

NIGERIAN BANK FOR COMMERCE AND INDUSTRY ACT

ARRANGEMENT OF SECTIONS

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SCHEDULE

Provisions relating to the Board

An Act to establish the Nigerian Bank for Commerce and Industry to provide capital for medium and long-term investments to indigenous bodies and persons engaged in industry and commerce and for matters connected therewith.

[1973 No. 22.]
[2nd April, 1973]

[Commencement.]

1. Establishment of the Nigerian Bank for Commerce and Industry

(1) There is hereby established a bank to be called the Nigerian Bank for Commerce and Industry (in this Act referred to as "the Bank") which shall be a body corporate with perpetual succession.

(2) The Bank shall have power to sue and be sued in its own name and may for the purposes of its functions, acquire, hold or dispose of property (whether movable or immovable) and shall have a common seal.

2. Functions

(1) The principal functions of the Bank shall be to-

(a) provide equity capital and funds by way of loans to indigenous persons, institutions and organisations for medium and long term investments in industry and commerce at such rates and upon such terms as may be determined by the Board in accordance with the policy directed by the President;

(b) engage and participate in such other banking and commercial business as may be directed by the Minister.

(2) Without prejudice to the generality of the foregoing, the Bank shall in particular have power to-

(a) engage in all aspects of merchant banking, particularly, confirmation of bills and financial obligations of third parties and acceptance and discounting of bills; underwrite such stocks, shares and debentures as are issued in furtherance of the policy of the Government; purchase and sell stocks and shares quoted on the Nigerian Stock Exchange; provide guarantees, including guarantees in respect of export credit and letters of credit issued by licensed banks; accept term deposits from the public, financial institutions, trust funds, the post office and such other bodies as the Board may direct; and provide chequing facilities for its customers.

(3) Any liabilities of the Bank which may be incurred in connection with the exercise of its powers under subsection (2) (a) of this section shall be rediscountable with the Central Bank.

3. Board of directors

(1) There shall be a Board of directors of the Bank (in this Act referred to as "the Board") which shall, subject to the general directives of the Minister, be responsible for the overall policy and general management of the Bank.

(2) The Board shall comprise the following, that is-

(a) a chairman;

(b) the Permanent Secretary of each of the following Federal Ministries-

(i) Finance;

(ii) Commerce; and

(iii) Industry;

(c) the representative of the Central Bank;

(d) the managing director;

(e) a number of directors, not being more than three, who shall be appointed jointly by the minority shareholders; and

(f) such other persons as are by reasons of their experience and character suitable for appointment as members of the Board, as may be appointed by the Minister.

(3) The chairman of the Bank shall be appointed by the Minister upon such terms and conditions as the Minister may with the approval of the President determine.

(4) A member of the Board appointed by virtue of this section (not being a member by virtue of paragraphs (a), (b), (c) and (d) of subsection (1) of this section, shall be appointed for such period as may be specified in his instrument of appointment and shall be entitled to be paid such fees and allowances in accordance with such rules as the

Board

may, subject to the approval of the Minister, prescribe.

(5) The provisions of the Schedule to this Act shall have effect in relation to the membership, the procedure at meetings of the Board and such other matters as are specified thereunder.

[Schedule.]

(6) The reference-

(a) in subsection (2) (b) of this section to any representative of a Federal Ministry is a reference to such officer of a Federal Ministry as may be nominated by the Permanent Secretary of such Ministry to represent him in that behalf; and

(b) in subsection (2) (e) of this section to "the minority shareholders", is a reference to the shareholders of the Bank apart from the Government.

4. Managing director and other officers and servants of the Bank

(1) There shall be an official of the Bank who shall be called the managing director and who shall be the chief executive of the Bank responsible for the day-to-day management and operations of the Bank.

(2) The managing director shall, subject to subsection (3) of this section, be appointed by the Board with the approval of the Minister on such terms and conditions as the Minister may deem fit.

(3) Any person appointed as the managing director shall not, while he is the holder of that office, be the holder of the office of a director in any other bank, corporation, company or any other concern, except with the approval of the Minister.

(4) The Board may, subject to the provisions of this Act appoint such other persons to be officers and servants of the Bank as may appear to it to be expedient and necessary for the efficient management of the business of the Bank.

5. Capital

(1) The capital of the Bank shall consist of equity and loan capital.

(2) The authorised capital of the Bank shall be N50 million which shall be divided into 500,000 shares of N 100 each, out of which 100,000 shares shall be issued at par and paid up, and the balance shall, subject to the provisions of subsections (3), (4), (5) and (6) of this section, be issued and paid for in the manner stipulated by the Bank.

(3) The share capital of the Bank shall be subscribed by the Government and the Central Bank.

(4) The proportion of the share participation of the Government and the Central Bank shall be sixty per cent and forty per cent, respectively, or such other proportion as the President may direct.

(5) Notwithstanding the provisions of subsections (1), (2), (3) and (4) of this section, the Central Bank may, subject to the approval of the Minister, transfer a proportion of its own shareholding (which shall not exceed twenty per cent thereof) to banks licensed under the Banks and Other Financial Institutions Act, insurance corporations and such other financial institutions as may be approved for this purpose by the Central Bank.

(6) The loan capital of the Bank shall be provided by the Government and other shareholders as aforesaid in such amount and upon such terms and conditions as may be determined by the Board with the approval of the Minister.

6. General reserve Fund

(1) The Bank shall establish a general reserve fund to which shall be allocated from the net profits of the Bank at the end of each financial year and before any dividend is declared-

(a) 25% of the net profits of the Bank where the amount of the general reserve fund is less than the paid-up share capital of the Bank; or

(b) 12Y2% of the net profits of the Bank where the amount of the general reserve fund is equal to or in excess of the paid-up share capital of the Bank.

(2) The net profits of the Bank for each financial year shall be determined by the Bank after meeting all current expenditure for that year and after making all such provisions as it thinks fit for bad and doubtful debts, depreciation of assets, contributions to staff and superannuation fund and all other contingencies.

7. Borrowing power

(1) The Bank may with the approval of the Minister borrow by way of loan from any sources any moneys required by the Bank for meeting its obligations and discharging the functions of the Bank under this Act.

(2) The Bank shall also have power to secure the repayment of any money borrowed by the Bank in such manner as the Bank shall think fit, and in particular, by the issue of debentures charged upon all or any of the Bank's properties; and shall also have powers to purchase, redeem and pay up any such securities.

(3) The Bank shall have power to receive grants, loans and advances and other moneys on deposits or otherwise from the Government, the Central Bank and any other commercial bank within the meaning of the Banks and Other Financial Institutions Act, and also the public in general under such conditions as may be approved by the Minister.

(4) The Government may guarantee in such manner and upon such terms and conditions as it may think fit the redemption and the repayment of any interest on any debenture stocks issued by the Bank on temporary loans raised by the Bank.

8. Funds of the Bank

Without prejudice to section 6 of this Act, the Bank shall maintain a fund which shall consist of-

(a) such monies as may, from time to time, be provided by the Government for the purposes of this section by way of grants or loans or both; and

(b) such monies as may be received by the Bank in the course of its operations,

and from such fund there shall be defrayed all general expenses incurred by the Bank; and the Bank shall submit to the Minister not later than three months before the end of each financial year estimates of its expenditure and income (which shall exclude

payments to the Bank out of monies provided by the Government) relating to the next following financial year.

9. Auditing of accounts

(1) The Bank shall as soon as may be after the end of the financial year to which the accounts relate cause its accounts to be audited by auditors from the list of auditors and in accordance with guidelines supplied by the Auditor-General for the Federation.

(2) The auditors shall, on the completion of the audit of the accounts of the Bank for the relevant financial year, prepare and submit to the Bank a report setting out-

(a) general observations and recommendations of the auditors on the financial affairs of the Bank for the financial year in question and on any important matter which the auditors desire to bring to the notice of the Bank; and

(b) detailed observations and recommendations of the auditors on all aspects of the operations of the business of the Bank for that year.

10. Records and annual reports

(1) The Bank shall keep proper accounts and proper records of accounts and shall prepare in respect of each financial year a statement of account in such form as the Minister may direct, being such form which shall conform with the best commercial standards.

(2) It shall be the duty of the Bank to prepare and submit to the Minister, not later than three months after the end of each financial year, a report which shall be in such form as the Minister may direct and shall relate to the activities of the Bank during the immediately preceding financial year.

(3) The report shall include the report of the audited accounts of the Bank for that year and a copy of the auditors' reports on the accounts, and shall be presented to the President by the Minister so soon after the receipt thereof as it may be convenient.

11. Offices and branches

The Bank shall have its head office in Lagos and may, subject to the approval of the Minister, open branches in other parts of Nigeria and appoint agents and correspondents in accordance with the decisions of the Board.

12. Regulations

The Board may, with the approval of the Minister, make such regulations as may be necessary for giving effect to the provisions of this Act; and in particular, without prejudice to the generality of the foregoing, it may make regulations-

(a) governing the granting of loans, advances and the making of deposits;

(b) regulating the relationship between the Bank and other financial institutions;

(c) for prescribing the terms, conditions, rates of interest, fees or administrative charges in respect of advances, credits, guarantees and any other transaction which the Bank may undertake from time to time;

(d) prescribing forms of applications, agreements and other materials necessary for the control of the grant of advances, credits, guarantees and other transactions which the bank may undertake from time to time;

(e) determining and prescribing the provisions as to securities that may be required for loans, and such collaterals which shall be made available as securities for loans granted; and

(f) prescribing such other matters as may be incidental or supplemental to the functions of the Bank under this Act.

13. Rules

(1) Unless a contrary intention appears, anything required to be prescribed under this Act shall be prescribed by the Board with the approval of the Minister.

(2) Notwithstanding subsection (1) of this section, the Board may with such approval make such rules as are necessary for giving effect to the provisions of this Act, and in particular for-

(a) regulating the terms and conditions of service of the officers, servants and agents of the Bank and making provisions regarding their remuneration and allowances;

(b) determining pensions, gratuities, medical benefits and provident funds, and superannuation benefits payable to such officers, servants and agents; and

(c) the provision and maintenance of any superannuation scheme (whether contributory or not) and such other funds as the Bank may at its discretion determine.

14. Bye-laws

Notwithstanding the foregoing provisions of this Act, the Board may, with the approval of the Minister, make bye-laws for the good order and management of the Bank and any such bye-law shall be authenticated by the Bank's seal.

15. Exemptions

(1) The Board shall be exempt from the payment of tax and the provisions of any enactment relating to taxation of companies shall not apply to the Board.

(2) The provisions of the Banks and Other Financial Institutions Act shall not apply to the Bank and section 51 (1) thereof shall be construed accordingly.

16. Restriction as to publication of instruments

For the avoidance of doubt, it shall be necessary for any instrument made under this Act to be published in the Federal or any other *Gazette*, but where the provisions of any instrument may affect the interest of any person or group of persons, the Board shall bring any information contained thereunder to the notice of the persons affected in such manner (including publication thereof in the Federal or any State *Gazette*) as the Board may direct.

17. Interpretation

In this Act, unless the context otherwise requires-

"**Bank**" means the Nigerian Bank for Commerce and Industry established under section 1 of this Act;

"**Board**" means the board of directors as constituted under section 3 of this Act;

"**Central Bank**" means the Central Bank of Nigeria established under the Central Bank of Nigeria Act;

"**financial institutions**" has the same meaning as in section 61 of the Banks and Other Financial Institutions Act;

"**Government**" means the Government of the Federation;

"**Minister**" means the Minister of Finance.

18. Short title

This Act may be cited as the Nigerian Bank for Commerce and Industry Act.

SCHEDULE

[Section 3 (5).]

Provisions relating to the Board

1. Subject to this Act and 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 chairman to have a second or casting vote), the Board may make standing orders regulating the proceedings of the Board or any committee thereof, in particular, as respects-

[Cap. 123.]

(a) the holding of meetings;

(b) notices to be given of such meetings and proceedings thereat;

(c) the keeping of minutes and the custody, production and inspection of such minutes; and

(d) the opening, keeping, closing and auditing of accounts.

2. Every meeting of the Board shall be presided over by the chairman or if the chairman is unable to attend any particular meeting, by another member appointed by the members present at the meeting to act as chairman for that particular meeting.

3. The quorum of members at a meeting of the Board shall be the chairman (or, in an appropriate case, the person appointed to act as chairman under paragraph 2 of this Schedule) and six other members.

4. Where standing orders made under paragraph 1 of this Schedule provide for the Board to co-opt persons who are not members of the Board, such persons may advise the Board on any matter referred to them by the Board, but shall not be entitled to vote at a meeting of

the
Board.

5. The Bank shall have a common seal and the affixing of the seal shall be authenticated by the signatures of the chairman or another member of the Bank authorised, either generally or specially, by the Bank to act for that purpose, and of the managing director or some other person authorised either generally or specially by the Bank to act for that purpose.

6. Every document purporting to be an instrument issued by the Bank and to be sealed with the seal of the Bank authenticated in the manner provided by this paragraph, or to be signed by the managing director, shall be received in evidence and be deemed to be such instrument without further proof, unless the contrary is shown.

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

8. The validity of any proceedings of the Bank shall not be affected-

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

SUBSIDIARY LEGISLATION

No Subsidiary Legislation