

# NIGERIAN PORTS AUTHORITY ACT

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NIGERIAN PORTS AUTHORITY ACT

**An Act to establish the Nigerian Ports Authority with the functions of providing and operating necessary facilities in ports and maintaining, improving and regulating the use of the ports; and to provide for matters connected therewith.**

[1999 No. 38.]

[10th May, 1999]

[ Commencement.]

PART I

*Establishment, etc., of the Nigerian Ports Authority and its Governing Board*

**1. Establishment of the Nigerian Ports Authority**

(1) There is hereby established, an authority to be known as the Nigerian Ports Authority (in this Act referred to as "the Authority").

(2) The Authority-

- (a) shall be a body corporate, with perpetual succession and a common seal; and
- (b) may sue and be sued in its corporate name.

**2. Establishment and membership of the governing Board**

(1) There is hereby established for the Authority, a governing Board which shall consist of-

- (a) a chairman;
- (b) one person to represent the Federal Ministry of Transport;
- (c) five persons with experience in shipping and commercial matters;
- (d) the managing director of the Authority; and
- (e) the executive directors of the Authority.

(2) The chairman and members of the Board, other than *ex-officio* members, shall-

- (a) be appointed by the President on the recommendation of the Minister; and
- (b) be persons with proven integrity and with relevant cognitive experience.

(3) The Board shall have a secretary, who shall be the head of the legal department of the Authority.

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

[First Schedule.]

### **3. Tenure of office, etc.**

The chairman and other members of the Board, other than *ex-officio* members--

- (a) shall hold office for a period of four years on such terms and conditions as may be specified in their letters of appointment; and
- (b) may be reappointed for one further period of four years.

### **4. Removal from office, etc.**

(1) Notwithstanding the provisions of section 3 of this Act, a member may at any time be removed from office by the President, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

(2) A member of the Board may resign his appointment by a notice in writing under his hand addressed to the President and that member shall, on the date of the receipt of the notice by the President, cease to be a member of the Board.

### **5. Emoluments, etc.**

A member of the Board shall be paid such emoluments, allowances and benefits as the President may, from time to time, approve.

### **6. Disclosure of interest**

(1) A member of the Board who is directly or indirectly interested in any matter being deliberated on by the Board or is interested in any contract made or proposed to be made by the Authority shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under subsection (1) of this section shall be recorded in the minutes of meetings of the Board and the member shall--

- (a) not, after the disclosure, take part in any deliberation or decision of the Board; and
- (b) be excluded for the purpose of constituting a quorum of any meeting of the Board for any deliberation or decision,

with regard to the subject matter in respect of which his interest is so disclosed.

## **PART II**

### *Functions and powers*

### **7. Functions of the Authority**

The functions of the Authority shall be to-

- (a) provide and operate, in the ports, such facilities as appear to it best calculated to serve the interest of Nigeria;
- (b) maintain, improve and regulate the use of the ports;
- (c) ensure the efficient management of port operations, optimal allocation and use of resources, diversification of sources of revenue and guaranteeing adequate returns on its investments, in order to contribute effectively to the wellbeing of the Nigerian society;
- (d) provide, for the approaches to all ports and the territorial waters of Nigeria, such pilotage services and lights, marks and other navigational services and aids, including cleaning, deepening and improving of all waterways;
- (e) provide facilities for-
  - (i) berthing, towing, mooring, moving or dry-docking of ships, in entering or leaving a port or its approaches;
  - (ii) the loading and unloading of goods or embarking or disembarking of passengers in or from a ship;
  - (iii) the lighterage or the sorting, weighing, warehousing and handling of goods; and
  - (iv) for the carriage of passengers or goods;
- (f) manage, supervise and control or take part in the management, supervision or control of any company or undertaking in which the Authority is interested, by reason of shareholding or otherwise and for that purpose appoint and remunerate directors, accountants, other experts and agents;
- (g) provide and use appliances for the towage or protection, or salvage of life and property or for the prevention of fire within Nigeria and on vessels on the high seas;
- (h) supply water to shipping vessels;
- (i) control pollution arising from oil or any other substance from ships using the port limits or their approaches;
- (j) provide and operate such other services as the Minister may, from time to time, require; and
- (k) carry out such other activities which are connected with or incidental to its other functions under this Act.

## **8. Powers of the Authority**

The Authority shall have power to-

- (a) construct, execute, carry out, equip, improve, work and develop ports, docks, harbours, piers, wharves, canals, water courses, embankments and jetties;
- (b) invest and deal with the monies of the Authority not immediately required on such securities or in such investments and manner as may, from time to time, be expedient;



- (c) erect, construct, lay down, enlarge, maintain and alter any building, erection and work which may seem directly or indirectly necessary or convenient for any of its purposes;
- (d) act as consultants and advisers in relation to ports and port operations in Nigeria or in any part of the world;
- (e) carry on the business of carrier by land or sea, stevedore, wharfinger, warehouseman or lighterman or any other business desirable for the functions of the Authority;
- (f) acquire any undertaking of any registered business that affords facilities for the loading, unloading or warehousing of any goods in any port in Nigeria;
- (g) appoint, license and manage pilots of vessels;
- (h) insure all goods and consignments that are in the custody of the Authority;
- (i) control the erection and use of wharves in any port or its approaches;
- (j) buy any property, and sell, let, lease or otherwise dispose of any property, which appears to the Authority to be unnecessary for its purposes;
- (k) enter into agreement with any person for the supply, construction, manufacture, maintenance or repair by that person of any property, movable or immovable, necessary for the purposes of the Authority;
- (l) enter into agreement with any person for the operation or the provision of any of the port facilities which may be operated or provided by the Authority;
- (m) provide, appoint, license and regulate weighers and meters for measuring goods in any port in Nigeria;
- (n) reclaim, excavate, enclose, raise or develop any of the lands acquired by or vested in the Authority;
- (o) win sand from the ports and their approaches for such purposes as it may deem fit;
- (p) do anything for the purpose of advancing-
  - (i) the skills of persons employed by the Authority; or
  - (ii) the efficiency of the equipment of the Authority or of the manner in which that equipment is operated,
 including the provision by others of the facilities for training, education and research;
- (q) provide residential accommodation, houses, hostels and other like accommodation for its deserving employees on terms and conditions to be determined, from time to time, by the Authority, in order to promote the welfare of its employees;
- (r) purchase, take on lease or in exchange or otherwise acquire, hold, manage, work, develop the resources of and turn to account any estate, land, building, tenement, and other real property of any description, including leasehold or other tenure and wheresoever situate and any interest therein and any right connected therewith, and in particular, to acquire or take over estates situated, in Nigeria;

- (s) grant loans to its deserving and needy employees for the purposes specifically approved by the Authority on such terms and conditions to be determined by the Authority at its discretion and in such a manner as is likely to increase the effectiveness of such employees in their service to the Authority, or otherwise for the purpose of the functions of the Authority;
- (t) provide loans to any of its employees for the purpose of -
  - (i) building a house;
  - (ii) purchasing a plot of land on which to build a house; and
  - (iii) purchasing a house for the employee's use or for the residential use of the employee's family,
 on such terms and conditions to be determined by the Authority, at its discretion;
- (u) fabricate and repair vessels, engines, boilers and all items being used in vessels;
- (v) carry on the business of ship builders, engineers and manufacturers of machinery;
- (w) purchase or otherwise acquire, take on lease, construct, maintain, work and use wet and dry docks, ships, quays, wharves, piers, warehouses, buildings, yards and every kind of property, structure, appliance and anything necessary for equipping, salvaging and assisting ships;
- (x) form, establish or incorporate subsidiaries or affiliate companies, whether wholly or jointly, with other persons or organisations for the purpose of carrying out any of the functions of the Authority; and
- (y) do such other things as are necessary for the successful performance of its functions under this Act.

#### **9. Power to act through officer or agent, etc.**

The Authority may perform or exercise any of its functions or powers under this Act, other than the power to make regulations, through an officer or agent of the Authority or through any other person authorised by the Authority in that behalf.

### PART III

#### *Staff*

#### **10. Managing director and executive directors of the Authority**

- (1) There shall be, for the Authority, a managing director to be appointed by the President.
- (2) The managing director-
  - (a) shall hold office for a period of five years, on such terms and conditions, as may be specified in his letter of appointment; and
  - (b) may be reappointed for a further period of five years.
- (3) The managing director shall be the chief executive of the Authority and be responsible--
  - (a) for the execution of the policy and the day-to-day administration of the Authority;
  - (b) for the direction, supervision and control of all other employees of the Authority and, subject to such restrictions as the Board may impose, for disposing of all questions relating to the service of the employees, their pay, allowances and privileges;
  - (c) for matters concerning the accounts and records of the Authority.
- (4) The President shall appoint for the Authority, three executive directors to assist the managing director in the performance of his functions under this Act.
- (5) An executive director-
  - (a) shall hold office for a period of four years, on such terms and conditions as

- may be specified in his letter of appointment;
- (b) may be reappointed for a further period of three years; and
  - (c) perform such functions as may, from time to time, be assigned to him by the managing director and the Board.

#### **11. Other staff of the Authority, etc.**

(1) The Authority shall appoint such other persons as employees as it may deem necessary for the efficient performance of its functions under or pursuant to this Act and shall have power to pay persons so employed such remuneration (including allowances), as the Authority may, from time to time, determine.

(2) The Authority may, with the approval of the Minister, make regulations generally relating to the conditions of service of employees of the Authority, and in particular, but without prejudice to the generality of the foregoing, may make regulations relating to-

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, the employees;
- (b) appeals by the employees against dismissal or other disciplinary measures;
- (c) the grant of pensions, gratuities and other retiring allowances to the employees and their dependants, and the grant of gratuities to the estates or dependants of deceased employees of the Authority;
- (d) the establishment and maintenance of medical benefit funds, superannuation funds and provident funds, and the contributions payable to and the benefits receivable from those funds.

#### **12. Service in the Authority to be pensionable**

(1) Service in the Authority shall be approved service for the purpose of the Pensions Act, and accordingly, an officer and other persons employed in the Authority shall in respect of their service in the Authority be entitled to pensions, gratuities and other retirement benefits as are prescribed under that Act.

[Cap. P4.]

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

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

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

## PART IV

### *Financial provisions*

#### **13. Fund of the Authority**

The Authority shall maintain a fund which shall consist of-

- (a) all sums collected as charges, levies and fees under this Act;
- (b) all other sums collected or received by the Authority for services rendered by the Authority;
- (c) all monies borrowed and capital raised by the Authority under this Act or any other enactment;
- (d) such other sums as may be received by the Authority from other sources;
- (e) all other assets which may, from time to time, be vested in or accrue to the Authority in the course of discharging its functions under or pursuant to this Act.

#### **14. Reserve funds**

(1) Without prejudice to the power of the Authority to set aside from its revenue appropriate amounts for replacement, contingencies and other purposes, the Authority shall establish and maintain a general reserve fund and such other reserve funds as the Minister may, from time to time, approve.

(2) The management of the reserve funds, the amount to be credited to and charges to be made against the reserve funds and any other application of the monies comprised in the reserve funds, shall be as the Authority may, with the approval of the Minister, determine.

#### **15. Application of surplus revenue**

Any excess of the Authority's revenues for any year over its outgoings and charges for that year, shall be applied for such purposes as the Authority may determine, but no part of the excess shall be applied otherwise than for the purposes of the Authority.

## **16. Power to borrow money and raise capital from non-Government sources**

(1) The Authority may, with the approval of the Minister, borrow money or raise capital, otherwise than from the Government, by the issue, in such form as may be approved, of stock, bonds, promissory notes, loan certificates or other documents of title, for all or any of the following purposes, that is-

- (a) the performance of its functions under this Act;
- (b) the provision of its working capital;
- (c) the redemption or repayment of any capital raised or money borrowed, which the Authority is required or entitled to redeem or repay; and
- (d) the provision of money for meeting any expenditure which is properly chargeable to capital account.

(2) For the purposes of payment of interest, repayment or redemption, monies borrowed or capital raised under this section, shall rank equally with all other monies borrowed or capital raised under this section.

(3) The payment of interest on and the repayment or redemption of any money borrowed or capital raised under this Act, shall have priority over the payment of interest on any money borrowed or capital raised from the Government under section 17 of this Act.

(4) Money borrowed by the Government for the exclusive purpose of re-lending to the Authority and, accordingly, re-lent to the Authority, shall be deemed to be money borrowed otherwise than from the Government and, shall, accordingly, be deemed to be money borrowed or capital raised under this section.

(5) Money owed by the Authority under an arrangement by which the money is allowed to remain unpaid for a period greater than one year, shall be deemed to be money borrowed under this section.

## **17. Power to borrow money from Government sources, etc.**

The Authority may borrow money, other than money borrowed by the Government for the exclusive purpose mentioned in section 16 (4) of this Act, or raise capital from the Government in such manner and on such terms and conditions as the Minister may approve for all or any of the purposes mentioned in section 16 (1) of this Act.

## **18. Power to borrow money temporarily**

(1) The Authority may, with the approval of or general authority given by the Minister, borrow temporarily, by way of loan, overdraft or otherwise, such sums, repayable on demand or within one year after the date of borrowing, as the Authority may require for meeting its obligations and discharging its functions under this Act.

(2) The sums specified under subsection (1) of this section, may be borrowed from the Government or from any other person on such terms and conditions as may be approved by the Minister.

## **19. Investment of monies**

The Authority may invest all or any part of its monies in such manner as may be approved by the Minister.

## **20. Annual estimates, accounts and audit**

(1) The Board shall cause to be prepared, not later than 30 September in each year, an estimate of the expenditure and income of the Authority during the next succeeding year and when prepared, they shall be submitted through the Minister to the President for approval.

(2) The Board shall cause to be kept proper accounts of the Authority and proper records, in relation thereto and when certified by the Board, the accounts shall be audited by auditors appointed by the Authority from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

## **21. Annual report and periodical returns**

(1) The Authority shall, not later than six months after the end of each year, submit to the Minister a report on the activities of the Authority during that year.

(2) The report shall be prepared in such form, contain such particulars and compiled in such manner, as the Minister may, after consultation with the Authority, from time to time, direct.

## **22. Exemption from tax**

(1) The Authority shall be exempted from the payment of income tax on any income accruing from investments made by the Authority or otherwise howsoever.

(2) The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Authority.

## **23. Power to accept gifts**

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

(2) The Authority shall not accept any gift if the conditions attached by the person or organisation making the gift are inconsistent with the functions of the Authority under this Act.

## **PART V**

### *Provisions relating to land*

## **24. Compulsory acquisition of land**

(1) When there is any hindrance to the acquisition by the Authority of any land or building required for carrying into effect any of the provisions of this Act, the President may-

- (a) on the application of the Authority and after such inquiry as he may think fit, declare that the land or building is required for the services of the Authority; and
- (b) direct that action be taken under the provisions of the Land Use Act for acquiring the land or building for the Federal Government or, as the case may

require, for revoking any rights thereto, and for determining the compensation to be paid to the parties interested.

[Cap. L5.]

(2) On the making of a declaration under subsection (1) of this section, the land to which it relates shall be deemed to be land required for a public purpose within the meaning of the Land Use Act.

[Cap. L5.]

(3) When a land or building has been acquired or the rights to it has been revoked, as provided in this section, the President may-

- (a) vest the land or building in the Authority by means of a certificate under the hand and seal of the Chief Federal Lands Officer, to the effect that the land or building has been made over to the Authority; or
- (b) as the case may require, direct that a right of occupancy in respect of the land or building be granted to the Authority.

(4) The compensation, if any, for an acquisition or a revocation, as the case may be, under this section, shall in the first instance be paid by the Federal Government, but the Authority shall refund to the Federal Government any compensation so paid and all incidental expenses incurred by the Federal Government.

(5) All authorities within Nigeria shall give effect to any direction given by the President in accordance with the provisions of this section.

(6) The Authority may use the land or building acquired under this section for any purpose connected with its functions under this Act.

## **25. Restrictions on alienation of land**

(1) The Authority shall not, without the approval in writing of the President, alienate, mortgage, charge or lease any immovable property which has been vested in the Authority or in respect of which a right of occupancy has been granted to the Authority.

(2) Notwithstanding the provisions of subsection (1) of this section, the Authority may alienate, charge or mortgage any immovable property for a period not exceeding five years and may terminate, revoke or release any mortgage of, charge on or lease of any immovable property vested in it.

## **26. Power to enter land to erect beacons and make surveys**

The Authority may, by its employees or agents, together with all necessary workmen-

- (a) enter and remain on any land for the purpose of erecting or maintaining any beacon, buoy or mooring, or of examining, repairing, altering or removing any beacon, buoy or mooring;
- (b) erect and maintain any beacon, buoy or mooring on or in any land, swamp, embankment, wharf, or the shore or bed of any tidal or other waters, and alter or remove any beacon, buoy or mooring, but no beacon, buoy or mooring shall be so placed on any road as to hinder or interfere with free passage along the road; and

- (c) for the purposes of its functions, survey and take levels of any land and cut and remove all trees and underwood which may interfere with the survey.

### **27. Power to remove obstruction to visibility of lighthouses and beacons**

An authorised employee of the Authority may, with all proper assistance where required, enter on any land and cut and remove all trees, underwood and vegetation, which may interfere with the visibility of any lighthouse or beacon from any other point or place.

### **28. When notice of entry on land to be given**

The Authority shall, when practicable, give notice to the occupier of any land on which it intends to enter in exercise of any of the powers conferred by sections 26 and 27 of this Act and shall inform the appropriate authority in the State in which the land is situated or the Federal Capital Development Authority, if the land is situated in the Federal Capital Territory, Abuja, of its intention.

### **29. Compensation for damages**

(1) In the exercise of any of the powers conferred on the Authority by sections 26 and 27 of this Act, the Authority shall do no more damage than is necessary, and compensation shall be paid by the Authority for any damage done to any crop or economic tree, but not otherwise.

(2) Any dispute as to the amount of compensation payable under subsection (1) of this section shall be determined by the High Court exercising jurisdiction in the place where the land is situated.

## **PART VI**

### *Declaration of ports*

### **30. Power to declare places, etc., as ports, their limits and approaches**

(1) The Minister may, by order-

- (a) declare any place in Nigeria and any navigable channel leading into that place, to be a port within the meaning of this Act;
- (b) specify the limits of any place declared, as a port in accordance with paragraph (a) of this subsection;
- (c) declare any navigable channel leading into a port to be an approach to that port, within the meaning of this Act.

(2) The places specified in the Second Schedule to this Act, shall be deemed to be ports, and the limits of those ports shall, until other provision is made in accordance with paragraph (b) of subsection (1) of this section, be the limits declared and in force immediately before the commencement of this Act, including-

[Second Schedule.]

- (a) all ocean beaches within 100 metres of the high-water level;
- (b) the waterways, creeks and swamp-land below the highest astronomical tide level and all beacons, moles, piers, jetties, slipways, quays and other works, extending beyond the natural line of the high-water level.



## PART VII

### *Regulation of ports*

#### **31. Power to appoint harbour master**

The Authority may appoint a harbour master in respect of a port.

#### **32. Power of Authority to make port regulations**

(1) The Authority may, with the approval of the Minister, make regulations for the maintenance, control and management of any port and for the maintenance of good order therein, and, in particular and without prejudice to the generality of the foregoing power, may make regulations for all or any of the following purposes, that is-

- (a) regulating traffic within the limits of a port or the approach to a port;
- (b) regulating the berths and stations to be occupied by ships and the removal of ships from one berth, station or anchorage to another berth, station or anchorage, and the time within which the removal shall be effected;
- (c) regulating ships whilst taking in or discharging ballast or cargo;
- (d) keeping free passages of such width as is deemed necessary within any port and along or near to the piers, jetties, landing places, wharves, quays, docks, moorings and other similar works in or adjoining the port and for marking out the spaces to be kept free;
- (e) regulating the anchoring, fastening, mooring and unmooring and warping of all ships and the use of warps, mooring buoys, chains and other moorings;
- (f) regulating traffic, preventing obstruction and keeping order on piers, jetties and wharves and ensuring the safety of piers, jetties and wharves and any cargo on them;
- (g) regulating the use of fires and lights and the signals to be used and measures to be taken, by day and by night, in case of fire in a port;
- (h) enforcing and regulating the use of navigating lights or signals and of signal lights by ships;
- (i) regulating the flags and signals to be used by ships arriving at, lying in and departing from a port;
- (j) regulating the manner in which ships arriving a port, shall be boarded by the harbour master, and the information to be supplied to him by the master of the ship;
- (k) regulating the use by ships of steam whistles, steam sirens and other like instruments;
- (l) prohibiting chipping, scaling or noisy repairs on ships, except at such anchorages or places and at such times as may be prescribed or as the harbour master may appoint;
- (m) prohibiting or regulating the erection, maintenance and working of fishing stakes, prescribing the nature of the nets or stakes which may be used, and

providing for the licensing of persons authorised to erect and maintain fishing stakes and nets, and prescribing the fees which shall be paid for the licence;

- (n) regulating, whether by way of prohibition or otherwise, the floating of timber, casks or other objects in any port or in the approach to any port and the casting or depositing of any dead body, ballast, rubbish, or other thing into any port or in the approach to any port, in contravention of this Act and for the redemption on payment of expenses and a penalty, within a time limit to be fixed, of anything forfeited;
- (o) providing for the forfeiture of anything found in any port or in the approach to any port in contravention of this Act;
- (p) prescribing the duties of masters of ships carrying gunpowder or other explosive or dangerous cargo, and of persons engaged in or supervising the shipping, unshipping, landing and transporting of the cargo;
- (q) regulating the placing and maintaining of moorings or buoys;
- (r) regulating and licensing weighing and metering of goods; and
- (s) regulating and licensing porters and carriers and other labourers employed in the working of port facilities.

(2) For the breach of any regulation made under subsection (1) of this section, the Authority may prescribe, as a penalty, a fine not exceeding ₦5,000 and, in the case of a continuous breach, a further fine not exceeding ₦500 a day for every day after the first day during which the breach continues, or a term of imprisonment not exceeding twelve months or both such fine and imprisonment.

## PART VIII

### *Regulation of piers in ports*

#### **33. Restriction on the erection, etc., of piers**

(1) No person shall erect, re-erect, alter, extend, own or occupy a pier in a port or in the approach to a port, except under and in accordance with a licence granted by the Authority.

(2) A person who contravenes any of the provisions of subsection (1) of this section, is guilty of an offence and liable on conviction to a fine not exceeding ₦5,000 or imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

#### **34. Licences for erection, etc., of piers**

(1) The Authority may-

- (a) on payment of the prescribed fee and in the prescribed form, grant a licence for the purposes of section 33 of this Act;
- (b) renew a licence granted under paragraph (a) of this subsection.

(2) The grant or renewal of a licence under subsection (1) of this section shall be at the discretion of the Authority.

(3) A licence shall be subject to such conditions as may be prescribed and to such special conditions endorsed on it as the Authority may see fit to impose.

### **35. Cancellation of licence for breach of condition or contravention of regulation or public interest**

(1) The Authority may cancel a licence granted under section 34 of this Act-

- (a) on proof to its satisfaction of a breach of any condition of the licence or of a contravention by the holder of the licence of any regulation made under section 37 of this Act;
- (b) whenever it thinks it proper in the public interest, in which case the holder of the licence shall be entitled to reasonable compensation by the Authority unless express provision to the contrary is contained in the licence.

(2) When the amount of compensation payable under subsection (1) (b) of this section is not agreed, the amount shall be determined by the High Court within whose area of jurisdiction the pier is located, in the like manner as the amount of compensation is determined under the law for the time being regulating the acquisition of land for public purposes.

### **36. Removal of piers**

(1) An employee of the Authority authorised by the Authority may remove or cause to be removed a pier in any port or in the approach to any port or any portion of the port or approach and may, for that purpose, enter on any land or pier if-

- (a) the holder of a licence granted in respect of the pier is required in accordance with any regulation made under section 37 of this Act to remove the pier and he refuses or neglects to do so within the time specified; or
- (b) the pier has been erected, re-erected, altered or extended without a licence or is owned or occupied without a licence; or
- (c) the licence granted in respect of the pier has been cancelled under the provisions of this Act; or
- (d) the licence granted in respect of the pier has expired.

(2) Except when the licence granted in respect of the pier has been cancelled under section 35 of this Act, the costs and expenses of and in connection with the removal--

- (a) shall be defrayed by the holder of the licence; and
- (b) may be recovered from him at the suit of the Authority in any court of competent jurisdiction.

### **37. Regulations relating to piers**

(1) The Authority may, with the approval of the Minister, make regulations for all or any of the following purposes, that is--

- (a) controlling the erection, re-erection, alteration, extension and use of piers in any port or in the approach to any port;
- (b) requiring the owners or occupiers of piers to maintain the piers and the approaches to the piers in a proper state of repair;

prescribing the fees to be paid for any licence issued under section 34 of this

- (c) prescribing the fees to be paid for any licence issued under section 34 of this Acts
- (d) prescribing the forms for the licences and applications for those licences;
- (e) for the proper lighting of piers;
- (f) requiring such life-saving apparatus as may be specified in the regulations to be kept on piers;
- (g) the period of validity of the licences; and
- (h) generally for giving effect to the provisions and purposes of this Part of this Act.

(2) For the breach of any regulation made under this section, the Authority may prescribe, as a penalty, a fine not exceeding ₦5,000 and, in the case of continuous breach, a further fine not exceeding ₦500 a day for every day after the first day during which the breach continues or a term of imprisonment not exceeding twelve months or both such fine and imprisonment.

### **38. Application to the State**

The provisions of this Part of this Act, excluding the provisions of sections 34 (1) and 37 (2) of this Act, shall bind the State.

## **PART IX**

### *Regulation of the wharves, etc., of the Authority*

### **39. Authority to set apart customs area**

(1) Where any part of the wharves or premises vested in or in the possession of the Authority is appointed a customs area for the purposes of the Customs and Excise Management Act, the Authority shall-

[Cap. C45.]

- (a) set apart and maintain that area; and
- (b) provide office accommodation in that area in such manner as the Nigerian Customs Service may require for the use of persons entitled to collect duties of customs.

(2) The cost of setting apart and maintaining a customs area and of providing office accommodation in the customs area under subsection (1) of this section, shall be borne by the Nigerian Customs Service.

### **40. Power of the Authority to make bye-laws for control, etc., of wharves**

(1) The Authority may make bye-laws for the control and management of the wharves and premises vested in or in the possession of the Authority and the maintenance of good order in the wharves and premises and, in particular may, without prejudice to the generality of the foregoing power, make bye-laws for all or any of the following purposes-

- (a) regulating, declaring and defining the wharves, docks, piers and places vested in or in the possession of the Authority on and from which goods shall be landed and shipped;

- (b) regulating the manner in which and the conditions under which the loading and discharging of ships shall be carried out;
- (c) regulating the use of any shed, warehouse and railway vested in or in the possession of the Authority;
- (d) the exclusion and removal from the premises of the Authority of idle and disorderly or other undesirable persons and trespassers;
- (e) regulating the conduct of persons employed on the wharves and premises vested in or in the possession of the Authority;
- (f) regulating any ferry service maintained by the Authority;
- (g) for the management of the lighthouses of the Authority; and
- (h) setting up pollution control guidelines and monitoring oil spillage, dumping of waste and garbage by ships arriving at the ports, wharves and jetties.

(2) For the breach of any regulation made under subsection (1) of this section, the Authority may prescribe, as a penalty, a fine not exceeding ₦5,000 and, where the breach is a continuous breach, a further fine not exceeding ₦500 for every day after the first day during which the breach continues or imprisonment for a term not exceeding six months or both such fine and imprisonment.

(3) The Authority shall keep at its office in each port, a copy of the bye-laws made under this section which are for the time being in force and shall allow any person to inspect it, without the payment of a fee, at all reasonable times.

## PART X

### *Pilotage*

#### **41. Minister may establish pilotage districts**

(1) The Minister may, by order in the *Gazette*, establish a pilotage district-

- (a) in any port; or
- (b) in the approach to any port; or
- (c) in the territorial waters of Nigeria; or
- (d) in the exclusive economic zone of Nigeria.

(2) An order made under subsection (1) of this section may-

- (a) provide that, in any pilotage district or in any part of a pilotage district, pilotage shall be compulsory; and
- (b) define the limits of any pilotage district, distinguishing, where pilotage is compulsory in a part of the district, the part of the district in which pilotage is compulsory.

(3) Until other provision is made by an order made under this section, any pilotage district defined by regulations or order in force immediately before the commencement of this Act, shall be deemed to be a pilotage district for the purposes of this Act, and every area in which pilotage was made compulsory under the regulations or order, shall be deemed to have been defined as a compulsory pilotage area under this section.

#### **42. Obligations where pilotage is compulsory**

(1) A ship, other than an excepted ship, shall, while navigating in a pilotage district in which pilotage is compulsory, be under the pilotage of-

- (a) an Authority pilot; or
- (b) a licensed pilot of the district,

for the purpose of entering, leaving or making use of the port in the district.

(2) A ship being moved within a port which is or forms part of a pilotage district, shall be deemed to be a ship navigating in a pilotage district, except so far as may be provided by regulations made by the Authority under this Part of this Act.

(3) For the purposes of subsection (1) of this section, the following ships are excepted ships-

- (a) ships belonging to any of the armed forces of the Federation;
- (b) ships owned or operated by the Authority;
- (c) pleasure yachts;
- (d) ferry boats plying as such exclusively within the limits of a port;
- (e) ships not exceeding ten tons gross tonnage;
- (f) tugs, dredgers, barges or similar vessels, the ordinary course of navigation of which does not extend beyond the limits of a port; and
- (g) ships exempted from compulsory pilotage by regulations made by the Authority under this Part of this Act.

#### **43. Power of Authority in relation to pilots**

Subject to the provisions of this Part of this Act, the Authority may-

- (a) license pilots for a pilotage district; and
- (b) do such other things in relation to pilots in a pilotage district, as are necessary or expedient for carrying into effect the Authority's powers and duties under this Part of this Act.

#### **44. Establishment and membership of pilotage boards**

(1) The Minister, by order-

- (a) may, for a pilotage district; and
- (b) shall, for a pilotage district in which or in any part of which pilotage is compulsory,

establish a pilotage board for the pilotage district.

(2) A pilotage board shall consist of-

- (a) the harbour master of the port, as chairman; and
- (b) not less than two or more than four persons appointed by the Authority, with the approval of the Minister.

(3) An appointed member of a pilotage board may-

- (a) be appointed for a period not exceeding three years, and be reappointed; and
- (b) at any time resign from membership of a pilotage board by sending his resignation in writing to the Authority.

#### **45. Duties of pilotage board**

A pilotage board shall-

- (a) hold inquiries concerning the conduct of pilots in the discharge of their duties in the pilotage district;
- (b) license pilots for the pilotage district on behalf of the Authority; and
- (c) hold examinations in connection with the licensing of pilots for the pilotage district.

#### **46. Meetings of pilotage board**

(1) A pilotage board shall meet at such time and place as the chairman of the pilotage board may, from time to time, appoint.

(2) Two members of a pilotage board shall form a quorum.

(3) The chairman, if present, shall preside at every meeting of a pilotage board, and in his absence, the members present shall appoint one of their number to preside at the meeting.

(4) Every question which comes before a pilotage board at any meeting shall be decided by a majority of votes of the members present and voting.

(5) The member presiding at any meeting shall have a vote and, in the case of an equality of votes, shall have a second or casting vote.

(6) Minutes shall be kept of the proceedings of a pilotage board, and the minutes shall be signed by the person presiding at the meeting to which the minutes relate.

#### **47. Inquiries into conduct of pilots**

A pilotage board may, and shall, when directed by the Minister, hold an inquiry into the conduct of-

- (a) a pilot against whom an allegation of misconduct is made; or
- (b) a pilot in charge of a ship which-
  - (i) touches the ground; or
  - (ii) runs foul of any other ship; or
  - (iii) runs foul of a wharf, buoy, mole or beacon.

#### **48. Power to take evidence on oath and summon witnesses**

A pilotage board holding an inquiry under section 47 of this Act may summon and examine witnesses on oath and call for any document in any matter before it.

#### **49. Misconduct of witnesses**

(1) When a person-

- (a) on being summoned as a witness before a pilotage board, fails to attend; or
- (b) refuses to take an oath or affirm when required to do so by a pilotage board during an inquiry; or
- (c) refuses to produce a document in his power or control, legally required by the pilotage board during an inquiry; or
- (d) refuses to answer a question to which a pilotage board may legally require an answer; or
- (e) during an inquiry is, in the opinion of the pilotage board, guilty of contempt towards the pilotage board,

the chairman of the pilotage board may make a written complaint concerning the conduct of the person to any court which has power to punish persons if guilty of like conduct in that court.

(2) The court to which a complaint is made under subsection (1) of this section may inquire into the alleged conduct and, after-

- (a) examination of any witnesses that may be produced for or against the person complained against; and
- (b) hearing any statement that may be offered in defence,

may, if it seems just, punish the person complained against, as if he had been guilty of such conduct in a proceeding in that court.

#### **50. Punishment of pilots by pilotage board**

(1) Where a pilotage board after due inquiry in accordance with the provisions of this Part of this Act finds that a pilot has.-

- (a) been guilty of misconduct affecting his capability as a pilot; or
- (b) failed in or neglected his duty as a pilot; or
- (c) become incompetent to act as a pilot,

the pilotage board may, in a case under paragraph (a) or paragraph (b) of this subsection, impose a fine not exceeding ₦2,000 or reprimand the pilot and may, in any case, whether in addition to the fine or reprimand or not, suspend the pilot from duty.

(2) Where a pilot is suspended from duty by a pilotage board under subsection (1) of this section, the pilotage board shall make such recommendation to the Authority concerning the future exercise of the pilot's duties in the pilotage district as it considers appropriate in the circumstances of the particular case.

(3) Copies of the record of an inquiry held under section 47 of this Act or a recommendation made under subsection (2) of this section, shall be supplied by the pilotage board to the Authority, the Minister and the pilot concerned.

#### **51. Appeal to Minister against decision of pilotage board**

(1) If a pilot is aggrieved by a decision or recommendation of a pilotage board, he may, within thirty days from the date of the decision or recommendation, appeal to the Minister.



- (2) The Minister may, after considering the appeal-
- (a) confirm or reverse the finding of the pilotage board; or
  - (b) subject to the provisions of section 50 of this Act, alter the nature of the punishment; or
  - (c) in the case of a recommendation to the Authority under section 50 (2) of this Act, support, comment on or oppose the recommendation.
- (3) The decision of the Minister on an appeal under this section shall be final.

#### **52. Revocation of pilot's licence by the Authority**

(1) The Authority shall consider any recommendation made by a pilotage board concerning any pilot who has been suspended by the pilotage board under section 50 of this Act, and may, having considered the recommendation and the record of the inquiry-

- (a) suspend or revoke the pilot's licence; or
- (b) inform the pilot and the pilotage board that the pilot may resume his duties as a pilot in the pilotage district.

(2) No pilot's licence shall be suspended or revoked under subsection (1) of this section, or any action taken by the Authority in relation to any pilot as a result of a recommendation made by a pilotage board unless-

- (a) no appeal has been made by the Authority pilot or licensed pilot to the Minister within the time prescribed by section 51 of this Act; or
- (b) in the case of an Authority pilot, he has informed the Authority in writing that he does not intend to exercise his right of appeal; or
- (c) an appeal has been made to and determined by the Minister in accordance with the provisions of section 51 of this Act.

#### **53. Power of the Authority to make regulations for pilotage districts**

Subject to the provisions of this Part of this Act, the Authority may, with the approval of the Minister, make regulations for any pilotage district for all or any of the following purposes-

- (a) exempting any class of ship from compulsory pilotage;
- (b) prescribing the occasions on which a ship being moved within a port which forms part of a pilotage district in which pilotage is compulsory, shall not be deemed to be navigating in the port;
- (c) providing that, in respect of any class of ship prescribed in the regulations, only Authority pilots shall undertake pilotage;
- (d) determining the qualifications to be required of licensed pilots, and for the grant of licences to pilots;
- (e) providing generally for the good government of Authority pilots and licensed pilots;
- (f) providing for the punishment for the breach of any regulation made by the Authority for the good government of pilots by the infliction of fines not exceeding ₦5,000;

- (g) prescribing the fees which shall be payable on the grant or renewal of a licence;
- (h) providing for bonds (the penalty of which shall not in any case exceed ~~₹~~10,000) to be given by pilots for the purpose of the provisions of section 55 of this Act limiting a pilot's liability; and
- (i) generally regulating pilotage in a pilotage district.

#### **54. Liability of the master or owner in the case of a ship under pilotage**

The master or owner of a ship navigating in circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the ship or by any fault of the navigation of the ship in the same manner as he would if pilotage were not compulsory.

#### **55. Limitation of pilot's liability when bond is given**

(1) A pilot who has given a bond under regulations made under this Part of this Act, shall not be liable for neglect or want of skill beyond the penalty of the bond and the amount payable to him on account of pilotage in respect of the voyage in which he was engaged, when he became so liable.

(2) A bond given by a pilot in accordance with regulations made under this Part of this Act shall not be liable to stamp duty.

(3) Where any proceeding is taken against a pilot for any neglect or want of skill in respect of which his liability is limited as provided by this section, and other claims are apprehended in respect of the same neglect or want of skill, the court in which the proceeding is taken may determine the amount of the pilot's liability.

(4) On payment into court by the pilot of the amount determined under subsection (3) of this section, the court may-

- (a) distribute that amount rateably among the several claimants;
- (b) stay any proceeding pending in any other court in relation to the same matter;
- (c) proceed in such manner and subject to such directions as to-
  - (i) making persons interested parties to the proceeding;
  - (ii) the exclusion of claimants who do not come in within a certain time;
  - (iii) requiring security from the pilot; and
  - (iv) payment of any cost, as the court thinks fit.

## PART XI

### *Dues and rates*

#### *(a) Harbour dues*

#### **56. Harbour dues and rates**

(1) Subject to this Part of this Act, the Authority shall levy such harbour dues and rates on every ship-

- (a) entering or leaving a port or the approach to a port in respect of the passengers, animals or cargo carried on the ship;
- (b) arrested at any berth or place within the port,

as the Authority may, by regulations made under section 71 of this Act, prescribe.

(2) The Authority may charge such dues as it deems fit in respect of every movement of a ship within a pilotage district.

#### **57. Master to supply information on arrival**

(1) The master of a ship arriving in a port shall produce or supply to the Authority-

- (a) the ship's register and the ship's papers;
- (b) a list of all inward passengers and animals, the name of the consignee of the cargo intended to be unshipped; and
- (c) if-
  - (i) the whole cargo is intended to be unshipped, a copy of the bill of lading or manifest of the cargo; or
  - (ii) part only of the cargo is intended to be unshipped, the best account in writing, in his power, of the kinds, weights and quantities of the cargo intended to be unshipped; and
- (d) such other information in relation to the ship, passengers, animals and cargo thereof, as may be prescribed.

(2) The particulars required by subsection (1) of this section shall be produced or supplied in such form and within such time as may be prescribed.

#### **58. Master to supply information on proceeding outwards**

(1) The master of a ship shall, when applying for the clearance of his ship outwards from a port, produce or supply to the Authority-

- (a) a list of all outward passengers and animals;
- (b) the best account in writing, in his power, of the kinds, quantities and weights of all cargo shipped on board in the port;
- (c) such other information in relation to the ship, passengers, animals or cargo thereof as may be prescribed.

(2) The particulars required to be produced or supplied under subsection (1) of this section shall be delivered to such officer of the Authority and in such form as may be prescribed.

### **59. Time of payment of harbour dues**

Harbour dues and rates payable in respect of-

- (a) passengers, animals and cargo inwards, shall be paid at the time of the report of the ship inwards;
- (b) passengers, animals and cargo outwards, shall be paid before loading commences; and
- (c) any ship under arrest within a port, shall be paid before the ship departs the port.

### **60. Liability for payment of harbour dues and rates**

The following persons shall be liable for the payment of harbour dues and rates-

- (a) the master or owner of the ship;
- (b) in the case of harbour dues or rates payable in respect of passengers, animals or cargo inwards, every consignor or agent of the ship who has paid or made himself liable to pay any charge on account of the ship in its port of arrival or discharge;
- (c) in the case of harbour dues or rates payable in respect of passengers, animals and cargo outwards, every consignee or agent of the ship who has paid or made himself liable to pay any charge on account of the ship in its port of departure;
- (d) in the case of harbour dues or rates payable in respect of any ship under arrest, every consignee, agent or any other person causing the arrest of the ship.

### **61. Consignee or agent may retain harbour dues out of owner's monies**

When harbour dues or rates are paid by a person who, not being the owner or master of the ship, is made liable by paragraph (b) or paragraph (c) of section 60 of this Act, that person may retain, out of any money in his hands received on account of the ship or its owner-

- (a) the amount of the harbour dues or rates paid by him; and
- (b) any reasonable expenses he may have incurred by reason of that payment or liability.

*(b) Ships' dues*

### **62. Pilotage dues and fees**

Subject to the provisions of this Part of this Act, the Authority shall levy on any ship, including a ship under arrest-

- (a) such ship dues and rates for lighthouse, conservancy, buoyage, anchorage, mooring buoy, buoys oil pollution control, berthing and other services rendered to a ship; and

(b) such pilotage dues,

as the Authority may, by regulations made under section 71 of this Act, prescribe.

### **63. Liability for payment of dues**

(1) The following persons shall be liable to pay dues and rates charged in respect of light, conveyancy, buoyage, anchorage, mooring buoy, berthing and other services rendered to a ship under section 62 of this Act-

- (a) the master or owner of the ship;
- (b) every consignee or agent who has paid or made himself liable to pay any dues on account of the ship in its port of arrival or discharge.

(2) The following persons shall be liable to pay pilotage dues and rates charged on a ship under section 62 of this Act-

- (a) the master or owner of the ship;
- (b) in the case of pilotage inwards, every consignee or agent who has paid or made himself liable to pay any dues on account of the ship in its port of arrival or discharge;
- (c) in the case of pilotage outwards, every consignee or agent who has paid or made himself liable to pay any dues on account of the ship in its port of departure.

### **64. Consignee or agent may retain ships' dues out of owner's monies**

When any ships' dues are paid by a person who is made liable under paragraph (b) of subsection (1) or paragraph (b) or (c) of subsection (2) of section 63 of this Act, not being the master or owner of the ship, that person may retain, out of any money in his hands received on account of the ship or its owner-

- (a) the amount of dues paid by him; and
- (b) any reasonable expenses he may have incurred by reason of that payment or liability.

### **65. Levy of rates**

Subject to the provisions of this Part of this Act, the Authority shall levy such rates as the Authority may, by regulations made under section 71 of this Act, prescribe, for the use of any facility, work or appliance provided, or any service to be performed by the Authority in respect of any ship or goods in pursuance of the powers conferred by this Act or otherwise and, without prejudice to the generality of the foregoing, for any of the following-

- (a) the landing, shipping, wharfage, crantage, storage, carriage or demurrage of goods;
- (b) the carriage of passengers;
- (c) the use by any ship or person of any wharf in the possession of the Authority;

(d)

the use	Author-
of any	ity for the purpose of any ship using any wharf in the possession of the Author-
gear,	ity
tackle,	the use of any ship or lighter, or any engine or boat for the extinction of fire,
tool,	belonging to or maintained by the Authority;
instru-	the towing of, and rendering assistance to, any ship, whether leaving or enter-
ment	ing a wharf, in possession of the Authority or not, being within or without any
or	port;
staging	for water supplied by the Authority;
supplie	for the removal of waste or refuse from any ship; and
d by	for monitoring port environmental pollution control.
the	

#### **66. Authority to have lien on goods**

(1) The Authority shall have a lien on any goods for the amount of all rates leviable under this Act in respect of those goods, and shall be entitled to seize and detain them until the rates are fully paid.

(2) Rates shall become payable, in the case of goods-

- (a) to be landed, immediately on the landing of the goods;
- (b) to be removed from the premises of the Authority or to be shipped, before the goods are removed or shipped.

(3) The lien for rates shall have priority over all other liens and claims, except claims for money payable to the Government of the Federation or of a State.

#### **67. Lien for freight preserved after landing if notice given**

(1) If the master or owner of a ship, or his agent, or the person by whom the goods are landed, at or before the time of landing from the ship of any goods at any wharf or other premises of the Authority, gives notice in writing that those goods are to remain subject to a lien for freight, primage or general average or charges to an amount to be mentioned in the notice, the goods shall continue to be liable to the same lien, if any, for the charges as they were subject to before the landing of the goods.

(2) The Authority shall retain the goods at the risk and expense of the owner of the goods until the lien is discharged as mentioned in section 68 of this Act, or until the Authority is entitled under the provisions of this Part of this Act to sell the goods.

#### **68. Discharge of lien by payment or release**

The Authority may permit goods liable to a lien to be removed without regard to the lien, on production to the Authority of a document purporting to be-

- (a) a receipt for the amount claimed as due; or
- (b) a release for the amount of any lien to which goods are liable under section 67 of this Act, from the person by or on whose behalf a notice has been given under that section,

if it is satisfied as to the authenticity of the document.

## **69. Power of Authority to sell if rates not paid or lien not discharged**

(1) If the rates payable to the Authority in respect of any goods are not paid, or if the lien for freight, primage, general average or charges when a notice under section 67 of this Act has been given is not discharged, the Authority may, and in the latter event, if required by or on behalf of the person claiming the lien for freight, primage, general average or charges, shall-

- (a) at the expiration of ninety days from the time when the goods were placed in its custody; or
- (b) if the goods are of a perishable nature, at such earlier period, not less than 24 hours after the landing of the goods as the Authority may think fit,

sell, by public auction, the goods or so much as is necessary to satisfy the duty, expenses, rates and other claims directed under this Part of this Act to be paid out of the proceeds of the sale.

(2) The Authority shall, before putting up goods for sale under subsection (1) of this section, give thirty days' notice of the sale by publication in the *Gazette* and at least two widely read national newspapers, unless the goods are of so perishable a nature as, in the opinion of the Authority, to render their immediate sale necessary or advisable, in which case the notice shall be given as the urgency of the case admits.

(3) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Authority or is otherwise known and the address is within Nigeria, notice shall also be given to the owner of the goods by letter delivered at that address or sent by post.

(4) The title of a *bona fide* purchaser of goods sold under this section shall not be invalidated by reason of the omission to send a notice under this section, and the purchaser is not bound to inquire whether the notice has been sent.

## **70. Application of proceeds of sale**

(1) The proceeds of any sale made in accordance with section 69 of this Act shall be applied as follows, and in the following order-

- (a) first, in payment of any customs and excise duties and State warehouse rent owed in respect of the goods;
- (b) second, in payment of the expenses of the sale;
- (c) third, in payment of the rates and expenses due to the Authority in respect of the goods; and
- (d) fourth, in payment of the freight and other claims or lien of which notice has been given under section 67 of this Act,

and the surplus, if any, shall be paid to the owner of the goods on demand.

(2) Where demand is not made within one year from the sale of the goods, the surplus of the proceeds of sale shall be paid to the general account of the Authority, and all rights of the owner to the payment shall be extinguished.

( c ) *General provisions as to dues and rates*

**71. Power of Authority to make regulations for levy of dues and rates**

- (1) Subject to the provisions of this Part of this Act, the Authority may make regulations
- (a) for the levying of dues and rates for the purposes of sections 56, 62 and 65 of this Act;
  - (b) prescribing the conditions on which any work or service in respect of which any rate is levied will be performed or provided by the Authority;
  - (c) prescribing the officer of the Authority to whom any return of information required by this Part of this Act shall be delivered and the place of the delivery and the time within which it shall be made;
  - (d) prescribing the officer of the Authority to whom dues or rates shall be paid, the place of payment and the time within which payment shall be made;
  - (e) providing for the exemption of any ship or class of ships, passenger, animal or goods from all or any dues or rates or the remission of any dues or rates or any part thereof;
  - (f) prescribing anything required to be prescribed by this Part of this Act;
  - (g) generally for giving effect to the provisions of this Part of this Act.

(2) For the avoidance of doubt, it is hereby declared that regulations made under this section may-

- (a) prescribe different dues or rates for different ports;
- (b) prescribe different dues or rates for different classes of ships, passengers, animals or goods; and
- (c) provide that the Authority may enter into a special agreement in respect of any matter referred to in section 65 of this Act, instead of charging the rate in accordance with the rate prescribed by regulations.

**72. Power of entry to ascertain dues, etc.**

The Authority may, either alone or with any other person, enter into any ship within the limits of any port, in order to ascertain the dues or rates payable in respect of the ship.

**73. Weighing and measuring of goods in case of dispute**

If any difference arises between the Authority and the master of any ship or the owner of any goods, concerning the weight or quantity of the goods or ship's draught in respect of which any harbour dues or rates are payable, the Authority-

- (a) shall cause all those goods or ship's draught to be weighed and measured; and
- (b) may, if necessary, detain the ship containing those goods or ship's draught, until they have been weighed or measured.



#### **74. Payment of expenses of weighing and measuring**

(1) If the weight or measurement of the goods or ship's draught referred to in section 73 of this Act are more than that shown by the particulars delivered by the master in accordance with section 57 or 58 of this Act, the expenses of the weighing or measuring shall be paid to the Authority by the master of the ship, and shall be recoverable in the same manner as dues leviable under this Part of this Act.

(2) If the weight or quantity of the goods or ship's draught is the same as or less than that shown by the particulars delivered by the master in accordance with section 57 or 58 of this Act, the Authority shall pay all the expenses of the weighing or measuring and of any unreasonable delay of the ship.

#### **75. Power to distrain or arrest ship, etc., for non-payment of dues and rates**

(1) If the master of a ship in respect of which any dues or rates are payable refuses or neglects to pay the dues or rates on demand, the Authority may distrain or arrest the ship and the tackle, apparel and furniture of the ship and may detain them until the amount of the dues or rates is paid.

(2) If, for a period of fourteen days following a distraint or an arrest-

(a) any dues or rates; or

(b) any of the expenses of distraint or arrest or of the detention of the ship and its tackle, apparel and furniture,

remain unpaid, the Authority may cause the ship or tackle, approach and furniture distrained or arrested to be sold.

(3) The Authority may, out of the proceeds of the sale, retain the amount of dues, rates or expenses which are owed and shall deliver the balance to the master of the ship, on demand.

#### **76. Clearance to be withheld until dues or rates are paid**

(1) If the Authority gives to the proper officer of the Nigerian Customs Service a notice stating that an amount, specified in the notice, is due in respect of dues or rates leviable under this Act against any ship or against the master or owner of the ship, the proper officer shall not give any discharge or clearance outwards until-

(a) the amount of the dues or rates has been paid; or

(b) security has been given to the satisfaction of the Authority for the payment of the dues or rates.

(2) In this section, "**proper officer**" means the officer who is responsible for granting clearance outwards from a port of the ship in respect of which notice is given.

#### **77. Authority may recover dues, rates, etc., by suit**

Notwithstanding anything contained in sections 66 to 76 of this Act, the Authority may recover by civil suit any dues, rates, expenses, costs or, in the case of sale, the balance thereof, when the proceeds of sale are insufficient.

### **78. Book specifying dues and rates to be kept at port**

The Authority shall keep at its office in each port, a book specifying the dues and rates for the time being in force and shall allow any person to inspect the book at all reasonable times, without the payment of a fee.

### **79. Exemptions from provisions of this Part**

The provisions of this Part of this Act, shall not apply to-

- (a) any ship belonging to any of the armed forces of the Federation; or
- (b) any ship belonging to the armed forces of a foreign country extending reciprocal treatment to ships belonging to the armed forces of the Federation.

### **80. Application of this Part to Government goods**

The provisions of this Part of this Act shall apply to goods which are the property of the Government.

## **PART XII**

### *Liability of the authority*

#### *(a) As a carrier of passengers*

### **81. Liability of Authority for loss of life or injury to passengers**

(1) The Authority shall not be liable for the loss of life of or personal injury to any passenger, except where the loss of life or personal injury is caused by want of ordinary care, diligence or skill on the part of the Authority or any of its employees.

(2) The Authority shall not in any circumstances be liable for the loss of life of or personal injury to any passenger who-

- (a) is travelling by special permission, whether verbal or written, in any part of a ship, vehicle or train, other than a part normally provided for the use of passengers;
- (b) is travelling on a free pass;
- (c) at the time the loss of life or injury occurred, is being carried by a transport service other than one provided by the Authority or under the control of the Authority.

(3) To avoid liability under the provisions of subsection (2) of this section, it shall-

- (a) not be necessary for any notice to be given to the passenger of the conditions on which he travels; and
- (b) be immaterial whether or not the passenger is an infant.

(4) The Authority shall not be liable for the loss of life of, or personal injury to any passenger who is carried by the Authority when the loss of life or injury occurs during carriage by ship and arose from-

- (a) an act of God;
- (b) an act of war or of the enemies of the State;

- (c) a fire, or an accident from machinery, boilers or steam; or
- (d) a peril or an accident of the seas, inland waters, or navigation, of whatsoever nature or kind and arising from any cause whatsoever.

(5) Subject to subsection (4) of this section and to any condition expressed in the contract of carriage, the Authority shall be liable for any loss of life or personal injury which occurs during the carriage by ship to the extent to which it would be liable under the Merchant Shipping Act, as if the ship were registered under that Act and the Authority were the owner of the ship and not to any greater extent.

(6) Where the Authority seeks to avoid liability under the provisions of subsection (4) or (5) of this section, the burden of proving that any loss of life or injury occurred during the carriage by ship, shall lie on the Authority.

(7) For the purposes of this section "**passenger**" includes every person, other than an employee of the Authority on duty, lawfully travelling on any ship, vehicle or train owned or operated by the Authority.

### **82. No liability for delay to passengers**

The Authority shall not be liable for a loss arising from the delay to a passenger caused-

- (a) by the failure of a ship, vehicle or train to start on a journey; or
- (b) by the late starting or late arrival of a ship, vehicle, or train,

arising from any cause whatsoever.

*(b) As a carrier of goods by ship*

### **83. Liability for loss or damage to goods**

(1) Subject to the provisions of this Act, the Authority shall not be liable for any loss of or damage to goods carried by the Authority solely by ship, or partly by train or vehicle and partly by ship, where the loss or damage occurs during the carriage by ship and arose from-

- (a) an act of God;
- (b) an act of war or of the enemies of the State;
- (c) a fire, or an accident from machinery, boilers or steam;
- (d) a peril or an accident of the seas, inland waters, or navigation of whatsoever nature or kind and arising from any cause whatsoever.

(2) Subject to subsection (1) of this section and to-

- (a) the provisions of any enactment or law relating to the carriage of goods by sea; and
- (b) any condition expressed in the contract of carriage,

the Authority shall be liable for any loss or damage which occurs during the carriage by ship to the extent to which it would be liable under the Merchant Shipping Act, as if the ship were registered under that Act and the Authority were the owner of the ship and not to any greater extent.

[Cap. M11.]

(3) Where the Authority seeks to avoid liability under the provisions of subsection (1) or (2) of this section, the burden of proving that any loss or damage occurred during the carriage by ship shall lie on the Authority.

#### **84. Liability for delay of goods**

The Authority shall not be liable for any loss arising from delay to, detention of, or deviation in the carriage of goods unless the delay, detention or deviation is caused by want of reasonable foresight and care on the part of the Authority or of its employees, but the Authority shall not, in any circumstance, be liable for any loss arising from delay to, detention of, or deviation in the carriage of goods-

- (a) where there has been fraud on the part of the consignors; or
- (b) unless a document acknowledging the receipt of the goods for carriage by the Authority has been given; or
- (c) which at the time when the delay, detention or deviation occurred, were being carried by any transport service other than one provided by the Authority or under the control of the Authority; or
- (d) where there is a loss in a particular market, whether held daily or at intervals; or
- (e) where the delay, detention or deviation arises from-
  - (i) insufficient or improper packing; or
  - (ii) a riot, civil commotion, strike, lock-out, stoppage or restraint of labour from whatever cause, whether partial or general.

#### **85. Limitation of liability for loss of animals**

- (1) The liability of the Authority in respect of any animal, shall not in any case exceed-
- (a) in the case of a horse, ₦5,000;
  - (b) in the case of any cattle, ₦1,000;
  - (c) in the case of any other animal, ₦500,

unless at the time of acceptance of the animal by the Authority for carriage, the consignor or his agent declared that the value of the animal exceeded the appropriate amount paid, or agreed to pay, such additional charge as may be prescribed in respect of the excess value, and the liability of the Authority shall not in any case exceed the declared value.

(2) In any proceeding against the Authority for the recovery of the sum in respect of an animal, the burden of proving the value of the animal, and where the animal has been injured, the extent of the injury, shall be on the claimant.

(3) The Authority may by order vary the provisions of paragraphs (a), (b) and (c) of subsection (1) of this section.

*(c) As a warehouseman*

### **86. Liability for loss of goods**

(1) Subject to the provisions of this Act or any contract, the Authority shall not be liable for the loss, misdelivery or detention of or damage to goods--

- (a) delivered to, or in the custody of the Authority, otherwise than for the purpose of carriage;
- (b) accepted by the Authority for carriage, where the loss, misdelivery, detention or damage occurs otherwise than when the goods are in transit,

except when the loss, misdelivery, detention or damage is caused by want of reasonable foresight or care on the part of the Authority or any employee of the Authority.

(2) The Authority shall in no case be liable under subsection (1) of this section for a loss, misdelivery, detention or damage arising from-

- (a) an act of God;
- (b) an act of war or of the enemies of the State;
- (c) an arrest or a restraint or seizure under any legal process;
- (d) an act or order of the Government;
- (e) a declaration of goods as overtime or abandoned goods or the sale, auction, destruction or any other kind of disposal made pursuant to the declaration;
- (f) an act or omission of the consignor, consignee or depositor or of the servant or agent of any such person;
- (g) a fire, flood, tempest, riot, civil commotion, strike, lock-out, stoppage or restraint of labour from whatever cause, whether partial or general;
- (h) an inherent liability to wastage in bulk or weight, latent or inherent defect, vice or natural deterioration;
- (i) a deficiency in the contents of an unbroken package; or
- (j) an insufficient or improper packing, or a leakage from a defective drum, container or package.

*(d) In connection with pilotage*

### **87. Limitation of liability of the Authority in connection with pilotage**

(1) The Authority, in relation to its duties in connection with pilotage under Part X of this Act or any regulations made thereunder, shall not, where without its actual fault or privity, it causes any loss or damage to.-

- (a) a ship or merchandise or any other thing whatsoever on board a ship; or
- (b) any other property or right of any kind, whether on land or on water or whether fixed or movable,

be liable to damages beyond the amount of N10,000 multiplied by the number of Authority and licensed pilots entitled to pilot ships in the pilotage district, where the loss or damage occurred on the date when the loss or damage occurred.

(2) Nothing in this section shall be construed to impose a liability on the Authority for any loss or damage as specified in subsection (1) of this section, where no liability would have existed but for this section.

#### **88. Limitation of liability where several claims on one occasion**

The limitation of liability under section 87 of this Act-

- (a) relates to the whole of any loss or damage which may arise on anyone distinct occasion, although the loss and damage may be sustained by more than one person; and
- (b) applies whether the liability arises at common law or under any enactment or law, and notwithstanding anything contained in that enactment or law.

#### **89. Power of court to consolidate claims**

(1) Where any liability is alleged to have been incurred by the Authority in respect of any loss or damage to which section 87 of this Act applies, and several claims are made or apprehended in respect of that liability, the Authority may apply to the High Court concerned for the consolidation of claims under subsection (2) of this section.

(2) The High Court to which an application is made may-

- (a) determine the amount of the liability of the Authority and distribute that amount rateably among the several claimants;
- (b) stay any proceeding pending in any other court in relation to the same matter; and
- (c) proceed in such manner and subject to such directions as to-
  - (i) making persons interested parties to the proceeding;
  - (ii) the exclusion of any claimants who do not come in within a certain time;
  - (iii) requiring security from the Authority; and
  - (iv) the payment of any costs, as the Court thinks fit.

#### **90. Liability in connection with pilotage when Authority is a ship owner**

In a case where the Authority is entitled to limit its liability as the owner of a ship, the provisions of sections 87, 88 and 89 of this Act shall not apply to any loss or damage, the liability for which can be so limited by the Authority.

#### **91. Licensing of pilots does not involve liability**

(1) The grant or renewal of a licence to a pilot by the Authority under the powers conferred on the Authority by this Act shall not impose any liability on the Authority for any loss caused by any act or default of the pilot.

(2) The Authority shall not be liable for any loss caused by any act or default of an Authority pilot.

## PART XIII

### *Legal proceedings*

#### **92. Legal proceedings**

(1) No suit shall be commenced against the Authority before the expiration of a period of one month after written notice of intention to commence the suit shall have been served on the Authority by the intending plaintiff or his agent and the notice shall clearly and explicitly state-

- (a) the cause of action;
- (b) the particulars of the claim;
- (c) the name and place of abode of the intending plaintiff; and
- (d) the relief which it claims.

(2) In an action or suit against the Authority, no execution or attachment or process in the nature thereof shall be issued against the Authority, but any sums of money which may, by the judgment of the court, be awarded against the Authority shall, subject to any directives given by the Authority, be paid from the general reserve of the Authority.

(3) For the purposes of this section and this Part of this Act-

"**suit**" means a civil proceeding commenced by writ of summons or in such other manner as may be prescribed by rules of court and includes an action, but not a criminal proceeding.

#### **93. Service of documents**

The notice referred to in section 92 of this Act and any summons, notice or other document required or authorised to be served on the Authority in connection with a suit by or against the Authority, may be served by-

- (a) delivering it to the managing director; or
- (b) sending it by registered post, addressed to the managing director, at the head office of the Authority.

#### **94. Restriction on execution against the property of the Authority**

In any action or suit against the Authority, no execution or attachment or process in the nature thereof, shall be issued against the Authority, but any sum of money which may by the judgment of the court be awarded to the plaintiff, shall be paid by the Authority from the funds of the Authority.

#### **95. Stay of arrest in certain cases**

A person connected with the direct working of the Authority shall not be removed under arrest when his immediate removal from duty might result in danger to life or goods, whether in execution of a warrant or otherwise, while actually engaged in the performance of his duties until-

- (a) the head of the department in which he is employed; or

(b) the officer in immediate charge of the work in which the person is engaged, has been given an opportunity of providing a substitute.

#### **96. Representation of Authority at hearing of suit**

In any suit pending before a court, the Authority may be represented in court at any stage of the proceeding by any employee of the Authority, who shall satisfy the court that he is duly authorised in writing by the Authority in that behalf.

### PART XIV

#### *Offences*

(a) *Offences in connection with lighthouses, etc.*

#### **97. Damage to lighthouses, buoys and beacons**

A person who wilfully or negligently-

- (a) damages any lighthouse or any light exhibited therein or any buoy or beacon; or
- (b) removes or alters any lighthouse, buoy or beacon; or
- (c) rides by, makes fast to or runs foul of any lighthouse, buoy or beacon,

is guilty of an offence and liable on conviction to a fine not exceeding N5,000 in addition to his liability to make good any damage caused by the offence.

#### **98. Power to prohibit false lights, etc.**

(1) Whenever any fire or light is burned or exhibited at any place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, buoy or beacon, the Authority may serve a notice on-

- (a) the owner or occupier of the place where the fire or light is burned or exhibited; or
- (b) the person having charge of the fire or light,

directing the owner, occupier or person, within a reasonable time to be specified in the notice, to take effectual means for extinguishing or effectually screening the fire or light and for preventing the fire or light or any similar fire or light being burned or exhibited thereafter.

(2) The notice may be served either personally or by delivering it at the place of abode of the person to be served, or by affixing it in some conspicuous spot near the fire or light to which the notice relates.

(3) Any owner or person on whom a notice under this section is served, who fails, without reasonable cause, to comply with the directions contained in the notice, is guilty of an offence and liable on conviction, for each offence, to a fine not exceeding N5,000.

(4) If any owner or person on whom a notice under this section is served neglects for a period of 24 hours to extinguish or effectually screen the fire or light mentioned in the notice, an authorised employee of the Authority, with workmen or other assistants, may-



- (a) enter on the place where the fire or light is, and forthwith extinguish the fire or light, doing no damage than is necessary; and
- (b) recover the expenses incurred by him in so doing from the owner or person on whom the notice has been served in the same manner as fines may be recovered under this Act.

**99. Penalty for obstructing authorised entry, etc.**

A person who wilfully obstructs any person doing any of the acts authorised by sections 26, 27, and 98 of this Act, is guilty of an offence and liable on conviction to a fine of ₦5,000 or to imprisonment for a term of twelve months or to both such fine and imprisonment.

*(b) Offences in connection with pilotage*

**100. Penalty in respect of ship entering compulsory pilotage district without pilotage**

(1) If a ship enters, leaves or changes its berth in a pilotage district in which pilotage has been made compulsory under this Act, without being in charge of a pilot authorised to pilot the ship, the pilotage dues which would have been paid if an Authority pilot had been employed, shall nevertheless be paid together with a penalty of N10,000.

(2) The dues and penalty shall be payable by the person declared by this Act to be liable to pay the pilotage dues, and shall be recoverable before a court of competent jurisdiction.

**101. Penalty on pilot endangering a ship**

A pilot who, when in charge of a ship-

- (a) by wilful breach of duty, neglect of duty or reason of drunkenness, does an act tending-
  - (i) to the immediate loss, destruction or serious damage of the ship; or
  - (ii) immediately to endanger the life or limb of a person on board the ship; or
- (b) refuses or fails to do a lawful act proper and requisite to be done by him for preserving-
  - (i) the ship from loss, destruction or serious damage; or
  - (ii) a person on board the ship, from danger to life or limb,

is guilty of an offence and liable on conviction, to imprisonment for a term of three years.

### **102. Penalty for illegal piloting**

A person who-

- (a) holds himself out as a pilot authorised to pilot a ship in a pilotage district which he is not authorised to pilot under this Act; or
- (b) pilots a ship in a pilotage district which he is not authorised to pilot,

is guilty of an offence and liable on conviction, to a fine of N10,000.

*(c) Offences in connection with dues, rates, returns, etc.*

### **103. Evasion of dues and rates**

A master or an owner of a ship, or an owner or a consignor or consignee of any goods who, by any means whatsoever, evades or attempts to evade any of the dues or rates leviable under this Act-

- (a) is guilty of an offence and liable on conviction to a fine of N10,000 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment; and
- (b) is, in addition, liable to pay to the Authority, as penalty, double the amount of the dues or rates he evaded or attempted to evade.

### **104. Failure to comply with sections 57 and 58**

A master of a ship who contravenes any of the provisions of section 57 or 58 of this Act, is guilty of an offence and liable on conviction to a fine of N10,000 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

### **105. False returns**

A person who makes, either knowingly or recklessly, a statement which is false in any material particular in any return, claim or other document which is requested or authorised to be made by or under the provisions of this Act, is guilty of an offence and liable on conviction to a fine of N10,000 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

*(d) Offences in connection with ships*

### **106. Penalty for unlawfully loosing moorings**

A person who, for the purpose of obtaining salvage, or for any other purpose, wilfully sets adrift, cuts, breaks or unfastens the moorings of a ship, is guilty of an offence and liable on conviction, to a fine of N10,000 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

### **107. Wilfully sinking vessels**

A person who wilfully sinks any ship in a port or in the approach to the port, without the permission in writing of the harbour master, is, in addition to paying the expenses incurred by the Authority in removing the ship, guilty of an offence and liable on conviction to a fine of ₦100,000.

*(e) Offences by employees of the Authority*

**108. Demanding improper amounts**

An employee of the Authority who, with intent to defraud, demands or receives from any person liable to pay any dues or rates imposed under the provisions of this Act, in respect of any matter, any greater or lesser amount than is authorised to be levied by the regulations for the time being in force in respect of that matter, is guilty of an offence and liable on conviction to a fine of ₦10,000 or imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

**109. Application of sections 98, 99 and 100 of the Criminal Code**

Employees of the Authority shall be deemed to be persons employed in the public service of the Federation for the purpose of sections 98, 99 and 100 of the Criminal Code.

[Cap. C38.]

**110. Behaviour of employees of the Authority**

An employee of the Authority who is in a state of intoxication while on duty, is guilty of an offence and liable on conviction-

- (a) if the improper performance of his duty due to the intoxication is likely to endanger the safety of any person, to a fine of ₦20,000 or imprisonment for a term not exceeding two years; and
- (b) in any other case, to a fine not exceeding ₦10,000.

**PART XV**

*Miscellaneous provisions*

**111. Exemption of Authority land**

The provisions of-

- (a) the Nigerian Urban and Regional Planning Act;  
[Cap. N138.]
- (b) any other enactment or any law relating to town or country planning; and
- (c) any enactment or law regulating the construction, alteration, repair or demolition of buildings, shall not apply to any land for the time being vested in, leased out by or in the possession of the Authority.

**112. Rating**

Notwithstanding the provisions of any enactment or law, a wharf vested in or in the possession of the Authority shall not be regarded as hereditament or tenement to be valued for rating purposes, and the Authority shall not pay any rates under any enactment or law in respect of the wharf or any property situated thereon.

### **113. Saving of powers under customs laws**

Nothing in this Act deemed to derogate from the powers conferred on any person under the customs laws as defined in the Customs and Excise Management Act.

[Cap. C45.]

### **114. Supply of information before the departure of ship for Nigeria**

The owner of every ship intending to enter any port in Nigeria for any purpose whatsoever shall, not later than thirty days before the departure of the ship for Nigeria, furnish to the Authority a statement in writing setting out the following matters, that is-

- (a) the name and physical particulars of the ship;
- (b) the name of port or ports of sailing and estimated time of departure for Nigeria;
- (c) the name of port or ports of discharge in Nigeria;
- (d) the estimated date of arrival in Nigerian ports; and
- (e) detailed information (including tonnage) in respect of the cargo carried in the ship.

### **115. Notice of permission to enter Nigerian ports, etc.**

The Authority shall, on receipt of the statement referred to in section 114 of this Act, issue to the owner or agent of the owner of the ship, a notice (in this Act referred to as an "entry notice") stating-

- (a) the port or ports in Nigeria to which the ship may proceed for any purpose;
- (b) the date on which the ship may enter a port or any approach to a port in Nigeria.

### **116. Prohibition of entry into Nigeria of ships in certain cases**

Except with the prior approval of the Authority, no ship shall enter a port or an approach to a port in Nigeria, except as may be permitted by and in accordance with the terms of an entry issued by the Authority in respect of that ship.

### **117. Alteration of allocation of ports, etc.**

Notwithstanding anything contained in this Act, the Authority may, if satisfied that the circumstances of the case so require, at any time alter the date allocated for the entry of any ship into any port or any approach to a port in Nigeria and shall by such means as it may deem convenient, notify the owner or agent of the owner of the ship of the alteration.

### **118. Publication of information on movement of ship, etc.**

The Authority shall, from time to time, publish in the *Gazette* and in such other manner as it may deem necessary, the estimated date of arrival of any ship in Nigeria, the port allocated for that ship and the berth at which the ship may discharge cargo.

### **119. Offences by master, etc., of ship**

- (1) If a ship-

- (a) enters any port or any approach to the port without an entry notice having been issued by the Authority in respect of the ship; or
- (b) enters any port or any approach to the port otherwise than as permitted by the entry notice; or
- (c) fails to leave any port or any approach to the port or to leave any berth at the port when required to do so by the harbour master of the port,

the master of the ship is guilty of an offence under this section and liable on conviction to imprisonment for a term of two years, without the option of a fine.

(2) Where an offence under subsection (1) of this section is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of the owner of a ship, the owner or agent of the owner shall be deemed to be guilty of the offence and liable on conviction-

- (a) in the case of an individual, to a fine of ₦10,000 for each day or part of a day during which the offence continues or to imprisonment for a term of two years; and
- (b) in the case of a body corporate, to a fine of ₦50,000 and a further fine of ₦20,000 for each day or part of a day during which the offence continues.

#### **120. Trial of offences**

An offence under this Act shall, for the avoidance of doubt, be triable by the Federal High Court.

#### **121. Bye-laws made by the Authority to be approved by Minister**

(1) Without prejudice to the provisions of this Act, no bye-law made after the commencement of this Act by the Authority in exercise of the powers conferred on it by this Act or any other enactment shall come into force until the bye-laws have been approved by order of the Minister.

(2) The Minister may approve regulations or bye-laws either without modification or with such modifications as he thinks fit, but before approving regulations or bye-laws with modifications, the Minister shall-

- (a) afford the Authority an opportunity of making representations with respect to the proposed modifications; and
- (b) consider any representations made in pursuance of this subsection.

#### **122. Publication of bye-laws, etc.**

Notwithstanding the provisions of any enactment or law, the Minister shall prescribe the manner in which bye-laws, rules or orders made by the Authority under the provisions of this Act shall be published, and the bye-laws, rules or orders shall come into force on publication in the prescribed manner unless otherwise provided therein.

### **123. Existing ports deemed to be Federal ports**

For the avoidance of doubt, it is hereby declared that any area in the Federation outside the port of Lagos which is for the time being declared or deemed to be a port by virtue of section 30 of this Act is a Federal port.

### **124. Directives by the Minister**

The Minister may give to the Authority directives of a general nature or relating generally to matters of policy with regard to the exercise by the Authority of its functions and it shall be the duty of the Authority to comply with the directives.

### **125. Repeal of 1993 No. 74 and savings, etc.**

(1) The Nigerian Ports Act 1993 (in this section referred to as "the repealed Act"), is hereby repealed and the Company known as the Nigerian Ports PLC, registered under the Companies and Allied Matters Act and its Board of Directors is hereby dissolved.

[Cap.C20.]

(2) Accordingly, there shall be vested in the Authority immediately at the commencement of this Act, without further assurance, all assets, funds, resources and other movable or immovable property which immediately before the commencement of this Act were vested in the Company.

(3) As from the commencement of this Act-

- (a) all rights, interests, obligations and liabilities of the Company existing immediately before the commencement of this Act, 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 Authority;
- (b) in addition to the rights and interests vested in the Authority under paragraph (a) of this subsection, the assets described in the Third Schedule to this Act shall vest in the Authority by virtue of this Act and without further assurance;  
[Third Schedule.]
- (c) any contract or instrument as mentioned in paragraph (a) of this section, shall be of the same force and effect against or in favour of the Authority and shall be enforceable as fully and effectively as if, instead of the Company, the Authority had been named therein or had been a party thereto; and
- (d) the Authority shall be subject to all obligations and liabilities to which the Company was subject immediately before the commencement of this Act, and all other persons shall, as from the commencement of this Act, have the same rights, powers and remedies against the Authority as they had against the Company immediately before the commencement of this Act.

(4) A proceeding or cause of action pending or existing, immediately before the commencement of this Act by or against the Company in respect of any right, interest, obligation or liability of the Company, may be commenced, continued or enforced by or against the Authority, as if this Act had not been made.

(5) Notwithstanding the provisions of this Act, but subject to such directions as may be issued by the Authority, a person who immediately before the commencement of this Act held office in the Company shall be deemed to have been transferred to the Authority

on terms and conditions not less favourable than those obtaining immediately before the commencement of this Act, and service in the Company shall be deemed to be service in the Authority for purposes of pension.

(6) Any licence, permit or other approval issued or granted or deemed to be issued or granted under the repealed Act or by the Company shall, during its duration, be deemed for all purposes to be granted by the Authority under this Act.

(7) Any regulations, orders, bye-laws or notices made or issued or deemed to be made or issued by or for the purposes of the Company, shall be deemed to be made or issued by or for the purposes of the Authority and shall continue in force until revoked or as amended, from time to time.

(8) The Minister, if he thinks fit, may, within the twelve months after the commencement of this Act, by order published in the *Gazette*, make additional transitional or saving provisions for the better carrying out of the objectives of this section.

## **126. Regulations**

The Authority may, with the approval of the Minister, make regulations, in addition to those specified in this Act, generally for the purposes of giving full effect to this Act.

## **127. Interpretation**

In this Act, unless the context otherwise requires-

"**animals**" means animate things of every kind, except human beings;

"**approach to a port**" means any navigable channel declared to be an approach to a port under section 30 of this Act;

"**Authority**" means the Nigerian Ports Authority, established under section 1 of this Act;

"**Authority pilot**" means a pilot appointed by the Authority;

"**ballast**" includes every kind of gravel, sand and soil and every commodity or thing commonly used for the ballasting of ships;

"**beacon**" means any light, mark or sign, used as an aid to navigation, other than a lighthouse or buoy;

"**buoy**" includes any floating light, mark or sign, used as an aid to navigation, other than a lighthouse;

"**cargo**" includes all kinds of movable personal property, other than animals;

"**Company**" means the Nigerian Ports PLC;

"**dues**" includes ships' dues and harbour dues;

**"ferry"** means any ship plying from one side of a waterway to the other for the purposes of the carriage of passengers or goods;

**"goods"** includes baggage, animals (whether alive or dead) and all other movable property of any kind whatsoever;

**"high-water level"** means the level of water during the high tidal cycle, which occurs two times in 24 hours in Nigerian waters;

**"licensed pilot"** means a pilot licensed by the Authority;

**"lighthouse"** includes a lightship;

**"managing director"** means the managing director of the Authority;

**"master"** when used in relation to any ship, means the person having command or charge of the ship for the time being, but does not include a pilot;

**"Minister"** means the Minister for the time being charged with responsibility for matters relating to maritime shipping and navigation;

**"navigable channel"** means any channel where navigation is possible;

**"pier"** means a pier, wharf or jetty of whatever description and includes any pier, wharf or jetty erected on or extending beyond high-water mark or ordinary spring tide or extending into the waters of any navigable channel and also includes any pontoon moored in any such waters and used as a pier, wharf or jetty;

**"pilot"** means a person not belonging to a ship, who has conduct thereof;

**"pilotage district"** means a pilotage district established by the Authority under section 41 of this Act;

**"rates"** means rates levied by the Authority under Part XI of this Act;

**"ship"** includes any ship, vessel, tug, lighter, canoe or boat of any kind whatsoever, whether propelled by steam or otherwise or towed;

**"train"** includes locomotive, engine, tender, motor, coach, wagon, trolley and rolling stock of any kind, used whether separately or in conjunction with a railway;

**"vehicle"** means a vehicle, other than a train or ship;

**"vesting day"** means the day this Act comes into force;

**"warehouse"** includes any building and place, when used by the Authority for the purpose of warehousing or depositing goods.



## 128. Short title

This Act may be cited as the Nigerian Ports Authority Act.

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### SCHEDULES

#### FIRST SCHEDULE

[Section 2 (4).]

*Supplementary provisions relating to the Board, etc.*

##### *Proceedings of 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 person presiding at any meeting, when a vote is ordered, to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of any of its committees.

[Cap. 123.]

2. At every meeting of the Board, the chairman shall preside and in his absence, the members present at the meeting shall appoint one of their number to preside at the meeting.

3. The quorum at a meeting of the Board shall consist of the chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and four other members.

4. Where, on any special occasion, the Board desires to obtain the advice of any person on any particular matter, it may co-opt that person to be a member for as many meetings as may be necessary, and that person while so co-opted, shall have all the rights and privileges of a member except that he shall not be entitled to vote or count towards a quorum.

##### *Committees*

5. (1) Subject to its standing orders, the Board may appoint such number of standing and *ad hoc* committees as it thinks fit, to consider and report on any matter with which the Authority is concerned.

(2) A committee appointed under this paragraph shall be presided over by a member of the Board and shall be made up of such number of persons (not necessarily members of the Board) as may be determined by the Board.

(3) The quorum of any committee set up by the Board shall be as may be determined by the Board.

##### *Miscellaneous*

6. The fixing of the seal of the Authority shall be authenticated by the signature of the chairman or any other person generally or specifically authorised by the Board to act for that purpose and that of the managing director.

7. Any contract or instrument which, if made 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 Authority by the managing director or by any other person generally or specially authorised by the Board to act for that purpose.

**8.** Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Authority shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.

**9.** The validity of any proceedings of the Board or of any of its committees shall not be affected by-

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

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

**11.** No member of the Board shall be personally liable for any act or omission done or made in good faith while engaged on the business of the Authority.

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## SECOND SCHEDULE

[Section 30 (2).]

### *Ports*

#### PART I

**1.** Lagos Ports-

- (a) Lagos Port Complex, Apapa;
- (b) Tin Can Island Port;
- (c) Roro Port;
- (d) Container Terminal Port;
- (e) Kirikiri Lighter Terminal (1 and II);
- (f) Ikorodu Lighter Terminal.

**2.** Port Harcourt

**3.** Onne Ports-

- (a) Federal Ocean Terminal; and
- (b) Federal Lighter Terminal.

**4.** Warri

**5.** Calabar

**6.** Burutu

#### PART II

**1.** Akassa

**2.** Bonny

3. Degema
4. Forcados
5. Koko Town
6. Sapele
7. Tiko

### THIRD SCHEDULE

[Section 125 (3) (b).]

*Assets vested in the Authority*

#### PART I

*Lands and dwelling houses*

##### **1. Interest in land in Lagos**

The interests of the Company in all those parcels of land, together with all improvements and hereditaments corporeal and incorporeal attached or pertaining thereto, the landward boundaries of which are shown verged red on the following plans deposited in the Land Registry at Lagos-

(a)	Apapa Wharf Area	Plan No. NLDC 411
(b)	Port Engineer's Yard and Government Oil Wharf	Plan No. NLDC 412
(c)	Customs Wharf Area	Plan No. NLDC 413
(d)	Marine Headquarters Area	Plan No. NLDC 414
(e)	West Mole Area	Plan No. NLDC 415
(f)	East Mole Area	Plan No. NLDC 416
(g)	Staff Quarters, Adelabiagba	Plan No. NLDC 417
(h)	Apapa Wharf Extension	Plan No. NLDC 418
(i)	Staff Quarters, Ikoyi	Plan No. NLDC 420

##### **2. Dwelling-houses for Lagos Port**

The interests of the Company in the following dwelling-houses, together with all improvements and hereditaments corporeal and incorporeal attached or pertaining thereto-  
[Note: No. 419 missing in the original, both in Decrees 1999 No. 38 and 1993 No. 74.]

1. No.4 Force Road, Lagos.
2. No.9 Marina, Lagos.
3. No. 23/2 Marina, Lagos.
4. No. 23/3 Marina, Lagos.
5. No. 19 Turnbull Road, Ikoyi.
6. No. 5 Hawkesworth Road, Ikoyi.

7. No. 21 Lugard Avenue, Ikoyi.
8. No. 10 Moorhouse Road, Ikoyi.
9. No. 11 Temple Road, Ikoyi.
10. No. 5 MacGregor Road, Ikoyi.
11. No. 14 Alexander Avenue, Ikoyi.
12. No.2 Child Avenue, Apapa.
13. No.4 Child Avenue, Apapa.
14. No.5 Child Avenue, Apapa.
15. No.7 Child Avenue, Apapa.
16. No.8 Child Avenue, Apapa.
17. No. 12 Child Avenue, Apapa.
18. No. 13 Child Avenue, Apapa.
19. No. 14 Child Avenue, Apapa.
20. No. 16 Child Avenue, Apapa.
21. No. 17 Child Avenue, Apapa.
22. No. 18 Child Avenue, Apapa.
23. No. 20 Child Avenue, Apapa.
24. No. 1A North Avenue, Apapa.
25. No. 2 North Avenue, Apapa.
26. No. 3 North Avenue, Apapa.
27. No. 4 North Avenue, Apapa.
28. No. 5 North Avenue, Apapa.
29. No. 6 North Avenue, Apapa.
30. No. 8 North Avenue, Apapa.
31. No. 9 North Avenue, Apapa.
32. No. 11 North Avenue, Apapa.
33. No. 17 North Avenue, Apapa.
34. No. 3 Marine Quarters, Apapa.
35. No. 4 Marine Quarters, Apapa.
36. Nos. 13-18 Hall Road Flats, Apapa.
37. No. 3 Point Road, Apapa.
38. No. 5 Point Road, Apapa.
39. No. 6 Point Road, Apapa.
40. No. 8 Point Road, Apapa.
41. No. 10 Point Road, Apapa.
42. No. 13 Point Road, Apapa.
43. No. 15 Point Road, Apapa.
44. No. 16 Point Road, Apapa.
45. No. 17 Point Road, Apapa.

46. No. 18 Point Road, Apapa.
47. No. 19 Point Road, Apapa.
48. No. 20 Point Road, Apapa.
49. No. 22 Point Road, Apapa.
50. No. 26 Point Road, Apapa.
51. No. 4 Park Lane, Apapa.
52. No. 8 Park Lane, Apapa.
53. No. 10 Park Lane, Apapa.
54. No. 12 Park Lane, Apapa.
55. No. 14 Park Lane, Apapa.
56. No. 16 Park Lane, Apapa.
57. No. 18 Park Lane, Apapa.
58. No. 2 Block, Railway Flats, Hall Road, Apapa.
59. No. 16 Alexander Avenue, Ikoyi.
60. No. 18 Alexander Avenue, Ikoyi.
61. No. 12A Glover Road, Ikoyi.
62. No. 12B Glover Road, Ikoyi.
63. No. 17 Turnbull Road, Ikoyi.
64. No. 15 Lugard Avenue, Ikoyi.
65. No. 18A Lugard Avenue, Ikoyi.
66. Flats Nos. 7 to 12 Hall Lane, Apapa.
67. No. 7A Child Avenue, Apapa.
68. No. 7B Child Avenue, Apapa.

### 3. Acquired properties in Lagos

The interests of the Company in the following properties acquired in Lagos-

<i>S/No</i>	<i>Description of property</i>	<i>Area</i>
(1)	Barges Terminal Phase I Kirikiri - Lagos	41.6079 hectares
(2)	Barges Terminal Phase II Kirikiri - Lagos	38.258 hectares
(3)	Tin Can Island Port, Mosquito Island	77.95 hectares
(4)	Land at Lilypond, Badiya/Ijora for Container Terminal Phases I and II	(7.06) hectares (4.022) 11.082 hectares
(5)	Land along Ikorodu Road Owode-Onirin for development of Trunk Terminal	120 hectares
(6)	Old Cement Works site 27, Creek Road, Apapa	2.46 hectares
(7)	9/11 Oke-Olowogbowo Street, Lagos (part of 216 Broad Street, Lagos)	0.0324 hectares

<i>S/No</i>	<i>Description of property</i>	<i>Area</i>
(8)	Tarkwa Bay/Lighthouse/Ogogoro Area for future	A- 220.72 hectares

port development.

Parcels A, B, C, D and E

B - 116.35 hectares

C - 51.32 hectares

D - 118.7 hectares

E - 53.18 hectares

#### **4. Other interests in Lagos**

The interests of the Company in all those parcels of land, together with the dwelling-houses and appurtenances thereon known as plots Nos. 3,4, 6, 8, 9, 10 and 11 in Block 11 of the Government Residential Area, Apapa which are more particularly delineated on plan No. NLDC 423 signed by the Chief Federal Land Officer and deposited in the Land Registry at Lagos.

#### **5. Interests in Port Harcourt**

The interests of the Company in all those parcels of land, together with all improvements and hereditaments corporeal and incorporeal attached or pertaining thereto, the boundaries of which are shown verged red on the following plan deposited in the Land Registry at Lagos, and including the lands contained therein, the boundaries of which are shown coloured blue-

Wharf and Marine Dockyard, Port Harcourt      Plan No. PH 233

#### **6. Dwelling-houses in Port Harcourt**

The interests of the Company in the following dwelling-houses, together with all improvements and hereditaments corporeal and incorporeal attached or pertaining thereto-

1. No. 3 Customs Road, Port Harcourt.
2. No. 4 Customs Road, Port Harcourt.
3. No. 38 Inner Circle, Port Harcourt.
4. No. 40 Inner Circle, Port Harcourt.
5. No. 41 Inner Circle, Port Harcourt.
6. No. 62 Inner Circle, Port Harcourt.
7. No. 66 Inner Circle, Port Harcourt.
8. No. 44 Outer Circle, Port Harcourt.
9. No. 45 Outer Circle, Port Harcourt.
10. Nos. 1 to 6 (inclusive) Block A Flats, Harbour Road, Port Harcourt.
11. 1A to 3A (inclusive) Marine Dockyard, Port Harcourt.
12. 1B to 8B (inclusive) Marine Dockyard, Port Harcourt.
13. 1C to 10C (inclusive) Marine Dockyard, Port Harcourt.
14. 1D to 4D (inclusive) Marine Dockyard, Port Harcourt.
15. 1E to 90E (inclusive) Marine Dockyard, Port Harcourt.
16. 1H to 35H (inclusive) Marine Dockyard, Port Harcourt.
17. 1A Marine Siding, Port Harcourt.

18. 4A Marine Siding, Port Harcourt.
19. 5A Marine Siding, Port Harcourt.
20. 20A Marine Siding, Port Harcourt.
21. 6B Marine Siding, Port Harcourt.
22. 12B Marine Siding, Port Harcourt.
23. 4C Marine Siding, Port Harcourt.
24. 17C Marine Siding, Port Harcourt.
25. 6D Marine Siding, Port Harcourt.
26. 12D Marine Siding, Port Harcourt.
27. 11E Marine Siding, Port Harcourt.
28. Nos. 1, B2, B4 Reclamation Road Area, Port Harcourt.
29. A8 Market Road (Harbour Road Layout), Port Harcourt.
30. No. 89 Graham Avenue, Port Harcourt.

#### **7. Acquired properties in Port Harcourt.**

The interests of the Company in the following properties acquired in Port Harcourt-

<i>S/No</i>	<i>Address of property</i>	<i>Area</i>
(1)	Land at Downstream, Port Harcourt	35.972 Hectares
(2)	Nigerian Ports Authority new acquisition between Marine and Cable Roads, Bonny	
(3)	Nigerian Ports Authority Land at GRA Phase 4, Port Harcourt	Fenced
(4)	Land at Reclamation Road, Port Harcourt. (Formerly occupied by Nemco & Ugochukwu)	3.880 Hectares
(5)	New Port Site, Onne	2048.626 Hectares
(6)	Additional Land for Lighter Terminal, Onne	489.549 Hectares
		<i>Purchase instrument</i>
(7)	No. 17 I.B. Johnson Street, Port Harcourt	Purchased through the abandoned property implementation committee. 1978
(8)	No.6 Captain Amangala Street, Port Harcourt	Purchased through the abandoned property implementation committee. 1978
(9)	No. 19 Captain Amangala Street, Port Harcourt	Purchased through the abandoned property implementation committee. 1978
(10)	No. 14 Afam Street, Mile 1 Diobu, Port Harcourt	Purchased through the abandoned property implementation committee. 1978

*S/No*                      *Address of property*  
 (11)    No. 14 Etche Street, Borokini, Port Harcourt

(12)    No.4 Orominike

Street, D/Line, Port Harcourt

*Area*  
Purchased through private  
treaty from Mr. E.T. Bull Cofu  
No. 25 of 6 July, 1982.

Purchased through private  
treaty from Chief Gilbert Eke  
in 1995.

## 8. Interests in Calabar

The interests of the Company in all those parcels of land, together with all improvements and hereditaments corporeal and incorporeal attached or pertaining thereto, the boundaries of which are shown verged red on the following plans deposited in the Land Registry at Lagos-

Marine Dockyard Area, Calabar	Plan No. C 246
Fort Stuart, Calabar	Plan No. C 115

## 9. Acquired properties in Calabar

The interests of the Company in the following properties acquired in Calabar-

<i>S/No</i>	<i>Location of property</i>	<i>Area of land and survey particulars</i>
(1)	New Port Complex, Esuk Utan	83.64 hectares on Plan No. LSH 974
(2)	Port Manager's Quarters, Ikot Ansa	1.398 hectares on Plan CR/C/250
(3)	Habour Village, Ekorinim	I 1.048 hectares on CRG 859
(4)	Junior Staff Quarters, Ikot Uduak, Calabar	10.917 acres (4.42 hectares) on Plan No. SE/C/122 (Tracing No. SEC 211)
(5)	Land Down Stream (New Port Extension), Esuk Utan	42.564 hectares on CRS Survey Plan No. CR/C 356 (Tracing No. 1139)

## 10. Acquired properties in Warri

The interests of the Company In the following properties acquired in Delta Ports, Warri-

<i>S/No</i>	<i>Description and identification of property</i>	<i>Area</i>	<i>Location</i>
(1)	Old and New Port, Warri	352.674 hectares	Warri
(2)	Port Manager's residence No. 10 Esi Road, Warri	8694.49 hectares	Warri
(3)	Nigerian Ports Authority Housing Estate (Camp 36) Airport Road, Warri	35.35 hectares	Warri
(4)	Land fronting Warri River & Adjoining Okere Creek	1.339 hectares	
	Parcel A (Formerly occupied by UAC)		
	Parcel B (Part of ATC - Main Beach)	1,337 hectares	
	Parcel C (Part of A and ETC premises)	1.627 hectares	Warri

<i>S/No</i>	<i>Description and identification of property</i>	(6)	23,	Road, GRA,
(5)	Ogunu Port Complex	Warri	Sapele	Warri



PART II	Area	Location
<i>Ships</i>	14.08 hectares	Ogunu, Warri
	Residential property	Warri

### **1. Dumb craft**

The interests of the Company in all those accra canoes, gigs, dinghies, lighters, lifeboats, reclamation barges, hopper barges, surf boats, diving boats, water boats, pontoons, poling barges, mooring boats and other dumb craft which appear on a list prepared and agreed between the Government and the Company, prior to the vesting day.

### **2. Interests in power driven craft**

The interests of the Company in all those tugs, towing launches, motor barges, motor pinnaces, sea-going launches, motor water boats, survey launches and other power-driven craft which appear on a list prepared and agreed between the Government and the Company, prior to the vesting day.

### **3. Deposit of lists of dumb and power driven craft**

The lists of dumb and power-driven craft prepared in accordance with paragraph 1 and paragraph 2 shall be signed by the Minister and deposited in the office of the Authority.

### **4. Dredgers**

The interests of the Company in the four dredgers known as the "Lady Bourdillon," "Ibadan," "Mole" and "Pumpwell".

### **5. Interests in reclamation vessels**

The interests of the Company in the reclamation vessel known as the "Lady Thomson".

### **6. Interests in tugs, etc.**

The interests of the Company in the following vessels-

- 1 Tug - "Bertha";
- 3 Motor pinnaces - "Jill," "Janet," "Julliet";
- 1 Water boat - "Audrey";
- 1 Seagoing launch - "Patience";
- 2 Lighters - L. 63, L. 64.

## PART III

### *Miscellaneous*

#### **1. Floating docks and cranes**

The interests of the Company in all floating docks and floating cran

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