

NIGERIAN POSTAL SERVICE ACT

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NIGERIAN POSTAL SERVICE ACT

An Act to provide for the Nigerian Postal Service and for matters connected therewith.

[1992 No. 41.]

[1st July, 1992]

[Commencement.]

PART I

Establishment of the Nigerian Postal Service and its governing Board, etc.

1. Establishment of the Nigerian Postal Service, etc.

(1) There is hereby established a body to be known as the Nigerian Postal Service (in this Act referred to as "the Postal Service"), 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 Postal Service shall have the exclusive privilege of-

(a) conveying all letters from one place to another where postal communication have been established; and

(b) performing all the incidental services of receiving, collecting, sending, des-patching and delivering, written and printed matter, parcels and like materials, from anyone place to another, where postal communications shall have been established.

(3) The exclusive privileges conferred on the Postal Service by subsection (2) of this section, shall not extend to-

(a) letters sent between individuals on private journey or travel, without reward so that the letters may be delivered to the party to whom they are directed;

(b) letters sent through a messenger on purposes concerning the private affairs or business of the sender or receiver thereof;

(c) commissions or returns thereof and affidavits and writs, process or proceedings, or returns thereof, issuing out of a court of justice;

(d) letters of merchants, owners of vessels of merchandise or the cargo or loading therein, sent by the vessels of merchandise, or by any person employed by the owners for the carriage of the letters, according to their respective directions and delivered to the respective persons to whom are directed, without paying or receiving hire, reward, advantage or profit for the same in any way;

(e) letters concerning goods or merchandise sent by common carriers, to be delivered with the goods which letters concern without hire or reward or other such profit or advantage for receiving or delivering letters; and

(f) letters sent through courier service companies licensed under section 45 of this Act.

2. Establishment of the Governing Board

(1) There is hereby established for the Postal Service a Board which shall be known as the Nigerian Postal Service Governing Board (in this Act referred to as "the Board") which shall have responsibility for-

(a) formulating policies and adopting strategies to promote the development and maintenance of efficient, co-ordinated and economic postal services for the Federation;

(b) carrying out the functions of the Postal Services; and

(c) promoting the development of such other ancillary services as the Board may deem fit.

(2) The Board shall consist of a chairman to be appointed by the President and the following other members, that is-

(a) the Permanent Secretary of the Ministry who shall act as the alternate Chairman;

(b) a representative each of the following Federal Ministries, that is-

(i) Finance;

(ii) Internal Affairs;

(c) the Managing Director of the Nigerian Telecommunications Limited;

(d) the Postmaster-General; and

(e) two persons who in the opinion of the President have by reason of their business or professional attainments, special contribution to make to the work of the Postal Service.

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

[First Schedule.]

3. Tenure of office and removal from office of the chairman, etc., of the Board

(1) The chairman shall hold office for a period of four years and shall be eligible for re-appointment for a further period of four years.

(2) Subject to the provisions of subsection (3) of this section, a member of the Board other than an *ex-officio* member, shall hold office for a period of three years from the date of his appointment as a member and shall be eligible for reappointment for a further period of three years.

(3) The Minister may, with the approval of the President, at any time remove any member of the Board from office if the Minister is of the opinion that it is not in the interest of the Board or the Postal Service for the member to continue in office and shall notify the member in writing to that effect.

(4) Where the Board is satisfied that the continued presence on the Board of any member is not in the national interest or the interest of the Board or the Postal Service, it may recommend to the Minister that the member concerned be removed from office; and if the Minister, after making such inquiries as he considers necessary, approves of the recommendation, he may in writing with the approval of the President declare the office of the member vacant.

PART II

Functions and powers

4. Functions of the Postal Service

The functions of the Postal Service shall include to-

- (a) develop, promote and provide adequate and efficiently coordinated and economic postal services at fair and reasonable rates and fees;
- (b) maintain an efficient system of collection, sorting and delivery of mail nation wide;
- (c) provide various types of mail services to meet the need of different categories of mail users;
- (d) establish and maintain postal facilities of such character and in such location consistent with reasonable economics as will enable the generality of the public to have ready access to essential postal services.

5. Power of the Postal Service

In the exercise of its functions under this Act, the Postal Services shall have the following specific powers, that is-

- (a) to provide for the collection, handling, transportation, delivery, forwarding, returning and holding of mail and for the disposal of undeliverable mail;
- (b) to determine the need for post offices, postal facilities and equipment and to provide such offices, facilities and equipment as it may determine;
- (c) to prescribe the amount of postage stamps and the manner in which it is to be paid;
- (d) to provide postage stamps and other stamped papers, cards and envelopes and to provide such other evidence of payment of postage and fees as may be necessary or desirable;
- (e) to provide philatelic services;
- (f) to establish and review postal tariff;
- (g) to explore additional sources of postal revenue;
- (h) to maintain international relations with other postal administrations and international bodies;
- (i) to provide and establish non postal or similar services;
- (j) to investigate postal offences and civil matters relating to the Postal Service;
- (k) to provide such miscellaneous services as may be authorised by the Federal Government; and

(l) to carry out such other activities as are necessary or expedient for the discharge of its responsibilities under this Act.

PART III

Staff of the Postal Service

6. Appointment of Postmaster-General

- (1) There shall be appointed for the Postal Service by the President, on the recommendation of the Minister, a Postmaster-General.
- (2) The Postmaster-General shall be the chief executive of the Postal Service and shall be responsible for the execution of the policy of the Board relating to the Postal Service and its day-to-day administration.
- (3) The Postmaster-General shall hold office in the first instance for a period of five years and shall be eligible for re-appointment for such further term as the President may determine.
- (4) Subject to this section, the Postmaster-General shall hold office on such term as to emolument and otherwise as may be specified in his letter of appointment.

7. Duties of the Postmaster-General

- (1) Subject to the provisions of this Act, the administration and control of the Postal Service shall vest in the Postmaster-General.
- (2) The Postmaster-General may-
 - (a) establish post offices at such places as he may deem fit and may abolish any such post office;
 - (b) establish and operate facilities for the collection, despatch, delivery and distribution of domestic and international mail;
 - (c) provide and operate philatelic services within and outside Nigeria;
 - (d) plan and co-ordinate the entire postal network;
 - (e) negotiate and enter agreement with any person or authority on matters relating to the postal system;
 - (f) provide on agency basis such miscellaneous services as may be required of him by the Federal Government;
 - (g) carry on all such other activities as are necessary or expedient for the discharge of his responsibilities under this Act.

8. Appointment of secretary to the Postal Service

- (1) There shall be appointment by the Board, a secretary, who shall keep record, conduct correspondences and perform such other duties as may be required of him, by the Board or the Postmaster-General.

(2) The Board shall appoint for the Postal Service such other persons as may be required to assist the Postmaster-General and the secretary in the performance of their functions under this Act.

9. Staff regulations as to conditions of service of employees

(1) The Board may, with the approval of the Minister, make regulations relating generally to the conditions of service of the employees of the Postal Service and without prejudice to the generality of the foregoing, such regulations may provide for-

(a) the appointment, promotion and disciplinary control of all employees of the Postal Service; and

(b) appeals by such employees against dismissal or other disciplinary measures, and until such regulations are made, any instrument relating to the conditions of service of employees or any body dissolved or affected by this Act, shall continue in force and have the same effect as if made under this Act.

(2) Regulations made under subsection (1) of this section, need not be published in the *Gazette* but the Board shall bring them to the notice of all affected persons in such manner as it may, from time to time, determine.

10. Application of Pensions Act

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

[Cap. P4.]

(2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to an 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 provisions of the Pensions Act, any power exercisable thereunder by a Minister or other authority of the Government of the Federation (not being 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. P4.]

(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 1999.

[Cap. P4. Cap. C23.]

PARTV

*Matters relating to the carrying, receiving, collecting, etc., of letters
and other postal articles*

11. Special prohibitions

Except with the written permission of the Postmaster-General, the following persons are hereby forbidden from carrying or receiving, collecting or delivering any letter, although they may not have received any hire or reward for the same-

- (a) common carriers, except letters concerning goods which they are conveying;
- (b) officers of the Postal Service, except in the discharge of their duties;
- (c) owners, masters or commanders of vessels, sailing or passing coastwise or otherwise between posts or places in Nigeria, except in respect of letters belonging to the owners of such vessels, or letters carried for the Postal Service;
- (d) passengers of, or members of the crew or others on board a vessel, passing or re-passing on a river, lagoon, or navigable canal in Nigeria, except with respect to places in Nigeria with which postal communications have not been established, or with respect to letters carried for the Postal Service.

12. Offence and penalty

A person not authorised by or pursuant to this Act who-

- (a) sends or causes to be sent, or tenders or delivers in order to be sent, or conveys or performs any service incidental to conveying otherwise than by post, a letter not exempted from the exclusive privilege of the Postal Service; or
- (b) makes a collection of those exempted letters, for the purpose of conveying or sending them either by post or otherwise, commits an offence under this Act and is liable on conviction to a fine of ₦5,000 or imprisonment for a term of six months or to both such fine and imprisonment.

13. Restriction on conveyance of letters except by post

(1) No letter, unless exempted by law, shall be conveyed into or out of Nigeria, from or to any place between which the Postal Service is established, or to be delivered or be distributed in Nigeria, otherwise than by or through the post.

(2) A person who contravenes the provisions of subsection (1) of this section, commits an offence under this Act and is liable on conviction-

- (a) in the case of an individual, to a fine of not less than ₦5,000;
- (b) in the case of a body corporate, to a fine of not less than ₦20,000.

14. Cases in which compensation may be paid

(1) Subject to the provisions of this section, compensation may be paid voluntarily and as an act of grace, if it is proved to the satisfaction of the Postmaster-General, that a letter or packet duly admitted for registration has been entirely lost whilst in his custody, except where such loss occurs as a result of tempest, shipwreck, earthquake, war or such similar causes.

(2) The final decision on all questions of compensation shall vest with the postal administration of the country in which the loss has occurred; but no compensation shall be

payable, except in the loss of the entire letter or packet; and no claim shall be admitted, if made more than a year after the letter or packet was posted.

(3) In the case of a packet posted in Nigeria and addressed to a place in Nigeria, the compensation paid shall not exceed the value of the article lost, and compensation may be paid for the loss of the contents of any packet if-

(a) it is proved to the satisfaction of the Postmaster-General that the loss occurred in the post and that the packet and securing of the cover were adequate;

(b) in the case of the loss of money orders, postal orders, coupons, bonds, and similar documents which are enclosed in one of the registered envelopes supplied by the post office, that particulars sufficient for the identification of those documents have been furnished.

(4) No compensation shall be paid in any circumstance for the loss of a postal packet, unless the name of the payee and of the office at which payment is to be made have been filled in.

(5) No claim for compensation for the loss of any of the contents of a packet shall be entertained if delivery of the packet has been accepted without comments.

15. Compensation payable for loss or damage of insured article

(1) Compensation for the loss or damage in the post of an insured letter or parcel-

(a) shall not exceed the amount of the actual loss or damage;

(b) shall not be paid for a packet containing a prohibited article or for a packet which has been delivered without external trace of injury and has been accepted without remark; or

(c) arising from tempest, shipwreck, earthquake, war, or other cause beyond control shall be admitted if made not more than a year after the packet was posted.

(2) No legal liability to give compensation in respect of any packet for which an insurance fee has been paid shall attach to the Postmaster-General either personally or in his official capacity.

(3) Compensation may be paid for the loss or damage of an uninsured letter or parcel at the rates stipulated in the Post Office Guide, published by the Postmaster-General, in the following circumstances-

(a) if the compensation paid will not exceed the value of the contents of the lost letter or parcel or damage thereto;

(b) if the loss or damage occurred while the parcel was in the custody of the Postmaster-General;

(c) if the loss or damage occurred through no fault of the sender; for instance, insufficient packaging, parcel not secured in such a manner that the contents could not be withdrawn without the cover showing obvious signs of violation or insufficient address.

(4) Provided that Compensation shall not be paid for the loss or damage of an uninsured parcel in any circumstances under which it would be refused in the case of a registered or insured letter or insured parcel.

(5) The final decision on all questions of compensation shall rest with the postal administration of the country in which the loss has taken place.

16. Instances where compensation is not payable

No compensation shall be paid-

(a) for damage to a fragile article, whether sent by letter or parcel post;

(b) for damage by water in any case where a parcel was transported for any portion of its journey by carrier, runner or canoe;

(c) in the case of an accident or in respect of an article which cannot be accounted for in consequence of the destruction of official document through a cause beyond control.

17. Waiver of claim by sender of parcel

The sender of a parcel may waive his claim for compensation in favour of the addressee.

18. Detention opening, etc., of postal articles

(1) A mail bag may be detained or reopened under the authority of the Postmaster-General.

(2) After a postal article has been delivered to the post office, no person employed by or under the Postmaster-General shall, except as otherwise prescribed, open or return the article to any person or procure or suffer the article to be opened or returned unless he is authorised to do so in writing by the Postmaster-General.

(3) A person who contravenes the provisions of subsection (2) of this section commits an offence under this Act and is on conviction liable to imprisonment for a term of twenty-one years.

(4) The Postmaster-General may, in the interest of justice or in any individual circumstance which appears to him to warrant such a course, grant authority for opening or returning any specified postal article.

19. Interception of postal articles in emergencies

(1) On the occurrence of public emergency or in the interest of public safety or tranquillity, the Minister may, by order in writing, direct that a postal article or class or description of postal article be intercepted or detained or be delivered to an officer of the Government mentioned in the order or be disposed of in such manner as the Minister may direct.

(2) If any doubt arises as to the existence of a public emergency or as to whether an act done under subsection (1) of this section was in the interest of public safety or tranquillity, a certificate signed by the Minister charged with responsibility for matters relating to public safety and public order shall be conclusive proof of the point.

20. Power to deal with postal articles improperly posted

A Postmaster or an officer in charge of a post office may detain a postal article which has been posted contrary to the provisions of this Act and may deal with the postal article in such manner as may be prescribed.

21. Inspection and disposal of postal articles suspected or found to be of a fraudulent nature

(1) An officer of the Postal Service not below the rank of head postmaster, may if he suspects that a postal article is calculated or likely to cause the addressee or any other person to be deluded or defrauded or contains false pretence made with a view to obtaining money from the addressee, detain the postal article and submit it to the Postmaster-General or to such other officer of the Postal Service above the rank of head postmaster as the Postmaster-General may so appoint for the purpose; and the Postmaster-General or other officer so appointed may thereupon open the postal article for the purpose of inspection.

(2) If on an inspection under subsection (1) of this section, it appears to the Postmaster-General or any other officer so appointed under subsection (1) of this section that the postal article consists wholly or partly of a matter calculated or likely to cause the addressee, or any other person to be deluded or defrauded or contains false pretence made with a view to obtaining money from the addressee, he may destroy all or any part of the postal article or otherwise dispose of the article in such manner as to him in his absolute discretion may seem expedient.

22. Inspection and disposal of postal articles suspected or found to contain application, etc., for advertisement of a fraudulent nature

(1) An officer of the Postal Service not below the rank of head postmaster may-

(a) if he suspects that a postal article consists of or contains an application for, or reply to, an advertisement which, if sent through the post office, would be liable to be dealt with under subsections (1) and (2) of section 21 of this Act; or

(b) if he suspects that a postal article consists of or contains any such application, detain the article and submit it to the Postmaster-General or to such other officer of the Postal Service above the rank of head postmaster as the Postmaster-General may so appoint for the purpose, and the Postmaster-General or other officer so appointed may thereupon open the postal article for the purposes of inspection.

(2) If on an inspection under subsection (1) of this section, it appears to the Postmaster-General or any other officer so appointed under that subsection, that the postal article consists wholly or partly of an application for, or a reply to, an advertisement, which if sent through the post office, would be liable to be dealt with under subsections (1) and (2) of section 23 of this Act, or of a reply to any such application, he may destroy all or any part of such postal article or otherwise dispose of the same in such manner as he may deem expedient in the circumstance.

(3) A money order, postal order, or other remittance comprised in a postal article to which this section relates, shall be returned to the sender thereof unless the sender is the person who issued the advertisement, in which case, the money order, postal order, or other remittance shall be forwarded to the addressee.

23. Power to deal with postal articles containing goods in respect of which an offence is being committed

(1) The Postmaster-General may, by notice in writing-

(a) if he has reason to believe that a postal article contains goods in respect of which an offence is being committed or is being attempted to be committed; or

(b) if he is requested to do so by a police officer not below the rank of superintendent of Police, require the attendance at the post office at a specified time, of the addressee of the postal article, or of some agent deputed in writing by the addressee, and of the person, if any, who made the request, or of his agent deputed in writing and the postal article shall then be opened by the addressee or his agent in the presence of an officer of the Postal Service, deputed for that purpose by the Postmaster-General and of any other person named or referred to in the notice who attends.

(2) If the addressee or his agent fails to attend in pursuance of the notice or refuses to open the article, the article shall be opened by the officer of the Postal Service in the presence of any of the persons named or referred to in the notice who attends.

(3) In all cases, a postal article, after being opened under this section, shall be delivered to the addressee, unless it is required for the purpose of any further proceedings under this or any other Act for the time being in force.

24. Detention of postal article with fictitious stamp

(1) The Postmaster-General may detain and withhold from delivery, any postal article being or containing any fictitious postal stamp or bearing any postage stamp the surface of which is smeared or coated with mucilage or any other substance or purporting to be prepaid with any postage stamp, which has been previously used to prepay the postage in any other postal article or for the payment of any revenue, duty or tax.

(2) A postal article detained under this section shall be dealt with as the Postmaster-General may direct, but shall not be delivered to the addressee until such addressee shall have given such information with regard to the name and address of the sender, and such other particulars as the Postmaster-General shall require.

25. Delivery of mails by vessels

(1) Every master of a vessel arriving at any port or place in Nigeria, shall without delay cause every postal article or mail bag on board, which is within the exclusive privilege conferred on the Postal Service by section 1 of this Act, to be delivered to the post office or to such officer of the Postal Service as is authorised to receive the Postal article or mail bag and shall make such declaration as may be required by the Postmaster-General before an officer of the Postal Service.

(2) A person who fails to comply with the provisions of subsection (1) of this section, commits an offence under this Act and shall on conviction be liable to a fine of ₦10,000.

26. Notice of intending despatch

(1) The master, owner, or agent of a vessel, proposing to despatch the vessel from a port or place in Nigeria to any other port or place within or without Nigeria shall give reasonable notice in writing to the officer in charge of the post office at the port or place

of departure of the day and hour of the intended departure of the vessel and also of the ports or places at which the vessel is to call, and shall give immediate notice in writing to the officer of any alteration in the day or hour of departure or of the ports or places of call, in order that the officer may notify the public the day and hour of closing the mails, if any to be made up for the vessel.

(2) A person who fails to comply with provisions of subsection (1) of this section, commits an offence under this Act and on conviction shall be liable to a fine of ₦10,000.

27. Duty to receive and deliver mailbag

(1) The master of a vessel, not being a contract vessel, about to depart from one port or place in Nigeria to a port or place within or a port or place beyond the limits of Nigeria, shall receive on board, any mail bag tendered to him by an officer of the Postal Service for conveyance, granting a receipt therefore in such form as the Postmaster-General may prescribe and shall without delay deliver the mail bag at the port or place of destination.

(2) A person who fails to comply with the provisions of subsection (1) of this section, commits an offence under this Act and shall on conviction be liable to a fine of N 10,000.

28. Offence

A master of a vessel who unlawfully-

(a) opens or suffers to be opened a sealed mail bag with which he is entrusted for conveyance; or

(b) takes out or suffers to be taken out of a mail bag with which he is entrusted for conveyance of any postal article, commits an offence under this Act and on conviction is liable to imprisonment for a term of twenty-one years.

29. Unauthorised opening

A person under a contract for the conveyance of mail bags of postal articles or a person employed by any such person who unlawfully-

(a) opens or suffers to be opened a sealed conveyance; or

(b) takes out or suffers to be taken out of a mail bag with which he is entrusted for conveyance of any postal article, commits an offence under this Act and on conviction is liable to imprisonment for a term of twenty-one years.

30. International postage arrangements

(1) The Postal Service may, with the approval of the President, negotiate and conclude postal treaties or conventions and may establish rates of postage or other charges on mail matter, with other countries.

(2) The Postal Service may make arrangement with other governments with which postal conventions are in force for the exchange of sums of money by means of

postal orders.

31. Rewards

The Postmaster-General may offer and pay rewards for information and services in connection with violations of the postal laws.

32. Responsibility of postmasters

(1) A postmaster shall be responsible for-

(a) the due performance of the duties of the revenue of the post office;
and

(b) the safekeeping of all monies and other property of the post office coming into the custody of the post office.

(2) A postmaster shall keep all monies collected at a post office or which may come into the custody of a post office without-

(a) loaning;

(b) using;

(c) depositing in an unauthorised bank;

(d) or exchanging for other fund,
until it is required by order or regulation of the Postmaster-General.

(3) A postmaster at an office in a town or village where there is no designated depository may make temporary deposits in his official capacity of money in his custody in a bank within the nearest distance of his post office.

33. Establishment and discontinuance of post office

(1) The Postmaster-General may-

(a) establish post offices as he deems expedient;

(b) discontinue post offices when the efficiency of the Postal Service require or revenue are endangered from any cause.

(2) The Postmaster-General, in making a determination whether or not to close a post office shall consider-

(a) the effect of such closing on the community served by the post office;

(b) the effect of such closing on employees of the Postal Service employed at the post office;

(c) whether such closing is consistent with the policy of the Federal Government;

(d) the economic savings to the Postal Service resulting from such closing; and

- (e) such other factors as the Postmaster-General may determine as being relevant.

PART VI

Postage, postage stamp and franking of correspondence

34. Issue of stamped envelopes

- (1) The Postmaster-General may cause to be issued, stamps, stamped envelopes, envelopes for registered postal matters and postal cards of all kinds.
- (2) The Postmaster-General may appoint persons to retail stamps, stamped envelopes, envelopes for registered postal matters and postal cards under such conditions, as regards remuneration, or otherwise, as he may prescribe.
- (3) A person appointed under subsection (2) of this section, who sells any stamp, envelope or postal card at a price other than that fixed by the Postmaster-General, commits an offence under this Act and on conviction, is liable-
- (a) in the case of an individual, to a fine of ₦5,000 or imprisonment for a term of twelve months or to both such fine and imprisonment;
- (b) in the case of a body corporate, to a fine of not less than ₦100,000.

35. Franking of correspondence

- (1) The Postmaster-General may, on application, authorize commercial and banking establishments, corporations or other institutions to use franking machines to frank their heavy posting instead of affixing stamps as stipulated in the relevant section of the Post Office Guide issued by the Postmaster-General under section 61 of this Act.
- (2) Appropriate financial deposits shall be made in advance to cover any franked posting authorised under subsection (1) of this section, at all times.
- (3) Any establishment, corporation or institution using franking machines shall bring the franking machines for setting by the officer duly authorised by the Postmaster-General, whenever the deposited money is exhausted.
- (4) All franked posting shall be presented with appropriate completed forms for cross-checking and acceptance by the Postmaster-General.

36. Power to exempt from payment of postage

- (1) The Federal Government may, by notice in the *Gazette*, exempt a person or class or body of persons from the payment of postage for the transmission within Nigeria by the Postmaster-General of any postal article or class of postal articles.
- (2) An exemption granted under the provisions of subsection (1) of this section shall be subject to such conditions or limitation as the Federal Government may think fit to impose and may be for a specified period.

37. Postal items to be affixed with postage stamps

Except where special arrangements for payment are made, all postage imposed under this Act, shall be paid by means of stamps, which shall be affixed before posting to all

postal article liable to such postage to the amount of the rates of postage payable thereon.

38. Underpaid postal article

If any postal article is underpaid with stamps or does not have any stamp thereon, the article shall be liable to double the unpaid or underpaid postage, as the case may be, and such double postage shall be paid by the person to whom the postal article may be addressed on the delivery of the article to him or any other person on his behalf, unless he or that person refuses to receive the article, in which case, the double postage may be recovered from the person sending the postal article, if he is in Nigeria.

39. Article posted by mistake

When an article is delivered to the Postmaster-General and has thereby become liable to postage and the Postmaster-General is satisfied that the article has been delivered to him by mistake, he may cause the article to be opened in the presence of an officer of the Postal Service who may return the article without charge to the person interested, unless the article contains a letter or manuscript liable to postage, in which case, the Postmaster-General shall retain the article until the full rate of postage on the letter or manuscript has been paid thereon.

40. Recovery of postage due

All postage imposed by or under this Act may be sued for and recovered with full costs of suit before a Magistrate, on the complaint of an officer of the Postal Service in charge of a post office.

41. *Prima facie* evidence

In every proceeding for the recovery of any postage or other sum alleged to be due to the Postal Service under this Act, in respect of a postal article-

(a) the production of a postal article having thereon the official mark of the Postal Service denoting that the article has been refused or unclaimed or that the addressee is dead or cannot be found, shall be *prima facie* evidence of the fact so denoted; and

(b) the person from whom the postal article purports to have come shall, until the contrary is proved be deemed to be the sender thereof.

42. Official mark

The official mark on a postal article denoting that any postage or other sum is due in respect thereof to the Postal Service or to the postal administration of any foreign country shall be *prima facie* evidence that the sum denoted aforesaid is due.

PART VII

Courier service companies

43. Courier service companies to be licensed

(1) Subject to subsection (2) of this section, no person shall operate a courier service in Nigeria, unless the person-

(a) is registered as a company under or pursuant to the Companies and Allied Matters Act; and

[Cap. C20.]

(b) is licensed as a courier service operator under the provisions of this Part of this Act.

(2) Notwithstanding subsection (1) of this section, a company operating a courier service may apply to the Minister within six months of the commencement of this Act to be licensed under the provisions of this Part of this Act.

(3) A person not licensed under subsection (2) of this section, shall cease to operate a courier service in any part of Nigeria.

44. Application for licence

(1) An application for a licence under this Act shall be in writing addressed to the Minister through the Postmaster-General.

(2) The Minister may, before considering the application, require the applicant to produce such evidence or information as to show capacity to operate a courier service as he may deem necessary to enable him to reach a decision on the matter.

(3) An application for a licence, shall be accompanied by such fee as the Minister may, from time to time, prescribe.

45. Granting and duration of licence

(1) The Minister may, on the recommendation of the Postmaster-General, grant a licence to an applicant under this Act if he is satisfied, from all the evidence and information supplied to him, that the applicant is suitable to operate a courier service.

(2) A licence granted under subsection (1) of this section, shall be valid and operative for one year from the date of issue and may be renewed.

46. Renewal of licence

(1) A company wishing to renew a licence granted under section 45 of this Act, shall, not later than three months before the expiry of the licence, apply for a new licence to take effect from the date the current licence expires.

(2) The procedure for the renewal of a licence granted under this Act, shall be the same as for the application for a licence.

(3) A company which fails to renew its licence or whose application for renewal is rejected by the Minister shall cease to operate a courier service.

47. Power to revoke licence

The Minister may revoke any licence granted under section 45 of this Act if he is satisfied that it is in the interest of the public so to do.

48. Company not entitled to fees, etc., unless licensed

A courier service company shall not be entitled to sue for or recover any fees, commission, reward or gain for any services performed by the company unless at the time of performing that service, the company was the holder of a licence granted under section 45 of this Act.

49. Power to deal with suspicious article

(2) If a company, licensed under section 45 of this Act, has reason to suspect that an article with which it is entrusted for conveyance contains anything in respect of which an offence is being committed or attempted to be committed, it shall notify the police forthwith.

(2) If the police-

(a) has reason to suspect that an article, entrusted for conveyance to a company licensed under section 45 of this Act, contains anything in respect of which an offence is being committed or attempted; or

(b) is notified by a company under subsection (1) of this section, that an article with which it is entrusted for conveyance, contains anything in respect of which an offence is being committed or attempted to be committed, a police officer not below the rank of a superintendent of police shall by notice in writing, require the attendance, at the office of the company where the article was received for conveyance, of the addressee and of the person, if any, who notified the police; and thereafter the article shall be opened by the addressee or his agent in the presence of an officer of the company and any other person named or referred to in the notice who attends.

(3) If the addressee of an article or his agent fails or refuses to attend in pursuance of the notice given under subsection (2) of this section or refuses to open the article, the article shall be opened by the police officer in the presence of an officer of the company and of any other person named or referred to in the notice who attends.

(4) In all cases where an article is opened under this section, it shall be given to the addressee, unless it is required for the purpose of any proceedings under this Act or any other enactment for the time being in force.

(5) In this section, "**article**" includes any letter, postcard, newspaper, book, document, pamphlet, pattern or sample packet, parcel or package or other article, whatsoever that may be conveyed by a company licensed under section 45 of this Act.

50. Offences and penalties

(1) A person who operates a courier service without being licensed under section 45 of this Act, commits an offence and on conviction shall be liable to a fine of ₦50,000.

(2) A person who for the purpose of securing a licence under section 45 of this Act, makes a statement or provides information which he knows to be false or does not have reason to believe to be true, commits an offence and on conviction is liable to a fine of ₦5,000.

(3) A company which unlawfully opens or suffers to be opened, a sealed article with which it is entrusted for conveyance, commits an offence under this Act and on conviction is liable to a fine of ₦10,000,

(4) A person employed by a courier service company who unlawfully opens or suffers to be opened a sealed article with which the courier service company is entrusted for conveyance, commits an offence under this Act and on conviction is liable to imprisonment for a term of twenty-one years.

51. Offence by body corporate, etc.

Where an offence under this Part of this Act is committed by a body corporate, firm or other association of individuals-

- (a) every director, manager, secretary or other similar officer of the corporate body;
- (b) every partner or officer of the firm;
- (c) every person concerned in the management of the affairs of the association; or
- (d) every person who was purporting to act in any such capacity as aforesaid, shall severally be guilty of that offence and liable to be prosecuted and punished for the offence in like manner as if he had himself committed the offence in an individual capacity, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

PART VIII

Financial provisions

52. Fund

(1) There shall be established for the Postal Service a fund from which shall be defrayed all expenditure incurred for the purposes of the Postal Service.

(2) The fund established pursuant to subsection (1) of this section shall consist of-

- (a) such sum of money as may be allocated to the Postal Service by the Federal Government;
- (b) such revenues from postal and non-postal services rendered by the Postal Service.

53. Application of the fund

The Board may apply the fund established under section 52 of this Act-

- (a) to the cost of administration of the Postal Service;
- (b) to remuneration, fees and allowances of the members of the Board of the Postal Service;
- (c) to the payment of the salaries, fees and other remuneration, allowances, pensions and gratuities payable to members or employees of the Postal Service.

54. Power to accept gifts

(1) The Postal Service may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person making the gift.

(2) The Postal Service shall not accept a gift if the conditions attached by the person making the gift are inconsistent with its functions.

55. Power to borrow

The Board may, with the consent of the Minister, borrow on such terms and conditions as the Board may determine, such sums of money as the Board may require in the exercise of the functions conferred on the Postal Service under this Act.

56. Award of contracts

The Minister shall, subject to such limitations as may be imposed on him by the President, stipulate conditions for the award of contracts by the Board.

PART IX

Miscellaneous provisions

57. Offices and premises

For the purpose of providing offices and premises necessary for the performance of the functions of the Postal Service, the Postmaster-General may-

- (a) purchase or take on lease any landed property; and
- (b) build, equip and maintain offices and premises.

58. Conduct of criminal and civil proceedings

(1) Subject to the provisions of section 160 of the Constitution of the Federal Republic of Nigeria 1999, a law officer employed in the business of the Postal Service, may conduct prosecutions in respect of offences connected with postal service committed under this Act.

[Cap. C23.]

(2) A law officer in the Postal Service may, with the consent of the Attorney-General of the Federation conduct civil proceedings under or in connection with an enactment relating to the Postal Service.

(3) As regards the conduct of investigation of postal offences, an investigation officer may without warrant, enter and search a building or carrier including air craft, vehicle or container or any other instrumentalities whatsoever, which he has reason to believe is connected with the commission of an offence.

(4) A written receipt issued under the hand of an officer designated by the Postmaster-General shall be given for any material or thing seized under subsection (3) of this section.

(5) The powers conferred under subsection (3) of this section, shall not be exercised, except with an authorisation in writing under the hand of the Postmaster-General, or such officer of the Postal Service as he may designate, stating reasons why he believes the exercise to be necessary.

59. Immunities of servants of the Postal Service

(1) Notwithstanding anything contained in any enactment, whatsoever, no action shall lie or be instituted in any court against the Postal Service, a member or an officer of the Postal Service, for any act done in pursuance of or execution of any enactment or law of any public duty or authority, or in respect of any alleged neglect or default in the execution

of such enactment or law, duty or authority, unless it is commenced within twelve months after the act or default complained of or, in the case of a continuous damage or injury, within twelve months next after the ceasing thereof.

60. Execution or attachment of property

In any action or suit against the Postal Service no execution or attachment or process in the nature thereof shall be issued against the Postal Service, but any sum of money which may, by the judgement of the court, be awarded against the Postal Service shall, subject to any directives given by the court where notice of appeal has been given by the postal Service in respect of the said judgement, be paid from the fund of the Postal Service.

61. Post Office Guide

The Postmaster-General may from time to time revise and issue Post Office Guide containing all or any of the following, that is-

- (a) a declaration of the adoption of the regulations agreed upon by the Universal Postal Union for or respecting or' in relation to the transmission of postal matter and that the same or any part or modification thereof shall be in force within Nigeria;
- (b) rules for the guidance and control of the public dealing with the Postal Service;
- (c) a statement of the rates of postage that may, from time to time, be fixed by the Board, under section 5 (c) of this Act;
- (d) a declaration of what articles may, and what articles may not be transmitted as postal articles;
- (e) a classification of postal articles for the purpose of postal charges;
- (f) the conditions for the registration and insurance of postal articles, and a declaration of the cases in which registration and insurance may be compulsory;
- (g) regulations regarding the payment of compensation for loss or damage to postal articles;
- (h) conditions for the issuance and payment of money orders and postal orders, including the rates of commission thereon;
- (i) the rules for the disposal of undeliverable postal articles;
- (j) the conditions under which and the manner in which special services will be performed for the convenience of individuals;
- (k) the rules for the guidance, conduct and discipline of officers and servants of the Postal Service and the performance of their several duties;

- (l) the statement of the hours during which post offices shall be open for the transaction of various classes of public business;
- (m) the statement of the hours for the posting of postal articles and the late fee charges for postal articles;
- (n) the list of officers who may frank postal articles sent by a public department;
- (o) the rules regulating the business of the Postal Service;
- (p) the statement of the manner in which amendments of the Post Office Guide will be published; and
- (q) such other information as the Postmaster-General may think fit to include.

62. Regulations

The Minister may make regulations-

- (a) on any matter relating to courier service companies;
- (b) generally for the purpose of giving effect to the provisions of this Act.

63. Repeal of Cap. 322 L.F.N. 1990, etc.

- (1) As from the commencement of this Act, the Nigerian Postal Service Department Act shall stand repealed and accordingly, the Nigerian Postal Service Department and the Board of management of the said Nigerian Postal Service Department established under that Act shall be dissolved.
- (2) There shall be transferred to the Postal Service as from the commencement of this Act, all the post offices maintained by the Nigerian Postal Services Department.
- (3) The transitional and saving provisions contained in the Second Schedule to this Act shall have effect notwithstanding anything contained herein or in any other provisions of this Act.

[Second Schedule.]

64. Interpretation

- (1) In this Act, unless the context otherwise requires-

"Board" means the Nigerian Postal Service Governing Board, established under section 2 of this Act;

"contract vessel" means a vessel for the conveyance of mails pursuant to a contract or continuing arrangement;

"Department" means the Nigerian Postal Service Department;

"fictitious postage stamp" means any facsimile or imitation or representation, whether on paper or otherwise, of any stamp or stamped impression, for denoting any rate of postage including any stamp or stamped impression, for denoting a rate of postage in any part of the Federation of Nigeria or of any foreign country;

"letter" means a communication in writing, which is directed to a specific person or address or relates to the personal, private or business affairs of an individual or any employer and not being a correspondence which is not to be transmitted by means of a telecommunication system and includes a packet containing such communication;

"mail bag" means any bag, box, basket, parcel or other envelope or covering, in which postal articles in the course of transmission by post are conveyed, whether it does or does not contain any such article;

"master of vessel" means a person in charge of a vessel excepting a sea pilot;

"Minister" means Minister charged with responsibility for postal matters and **"Ministry"** shall be construed accordingly;

"officer of the Postal Service" includes any person employed in any business of the Nigerian Postal Service or on behalf of the same;

"port" means a place declared to be a port under the Customs, Excise Tariff, etc., (Consolidation) Act;

[Cap. C49.]

"post office" includes a house, building, room, vehicle, vessel carriage or place used for the purpose of the Postal Service and every letter box provided by the Postal Service for the receipt of postal articles;

"postal articles" include any letter, postcard, newspaper, book, document, pamphlet, pattern or sample packet, parcel or package or other article whatsoever transmissible by post;

"Postal Service" means the Nigerian Postal Service established by section 1 of this Act;

"postage stamp" means any label, stamp or stamped impression for denoting any rate of postage payable in respect of postal articles and includes adhesive postage stamps and stamps printed, embossed, impressed or otherwise indicated on any envelope, wrapper, postcard or other article, whether such postage stamp is issued under this Act or by the Government of any foreign country;

"transit" in relation to postal articles, means transit through and between post offices within or outside Nigeria.

(2) For the purpose of this Act, postal article shall be deemed-

(a) to be "in course of transmission" by post, from the time of its being posted at or delivered to the post office, to the time of its being delivered to or taken delivery of by the addressee or its being returned; or

(b) to cease to be such from the time of its being delivered to, or taken delivery of by the addressee or of its being returned or delivered to the sender or otherwise disposed of under the provisions of this Act.

(3) The placing or delivery-

(a) of an article in any receiving box for the deposit of postal articles, or the delivery of an article to an officer of the Postal Service in the course of his duties; or

(b) the delivery of a postal article at the house or office, private mail bag, and private letter box of the addressee or to the addressee (or to his servant or agent or other person considered to be authorised to receive the article according to the usual manner of delivering postal articles to the addressee) and where the addressee is a guest or is resident at a hotel, delivery to the proprietor or manager therefore or to his agent, shall be deemed to be delivery to the addressee.

65. Short title

This Act may be cited as the Nigerian Postal Service Act.

FIRST SCHEDULE

[SECTION 2 (3).]

Proceedings of the Board

1. (1) The Board shall meet for the conduct of its business at such time, place and on such day as the chairman may appoint, but shall meet not less than twice in a year.

(2) The chairman may, at any time and shall, at the request in writing of not less than five members summon a meeting of the Board.

(3) Particulars of the business to be transacted at any meeting shall be circulated to members, with the notice of the meeting of the Board.

(4) Every question put before the Board at a meeting shall be decided by a majority of the votes of the members present and voting.

(5) Four members of the Board shall form a quorum at any meeting of the Board.

(6) The chairman shall preside at all meetings of the Board and in the absence of the chairman, the alternate chairman shall preside at that meeting.

(7) The chairman shall at any meeting, have a vote and in the case of an equality of votes, may exercise a casting vote.

(8) Subject to the provisions of this Act, the Board may make standing orders with respect to the holding of meetings, the nature of notice to be given, the proceedings thereto, the keeping of minutes of such proceedings and the custody and production for inspection of such minutes.

Committees

2. (1) The Board may appoint one or more committees to advise it on the exercise and performance of its functions under this Act.

(2) Every committee shall consist of-

(a) a chairman, who shall be appointed by the Board from among the members of the Board;

(b) not more than five persons (who may or may not be members of the Board), so however that any non-member of the Board co-opted to serve on any committee shall enjoy all the rights and privileges of a member except the right to vote and be counted towards a quorum.

(3) In this paragraph, "**chairman**" means the chairman of a committee.

Miscellaneous

3. (1) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed on behalf of the Board by any person generally or specifically authorised in that behalf by the Board.

(2) Any member of the Board or of a committee thereof, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or a committee thereof, shall forthwith disclose his interest to the Board or the committee, as the case may be, and shall not vote on any question relating to such contract or arrangement.

4. (1) The common seal of the Board shall not be used or affixed to any document, except in pursuance of a resolution duly passed at a properly constituted meeting of the Board and recorded in the minutes of the meeting.

(2) The fixing of the seal of the Board shall be authenticated by the signature of the chairman or some other members authorised generally or specifically by the Board, to act for that purpose.

(3) A document purporting to be a document duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

SECOND SCHEDULE

[Section 63 (3).]

TRANSITIONAL PROVISIONS

Supplementary provisions relating to the employees, assets and liabilities, etc., of the dissolved Nigerian Postal Service Department

Staff

1. The Postal Service shall, subject to the provisions of this Schedule, employ such persons being persons on the established staff of the Nigerian Postal Service Department dissolved by this Act (referred to in this Schedule as the dissolved Department) and serving in the said Department immediately before the commencement of this Act.

2. Notwithstanding paragraph 3 of this Schedule, the Postal Service shall not employ any person on such terms and conditions as are less favourable than those enjoyed by that person at the date of such offer.

3. For the purposes of this paragraph, the terms and conditions relating to any employment shall not be construed as being less favourable merely because they are not in all respect identical with or superior to the terms and conditions enjoyed by the person concerned at the date of such employment, if the first mentioned terms and conditions taken as a whole offer substantially equivalent or greater benefits.

4. If a person refuses an offer of employment made to him pursuant to the foregoing paragraph, the obligation imposed on the Postal Service by paragraph 1 of this Schedule to employ that person shall thereupon determine.

5. When a person accepts employment made pursuant to the foregoing paragraphs, his service with the Postal Service shall be deemed to have commenced.

Transfer of contracts, etc.

6. (1) The provisions of this paragraph shall apply to all contracts or other instruments subsisting immediately before the commencement of this Act and entered into by the dissolved Department.

(2) By virtue of this Act, there shall be vested in the Postal Service from the commencement of this Act and without any further assurance, all assets, funds, resources and other movable or immovable property which immediately before the commencement of this Act were vested in the dissolved Department.

(3) Accordingly-

(a) the rights, interest, obligations and liabilities of the Department existing under any contract or instrument, or at law or in equity, apart from any contract or instrument, shall by virtue of this Act be assigned to and vested in the Postal Service;

(b) any proceeding, contract or instrument as is mentioned in subparagraph (a) of this paragraph shall be enforced and effected against or in favour of the Postal Service and shall be enforceable as fully and effectively as if instead of the Department, the Postal Service had been named therein or had been a party thereto; and

(c) any proceeding or cause of action pending or existing, or which could have been taken by or against the Postal Service in respect of any right, interest, obligation or liability of the Department, may be continued or enforced or taken by or against the Postal Service as if this Act had not been made.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation