



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 10th May, 2017

1. The Senate met at 10:48 a.m. The Deputy Senate President read Prayers.

2. **Votes and Proceedings:**

The Senate examined the Votes and Proceedings of Tuesday, 9th May, 2017.

Question was put and the Votes and Proceedings were approved.

3. **Announcements:**

(a) **Invitation to a Book Launch:**

The Deputy Senate President read a letter from Senator Dino Melaye (*Kogi West*) as follows:



Senator Dino Melaye

KOGI WEST SENATORIAL DISTRICT
Chairman Senate Committee on Federal Capital Territory

8th May, 2017

*His Excellency,
Distinguished Senator Abubakar Bukola Saraki, CON
President of the Senate,
National Assembly Complex,
Abuja.*

DISTINGUISHED SENATORS:
SPECIAL INVITATION TO MY BOOK LAUNCH

I feel deeply honoured to request the pleasure of your most distinguished presence at the Official Public Presentation and Launching of my Book, Antidotes for Corruption - The Nigerian Story.

As you are well aware, the fight against Corruption in Nigeria has recently dominated national discuss and heavily impacted on the policy and programmatic trajectory of governance. The book being presented and launched is intended as a signature contribution from me, as a Senator of the Federal Republic, to the ongoing fight against Corruption in Nigeria.

The book is my first, and its presentation and launching will hold by 10.00 a.m. prompt at Shehu Musa Yar'adua Center, CBD, Abuja, on Monday, 15th May, 2017. The Book's Foreword is written by His Excellency, Dr. Bukola Saraki, CON, the incumbent Senate President of Nigeria.

To this end, I formally request for the honour of the presence of my Distinguished Colleagues at this Book Launch.

Yours Sincerely,

(Signed)

Senator Dino Melaye

(b) Acknowledgment:

The Deputy Senate President acknowledged the presence of the following who were in the gallery to observe Senate Proceedings:

- (i) Members of Lagos State University Students' Union, Students Parliamentary Council, Ojo, Lagos State;
- (ii) Members of Social Studies and Civic Educators Association of Nigeria, Federal College of Education, Zaria, Kaduna State; and
- (iii) Staff and Students of Brilliant Impact International Children Academy, Tafa Local Government Area, Niger State.

4. Matter of Urgent Public Importance:

Rising on Rules 42 and 52, Senator Dino Melaye (*Kogi West*) drew the attention of the Senate on the Need for Urgent Investigation into Allegations of Failure to Perform/Conduct Mandatory Post-Procurement Audit and Corrupt Issuance of "Certificate of No Objection" by the Bureau of Public Procurement from 2011 - 2017. He sought and obtained the leave of the Senate to present the matter forthwith:

The Senate:

notes that in line with section 5 (q) Public Procurement Act 2007, the Bureau for Public Procurement (BPP) is mandated to perform procurement audits and submit such reports to the National Assembly bi-annually;

further notes that BPP has repeatedly failed and neglected to perform this crucial public and statutory duty (particularly the conduct of post-procurement audit and submission of the Report to the National Assembly;

observes that the above neglect of duty by the BPP has affected the National Assembly in its constitutional duty of conducting oversight with respect to the application of Public Funds;

notes that based on sections 6(1)(c) and 16(1)(b) of the Public Procurement Act 2007, the Bureau of Public Procurement is authorized to issue certificate of no objection to contracts awarded by relevant procurement entity;

further notes that the vesting of the above powers on BPP is aimed at ensuring that the letters and spirit of the Public Procurement Act is complied, government gets value for money, contracts awarded are within relevant thresholds and is backed by budgetary allocation;

observes that the BPP has consistently engaged in under-hand dealings with respect to the grant of "certificate of no objection" abusing this powers to make pecuniary gains;

further observes that such gross abuses and violation of the Public Procurement Act 2007 has been exasperated by the recent increase in arbitrary nomination to procuring entities of winners for tendering processes and where the procuring entity declines, the process is interjected and frustrated in bad faith and for flimsy reasons;

concerned that if urgent steps are not taken to investigate these allegations and address any proven infractions, the BPP is likely to transform itself from a regulator to disruptor and will endanger the entire public procurement system;

Accordingly resolves to:

mandate the Committee on Public Procurement (in conjunction with its House of Representatives counterpart) to investigate the above allegations and report to the Senate in Five (5) weeks.

Debate:

Proposed Resolution:

Question: That the Senate do mandate the Committee on Public Procurement (in conjunction with its House of Representatives counterpart) to investigate the above allegations and report to the Senate in Five (5) weeks.

Amendment Proposed:

Leave out the words “(in conjunction with its House of Representatives counterpart)” (*Senator James E. Manager — Delta South*).

Question that the amendment be made, put and agreed to.

Resolved:

That the Senate do mandate the Committee on Public Procurement to investigate the above allegations and report to the Senate in Five (5) weeks (*S/Res/167/02/17*).

5. Conference Committee:

Report on the Agricultural Credit and Guarantee Scheme (Amendment) Bill, 2017 (SB. 17)

Motion made: That the Senate do adopt the Report of the Conference Committee on Agricultural Credit and Guarantee Scheme (Amendment) Bill, 2017 (*Senator Abdullahi Adamu — Nasarawa West*).

Question put and agreed to.

Report presented.

Report accordingly adopted.

6. Committee on Marine Transport:

Report on the National Inland Waterways Act CAP N47 LFN (Repeal and Re-enactment) Bill, 2017 (SB. 240):

Motion made: That the Senate do consider the Report of the Committee on Marine Transport on National Inland Waterways Act CAP N47 LFN (Repeal and Re-enactment) Bill, 2017 (*Senator Ahmed R. Sani — Zamfara West*).

Question put and agreed to.

Report presented.

Motion made: That the Senate do resolve into the Committee of the Whole to consider the Report (*Senate Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO REPEAL THE NATIONAL INLAND WATERWAYS AUTHORITY ACT CAP. N47, LFN 2004 AND TO ENACT THE NATIONAL INLAND WATERWAYS AUTHORITY ACT TO PROVIDE FOR THE MANAGEMENT, REGULATION AND DEVELOPMENT OF THE NATIONAL INLAND WATERWAYS AND TO PROMOTE PRIVATE SECTOR PARTICIPATION IN THE DEVELOPMENT OF THE NATIONAL INLAND WATERWAYS IN NIGERIA AND FOR OTHER RELATED MATTERS, 2017

PART I - OBJECTIVES AND APPLICATION**Clause 1: Objectives of the Act.**

The objectives of this Act are to:—

- (a) develop and improve the National Inland Waterways for water transportation and navigation purposes;
- (b) increase and promote private sector investment and participation in the management and operation of the assets of the National Inland Waterways Authority;
- (c) provide for the technical and safety regulations of the National Inland Waterways;
- (d) promote intermodalism in the transport sector;
- (e) provide an alternative mode of transportation for the evacuation of goods and persons; and implement the National Transport Policy as it concerns National Inland Waterways in Nigeria.

Committee's Recommendation:

That the provision in Clause 1 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 1 do stand part of the Bill, put and agreed to.

Clause 2: Application of the Act.

This Act applies to all National Inland waterways listed in Schedule I and to any other National Inland Waterways as may be declared by the National Assembly and to any person or Government Agency with activities or operations connected with National Inland Waterways in Nigeria.

Committee's Recommendation:

That the provision in Clause 2 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 2 do stand part of the Bill, put and agreed to.

PART II - ESTABLISHMENT OF THE NATIONAL INLAND WATERWAYS AUTHORITY**Clause 3: Establishment of the National Inland Waterways Authority.**

- (1) There is established a body to be known as the National Inland Waterways Authority (hereinafter referred to as "the Authority").
- (2) The Authority shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name.
- (3) The Authority shall have all the powers of a body corporate, including the power to enter into contracts and incur obligations, to acquire, hold, mortgage, purchase, sell, lease and deal howsoever with property, whether

movable or immovable, real or personal and do all acts and things which a natural person may by law do which are necessary or convenient for the discharge of its functions.

Committee's Recommendation:

That the provision in Clause 3 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 3 do stand part of the Bill, put and agreed to.

PART III - FUNCTIONS AND POWERS OF THE AUTHORITY

Clause 4: Functions of the Authority.

(1) The Authority shall:—

- (a) ensure the development and operations of National Inland Waterways in Nigeria in collaboration with the relevant stakeholders by granting concessions, leases, management contracts, entering into joint venture contracts or granting permits to render services connected with National Inland Waterways development and operations;
- (b) ensure the efficient management and administration of the National Inland Waterways;
- (c) manage and administer the Authority's assets safely and efficiently with a view to maximizing their economic potential;
- (d) organise and integrate the nation's National Inland Waterways operations for efficient utilization for transportation;
- (e) ensure the development of infrastructural facilities for a National Inland Waterways network connecting the creeks and the rivers with the economic centres using the river-ports as nodal points for intermodal exchange;
- (f) undertake capital and maintenance dredging within the National Inland Waterways;
- (g) design and maintain ferry routes within the National Inland Waterways;
- (h) survey, remove and retrieve derelicts, wrecks and other obstructions from the National Inland Waterways;
- (i) install and maintain lights, buoys and all aids to navigation along water channels and banks on the National Inland Waterways;
- (j) issue and regulate the use of permits for inland navigation, piers, jetties, dockyards and wharves;
- (k) examine and certify all non - convention vessels, including rig platforms that operate on the National Inland Waterways
- (l) register all vessels including non-convention vessels, dredgers and boats of all tpes that operate on the National Inland Waterways.

- (m) grant permits for seismic survey, reclamation, shore protection work and wreck removal within the Declared Waterways and its right of way;"
- (n) grant permits to private National Inland Waterways operators;
- (o) approve the design and construction of inland river crafts and also inspect, regulate, approve and issue licences and permits for vessels designed for National Inland Waterways operations;
- (p) approve and regulate:—
 - (i) the use of all Jetties, dockyards, piers, river ports and other associated structures and platforms within the National Inland Waterways;
 - (ii) advertising within the right-of-way of the National Inland Waterways;
 - (iii) land reclamation within the right-of-way.
- (q) construct, administer and maintain inland river-ports and jetties;
- (r) provide hydraulic structures for rivers and dams, bed and bank stabilisation, barrages and buoys in order to regulate and stabilize river water upstream for the purpose of navigation;
- (s) produce, publish and broadcast navigational leaflets, aids to navigation, bulletin and notices, hydrological year books, river charts and river maps;
- (t) carry out consultancy and contractual services in relation to its activities under this Act;
- (u) subject to the provisions of the Environmental Impact Assessment Act, carry out environmental impact assessment of navigation and other dredging activities within the National Inland Waterways and its right-of-way;
- (v) erect and maintain gauges, kilometre boards, horizontal and vertical control marks;
- (w) advise government on all border matters that relate to the National Inland Waterways;
- (x) acquire, lease and hire properties in connection with its activities under this Act;
- (y) control and clear water hyacinth and other aquatic weeds along the National
- (z) implement the transport policy of the Federal Government of Nigeria pertaining to the National Inland Waterways;
- (aa) monitor and enforce compliance with the provisions of this Act and regulations made by the Authority; and

- (bb) perform such other functions as are considered reasonably necessary to give full force and effect to the provisions of this ct.
 - (cc) grant permit and license for pipeline construction and laying, dredging of slots and laying of telecommunication cables within the Authority's right of way, which shall include 100 meters distance before and after a bridge constructed on the Authority's right of way.
- (2) Without prejudice to the provisions of subsection (1) of this section, the Authority shall perform its functions and exercise its powers in such a manner as the Authority considers best to achieve the objectives of this Act.
 - (3) Notwithstanding the provision of any enactment, for the purpose of safety, regulation, maintenance and safe navigation of Nigerian Inland waterways, any holder of a quarry lease or license for sand dredging for whatever purpose within Nigerian Inland Waterways and its Declared Right of Way shall obtain the consent of the Authority upon payment of necessary charges to the Authority.
 - (4) The Authority may perform any of its functions or exercise its powers under this Act other than the power to make regulations through an officer, agent or any person authorised by the Authority in that behalf.
 - (5) The Authority shall be entitled to payment of dues, charges, levies, royalties and fees arising from the discharge of its functions or the exercise of its powers under this Act.

Committee's Recommendation:

That the provision in Clause 4 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 4 do stand part of the Bill, put and agreed to.

Clause 5: Demolishing of Piers, Jetties and Wharves.

An authorised employee of the Authority may demolish or cause to be demolished a pier, jetty or wharf in any National Inland Waterways or in the approach to any National Inland Waterways where the pier, jetty or wharf is erected or operated in contravention of the provisions of this Act or regulations made there-under.

Committee's Recommendation:

That the provision in Clause 5 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 5 do stand part of the Bill, put and agreed to.

Clause 6: Application of Part III.

The provisions of this Part shall apply to all persons including Federal, State and Local Government Agencies.

Committee's Recommendation:

That the provision in Clause 6 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 6 do stand part of the Bill, put and agreed to.

PART IV - GOVERNING BOARD, MANAGEMENT AND STAFF OF THE AUTHORITY

Clause 7: Establishment of the Governing Board of the Authority.

- (1) There is established a Governing Board of the Authority (hereinafter referred to as 'the Board') responsible for supervising the affairs of the Authority.
- (2) The Board shall consist of the following members:—
 - (a) a non-executive Chairman;
 - (b) the Managing Director of the Authority;
 - (c) the two Executive Directors of the Authority;
 - (d) two members representing public interest; and
 - (e) a representative of each of the following:—
 - (i) Federal Ministry of Transport;
 - (ii) Federal Ministry of Water Resources;
 - (iii) Federal Ministry of Agriculture and Rural Development (Federal Department of Fisheries);
 - (iv) Nigerian Ports Authority (NPA); and
 - (v) Nigerian Maritime Administration and Safety Agency.
- (3) The Board shall:—
 - (a) be responsible for the determination of the policy of the Authority and superintend over the implementation of the policy; and
 - (b) review and approve the strategic plans of the Authority.
- (4) The Board shall adhere to the provisions of this Act and to any relevant general guidelines on the governance of public bodies and to such other generally accepted principles of good corporate governance as may be applicable to the Authority.
- (5) The supplementary provisions set out in Schedule III to this Act shall have effect with respect to the proceedings of the Board and other matters contained therein.
- (6) The remunerations and allowances payable to members of the Board shall be as determined by the relevant extant laws of the Federation.
- (7) Each of the six (6) geo-political zones of the Federation shall be represented in appointment into the Board of the Authority.

Committee's Recommendation:

That the provision in Clause 7 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 7 do stand part of the Bill, put and agreed to.

Clause 8: Appointment and qualification of members of the Board.

- (1) The chairman and members of the Board, other than ex-officio members, shall be:—
 - a. in —
 - (i) Maritime Law;
 - (ii) Shipping;
 - (iii) Finance;
 - (iv) Port Management;
 - (v) Transportation; or
 - (vi) Engineering
 - (b) persons of proven integrity with relevant cognate experience in —
 - (i) Maritime Law;
 - (ii) Shipping;
 - (iii) Finance;
 - (iv) Port Management;
 - (v) Transportation; and/or
 - (vi) Engineering.
- (2) The Minister shall take into consideration the functions of the Authority under this Act when recommending persons for appointment to the Board.
- (3) A person shall not be appointed or remain in office as a member of the Board if that person:—
 - (a) is not a citizen of Nigeria;
 - (b) is incapacitated by any physical illness;
 - (d) has been certified to be of unsound mind;
 - (e) is an undischarged bankrupt;
 - (f) has been convicted in Nigeria or elsewhere of a felony;
 - (g) has at any time been removed from office on account of misconduct; or
 - (h) at the relevant time, is a director of or acts in any executive capacity in one or more companies or bodies, however constituted, with responsibility for managing or regulating or providing any services to or within any National Inland waterways or creeks in Nigeria.
- (4) The conflict of interest provisions contained in the Schedule IV to this Act shall be applicable to all Directors of the Authority.

Committee's Recommendation:

That the provision in Clause 8 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 8 do stand part of the Bill, put and agreed to.

Clause 9: Vacancy on the Board.

- (1) Notwithstanding the provisions of section 7 of this Act, the office of the Chairman or a member of the Board shall become vacant where:—
 - (a) he resigns his office by notice in writing under his hand addressed to the President through the Minister;
 - (b) he completes his tenure;
 - (c) he dies;
 - (d) he becomes' of unsound mind or incapable of carrying out his duties;
 - (e) he becomes bankrupt;
 - (f) he is found guilty of gross misconduct relating to his duties;
 - (g) in the case of an ex - officio member, he ceases to hold the office on the basis of which he became a member of the Board; or
 - (h) the President is satisfied that it is not in the interest of the Authority or of the public for the person appointed to continue in office.
- (2) Subject to the provisions of subsection (1) of this section, a vacancy in the Board shall be filled by the appointment of another person to the vacant office by the President on the recommendation of the Minister as soon as it is reasonably practicable after the occurrence of such vacancy.
- (3) Where a vacancy exists upon the death, removal or resignation of a member, any person appointed as his replacement shall hold office for the unexpired term of office of his predecessor.

Committee's Recommendation:

That the provision in Clause 9 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 9 do stand part of the Bill, put and agreed to.

Clause 10: Appointment and Tenure of Managing Director and Executive Directors.

- (1) There shall be, for the Authority, a Managing Director to be appointed by the President on the recommendation of the Minister;
- (2) The Managing Director:—
 - (a) shall hold office for a period of four years, on such terms and conditions, as may be specified in his letter of appointment; and
 - (b) may be reappointed for a further period of four years and no more.

- (3) The Managing Director shall be the Chief Executive Officer of the Authority and shall be responsible for:—
 - (a) the execution of the policy and the day-to-day administration of the Authority;
 - (b) the supervision of all other employees of the Authority and subject to such restrictions as the Board may impose, for disposing all questions relating to the service of the employees, their pay, allowances and privileges; and
 - (c) matters concerning the accounts and records of the Authority.
- (4) The President shall appoint for the Authority, two Executive Directors to assist the Managing Director in the performance of his functions under this Act.
- (5) An Executive Director:—
 - (a) shall hold office for a period of four years, on such terms and conditions as may be specified in his letter of appointment;
 - (b) may be reappointed for a further period of four years and no more; and
 - (c) Shall perform such functions as may, from time to time, be assigned to him by the Managing Director and the Board.

Committee's Recommendation:

That the provision in Clause 10 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 10 do stand part of the Bill, put and agreed to.

Clause 11: Removal of Managing Director or Executive Director.

- (1) The Managing Director or an Executive Director shall only be suspended or removed from office by the President if he:
 - (a) is found to be unqualified for appointment as Managing Director or an Executive Director contrary to the provisions of this Act;
 - (b) has demonstrated the inability to effectively perform the duties of his office;
 - (c) has been absent from five consecutive meetings of the Board without the consent of the Chairman except where he shows good reason for such absence;
 - (d) is guilty of serious misconduct in relation to his duties as Managing Director or an Executive Director;
 - (e) is disqualified or suspended from practicing his profession in any part of the world by a competent authority; or
 - (f) is in breach of the conflict of interest Rules set out in the Schedule IV to this Act.

- (2) The Managing Director or Executive Director shall not be removed from office under the provision of subsection (1) of this section, unless the Minister has duly served on the Managing Director or an Executive Director a prior written notification of the intention to suspend or remove him from office and the reasons for such suspension or removal.
- (3) The Managing Director or Executive Director shall, upon receipt of the notice referred to in sub-section (2) of this section, be given an opportunity to make written submissions to the Minister within fourteen days from the date of the receipt of the notice.
- (4) The Managing Director or Executive Director may, within the days specified in the notice, deliver a written submission to the Minister.
- (5) The Minister shall, upon the receipt of the submission referred to in subsection (4) of this section, provide the Managing Director or Executive Director the opportunity to make oral representations on the submissions made before taking decision on whether or not to recommend suspension or removal from office.

Committee's Recommendation:

That the provision in Clause 11 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 11 do stand part of the Bill, put and agreed to.

Clause 12: Appointment of Board's Secretary.

- (1) The Board shall have a Secretary who shall be the Head of the Legal Department.
- (2) The Secretary shall be a legal practitioner with not less than ten years post call experience.
- (3) The Secretary shall report to the Managing Director and be responsible for:
 - (a) making arrangements for meetings of the Board and preparing the agenda and minutes of such meetings;
 - (b) communicating the decisions of the Board to members of the Board and keeping records of the Board's meetings and proceedings;
 - (c) keeping the seal and corporate records of the Authority;
 - (d) arranging for payments of fees and allowances of meetings and all other matters affecting members of the Board; and
 - (e) such other duties affecting the Authority as the Board may from time to time direct.

Committee's Recommendation:

That the provision in Clause 12 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 12 do stand part of the Bill, put and agreed to.

Clause 13: Remuneration of Management and Other Staff.

The fees and allowances payable to the Managing Director, Executive Directors and other staff of the Authority shall be determined by the Board in consultation with the relevant government agencies and in accordance with extant laws and Federal Government guidelines.

Committee's Recommendation:

That the provision in Clause 13 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 13 do stand part of the Bill, put and agreed to.

Clause 14: Employment and Conditions of Service.

- (1) The Authority shall have powers to employ such number of persons as it may deem necessary for the effective discharge of its duties, functions, and regulations made under this Act.
- (2) The Authority shall be responsible for determining the job description, title, terms, qualifications and salaries including allowances of the employees subject to the approval of the National Income, Salaries and Wages Commission
- (3) Employees of the Authority shall be subject to the Conflicts of Interest provisions contained in the Schedule IV to this Act.
- (4) Service in the Authority shall be approved service for the purpose of the Pension Reform 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 applicable in the Authority.
- (5) Nothing in subsection (4) of this section shall exclude the Authority from employing staff on non-pensionable terms and conditions.
- (6) The powers of the Authority under this section shall be exercised in accordance with extant laws and Federal Government guidelines.

Committee's Recommendation:

That the provision in Clause 14 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 14 do stand part of the Bill, put and agreed to.

PART V: DECLARATION OF NAVIGABLE WATERWAYS**Clause 15: Federal Navigable Waterways.**

All rivers and their tributaries, distributaries, creeks, lakes, lagoons and intra-coastal waterways specified in the Schedule I to this Act are declared Federal navigable waterways.

Committee's Recommendation:

That the provision in Clause 15 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 15 do stand part of the Bill, put and agreed to.

Clause 16: Area under control of the Authority.

All navigable waterways, inland waterways and internal waters of Nigeria, excluding all approaches to the ports as may be determined by the Transport Sector Regulator from time to time under the Ports and Harbours Law listed in Schedule II to this Act shall be under the exclusive management, direction and control of the Authority.

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 16 do stand part of the Bill, put and agreed to.

Clause 17: Conditions pertaining to right of land usage for improvement.

- (1) The right of land usage for improvement of navigability and provision of infrastructure shall cover areas on both banks of the waterways which would be submerged in a flood of 100 years return period.
- (2) In case of waterways with steep banks where such flood has no overbank flow, the right of way shall include the areas of land along the waterway measured 100 metres perpendicular from the edge of the channel.

Committee's Recommendation:

That the provision in Clause 17 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 17 do stand part of the Bill, put and agreed to.

Clause 18: Use of land or movable property.

- (1) The Authority shall, notwithstanding the provisions of the Lands (Title Vesting etc.) Act, Cap L7, Laws of the Federation of Nigeria, 2004, have the exclusive right to all land within the right-of-way of declared waterways and shall use such land for navigational purposes and for any of its functions under this Act.
- (2) The Authority shall have the powers to determine and approve the use to which any land or immovable property within the right of way may be put to.
- (3) No person, including a State Government or Local Government shall -
 - (a) obstruct a declared waterway;
 - (b) take sand, gravel, stone or other natural resources from any declared waterways;
 - (c) erect structures within the right-of-way or divert water from a declared waterway; or
 - (d) carry out any of the activities as specified in this Act - without the written consent, approval or permission of the Authority.

Committee's Recommendation:

That the provision in Clause 18 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 18 do stand part of the Bill, put and agreed to.

Clause 19: Prohibition and sale of land.

The Authority shall not without the written approval of the President, concession or lease its land or property for more than ten (10) years.

Committee's Recommendation:

That the provision in Clause 19 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 19 do stand part of the Bill, put and agreed to.

PART VI - FINANCIAL PROVISIONS**Clause 20: Fund of the Authority.**

- (1) There is established for the Authority a fund ("the Fund") which shall consist of all monies accruing to the Authority from:
- (a) Port Development levy;
 - (b) 1% of sums accruable to Federal Government from Oil and Gas within the Declared Waterways and its right of ways;
 - (c) 2.5% of Concession Fees annually paid to Federal Government by hydro-electricity generating companies operating within the Declared Waterways and its right of ways;
 - (d) 0.25% of Ecological Fund;
 - (e) charges, dues, levies, royalties and fees collected by the Authority;
 - (f) concession fees paid to the Authority;
 - (g) annual fees for licences and permits issued by the Authority;
 - (h) gifts, grants, aids and subventions;
 - (i) assets that may from time to time be vested in or accrue to the Authority in the course of performing its functions under this Act;
 - (j) sums collected or received by the Authority for services rendered;
 - (k) monies borrowed and capital raised by the Authority under this Act or any other enactment; and
 - (l) such other sums as maybe received by the Authority from other sources.

Committee's Recommendation:

That the provision in Clause 20 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 20 do stand part of the Bill, put and agreed to.

Clause 21: Application of the Authority's monies.

- (1) The Authority shall have the power to expend the funds which accrue to it under this Act in the cause of performing its functions.

- (2) Any excess of the Authority's revenue for any year over the approved expenditure for that year shall, subject to its approved annual budget, be remitted to the Consolidated Revenue Fund (*Senator Ahmed R. Sani — Zamfara West*).

Amendment Proposed:

Leave out the provision in Clause 21 (Senator Bala Ibn Na'Allah — Kebbi South).

Question that the amendment be made, put and agreed to.

Question that Clause 21 as amended do stand part of the Bill, put and agreed to.

Clause 22: Power to borrow and accept gifts.

- (1) The Authority may, with the prior consent of its Board and in accordance with the applicable laws, rules and regulations governing borrowings by public bodies, borrow such sum of money or raise capital, otherwise than from the Government as the Authority may require in the exercise of its functions under this Act.
- (2) The Authority may accept gifts, grants of money, aid or other property from national, bilateral and multi-lateral organisations or agencies upon such terms and conditions, if any, as may be agreed upon, provided that such gifts are not inconsistent with the objectives and functions of the Authority.

Committee's Recommendation:

That the provision in Clause 22 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 22 do stand part of the Bill, put and agreed to.

Clause 23: Annual Budget.

- (1) The Authority shall not later than four months to the end of the financial year, prepare and present to the minister for consideration and presentation to the National Assembly for approval, a statement of estimated income and expenditure for the following financial year.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Authority may also in any financial year, submit supplementary or adjusted statements of estimated income and expenditure to the Minister for approval (*Senator Ahmed R. Sani — Zamfara West*).

Amendment Proposed:

Immediately after the word "approval" in line 4, *insert* the words "subject to approval of the National Assembly" instead thereof (*Senator James E. Manager — Delta South*).

Question that the amendment be made, put and agreed to.

Question that Clause 23 as amended do stand part of the Bill, put and agreed to.

Clause 24: Financial Year.

The financial year of the Authority shall commence on 1st January of each year and end on 31st December of that year.

Committee's Recommendation:

That the provision in Clause 24 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 24 do stand part of the Bill, put and agreed to.

Clause 25: Accounts and records to be open for inspection.

- (1) The accounts and records of the Authority shall, during office hours be open for inspection by:
 - (a) a member of the Board;
 - (b) a person authorized to inspect the accounts by the Minister;
 - (c) authorised person from the Commission; and
 - (d) the National Assembly.
- (2) The account books of the Authority shall be kept at the Head Office of the Authority.

Committee's Recommendation:

That the provision in Clause 25 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 25 do stand part of the Bill, put and agreed to.

Clause 26: Statements of Accounts and Audit.

- (1) The Authority shall keep proper and regular accounts and other records of monies received and paid by the Authority and of the several purposes for which such monies have been received or paid and of the assets, credits and liabilities.
- (2) The Authority shall do all things necessary to ensure that all payments out of its money are correctly made and properly authorized and that adequate control is maintained over the assets of or in the custody of the Authority and over the expenditure incurred by the Authority.
- (3) The Board shall have the power to appoint external auditors, provided that, such auditors are on the list of auditors approved from time to time by the Auditor-General of the Federation.
- (4) A firm shall not be qualified for appointment as auditors under subsection (3) of this section unless it is an approved company or auditor under the Companies and Allied Matters Act and any other applicable laws.
- (5) The remuneration of the auditor shall be paid out of the funds of the Authority.
- (6) The Authority shall, not later than six weeks after the close of its financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.
- (7) The Board shall, not later than three months after the end of each financial year, cause its audited financial statements to be made available to the Minister together with any report or observations made by the auditors on the said financial statements.

- (8) The financial statements of the Authority shall be published annually in at least three national daily newspapers within one-month of such statements becoming available to the Minister.

Committee's Recommendation:

That the provision in Clause 26 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 26 do stand part of the Bill, put and agreed to.

Clause 27: Report of Auditors.

- (1) The report of the auditor shall, in addition to complying with auditing requirements under prevailing professional practice and applicable law state:
- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Authority;
 - (b) whether proper accounting and other procedures have been followed and records kept including records of all assets of the Authority whether purchased, donated or otherwise;
 - (c) whether the receipts, expenditure and investment of monies, the acquisition and disposal of assets by the Authority during the year have been in compliance with the provisions of this Act; and
 - (d) such other matters arising from the audit as the auditor considers appropriate.
- (2) The auditor shall, not later than three months after the accounts have been submitted to it for audit, send a report of its audit to the Authority, and submit such periodical and special report to the Authority as may appear to it necessary or as the Minister or the Authority may require.
- (3) The Authority shall, not later than one month after its financial statements have been audited in accordance with this Act or three months after the end of the previous financial year, whichever occurs first, send a copy of the audited financial statements to the Minister and the Commission together with any report or observations made by the auditor or auditors on the statement of accounts.

Committee's Recommendation:

That the provision in Clause 27 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 27 do stand part of the Bill, put and agreed to.

Clause 28: Annual Report.

- (1) The Board shall, not later than 4 months after the end of each financial year, make a report to the Minister on its activities and performance during that year.
- (2) The annual report for each year shall include:
- (a) a general survey of developments in respect of matters relating to its functions;

- (b) an assessment of the extent to which its objectives and priorities for the year set out in the annual estimate and twenty-five years action plans indicated in subsection (3) of section 23 of this Act have been achieved;
- (c) a summary of the significant activities carried out by it during the year;
- (d) a summary of the allocation of its financial resources to its various activities during the year, including, without limitation, the emoluments of its directors; and
- (e) an assessment of its performance and practices in relation to its functions in accordance with applicable internationally recognized performance indicators.

Committee's Recommendation:

That the provision in Clause 28 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 28 do stand part of the Bill, put and agreed to.

Clause 29: Financial and Statistical Returns.

- (1) The Authority shall submit to the Minister such financial and statistical returns or such other report on the financial position of the Authority as the Minister may from time to time require.
- (2) The Minister may at any time within one month of receipt of such report, allow or amend any item of capital expenditure appearing in such estimates, or any portion thereof, or return the same to the Authority for amendment.

Committee's Recommendation:

That the provision in Clause 29 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 29 do stand part of the Bill, put and agreed to.

Clause 30: Other Reports.

The Authority's Board may:

- (a) prepare other reports in respect of matters relating to any of its functions; and
- (b) arrange for any such report to be published.

Committee's Recommendation:

That the provision in Clause 30 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 30 do stand part of the Bill, put and agreed to.

PART VII - CONCESSIONS, LEASES, ETC.

Clause 31: Power to grant concessions and leases.

- (1) The Authority may grant a concession, lease, contract or permit subject to such terms and conditions as the Authority may specify, authorising any

person to provide any service or facility or any National Inland Waterways service or facility.

- (2) The terms and conditions of a concession, lease, contract or permit granted under this Act shall be agreed to in writing between the parties thereto.
- (3) Every exercise of the power to grant concessions under this section shall be subject to rules providing for competitive and transparent public tender for concessions as may be approved by any relevant government agency.

Committee's Recommendation:

That the provision in Clause 31 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 31 do stand part of the Bill, put and agreed to.

Clause 32: Special powers in emergency.

- (1) On the occurrence of any industrial unrest, strike, lock-out or other events which give rise to an emergency and create a real and imminent threat to the national interest or public safety, the Authority may, with the approval of the Minister:
 - (a) suspend any concession, take temporary possession (either by itself or through an authorised agent) of any undertaking of such concessionaire and operate it in such a manner as it deems fit; or
 - (b) withdraw either partially or totally the use of any National Inland Waterways service or facility from any person or class of persons or from the public in general.
- (2) Where the Authority takes possession of any National Inland Waterways' operations under subsection (1) of this section, adequate compensation shall be paid, in the amount agreed between the Authority and the affected concessionaire.

Committee's Recommendation:

That the provision in Clause 32 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 32 do stand part of the Bill, put and agreed to.

Clause 33: Prohibition of operation in National Inland Waterways without concession, licence or permit.

- (1) A person shall not provide any National Inland Waterways service or facility unless he is authorised to do so under a concession, lease, contract or permit granted by the Authority.
- (2) Subject to the express provisions to the contrary in this Act, a concession, lease, contract or permit granted under this section may be granted to a person or class of persons and every concession, lease, contract or permit shall be in such form and for such period and may contain such conditions as may be agreed upon by the parties.

Committee's Recommendation:

That the provision in Clause 33 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 33 do stand part of the Bill, put and agreed to.

PART VIII: POLICY AND REGULATION OF NATIONAL
INLAND WATERWAYS

Clause 34: The role of the Minister.

The general responsibilities and functions of the Minister under this Act shall include to:

- (a) formulate, modify and issue policies for the management and operation of National Inland Waterways to ensure the attainment of the objectives referred to in section 1 of this Act;
- (b) facilitate the establishment of international protocols on National Inland Waterways;
- (c) facilitate the conclusion of agreements with foreign governments and international organisations for the improvement and development of National Inland Waterways;
- (d) encourage co-operation within the ECOWAS region for the adoption of common standards, safety practices and interconnection of National Inland Waterways;
- (e) receive and review records and reports submitted by the Authority;
- (f) upon consultation with the Authority, declare new National Inland Waterways as may be provided for from time to time in accordance with the Master Plan developed by the Authority.

Committee's Recommendation:

That the provision in Clause 34 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 34 do stand part of the Bill, put and agreed to.

Clause 35: Formulation of Policy.

Prior to the formulation or review of policies for the National Inland Waterways sector, the Minister shall consult with and have due regard to the representations of relevant stakeholders in the sector, including, but not limited to, the Authority, the Commission, industry participants and the general public.

Committee's Recommendation:

That the provision in Clause 35 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 35 do stand part of the Bill, put and agreed to.

PART VIII: PROVISIONS RELATING TO LAND AND ASSETS

Clause 36: Power to acquire land.

The Authority shall have the power to acquire land by purchase for the purposes of the Authority and all such purchases shall be made subject to applicable law.

Committee's Recommendation:

That the provision in Clause 36 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 36 do stand part of the Bill, put and agreed to.

Clause 37: Power to enter land to erect beacons, conduct surveys and remove obstruction to visibility of lighthouses and beacons.

- (1) The Authority's employees or agents may enter and remain on any land to erect beacons, buoys and moorings, to conduct surveys or to perform any of their duties under this Act.
- (2) Any authorised employee of the Authority may, with all proper assistance where required, enter on any land and cut and remove all trees, underwood and vegetation, which may interfere with the visibility of any lighthouse or beacon from any point or place.
- (3) Notwithstanding the provisions of subsection (1) and (2) of this section, employees or agents shall not enter any land, building or any enclosed court or garden attached to a dwelling house except with the consent of the occupier thereof which consent shall not be unreasonably withheld and unless at least fourteen (14) days' notice of the intended entry shall have been given such owner or occupier.

Committee's Recommendation:

That the provision in Clause 37 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 37 do stand part of the Bill, put and agreed to.

PART IX - TECHNICAL AND SAFETY MATTERS

Clause 38: Safety on land within National Inland Waterways.

Subject to the provisions of this Act, the Authority shall, for the purpose of ensuring safety of navigation and shipping in National Inland Waterways within its jurisdiction:

- (a) control the entry, stay, movement and operations of vessels within the National Inland Waterways and their departure and all other traffic matters;
- (b) regulate the loading, discharge and storage of cargo and the embarkation and disembarkation of passengers;
- (c) provide or procure River guide services, certify pilots, and regulate the safe provision of River guide services by certified pilots;
- (d) provide or procure tug services, certify tug service providers and regulate the safe provision of tug services by licensed tug service providers;
- (e) provide, operate and maintain adequate and efficient aids to navigation and at such other places as the Authority may determine;
- (f) undertake dredging and maintenance of channels;
- (g) remove or cause to be removed any obstruction or object that may pose a danger to shipping or navigation; and
- (h) ensure the isolation of dangerous and harmful cargo to secure safety of life and protection against injury.

Committee's Recommendation:

That the provision in Clause 38 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 38 do stand part of the Bill, put and agreed to.

Clause 39: Removal of wrecks and vessels.

- (1) The Authority may:
 - (a) with the consent of the Admiralty Marshal order that a vessel which has been arrested or attached by an Order of Court or another competent "authority be moved to another place within the National Inland Waterways and, if necessary, move such vessel to that place;
 - (b) search for, raise, remove or destroy any sunken, stranded or abandoned vessel or wreck within the National Inland Waterways limits and recover the costs incurred in connection with such searching, raising, removal or destruction from the owner.. of the vessel or any other person who had the beneficial use of the vessel at the time it sank, became stranded or was abandoned; and
 - (c) Search for and remove any wreck or obstruction which may endanger the safety of any vessel entering or leaving the National Inland Waterways, and recover the costs of such search and removal from the owner of the wreck or obstruction, or from any person responsible for the presence of such wreck or obstruction.
- (2) The Authority may give notice to the owner or the person legally responsible for any vessel within National Inland Waterways limits which is not seaworthy, directing such owner or person to remove or otherwise dispose of such vessel or part thereof, which is likely to become an obstruction, wreck or derelict or a threat to the environment or public safety and to recover from that owner or person all costs incurred for the removal or disposal should the owner or person fail to comply with such notice within the time specified therein.
- (3) The Authority may, after a written demand for any costs contemplated in subsection (2) of this section, and on non-payment thereof, sell the relevant vessel or wreck and out of the proceeds of the sale defray such unpaid costs, rendering the surplus, if any, to the person entitled to it, or recovering any unpaid balance from the owner or other person referred to in subsection (2) of this section or institute an admiralty action under the Admiralty Jurisdiction Act to recover such costs.
- (4) Subject to the provisions of this section, the Authority shall act as the Assistant Receiver of Wrecks.

Committee's Recommendation:

That the provision in Clause 39 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 39 do stand part of the Bill, put and agreed to.

PART X - LIABILITY, LEGAL PROCEEDINGS AND ENFORCEMENT

Clause 40: Restriction on execution against the property of the Authority.

In an action or suit against the Authority, any sums of money which may, by the judgment of the court, be awarded against the Authority shall be paid from the Fund of the Authority and where the Authority fails to make payment within 30 days of demand, execution or attachment or process in the nature thereof may be issued against the Authority, subject to any right of stay or to restrict execution under the general law.

Committee's Recommendation:

That the provision in Clause 40 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 40 do stand part of the Bill, put and agreed to.

Clause 41: Legal Proceedings.

- (1) No suit against the Authority or any servant of the Authority for any act done in pursuance or intended execution of any Act or Law, or of any public duty or authority) or in respect of any alleged neglect or default in the execution of such Act or Law, duty or 'authority shall lie or be, instituted in any court, unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuing damage or injury, within twelve months next after the ceasing thereof.
- (2) 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 has been served on the Authority by the intending plaintiff or his agent and the notice shall clearly and explicitly state the:
 - (a) cause of action;
 - (b) name and place of abode of the intending Plaintiff; and
 - (c) relief which he claims.
- (3) For the purpose of this Act, "suit" means a civil proceeding commenced by writ of summons or such other manner as may be prescribed by rules of court and includes an action but not criminal proceeding.
- (4) The notice and any summons, or other documents required or authorised to be served on the Authority in connection with a suit by or against it, may be served by:
 - (a) delivering it to the Managing Director;
 - (b) sending it by registered post addressed to the Managing Director at the head office of the Authority; or
 - (c) electronic means through the e-mail or website of the Authority.
- (5) A person connected with the direct working of the Authority shall not be removed under arrest whether in execution of a warrant or otherwise when his immediate removal from duty might result in danger to life or goods, unless the immediate officer in-charge of the work in which the person is engaged has been given an opportunity of providing a substitute.

- (6) In a suit pending before a court, the Authority may be represented by an appropriate employee.

Committee's Recommendation:

That the provision in Clause 41 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 41 do stand part of the Bill, put and agreed to.

Clause 42: Master, owner or person in charge of vessel answerable for damage.

Where damage is done to any property of the Authority by any vessel or float of timber, the cost of making good the damage, including the expenses of any inspection or survey carried out by the Authority to ascertain such damage, may be recovered by the Authority as a debt from the master, owner or person in charge of the vessel or float of timber, as the case may be.

Committee's Recommendation:

That the provision in Clause 42 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 42 do stand part of the Bill, put and agreed to.

Clause 43: Detention of vessels causing damage.

The Authority may:

- (a) detain any vessel or equipment causing damage until the costs of making good such damage and the expenses described in section 49 of this Act have been paid to the Authority or into court pending the outcome of litigation in respect of it;
- (b) require the master, owner or person in charge of the vessel or equipment to deposit such sum of money or furnish such security as may be required by the Authority in order to meet such costs and expenses.

Committee's Recommendation:

That the provision in Clause 43 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 43 do stand part of the Bill, put and agreed to.

Clause 44: Power of distraint for non-payment of dues and rates.

- (1) Where the agent of a vessel in respect of which any dues or rates are payable refuses or neglects to pay the dues or rates on demand, the Authority may distraint the vessel and the tackle, apparel and furniture therein until the amount of the dues or rates is paid.
- (2) Where after 14 days commencing from the date of distraint any dues or rates; or any of the expenses of distraint of the vessel and its tackle, apparel and furniture, remain unpaid, the Authority may cause the vessel or tackle, apparel and furniture distrained to be sold. The Authority shall retain the amount of dues, rates or expenses which are owed by the vessel out of the proceeds of the sale and shall deliver the balance to the master of the vessel, on demand.

Committee's Recommendation:

That the provision in Clause 44 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 44 do stand part of the Bill, put and agreed to.

Clause 45: Monitoring and Enforcement.

- (1) The Authority may in writing authorise any of its officials or appoint external inspectors on its behalf to exercise the functions of monitoring and enforcement vested under this Act.
- (2) The Authority may direct its authorised officials or appointed inspectors to investigate the activities of a concessionaire, licensee, permit holder or any other person pursuant to its powers under this Act.
- (3) In exercising any of the powers specified in subsection (2) of this section and notwithstanding any other provision of this Act, an authorized official of the Authority or its appointed inspector:
 - (a) shall on demand produce to any person against whom he is acting, the instrument issued to him by the Authority to act in that capacity; and
 - (b) may during office hours and with prior notice, enter any affected persons' or licensee's premises to:
 - (i) inspect and make copies of or extracts from books, records, documents or other information storage systems;
 - (ii) demand the production of and inspect the relevant licence, permit, certificate or authority; and
 - (iii) inspect any facility on the premises,

Provided that the official or appointed inspector shall have in his possession for the purposes of entering any affected person's premises a warrant for that purpose obtained from a magistrate or judge prior to the entry.

- (4) Persons employed by the Authority, with the assistance of the relevant law enforcement agencies shall have the power to enforce the provision of this act and any regulations made hereunder including the power to arrest, seize and prosecute.

Committee's Recommendation:

That the provision in Clause 45 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 45 do stand part of the Bill, put and agreed to.

Clause 46: Power to Seal Premises and stop activities.

Where an occupant or operator within the declared right of way of the Nigerian National Inland Waterways fails to comply with the prescribed regulation or approved tariff under this Act, the Authority with the assistance of the relevant law enforcement agencies shall have power to seal such premises or site pending the determination of a law suit in effect (*Senator Ahmed R. Sani — Zamfara West*).

Amendment Proposed:

Immediately after the word "effect" in line 5, insert the words "subject to Court Order" instead thereof (*Senator Abdul-Aziz M. Nyako — Adamawa Central*).

Question that the amendment be made, put and agreed to.

Question that Clause 46 as amended do stand part of the Bill, put and agreed to.

PART XI: OFFENCES AND PENALTIES

Clause 47: Damage to property of the Authority.

Any person who wilfully removes, destroys or damages any property belonging to or in the custody or possession of the Authority or hinders or prevents such property from being used or operated in the manner in which it is intended to be used or operated, is guilty of an offence and shall be liable on conviction to a fine of not less than ₦1,000,000.00 and shall make good any loss, destruction or damage suffered by the Authority, including the expenses of any inspection or survey carried out by the Authority to ascertain the loss, destruction or damage.

Committee's Recommendation:

That the provision in Clause 47 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 47 do stand part of the Bill, put and agreed to.

Clause 48: Unlawful operation of National Inland Waterways Services or Facilities.

- (1) A person shall not erect, re-erect, alter, extend, own or occupy a pier, jetty or wharf in any place within the National Inland Waterways except in accordance with a permit granted by the Authority.
- (2) A person shall not establish, install, maintain, provide or operate any marine service or facility or any National Inland Waterways service or facility without a permit from the Authority.
- (3) Any violation of the provisions of subsections (1) and (2) of this section shall be an offence liable on conviction to a fine of not less than ₦1,000,000.00 or to imprisonment for a term not less than three years or both and in the case of a continuing offence, to a further fine of not less than ₦120,000.00 for each day or any part thereof during which the offence continues.

Committee's Recommendation:

That the provision in Clause 48 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 48 do stand part of the Bill, put and agreed to.

Clause 49: Evasion of dues, fees, fines and charges.

The operator of river ports, dockyards, jetties, piers, or owner, agent, or master of any vessel or consignor or consignee of any goods, who by any means whatsoever, evades or attempts to evade, or neglects or omits to pay any dues, rates, charges or fees payable under this Act shall.

Amendment Proposed:

Leave out the word "omits" in line 3, (*Senator Ibrahim A. Gobir — Sokoto East*).

Question that the amendment be made, put and agreed to.

- (a) be liable to pay to the Authority a penalty ten times the amount of the dues, rates, charges or fees he evaded or attempted to evade, or neglected or omitted to pay; and
- (b) have his licence, permit or authorization to operate withdrawn by the Authority for a period not exceeding twelve months (*Senator Ahmed R. Sani — Zamfara West*).

Question that Clause 49 as amended do stand part of the Bill, put and agreed to.

Clause 50: Offences by Master of Vessel.

- (1) A vessel shall not enter or approach the National Inland Waterways in Nigeria except with the prior approval of the Authority.
- (2) Where a vessel:
 - (a) enters any National Inland Waterways or any approach to the National Inland waterways without having first being issued with the requisite permit by the Authority; or
 - (b) fails to leave any National Inland Waterways or any approach to the National Inland waterways or to leave any berth at the National Inland waterways when required to do so by the Authority, the master is guilty of an offence and shall be liable on conviction to a fine of not less than ₦200,000.00 or to imprisonment for a term not exceeding three months or both.
- (3) Where the master fails to comply with the provision of subsection (1)(b) of this section, the master shall in addition to the fine be liable to pay by way of damages assessed at the rate of ₦35.00 per registered tone for every hour that such vessel remains at the National Inland Waterways or its approach after the time for departure required by such notice has expired.
- (4) 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 vessel, the owner or his agent shall be guilty and liable on conviction in the case of:
 - (a) an individual, to a fine of ₦300,000.00 for each day or a part thereof during which the offence continues or to imprisonment for a term of twelve months; and
 - (b) a body corporate, to a fine of ₦500,000.00 and a further fine of ₦200,000.00 for each day or part thereof of during which the offence continues.

Committee's Recommendation:

That the provision in Clause 50 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 50 do stand part of the Bill, put and agreed to.

Clause 51: Penalty for throwing ballast and other waste into National Inland Waterways.

Any person who throws or empties into any National Inland Waterways any ballast or other waste however described commits an offence and shall be liable on conviction to a fine of not less than ₦100, 000.00.

Committee's Recommendation:

That the provision in Clause 51 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 51 do stand part of the Bill, put and agreed to.

Clause 52: Penalty for giving false information as to draught of Vessel and Cargo.

- (1) The owner, agent or master of a vessel entering or leaving or within the National Inland Waterways or approach to any National Inland Waterways who negligently makes any representation or gives false information of the

type of vessel, its draught, length, beam or height to the Authority shall be guilty of an offence and shall be liable on conviction to a fine of not less than ₦1,000,000.00 or to imprisonment for a term not less than twelve months or both.

- (2) For the purposes of this section, "height of vessel" shall be the height of the vessel measured vertically from its waterline to the highest point including its cargo, structure or equipment on board.

Committee's Recommendation:

That the provision in Clause 52 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 52 do stand part of the Bill, put and agreed to.

Clause 53: Penalty for wilfully sinking vessels.

Any person who wilfully sinks any vessel in the National Inland Waterways or its approach without the permission of the Authority, shall be guilty of an offence and liable on conviction to a fine of not less than ₦1,000,000.00 and shall in addition pay to the Authority, expenses it incurred in removing the vessel.

Committee's Recommendation:

That the provision in Clause 53 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 53 do stand part of the Bill, put and agreed to.

Clause 54: Obstructing the Authority in the performance of its duties.

Any person who at any time hinders, obstructs the Authority or hinders or obstructs officials, agents or contractors of the Authority in the performance and execution of their duty or of anything which they are empowered or required to do by virtue of or in consequence of this Act, or removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised by this Act, shall be guilty of an offence and shall be liable on conviction to a fine of not less than ₦500,000.00 or to imprisonment for a term not less than six months or both.

Committee's Recommendation:

That the provision in Clause 54 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 54 do stand part of the Bill, put and agreed to.

Clause 55: Preservation of secrecy.

- (1) A person who is or has been a member, an officer, an employee, an adviser or an agent of the Authority or a member of the Board shall not disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court or under the provisions of any written law.
- (2) A person who contravenes the provision of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of not less than ₦300,000.00 or to imprisonment for a term of not less than 4 months or both.

Committee's Recommendation:

That the provision in Clause 55 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 55 do stand part of the Bill, put and agreed to.

Clause 56: Offences against the Schedule IV to this Act.

Where a Director or member of staff of the Authority contravenes the provisions of the Schedule IV to this Act, or gives false information under the Schedule, he shall be liable, on conviction, to the payment of a fine not exceeding ₦5,000,000.00 or imprisonment for a term not exceeding twelve months or both.

Committee's Recommendation:

That the provision in Clause 56 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 56 do stand part of the Bill, put and agreed to.

Clause 57: General penalties.

Where no specific penalty is prescribed in this Act or regulations made pursuant to this Act for any offence, a person found guilty of any such offence shall be liable to a fine of not less than ₦250,000.00 or to imprisonment for a term of not less than six months or both.

Committee's Recommendation:

That the provision in Clause 57 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 57 do stand part of the Bill, put and agreed to.

Clause 58: Jurisdiction.

The Federal High Court shall have exclusive jurisdiction over all matters arising out of or pursuant to this Act or regulations made pursuant to this Act and all references to "Court" or "Judge" in this Act shall be understood and deemed to refer to the Federal High Court or a Judge of the Federal High Court.

Committee's Recommendation:

That the provision in Clause 58 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 58 do stand part of the Bill, put and agreed to.

PART XII: MISCELLANEOUS**Clause 59: Mandatory compliance requirements by Government Agencies, Bodies, etc.**

- (1) Notwithstanding the provisions of any other law, any person or bodies or Government Agency permitted or authorised under any applicable law to operate or perform any duty within the declared right of way of the National Inland Waterways shall prior to commencing work comply with the provisions of this Act and notify the Authority.
- (2) The notice shall contain the:
 - (a) name of the agency;
 - (b) purpose of its intended presence in the National Inland Waterways;

- (c) estimated duration of its presence in the National Inland Waterways; and
- (d) particulars of its officers including, the number of its officers, the names and designation of such officers and the names of their immediate supervising officers involved in the task.

Committee's Recommendation:

That the provision in Clause 59 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 59 do stand part of the Bill, put and agreed to.

Clause 60: Service of Notices, Summons, etc.

A notice, summons or other document required or authorized to be served on the Authority under the provisions of this Act or any other law or enactment may be served by delivering it to the registered address of the Authority or by sending it by registered post addressed to the Managing Director of the Authority at its Headquarters.

Committee's Recommendation:

That the provision in Clause 60 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 60 do stand part of the Bill, put and agreed to.

Clause 61: Regulations.

- (1) The Authority may with the approval of the Minister make regulations generally for the purpose of giving effect to the provisions of this Act.
- (2) All regulations made by the Authority shall be published in the Official Gazette.

Committee's Recommendation:

That the provision in Clause 61 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 61 do stand part of the Bill, put and agreed to.

Clause 62: Repeal.

The National Inland Waterways Authority Act, CAP N47, Laws of the Federation of Nigeria, 2004 is repealed.

Committee's Recommendation:

That the provision in Clause 62 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 62 do stand part of the Bill, put and agreed to.

Clause 63: Savings.

- (1) Save as otherwise provided under this Act, all regulations, orders and other subsidiary legislations made under the repealed Act and in force immediately before the coming into force of this Act, shall, so far as they are not inconsistent with the provisions of this Act, continue to be in force and have effect as if made under this Act.

- (2) Subject to the provision of subsection (1) of this section:
- (a) the rights, interests, obligations and liabilities of the Authority under the repealed Act existing before the commencement of this Act under any contract or instrument or at law or in equity shall by virtue of this Act be deemed to have been assigned to and vested in the Authority established under this Act;
 - (b) any contract or instrument as is mentioned in paragraph (a) of this subsection shall be of the same force and effect against or in favour of the Authority established under this Act and shall be enforceable as fully and effectively as if instead of the Authority established under the repealed Act, the Authority had been named therein or had been a party thereto; and
 - (c) All persons shall, as from the commencement of this Act, have the same rights, powers and remedies against the Authority established under this Act as they had against the Authority established under the repealed Act before the commencement of this Act.
- (3) Any proceeding or cause of action pending or existing before the commencement of this Act by or against the Authority established under the repealed Act in respect of any rights, interests, obligation or liability of the Authority under the repealed Act may be continued, or if the case so requires be commenced and the determination of a court of law, tribunal or other authority or person may be enforced by or against the Authority established under this Act to the same extent that such cause of action or determination might have been continued or commenced or enforced by or against the Authority established under the repealed Act.

Committee's Recommendation:

That the provision in Clause 63 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 63 do stand part of the Bill, put and agreed to.

Clause 64: Interpretation.

In this Act:

"Authority" means the Authority established under section 3 of this Act;

Question: That the word "Authority" in the Interpretation to this Act, put and agreed to.

"Baseline" means the low water mark along the coast of Nigeria;

Question: That the word "Baseline" in the Interpretation to this Act, put and agreed to.

"Beacon" means a prominent specially constructed object forming a conspicuous mark as a fixed aid to navigation;

Question: That the word "Beacon" in the Interpretation to this Act, put and agreed to.

"Board" in relation to the Authority means its board of directors;

Question: That the word "Board" in the Interpretation to this Act, put and agreed to.

"Buoy" means an anchored float serving as a navigation mark to show hazards or for mooring and shall include a floating object of any size, shape and colour which is moored to the bed of the body of water in which it stands and serves as an aid to navigation or for other specific purposes;

Question: That the word "Buoy" in the Interpretation to this Act, put and agreed to.

"Cargo" or "Goods" includes any substance or article, livestock, minerals, wares and merchandise of every description and any container or other item used to transport any substance or article;

Question: That the words "Cargo" or "Goods" in the Interpretation to this Act, put and agreed to.

"Chairman" means the Chairman of the Board of Directors appointed under this Act;

Question: That the word "Chairman" in the Interpretation to this Act, put and agreed to.

"Channel" means a passage for water which includes a terminal, the bed, course, swinging basin, turning circle, an area alongside a berth or dock, fairway, anchorage and berth;

Question: That the word "Channel" in the Interpretation to this Act, put and agreed to.

"Channel operator" means a person who manages channels in National Inland Waterways;

Question: That the words "Channel Operator" in the Interpretation to this Act, put and agreed to.

"Commission" means the National Transport Commission as established by the National Transport Commission Act;

Question: That the word "Commission" in the Interpretation to this Act, put and agreed to.

"Concession" means an arrangement between the Authority and another party to provide National Inland Waterways service or operate National Inland Waterways facility in accordance with this Act and the word "concessioned" is to be interpreted accordingly;

Question: That the word "Concession" in the Interpretation to this Act, put and agreed to.

"Concessionaire" means a person granted a concession under this Act;

Question: That the word "Concessionaire" in the Interpretation to this Act, put and agreed to.

"Consumer" or "National Inland Waterways user" means any person who uses National Inland Waterways services or facilities;

Question: That the words "Consumer" or "National Inland Waterways user" in the Interpretation to this Act, put and agreed to.

"Court" means the Federal High Court;

Question: That the word "Court" in the Interpretation to this Act, put and agreed to.

"Development" or "works" means the conversion of land to a new purpose and include:

- (a) The construction, extension, demolition or removal of a building or substantial alteration of any structure in or on land;
- (b) Any change to the natural or existing condition or topography of land;
- (c) The decoration or alteration of the inside or outside of a building or the alteration of works;
- (d) The subdivision or consolidation of land, airspace or buildings;
- (e) The installation, provision or operation of facilities or services;
- (f) The removal of vegetation or topsoil;
- (g) Land reclamation and land decontamination;
- (h) Dredging; and
- (i) all waters on the landward side of the baseline of the territorial sea.

Question: That the words "Development" or "Works" in the Interpretation to this Act, put and agreed to.

"Dock" means an enclosed area of water for the loading, unloading and repairs of vessel which includes basins, locks, cuts, entrances, graving, keel blocks including planes, slipways grid irons, quays, warehouses and other works and things appertaining to any dock;

Question: That the word "Dock" in the Interpretation to this Act, put and agreed to.

"Equipment" includes any apparatus, machinery or system used or intended to be used for the provision of National Inland Waterways services;

Question: That the word "Equipment" in the Interpretation to this Act, put and agreed to.

"Estimates" means an appropriate judgement of the amount, value, etc. of something which include recurrent revenue the best possible commercial forecast of revenue taking into account the general conditions of world trade and all other relevant factors and in respect of recurrent expenditure the best possible commercial forecast of expenditure likely to be incurred having regard to the estimates of revenue;

Question: That the word "Estimates" in the Interpretation to this Act, put and agreed to.

"Federal Government" or "Government" means the government of the Federal Republic of Nigeria;

Question: That the words "Federal Government" in the Interpretation to this Act, put and agreed to.

"Gazette" means the Federal Gazette;

Question: That the word "Gazette" in the Interpretation to this Act, put and agreed to.

"Government Agency" means an agency of the Federal Government of Nigeria or of any State in Nigeria;

Question: That the words "Government Agency" in the Interpretation to this Act, put and agreed to.

"Harbour" includes estuaries, navigable rivers, piers, jetties and other works in or at which vessels can obtain shelter or load and discharge goods or passengers;

Question: That the word "Harbour" in the Interpretation to this Act, put and agreed to.

"Holder of a quarrying lease" means a holder of a quarry lease as defined in the Nigerian Minerals and Mining Act 2007

Question: That the words "Holder of a quarrying lease" in the Interpretation to this Act, put and agreed to.

"National Inland Waterways" means any navigable river, creeks, lakes, tide, lands, lagoon, below the low water baseline, or channel leading into such place having facilities for vessels to moor and load or discharge including, cargo handling facilities harbour, berths, jetties, pontoons or buoys and wharves within the limits of the National Inland Waterways in any place in Nigeria and includes any place declared to be National Inland Waterways under this Act;

Question: That the words "National inland Waterways" in the Interpretation to this Act, put and agreed to.

"National Inland Waterways dues" means dues levied in respect of a vessel for entering, using, leaving or moving or sailing in the National Inland Waterways;

Question: That the words "National Inland Waterways dues" in the Interpretation to this Act, put and agreed to.

"National Inland Waterways Infrastructure" means the basic infrastructure of the National Inland Waterways, including channels, basins, quay walls, jetties, roads, railways, and infrastructure used for the provision of water, lights, power, sewerage, telecommunications and similar services;

Question: That the words "National Inland Waterways infrastructure" in the Interpretation to this Act, put and agreed to.

"National Inland Waterways Operator" means a person who owns the business of, or is responsible for the management and operation of National Inland Waterways, terminals, or berths located in the National Inland Waterways but does not include the Authority established under this Act;

Question: That the words "National Inland Waterways Operator" in the Interpretation to this Act, put and agreed to.

"National Inland Waterways repair facilities" includes dry docks, vessels repair facilities, warehouses, railways within the National Inland Waterways and any other facilities which are designated as such by the Authority; "

Question: That the words "National Inland Waterways repair facilities" in the Interpretation to this Act, put and agreed to.

"National Inland Waterways services" and "facilities" includes stevedoring, cargo handling, terminal operations, storage of cargo within National Inland Waterways, tug services, floating crane services, berthing services, fire - fighting, security, radio and radar services, waste disposal, vessel repairs, tank farms and any other terminal services and facilities for the handling, storage and transportation of goods on land adjoining the foreshore of Nigeria or a floating platform for the handling of passengers carried by vessels within the declared right-of-way of the Authority;

Question: That the words "National Inland Waterways services" in the Interpretation to this Act, put and agreed to.

"National Inland Waterways service provider" means a person providing services within the declared right-of-way of the Authority;

Question: That the words "National Inland Waterways services provider" in the Interpretation to this Act, put and agreed to.

"National Inland Waterways terminal" means an area, infrastructure, cargo-handling equipment, sheds and other land-based structures used for the loading, storage and discharge of cargo or the embarkation and disembarkation of passengers and includes any corresponding wharves, docks, piers, bridges and other infrastructure works, with all necessary and convenient arches, drains, culverts, fences, roads, railways, land and air approaches;

Question: That the words "National Inland Waterways terminal" in the Interpretation to this Act, put and agreed to.

"National Inland Waterways undertakings" means the undertakings of the Authority that relate to the provision of any facility or service of any description in connection with the exercise and performance of its powers and duties under any written law and includes any movable and immovable property and the rights of the Authority that relate to such facility or services;

Question: That the words "National Inland Waterways undertakings" in the Interpretation to this Act, put and agreed to.

"Land" means the part of the earth surface not covered by water which includes the river bed below the high water mark;

Question: That the word "Land" in the Interpretation to this Act, put and agreed to.

"Licence" means an authorisation to operate on the National Inland Waterways, provide National Inland Waterways service or operate the National Inland Waterways facility, issued by the Authority under this Act.;

Question: That the word "Licence" in the Interpretation to this Act, put and agreed to.

"Licensee for sand dredging" means holder of a license granted by the Minister under the Nigerian Minerals and Mining Act 2007;

Question: That the words "Licensee for sand dredging" in the Interpretation to this Act, put and agreed to.

"Master" means every person, except a pilot having for the time being the command or charge of any vessel or ship;

Question: That the word "Master" in the Interpretation to this Act, put and agreed to.

"Minister" means the Federal Minister charged with the responsibility for National Inland Waterways transportation;

Question: That the word "Minister" in the Interpretation to this Act, put and agreed to.

"Ministry" means the Federal Ministry charged with the responsibility for National Inland Waterways transportation;

Question: That the word "Ministry" in the Interpretation to this Act, put and agreed to.

"Person" means a corporate body or partnership and where an individual is required to represent a corporate body or partnership in any circumstance pursuant to this Act or its subsidiary legislation it shall be sufficient if in the case of:

- (a) a body corporate, it is represented by a duly authorized person or employee; and
- (b) a partnership, it is represented by a partner or a duly authorized employee of the partnership.

Question: That the word "Person" in the Interpretation to this Act, put and agreed to.

"Pier" means a structure built out into the National Inland Waterways used as a landing stage, or promenade which includes any stage, stairs, landing places, landing stage, jetty, floating barge or pontoon and any bridge or other works connected therewith;

Question: That the word "Pier" in the Interpretation to this Act, put and agreed to.

"Premises" means a piece of land, and the building on it, or part of a building used for commercial purposes which includes houses, structures, tenements, easements and hereditaments of any tenure, whether open or enclosed, built on or not, public or private, and maintained or not under the jurisdiction of the Authority;

Question: That the word "Premises" in the Interpretation to this Act, put and agreed to.

"Prescribe" means a rule, direction, or order laid down, approved or given by this Act or by its subsidiary legislation or regulations or any relevant legislation;

Question: That the word "Prescribe" in the Interpretation to this Act, put and agreed to.

"President" means the President of the Federal Republic of Nigeria;

Question: That the word "President" in the Interpretation to this Act, put and agreed to.

"Repealed Act" means the National Waterways Authority Act, CAP N47, Laws of the Federation of Nigeria, 2004;

Question: That the words "Repealed Act" in the Interpretation to this Act, put and agreed to.

"Regulations" means an order issued by the Authority under this Act;

Question: That the word "Regulations" in the Interpretation to this Act, put and agreed to.

"relevant stakeholders" include private sector, states and local governments:

Question: That the words "relevant stakeholders" in the Interpretation to this Act, put and agreed to.

"Revenue" means any monies received by the Authority by way of charges, scales of charges or other duties imposed by or under this Act and includes any monies accruing to the Authority under this Act;

Question: That the word "Revenue" in the Interpretation to this Act, put and agreed to.

"River guide" means a person providing pilotage to navigation in river craft who has conduct thereof;

Question: That the words "River guide" in the Interpretation to this Act, put and agreed to.

"Sand" means a substance consisting of fine loose grain of rock or minerals found on river bed being an essential element to National Inland Waterways navigation;

Question: That the word "Sand" in the Interpretation to this Act, put and agreed to.

"Sand Dredging" means the scooping up of fine loose grains of rock or minerals and objects from the bed of a river or within the water channel;

Question: That the words "Sand Dredging" in the Interpretation to this Act, put and agreed to.

"Service provider" means any provider of services in or in respect of the National Inland Waterways;

Question: That the words "Service provider" in the Interpretation to this Act, put and agreed to.

"Seafarers" include every person except masters and pilots employed or engaged in any capacity on board any ship;

Question: That the word "Seafarers" in the Interpretation to this Act, put and agreed to.

"Ship" includes every description of vessel used in navigation;

Question: That the word "Ship" in the Interpretation to this Act, put and agreed to.

"Tariff" or "charges" or "rates" means list of fees, fares, or other prices charged by the government which include National Inland Waterways dues, dues on goods, river guide dues and other charges levied by National Inland Waterways service providers;

Question: That the words "Tariff" or "charges" or "rates" in the Interpretation to this Act, put and agreed to.

"Terminal infrastructure" means a building or complex containing facilities needed by transportation operators and passengers at either end of a travel or shipping route by National Inland Waterways which includes terminal buildings, cargo handling equipment, workshops, substations, surfacing, rail sidings and terminal operations and water, lights, power, sewerage, telecommunications and similar services within the terminal boundaries;

Question: That the words "Terminal infrastructure" in the Interpretation to this Act, put and agreed to.

"Terminal operations" means services provided at the National Inland Waterways terminal, consisting of cargo handling storage and delivery to vessels and services related thereto;

Question: That the words "Terminal operations" in the Interpretation to this Act, put and agreed to.

"Transport Sector Regulator" means any body set up by an Act to regulate the sector;"

Question: That the words "Transport Sector Regulator" in the Interpretation to this Act, put and agreed to.

"Vessel" means any kind of vessel that is used, or capable of being used, in navigation by water, however propelled or moved, and includes:

- (a) a ship, a barge, lighter, floating platforms, restaurant or other floating vessel, and an air-cushion vehicle, or
- (b) other similar craft that is used in navigation on water.

"Wharf" means a structure built alongside or out into the water at a landing place for vessels with a protective covering or enclosure which includes any wall and building adjoining the foreshore, creek-bed, lagoon-bed, lake-bed or river-bed, quay, pier, jetty, ramp or other landing place.

Question: That the word "Wharf" in the Interpretation to this Act, put and agreed to.

Committee's Recommendation:

That the provision in Clause 64 be retained (*Senator Ahmed R. Sani — Zamfara West*) — Agreed to.

Question that Clause 64 do stand part of the Bill, put and agreed to.

Clause 65: Short title.

This Act may be cited as the National Inland Waterways Authority Act, 2017.

Committee's Recommendation:

That the provision in Clause 65 be retained (*Senator Ahmed R. Sani — Zamfara West*) — *Agreed to.*

Question that Clause 65 do stand part of the Bill, put and agreed to.

SCHEDULE I

DECLARED FEDERAL NATIONAL INLAND WATERWAYS

[Sections 2, 15]

1. The River Niger from the Nigeria/Niger/Benin border, through the rivers Nun and Forcados distribution to the Atlantic Ocean.
2. The River Benue from the Nigeria/Cameroun border to the confluence with River Niger at Lokoja.
3. The Cross River from the Nigeria/Cameroun border to the Atlantic Ocean, and all its distributaries.
4. Rivers Sokoto, Kaduna, Gerinya, Gongola, Taraba, Donga, Katsina-Ala, Anambra, Ogun, Oluwa, Osse, Benin, Imo and Qua-Iboe.
5. The intra-coastal route from Badagry, along the Badagry Creek to Lagos, through Lagos Lagoon to Epe, Lekki Lagoon on Iwopin, along Omu Creek, Talifa River to Atijere, Akata, Aboto, Oluwa River to Okitipupa and onto Gbekebo, Arogbo, Ofunama, Benin Creek to Warri. Also the canal running from Araromi through Aiyetoro, Imelumoto Benin River and from Aiyetoro through Mahin Lagoon to Igbokoda.
6. The waterway from Warri along the Forcados River, through Okwagbe Fukana, Siama, Bomadi, Angalabiri, Patani, Torofani, down River Nun to Agberi, Kaima, Sabagreia, Gbaran Creek, Agudama, Ekpetiona into Ekole Creek to Tanaka, Yenegoa, Sangata to Mbiakpaba, onto Okokokiri, Ofokpota, Olagaga, Nembe, Adema, Agoribiri Creek to Egbema, Degema, Somobreiro River to Hanya Town, Ogbakiri to Port Harcourt.
7. The waterway from Port Harcourt, through Amadi Creek down Bonny River, into Opobo Channel Adoni River, through Andoni Flats. Telliifer Creek, Imo River, Shooter Creek, Qua Iboe Creek, Qua Iboe River, Stubbs Creeks, Widenham Creek, Effiat-Mbo Creek, Cross River estuary to Oran and Calabar.
8. Rivers Benin, Ethiope, Ossiomo, Onne, Abba, Asumini, Olomum, Siluko, Talifa, Forcados, Penington, Escravos, Warri, Ramos, Dodo, Bonny, Middleton, Fishtown, Sengana, Brass of Nicholas, Santa Barbara, San Batholomew, Sambriero, New Calabar, Mob, Rio del Rey, Uruan, Akwayafe.
9. Creeks Odiana, AgamamaTora, Nembe, Krakama, Buguma, Bille, Finima, New Calabar, Ekole, Cawthorne Channel, Ikane-Bakassi, Omu, Kwato (Gwato), Adagbrassa, Chananomi, Okpoko, Jones Kulama, Ikebiri, Nikorogba, Sagbama, Egbedi, Kolo, Laylor and Hughes Channel.
10. Lakes Mahin, Oguta and OsiamEhoma.
11. The Orashi River from Oguta Lake to Ebocha, Omoku, Kreigani, Moiana, Okariki, Egbema and Sombreiro River.

12. The part of Lake Chad that is within the boundaries of Nigeria.

Question that the provisions of the First Schedule stand part of the Bill — Agreed to.

SCHEDULE II

RIVER PORTS WHOSE APPROACHES ARE EXEMPTED FROM THE CONTROL OF THE AUTHORITY

[Section 16]

1. Lagos
2. Port Harcourt
3. Warri
4. Calabar
5. Burutu
6. Akassa
7. Bonny
8. Degema
9. Forcados
10. KokoTown
11. Federal Lighter Terminal Onne

Question that the provisions of the Second Schedule stand part of the Bill — Agreed to.

SCHEDULE III

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD OF THE AUTHORITY

[Sections 7(5), 56]

Proceedings of the Board

1. Subject to the provisions of this Act and Section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or that of any of its Committees.
2. The Chairman shall preside at every meeting of the Board and in the absence of the Chairman, the members present at that meeting shall appoint one of their members to preside at the meeting and minutes shall be taken of each meeting of the Board and any Committee by the Secretary.
3. The quorum for any meeting of the Board shall be at least 5 Directors.
4. The Board shall meet to transact its business pursuant to this Act whenever it is summoned by the Chairman on at least 7 days written notice and the Chairman shall, if so required by notice given to him by not less than 4 other members of the Board specifying, amongst others, an agenda for the meeting, summon a meeting of the Board which shall be held not later than 14 days from the date on which the notice is served on him to discuss the items

specified in the notice and the Board shall for the purposes of this Act meet not less than 4 times in each calendar year.

5. A member of the Board who directly or indirectly has a personal interest (including but not limited to financial interests) in any matter being deliberated upon by the Board, or is personally interested in any contract made or proposed to be made by the Authority shall, so soon after the facts of the matter of his interests have come to his knowledge, disclose his interest and the nature thereof at a meeting of the Board.
6. A disclosure under paragraph 5 of this Schedule shall be recorded in the minutes of the Board meeting and the member concerned shall:
 - (a) not, after the disclosure, take part in any deliberation or decision of the Board or vote howsoever on the matter; 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.
7. Decisions at meetings of the Board shall be taken by a simple majority.
8. In the case of an equality of votes the Chairman of the meeting shall have a second or casting vote.

Ad hoc Committees

9. Subject to its standing orders, the Board may appoint such number of standing or ad hoc Committees as it thinks fit to consider and report on any matter with which the Authority is concerned.
10. A Committee appointed under paragraph 9 shall:
 - (a) consist of such number of persons who may not necessarily be members of the Board as may be determined by the Board, provided that the appointment of a non-Board member as a Committee member shall be subject to such terms as would be indicated in his letter of appointment; and
 - (b) be presided over by a member of the Board.
11. The quorum of any Committee set up by the Board shall be determined from time to time by the Board.
12. A decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

13. The fixing of the seal of the Authority shall be authenticated by the signature of the Secretary and that of the Chairman or any other member of the Board generally or specifically authorised by the Board to act for that purpose.
14. 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 any person generally or specially authorised by the Board to act for that purpose.
15. 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.

16. Subject to the provisions of this Act, the validity of any proceedings, act or decision 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;
 - (b) any defect or irregularity in the appointment of a member of the Board or Committee;
 - (c) the fact that any person not entitled to do so took part in the proceedings of the Board

Committee

17. A member of the Board or a Committee shall not be personally liable for any act or omission done or made in good faith while engaged in the business of the Authority.
18. A person shall not by reason only of his membership of the Board be treated as holding an office of emolument under the Government of the Federation or the Government of any State of the Federation.

Question that the provisions of the Third Schedule stand part of the Bill — Agreed to.

SCHEDULE IV

CONFLICTS OF INTEREST

[Sections 8(4), 10(1) (f), 14(3)]

1. Subject to the further provisions of this Schedule, no Director or member of staff of the Authority shall have a direct or indirect financial interest or investment in any shipping, stevedoring, pilotage or terminal operations throughout the tenure of his office or employment with the Authority.
2. Subject to paragraphs 3 and 4 of this Schedule, each Director or member of staff of the Authority shall on an annual basis present a written declaration no later than the third month of each year affirming the non-existence of any such interest as is specified in Paragraph 1 and shall pledge to disclose and inform the Authority of any such relationship or interest that arises or is likely to arise during his tenure or employment with the Authority.
3. Directors and members of staff of the Authority as at the commencement date of this Act shall be entitled to a maximum of 6 months from the said commencement date within which to divest themselves of their direct or indirect financial interests or investment in any shipping, stevedoring, pilotage or terminal operations, if any.
4. All newly-appointed Directors and members of staff of the Authority after the commencement of this Act shall be entitled to a maximum of 3 months from their respective dates of appointments within which to divest themselves of their direct or indirect financial interests or investments in any shipping, stevedoring, pilotage or terminal operations, if any.
5. Each Director or staff of the Authority shall declare on appointment or at the commencement of employment and annually thereafter, for as long as he serves the Authority, any interest or investment that he:
- (a) knowingly has; or

- (b) knows any member of his immediate family to have in any aspect of the National Inland Waterways industry.
6. Subject to Paragraph 7 of this Schedule, the Board shall from time to time waive the application of the prohibitions specified in Paragraphs 1 and 2 of this Schedule to any Director or member of staff of the Authority if the Board reasonably determines that the financial interest of the relevant person is immaterial nature or is minimal.
7. The Board in determining whether or not the interest of a Director or member of staff of the Authority is minimal or immaterial shall consider factors including but not limited to the:
- (a) revenues, investments, profits and managerial efforts of the relevant company or other entity in regard to its National Inland Waterways activities compared with other aspects of the Authority's or such entity's businesses;
 - (b) extent to which the Authority regulates and oversees the activity of such company or entity;
 - (c) degree to which the economic interests of such company or other entity may be affected by an action of the Authority; and
 - (d) perceptions held or likely to be held by the public regarding the relevant person's financial interest or investment in that company or other entity.
8. The Board may at any time review and reverse its determination under paragraph 6 of this Schedule and direct the application of the prohibitions contained in this Schedule to the affected Director or member of staff of the Authority and the Board shall not be under an obligation to disclose the reason or basis for its review to the affected Director or member of staff.
9. In any case in which the Board exercises the waiver or the review thereof as specified in paragraphs 6 and 8 of this Schedule, the Board shall so soon thereafter publish the details thereof and such publication shall include information regarding the identity of the person who has been granted the waiver or whose grant of waiver has been reviewed, the position held by such person and the nature of the financial interests which are the subject of the waiver or the review thereof.
10. For the purpose of this Schedule:
- (a) "company" includes partnerships and undertakings; and
 - (b) "immediate family" means a person's spouse, a partner living with that person as if they were married to each other and children who are under the age of 18.

Question that the provisions of the Fourth Schedule stand part of the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Marine Transport on National Inland Waterways Act CAP N47 LFN (Repeal and Re-enactment) Bill, 2017 and approved as follows:

Clauses 1- 20 — As Recommended

Clause 21 — Deleted

Clause 22	—	As Recommended
Clause 23	—	As Amended
Clauses 24- 45	—	As Recommended
Clause 46	—	As Amended
Clauses 47&48	—	As Recommended
Clause 49	—	As Amended
Clauses 50- 65	—	As Recommended
Schedules 1-4	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time (*Senate Leader*).

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

7. Nigeria Postal Services Act CAP N127 LFN, 2004, (Repeal and Re-Enactment) Bill, 2017 (SB.106):

Motion made: That a Bill for an Act to repeal the Nigeria Postal Service Act CAP N127 LFN 2004, to provide for the operations and development of postal services, the establishment of the Nigerian Postal Commission and for Related Matters, 2017 be read the Second Time (*Senator Gilbert E. Nnaji — Enugu East*).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to the Committee on Communications to report within Four (4) weeks.

8. Federal University, Gashua (Establishment, etc.) Bill, 2017 (SB.459):

Motion made: That a Bill for an Act to establish the Federal University, Gashua and to make comprehensive provisions for its due Management and Administration and Other Related Matters, 2017 be read the Second Time (*Senator Ahmad I. Lawan — Yobe North*).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to the Committee on Tertiary Institutions and TETFUND to report within Four (4) weeks.

9. Federal Colleges of Education Act CAP F8 LFN 2004 (Amendment) Bill, 2017 (SB.445):

Motion made: That a Bill for an Act to Amend Federal Colleges of Education Act CAP F8 LFN 2004 to align the location of Colleges of Education affected by Boundary adjustments as a result of states creation and to establish Federal College of Education, Mallam Madori, Jigawa State to

address the current imbalance in the establishment and distribution of Federal Institutions in the State and for Other Related Matters, 2017 be read the Second Time (*Senator Ubali M. Shitu — Jigawa North-East*).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to the Committee on Tertiary Institutions and TETFUND to report within Four (4) weeks.

10. Federal College of Education, Gumel (Establishment, etc.) Bill, 2017 (SB.417):

Motion made: That a Bill for an Act to provide for the Establishment of the Federal College of Education, Gumel and for Other Matters Connected Therewith, 2017 be read the Second Time (*Senator Abdullahi A. Gumel — Jigawa North-East*).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to the Committee on Tertiary Institutions and TETFUND to report within Four (4) weeks.

11. Federal College of Education, Sabon-Birni (Establishment, etc.) Bill, 2017 (SB.430):

Motion made: That a Bill for an Act to Provide for the Establishment of the Federal College of Education, Sabon-Birni, Sokoto State and for Other Matters Connected Therewith, 2017 be read the Second Time (*Senator Ibrahim A. Gobir — Sokoto East*).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to the Committee on Tertiary Institutions and TETFUND to report within Four (4) weeks.

12. United Nations Conventions on the Law of Sea 1958 and 1982 relating to Piracy, Bill, 2017 (SB.364):

Motion made: That a Bill for an Act to give effect to provisions of the United Nations Conventions on the Law of Sea 1958 and 1982 relating to Piracy, the International Maritime Organization's Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988, and to regulate Other Related Offences and Matters Bill, 2017 be read the Second Time (*Senator Abdul-Aziz M. Nyako — Adamawa Central*).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to the Committees on Navy; Judiciary, Human Rights and Legal Matters; and Marine Transport to report within Four (4) weeks.

13. Nigerian Assets Management Agency (Establishment, etc.) Bill, 2017 (SB.285):

Consideration of Bill deferred to another Legislative Day.

14. Pension Reform Act CAP P4 LFN 2004 (Amendment) Bill, 2017 (SB.281):

Motion made: That a Bill for an Act to Amend the Pension Reform Act CAP P4 LFN 2004 to provide for Definite Percentage a Retiree can withdraw from his Retirement Savings Account and for Other Matters Related Thereto, 2017 be read the Second Time (*Senator Aliyu M. Wamakko — Sokoto North*).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to the Committee on Establishment and Public Service and to report within Four (4) weeks.

15. Central Bank of Nigeria (CBN) Act, CAP C4 LFN, 2007 (Amendment) Bill, 2017 (SB.64):

Consideration of Bill deferred to another Legislative Day.

16. Personal Information Protection Bill, 2017 (SB.310):

Consideration of Bill deferred to another Legislative Day.

17. Federal Entrepreneurship Centres (Establishment, etc.) Bill, 2017 (SB.133):

Consideration of Bill deferred to another Legislative Day.

18. Chartered Polymer Institute of Nigeria (Establishment, etc.) Bill, 2017 (SB.396):

Consideration of Bill deferred to another Legislative Day.

19. Nigeria Social Insurance Trust Fund Act CAP N88 LFN 2004 (Amendment) Bill, 2017 (SB.195):

Consideration of Bill deferred to another Legislative Day.

20. Adjournment:

Motion made: That the Senate do now adjourn till Thursday, 11th May, 2017 at 10:00 a.m. (*Senate Leader*).

Adjourned accordingly at 1:58 p.m.

Ike Ekweremadu, CFR
*Deputy Senate President,
Senate of the Federal Republic of Nigeria.*