of the Technical Committee, decides that the shares of any affected enterprises should be sold by private placements.

7. (1) Subject to any direction of the Federal Government, the shares of the enterprises to be privatised under this Act shall be allotted in accordance with the provisions of subsection (2) of this section. Allotment of shares of privatised enterprises.

(2) Not less than 10 per cent and not more than 20 per cent of the total shares on offer shall be allotted to associations and interest groups such as, but not limited to, State investment agencies, workers, trade unions, market women organisations, universities, friendly societies, local and community associations:

Provided that in the case of an over-subscription not more than 1 per cent of the shares on offer shall be allotted to each State through its investment agency.

(3) The remainder of shares not distributed in accordance with subsection (2) of this section shall be sold to the public in such manner and at such amounts as may be determined by the Allotment Committee of the Securities and Exchange Commission and approved by the Federal Government.

(4) The allotment of shares under subsection (2) of this section shall give priority to subscriptions by workers and management as well as non-management of the particular enterprises to be privatised.

(5) Not more than 10 per cent of the shares on offer shall be reserved for the staff of the company.

(6) In the case of oversubscription, no individual shall be allowed to hold more than 1 per cent equity in any one enterprise.

Financial provisions.

8. (1) The Technical Committee shall maintain a fund which shall consist of such moneys as may from time to time be provided by the Federal and State Governments by way of grant and from such fund there shall be defrayed all expenses incurred by the Technical Committee.

(2) The Technical Committee shall keep proper accounts and records of its receipts, payments, assets and liabilities and shall prepare in respect of each financial year a statement of accounts in such form as the Federal Government may direct.

(3) The Technical Committee shall within three months after the end of the financial year to which the accounts relate, cause the accounts to be audited.

Special report.

9. (1) The Technical Committee shall from time to time submit to the Federal Government details of its implementation proposals for scrutiny and approval.

(2) The Technical Committee shall submit a report on its overall activities every six months.

Annual report.

10. The Technical Committee shall within three months after the expiration of the year prepare and submit to the Federal Government a report of its activities during the preceding year, and shall include in the report a copy of the audited accounts of the Technical Committee for that year and a copy of the auditors report on the accounts.

Sub-committees.

11. (1) Subject to its standing orders, the Technical Committee may appoint such number of standing and ad-hoc sub-committees as it thinks fit and may require such sub-committees to consider and report on any matter with which it is concerned.

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(2) Every sub-committee set up under this section shall be presided over by a member of the sub-committee and shall be made up of such number of other persons (who need not be members of the Technical Committee) as the Technical Committee may determine in each case.

(3) The quorum of any sub-committee set up by the Technical Committee shall be as determined by the Technical Committee.

PART II. — COMMERCIALISATION OF GOVERNMENT ENTERPRISES

12. (1) All enterprises specified in Part I of the Second Schedule to this Act shall be partially commercialised in accordance with the provisions of this Act. Commercialisation of Government enterprises.

(2) All enterprises specified in Part II of the Second Schedule to this Act shall be fully commercialised in accordance with the provisions of this Act.

(3) The President, Commander-in-Chief of the Armed Forces, may, by Order published in the *Federal Gazette*, at any time, alter, amend, add to or delete from the list of enterprises in the the Second Schedule to this Act.

13. Notwithstanding the provisions of any enactment and without prejudice to the generality of section 12 of this Act all enterprises commercialised under the provisions of the Act shall have the power to operate as purely commercial enterprises and may subject to the general regulatory power of the Federal Government — Powers of commercialised enterprises.

- (a) fix rates, prices and charges for goods and services provided;
- (b) capitalise assets;
- (c) borrow money and issue debenture stocks; and
- (d) sue and be sued in its corporate name.

PART III. — MISCELLANEOUS

14. In this Act, unless the context otherwise requires — Interpretation.
“commercialisation” means the reorganisation of enterprises wholly or partly owned by the Federal

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Government in which such commercialised enterprises shall operate as profit-making commercial ventures and without subventions from the Federal Government and "commercialise" shall be construed accordingly;

"enterprises" means any corporation, board, company or parastatal established by or under any enactment in which the Federal Government, or any of its Departments, Ministries, or agencies has ownership or equity interest and shall include a partnership, joint venture or any other form of business arrangement or organisation;

"functions" include powers and duties;

"members" include the Chairman;

"privatisation" means the relinquishment of part or all of the equity and other interests held by the Federal Government or its agency in enterprises whether wholly or partly owned by the Federal Government, and "privatise" shall be construed accordingly;

"Technical Committee" means the Technical Committee on Privatisation and Commercialisation established by section 3 of this Act.

Short title.

15. This Act may be cited as the Privatisation and Commercialisation Act.

Privatisation and Commercialisation Act

FIRST SCHEDULE

Section 1

PART I.—ENTERPRISES IN WHICH EQUITY HELD SHALL BE PARTIALLY PRIVATISED

<i>Enterprises</i>	<i>Present Federal Government Holding %</i>	<i>Maximum Federal Government Participation as % of Equity (after privatisation)</i>
<i>Commercial and Merchant Banks</i>		
Savanah Bank of Nigeria Limited	51.34	Present holding to be maintained.
Union Bank of Nigeria Limited	51.67	Present holding to be maintained.
United Bank for Africa Limited	45.76	Present holding to be maintained.
International Bank for West Africa Limited	50	Present holding to be maintained.
Allied Bank of Nigeria Limited	51	Present holding to be maintained.
Continental Merchant Bank Limited	51	Present holding to be maintained.
International Merchant Bank Limited	60	Present holding to be maintained.
Nigeria Arab Bank Limited	60	Present holding to be maintained.
Nigeria Merchant Bank Limited	60	Present holding to be maintained.
First Bank of Nigeria Limited	44.8	Present holding to be maintained.
NAL Merchant Bank Limited	20	Present holding to be maintained.
Merchant Bank of Africa	5	Present holding to be maintained.
<i>Agricultural, Co-operative and Development Banks</i>		
Federal Mortgage Bank of Nigeria	100	Not more than 70% by the Federal Government and its agencies.
Nigerian Industrial Development Bank Limited	100	Not more than 70%
Nigerian Bank for Commerce and Industry Limited	100	Not more than 70%
Federal Savings Bank	100	Not more than 70% by the Federal Government and its agencies.

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<i>Enterprises</i>	<i>Present Federal Government Holding %</i>	<i>Maximum Federal Government Participation as % of Equity (after privatisation)</i>
<i>Oil Marketing Companies</i>		
Unipetrol	100	Not more than 40%
National Oil and Chemical Co. Limited	60	Not more than 40%
African Petroleum Limited	80	Not more than 40%
<i>Steel Rolling Mills</i>		
Jos Steel Rolling Mill	100	Not more than 40%
Katsina Steel Rolling Mill	100	Not more than 40%
Oshogbo Steel Rolling Mill	100	Not more than 40%
<i>Air and Sea Travel Companies</i>		
Nigeria Airways Limited	100	Not more than 40%
Nigeria National Shipping Line Limited	100	Not more than 40%
<i>Fertiliser Companies</i>		
Nigerian Superphosphate Fertiliser Company Limited	100	Not more than 40%
National Fertiliser Company Nigeria Limited	70	Not more than 40%
<i>Paper Mills</i>		
Nigeria National Paper Manufacturing Company Limited	64.03	Not more than 40%
Nigeria News Print Manufac- turing Company Limited	100	Not more than 40%
Nigeria Paper Mills Limited	100	Not more than 40%
<i>Sugar Companies</i>		
Savannah Sugar Company Limited	75.4	Not more than 40%
Sunti Sugar Company Limited	90	Not more than 40%
Lafiaji Sugar Company Limited	70	Not more than 40%

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<i>Enterprises</i>	<i>Present Federal Government Holding %</i>	<i>Maximum Federal Government Participation as % of Equity (after privatisation)</i>
<i>Cement Companies</i>		
Ashaka Cement Company Limited	72	30%
Benue Cement Company Limited	39	30%
Calabar Cement Company Limited	68	30%
Cement Company of Northern Nigeria Limited	31.53	30%
Nigeria Cement Company Limited, Nkalagu	10.72	10%
<i>Motor Vehicles and Truck Assembly Companies</i>		
Anambra Motor Manufacturing Company Limited	35	Present holding to be maintained.
Leyland Nigeria Limited	35	Present holding to be maintained.
Nigeria Truck Manufacturing Company Limited	35	Present holding to be maintained.
Peugeot Automobile of Nigeria Limited	35	Present holding to be maintained.
Volkswagen of Nigeria Limited	35	Present holding to be maintained.
Steyr Nigeria Limited	35	Present holding to be maintained.

PART II.— ENTERPRISES IN WHICH 100% OF EQUITY HELD BY THE FEDERAL GOVERNMENT SHALL BE FULLY PRIVATISED 1989 No. 22.

1. Nigeria Hotels Limited.
2. Durbar Hotel Limited.
3. Aba Textile Mills.
4. National Cargo Handling Limited.
5. Nigerian Dairies Company Limited.
6. Nigerian National Fish Company Limited.
7. Nigerian Food Company Limited.
8. National Grains Production Company Limited.
9. National Poultry Production Company Limited.
10. National Root Crops Production Company Limited and other such food production companies.
11. Nigerian National Shrimps Company Limited.
12. New Nigerian Salt Company Limited.
13. National Fruit Company Limited.

14. National Salt Company Limited, Ijoko.
15. South-East Rumanian Wood Industries Limited, Calabar.
16. Nigerian-Rumanian Wood Industry Limited, Ondo.
17. Nigerian Yeast and Alcohol Company Limited, Bacita.
18. Nigerian Film Corporation.
19. National Freight Company Limited.
20. National Animal Feed Company Limited, Port-Harcourt.
21. Opobo Boat Yard.
22. Madara Dairy Company Limited, Vom.
23. Ore/Irele Oil Palm Company Limited, Ondo.
24. Okomu Oil Palm Company Limited, Bendel.
25. National Livestock Production Limited.
26. Road Construction Company of Nigeria Limited.
27. National Film Distribution Company Limited.
28. Nigerian Ranches Company Limited, Kaduna.
29. Impressit Bakolori Nigeria Limited.
30. North Breweries Limited, Kano.
31. Nigerian Beverages Production Company Limited.
32. West African Distilleries Limited.
33. Nigeria Engineering Construction Company Limited.
34. Tourist Company of Nigeria Limited (Owners of Federal Palace Hotels).
35. Electricity Meters Company Limited, Zaria.
36. American International Insurance Company Limited.
37. Guinea Insurance Company Limited.
38. Sun Insurance Company Limited.
39. United Nigeria Insurance Company Limited.
40. United Nigeria Life Insurance Limited.
41. Niger Insurance Company Limited.
42. Mercury Assurance Company Limited.
43. Crusader Insurance Company Limited.
44. Royal Exchange Company Limited.
45. NEM Insurance Company Limited.
46. Law Union and Rock Insurance Company Limited.
47. Prestige Assurance Company Limited.
48. British American Insurance Company Limited.
49. West African Insurance Provincial Company Limited.
50. Manchok Cattle Ranch.
51. Mokwa Cattle Ranch.
52. Poultry Production Units in Jos, Ilorin and Kaduna.
53. Kaduna Abattoir and Kaduna Cold Meat Market.
54. Bauchi Meat Factory and Galambi Cattle Ranch.
55. Minna Pig Farm.
56. Kano Abattoir Company Limited.
57. Umuahia Pig Farm.
58. Giant Cold Store, Kano.
59. Ayip-Eku Oil Palm Company Limited.
60. Ihechiowu Oil Palm Company Limited.
61. Sokoto Integrated Livestock Company Limited.
62. Motor Engineering Services Company Limited.

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63. Flour Mills of Nigeria Limited.
 64. Nigerian Yeast Alcohol Manufacturing Company Limited.
 65. Nichemtex Industries Limited.
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SECOND SCHEDULE

Section 12

PARTIAL AND FULLY COMMERCIALISED ENTERPRISES

PART I.— PARTIAL COMMERCIALISATION

1. Nigerian Railway Corporation.
2. Nigerian Airport Authority.
3. National Electric Power Authority.
4. Nigerian Security Printing and Minting Company Limited.
5. All the River Basins Development Authorities.
6. National Provident Fund.
7. Ajaokuta Steel Company Limited.
8. Delta Steel Company Limited.
9. Nigerian Machine Tools Limited.
10. Federal Housing Authority.
11. Kainji Lake National Park.
12. Federal Radio Corporation.
13. Nigerian Television Authority.
14. News Agency of Nigeria.

PART II.— FULL COMMERCIALISATION

1. Nigerian National Petroleum Corporation.
 2. Nigerian Telecommunications Limited (NITEL).
 3. Associated Ores Mining Company Limited.
 4. Nigerian Mining Corporation.
 5. Nigerian Coal Corporation.
 6. National Insurance Corporation of Nigeria.
 7. Nigeria Re-Insurance Corporation.
 8. National Properties Limited.
 9. Tafawa Balewa Square Management Committee.
 10. Nigerian Ports Authority.
 11. African Re-Insurance Corporation.
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CHAPTER 369

SUBSIDIARY LEGISLATION

No Subsidiary Legislation