



**Nigerian Ports Authority Decree  
No 38 of 1999  
Laws of the Federation of Nigeria**

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### **Nigerian Ports Authority Decree No 38 of 1999 Laws of the Federation of Nigeria**

10th May 1999

The Federal Military Government hereby decrees as follows:-

#### **Part I**

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

**1. (1)** There is hereby established an authority to be known as the Nigerian Ports Authority (in this Decree 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. (1)** There is hereby established for the Authority a the 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 Head of State, Commander-in-Chief of the Armed Forces 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 Schedule 1 to this Decree shall have effect with respect to the proceedings of the Board and the other matters contained therein.
3. The Chairman and other members of the Board other than ex-officio members -
- (a) shall hold office for a period of 4 years on such term and conditions as may be specified in their letters of appointment; and
  - (b) may be re-appointed for one further period of 4 years
4. (1) Notwithstanding the provisions of section 3 of this Decree, a member may at any time be removed from office by the Head of State, Commander-in-Chief of the Armed Forces 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 Head of state Commander-in-Chief of the Armed Forces and that member on the date of the receipt of the notice by the Head of State Commander-in-Chief of the Armed Forces, cease to be a member of the Board.
5. A member of the Board shall be paid such emoluments, allowances and benefits as the Head of State, Commander-in-Chief of the Armed Forces may, from time to time, approve.
6. (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 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. 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 well-being 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 lightering 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 management, supervision or control of any company undertaking in which the Authority is interested by of share holding or otherwise and for that purpose appou and remunerate directors, accountants, other experts agents;
- (g) provide and use appliances for the towage or protection or salvage of life and property or for the prevention of fli within Nigeria and on vessels on the high seas;
- (h) supply water to shipping vessels;
- (i) control pollution arising from oil or any other from ships using the port limits or their approaches;
- (j) provide and operate such other services as the may, from time to time, require; and
- (k) carry out such other activities which are connected or incidental to its other functions under this Decree.

**8. (1)** The Authority shall have power to –

- (a) construct, execute, carry out, equip, improve, work and develop ports, docks, harbours, piers, wharves, water courses, embankment and jetties;
- (b) invest and deal with the monies of the A immediately required on such securities investments and manner as may, from 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 approaches;
- (j) buy any property, and sell, let, lease or otherwise of any property which appears to the Authority to be unnecessary for its purposes;
- (k) enter into agreement with any person for the supply, manufacture, maintenance or repair by that person of any property, movable or immovable necessary purposes of the Authority;
- (l) enter into agreement with any person for the operation provision of any of the port facilities which may be or provided by the Authority;
- (m) provide, appoint, license and regulate weighers and 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 Author or
  - (ii) the efficiency of the equipment of the Authority or of the manner in which that equipment operated,
 including the provision by others of the facilities for training, education and research;
- (q) provide residential accommodation, houses, hostels other like accommodation for its deserving employee terms and conditions to be determined, from time to time, by the Authority in order to promote the welfare of employees;
- (r) purchase, take on lease or in exchange or otherwise, acquire, hold, manage, work , develop the resources C turn to account, any estate, land, building, tenement, other real property of any description, including lease or other tenure and wheresoever situate and any interest therein and any right connected therewith, and in part~ to acquire or take over estates situate in Nigeria;
- (s) grant loans to its deserving and needy employees purposes specifically approved by the Authority on terms and conditions to be determined by the Authority its discretion and in such a manner as is likely to IL ~the effectiveness of such employees in their service Authority or otherwise for the purpose of the function 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 employees' use or for the residential use of the employees' 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 Decree.

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

### **Part III**

#### **Staff**

10. (1) There shall be, for the Authority, a Managing Director to be appointed by the Head of State, Commander-in-Chief of the Armed Forces.
- (2) The Managing Director -
- (a) shall hold office for a period of 5 years on such terms and conditions as may be specified in his letter of appointment; and
  - (b) may be re-appointed for a further period of 5 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 restriction as the Board may impose, for disposing of all question relating to the service of the employees, their pay, allowances and privileges;
  - (c) for matters concerning the accounts and records of Authority.
- (4) The Head of State, Commander-in-Chief of the Forces shall appoint for the Authority 3 Executive Directors assist the Managing Director in the performance of his fun under this Decree.
- (5) An Executive Director -
- (a) shall hold office for a period of 4 years on such and conditions as may be specified in his letter appointment;
  - (b) may be re-appointed for a further period of 3; and
  - (c) perform such functions as may, from time to time assigned to him by the Managing Director and the Board
11. (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 Decree 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. (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.
- (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 have effect as if the office were in the civil service of Federation within the meaning of the Constitution of the Federal Republic of Nigeria.

#### **Part IV**

#### **Financial Provisions**

13. The Authority shall maintain a fund which shall consist of -
- (a) all sums collected as charges, levies and fees under this Decree;
  - (b) all other sums collected or received by the for services rendered by the Authority;
  - (c) all moneys borrowed and capital raised by the Audio under this Decree 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 Decree.
14. (1) Without prejudice to the power of the Authority to set aside from its revenue appropriate amounts for contingencies and other purposes, the Authority shall establish 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 moneys comprised in the reserve shall be as the Authority may, with the approval of the Minister determine.
15. 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. (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 Decree;
  - (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, moneys borrowed or capital raised under this section shall rank equally with all other moneys 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 Decree shall have priority over the payment of interest on any money borrowed or capital raised from the Government under section 17 of this Decree.
- (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 money borrowed or capital raised, under this section.
- (5) Money owed by the Authority under an arrange which the money is allowed to remain unpaid for a period than one year shall be deemed to be money borrowed under this section.
17. The Authority may borrow money, other than borrowed by the Government for the exclusive purpose mentioned in section 16(4) of this Decree, or raise capital from Government in such manner and on such terms and conditions as the Minister may approve for all or any of the purposes me in section 16(1) of this Decree.
18. (1) The Authority may, with the approval of or general authority given by the Minister, borrow temporarily, by loan, overdraft or otherwise, such sums, repayable on demand or within one year after the date of borrowing, as the Authority require for meeting its obligations and discharging its functions under this Decree.
- (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. The Authority may invest all or any part of its moneys in such manner as may be approved by the Minister.

20. (1) The Board shall cause to be prepared, not later than 30th September in each year, an estimate of the expenditure and income of the Authority during the next succeeding year and prepared, they shall be submitted through the Minister, Federal Executive Council 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 guidelines supplied by the Auditor-General of the Federation.
21. (1) The Authority shall, not later than 6 months after the end of each year, submit to the Minister a report 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. (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. (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 Decree.

## **Part V**

### **Provisions Relating to Land**

24. (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 Decree, the Head of state, Commander-in-Chief of the Armed Forces 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.
- (2) On the making of a declaration under subsection (1) of 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.
- (3) When a land or building has been acquired or the rights to it has been revoked as provided in this section, the Head State, Commander-in-Chief of the Armed Forces may -
- (a) vest the land or building in the Authority by means of a certificate under the hand and seal of the Chief F Lands Officer to the effect that the land or building 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 Authority

- (4) The compensation, if any, for an acquisition or revocation, as the case may be, under this section shall in the 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 direction given by the Head of State, Commander-in-Chief Armed Forces in accordance with the provisions of this
  - (6) The Authority may use the land or building under this section for any purpose connected with its function under this Decree.
25. (1) The Authority shall not, without the approval in writing of the Head of State, Commander-in-Chief of the Forces, alienate, mortgage, charge or lease any property which has been vested in the Authority or in respect 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 terminate, revoke or release any mortgage of, charge on or lease of any immovable property vested in it.
26. 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. An authorised employee of the Authority may, with all 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. The Authority shall, when practicable, give notice to 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 Decree and shall inform the appropriate authority in the State in which the is situate or the Federal Capital Development Authority, if the land is situate in the Federal Capital Territory, Abuja, of its intention.
29. (1) In the exercise of any of the powers conferred on Authority by sections 26 and 27 of this Decree, the Authority 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 subsection (1) of this section shall be determined by the High Court exercising jurisdiction in the place where the land is situate.

## **Part VI**

### **Declarations of Ports**

30. (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 this Decree;
  - (b) specify the limits of any place declared as a port accordance with paragraph (a) of this subsection;
  - (c) declare any navigable channel leading into a port to an approach to that port within the meaning of this Decree.
- (2) The places specified in Schedule 2 to this Decree -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 Decree, including
- (a) all ocean beaches within 100 metres of the level;
  - (b) the water ways, creeks and swamp-land below the highest astronomical tide level and all beacons, piers, jetties, slipways, quays and other works extending beyond the natural line of the line of the high water level.

## **Part VII**

### **Regulation of Ports**

- 31.** The Authority may appoint a harbour master in respect of a port.
- 32.** 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 anchorage, 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 Decree 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 port or in the approach to any port in contravention of Decree;
  - (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 moor buoys;
  - (r) regulating and licensing weighing and metering of goods; and
  - (s) regulating and licensing porters and carriers 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 fine not exceeding ₦ 5900 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 12 months or both such fine and imprisonment.

## **Part VIII**

### **Regulation of Piers in Ports**

- 33. (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 ₦5000 or imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.
- 34. (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 Decree;
  - (b) renew a licence granted under paragraph (a) of this subsection.
- (2) The grant or renewal of a licence under subsection (1) 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. (1)** The Authority may cancel a licence granted under section 34 of this Decree -
- (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 Decree;
  - (b) whenever it thinks it proper in the public interest; in which case, the holder of the licence shall be entitled to able 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 pier is located in the like manner as the amount of compensation is determined under the law for the time being regulating acquisition of land for public purposes.
- 36. (1)** An employee of the Authority authorised by 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 required in accordance with any regulation made under section 37 of this Decree 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 Decree; 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 Decree, the cost 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. (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;
  - (c) prescribing the fees to be paid for any licence issued under section 34 of this Decree;
  - (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 Decree.



- (2) For the breach of any regulation made under this section, the Authority may prescribe, as a penalty, a fine not exceeding ₦5000 and, in the case of continuous breach, a further fine not exceeding ₦ 500 a day for every day after the first day which the breach continues or a term of imprisonment not exceeding 12 months or both such fine and imprisonment.

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

## **Part IX**

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

39. (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 –
- (a) set apart and maintain that area; and
  - (b) provide office accommodation in that area in such manner as the Nigeria 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 Nigeria Customs Services.
40. (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, piers and places vested in or in the possession of the Authority on and from which goods shall be landed shipped;
  - (b) regulating the manner in which and the conditions 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 persons and trespassers;
  - (e) regulating the conduct of persons employed 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 ₦5000 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 6 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. (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 sub-section (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 Decree shall be deemed to be a pilotage district for the purposes of this Decree 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. (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 Decree
- (3) For the purposes of subsection (1) of this section, following ships are excepted ships -
- (a) ships belonging to any of the armed forces of Federation;
  - (b) ships owned or operated by the Authority; (c) pleasure yachts;
  - (d) ferry boats plying as such exclusively within of a port;
  - (e) ships not exceeding ten tons gross tonnage;
  - (f) tugs, dredgers, barges or similar vessels course of navigation does not extend beyond a port; and

- (g) ships exempted from compulsory pilotage by regulations made by the Authority under this part this Decree.

43. Subject to the provisions of this Part of this Decree, the Authority may -

- (a) licence 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 Decree.

44. (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 re-appointed; and
- (b) at any time, resign from membership of a pilotage Board by sending his resignation in writing to the Authority.

45. A pilotage board shall -

- (a) hold inquiries concerning the conduct of pilots in the discharge of their duties in the pilotage district;
- (b) licence 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. (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 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 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. 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. A pilotage board holding an inquiry under section 47 of this Decree may summon and examine witnesses on oath and call for any document in any matter before it.

49. (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. (1) Where a pilotage board after due inquiry in accordance with the provisions of this Part of this Decree 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 N2000 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 of this Decree or a recommendation made under subsection (? this section, shall be supplied by the pilotage board to Authority, the Minister and the pilot concerned.

**51. (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 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 Decree, alter the nature of the punishment; or
  - (c) in the case of a recommendation to the Authority under section 50(2) of this Decree, support, comment on or oppose the recommendation.
- (3) The decision of the Minister on an appeal under this section shall be final.

**52. (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 Decree, 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 Decree; 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 Decree.

**53.** Subject to the provisions of this Part of this Decree, 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 under 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 N5000.
- (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 N 10,000) to be given by pilots for the purpose of the provisions of section 55 of this Decree limiting a pilot's liability; and
- (i) generally regulating pilotage in a pilotage district.

**54.** 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 navigation of the ship in the same manner as he would were not compulsory.

- 55. (1)** A pilot who has given a bond, under regulations made under this Part of this Decree, shall not be liable for neglect or want of skill beyond the penalty of the bond and 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 Decree 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. (1)** Subject to this Part of this Decree, 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 Decree, 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. (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 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. (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.** 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.** 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 arrival 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. 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 Decree, 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. Subject to the provisions of this Part of this Decree, 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 control, berthing and
- (b) such pilotage dues,

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

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

- (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 Decree-

- (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. 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 Decree, 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.

*(c) Levy of Rates*

65. Subject to the provisions of this Part of this Decree, the Authority shall levy such rates as the Authority may, by regulations made under section 71 of this Decree, 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 Decree or otherwise without prejudice to the generality of the foregoing, for any e 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 of any gear, tackle, tool, instrument or staging supplied by the Authority for the purpose of any ship using any wharf in the possession of the Authority;
- (e) the use of any ship or lighter, or any engine or boat for the extinction of fire, belonging to or maintained by the Authority;
- (f) the towing of, and rendering assistance to, any ship, whether leaving or entering a wharf in possession of the Authority or not, being within or without any port;
- (g) for water supplied by the Authority;
- (h) for the removal of waste or refuse from any ship; and
- (i) for monitoring port environmental pollution control.

66. (1) The Authority shall have a lien on any goods for the amount of all rates leviable under this Decree 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 and claims, except claims for money payable to the Government of the Federation or of a State.

67. (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 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, prim age or general average 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 charge as they were subject to before the landing of the goods.

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

68. 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 Decree 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. (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 Decree 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 90 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 Decree 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 30 days notice of the sale by publication in the Gazette and at least 2 widely read national newspapers, unless the goods are of so perishable a nature as, in Opinion of the Authority, to render their immediate sale 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. (1) The proceeds of any sale made in accordance with section 69 of this Decree 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 Decree,

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.

***(d) General Provisions as to Dues and Rates***

71. (1) Subject to the provisions of this Part of this Decree, the Authority may make regulations -
- (a) for the levying of dues and rates for the purposes sections 56, 62 and 65 of this Decree;
  - (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 Decree 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 Decree;
  - (g) generally for giving effect to the provisions of this Part of this Decree.
- (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 Decree instead of charging the rate in accordance with the rate prescribed by regulations.
72. 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. 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. (1) If the weight or measurement of the goods or ship's draught referred to in section 73 of this Decree are more than that shown by the particulars delivered by the master in accordance with section 57 or 58 of this Decree, 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 Decree.

- (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 Decree, the Authority shall pay all the expenses of the weighing or measuring and of any unreasonable delay of the ship.
75. (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 14 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. (1) If the Authority gives to the proper officer of the Nigeria Customs Service a notice stating that an amount, specified in the notice, is due in respect of dues or rates leviable under this Decree 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. Notwithstanding anything contained in sections 66 to 76 of this Decree, 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. 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. The provisions of this Part of this Decree 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. The provisions of this Part of this Decree shall apply goods which are the property of the Government.

## **Part XII**

### **Liability of the Authority**

#### ***(a) As a Carrier of Passengers***

- 81.** (1) The Authority shall not be liable for the loss of life loss 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 condition 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.** The Authority shall not be liable for a loss arising from 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. (1)** Subject to the provisions of this Decree, the Authority shall not be liable for any loss 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.

**(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.** 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 an employee, 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. (1)** The liability of the Authority in respect of any animal shall not in any case exceed -

- (a) in the case of a horse, N5,000;
- (b) in the case of any cattle, N 1,000;
- (c) in the case of any other animal, N500,

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 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 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 animal, and where the animal has been injured, the extent of injury, shall be on the claimant.
- (3) The Authority may by order vary the provisions of (a), (b) and (c) of subsection (1) of this section.

***(c) As a Warehouseman***

**86. (1)** Subject to the provisions of this Decree 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 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
  - (g) a fire, flood, tempest, riot, civil commotion, strike, lock-out, stoppage or restraint of labour from 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. (1)** The Authority, in relation to its duties in connection with pilotage under Part X of this Decree 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.** The limitation of liability under section 87 of this Decree-

(a) relates to the whole of any loss or damage which may arise on any one 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. (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 Decree 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 direction as to-

(i) making persons interested parties to proceeding,

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

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

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

### **Part XIII**

#### **Legal Proceedings**



- 92. (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 Decree -
- "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.** The notice referred to in section 92 of this Decree and 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.** 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.** 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.** 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. 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 N5000 in addition to his liability to make good any damage caused by the offence.

98. (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 N5000.

(4) If any owner or person on whom a notice under this section is served neglects, for a period of twenty-four 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 Decree.

99. A person who wilfully obstructs any person doing any of the acts authorised by sections 26, 27, and 98 of this Decree is guilty of an offence and liable on conviction to a fine of N5000 or to imprisonment for a term of 12 months or to both such fine and imprisonment.

***(b) Offences in Connection with Pilotage***

100. (1) If a ship enters, leaves or changes its berth in a Pilotage district in which Pilotage has been made compulsory under this Decree, 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 Decree to be liable to pay the Pilotage dues, and shall be recoverable before a court of competent jurisdiction.

**101.** A pilot who, when in charge of a ship -endangering 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 3 years.

**102.** 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 Decree; 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 N 10,000.

***(c) Offences in connection with Dues, Rates, Returns, etc.***

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

- (a) is guilty of an offence and liable on conviction to a fine of N10,000 or to imprisonment for a term not exceeding 12 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.** A master of a ship who contravenes any of the provision of section 57 or 58 of this Decree is guilty of an offence and liable on conviction to a fine of N10,000 or to for a term not exceeding 12 months or to both such fine and imprisonment.

**105.** 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 Decree is guilty of an offence and liable on conviction to a fine of N10,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

***(d) Offences in connection with Ships***

**106.** 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 N 10,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

**107.** 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 N 100,000.

***(e) Offences by employees of the Authority***

- 108.** 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 Decree, 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 N10,000 or imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.
- 109.** 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.
- 110.** 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 N20,000 or imprisonment for a term not exceeding 2 years; and
  - (b) in any other case, to a fine not exceeding N10,000.

**Part XV**

**Miscellaneous Provisions**

- 111.** The provisions of -
- (a) the Nigerian Urban and Regional Planning Decree 1992;
  - (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.** 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.** Nothing in this Decree shall be deemed to derogate from the powers conferred on any person under the customs laws as defined in the Customs and Excise Management Act.
- 114.** The owner of every ship intending to enter any port in Nigeria for any purpose whatsoever shall, not later than 30 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.** The Authority shall on receipt of the statement referred to in section 114 of this Decree, issue to the owner or agent of the owner of the ship a notice (in this Decree 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.** 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.** Notwithstanding anything contained in this Decree, 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.** 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. (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 N10,000 for each day or part of a day during which the offence continues or to imprisonment for a term of 2 years; and
- (b) in the case of a body corporate, to a fine of N50,000 and a further fine of N20,000 for each day or part of a day during which the offence continues.

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

**121. (1)** Without prejudice to the provisions of this Decree, bye-law made after the commencement of this Decree by the Authority in exercise of the powers conferred on it by this Decree 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 pursuant of this subsection.

122. 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 Decree 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. 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 Decree is a Federal port.

124. 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. (1) The Nigerian Ports Decree 1993 (in this section referred to as "the repealed Decree") is hereby repealed and the Company known as the Nigerian Ports PLC, registered under the Companies and Allied Matters Decree 1990, and its board of directors are hereby dissolved.

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

(3) As from the commencement of this Decree -

(a) all rights, interests, obligations and liabilities of Company existing immediately before the commencement of this Decree under any contract or instrument, or at law or in equity apart from any contract or instrument, shall virtue of this Decree be assigned to and vested in Authority;

(b) in addition to the rights and interests vested in the Authority under paragraph (a) of this subsection, the assets described in Schedule 3 to this Decree shall vest in the Authority by virtue of this Decree and without further assurance;

(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 patty 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 Decree, and all other persons shall as from the commencement of this Decree -

have the same rights, powers and remedies against the Authority as they had against the Company immediately before the commencement of this Decree.

(4) A proceeding or cause of action pending or existing immediately before the commencement of this Decree 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 Decree had not been made.

- (5) Notwithstanding the provisions of this Decree but subject to such directions as may be issued by the Authority, a person who immediately before the commencement of this Decree 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 Decree, 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 Decree or by Company shall, during its duration, be deemed for all purposes to be granted by the Authority under this Decree.
- (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 Decree, by order published in the Gazette, make additional transitional or saving provisions for the better carrying out of the objectives of this section.

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

**127.** In this Decree, 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 Decree;

"Authority" means the Nigerian Ports Authority established under section 1 of this Decree;

"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 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 twenty-four hours in ban 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 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 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 beyond High Water Mark or Ordinary Spring Tide extending into the waters of any navigable channel includes any pontoon moored in any such waters and 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 Decree;

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

"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 Decree comes into force;

"warehouse" includes any building and place, when used by the Authority for the purpose of warehouse~g depositing goods.

**128.** This Decree may be cited as the Nigerian Ports Authority Decree 1999.

## **Schedules**

### **Schedules 1**

*Section 2(24)*

#### **Supplementary Provisions Relating to the Board, etc.**

##### ***Proceedings of the Board***

1. Subject to this Decree and section 27 of the Interpretation Act 1964 (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.
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 number of standing and ad hoc committees as it thinks fit to consider and report on any matter with which the Authority is
- (2) A committee appointed under this paragraph shall be over by a member of the Board and shall be made up of such number of persons, (not necessarily members of the Board), my be determined by the Board.
- (3) The quorum of any committee set up by the Board shall may be determined by the Board.

#### *Miscellaneous*

6. The fixing of the seal of the Authority shall be authentically 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.

### **Schedule 2**

*Section 30*

#### **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 (I & 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.

## **Schedule 3**

*Section 125(3)(b)*

### **Assets Vested in the Authority**

#### **Part I**

*Lands and dwelling houses*

1. 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. NLDC411
(b)	Port Engineer's Yard and Government Oil Wharf	.....	Plan No.NLDC412
(c)	Customs Wharf Area	.....	Plan No. NLDC 413
(d)	Marine Headquarters Area	.....	PlanNo.NLDC414
(e)	West Mole Area	.....	Plan No. NLDC 415
(f)	East Mole Area	.....	PlanNo.NLDC416
(g)	Staff Quarters, Adelabiagba	.....	Plan No. NLDC417
(h)	Apapa Wharf Extension	.....	PlanN6;NLDC418
(i)	Staff Quarters, Ikoyi	.....	Plan No. NLDC 420

2. 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.4 Force Road, Lagos.
- (2) No.9 Marina, Lagos.
- (3) No.23/2 Marina, Lag~
- (4) No.23/3 Marina, Lagos.
- (5) No.19 Tumbuli 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 PointRoad, 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.
- Barthurst Road.

**3. The interests of the Company in the following properties acquired in Lagos -**

<b>S/NO</b>	<b>Description of Property</b>	<b>Area</b>
(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
(4)	Land at Lilypond, Badiyya/Ijora for Container Terminal Phases I & II	7.06 ) 11.082 hectares 4.022)
(5)	Land along Ikorodu Road Owode-Onirin for Development of Trunk Termi	120 hectares
(6)	Old Cement Works site 27, Greek Road, Apapa	2.46 hectares

- |     |  |  |
|-----|--|--|
| (7) | 9/11 Oke-Olowoghowo Street, Lagos (part of 216 Broad Street, Lagos)                    | 0.0324 hectares  |
| (8) | Tarkwa Bay/Lighthouse/Ogogoro Area for future port development. Parcels A, B, C, D & E | A -220.72 hectares<br>B -116.35 hectares<br>C - 51.32 hectares<br>D - 118.7 hectares<br>E - 53.18 hectares |

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

<b>S/N</b>	<b>Address of Property</b>	<b>Area</b>	<b>Purchase Instrument</b>
(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 Fenced 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	
(7)	No.17 I.B. Johnson Street, Port Harcourt.		Purchased through the abandoned property implementation committee. 1978
(8)	No. 6 Captain Amangala Street,		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
(11)	No.14 Etche Street, Borikiri, Port Harcourt		Purchased through private treaty from Mr. E.T. Bull Cofa No. 25 of 6 <sup>th</sup> July, 1982.
(12)	No.4 Orominike Street, D/Line, Port Harcourt		Purchased through private treaty from Chief Gilbert Eke in 1995.

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

S/No	Location of Property	Area of Land and survey Particulars
(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	11.048 hectares on CR6 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. The interests of the Company in the following properties acquired in Delta Ports, Warri -

S/No	Description and Identification of Property	Area	Location
(1)	Old and New Port, Warri	352.674 hectares	Warri
(2)	Port Manager's residence No.10 Esi Road, Warn	8694 .49hectares	Warri
(3)	Nigerian Ports Authority Housing Estate (Camp 36) Airport Road, Warri.	35. 35hectares	Warri
(4)	Land fronting Warn River & Adjoining Okere Creek	1 .339hectares	
	Parcel A (Formerly occupied by UAC)		
	Parcel B (Part of ATC -Main Beach)	1 ,337hectares	Warri
	Parcel C (Part of A and -ETC premises)	1 .627hectares	
(5)	Ogunu Port Complex	14. 08hectares	Ogunu, Warri
(6)	23, Warn Sapele Road, GRA, Warri	Residential Property	Warri

## Part II

1. 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. 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. 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. The interests of the' Company in the four dredgers known as the "Lady Bourdillon,'1 "Ibadan,t1 "Mole" and Pumpwell



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

6. 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. The interests of the Company in all floating docks and floating cranes.

Made at Abuja this **10th** day of **May** 1999.

General Abdulsalami Alhaji Abubakar,  
Head of State, Commander-in-Chief of the Armed Forces,  
Federal Republic of Nigeria.

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