

NIGERIAN SHIPPERS' COUNCIL ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Establishment of the Nigerian Shippers' Council.
2. Membership.
3. Functions of the Council.
4. Power of the Minister to give directions to the Council.
5. Executive secretary and other members of the staff of the Council.
6. Application of the Pensions Act, etc.
7. Financial provisions.
8. Annual reports.
9. Regulations.
10. Interpretation.
11. Short title.

SCHEDULE

Supplementary provisions relating to the Council

NIGERIAN SHIPPERS' COUNCIL ACT

An Act to establish the Nigerian Shippers' Council to provide a forum for the protection of the interest of shippers in matters affecting the shipment of imports and exports to and from Nigeria and to advise the Federal Government on sundry matters related thereto.

[1978 No. 13.]

[1st January, 1977]

[Commencement.]

1. Establishment of the Nigerian Shippers' Council

(1) There is hereby established a body to be known as the Nigerian Shippers' Council (in this Act referred to as "the Council") which shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(2) The provisions of the Schedule to this Act shall have effect with respect to the procedure of the Council and the other matters therein mentioned.

[Schedule.]

2. Membership

The Council shall consist of a chairman who shall be appointed by the President and the following other members, that is-

- (a) five persons to be appointed by the President;

[1981 No.8.]

(b) one representative of the Ministry charged with responsibility for matters relating to the Council;

(c) one representative each of each Commodity Board established pursuant to the Commodity Boards Act;

[Cap. CI7.]

(d) one representative of the Nigerian National Petroleum Corporation;

(e) one representative of each of the following bodies to be appointed by the President, that is-

(i) the Nigerian Chambers of Commerce, Industry, Mines and Agriculture;

(ii) the Nigerian Export Merchants Association; and

(iii) the Manufacturers' Association of Nigeria.

3. Functions of the Council

The functions of the Council shall be to-

(a) provide a forum for the protection of the interest of shippers on matters affecting the shipment of imports and exports to and from Nigeria;

(b) provide a forum for consultation between Conference and non-Conference Lines, tramp-owners, the Nigerian Ports Authority and the Government of the Federation on matters of common interest;

(c) encourage the formation of shippers' associations all over Nigeria;

(d) liaise with the appropriate arms of the Government of the Federation and other organisations in assessing the stability and adequacy of existing services and make appropriate recommendations in that behalf;

(e) advise the Government of the Federation through the Minister on matters relating to the structure of freight rates, availability and adequacy of shipping space, frequency of sailings, terms of shipment, class and quality of vessels, port charges and facilities and other related matters;

(f) negotiate and enter into agreements with Conference Lines, and non-Conference Lines, ship-owners, the Nigerian Ports Authority and any other bodies on matters affecting the interests of shippers;

(g) consider the problems faced by shippers with regards to coastal transport, inland waterways transport and matters relating generally to the transportation of goods by water and advise Government on possible solutions thereto;

(h) promote and encourage the study of and research into problems affecting shippers in Nigeria;

(i) arrange, from time to time, seminars and conferences on any matter relating to its functions; and

(j) carry out such other activities as are conducive to the discharge of its functions under this Act.

4. Power of the Minister to give directions to the Council

Subject to this Act, the Minister may give the Council directions of a general character or relating to particular matters (but not to any individual person or case) with regards to the exercise by the Council of its functions, and it shall be the duty of the Council to comply with the directions.

5. Executive secretary and other members of the staff of the Council

(1) There shall be appointed by the Minister, on the nomination of the Council, an executive secretary of the Council.

(2) The executive secretary shall be the chief executive of the Council and shall be responsible for the execution of the policy of the Council and the day-to-day running of the affairs of the Council.

(3) The Council may appoint such other persons as it may determine as employees of the Council to assist the executive secretary in the exercise of his functions.

(4) The Council may, subject to such conditions as it may think fit, delegate any of its powers relating to the appointment of or the exercise of disciplinary control (including dismissal) over its employees to the executive secretary or to any other employee of the Council.

6. Application of the Pensions Act, etc.

(1) The Federal Civil Service Commission may by order published in the Federal *Gazette* declare the office of the executive secretary or that of any person employed by the Council to be a pensionable office for the purposes of the Pensions Act.

[Cap. P4.]

(2) Subject to subsections (3) and (4) of this section, the Pensions Act shall, in its application by virtue of subsection (1) 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.

[Cap. C23.]

(3) For the purposes of the application of the provisions of the Pensions Act in accordance with

subsection (2) of this section, any power exercisable thereunder by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Council and not by any other person or authority.

[Cap. P4.]

(4) Nothing in the foregoing provisions shall prevent the appointment of a person to any office on terms which preclude the grant of a pension or gratuity in respect of service in that office.

7. Financial provisions

(1) The Council shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Council.

(2) There shall be paid or credited to the fund established in pursuance of subsection (1) of this section-

(a) such moneys as may, from time to time, be lent or granted to the Council by the Government of the Federation or a State;

(b) all moneys raised for the purposes of the Council by way of gifts, grants in aid,

testamentary dispositions or otherwise;

(c) all subscriptions or fees and charges for services rendered by the Council;

(d) all other sums accruing to the Council from any other source.

(3) The accounts of the Council for each year shall be audited as soon as possible after the end

of the year to which they relate by auditors appointed by the Council, with the approval of the Minister of Finance, from the list of auditors and in accordance with the guidelines supplied by the Auditor-General for the Federation and the fees of the auditors and the expenses of the audit generally shall be paid by the Council.

8. Annual reports

The Council shall prepare and submit to the Minister not later than 30 June in each financial year a report in such form as the Minister may direct on the activities of the Council during the immediately preceding financial year, and shall include in such report a copy of the audited accounts of the Council for that year and the auditor's report thereon.

9. Regulations

The Minister may make regulations generally for carrying into effect the provisions of this Act.

10. Interpretation

In this Act, unless the context otherwise requires-

"Conference Line" means a group of two or more ship-owners operating international liner services under uniform or common freight rates for the carriage of goods on a particular route within specified geographical limits;

"executive secretary" means the person appointed as the executive secretary of the Council in pursuance of section 5 (1) of this Act;

"member" means a member of the Council and includes the chairman;

"Minister" means the Minister responsible for matters relating to shipping;

"shipper" means an individual or body of persons (corporate or unincorporate) having direct interest in cargo and who is the original consignor or the actual owner or future owner of the cargo but does not include a clearing and forwarding agent, insurer or bank which has an interest in such cargo by virtue only of being such a clearing and forwarding agent, insurer or bank

"ship-owner" means the owner, lessee or charterer of a ship or vessel engaged in the carriage of goods

11. Short title

This Act may be cited as the Nigerian Shippers' Council Act.

SCHEDULE

[Section 1 (2).]

Supplementary provisions relating to the Council

Proceedings of the Council

1. Subject to this Act and to section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding to have a second or casting vote), the Council may make standing orders regulating the proceedings of the Council or any committee thereof.

[Cap. 123.]

2. The quorum at a meeting of the Council shall consist of the chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 3 or 4 of this Schedule) and six other members of whom at least two shall be members appointed pursuant to paragraph (d) of section 2 of this Act.

3. Subject to paragraph 4 of this Schedule, the chairman shall preside at all meetings of the Council, but if he is absent from any meeting of the Council, the members present shall elect one of their number to preside at that meeting.

4. Notwithstanding paragraph 3 of this Schedule, the Council may appoint from among its members a vice-chairman to act as chairman during a long absence or during the

temporary
incapacity from illness or other sufficient cause of the chairman and at other times to
exercise
such powers as the chairman may delegate to him.

Terms of service of members of the Council

5. (1) The chairman of the Council shall be appointed for a period of three years from the date of his appointment on such terms as may be specified in his letter of appointment.

(2) Any member appointed under section 2 (d) of this Act shall hold office for three years and shall be eligible for re-appointment.

6. Any member, not being an *ex-officio* member, may resign his appointment by a letter addressed to the Minister and that member's resignation shall have effect from the date of the receipt of the letter by the Minister.

Committees

7. (1) The Council may appoint one or more committees to which it may delegate any of its functions.

(2) Without prejudice to the generality of sub-paragraph (1) of this paragraph, the Council shall appoint the following committees, that is-

(a) the Port Operations Committee which shall be charged with the duty of considering any matter relating to port charges, port facilities, port problems, customs and other related matters referred to it by the Council;

(b) the Freight Committee which shall be charged with the duty of advising the Council on any matter relating to the structure of freight rates, surcharges, demurrage, terms of payment, cargo sharing and other related matters as may be referred to it by the Council; and

(c) the Commodities Committee which shall be charged with the duty of ensuring the adequacy of shipping space, frequency of sailings, shipping range, pooling arrangements and other related matters as the Council may from time to time direct

8. Every committee appointed under paragraph 7 of this Schedule shall be presided over by a member of the Council and shall be made up of such number of persons (not being necessarily members of the Council) as the Council may determine in each case.

Miscellaneous

9. The fixing of the seal of the Council shall be authenticated by the signature of the chairman of the Council or by that of the executive secretary if authorised in that behalf by the Council.

10. 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 made or executed on behalf of the Council by any person specially or generally authorised to act for that purpose by the Council.

11. Any document purporting to be a document duly executed under the seal of the Council shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.

12. The validity of any proceedings of the Council or of its committees shall not be affected-

(a) by any vacancy in the membership of the Council or of its committees; or

(b) by any default in the appointment of any such member; or

(c) by reason that a person not entitled to do so took part in the proceedings.

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

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Nigerian Shippers' Council (Freight Stabilisation Fees on Imports and Exports) Regulations.

2. Nigerian Shippers' Council (Local Shipping Charges on Imports and Exports) Regulations.

NIGERIAN SHIPPERS' COUNCIL (FREIGHT STABILISATION FEES ON IMPORTS AND EXPORTS) REGULATIONS

[S.I. 3 of 1995.]

under section 9

[15th October, 1987]

[Commencement.]

1. Payment of freight stabilisation fees on imports and exports

As from the commencement of these Regulations, there shall be charged on every import or export from Nigeria, a freight stabilisation fee of one per cent of the freight on the import or export.

2. Collector of fees

The fees provided by section 1 of these Regulations shall be collected by the Council, or such other agent as may be authorised by the Council from time to time.

3. Repeal

Accordingly, the Nigerian Shippers' Council (Freight Rate and Stabilisation Fees on Imports and Exports) Regulations 1986 are hereby consequently repealed.

[S.I. 14 of 1986.]

4. Citation and commencement

These Regulations may be cited as the Nigerian Shippers' Council (Freight Stabilisation Fees on Imports and Exports) Regulations 1995 and shall be deemed to have come into force on the 15th October 1987.

NIGERIAN SHIPPERS' COUNCIL (LOCAL SHIPPING CHARGES ON IMPORTS AND EXPORTS) REGULATIONS

[S.I. 7 of 1997.]

under section 9

[1st April, 1997]

[Commencement.]

1. Power of Council to negotiate port tariffs and rates

As from the commencement of these Regulations the Council shall have power to negotiate all future reviews, modifications and increases of Nigerian Ports Authority tariffs and rates paid by an importer or exporter at all Nigerian ports and enter into any agreement on the sums payable.

2. Power of Council to negotiate local shipping charges

(1) Notwithstanding the provisions of regulation 1 of these Regulations, the Council, the Nigerian Ports Authority and shipping companies shall negotiate all reviews, modifications or increases of local shipping charges and enter into any agreement on the nature or type of charges payable by importers or exporters and the sums so payable.

(2) Local shipping charges recognised as legal and justifiable under international shipping trade agreements shall be due and payable by Nigerian importers and exporters.

3. Duty of the Council to publish charges

The Council shall, to the exclusion of any person whether private or public, publish on a periodical basis or as often as it may deem fit all local shipping charges payable by Nigerian importers and exporters.

4. Offences, etc.

Any person or shipping company who contravenes any of the provisions of these Regulations is guilty of an offence and liable on conviction to-

(a) refund the excess of the sum charged the importer or exporter and to a fine of ₦ 50,000; or

(b) on a second or subsequent conviction, to a fine of ₦ 250,000 or to imprisonment for a term of three years or to both such fine and imprisonment.

5. Offences by bodies corporate

Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the connivance of or to be attributed to any negligence on the part of a director, manager or other similar officer of the body corporate,

or any person purporting to act in any such capacity, he, as well as the body corporate, where practicable, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

6. Interpretation

In these Regulations, unless the context otherwise requires-

"local shipping charges" means charges paid locally by an importer or exporter in addition to the freight payable and charges such as document, manifest amendment, container cleaning, container rent and deposit, cargo demurrage, cargo rent and equipment charges;

"shipping company" means any company registered in Nigeria which carries on business as the agent of a shipping line or carrier and provides such ancillary services as handling, security, berthing, discharge, loading, clearance, warehouseman, terminal operator.

7. Citation

These Regulations may be cited as the Nigerian Shippers' Council (Local Shipping Charges on Imports and Exports) Regulations.