

## NIGERIAN SHIPPERS' COUNCIL DECREE 1978



## Decree No. 13

[See section 11]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) There is hereby established a body to be known as the Nigerian Shippers' Council (in this Decree referred to as "the Council") which shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

Establish-  
ment of the  
Nigerian  
Shippers'  
Council.

(2) The provisions of the Schedule to this Decree shall have effect with respect to the procedure of the Council and the other matters therein mentioned.

2. Subject to this Decree, the Council shall consist of a Chairman who shall be appointed by the Commissioner with the approval of the Federal Executive Council, and the following other members, that is—

Member-  
ship.

(a) one representative each of the following Federal Ministries, that is—

- (i) Transport,
- (ii) Trade,
- (iii) Co-operatives and Supply,
- (iv) Finance, and
- (v) Justice ;

(b) one representative of each Commodity Board established pursuant to the Commodity Boards Decree 1977 ;

1977 No. 29.

(c) one representative of the Nigerian National Supply Company Limited ;

(d) one representative each of the following bodies, that is—

- (i) the Nigerian Chamber of Commerce, Industry, Mines and Agriculture,
- (ii) the Nigerian Export Merchants Association, and
- (iii) the Manufacturers Association of Nigeria.

3. The functions of the Council shall be—

Functions  
of the  
Council.

(a) to provide a forum for the protection of the interest of shippers on matters affecting the shipment of imports and exports to and from Nigeria ;

(b) to provide a forum for consultation between Conference and non-Conference Lines, tramp-owners, the Nigerian Ports Authority and the Government of the Federation on matters of common interest ;

(c) to encourage the formation of shippers' associations all over the country ;

(d) to liaise with the appropriate arms of the Government of the Federation and other organisations in assessing the stability and adequacy of existing services and make appropriate recommendations in that behalf ;

(e) to advise the Government of the Federation through the Commissioner on matters relating to the structure of freight rates, availability and adequacy of shipping space, frequency of sailings, terms of shipment, class and quality of vessels, port charges and facilities and other related matters ;

(f) to negotiate and enter into agreements with Conference Lines, and non-Conference Lines, ship-owners, the Nigerian Ports Authority and any other bodies on matters affecting the interests of shippers ;

(g) to consider the problems faced by shippers with regards to coastal transport, inland waterways transport and matters relating generally to the transportation of goods by water and advise Government on possible solutions thereto ;

(h) to promote and encourage the study of and research into problems affecting shippers in Nigeria ;

(i) to arrange from time to time seminars and conferences on any matter relating to its functions ; and

(j) to carry out such other activities as are conducive to the discharge of its functions under this Decree.

Power of the Commissioner to give directions to the Council.

4. Subject to this Decree, the Commissioner may give the Council directions of a general character or relating to particular matters (but not to any individual person or case) with regards to the exercise by the Council of its functions, and it shall be the duty of the Council to comply with the directions.

Executive Secretary and other members of the staff of the Council.

5.—(1) There shall be appointed by the Commissioner, on the nomination of the Council, an Executive Secretary of the Council.

(2) The Executive Secretary shall be the chief executive officer of the Council and shall be responsible for the execution of the policy of the Council and the day to day running of the affairs of the Council.

(3) The Council may appoint such other persons as it may determine as employees of the Council to assist the Executive Secretary in the exercise of his functions.

(4) The Council may, subject to such conditions as it may think fit, delegate any of its powers relating to the appointment of or the exercise of disciplinary control (including dismissal) over its employees to the Executive Secretary or to any other employee of the Council.

Application of Pensions Act, etc. Cap. 47.

6.—(1) The Federal Commissioner for Establishments may by Order published in the *Gazette* declare the office of the Executive Secretary or that of any person employed by the Council to be a pensionable office for the purposes of the Pensions Act.

(2) Subject to subsections (3) and (4) of this section, the Pensions Act shall, in its application by virtue of the foregoing subsection to any office, have effect as if the office were in the public service of the Federation within the meaning of the Constitution of the Federation.

1963 No. 20.

(3) For the purposes of the application of the provisions of the Pensions Act in accordance with subsection (2) above—

(a) subsection (1) of section 7 of that Act (which confers on the Commissioner power to waive the requirement to give notice of desire to retire at the age of forty-five) shall have effect as if for the references to the Commissioner there were substituted references to the Council; and

(b) the power under subsection (1) of section 9 of the Act to require an officer to retire at anytime after attaining the age of forty-five, subject to his being given six months' notice in writing, shall be exercisable by the Council and not by any other authority.

(4) Nothing in the foregoing provisions shall prevent the appointment of a person to any office on terms which preclude the grant of a pension or gratuity in respect of service in that office.

7.—(1) The Council shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Council.

Financial provisions.

(2) There shall be paid or credited to the fund established in pursuance of subsection (1) of this section—

(a) such moneys as may from time to time be lent or granted to the Council by the Government of the Federation or a State ;

(b) all moneys raised for the purposes of the Council by way of gift, grant in aid, testamentary disposition or otherwise ;

(c) all subscriptions or fees and charges for services rendered by the Council ;

(d) all other sums accruing to the Council from any other source.

(3) The accounts of the Council for each year shall be audited as soon as possible after the end of the year to which they relate by auditors appointed by the Council with the approval of the Federal Commissioner for Finance, and the fees of the auditors and the expenses of the audit generally shall be paid by the Council.

8. The Council shall prepare and submit to the Commissioner not later than 30th June in each financial year a report in such form as the Commissioner may direct on the activities of the Council during the immediately preceding financial year, and shall include in such report a copy of the audited accounts of the Council for that year and the auditor's report thereon.

Annual reports.

9. The Commissioner may make regulations generally for carrying into effect the provisions of this Decree.

Regulations.

10. In this Decree, unless the context otherwise requires—

"the Commissioner" means the Federal Commissioner charged with responsibility for shipping matters ;

"Conference Line" means a group of two or more ship-owners operating international liner services under uniform or common freight rates for the carriage of goods on a particular route within specified geographical limits ;

Interpretation.

"the Executive Secretary" means the person appointed as the Executive Secretary to the Council in pursuance of section 5 (1) of this Decree ;

"member" means a member of the Council and includes the Chairman ;

"shipper" means an individual or body of persons (corporate or unincorporate) having direct interest in cargo and who is the original consignor or the actual owner or future owner of the cargo but does not include a clearing and forwarding agent, insurer or bank which has an interest in such cargo by virtue only of being such a clearing and forwarding agent, insurer or bank ;

"ship-owner" means the owner, lessee or charterer of a ship or vessel engaged in the carriage of goods.

Citation and  
commence-  
ment.

11. This Decree may be cited as the Nigerian Shippers' Council Decree 1978 and shall be deemed to have come into operation on 1st January 1977.

## SCHEDULE

## Section 1 (2)

### SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

#### *Proceedings of the Council*

1964 No. 1.

1. Subject to this Decree and to section 26 of the Interpretation Act 1964 (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding to have a second or casting vote), the Council may make standing orders regulating the proceedings of the Council or any committee thereof.

2. The quorum at a meeting of the Council shall consist of the Chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 3 or 4 below) and six other members of whom at least two shall be members appointed pursuant to paragraph (d) of section 2 of this Decree.

3. Subject to paragraph 4 below, the Chairman shall preside at all meetings of the Council, but if he is absent from any meeting of the Council, the members present shall elect one of their number to preside at that meeting.

4. Notwithstanding paragraph 3 above, the Council may appoint from among its members a Vice-Chairman to act as Chairman during a long absence or during the temporary incapacity from illness or other sufficient cause of the Chairman and at other times to exercise such powers as the Chairman may delegate to him.

#### *Terms of service of members of the Council*

5.—(1) The Chairman of the Council shall be appointed for a period of three years from the date of his appointment on such terms as may be specified in his letter of appointment.

(2) Any member appointed under section 2 (d) shall hold office for three years and shall be eligible for re-appointment.

6. Any member, not being an ex-officio member, may resign his appointment by a letter addressed to the Commissioner and that member's resignation shall have effect from the date of the receipt of the letter by the Commissioner.

#### *Committees*

7.—(1) The Council may appoint one or more committees to which it may delegate any of its functions.

(2) Without prejudice to the generality of sub-paragraph (1) above, the Council shall appoint the following committees, that is—

(a) the Port Operations Committee which shall be charged with the duty of considering any matter relating to port charges, port facilities, port problems, customs and other related matters referred to it by the Council ;

(b) the Freight Committee which shall be charged with the duty of advising the Council on any matter relating to the structure of freight rates, surcharges, demurrage, terms of payment, cargo sharing and other related matters as may be referred to it by the Council ; and

(c) the Commodities Committee which shall be charged with the duty of ensuring the adequacy of shipping space, frequency of sailings, shipping range, pooling arrangements and other related matters as the Council may from time to time direct.

8. Every committee appointed under paragraph 7 above shall be presided over by a member of the Council and shall be made up of such number of persons (not being necessarily members of the Council) as the Council may determine in each case.

#### *Miscellaneous*

9. The fixing of the seal of the Council shall be authenticated by the signature of the Chairman of the Council or by that of the Executive Secretary if authorised in that behalf by the Council.

10. Any contract or instrument which, if made or executed 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 Council by any person specially or generally authorised to act for that purpose by the Council.

11. Any document purporting to be a document duly executed under the seal of the Council shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.

12. The validity of any proceedings of the Council or of its committees shall not be affected—

(a) by any vacancy in the membership of the Council or any of its committees ; or

(b) by any default in the appointment of any such member ; or

(c) by reason that a person not entitled to do so took part in the proceedings.

13. Any member of the Council or any committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council or any committee thereof shall forthwith disclose his interest to the Council and shall not vote on any question relating to the contract or arrangement.

MADE at Lagos this 4th day of July 1978.

LT-GENERAL O. OBASANJO,  
*Head of the Federal Military Government,  
Commander-in-Chief of the Armed Forces,  
Federal Republic of Nigeria*

## EXPLANATORY NOTE

*(This note does not form part of the above Decree  
but is intended to explain its purpose)*

The Decree establishes the Nigerian Shippers' Council to provide a forum for the protection of the interest of shippers in matters affecting the shipment of imports and exports to and from Nigeria and to advise the Federal Government on matters relating to freight rates, terms of shipment, port charges and facilities and generally on the problems of the shipping industry in Nigeria.



**CUSTOMS AND EXCISE MANAGEMENT (AMENDMENT)  
DECREE 1978**



**Decree No. 14**

[12th July 1978]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1. The Customs and Excise Management Act 1958 is hereby amended as follows :—

Amendment  
of  
1958 No. 55.

(a) for section 160 there shall be substituted the following new section—

“Conduct of proceedings by customs officers. 160.—(1) Subject to the provisions of section 104 of the Constitution of the Federation (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law), any officer of the Department of Customs and Excise may, with the consent of the Director of that department, conduct criminal or other proceedings in respect of matters relating to customs and excise under the customs and excise laws.

(2) As regards the conduct of proceedings under this Act (whether civil or criminal) in the Federal Revenue Court, any reference to an officer shall be a reference to such officer who is a legal practitioner.” ; and

(b) for section 164 there shall be substituted the following new section—

“Power of the Board to compound proceedings, etc.

164. The Board may—

(a) without prejudice to the provisions of section 104 of the Constitution of the Federation (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law) and subject to such directions whether general or special as may be given by the Attorney-General of the Federation, stay or compound any proceedings for an offence or for the condemnation of anything as forfeited under the customs and excise laws ; or

(b) without prejudice to the generality of section 5 and subject to such directions whether general or special as may be given by the Commissioner, restore anything forfeited or seized under the customs and excise laws."

Citation.

2. This Decree may be cited as the Customs and Excise Management (Amendment) Decree 1978.

MADE at Lagos this 12th day of July 1978.

LT-GENERAL O. OBASANJO,  
*Head of the Federal Military Government,  
Commander-in-Chief of the Armed Forces,  
Federal Republic of Nigeria*

#### EXPLANATORY NOTE

*(This note does not form part of the above Decree  
but is intended to explain its purpose)*

The Decree amends the Customs and Excise Management Act 1958 to authorise, subject to the Federal Attorney-General's powers relating to prosecutions generally, duly qualified legal practitioners in the service of the Department of Customs and Excise, with the consent of the Director of that Department, to institute in the Federal Revenue Court criminal and other proceedings under the customs and excise laws. It also subjects the power of the Board to compound proceedings to ministerial surveillance.