

A BILL

FOR

AN ACT TO REPEAL THE NIGERIAN RAILWAY CORPORATION ACT (CAP. N129 LFN 2004); TO PROVIDE FOR THE FORMATION OF COMPANIES TO TAKE OVER THE FUNCTIONS, ASSETS, LIABILITIES AND STAFF OF THE NIGERIAN RAILWAY CORPORATION; TO DEVELOP COMPETITIVE RAILWAY SERVICES; TO ESTABLISH THE NIGERIA RAILWAY AUTHORITY TO PROVIDE FOR THE LICENSING, TECHNICAL AND SAFETY REGULATION OF THE RAILWAY SECTOR, TO PROVIDE THE FRAMEWORK FOR PRIVATE SECTOR PARTICIPATION IN THE PROVISION OF RAIL SERVICES AND FOR RELATED MATTERS

Sponsors: Hon. Blessing Onuh Hon. Francis Ejiroghene Waive

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria:

- 1 PART I - REPEAL OF THE NIGERIAN RAILWAY
- 2 CORPORATION ACT (CAP N129)
- 3 1. The Nigerian Railway Corporation Act Cap N129 Laws of the
- 4 Federation of Nigeria 2004 (in this Bill referred to as "the enactment") is
- 5 hereby repealed. Repeal
- 6 2. The objectives of this Bill are to- Objectives
- 7 (a) provide for the:
- 8 (i) establishment of the Nigeria Railway Authority to acquire the
- 9 assets of the Corporation and to perform the functions set out in this Bill,
- 10 (a) participation of Federal, State Governments and private sector
- 11 in the provision of railway services and railway infrastructure,
- 12 (b) technical and safety regulation of the railway sector by the
- 13 Authority,
- 14 (c) economic regulation of passenger services in the railway sector

- 1 by the Authority, and
- 2 (d) provide the conditions that will facilitate the provision of railway
- 3 services and railway infrastructure.
- 4 (e) promote the efficient and sustainable development and operation
- 5 of the railway sector;
- 6 (f) promote the provision of safe railway services; and
- 7 (g) promote universal access to railway infrastructure in Nigeria;
- 8 (h) promote the exploration and exploitation of petroleum resources
- 9 in Nigeria for the benefit of the Nigerian people;
- 10 (i) promote the efficient, effective and sustainable development of
- 11 railway services and railway infrastructure;
- 12 (j) promote the safe and efficient operation of railway services and
- 13 railway infrastructure;
- 14 (k) provide the framework for developing third party access
- 15 arrangements to railway infrastructure;
- 16 (l) encourage and facilitate both local and foreign investment in the
- 17 railway sector;
- 18 (m) promote transparency and accountability in the administration of
- 19 railway services and railway infrastructure in Nigeria;
- 20 (n) promote safe and affordable access to railway services and
- 21 railway infrastructure;
- 22 (o) promote the liberalization of the railway sector in Nigeria; and
- 23 (p) ensure that railway operations are conducted in a manner that
- 24 protects the health and safety of persons, property and the environment; and
- 25 (q) ensure that the administration and management of railway sector
- 26 shall be conducted in accordance with this Bill and the principles of good
- 27 governance, transparency and sustainable development of Nigeria.

Application and
Scope of the Bill

- 28 **3.** The provisions of this Bill shall apply to all-
- 29 (a) activities within or associated with the railway sector or
- 30 operations; and

1 (b) persons conducting such activities.

2 PART II - ESTABLISHMENT OF THE NIGERIA RAILWAY AUTHORITY, ETC.

3 4.-(1) There is hereby established an Authority to be known as the Establishment
4 Nigeria Railway Authority (in this Bill referred to as 'the Authority"). of the Nigeria
Railway Authority

5 (2) The Authority-

6 (a) shall be a body corporate with perpetual succession and a
7 common seal;

8 (b) may sue or be sued in its corporate name; and

9 (c) shall have power to acquire, hold and dispose movable and
10 immovable property for the purpose of its functions under this Bill.

11 5.-(1) Upon the commencement of this Bill-

12 (a) the Authority shall succeed into the activities of the erstwhile Transfer of Assets
13 corporation with respect to the technical and safety regulation of railway and Liabilities
14 services and railway infrastructure in Nigeria; of the Corporation t

15 (b) the railway infrastructure owned by the Corporation shall be
16 transferred to the Authority in accordance with the transfer provisions set
17 out in Part 1 of the First Schedule to this Bill;

18 (c) the operational assets of the Corporation with the exception of
19 the assets referred to in paragraph (e) of this clause shall vest in the Authority
20 in accordance with the transfer provisions set out in the Part 2 of the First
21 Schedule to this Bill;

22 (d) the non-operational assets of the Corporation with the
23 exception of the assets referred to in paragraph (e) of this clause shall vest in
24 the Authority in accordance with the transfer provisions set out in the Part 3
25 of the First Schedule to this Bill; and

26 (e) the shares held by the Corporation in the Railway Property
27 Management Company Limited shall be transferred to the Authority.

28 6. The transfer provisions set out in the First Schedule to this Bill Transfer of
29 shall apply to the transfer of employees of the Corporation to the Employees to the
30 Authority Authority

Functions and
Powers of the
Authority

1 7.-(1) Subject to the provisions of this Bill and the functions and
2 powers of the Authority as provided for in Part VII of this Bill, the Authority
3 shall-

4 (a) carry out the technical and safety regulation of the railway sector in
5 Nigeria and regulate commercial aspects of passenger services in railway
6 operations;;

7 (b) enforce, administer and implement applicable laws, regulations
8 and policies relating to the railway sector and ensure compliance with
9 government policies for railway operations as directed by the Minister in
10 accordance with the provisions of this Bill;

11 (c) issue permits and other authorisations as may be necessary under a
12 railway licence or lease, including design, construction and operation of
13 infrastructure for railway operations;

14 (d) implement such strategic programmes, plans and other policies
15 and objectives for the development of the railway sector as is consistent with
16 the Transport Master Plan and the provisions of this Bill;

17 (e) ensure compliance with applicable national, regional and
18 international legislations, regulations policies, standards and practices for
19 railway operations throughout the Federation of Nigeria;

20 (f) establish, determine, administer, monitor, supervise, regulate,
21 enforce and ensure strict implementation of health, safety and environmental
22 policies, laws, regulations, measures, standards, codes, specifications and
23 practices applicable to the railway sector pursuant to good and industry best
24 practices;

25 (g) administer, monitor, supervise and enforce compliance with the
26 terms and conditions of concessions, leases and licences granted and permits
27 and authorisations issued to a company in respect of Inter-States railway
28 operations;

29 (h) monitor the obligations and financial viability of concessionaires,
30 licensees, lessees, permit holders or other grantees of private sector

1 participation with respect to railway operations, to ensure that railway
2 operations and services are carried out in a safe and efficient manner to
3 achieve optimal service;

4 (i) establish parameters and code of conduct for concessionaires,
5 licensees, lessees or permit holders engaged in railway operations to
6 promote healthy, safe, efficient and effective conduct of railway operations
7 in an environmentally acceptable and sustainable manner;

8 (j) promote an enabling environment for investment in railway
9 operations to ensure efficient, safe, effective and sustainable infrastructural
10 development of the railway sector;

11 (k) regulate the development, expansion and rehabilitation of
12 Railway Infrastructure in accordance with the Transport Master Plan to
13 ensure availability, adequacy, efficiency and reliability of railway services
14 in Nigeria;

15 (l) prepare and publish from time to time technical and safety
16 guidelines for the selection of concessionaires or other grantees of private
17 sector participation consistent with the provisions of extant Federal
18 Government's tendering rules;

19 (m) ensure the provision of essential public services through grants
20 or subsidies or where necessary by direct operation;

21 (n) set, define, enforce, publish and ensure compliance with
22 approved technical and safety standards, guidelines, codes, regulations and
23 specifications for the design, construction, fabrication, installation,
24 alteration, operation and maintenance of railway infrastructure, facilities
25 and equipment used or to be used in Inter-State railway operations including
26 railway infrastructure evaluation and management, and the elimination of
27 pollution;

28 (o) develop cost studies and carry out research benchmarks for the
29 evaluation of railway operations taking into account railway sector specific
30 issues, including infrastructure, track gauge, location of operations,

1 technology applied, service methods and quality of infrastructure related to
2 developments in the railway sector and ensure the training, capacity building
3 and development of Nigerians for the railway sector and persons to be
4 employed in the construction and provision of railway services and
5 infrastructure;

6 (p) approve infrastructure development plans for railway operations
7 as well as monitor its execution, undertake evaluation of national infrastructure
8 and develop policies for prudent infrastructure management practices and
9 advise the Minister generally on matters relating to railway operations;

10 (q) maintain a Nigerian railway sector data bank comprising of
11 materials, information, records, data and reports acquired by, obtained from
12 railway operations and or submitted to the Authority in the exercise of its
13 statutory and regulatory functions and publish reports and statistics on railway
14 operations to promote the growth of the railway sector as may be required
15 under any Act or regulation and give directive to any person, company or entity
16 in that regard;

17 (r) subject to the confidentiality provisions contained in any relevant
18 legislation, share information and data on railway operations with relevant
19 government agencies, persons and bodies which have functions with respect to
20 the railway sector;

21 (s) require lessees, licensees and permit holders to furnish and publish
22 specified information relating to railway operations in this Bill and the
23 National Data Repository Regulations, 2020;

24 (t) supervise and ensure accurate calibration and certification of
25 equipment used for railway operations, pursuant to applicable laws, and issue
26 certificates of quality for railway sector;

27 (u) establish specialized workshops to provide testing, quality
28 assurance and certification for railway infrastructure;

29 (v) perform technical and safety evaluation and assessment regarding
30 submissions made to the Authority by concessionaires, licensees, lessees or

- 1 permit holders involved in railway operations;
- 2 (w) conduct bidding rounds for the award of railway operations
- 3 licences and infrastructure leases pursuant to this Bill and applicable
- 4 regulations and compute, determine, assess and ensure payment of
- 5 royalties, rents, fees, and other charges for railway operations as stipulated
- 6 under this Bill and any regulation;
- 7 (x) where requested, provide assistance to parties conducting
- 8 railway operation, where in the sole opinion of the Authority such assistance
- 9 is merited;
- 10 (y) maintain public registers of-
- 11 (i) licences and leases granted by the Minister,
- 12 (ii) permits and other authorisations issued by the Authority,
- 13 (iii) beneficial ownership,
- 14 (iv) award, renewal, assignment, amendment, suspension and
- 15 revocation, and
- 16 (v) unallocated railway infrastructure;
- 17 (z) perform such other function as may be necessary to give effect
- 18 to the provisions of this Bill;
- 19 (2) the Authority shall have and exercise the power to-
- 20 (a) approve the grant of track access to third parties for Inter-State
- 21 and private railway service and operations;
- 22 (b) issue Safety Certificates in respect of any new Inter-State and
- 23 private railway services or infrastructure through the General Inspector in
- 24 accordance with section 92 of this Bill; and
- 25 (c) ensure the development, approval and oversight of an
- 26 appropriate Network Code or codes to govern the terms and conditions of
- 27 track access;
- 28 (3) where Inter-State and Intra-State rail services, operations,
- 29 facilities or infrastructure connect or overlap, the Authority shall to the
- 30 exclusion of any other Authority assume jurisdiction over such integrated

1 operations and rail operations may be considered integrated where there is a
2 joint use of utilities exclusively for rail operations.

3 (4) The Authority shall at all times, carry out its functions and duties
4 in an independent, transparent and non-discriminatory manner.

Role of the
Minister

5 **8.**(1) The Minister shall have the general responsibilities and
6 functions under this Bill including the power to-

7 (a) formulate, modify and issue policies for the railway sector
8 including Inter-State and Intra-State railway transportation to ensure the
9 attainment of the objectives of this Bill;

10 (b) facilitate the domestication of international protocols on railway
11 services;

12 (c) facilitate the conclusion of agreements with foreign governments
13 and international organisations for the provision of railway services in Nigeria;

14 (d) promote and encourage co-operation within the ECOWAS region
15 for the adoption of common standards, technical and safety practices and,
16 interconnection of national and regional railway Networks;

17 (e) receive and review records and reports submitted by the Authority
18 pursuant to this Act;

19 (f) in consultation with the Authority, declare new railway routes as
20 may be established from time to time in accordance with the Transport Master
21 Plan;

22 (g) ensure the development of Nigerian content and participation in
23 any activity within the railway sector including the construction and provision
24 of railway services and infrastructure.

25 (2) The Minister shall in all cases discharge his statutory duties in a
26 manner best to achieve the objectives of this Bill.

Formulation
of Policy

27 (3) The Minister shall in formulating or reviewing policies for the
28 railway sector, consult with and have due regard to the representations of
29 relevant stakeholders in the railway sector, including, but not limited to, the
30 Authority, the industry and the general public.

Cessation of Membership	1	11. A person shall not be appointed or remain in office as a member of
	2	the Board if-
	3	(a) he is an undischarged bankrupt or makes a compromise with his
	4	creditors;
	5	(b) he has been certified by a medical practitioner to be of unsound
	6	mind;
	7	(c) he is an undischarged bankrupt;
	8	(d) he has been convicted in Nigeria or elsewhere of a criminal
	9	offence, being a misdemeanor or felony; or
	10	(e) he has at any time been removed from an office of trust on account.
Term of Office	11	12. The Chairman and other members of the Board other than ex-
	12	officio member, shall hold office for a term of four years, may be re-appointed
	13	for a further term of four years and no more.
Suspension or Removal from Office	14	13. -(1) Subject to clause (3) of this section, a member may be
	15	suspended or removed from office by the President if he-
	16	(a) is found to have been or is unqualified for appointment to the
	17	Board pursuant to section 10 of this Bill;
	18	(b) has been absent from three (3) consecutive meetings of the Board
	19	without the consent of the chairman unless he shows good reason for such
	20	absence;
	21	(c) is guilty of a serious misconduct in relation to his duties as a
	22	member of the Board;
	23	(d) in the case of a person possessed of professional qualifications he
	24	is disqualified or suspended from practicing that profession in any part of the
	25	world by an order of a competent authority; or
	26	(e) is guilty of a serious misconduct in relation to his duties as a
	27	member of the Board;
	28	(2) A member of the Board may be removed by the President if
	29	satisfied that it is not in the interest of the Authority or the public for the
	30	member to continue in office.

1 (3) Prior to the suspension or removal of a member of the Board
2 pursuant to clauses (1) and (2) of this section, the Minister shall inform the
3 member, by written notice, as soon as is practicable of his suspension or
4 removal and the reasons for the removal or suspension.

5 (4) The affected member shall be given a reasonable opportunity to
6 make written submissions to the Minister within the period specified in the
7 notice and such period shall not be less than fourteen (14) days from the date
8 of the notice.

9 (5) The affected member may, within the period specified in the
10 notice, submit a written submission and the Minister shall consider the
11 submission in making a final decision on the suspension or removal of the
12 member from office.

13 (6) A member shall not be removed from the Board except in
14 accordance with the provisions of this Bill.

15 **14.-(1)** There is a vacancy in the in the membership of the Board if a
16 member-

Vacancy on the
Board

17 (a) dies;

18 (b) is removed from office in accordance with section 9 of this Bill;

19 (c) resigns from office; or

20 (d) completes his tenure.

21 (2) A vacancy in the Board shall be filled as soon as is reasonably
22 practicable after the occurrence of such a vacancy by the appointment of
23 another person in accordance with section 9.

24 (3) In the instance of a vacancy on the Board, another person
25 representing the same interest shall be appointed provided that any person so
26 appointed shall hold office for the unexpired term of office of the
27 predecessor.

28 (4) The provisions of clause (3) of this section shall not apply to the
29 filling of vacancies in respect of the Director General/CEO and the
30 Executive Directors howsoever and whenever created.

1 (5) Notwithstanding any other provision of this Bill, the President
2 shall ensure at all times that there is a duly constituted Board and shall in the
3 event of the dissolution of the Board ensure that another Board is constituted
4 not later than one month thereafter in accordance with section 7 of this Bill.

Remuneration,
allowances, etc
of members

5 15. All payments, allowances, benefits and expenses howsoever
6 called payable to the Board members including that of the Director
7 General/CEO and Executive Directors shall be determined in accordance with
8 extant Federal Government Guidelines.

Proceedings
of the Board

9 16.-(1) The supplementary provisions set out in the third schedule to
10 this Bill shall have effect with respect to the proceedings of the Board and the
11 other matters contained therein.

12 (2) Subject to clause (1) of this section-

13 (a) the Board shall make standing orders for the regulation of its
14 proceedings and meetings and those of its Committees; and

15 (b) decisions and acts of the Board shall be deemed to be decisions
16 and acts of the Authority.

17 PART IV - MANAGEMENT AND STAFFING OF THE AUTHORITY

Management

18 17.-(1) There shall be for the Authority a Management structure (in
19 this Act referred to as "the Management") which shall be responsible to the
20 Board for the implementation of the policy decisions of the Board and for the
21 day-to-day management and supervision of the activities of the Authority.

22 (2) The Director General who shall be the Chief Executive and
23 Accounting Officer of the Authority shall;

24 (a) be responsible for the direction, supervision and control of all the
25 management staff and other employees of the Authority; and

26 (b) subject to the approval of the Board, be responsible for disposing
27 of all questions relating to the service of the employees, their pay, allowances
28 and benefits.

29 (3) The Director General/CEO shall be a person possessing
30 professional qualifications in any of the fields stated in section 8 of this Bill and

1 adequate relevant management experience.

2 (4) Where the Director General/CEO is unable to perform the
3 functions of his or her office due to any temporary incapacitation, the most
4 senior Executive Director shall act in that capacity with the full powers of
5 the Director General/CEO.

6 (5) The structure and functions of the Directorates shall be
7 determined by the Board.

8 (6) There shall be such number of departments and districts as may
9 be determined by the Board for the effective and efficient discharge of the
10 Authority's functions under this Bill.

11 **18.**-(1) The Board shall appoint a Secretary who shall-

Secretary and
Other Staff

12 (a) keep the corporate records of the Authority; and

13 (b) undertake such other functions as the Board or the Director
14 General may from time to time direct.

15 (2) The Secretary shall be a legal practitioner with at least ten years
16 post qualification cognate experience.

17 (3) The Authority shall employ such number of persons as it
18 considers necessary for the exercise of its powers and performance of its
19 functions under this Bill.

20 (4) The Board shall-

21 (a) determine the terms and conditions of service of the staff of the
22 Authority; and

23 (b) with the approval of the National Salaries, Incomes and Wages
24 Commission determine and review from time to time, the remunerations and
25 allowances payable to the employees of the Authority.

26 (5) The conflict-of-interest provisions contained in the Fourth
27 Schedule to this Bill shall apply to all employees of the Authority.

28 **19.**-(1) The Board shall have power to-

Powers of the
Board

29 (a) acquire offices and other premises for the use of the
30 Corporation;

1 (b) appoint the Secretary for the Board and other employees of the
2 Corporation;

3 (c) fix, in accordance with the extant laws and regulations, the terms
4 and conditions of service including remuneration, allowances, and other
5 benefits of the employees of the Corporation;

6 (d) establish State offices and other operational sites of the
7 Corporation as it may deem necessary for the proper performance of its
8 functions; and

9 (e) do such other things, in consonance with the provisions of this
10 Bill, which in its opinion are to facilitate the carrying out of the functions of the
11 Corporation under this Bill.

Duty to train
Nigerians

12 **20.** It shall be the duty of the Authority to provide such facilities for
13 the training of Nigerians, as are designed to enhance their suitability for
14 promotion in the service of the Authority.

Pensions

15 **21.**-(1) Service in the Authority shall be approved service for the
16 purposes of the Pension Act and accordingly, employees of the Authority shall
17 be entitled to pension, gratuities and other retirement benefits as are prescribed
18 in the Pensions Act.

19 (2) Notwithstanding the provisions of subsection (1) of this section,
20 nothing in this Bill shall prevent the appointment of a person to any office on
21 terms which preclude the grant of pension, gratuity or any other retirement
22 benefit in respect of that office.

23 PART V - INCORPORATION OF SUCCESSOR COMPANIES AND TRANSFER OF
24 RAILWAY INFRASTRUCTURE, ASSETS AND LIABILITIES

25 **22.**-(1) The Minister shall not later than six months after the
26 commencement of this Bill, cause to be incorporated under the Companies and
27 Allied Matters Act, limited liability companies which shall takeover railway
28 infrastructure, operational and non-operational assets, interests and liabilities
29 of the Authority (in this Bill referred to as "the Successor Companies") as
30 follows-

1 (a) Nigeria Railway Infrastructure Company Limited (NRIC
2 Limited);

3 (b) Nigeria National Railway Line Limited (NNRL Limited); and

4 (c) Nigeria Railway Property & Advertisement Management
5 Company Limited (NRPAMC Limited).

6 (2) The Minister shall prior to the incorporation of the successor
7 companies, consult with the Minister of Finance to determine the number
8 and nominal value of the shares to be allotted, for each successor company
9 which shall form the initial paid-up share capital of each Successor
10 Company and the Government shall subscribe and pay cash for the shares.

11 (3) Ownership of all shares in the Successor Companies shall be
12 vested in the Government at incorporation and held by the Federal Ministry
13 of Finance Incorporated and the Federal Ministry of Transportation
14 Incorporated in equal portions on behalf of the Federation and the Federal
15 Ministry of Transportation Incorporated is incorporated under the
16 provisions of the Eighth Schedule to this Bill.

17 (4) The Federal Ministry of Finance Incorporated and the Federal
18 Ministry of Transportation Incorporated in consultation with the
19 Government, may increase the equity capital of the successor companies.

20 (5) Shares held by the Government in each successor company are
21 not transferable including by way of sale, assignment, mortgage, or pledge
22 unless endorsed by the National Economic Council and approved by the
23 Government on behalf of the Federation.

24 (6) Notwithstanding any provision to the contrary in the
25 Companies and Allied Matters Act and except by way of security, any sale or
26 transfer of shares of any of the successor companies shall be at a fair market
27 value and subject to an open, transparent and competitive bidding process
28 and the sale or transfer of the shares of any of the successor companies shall
29 be on equal proportion basis of shares held by the Ministry of Finance
30 Incorporated and the Ministry of Transportation Incorporated.

1 (7) The Successor Companies and their subsidiaries shall conduct
2 their affairs on a commercial basis in a profitable and efficient manner without
3 recourse to government funds and their memorandum and articles of
4 association shall state these restrictions, and the Successor Companies shall
5 operate in accordance with the provisions of the Companies and Allied Matters
6 Act, including exercising the right to declare dividends to its shareholders and
7 retain 20% of profits as retained earnings to grow its business.

8 (8) Where a Successor Company has a participating interest or 100%
9 interest in a lease or licence, the Successor Company shall pay its share of all
10 fees, rents, royalties, profit oil shares, taxes and other required payments to
11 Government as any company in Nigeria.

12 **23.**-(1) The Minister and the Minister of Finance shall within 18
13 months of the effective date, determine the railway infrastructure, operational
14 and non-operational assets, interests and liabilities of the Authority to be
15 transferred to respective successor companies or their subsidiaries and upon
16 the identification, the Minister shall cause such railway infrastructure,
17 operational and non-operational assets, interests and liabilities to be
18 transferred to each success or company.

19 (2) Any railway infrastructure, operational and non-operational
20 assets, interests and liabilities of the Authority not transferred to a successor
21 company or its subsidiary under subsection (1), shall remain the railway
22 infrastructure, operational and non-operational assets, interests and liabilities
23 of the Authority until they become extinguished or transferred to the
24 Government and six months following the determination under section 23 (1)
25 of his Bill, the Minister, the Minister of Finance and the Attorney-General of
26 the Federation shall develop a framework for the payment of the liabilities not
27 transferred to successor companies and if such determination of which railway
28 infrastructure, operational and non-operational assets, interests and liabilities
29 to be transferred has not been concluded within the stipulated period of 18
30 months, all the railway infrastructure, operational and non-operational assets,

1 interests, liabilities of the Authority shall be deemed to be transferred to the
2 successor companies after 18 months from the effective date.

3 (3) Bonds, hypothecations, securities, deeds, contracts,
4 instruments, documents and working arrangements with regards to railway
5 infrastructure, operational and non-operational assets, interests or liabilities
6 transferred to a successor company or any of its subsidiary under subsection
7 (1) and which remains subsisting before the date of transfer shall, beginning
8 from the date of transfer, be effective and enforceable against or in favour of
9 a successor company.

10 (4) Any pending action or proceeding brought by or against the
11 Authority before the transfer date with regard to railway infrastructure,
12 operational and non-operational assets, interests or liabilities transferred to
13 a successor company under subsection (1) may be enforced or continued by
14 or against a successor company as successor to the Authority.

15 (5) Notwithstanding the provisions of subsection (4)-

16 (a) an action or proceeding shall not be commenced against a
17 successor company, its subsidiary, director, officer, employee or agent with
18 regard to railway infrastructure, operational and non-operational assets,
19 interest or liability of a successor company, where the time for commencing
20 the action or proceeding would have expired had such infrastructure,
21 operational and non-operational assets, interest or liability not been
22 transferred to the successor company or its subsidiaries; and

23 (b) the transfer of railway infrastructure, operational or non-
24 operational assets, interest and liability of the Authority to a success or
25 company under subsection (1) shall not create or be deemed to have created
26 a new cause of action in favour of a-

27 (i) creditor of the Authority, or

28 (ii) party to a contract, agreement or arrangement with the
29 Authority that was entered into before the date of transfer.

30 (6) Subject to any arrangements that the Authority has entered into,

1 any debt to the Authority related to outstanding cash calls under joint venture
2 agreements shall become debt of-

3 (a) the successor company where the infrastructure, operational and
4 non-operational assets, interests and liabilities have been transferred to the
5 Successor Company under subsection (1); and

6 (b) Government where the assets have not been transferred under
7 subsection (2).

8 (7) The initial capitalisation of a successor company shall not be less
9 than its financial requirements to effectively discharge its commercial role and
10 deal with its obligations and liabilities transferred to the successor company.

11 **24.-(1)** The Minister shall upon incorporation of a successor
12 company, consult with the Minister of Finance to appoint a successor company
13 as agent of the Authority for the purpose of managing the process of winding
14 down and transfer of the railway infrastructure, operational or non-operational
15 assets, interests and liabilities of the Authority.

16 (2) Subject to the appointment under subsection (1), the successor
17 company shall have the power to deal with the applicable railway
18 infrastructure, operational or non-operational assets, interests and liabilities of
19 the Authority and may enter into contract with third parties on such assets,
20 interests and liabilities.

21 (3) Pursuant to the appointment under subsection (1), the Authority
22 shall-

23 (a) not deal with the applicable railway infrastructure, operational or
24 non-operational assets, interests and liabilities transferred to the successor
25 companies;

26 (b) at the request of a successor company, execute and deliver any
27 document and do such other acts or things as may be required by a successor
28 company with regard to any railway infrastructure, operational or non-
29 operational assets, interest or liability referred to under subsection (1); and

30 (c) pay a nominal fee of NGN1.00 to the successor company as

1 administrative charges on the applicable railway infrastructure, operational
2 or non-operational assets, interests and liabilities to which a successor
3 company has been appointed under subsection (1).

4 (4) The cost of winding down the infrastructure or operational and
5 non-operational assets, interests and liabilities of the Authority shall be
6 borne by the Government.

7 (5) A cause of action shall not arise in tort, contract or otherwise
8 between the Authority and a successor company in respect of the applicable
9 railway infrastructure, operational or non-operational assets, interests or
10 liabilities to which a successor company has been appointed as agent under
11 subsection (1).

12 (6) The Minister, shall by written notice in a Gazette fix the date,
13 (in this Bill known as the "initial transfer date"), on which the railway
14 infrastructure, operational and non-operational assets, interests and
15 liabilities of the Authority as specified in subsection (1) of this section shall
16 be transferred to the successor companies.

17 (7) Applicable railway infrastructure, operational and non-
18 operational assets, interests and liabilities vested in the Authority as at the
19 initial transfer date and appearing on the audited balance sheets of the
20 Authority, shall vest in the successor companies.

21 (9) The vesting of railway infrastructure, operational and non-
22 operational assets, interests and liabilities under subsection (1) of this
23 section shall be provisional until final regulations are issued by the Minister
24 under this section.

25 (10) Within eight months from the initial transfer date, the Minister
26 shall, on the finalisation of the opening balance sheet of the successor
27 companies, issue final regulations either confirming or specifying the
28 transfer of infrastructure, assets and liabilities under subsection (2) and this
29 Part applies with necessary modifications to the final regulations.

30 (11) The transfer of a liability or obligation under this section

1 releases the Authority from the liability or obligation.

2 **25.** Any guarantee granted or issued by the Government or the
3 Corporation with regard to the transfer of liability of the Authority to a
4 successor company under section 23 of this Bill shall be enforceable against
5 the Government as if such liability was a liability of the Authority, provided
6 that such guarantee was effective prior to such transfer.

7 **26.** With effect from the transfer date, employees of the defunct
8 Corporation and its subsidiaries shall be transferred to either the Authority or
9 the successor companies on terms and conditions not less favourable than those
10 enjoyed by the employees immediately prior to the transfer of service and shall
11 be deemed to be service for employment related entitlements as specified
12 under any applicable law.

13 **27.**-(1) There shall be a Board of the successor company which shall
14 perform its duties in accordance with this Bill, the Companies and Allied
15 Matters Act and the articles of association of the successor company.

16 (2) Except as set out in this section, the composition of the Board of
17 the successor company shall be determined in accordance with the Companies
18 and Allied Matters Act and its Articles of Association.

19 (3) The Board of a successor company shall be appointed by the
20 President and composed of-

21 (a) a non-executive chairman;

22 (b) the Managing Director/CEO;

23 (c) the Chief Financial Officer;

24 (d) a representative of the Ministry of Transportation, not below the
25 rank of a Director;

26 (e) a representative of the Ministry of Finance, not below the rank of a
27 Director; and

28 (f) five non-executive members with at least 15 years post-
29 qualification cognate experience in railway or any other relevant sector of the
30 economy one from each geopolitical zone.

1 (4) A person to be appointed as the Managing Director/CEO of a
2 successor company shall have extensive managerial, technical and
3 professional knowledge in the railway or other relevant sector with at least
4 15 years' post-qualification experience.

5 (5) In the absence of the Chairman, the members of the Board of a
6 successor company may appoint a non-executive member of the Board to
7 act as alternate Chairman.

8 (6) The provisions of this section shall apply where a successor
9 company remains wholly owned by the Government and where a successor
10 company is not wholly owned by Government, the composition of the Board
11 of the successor company shall be determined by the shareholders of the
12 successor company in accordance with the provisions of the Companies and
13 Allied Matters Act and the articles of association of the successor company.

14 **28.**-(1) The Board of the successor company shall, within three
15 months of the incorporation of the successor company, develop formal and
16 transparent process for the creation of its committees and nomination of
17 members of the Board of the successor company to the committees.

18 (2) The mandate, composition and procedures of each committee
19 of the Board of a successor company shall be comprehensive and open for
20 inspection by the shareholders of the successor company.

21 (3) The Board of a successor company shall nominate non-
22 executive members of the Board capable of exercising independent
23 judgment to its committees where there is likelihood of conflict of interest.

24 (4) The Board of a successor company shall have committees for-

25 (a) ensuring the integrity of financial and non-financial reporting;

26 (b) the nomination of Board of a successor company members and
27 key executives;

28 (c) remuneration of members of the Board of the successor
29 company; and

30 (d) any other committee as the Board of the successor company

1 may consider appropriate.

2 **29.**-(1) Members of the Board of a successor company shall discharge
3 their responsibilities in accordance with the highest standards, practices and
4 principles of corporate governance.

5 (2) The Board of a successor company shall, upon request by one or
6 more of shareholders holding not less than 10% of the voting interests in the
7 successor company, provide a comprehensive written explanation of any
8 action or decision taken by the Board of the successor company to its
9 shareholders, provided that the Board of the successor company may withhold
10 the explanation if permitted under a duty of confidentiality the successor
11 company owed to any third party.

12 **30.**-(1) A successor company shall ensure that an annual audit of the
13 successor company is conducted by an independent, competent, experienced
14 and qualified auditor.

15 (2) The auditor of a successor company shall provide an external and
16 objective assurance to the Board of the successor company and shareholders of
17 the successor company that the financial statements of the successor company
18 fairly represent the financial position and performance of the successor
19 company.

20 (3) Where the auditor of a successor company is unable to provide the
21 assurance required under subsection (2), the Board of the successor company
22 shall immediately convene an extraordinary general meeting of the company
23 to-

24 (a) notify the shareholders of the successor company; and

25 (b) consider any action that may be necessary in that regard.

26 **31.**-(1) The Board of a successor company shall, in addition to its
27 responsibilities under the Companies and Allied Matters Act and its articles of
28 association-

29 (a) be responsible for the strategic guidance and determining the
30 business structure of the successor company;

- 1 (b) be responsible for the approval of the annual budget of the
2 successor company;
- 3 (c) act in good faith and exercise due diligence and care in the best
4 interests of the successor company, the shareholders and the sustainable
5 development of Nigeria;
- 6 (d) apply the highest ethical standards in performing its duties,
7 taking into account the interests of its stakeholders and the fiduciary duty of
8 the Directors to the successor company;
- 9 (e) make decisions guided by commercial and technical
10 considerations that represents good international railway sector practices;
- 11 (f) determine and report to the shareholders of the successor
12 company on key performance indicators on at least annual basis;
- 13 (g) review and guide corporate strategy, major plan of action, risk
14 policy and business plan;
- 15 (h) set performance objectives for the successor company, the
16 Board of the successor company, members of the successor company's
17 management and individual business units and subsidiaries of the successor
18 company;
- 19 (i) monitor the successor company's corporate performance;
- 20 (j) oversee major capital expenditures, acquisitions and
21 divestitures;
- 22 (k) monitor the effectiveness of the successor company's
23 governance practices and propose and implement changes;
- 24 (l) select, compensate, monitor and replace management
25 executives and oversee succession plan;
- 26 (m) align key executive and Board of the successor company
27 remuneration with the longer-term interests of the successor company, its
28 shareholders and stakeholders;
- 29 (n) monitor and address potential conflicts of interest of
30 management and members of the Board of the successor company and

- 1 breach of fiduciary duty by members of the Board of the successor company;
- 2 (o) ensure the integrity of the successor company's accounting and
3 financial reporting systems, including audit of the successor company's
4 accounts by independent third party;
- 5 (p) ensure that appropriate system of control is in place for risk
6 management, financial and operational control and compliance with
7 applicable law and relevant standards;
- 8 (q) oversee the process of disclosure and communications to
9 shareholders and the public; and
- 10 (r) determine the dividend policy of the successor company, ensure
11 sustained growth and a sound financial base for the successor company .
- 12 (2) The provisions of this section shall be incorporated into the
13 memorandum and articles of association of-
- 14 (a) the successor company at the time of its incorporation; and
15 (b) each of the successor company's wholly owned subsidiaries as if
16 references in this section to 'the successor company' were references to such
17 wholly owned subsidiary.
- 18 (3) A member of the Board of a successor company shall be
19 suspended or removed from office by the President, where the member-
- 20 (a) is found to be-
- 21 (i) unqualified for appointment under section 59 of this Act,
22 (ii) unqualified subsequent to his appointment, or
23 (iii) in breach of conflict of interest provisions in the Companies and
24 Allied Matters Act or any regulation regarding conflicts of interest passed
25 under this Act;
- 26 (b) ceases to be an employee of the ministry or agency he represents
27 on the Board of the successor company;
- 28 (c) has demonstrated an inability to effectively perform the duties of
29 his office;
- 30 (d) has been absent from the meeting of the Board of the successor

1 company for three consecutive times without the consent of the Chairman or
2 in the case of the Chairman, without the consent of the President, except
3 where good reason is shown for the absence;

4 (e) is found guilty of serious misconduct by a court or tribunal of
5 competent jurisdiction; or

6 (f) has, under the law in force in any country -

7 (i) been adjudged or declared bankrupt or insolvent and has not
8 been discharged,

9 (ii) made an assignment to or arrangement or composition with his
10 creditors which has not been rescinded or set aside, or

11 (iii) incapable to discharge the duties of his office as a result of
12 infirmity of body or mind.

13 **32.-(1)** The NRIC Limited shall-

Objectives of the
NNRL Limited

14 (a) be vested as the concessionaire of all railway infrastructure
15 owned by the Federal Government as the National Infrastructure Company
16 on behalf of the Federation in line with its competencies;

17 (b) own and manage all Railway Infrastructure owned by Federal
18 Government;

19 (c) subject to this Bill and any other relevant legislation governing
20 the provision of services in the railway sector, the NRIC Limited, procure
21 private investment and participation in railway operations through the grant
22 of concessions or other private sector participation in accordance with the
23 provisions of this Bill;

24 (d) procure railway services at the end of a concession, lease or
25 other private sector participation period or in the event of an early
26 termination of the concession or other private sector participation or
27 abandonment of the concession or other private sector participation by a
28 concessionaire;

29 (e) acquire and own such land as it may require for the purposes of
30 developing railway infrastructure;

1 (f) procure funding for investments in railway infrastructure where
2 necessary;

3 (g) be responsible for developing new and maintaining existing
4 railway infrastructures and operational assets used in Inter-State railway
5 operations in Nigeria;

6 (h) subject to approval of the Authority, grant track access to State
7 Governments and Private Railway Operators seeking to provide railway
8 services using the national rail network on a commercial basis,

9 (i) be exempted from compliance with the Public Procurement Act,
10 Fiscal Responsibility Act and Treasury Single Account;

11 (j) with respect to any joint operating agreement in which the
12 Authority is a party on the effective date, assume the working interest held by
13 the Authority;

14 (k) engage in the business of railway infrastructure fabrication and
15 other railway investments;

16 (l) carry out tasks requested by the Authority or the Board of the NRIC
17 Limited on a fee basis and generally engage in activities that ensures national
18 rail infrastructure security in an efficient manner, in the overall interest of the
19 Federation; and

20 (m) carry out such other tasks as may be determined by the Board of
21 the NRIC Limited.

22 (2) The NNRL Limited shall-

23 (a) be vested as the concessionaire of all operational assets including
24 Rolling Stock owned by the Authority as the National rail company on behalf
25 of the Federation in line with its competencies;

26 (b) carry out railway operations on a commercial basis, comparable to
27 private companies in Nigeria carrying out similar activities including
28 exemption to Public Procurement Act, Fiscal Responsibility Act and Treasury
29 Single Account;

30 (c) carry out the management of all Rolling Stock owned by the

- 1 Authority for a fee;
- 2 (d) with respect to any joint operating agreement in which the
3 Authority is a party on the effective date, assume the working interest held
4 by the Authority;
- 5 (e) engage in the business of railway transportation and other
6 railway investments;
- 7 (f) carry out tasks requested by the Authority or the Board of the
8 NNRL Limited on a fee basis and generally engage in activities that ensures
9 national rail transport security in an efficient manner, in the overall interest
10 of the Federation;
- 11 (g) serve as operator of last resort for public sector obligation
12 reasons and all associated costs shall be for the account of and borne by the
13 Federation; and
- 14 (h) carry out such other tasks as may be determined by the Board of
15 the NNRL Limited.
- 16 (3) The NRPAMC Limited shall-
- 17 (i) be vested as the concessionaire of all non-operational assets
18 owned by the Authority as the Property and Advertisement Management
19 Company on behalf of the Federation in line with its competencies;
- 20 (ii) be responsible for the development, management and
21 maintenance of all non-operational assets of the Authority spread
22 throughout the federation of Nigeria including but not limited to freight
23 facilities, warehouses, properties and Authority's advertisements etc. of the
24 Authority, for a fee;
- 25 (iii) have the power to concession, lease, let or deal in the non-
26 operational assets of the Authority on a commercial basis, excluding the
27 power to sell, assign or transfer title to third parties;
- 28 (iv) be exempted from compliance with the Public Procurement
29 Act, Fiscal Responsibility Act and Treasury Single Account;
- 30 (v) with respect to any joint operating agreement in which the

1 Authority is a party on the effective date, assume the working interest held by
2 the Authority;

3 (vi) engage in the business of property development and other
4 investments with a return on investment;

5 (vii) carry out task requested by the Authority or the Board of the
6 NRPAMC Limited on a fee basis and generally engage in commercial or
7 business activities in an efficient manner, in the overall interest of the
8 Federation; and

9 (viii) carry out such other tasks as may be determined by the Board of
10 the NRPAMC Limited.

Establishment
of incorporated
joint venture
companies

11 **33.**-(1) A successor company and other parties to joint operating
12 agreements, may on a voluntary basis restructure their joint operating
13 agreements as a joint venture carried out by way of a limited liability company,
14 each referred to as an "incorporated joint venture company" (IJVC), based on
15 the principles established in Part 1 of the Second Schedule to this Bill.

16 (2) The IJVC referred to in subsection (1) shall not be subject to the
17 provisions of the Fiscal Responsibility Act and the Public Procurement Act.

Second Schedule

18 (3) The proposed IJVC structure shall be an independent entity,
19 having a strong commercial orientation and transparent company operation for
20 the IJVC shareholders, with clear rules for accountability.

21 *Financial Provisions*

22 **34.**-(1) The Authority shall establish and maintain a fund which shall
23 comprise of-

24 (a) such moneys as may be appropriated to the Authority from time to
25 time by the National Assembly through the national budgetary process;

26 (b) fees, fines, levies, royalties and other charges imposed by the
27 Authority;

28 (c) gifts, loans and grants from national, bilateral and multilateral
29 agencies;

1 (d) proceeds from the sale of assets that may accrue to the
2 Authority; and

3 (e) any other lawful source of income of the Authority in exercise
4 of its functions under this Bill or its subsidiary legislation.

5 (2) The Fund shall be managed in accordance with extant Financial
6 Regulations applicable in the Public Service and rules made by the Board.

7 **35.**-(1) The Authority may, with the consent of the Minister of
8 Finance, borrow such moneys as it may require for the exercise of its
9 functions under this Bill. Borrowing
Powers

10 (2) The Authority may accept gifts or grants of money or aid or
11 other property from national, bilateral and multilateral organizations and
12 upon such terms and conditions as may be agreed upon between the donor
13 and the Authority provided that any condition attached to such gifts are not
14 inconsistent with the objectives and functions of the Authority under this
15 Bill.

16 (3) The Authority shall not accept any gift if the conditions
17 attached by the person or organisation making the gift are inconsistent with
18 the functions of the Authority under this Bill.

19 **36.**-(1) The Authority may accept gifts of land, money or other
20 property on such terms and conditions, if any, as may be specified by the
21 person or organisation making the gift. Power to accept
gift

22 (2) The Corporation shall not accept any gift if the conditions
23 attached by the person or organisation making the gift are inconsistent with
24 the functions of the Corporation under this Bill.

25 **37.**-(1) The Authority shall not later than 31st August in each Budget
26 financial year, prepare and forward to the Minister a statement of the
27 estimated income and expenditure for the next financial year.

28 (2) Notwithstanding the provisions of clause (1) of this section, the
29 Authority may also in any financial year, submit supplementary or adjusted
30 statements of estimated income and expenditure to the Minister.

Application of the Funds of the Authority	1	38. -(1) The Authority may from time to time, apply the proceeds of
	2	the fund established pursuant to section 32 of this Bill to-
	3	(a) meet the administrative and operating costs of the Authority;
	4	(b) the payment of salaries, wages, fees and other allowances, retiring
	5	benefits such as pensions and gratuities and, any other remuneration payable to
	6	the Board and staff of the Authority;
	7	(c) reimburse members of the Board or of any committee of the Board
	8	for such expenses as may be expressly authorized by the Board; and
	9	(d) purchase or acquire property, equipment, and other capital
	10	expenditure and for maintenance of any property acquired or vested in the
	11	Authority.
Appointment of Auditors	12	39. -(1) The Board shall have the power to appoint external auditors,
	13	provided that, such auditors are on the list of auditors approved from time to
	14	time by the Auditor-General for the Federation.
	15	(1) Auditors appointed by the Board shall be subject to reappointment
	16	on an annual basis.
	17	(2) An auditor appointed pursuant to clause (1) of this clause shall
	18	have access to all accounts and other records relating to such accounts which
	19	are kept by the Authority or its agents and shall have the power to require from
	20	any member of the Board or employee or agent of the Authority such
	21	information and explanation as in the auditor's opinion are necessary for the
	22	purpose of the audit.
Financial Year and Audit of the Accounts of the Authority	23	40. -(1) The financial year of the Authority shall start on first day of
	24	January of each year end on thirty first day of December of the same year.
	25	(2) The Authority shall keep proper records of its accounts in respect
	26	of each year and shall cause the account to be audited within three (3) months
	27	from the end of each financial year by the auditors appointed pursuant to
	28	section 39 of this Bill.
Annual Reports	29	41. -(1) The Authority shall prepare and submit to the Minister, not
	30	later than six (6) months after the end of its financial year, a report on its

1 activities for the preceding financial year and shall include therein the
2 Authority's audited accounts for the year under review together with the
3 auditor's report.

4 (2) The Minister may require the Authority to obtain from its
5 auditors, such other reports, statements or explanations in connection with
6 the Authority's operations, funds and property as the Minister may consider
7 necessary and the Authority shall immediately comply with any such
8 requirement.

9 PART VI - GRANT OF CONCESSIONS OR OTHER PUBLIC-PRIVATE

10 PARTNERSHIPS

11 42.-(1) Subject to any and all laws pertaining to and governing the
12 provision of transport and related services, Concessions, Public-Private
13 Partnerships, or Private Sector Participation, the Authority shall have the
14 power to enter into agreement with any State Government or with any
15 Person being a body corporate for the provision of railway services or
16 railway infrastructure whether by means of a concession, joint venture,
17 Public-Private Partnership or other agreement for Private Sector
18 Participation.

Grant Concession
or other Public
Private Partnerships

19 (2) The grant of a concession or other Private Sector Participation
20 by the Authority under this Bill shall be subject to applicable Nigerian laws
21 and such other laws, regulations or guidelines approved and published by
22 the Federal Government from time to time relating to or governing
23 concessions or other Private Sector Participation and procurements.

24 (3) Within thirty (30) days after the grant of a concession or other
25 Private Sector Participation, The Authority shall publish a summary of the
26 concession or other Private Sector in at least two national daily newspapers.

27 43.-(1) Rights arising from a Concession or other Private Sector
28 Participation may, subject to the approval of the Authority and the Minister
29 be assigned, wholly or partially, sub-leased, pledged, mortgaged or
30 hypothecated.

Transfer of
Concessions

1 (2) A Concession agreement or other Private Sector Participation
2 agreement shall contain the terms upon which the Concession or other Private
3 Sector Participation may be transferred to a third party.

4 (3) Where a concession or other Private Sector Participation or any
5 rights therein is assigned, wholly or partially, sub-leased, pledged, mortgaged
6 or hypothecated to a third party, any Licence to which such concession or other
7 Private Sector Participation is subject shall, subject to Part VIII of this Bill, be
8 deemed to be assigned, sub-leased, pledged, mortgaged or hypothecated to that
9 third party.

10 PART VII - ECONOMIC REGULATION OF RAILWAY PASSENGER SERVICES

11 **44.**-(1) The Authority shall be responsible for the economic
12 regulation of railway passenger services in the railway sector in Nigeria and
13 shall have the functions and powers conferred under this Bill and as stipulated
14 under any other legislation.

15 (2) Where upon the commencement of this Bill or at any time
16 thereafter, the transport multi-sector economic regulator to be established by
17 an Act of the National Assembly which shall designate a body to exercise the
18 powers and perform the economic regulatory functions of the Authority
19 stipulated under this Bill or any other legislation, has been established,
20 subsection 1 of this section and the Fourth Schedule thereto shall be repealed
21 and any functions and powers established pursuant to those provisions shall
22 cease to exist except insofar as the Act of the National Assembly establishing
23 the transport multi-sector authority adopts, preserves, transfers or transitions
24 such functions and powers under its provisions.

Functions of
the Authority

25 **45.**-(1) The Authority shall have the following functions with respect
26 to the economic regulation of passenger services in the Railway Sector:

27 (a) introducing guidelines, standards and regulations in respect of
28 economic regulation of passenger services to be complied with by all railway
29 operators;

30 (b) supervising and enforcing compliance by railway operators with

1 applicable economic regulation of passenger services prescribed under this
2 Bill;

3 (c) protecting and promoting the interests of passengers against
4 unfair practices including but not limited to matters relating to tariffs, fees,
5 fares and rates for passenger services and the availability and quality of
6 railway passenger services in accordance with the provisions of this Bill;

7 (d) promoting fair competition in the provision of passenger
8 services in the railway sector and protection of licensees from abuse of
9 market power or anti-competitive and unfair practices by other licensees;

10 (e) granting and renewing licences in accordance with the
11 provisions of this Bill and monitoring and enforcing compliance with
12 licence terms and conditions by licensees with respect to passenger services;

13 (f) proposing and effecting amendments to licence conditions in
14 accordance with the objectives and provisions of this Bill;

15 (g) encouraging and promoting track access amongst railway
16 operators and providing regulatory guidelines thereon;

17 (h) making of such economic regulations for passenger services as
18 may be necessary under this Bill to give full force and effect to the
19 provisions of this Bill and the enforcement of such regulations;

20 (i) examining and resolving complaints and objections filed by and
21 disputes between licensees and passengers or any other person involved in
22 the provision of passenger services in the rail way sector using such dispute-
23 resolution methods as the Authority may determine from time to time;

24 (j) advising the Minister on the formulation of general economic
25 policies for passenger services in the railway sector and generally on matters
26 relating to the economic regulation of passenger services in the railway
27 sector in the exercise of the Minister's functions and responsibilities under
28 this Bill;

29 (k) implementing the economic policies issued by the Federal
30 Government in respect of passenger services in the railway sector and

1 executing all such other functions and responsibilities as are given to the
2 Authority under this Bill, other legislation or are incidental or related thereto;

3 (l) facilitating the financial viability of the railway sector and
4 passenger related services and facilitating the incentive for efficient long-term
5 investment in Nigeria for the provision of railway services and railway
6 infrastructure;

7 (m) developing and monitoring of performance standards and indices
8 relating to the quality of railway services having regard to the best international
9 performance indicators;

10 (n) generally advising and assisting stakeholders in the railway sector
11 with a view to the development of the industry and attaining the objectives of
12 this Bill and its subsidiary legislation;

13 (o) ensuring the harmonization of railway standards and practices
14 across the country;

15 (p) facilitating liaison between licensees and other persons and
16 agencies charged with responsibility for regulating railway sector in order to
17 promote intermodalism; and

18 (q) monitoring and reporting to the Minister on the degree to which
19 favourable conditions for competition are present in the market for railway
20 services.

21 (2) provided always that the Authority shall neither have nor exercise
22 any economic regulatory authority, function, power, role or control howsoever
23 over railway freight services.

Powers of the
Authority

24 **46.**-(1) The Authority shall, in order to fulfill its functions under this
25 Bill have the exclusive power-

26 (a) to consider applications for licences and to issue, extend, renew,
27 modify, suspend and, if necessary, revoke any licence;

28 (b) to carry out inquiries, tests, audits or investigations and take such
29 other steps as may be necessary to monitor the activities of licensees and to
30 secure and enforce compliance with this Bill, its subsidiary legislation or

1 licence terms and conditions;

2 (c) to approve tariffs, fees, rates or charges in a regulation approved
3 by the Minister, for services rendered in the railway sector;

4 (d) to establish passenger protection measures in accordance with
5 Part XVIII of this Bill.

6 (e) where it considers it to be in the public interest, to compel a
7 licensee to provide any information or any document concerning licensed
8 activities notwithstanding that such information or document may contain
9 business secrets; provided that any such information or documents shall be
10 restricted to those which a person can be legally compelled to produce as
11 evidence by a court of law in Nigeria;

12 (f) to publish information received in the course of exercising its
13 powers and functions under this Bill or to require licensees to publish certain
14 information if it is satisfied that the publication is consistent with the objects
15 of this Bill provided that the Authority shall consider the commercial
16 interests of the parties to whom the information relates before publishing the
17 information.

18 (g) to undertake consultations with the public, passengers, railway
19 operators and industry participants affected by or with an interest in its
20 directions and to consider any responses to the consultations;

21 (h) to promote competition in the provision of passenger services
22 in the railway sector;

23 (i) to regulate passenger fares in accordance with the provisions of
24 Part X;

25 (j) to regulate track access and ensure the facilitation of track
26 access; and

27 (k) to do all such things as are necessary for or incidental to the
28 carrying out of its functions and duties under this Bill.

29 (2) Subject to this Bill, the Authority has the power to do all things
30 necessary or convenient to be done for or in connection with the

1 performance of its functions and to enable it to achieve its objectives under this
2 Bill and under any relevant legislation.

3 (3) The Authority shall at all times perform its functions and exercise
4 its powers in such a manner as it considers best to achieve the objectives of this
5 Bill.

6 PART VIII - LICENSING REGIME

Requirement
for Licence and
Offence

7 **47.**-(1) No person, authority, State Government, private or corporate
8 shall, except in accordance with an appropriate license issued by the Authority:

9 (a) operate any Inter-State railway service or infrastructure
10 whatsoever;

11 (b) provide or undertake any Inter-State railway service or
12 infrastructure whatsoever.

13 (2) The Authority may by regulations require that a specific related
14 service shall be provided only on the basis of a license and shall have the power
15 to issue licenses authorizing their conduct.

16 (3) Any Person who at the commencement of this Bill was engaged in
17 any activity requiring a license under this Bill shall, within sixty (60) days of
18 the commencement of this Bill or within such other period as the Authority
19 may permit, apply to the Authority for the issuance of an operating license.

20 (4) Any Person who acts in breach of clause (1) of this section shall be
21 guilty of an offence and be liable on conviction to -

22 (a) imprisonment for a term not exceeding 1 (one) year; or

23 (b) a fine not exceeding 10 (ten) times the extant fee for the relevant
24 license; or

25 (c) both such fine and imprisonment; and

26 (d) forfeiture to the Authority of the property, facilities, installations
27 and equipment used by such person for the provision and operation of the
28 unlicensed service.

Licensing of
Concessionaires

29 **48.**-(1) Upon the grant of a concession or other private sector
30 participation for the provision of Inter-State Railway Services and

1 Infrastructure, and subject to issuance of an economic regulatory licence for
2 the provision of railway freight services by relevant governmental authority,
3 the Authority shall issue an operating licence to the concessionaire or other
4 grantee of private sector participation in accordance with the provisions of
5 Part VIII of this Bill.

6 (2) In considering an application received pursuant to clause (1) of
7 this section, the Authority shall consult other sector regulators or relevant
8 government agency.

9 **49.-(1)** The Authority shall have power to make regulations
10 applicable to licensing procedures under this Bill, such regulations shall
11 include, but not be limited to:

Licence
Regulations

12 (a) the procedure, form, criteria, timescale and fees for operating
13 licence applications, including any criteria for the grant of the licence, and
14 the grounds upon which applications for licences may be denied, provided
15 that the period between the Authority's receipt of an application for a licence
16 and decision whether or not to issue a licence, as the case may be, shall not
17 exceed six months;

18 (b) the duration of licences and the procedure, form, criteria and
19 timescale for their renewal;

20 (c) the procedure, form and timescale for publishing the
21 notification of a licence application or renewal;

22 (d) the procedure, form, criteria and timescale for the transfer,
23 surrender, suspension or revocation of a Licence.

24 (2) In the formulation of licensing procedures, issuance of licences
25 and preparation of licence terms and conditions, the Authority shall be
26 guided by the principles of transparency, fairness and non-discrimination
27 and such other principles and considerations as the Authority may from time
28 to time consider necessary and in the national interest.

29 (3) Licence issuance or renewals may not be unreasonably
30 withheld by the Authority in the case of a person possessing all the requisite

1 qualification, capacity and meeting all the terms and conditions for the
2 issuance of such licence and who is compliant or where relevant has been
3 operating in compliance with previous licence conditions, and the provisions
4 of this Bill and any subsidiary legislations as well as all regulations and
5 directions issued thereunder.

Duties of
Licensees

6 **50.**-(1) In addition to the conditions which may be included in a
7 licence issued pursuant to this part, a licensee shall:

8 (a) comply with the provisions of this Bill, regulations and any
9 direction given by the Authority in relation to matters specified in its licence or
10 matters under this Bill or its subsidiary legislation;

11 (b) comply with the restrictions on track access charges imposed by
12 the Authority in accordance with Part XI of this Bill;

13 (c) prepare and submit to the Authority such information and
14 periodical reports as the Authority may require;

15 (d) publish terms of access to its railway;

16 (e) operate its infrastructure and related facilities, if any, according to
17 the standard of a reasonable and prudent operator.

18 (2) Conditions applicable to a licence may cease to have effect or may
19 be modified under circumstances specified in the licence or in accordance with
20 the provisions of this Bill.

21 (3) (i) Licences granted by the Authority to licensees of the same class
22 shall contain similar conditions, which shall be standard licence conditions for
23 that class;

24 (ii) Any differences in conditions contained in licences issued to
25 licensees of the same class shall be made only for objectively justifiable
26 reasons.

27 (4) Subject to the provisions of this Bill, the Authority shall have the
28 power to include special licence conditions specific to a particular licence or
29 licensee; provided however, that such special licence conditions shall be
30 designed to meet specific circumstances and shall not unduly disadvantage one

1 licensee in relation to another.

2 (5) A licensed activity may be exclusive for all or part of the period
3 of the licence, for a specific purpose, for a specified geographical area, route
4 or for any combination of the foregoing.

5 **51.**-(1) A Licence shall not be operated by, wholly or partially
6 assigned, pledged, mortgaged or hypothecated to any other party unless the
7 prior written approval of the Authority has been granted; provided that the
8 Authority may in granting consent to the assignment, mortgage or
9 hypothecation, impose such conditions as it deems fit. Assignment or
Transfer of Licence

10 (2) No licensee shall, without the prior written approval of the
11 Authority acquire by purchase or otherwise, or affiliate with, the licence or
12 undertaking of any other licensee or person that is in the business of railway
13 operations.

14 (3) Every licensee shall notify and obtain the prior written approval
15 of the Authority in respect of any transaction that would result in a change of
16 control of the licensee.

17 (4) The Minister may grant consent to an assign ment or transfer of
18 a railway operating licence or lease, subject to the following terms and
19 conditions which the Authority may consider appropriate, that the proposed
20 transferee-

21 (a) is a company incorporated in Nigeria;

22 (b) is of good reputation and standing;

23 (c) has sufficient technical knowledge, experience and financial
24 resources to enable it effectively carry out all responsibilities of a licensee or
25 lessee under the licence or lease; and

26 (d) shall have complied with all applicable Nigerian Laws.

27 **52.**-(1) The Authority may modify any licence condition or include
28 additional conditions as deemed fit. Amendment of
Licence

29 (2) The procedure to be followed in modifying or adding any
30 Licence conditions shall be as prescribed by the Authority.

1 (3) The Authority may not modify or include additional conditions to
2 the licence conditions of any type of licence if such modification, would
3 adversely interfere with the performance of the contractual obligations of the
4 licensee to customers pursuant to such licence or result in any licensee being
5 unduly disadvantaged in competing with another licensee.

Contravention
and Enforcement
of Licence
Conditions, etc.

6 **53.**-(1) The Authority may from time to time issue directives or orders
7 in writing to any person regarding the compliance or non-compliance with the
8 provisions of this Bill, its subsidiary legislation or any licence condition
9 including the remedy of any breach thereof.

10 (2) The Authority shall make regulations prescribing the procedure to
11 be adopted for issuing directions and the penalty for non-compliance with a
12 direction provided that-

13 (a) prior to the issuance of any direction, the licensee shall be notified
14 of the intention of the Authority to issue a direction; and

15 (b) the licensee is given a reasonable opportunity to make written
16 submissions to the Authority within the time period specified in the notice not
17 being less than fourteen (14) days from the date of the notice.

Suspension and
Revocation of
a Licence

18 **54.**-(1) Subject to the provisions of the licence, a licence may be
19 suspended-

20 (a) where the licensee has breached or continues to breach a condition
21 of its licence or a provision of this Bill or its subsidiary legislation, where such
22 condition or provision is stated as liable to result in the suspension of the
23 licence;

24 (b) where the licensee fails, neglects or refuses to comply with a
25 direction duly issued in terms of the provisions of section 51 of this Bill; or

26 (c) where the licensee fails to pay any fine imposed for non-
27 compliance of a direction within a period of sixty (60) days after the issuance of
28 the fine or such other period as the Authority may direct;

29 (2) Subject to the provisions of the licence, a licence may be revoked-

30 (a) where the licensee has breached or continues to breach a condition of its

1 licence or a provision of this Bill or its subsidiary legislation, where such
2 provision or condition is stated as liable to result in the revocation of the
3 licence;

4 (b) if the licensee has provided false information to the Authority in
5 its application for the licence;

6 (c) where the concession or other private sector participation held
7 by the licensee has been revoked by the Authority;

8 (d) if the licensee-

9 (i) becomes insolvent or bankrupt; or

10 (ii) enters into an arrangement or composition with its creditors;

11 (iii) takes advantage of any enactment for the benefit of its debtors;

12 (iv) goes into receivership or liquidation except as part of a scheme
13 for an arrangement or amalgamation;

14 (e) upon the transformation or dissolution of the licensee except it
15 is for the purpose of amalgamation or reconstruction;

16 (3) Prior to the suspension or revocation of a Licence, the Authority
17 shall inform the licensee by written notice, as soon as practicable, of its
18 intention to suspend or revoke the licence and the reasons thereto.

19 (4) The affected licensee shall be given a reasonable opportunity to
20 make written submissions to the Authority within a time period specified in
21 the notice not being less than fourteen (14) days from the date of the notice.

22 (5) The Authority shall consider the written submission of the
23 licensee in making its final determination on the suspension or revocation of
24 the licence.

25 (6) Where the suspension or revocation of a licence has taken
26 effect, the Authority shall as soon as practicable, cause notice of the
27 suspension or revocation to be published in at least one national daily
28 newspaper.

29 (7) Any delay or failure to publish the notice of suspension or

1 revocation shall not in any manner affect the validity of the suspension or
2 revocation.

Duration of
suspension of
licence

3 **55.** In the event of the suspension of a licence, the Authority shall
4 give reasons and communicate to the licensee the duration of the suspension
5 within two weeks from the date of the suspension.

Surrender of
Licence

6 **56.**-(1) A licensee may, by written notice, surrender its licence to the
7 Authority in accordance with the requirements prescribed or set out in the
8 licence.

Effect of
Revocation,
Surrender and
Expiration of
Licence

9 (2) Upon the revocation, surrender or expiration of a licence in
10 accordance with this Bill, the licensee shall forfeit the right to provide any
11 service in respect of which the licence was granted.

12 (3) Notwithstanding the provisions of clause (2) of this section and
13 without prejudice to specific licence conditions, the Authority may authorise
14 the licensee in writing to continue to provide any facility or service for such
15 duration as the Authority may specify in the authorisation for the purpose of-

16 (a) the winding up of the affairs of the licensee;

17 (b) making or effecting such other arrangements as the Authority may
18 specify for the continued provision of services to the licensee's customers; and

19 (c) carrying out such other ancillary and related activities as the
20 Authority may consider necessary.

21 (4) Notwithstanding the provision of clause (1) of this section, the
22 licensee whose licence has expired shall be entitled to carry on providing a
23 service as if his licence has not expired, upon proof being submitted to
24 Authority that the licensee has applied for the renewal of the licence.

Provision of
Railway Service
to Customers

25 **57.** The Authority shall, subject to its licensing procedures, have the
26 power to licence any person to provide Inter-State railway services on any
27 route-

28 (a) in the event that a licensee that operates on such route is unable to
29 provide railway services, or has had its Licence suspended or revoked;

30 (b) in the event that a licensee that operates on such route refuses or

1 fails to fulfill the terms of its licence in relation to the provision railway
2 services; or

3 (c) in such other circumstances as the Authority may, deem
4 appropriate,

5 provided that any reasonable additional costs associated with the obligation
6 to provide the railway services will be recoverable through appropriate
7 charging arrangements agreed with the Authority.

8 **58.** The Authority shall establish, maintain and make publicly Register of
Licences
9 available a register of all licences issued, revoked, suspended, surrendered
10 or withdrawn and all modifications and exemptions granted for the purposes
11 of this Bill.

12 PART IX - STATE GOVERNMENT RAILWAYS

13 **59.**(1) Subject to clause (2) of this section, the Government of a Development of
State Government
Railways
14 State shall have the power to develop, construct and operate Intra-State
15 railway services and railway infrastructure for the provision of railway
16 services within the territory of the State.

17 (2) The agency of a State Government vested with the
18 responsibility of developing railways to which this section applies shall,
19 prior to the commencement of construction of any railway infrastructure or
20 any extension or alteration thereof, ensure that the proposed railway
21 infrastructure or the extension or alteration thereof does not conflict with the
22 National Transport Master Plan and Standards.

23 **60.**(1) A railway that is constructed, altered or extended pursuant Requirement of
Safety Certificate
24 to section 57 of this Bill shall not be operated without a safety certificate
25 issued by the General Inspector in accordance with section 86 of this Bill.

26 (2) An application for the issuance of a licence under clause (1) of
27 this section shall be made to the Authority in the prescribed form and shall be
28 accompanied by the prescribed documents and payments of the prescribed
29 fees.

1 PART X - TARIFFS

Duty to Publish
tariffs

2 **61.** Subject to the provisions of this Bill and other relevant legislation,
3 every railway operator shall publish and publicly display at its offices and at
4 railway stations where it provides railway services, the schedule of its
5 passenger fares and any modifications thereto.

Power of the
Authority to
regulate tariffs

6 **62.**-(1) The Authority shall have the power to regulate passenger fares
7 charged by any railway operator; provided however that the exercise of such
8 power shall be limited to the following circumstances:

9 (a) where the Authority has upon the request of any person conducted
10 an investigation and made a finding to the effect that-

11 (i) there is no effective competition from other railway operators or
12 other modes of transport for the carriage of passengers to which the passenger
13 fare applies; and

14 (ii) the railway operator has set its passenger fares in a manner or to a
15 level that is tantamount to an abuse of its dominant position or monopoly
16 power;

17 (b) where the Authority at the request of an interested party makes a
18 finding to the effect that a railway operator has set its passenger fare in such a
19 manner or to such a level that is tantamount to an anti-competitive behaviour;

20 (c) where the Railway Operator is providing a railway service under a
21 Public Service Obligation.

22 (2) The Authority shall continue to regulate passenger fares charged
23 by a railway operator subject to tariff regulation pursuant to clause (1) of this
24 section for as long as the circumstances that justify tariff regulation continue to
25 exist.

26 (3) Subject to clause (1) of this section, passenger fares shall be
27 regulated according to one or more methodologies adopted by the Authority
28 and such methodology or methodologies shall-

29 (a) allow a railway operator that operates efficiently to recover the full
30 costs of its business activities, including a reasonable rate of return on the

1 capital invested in the business;

2 (b) provide incentives for the continued improvement of the
3 technical, safety and economic efficiency with which the services are
4 provided;

5 (c) provide incentives for the continued improvement of quality of
6 services;

7 (d) avoid undue discrimination between customers and customer
8 categories; and

9 (e) phase out or substantially reduce cross subsidies.

10 **63.**-(1) All railway operators subject to tariff regulation under this
11 Part of the Bill shall provide passenger services in accordance with the rates
12 determined by the Authority and shall not depart there from without the prior
13 written approval of the Authority.

Approval of
Passenger fares

14 (2) A Railway operator may impose conditions not inconsistent
15 with applicable provisions of relevant legislation or regulation governing
16 the economic regulation of freight services, for the holding of goods left
17 upon a Railway before or after carriage or for warehousing or in any other
18 circumstance whatsoever.

19 **64.**-(1) A railway operator that provides a passenger service for the
20 purpose of fulfilling a Public Service Obligation may only increase the
21 applicable passenger fare-

Passenger Fares
for Public Service
Obligations

22 (a) upon the approval of the Authority; and

23 (b) after having given thirty (30) days' notice thereof by
24 publication in at least one national newspaper.

25 (2) The Authority shall consult with the Minister in considering an
26 application for the approval of an increase under clause (1) of this section.

27 **65.**-(1) Where portions of a route are operated by two or more
28 railway operators, the railway operators shall, for purposes of continuous
29 movement of passenger traffic along that route, agree on a joint passenger

Joint Tariffs

1 tariff for the continuous route and on the apportionment of rates in the joint
2 tariff.

3 (2) The joint tariff shall be payable by the passenger to railway
4 operator that operates at the point of origin.

5 PART XI - TRACK ACCESS

Track Access
Agreements

6 **66.**-(1) A railway operator shall at the request of another railway
7 operator enter into a track access agreement granting that railway operator
8 access to its railway track.

9 (2) The terms and conditions of the track access shall-

10 (a) be fair and reasonable; and

11 (b) be in accordance with the Network Code;

12 (3) All track access agreements together with the track access charges
13 and all subsequent modifications and amendments thereto shall be submitted to
14 the Authority for approval.

15 (4) The Authority shall ensure that all track access agreements
16 comply with the provisions of this Bill, its subsidiary legislation, other relevant
17 legislation and regulations, and may direct the railway operators to amend such
18 provisions that do not comply with the provisions of this Bill, its subsidiary
19 legislation or relevant legislation or regulations.

20 (5) The Authority shall prescribe the procedure, form, criteria and
21 timescale for the approval of track access agreements; provided that the period
22 between the Authority's receipt of a track access agreement or a subsequent
23 modification or amendment thereto pursuant to clause (3) of this section and
24 the decision of the Authority as to whether or not to grant an approval shall not
25 exceed two (2) months.

26 (6) The Authority shall establish, maintain and make publicly
27 available a register of all track access agreements approved and all
28 modifications and amendments thereto.

Track Access
Charges

29 **67.**-(1) A railway operator shall not apply any track access charges
30 unless it has been approved by the Authority.

1 (2) The Authority shall prescribe the passenger fare pricing
2 principles and methodologies that shall be applied by railway operators and
3 where necessary, the Authority, in the setting of track access charges.

4 68.-(1) A licence to provide railway services shall specify the Power of the
5 frequency at which the railway services are to be provided. Authority to direct
Track Access

6 (2) Subject to the provisions of section 42, where a railway
7 operator is found to be in breach of its obligations regarding the frequency of
8 the provision of railway services, the Authority may-

9 (a) exercise its power under section 47 of this Bill and grant a
10 licence to another person to provide the required railway service together
11 with the Railway Operator; and

12 (b) issue a direction to the railway operator to enter into a track
13 access agreement with the person licensed pursuant to paragraph (a) of this
14 clause.

15 69.-(1) The Authority shall upon the application of any railway Power of the
16 operator seeking track access to the railway track of another railway Authority to make
17 operator determine and establish terms and conditions upon which track a determination
18 access shall be granted where: on Track Access

19 (a) the railway operator has made a request for track access and the
20 operator of the railway track has refused to negotiate a track access
21 agreement within a period of thirty (30) days after the request was made; or

22 (b) the operator of the railway track and the railway operator
23 seeking track access cannot agree on the terms and conditions upon which
24 track access is to be granted.

25 (2) The Authority shall within fourteen (14) days of receiving an
26 application under s clauses(1) and (2) of this section, give notice in writing
27 to the applicant or to any person from whom the Authority is entitled to
28 require information under this Bill requesting-

29 (a) any information that the Authority requires for the purpose of
30 making a determination in respect of the application;

1 (b) a reasonable time within which the information must be provided.

2 (3) The Authority shall not make a determination if it considers that
3 the determination would substantially impede the existing right of access of
4 another railway operator unless that railway operator has been given an
5 opportunity to make a submission to the Authority in respect of the
6 application.

7 (4) Subject to clauses(6) and (7) of this section, the Authority shall
8 determine an application under this section within twenty-one (21) days of
9 receiving the application.

10 (5) The Authority may extend the twenty-one (21) day limit in
11 clause(4) of this section for a further period not exceeding thirty (30) days
12 provided that the Authority shall inform the parties of the extension of time and
13 the reason why the extension is necessary.

14 (6) The Authority may refuse to make a determination if-

15 (a) the Authority considers that the application is without merit;

16 (b) the Authority is not satisfied that the terms and conditions of track
17 access being offered by the operator of the railway track are fair and
18 reasonable;

19 (c) having regard to the functions of the Authority and to any other
20 matter that the Authority considers relevant, it is appropriate to refuse to make a
21 determination.

22 (7) The costs incurred by the Authority in making a determination
23 under this section shall be paid by the non-prevailing party.

Interconnection
between Railway
Lines

24 **70.** Every railway operator shall in the operation of its railway, afford
25 all reasonable facilities for delivering to another railway, or for receiving from
26 or carrying by its railway, all the Traffic arriving by that railway without any
27 unreasonable delay, in order that no obstruction is caused to customers desirous
28 of using the railway as a continuous line.

Inter-switching
and Transhipment

29 **71.** Railway operators shall always at the interconnection point of two
30 railway tracks provide reasonable facilities for the safe, efficient and

1 convenient inter-switching and transshipment of goods in both directions.

2 **72.**-(1) The Authority may make regulations:

Regulations on
Inter-switching
and Transshipment

3 (a) prescribing terms and conditions governing the inter-switching
4 and transshipment of traffic;

5 (b) determining the tariff to be charged for inter-switching traffic,
6 or prescribing the manner of determining that tariff.

7 **73.**-(1) No Railway Operator shall, by any combination, contract
8 or agreement, express or implied, or by any other means, prevent traffic
9 from being moved on a continuous route from one point to another.

Continuous
Carriage not to
be prevented

10 (2) A break in bulk, stop or interruption made by a railway operator
11 shall not prevent the movement of traffic from being treated as one
12 continuous movement from the point of origin to the point of destination if
13 the break, stop or interruption was made in good faith for a necessary
14 purpose and without intent to avoid or unnecessarily interrupt the
15 continuous movement or to evade the provisions of this part of the Bill.

16 (3) The Authority may direct a railway operator subject to tariff
17 regulation under Part X of this Bill that operates on a continuous route, to
18 inform the Authority of the proportion of the tariff that the railway operator
19 or any other railway operator operating on the continuous route is to receive
20 or has received under a joint tariff structure applicable to the route.

21 **74.**-(1) The Authority shall in consultation with the railway
22 operators and other stakeholders develop a Network Code governing the
23 operations of the railway network.

Network Code

24 (2) The Network Code may include, but shall not be limited to the
25 following arrangements:

26 (a) a connection policy, standard terms for connection to the
27 railway network and a statement of connection tariff methodology;

28 (b) a mechanism by which railway operators reserve capacity in
29 the railway network, and, in the event that at any time there is a greater
30 demand for access than there is available capacity, a mechanism for

- 1 allocating capacity between railway operators;
2 (c) the structure of the track access charges and using the railway
3 network;
4 (d) governance arrangements.

5 (3) The Authority shall periodically review and submit the Network
6 Code to the Authority for approval.

7 (4) The Authority shall publish the Network Code and make copies
8 available to the public upon the payment of a prescribed fee.

9 PART XIII - SERVICE DISCONTINUATION AND PUBLIC SERVICE

10 OBLIGATIONS

Unprofitable
Railway Services

11 **75.**-(1) Any railway operator providing railway service on an
12 unprofitable route within the national railway network may recommend to the
13 Authority that the service concerned-

- 14 (a) be discontinued; or
15 (b) become subject to a Public Service Obligation.

16 (2) The Authority shall publish a notice in any daily newspaper of
17 wide circulation in the affected communities, informing the public of the
18 recommendation under clause(1) of this section and stating the period within
19 which objections or representations in connection with the recommendation
20 may be made to the Authority.

21 (3) The Authority shall, after due consideration of the views of the
22 interested persons, make a recommendation to the Minister that the railway
23 service referred to in clause(1) of this section be-

- 24 (a) continued;
25 (b) discontinued; or
26 (c) continued subject to a Public Service Obligation.

27 (4) Where a recommendation is made to discontinue the railway
28 service under clause(3) of this section, the Minister shall make a declaration to
29 that effect in the Official Gazette.

1 **76.**-(1) Subject to clauses (2) and (3) of this section- Public Service
Obligations

2 (a) where the provision of railway services along any route within

3 the national railway network is considered by the Authority to be

4 unprofitable but the provision of railway services along such route is

5 essential to communities serviced by that route; or

6 (b) where there is no alternative mode of transport for the service of

7 that route, the Minister may upon the recommendation of the Authority,

8 declare a Public Service Obligation in respect of the provision of railway

9 services along that route.

10 (2) The Authority shall prior to making a recommendation under

11 clause(1) of this section request the Authority to determine whether the

12 provision of railway services along the route in question is unprofitable.

13 (3) The Authority shall only make a recommendation to the

14 Minister under clause(1) of this section where the Authority has made a

15 finding that the provision of railway services along the route in question is

16 unprofitable.

17 (4) The Authority shall grant direct subsidies to railway operators

18 providing services under a Public Service Obligation. The sum required to

19 fund such subsidies shall be appropriated to the Authority by the National

20 Assembly.

21 (5) The subsidy required pursuant to clause(4) above shall be

22 determined by the Authority in consultation with the Minister and the

23 Authority .

24 (6) The Authority shall continue to provide subsidies pursuant to

25 this section for so long as the circumstances that justify the Public Service

26 Obligation continue to exist.

27 (7) For the purposes of this provision, a Public Service Obligation

28 shall be subject to periodic reviews by the Authority in consultation with the

29 Minister.

1 PART XIV - DUTIES AND POWERS OF RAILWAY OPERATORS

Accommodation
for Traffic

2 77. A railway operator shall, in respect of a railway operated by it:

3 (a) furnish, at the point of origin, at the point of junction of its railway
4 track with another railway track, and at all points of stopping established for
5 that purpose, adequate and suitable accommodation for the receiving and
6 loading of all traffic offered for carriage on the railway;

7 (b) furnish adequate and suitable accommodation for the carriage,
8 unloading and delivering of traffic;

9 (c) without delay, and with due care and diligence, receive, carry and
10 deliver traffic;

11 (d) furnish and use all proper equipment, accommodation and means
12 necessary for receiving, loading, carrying, unloading and delivering traffic;
13 and

14 (e) furnish any other service incidental to railway transportation that
15 is customary or usual in connection with the business of a railway service or
16 railway infrastructure provider.

17 (f) provide, publish and display at its offices, railway stations and
18 other regular updated customer and user information and other applicable
19 notices, including tariffs, passenger fares, accurate schedules.

Non-discrimination

20 78. Except on the basis of objectively justifiable and identifiable
21 differences and unless expressly permitted by the Authority, railway operators
22 shall not discriminate between customers or classes of customers or their
23 related undertakings or network users in respect of track access, passenger
24 fares, freight tariffs, conditions or standards and quality of service.

Duty to ensure
Safety and
Security

25 79.-(1) In carrying out railway operations, it shall be the general duty
26 of every railway operator to ensure the security and safety of persons and goods
27 affected by the operation of its railway.

28 (2) In giving effect to subsection (1) of this section, a railway operator
29 shall have the power to-

30 (a) cut down or remove any tree or other obstruction, not being a

1 building, which obscures the view of any fixed signal or which is likely to
2 cause any obstruction or any danger to any rail transport service;

3 (b) enter upon any land adjoining the railway for the purpose of
4 preventing any accident or repairing any damage caused thereby and to do
5 all such works as may be necessary for that purpose.

6 (3) Any person exercising the powers under clause(2) of this
7 section shall ensure that as little damage as possible is incurred by any
8 person or any property and he shall be liable to pay compensation to any
9 person in respect of any injury loss or damage suffered from the exercise of
10 its powers.

11 PART XV - RAILWAY SAFETY

12 **80.**-(1) The Authority shall appoint a General Inspector of The General
Inspector of
Railways
13 Railways who shall be a person with suitable qualifications as an engineer
14 with at least fifteen (15) years' service and cognate railway experience
15 covering engineering, rail safety, or rail traffic.

16 (2) The General Inspector shall-

17 (a) undertake the safety regulatory functions of the Authority with
18 respect to railway safety;

19 (b) advise the Authority on the safety competence of railway
20 operators;

21 (c) introduce safety standards in respect of railway operations and
22 railway infrastructure which shall include technical, safety and
23 environmental regulations which shall be published by the Authority from
24 time to time in the Federal Gazette;

25 (d) by him or herself or such other inspectors or persons employed
26 or authorised by the Authority, carry out inspections to determine
27 compliance with applicable safety and environmental regulations and
28 guidelines and approved Safety and Environmental Plans;

29 (e) discharge any other functions as may be specified from time to

1 time by the Authority or by this Bill or any regulations made pursuant to this
2 part; and

3 (f) Make inquiry into, report, and make recommendations to the
4 Authority for appropriate action on accidents or incidences which in the
5 opinion of the Authority is of a serious nature occurring in the provision of
6 railway services or construction of railway infrastructure.

Powers of the
General Inspector

7 **81.**-(1) For the purpose of the exercise of his or her functions under
8 this Bill, the General Inspector may by him/herself, or such other inspectors or
9 persons employed or authorised by the Authority-

10 (a) enter, inspect, examine and search at any time, any property under
11 the control of a Railway Operator;

12 (b) take with him any law enforcement officer, any other person or
13 any equipment or materials required for any purpose for which the power of
14 entry is being exercised;

15 (c) make such examination and inquiry as may be necessary to
16 ascertain whether the relevant provisions of this Bill or any licence is being
17 complied with;

18 (d) require the production of any books, registers, records,
19 certificates, notices, documents, maps and plans, required to be kept by this
20 Bill or its regulations or any other necessary document for the purposes of any
21 examination or inquiry under this Bill and inspect, examine and retain copies;

22 (e) where there exists reasonable cause, require any person who is
23 reasonably expected to be in a position to provide information relevant to any
24 examination or inquiry under this Bill, to answer either alone, or in the presence
25 of any other person as he thinks fit, such questions with respect to matters under
26 this Bill as he thinks fit to ask and sign a declaration of the truth of the answers
27 given;

28 (f) direct that any property under the control of a railway operator or
29 any part thereof and anything therein shall be left undisturbed for so long as it is

1 reasonably necessary, for the purpose of any examination or inquiry under
2 this Bill;

3 (g) take samples, or require the railway operator or any member of
4 staff, or other person engaged by the railway operator, or any person who
5 appears to him or her to be in possession of the article or substance, to
6 produce the article or substance for test, examination or analysis;

7 (h) cause any article or substance found in the vicinity of a railway
8 which appears to him or her to have caused or likely to cause danger to safety
9 or health, to be dismantled and removed or subjected to any process or test;

10 (i) take possession of and detain any article or substance referred to
11 in paragraph (h) for all or any of the following purposes, namely-

12 (i) to examine or arrange for the examination of it;

13 (ii) to ensure that it is not tampered with before its examination is
14 completed; or

15 (iii) to ensure that it is available for use as evidence in any
16 proceedings;

17 (j) take any measurements or photographs or make any recordings
18 considered necessary for the purposes of this Bill;

19 (k) require any person to afford him or her such facilities and
20 assistance within that person's control or responsibilities as shall be
21 reasonably necessary to enable him or her to exercise any of the powers
22 conferred on him or her by this Bill;

23 (l) exercise such other powers as may be necessary for the
24 performance of his or her functions.

25 (2) For the purposes of clause(1) (f) of this section, a declaration of
26 truth shall in all respects have the same force and effect as a statement made
27 under oath.

28 (3) Any article, equipment or substance removed by an inspector
29 pursuant to this section shall be returned to its owner if it is not required for
30 use in evidence within a reasonable period of time.

Duty to assist an Inspector of Railway 1 **82.** Where an inspector or an authorised person enters any property
2 under the control of a railway operator pursuant to paragraph (a) of section 78
3 (1), any employee of the railway operator found therein shall assist the
4 inspector or authorised person by providing him or her with such information
5 and facilities as he or she may require.

Power of an Inspector of Railway to deal with unsafe conditions 6 **83.**-(1) If an inspector believes that a condition or activity is a threat or
7 might be a threat to railway safety, the inspector may issue a notice to any
8 person responsible for that condition or activity to the effect that-

9 (a) the activity be restricted or suspended and the inspector may place
10 conditions on that activity; or

11 (b) action be taken within a specified time by the person concerned to
12 remove the threat.

13 (2) Any person issued with a notice under clause(1) of this section
14 shall comply with it within the specified period.

15 (3) Any person who fails to comply with a notice issued under
16 clause(1) of this section shall be guilty of an offence and liable on conviction to
17 a fine not less than two hundred thousand naira or six (6) months imprisonment
18 or both.

Safety and Environmental Plan 19 **84.**-(1) Every railway operator shall prepare a Safety and
20 Environmental Plan for the approval of the General Inspector.

21 (2) Any railway operator that operates railway infrastructure or
22 provides railway services without an approved Safety and Environmental Plan
23 commits an offence and shall be liable on conviction to a fine not exceeding 10
24 percent of the annual turnover of the railway operator.

General Duty of other persons 25 **85.**-(1) It shall be the general duty of any person, including but not
26 limited to a person employed by a railway operator being on or near railway
27 infrastructure or on a train to conduct himself in such a way as to ensure in so far
28 as is reasonably practicable that no person or property is exposed to danger as a
29 consequence of any act or omission of that person.

30 (2) Any person who conducts himself in a manner in contravention of

1 clause(1) of this section commits an offence and liable on conviction to a
2 fine not exceeding two hundred thousand naira or six (6) months
3 imprisonment.

4 **86.**-(1) Subject to any regulations dealing with the preparation of
5 Safety and Environmental Plans that may be issued by the Authority , where
6 the activities of two or more railway operators overlap, the railway operators
7 concerned shall be under a duty to co-operate with one another with respect
8 to safety systems and procedures regarding their railway operations and
9 may enter into an agreement for such purpose.

Cooperation
Railway Operators

10 (2) A railway operator who conducts him or herself in a manner
11 contrary to clause(1) of this section commits an offence and liable on
12 conviction to a fine not exceeding five hundred thousand naira.

13 **87.**- (1) The Authority shall make regulations in relation to any
14 matter that is necessary to give effect to its functions relating to technical and
15 safety prescribing-

Regulations on
Technical and
Safety of Railway
operations

16 (a) environmental, technical and safety standards for the
17 construction, manufacture, maintenance and operation of railway
18 infrastructure and rolling stock;

19 (b) permitting requirements and procedures for the construction of
20 new railway infrastructure;

21 (c) the form and content of a Technical, Safety and Environmental
22 Plan;

23 (d) the circumstances under which a railway operator may be
24 required to revise or amend a Safety and Environmental Plan and the period
25 within which a Technical, Safety and Environmental Plan shall be reviewed;

26 (e) in respect of railway accidents or incidents requirements
27 relating to the reporting by railway operators, the form of reporting and the
28 classification of accidents and incidents to be reported;

29 (f) the following matters in so far as they relate to railway safety, in
30 relation to persons employed in the prescribed positions-

- 1 (i) the training of those persons, both before and after appointment to
2 those positions;
- 3 (ii) hours of work and rest periods to be observed by those persons;
- 4 (iii) minimum⁸⁶ medical, including audiometric and optometric,
5 standards to be met by those persons;
- 6 (iv) the control or prohibition of alcoholic beverages and the use of
7 drugs by those persons; and
- 8 (v) the establishment of training programmes for those person and
9 standards applicable to such programmes;
- 10 (g) the establishment of a scheme for licensing persons employed in
11 positions referred to in paragraph (f), and prescribing fees for the licences;
- 12 (h) in respect of crossing works-
- 13 (i) safety barriers and operating procedures at level crossings; and
- 14 (ii) requiring a railway operator, road authority or other person who
15 has rights relating to a road crossing to conduct a safety review of the road
16 crossing following an accident of the type prescribed;
- 17 (i) the rules for carriage of dangerous goods and substances;
- 18 (j) the security of railway transportation;
- 19 (k) in respect of non-railway operations, insofar as it affects railway
20 safety including but not limited to-
- 21 (i) fencing;
- 22 (ii) mines and other excavations;
- 23 (iii) drainage;
- 24 (iv) land use, insofar as it impacts on any drainage affecting a railway;
- 25 (v) any construction activities above, below or adjacent to a railway;
- 26 (vi) the size of, and location of access to railway stations from
27 property adjoining a railway station;
- 28 (vii) the development of property adjoining a station; and
- 29 (l) any other matter which the Authority considers necessary for the
30 promotion of railway safety.

1 (2) The Authority may upon request by a State Government or
2 private sector operator, delegate any of its powers or functions under Part
3 XV of this Bill to a State Government authority duly constituted to perform
4 such functions in relation to technical and safety regulation for State
5 Government railways provided that such delegation shall clearly stipulate
6 the scope of the delegated functions or powers which shall be revocable.

7 (3) Any provision, regulation, or other instrument made by a State
8 Government exercising any power or function pursuant to subsection (2) of
9 this section shall only be valid insofar as it is compliant with the standards
10 for technical and safety operations applicable for the time being and not
11 inconsistent with any provision, law, regulation, or directive or other extant
12 instrument made by the Authority or any provision of this Bill.

13 **88.**-(1) A railway operator shall, subject to the approval of the
14 Authority, make internal rules for the management, control and operation of
15 its railway activities and, without prejudice to the generality of the
16 foregoing, make rules in relation to anyone or more of the following
17 matters:

- 18 (a) the times of arrival and departure of trains;
19 (b) the prevention of the perpetration of any nuisance that may
20 affect the safe operation of its railway or in or upon any train;
21 (c) the prevention of accidents;
22 (d) the carriage of goods and persons on trains; and
23 (e) the safe custody and redelivery or disposal of any property
24 found on or in any train or property of a railway operator and the fixing of
25 tariffs in respect thereof.

26 (2) Rules made under this section may contain such incidental,
27 subsidiary and ancillary provisions as are reasonably necessary or expedient
28 for the operations of the railway operator.

29 (3) Every railway operator that intends to make rules under the
30 provisions of clauses(1) and (2) of this section shall submit drafts of the

Powers of Railway
Operators to make
Internal Safety
Rules

1 proposed rules to the Authority which shall, within sixty (60) days, approve,
2 modify or reject such rules.

3 (4) The Authority may at any time direct a railway operator to
4 modify, any rule previously submitted for its approval and a railway operator
5 shall within thirty (30) days from the day on which such direction was made
6 comply with such direction.

7 PART XVI - INVESTIGATION OF RAILWAY ACCIDENTS

Appointment of
Railway Accident
Investigators

8 **89.** Without prejudice to the provisions of the Nigerian Safety
9 Investigation Bureau Act, the Authority shall appoint such person or number of
10 persons with specialised knowledge of railway safety and accident
11 investigation as he or she considers necessary as railway accident investigators
12 to perform the functions stipulated under this section.

Powers of Railway
Accident
Investigators

13 **90.**-(1) subject to section 87, the powers of the railway accident
14 investigators shall be-

15 (a) to conduct investigations and public inquiries into such railway
16 accidents and incidences as they or the Authority shall determine;

17 (b) to identify safety deficiencies as evidenced by railway
18 transportation occurrences; and

19 (c) to make recommendations designed to eliminate or reduce any
20 deficiency.

Investigation
of Accidents

21 **91.**-(1) For the purpose of conducting an investigation, a railway
22 accident investigator shall have the power-

23 (a) to constitute an accident investigation panel for the purpose of
24 conducting a public inquiry;

25 (b) to issue a summons requiring the attendance of any person
26 including persons in the employment of the Authority for the production of any
27 evidence at a hearing of the accident investigation panel to be specified in the
28 summons;

29 (c) to administer the prescribed oath;

30 (d) to examine witnesses; and

1 (e) to order the seizure of anything which may be material to the
2 investigation.

3 (2) Any person required to appear before an accident investigation
4 panel shall be entitled to be represented by a legal practitioner of his choice.

5 (3) A hearing conducted under this section shall be open to the
6 public; provided however that if he is satisfied that it is in the public interest,
7 a railway accident investigator may, on his own initiative or at the request of
8 any party, order that the proceedings be conducted in camera.

9 (4) At the conclusion of the investigation, the railway accident
10 investigator shall present a report to the President through the Minister. The
11 report shall-

12 (a) record the findings of the investigation; and

13 (b) recommend corrective action, including, if applicable, the
14 issuance or amendment of any regulations in order to prevent a recurrence of
15 similar accidents;

16 (5) A report presented to the President pursuant to clause (4) of this
17 section shall be published in a white paper within six (6) months of its
18 submission to the President.

19 (6) A railway accident investigator shall not consider or determine
20 liability in connection with any accident or incident, provided that it may
21 report on the cause of an accident or incident whether or not blame or
22 liability is likely to be inferred from the determination of the report.

23 (7) A report published under this section may be used as evidence
24 in court in any proceedings that may arise in respect of the railway accident
25 or incidence that was investigated.

26 (8) For the purpose of investigating a railway accident or
27 incidence, a railway accident investigator may exercise any of the powers
28 stipulated under section 88 of this Bill.

29 **92.**-(1) A railway accident investigator shall not, directly or
30 indirectly, as owner, shareholder, director, officer, partner or otherwise-

Conflict of Interest
Prohibited

1 (a) be engaged in a railway undertaking or business; or
2 (b) have an interest in a railway undertaking or business or an interest
3 in the manufacture or distribution of railway plant or equipment, except where
4 the distribution is merely incidental to the general merchandising of goods.

5 (2) A railway accident investigator shall not carry on any activity
6 inconsistent with the performance of his duties under this Bill.

7 PART XVII - ACQUISITION OF LAND AND RAILWAY WORKS

Surveys and
Inspections

8 **93.**-(1) Subject to the provision of the Land Use Act, whenever it
9 appears to the Authority that any land in any locality is required for the
10 purposes of a railway, the Authority may by its servants or agents, together with
11 all necessary workmen, enter upon any land in any locality and-

12 (a) survey and take levels of such land;

13 (b) dig or bore under the sub-soil;

14 (c) do all other acts necessary to ascertain whether the land is adapted
15 for the purposes of a Railway;

16 (d) clearly set out and mark the boundaries of the land in respect of
17 which it is proposed to make an application under section 91 of this Bill;

18 Provided that, no such servants, agents or workmen shall enter any
19 building or upon any enclosed court or garden attached to a dwelling house
20 (except with the consent of the occupier thereof), and unless at least fourteen
21 (14) days' notice of the intended entry shall have been given to such occupier.

22 (2) The Authority shall pay compensation for any damage arising out
23 of the exercise of the power conferred on it by clause(1) of this section.

24 (3) Where there is any dispute as to the amount of compensation
25 payable under this section, the amount of the compensation shall be
26 determined in the manner provided by the Land Use Act.

Compulsory
acquisition of
Land

27 **94.**-(1) Subject to the provisions of the Land Use Act, the Authority
28 may acquire land for its purposes.

29 (2) In the event that there is any hindrance to the acquisition of any
30 land by the Authority under this Bill including any failure by the Authority to

1 reach an agreement as to the amount to be paid in respect of the acquisition,
2 the Authority may apply to the Minister for a declaration under clause (3) of
3 this section.

4 (3) The Minister may upon receipt of an application from the
5 Authority and after such enquiry as he may deem necessary, issue a notice
6 requesting the Governor of the State in which the land is situated to declare
7 that the land is required for the service of the Authority and accordingly for a
8 public purpose within the meaning of the Land Use Act.

9 (4) Where a declaration has been made under clause (2) of this Act
10 and the rights relating to the land have been revoked in accordance with the
11 Land Use Act, the Governor shall, vest the land in the Authority by issuing a
12 certificate of occupancy in respect thereof, in favour and in the name of the
13 Authority.

14 (5) The compensation if any payable under the Land Use Act for
15 the revocation of any rights relating to the land, where applicable, shall in
16 the first instance be paid by the Government of the Federation provided that
17 the Authority shall refund to the Government any compensation so paid and
18 all incidental expenses incurred by the Government.

19 (6) A plan of any land referred to in clause (2) of this section-

20 (a) containing measurements of the boundaries of the land;

21 (b) showing the relationship of the land to any sufficient
22 identification mark; and

23 (c) signed by the Director General of the Authority,

24 shall be a sufficient description of the land for the purpose of an application
25 under clause (3) of this section.

26 **95.**-(1) Where any person desires to construct, extend or alter any Private Railways
27 private railway, such person shall-

28 (a) apply to the Authority for its approval for the proposed
29 construction, extension or alteration; and

30 (b) furnish the Authority with-

1 (i) a plan of the proposed railway together with particulars showing
2 the manner and position in which the railway infrastructure in respect thereof is
3 intended to be constructed, extended, altered and carried on; and

4 (ii) such other information as the Authority may require.

5 (2) The Authority shall in considering an application received
6 pursuant to clause (1) of this section, ensure that the proposed railway works
7 does not conflict with the Transport Master Plan and may direct the applicant to
8 make such amendments as it deems necessary.

9 (3) In the event that the private railway is to interconnect with the
10 national railway network, the Authority shall issue technical specifications
11 regarding the interconnection.

Notice 12 **96.** Prior to the commencement of any railway works, notice of the
13 proposed railway work shall be served on any agency charged with the
14 responsibility for town planning matters and on such other person or persons
15 required to receive such notice under any other law in force in Nigeria in
16 respect of the railway works proposed to be carried out.

Approval for the
Operations of
a Railway 17 **97.-(1)** No railway infrastructure shall be established or operated
18 without the issuance of a safety certificate by the General Inspector stating
19 that-

20 (a) he or she has made a careful inspection of the railway
21 infrastructure;

22 (b) he or she has received from the railway operator, a certificate
23 signed by an engineer employed by the railway operator for that purpose,
24 stating that the railway infrastructure is in compliance with the environmental,
25 technical and safety standards prescribed by the Authority ;

26 (c) the railway operator has complied with applicable technical and
27 safety standards and regulations;

28 (d) he or she has satisfied him or herself that the railway
29 infrastructure can be used for the purposes intended without danger to the
30 public.

1 (2) For the purposes of this section, the General Inspector shall
2 carry out periodic inspections and, if necessary, request alterations to, or the
3 demolition of railway infrastructure which constitutes a danger to public
4 safety.

5 (3) Upon the issuance of a safety certificate, the railway operator
6 may, subject to the provisions of this Bill, proceed to commission and
7 operate the railway infrastructure.

8 (4) Where the General Inspector fails to issue a safety certificate
9 within a period of one (1) month from receipt of the railway operator's
10 certificate, he shall inform the railway operator of his reason(s) for not
11 issuing it and of any requirements to be complied with prior to the issuance
12 of the certificate.

13 (5) A safety certificate issued pursuant to this section shall be
14 subject to an annual audit by the General Inspector to ensure continued
15 compliance with the requirements thereof.

16 **98.**-(1) The General Inspector may at any time withdraw a safety
17 certificate where it is satisfied that the conditions referred to in paragraphs
18 (c) and (d) of section 95 (1) of this Bill no longer exist; provided that the
19 General Inspector shall give reasons for his decision to withdraw the safety
20 certificate.

Withdrawal of
Safety Certificates

21 (2) Prior to the withdrawal of a safety certificate, the General
22 Inspector shall inform the holder by written notice, as soon as practicable, of
23 its intention to withdraw the safety certificate and the reasons thereto.

24 (3) The holder shall be given a reasonable opportunity to make
25 written submissions to the General Inspector within a time period specified
26 in the notice not being less than fourteen (14) days from the date of the
27 notice.

28 (4) The General Inspector shall consider the written submission of
29 the holder in making its final determination on the withdrawal of the safety
30 certificate.

General Powers
of Railway
Operators

1 **99.**-(1) Subject to the approval of the Authority, any person who
2 desires to construct, extend or alter any railway infrastructure or other works
3 connected therewith, may enter upon any land and:

4 (a) make or construct tunnels, embankments, aqueducts, bridges,
5 roads, conduits, drains, piers, arches, cuttings, fences, electric power, telegraph
6 or telephone lines across or along a railway, water course, canal or road that
7 adjoins or intersects the railway;

8 (b) divert or alter the course of a watercourse or public road, in order
9 to carry it more conveniently across or along the railway;

10 (c) make drains or conduits into, through or under land adjoining the
11 railway for the purpose of conveying water from or to the railway;

12 (d) divert or alter the position of a water pipe, gas pipe, sewer or drain,
13 or telegraph, telephone or electric power line, wire or pole across or along the
14 railway; and

15 (e) do all other acts necessary for constructing, maintaining, altering
16 or repairing and operating the railway.

17 (2) The powers exercisable under clause (1) of this section shall be
18 subject to the provisions of any other law or statute for the time being in force
19 which requires the issuance of a notice or the procurement of a permit from a
20 government department or ministry prior to the exercise of that power.

21 (3) Any person exercising the powers under clause (1) of this section
22 shall ensure that as little damage as possible is incurred and he shall be liable to
23 pay compensation to any person who sustains loss or damage from the exercise
24 of its powers.

25 (4) Where a person diverts or alters anything mentioned in clause (1)
26 (b) or (d) of this section, the person shall restore it as nearly as possible to its
27 former condition, or shall put it in a condition that does not substantially impair
28 its usefulness.

29 PART XVIII - CUSTOMER PROTECTION AND QUALITY OF SERVICE

Quality of
Services

30 **100.** Subject to applicable Laws and Regulations on Consumer

1 Protection for the railway sector, all railway operators shall-

2 (a) meet such minimum standards of quality of service as the
3 Authority or relevant government Agency may from time to time specify
4 and publish;

5 (b) deal reasonably with customers in the offer of services; and

6 (c) adequately address customer complaints.

7 **101.**-(1) subject to section 98, the Authority may resolve matters Resolution of
8 relating to complaints received from customers in respect of quality of Customer Disputes
9 service.

10 (2) The Authority shall establish procedures or guidelines for
11 making, receiving and handling complaints of customers regarding the
12 conduct or operation of railway operators.

13 **102.**-(1) The Authority may require railway operators to prepare Customers Code
14 customer codes for each class of customers and such code shall be subject to
15 the prior approval of and ratification by the Authority.

16 (2) A customer code prepared by a railway operator shall include
17 procedures for:

18 (a) reasonably meeting customer requirements;

19 (b) handling of customer complaints and disputes;

20 (c) the compensation of customers in case of a breach of a customer
21 code; and

22 (d) the protection of customers' information.

23 (2) The customer code shall include-

24 (a) further recourse available to a customer who is dissatisfied with
25 the complaints-handling procedures of the railway operator together with
26 specific details of compensation and refund schemes available to customers,

27 (b) the provision of information to customers regarding services,
28 rates and performance; and

29 (c) any other matter which, in the opinion of the Authority , may be
30 of concern to customers.

1 (4) Upon the preparation of a customer code and subsequent
2 ratification by the Authority, the customer code shall be published by the
3 railway operator and notice of the publication shall be advertised in at least two
4 national daily newspaper.

5 PART XIX - OFFENCES AND PENALTIES

Endangering
Safety

6 **103.**-(1) Any person who by any unlawful, willful, negligent or
7 careless act or omission-

8 (a) obstructs or causes to be obstructed any rolling stock using the
9 railway;

10 (b) endangers or causes to be endangered the safety of any person in or
11 upon any rolling stock using the railway;

12 (c) puts, places, casts or throws upon or across any railway track any
13 wood, stone or other matter or thing;

14 (d) takes up, removes or displaces any rail, sleeper or other
15 component or any railway infrastructure;

16 (e) throws or causes to fall or strike at, against, into or upon any rolling
17 stock any wood, stone or other matter or thing with intent to injure or endanger
18 the safety of any person being in or upon such rolling stock;

19 (f) sets fire to, destroy or in any way damages any railway track and
20 appurtenances laid thereon or any railway station, engine house, warehouse or
21 other building, or any rolling stock belonging or appertaining to the railway or
22 any matter or thing contained therein; or

23 (g) does or causes to be done any other thing with intent to obstruct,
24 upset, overthrow, damage or destroy any rolling stock using a railway; or

25 (h) endangers the safety of any person traveling by or being upon a
26 Railway; or

27 (i) obstructs the General Inspector in the execution of his or her
28 duties;

29 commits an offence and shall be liable on conviction to a fine not less
30 than N500,000.00 (five hundred thousand naira) or to imprisonment for a term

1 not less than 6 calendar months or to both such fine and imprisonment.

2 (2) Any person who aids, abets, assists, counsels or procures any
3 act or omission referred to in clause (1) of this section, commits an offence
4 and shall be liable on conviction to a fine not less than N500,000.00 (five
5 hundred thousand naira) or to imprisonment for a term not less than 12
6 calendar months or to both to such fine and imprisonment.

7 **104.**-(1) Any employee of a railway operator who while on duty-

8 (a) is present on any locomotive or in any guard's van; or

9 (b) has responsibilities related to the movement of traffic or the
10 operation or maintenance of any railway signaling or communication
11 equipment or to the repairs of any rolling stock,

12 is found to be under the influence of drugs or alcohol while on duty commits
13 an offence and shall be subject to dismissal.

14 (2) For the purpose of ascertaining whether an employee referred
15 to in clause (1) of this section is under the influence of drugs, such employee
16 may at any time be required to submit himself to a breath test or to provide a
17 blood or urine sample to a medical establishment approved by the railway
18 operator.

19 (3) Where an employee having the responsibilities described under
20 clause (1) of this section does not submit to a breath test or provide a blood or
21 urine sample when requested to do so, such employee commits an offence
22 and shall be liable on conviction to a fine not exceeding N100,000.00 (one
23 hundred thousand naira) or to imprisonment for a term not exceeding 6
24 months or to both such fine and imprisonment.

25 **105.** Any person who-

26 (a) not being specifically authorised in that behalf or not being an
27 employee of a railway operator-

28 (i) enters any premises occupied by a railway operator;

29 (ii) is found in any areas designated by a railway operator as
30 dangerous or restricted by the erection of notice boards to that effect; or

Drunkenness
while on
Locomotive, etc.

Trespass Related
Offences

1 (iii) refuses to leave premises occupied by a railway operator or any of
2 its rolling stocks after being lawfully requested to do so by any employee of the
3 railway operator or a police officer;

4 (b) being on any premises occupied by a railway operator or any of its
5 rolling stocks-

6 (i) refuses to give his name or address, or gives a false name and
7 address when called upon by an employee of the railway operator or a police
8 officer;

9 (ii) is in a state of intoxication and behaves in a violent or offensive
10 manner to any other person;

11 (iii) discharges any firearm or does anything which may cause injury
12 to any person on such premises or upon such rolling stock;

13 (iv) commits any nuisance or act of indecency or uses profane,
14 obscene, indecent or abusive language resulting in a breach of public peace;

15 (v) without lawful excuse contravenes any direction lawfully given
16 by an employee of the railway operator;

17 (vi) except with the permission of an authorised employee of the
18 railway operator hawks, sells or, exposes for sale any article or touts, applies
19 for, or solicits custom of any description; or

20 (vii) smokes in any part of such premises or rolling stock bearing a
21 notice that smoking is prohibited in that part;

22 (c) defaces the writing on any board or any notice maintained upon
23 any premises occupied by a railway operator or any of its rolling stocks;

24 (d) writes, draws or affixes any profane, obscene, indecent or abusive
25 word, matter, graffiti, presentation or character upon any premises occupied by
26 a railway operator or upon any of its rolling stocks;

27 (e) damages or without lawful excuse interferes with any property of a
28 railway operator;

29 (f) without lawful excuse, enters or leaves the rolling stock of a
30 railway operator while it is still in motion or at a place other than that appointed

1 by the railway operator for passengers to embark or disembark or opens any
2 outer door of any train while it is still in motion;

3 (g) permits or allows any animal for which the person is
4 responsible to stray on any fenced premises occupied by a railway operator;

5 (h) fails at the earliest possible opportunity to present to any
6 authorised employee of a railway operator any property which there is
7 reason to believe has been lost or forgotten and is found by that person on
8 any premises, or rolling stock of the railway operator;

9 (i) willfully obstructs or impedes an employee or agent of a railway
10 operator in the performance of his or her duties;

11 (j) throws from a rolling stock any article or substance likely to be a
12 source of danger to, or cause injury to any other person;

13 (k) without prior approval of the railway operator concerned, takes
14 or sends or attempts to take or send upon a railway any dangerous substances
15 or goods, or any dangerous animal not under proper control or any animal
16 suffering from any contagious or infectious disease;

17 (l) being an employee of a railway operator, receives from any
18 passenger, or from any other person delivering goods to such railway
19 operator for carriage or warehousing, or from any other person making use
20 of the facilities provided by such railway operator any money and fails
21 within a reasonable time not exceeding half an hour to issue a ticket or other
22 receipt in respect of such money; or

23 (m) without the permission of an authorised employee, travels in or
24 upon any part of a rolling stock of a railway operator other than the part
25 ordinarily provided for passengers during travel,
26 commits an offence against this Bill, and shall be liable on conviction to a
27 fine not exceeding fifty thousand naira or to imprisonment for a term not
28 exceeding three months or to both such fine and imprisonment.

29 **106.** Any person who-

30 (a) willfully refuses to pay the fare or excess charge which on

Refusal to pay
Fare or Unauthorized
Purchase of Ticket

1 demand, he or she is liable to pay; or
2 (b) travels on a train with an unauthorised or fake ticket,
3 commits an offence and is liable on conviction to imprisonment for a term not
4 exceeding six months and pay to the railway operator the fare and any excess
5 charge, in addition to any penalty imposed by the court.

Unauthorized
of Tickets

6 **107.** Any person who sells any unauthorised or fake ticket or free
7 pass, or any portion thereof, in order to enable any other person to travel
8 therewith on a train, shall be guilty of an offence under this Bill, and on
9 conviction shall be liable to a fine not exceeding N1,000,000.00 (One Million
10 Naira) or to imprisonment for a term not exceeding five years or to both such
11 fine and imprisonment.

False Returns

12 **108.** Any person who makes, either knowingly or recklessly, any
13 statement which is false in any material particular in any return, claim or other
14 document which is required or authorised to be made to a railway operator,
15 commits an offence against this Bill, and is liable on conviction to a fine not
16 less than N200,000.00 (two hundred thousand naira) or to imprisonment for a
17 term not less than six months or to both such fine and imprisonment.

Employee
Demanding
Improper fare

18 **109.** Any employee of a railway operator who, with intent to defraud
19 demands, solicits or receives from any passenger, or from any person
20 delivering goods for carriage or warehousing or from any person making use of
21 the railway operator's facilities any greater or lesser amount than he should
22 demand or receive, commits an offence and shall be liable on conviction to a
23 fine not less than N500,000.00 five hundred thousand naira or to imprisonment
24 for a term not exceeding six months or to both such fine and imprisonment.

Offence committed
by a Body
Corporate

25 **110.** Where an offence under this Bill has been committed by a body
26 corporate and it is proved to have been committed with the consent or
27 connivance of, or to be attributable to any neglect on the part of, any director,
28 manager, secretary or other similar officer of the body corporate, or any person
29 purporting to act in any such capacity, the relevant director, manager, secretary
30 or other similar officer as well as the body corporate, shall be deemed to be

1 guilty of that offence and shall be liable to be proceeded against and
2 punished accordingly.

3 **111.** The Authority may make further provisions for offences and Review of Offences
and Penalties
4 regulations providing for the adjustment of any fine or penalty imposed
5 under this Bill or its subsidiary legislation in order to reflect current rates or
6 other economic considerations and such shall become effective upon being
7 approved by the National Assembly and published in the Federal Gazette.

8 **PART XX - MISCELLANEOUS PROVISIONS**

9 **112.**-(1) The Authority shall maintain a register of all matters and Register
10 assets that are required to be registered under this Bill and its subsidiary
11 legislations.

12 (2) The Authority may summarise the contents of a material for
13 inclusion in the register and exclude aspects of the material if it considers
14 such exclusion necessary and justified.

15 (3) A person may, on payment of the charge, if any, to be
16 determined by the Authority inspect the register and make a copy of, or take
17 extracts from the register.

18 (4) The Authority shall from time to time publish guidelines in
19 respect of its various registers giving details of the registers and indicating
20 access processes and procedures for members of the public.

21 **113.** Notwithstanding the provisions of any other enactment to the Exemption from
Stamp Duty
22 contrary, stamp duty shall not be chargeable in respect of any transfer of
23 rights and assets made pursuant to section 5 of this Bill on which, but for the
24 exemption granted under this section, stamp duty would have been payable.

25 **114.** The Authority shall not be liable for payment of Capital Gains Exemption from
Capital Gains Tax
26 Tax in respect of any transfer of rights and assets made pursuant to a
27 concession or other private sector participation.

28 **115.**-(1) The provisions of Parts X, XI XII and XVIII shall not Exemption from
Economic Regulation
29 apply to-

30 (a) the operation of a railway developed by a State Government

1 pursuant to Part IX of this Bill; and

2 (b) the operation of a private railway.

3 (2) The provisions of Part VIII shall not apply to the operation of a
4 railway developed by a State Government pursuant to Part X of this Bill.

Exemption from
the Bill

5 **116.** Where a project is of strategic national importance, the President
6 may issue regulations granting exemptions to a particular person or classes of
7 persons from the application of any provision of this Bill, such exemptions are
8 to be either unconditional or subject to specified conditions and periods.

Resolution of
Disputes

9 **117.-(1)** The Authority shall have the power to resolve disputes
10 between licensees and between licensees and other persons regarding any
11 matter under this Bill or its subsidiary legislation.

12 (2) The Authority shall publish guidelines setting out its dispute
13 resolution procedures and the principles that it may take into account in
14 resolving disputes.

15 (3) Notwithstanding the provisions of this section, disputes between
16 concessionaires, licensees or other grantees of private sector participation and
17 the Authority arising out of a concession or other private sector participation
18 shall be resolved in accordance with the terms of the concession or other
19 private sector participation and any applicable enactment and instruments
20 made pursuant thereto.

Liability of the
Authority

21 **118.-(1)** No matter or thing done by a member of the Board or any
22 officer, employee or agent of the Authority shall, if the matter or thing is done
23 bona fide for executing the functions, powers or duties of the Authority, shall
24 render the member of the Board, officer, employee or agent of the Authority or
25 any person acting on his or her directions personally liable to any action, claim
26 or demand whatsoever.

27 (2) The provisions of clause (1) of this section shall not relieve the
28 Authority of the liability to pay compensation or damages to any person for any
29 injury to him or her, his or her property or any of his or her interests caused by
30 the exercise of the powers conferred on the Authority by this Bill or by any

1 other written law or by the failure, whether wholly or partially, of any works.

2 **119.**-(1) The provisions of the Public Officers Protection Act shall
3 apply in relation to any suit instituted against an official or employee of the
4 Authority.

Action against
the Authority, etc

5 (2) No suit shall be commenced against a member of the Board, the
6 secretary or any official or employee of the Authority before the expiration
7 of a period of three (3) months after written notice of the intention to
8 commence the suit shall have been served on the Authority by the intending
9 plaintiff or his agent.

10 (3) The notice referred to in clause (3) of this section shall, clearly
11 and explicitly state-

12 (a) the cause of action;

13 (b) the particulars of the claim;

14 (c) the name and address of the intending plaintiff; and

15 (d) the relief which he claims.

16 (4) A notice, summons or other document required or authorised to
17 be served on the Authority under the provisions of this Bill or any other law
18 or enactment may be served by delivery of such notice, summons or other
19 document to the Authority or by sending such notice, summons or other
20 document by registered post, addressed to the Director General or company
21 secretary of the Authority at its principal office.

22 (5) Any member of the Board, the secretary or any official or
23 employee of the Authority shall be indemnified out of the assets of the
24 Authority, against any liability incurred in defending any proceeding
25 whether civil or criminal, if the proceeding is brought against the Authority
26 or such a person in his capacity as a member, secretary, officer or employee
27 of the Authority

28 (6) In any action or suit against the Authority, no execution or
29 attachment or process in the nature thereof shall be issued against the
30 Authority, but any sums of money which may, by the judgment of the court,

1 be awarded against the Authority, shall be paid from the funds of the Authority.

Power to make
Regulations

2 **120.**-(1) Authority shall subject to clauses (2) and (3) of this section
3 make and publish regulations in respect of any matter required to be prescribed
4 under this Bill and generally for giving full effect to the provisions of this Bill.

5 (2) The Authority shall prior to making regulations under clause (1)
6 of this section invite comments on the proposed regulation from licensees,
7 stakeholders, members of the public and other interested persons and shall
8 make a draft of the proposed regulation available upon request by any such
9 interested persons.

10 (3) The Authority shall consider all comments received under clause
11 (2) of this section before making and publishing regulations.

Repeals, Savings,
Transitional
Provisions and
Consequential
Amendments

12 **121.**-(1) The Nigerian Railway Corporation Act CAP N129, Laws of
13 the Federation of Nigeria 2004 is repealed.

14 (2) Any regulations and bye-laws which, immediately before the
15 commencement of this Act were in force under the Nigerian Railway
16 Corporation Act shall continue in force, mutatis mutandis, as if they had been
17 made by the Authority under this Bill and may be amended or repealed upon
18 the issuance of regulations by the Authority in accordance with the provisions
19 of this Bill.

20 (3) The rights, interests, obligations and liabilities of the Nigerian
21 Railway Corporation under any contract or instrument or at law or in equity are
22 by virtue of this Bill and without further assurances assigned to and vested in
23 the Authority established under this Bill.

24 (4) The Nigerian Railway Corporation (Railway) Bye-Laws, LN 90 of
25 1955 in force under the Nigerian Railway Corporation Act shall continue in
26 force, mutatis mutandis, as if they had been made by the Authority under
27 section 118 of this Bill and may be amended or repealed in accordance with the
28 provisions of this Bill.

29 (5) Any licence, certificate, authority or permit which was issued
30 pursuant to the Nigerian Railway Corporation Act and which had effect

1 immediately before the commencement of this Act shall continue to have
2 effect mutatis mutandis, for the remainder of its validity as if it had been
3 issued under the appropriate provision of this Bill.

4 (6) Subject to this Bill, any permission granted, direction given or
5 other thing whatsoever made, done or commenced which, immediately
6 before the commencement of this Bill, had or was capable of acquiring force
7 and effect pursuant to the Nigerian Railway Corporation Act, shall, on and
8 after the commencement of this Bill, continue to have, or, as the case may be,
9 to be capable of acquiring force and effect as if it had been granted, given,
10 made, done or commenced, as the case may be pursuant to the equivalent
11 provisions of this Bill.

12 (7) Any person engaged in the operation of railway infrastructure
13 and in the provision of railway services prior to the commencement of this
14 Bill shall, within six months of the commencement of this Bill, or within
15 such further period as the Authority may allow, apply in writing to the
16 Authority for a licence under Part VIII of this Bill.

17 (8) The Authority shall grant a licence contemplated in this Bill
18 unless it finds that the applicant is not capable of or is unwilling to operate
19 any of the licensed activities in a manner that is consistent with the purposes
20 and provisions of this Bill.

21 (9) The relevant provisions of all existing enactments or law,
22 including but not limited to the Utility Charges Commission Act and the
23 Infrastructure Regulatory Commission Act, shall be read with such
24 modifications as to bring them into conformity with the provisions of this
25 Bill.

26 (10) The Minister may, if he thinks it fit within 12 months of the
27 commencement of this Bill, by order published in the Federal Government
28 Gazette make additional transitional or savings provisions for the better
29 carrying out of the objectives of this section.

Interpretation 1 **122.** In this Bill:

2 "Affiliate" means the relationship that exists between two companies where

3 one controls the other or where one is controlled by an entity which controls the

4 other company;

5 "Authority" means the Nigeria Railway Authority established by this Bill;

6 "Board" means the Governing Board of the Authority;

7 "Concession" means a contractual arrangement for a specified period where

8 the Authority grants a person, state or local government the right to construct or

9 maintain railway infrastructure or to provide railway services on behalf of the

10 Authority; and the word "concessionaire" shall be interpreted accordingly;

11 "Control" means the possession directly or indirectly of the power to direct or

12 secure the direction of the management and policies of a company, whether

13 through ownership of voting securities, by contract or otherwise and

14 "controlled" and "controls" shall be construed accordingly;

15 "Corporation" means the Nigerian Railway Corporation established by the

16 Nigerian Railway Corporation Act (Cap. N129 LFN 2004);

17 "Court" means a court of law of competent jurisdiction;

18 "Customer" means a shipper, consignee, consignor, or a passenger;

19 "Direction" means a charge or instruction issued by the Authority to a railway

20 operator or other person in the exercise of its powers under this Bill;

21 "Federal Government" means the Federal Government of Nigeria;

22 "Freight Service" means any service for the carriage of goods by rail;

23 "Freight Service Operator" means a person licensed for the time being to

24 provide freight services;

25 "Freight Tariff" means the freight service or operator's fees, rates, charges

26 applicable for the provision of freight services as approved by the relevant

27 government agency under applicable legislation and charged with the

28 responsibility of regulating freight services and fares;

29 "Gazette" means the Official Gazette of the Federal Republic of Nigeria;

30 "General Inspector" means the General Inspector of Railways appointed by the

1 Authority pursuant to section 75 of this Bill;

2 "Governmental Authority" means any federal government agency or body
3 designated from time to time by an Act of the National Assembly as the
4 regulator of any railway service or operation in Nigeria;

5 "Inter-switching" means to transfer traffic from the lines of one railway
6 operator to the lines of another railway operator in accordance with
7 regulations made under section 69 of this Bill;

8 "Licence" means a Licence issued under Part VIII of this Bill and "licensee"
9 shall be construed accordingly;

10 "Locomotive" means any railway vehicle which has the capacity for self-
11 propulsion;

12 "Director General/CEO" means the member of the Board appointed
13 pursuant to section 9 of this Bill to be the chief executive officer of the
14 Authority and includes any Acting Director General of the Authority;

15 "Transport Master Plan" means the 25 Year Strategic Vision of the Federal
16 Government for the Nigeria Railways as may be amended from time to time;

17 "Maintenance" means the works required to keep the railway in good and
18 safe use and repair;

19 "Minister" means the Minister responsible for railway transportation and
20 "Ministry" shall be construed accordingly;

21 "Non-Operational Assets" means all assets owned by the Authority which
22 are not required for the purposes of operating a railway service and which
23 have been designated by the Minister as non-operational assets in
24 accordance with section 5 of this Bill;

25 "Operate" means any act necessary for and related to the management and
26 the control movements of trains on a railway track and the terms "operation"
27 and "operating" shall be construed accordingly;

28 "Operational Assets" means moveable railway assets that are required for
29 the purposes of operating a railway service and which have been designated

1 by the Minister as operational assets in accordance with section 5 of this Bill;

2 "Passenger Service" means any service for the carriage of persons by rail;

3 "Passenger Service Operator" means a person licensed to provide passenger
4 services;

5 "Passenger Fare" means the passenger service operator's schedule of fees,
6 rates, charges;

7 "Person" includes a natural person, body corporate, partnership, joint venture,
8 co-operative, trust, or other entity that is recognized by the law as a distinct
9 body with the right to enter into contracts and to own property;

10 "Prescribed" means as stipulated by the Authority by regulations and
11 "prescribe" shall be construed accordingly;

12 "Private Railway" means a railway which is used exclusively to serve a
13 particular plant, enterprise or industrial firm;

14 "Public Service Obligation" means an obligation to provide essential railway
15 services along the railway routes specified by the Minister in accordance with a
16 declaration made pursuant to section 73 of this Bill;

17 "Private Sector Participation" means a business relationship procured through
18 a contractual agreement whether by means of a concession, Public-Private
19 Partnership, joint venture, or other agreement between a government agency
20 and one or more private sector entities for the purpose of the provision of a
21 project, service or facility by the private sector that will serve the public;

22 "Public-Private Partnership" means a business relationship procured through a
23 contractual agreement which may include concessions or other agreements
24 between a government agency and one or more private sector entities for the
25 use of a government asset for the purpose of the provision of a project, service
26 or facility by the private sector that will serve the public.

27 "Railway" means all moveable and immoveable property required for the
28 provision of railway services;

29 "Railway Infrastructure" means any immoveable property necessary for the
30 provision of railway services and includes the railway track and related

1 equipment; terminal facilities; switching yards; railway stations and related
2 equipment; overhead traction power system and lineside substations;
3 depots; workshops; train management systems; telecommunications
4 systems; level crossings, bridges, viaducts, tunnels, culverts, retaining
5 walls, or other similar structures;

6 "Railway Operator" means a person licensed for the time being to operate a
7 railway, provide passenger or freight services or any combination of the
8 foregoing and this term shall where the context so permits, be construed to
9 include the Authority and the operator of a railway developed pursuant to
10 Part IX of this Bill;

11 "Railway Service" means the provision of either passenger services or
12 freight services;

13 "Railway Station" means any area of land or other property designated,
14 equipped, set apart or commonly used for the arrival and departure of trains
15 and includes any passenger or freight station or terminal;

16 "Railway Track" means any land and other property comprising the
17 permanent way of any railway taking together the ballast, sleepers and
18 metals laid thereon to facilitate the movement of rolling stock from one
19 destination to another;

20 "Railway Works" means any new construction, fabrication or erection of
21 railway infrastructure other than works in connection with the maintenance
22 of existing railway infrastructure;

23 "Regulations" means the regulations made by the Authority pursuant to this
24 Bill;

25 "Related Service" means any service necessary for the facilitation of railway
26 operations and shall include but not be limited to refueling of rolling stock;
27 repairs and maintenance of railway infrastructure and rolling stock; clearing
28 of rolling stock and railway tracks; and the provision of freight handling
29 services;

30 "Rolling Stock" means any locomotive, coach, wagon or other railway

1 vehicle used on railway tracks;
2 "Safety Certificate" means the certificate issued by the General Inspector
3 pursuant to section 92 of this Bill;
4 "Safety, Technical and Environmental Plan" means a document prepared by a
5 railway operator and approved by the General Inspector describing the
6 components of its safety, technical and environmental management system;
7 "Shipper" means a person who sends or receives goods through a freight
8 service operator or intends to do so and includes consignee and consignor;
9 "States" includes the Federal Capital Territory (FCT);
10 "Tariff Regulation" means the power of the Authority to regulate the passenger
11 fares of a railway operator pursuant to the provisions of section 57 of this Bill;
12 "Track Access" means a right granted in accordance with this Bill to a railway
13 operator to access the railway track and essential facilities of another railway
14 operator for the purpose of providing a railway service;
15 "Track Access Charges" fees chargeable for the grant of track access;
16 "Traffic" means the carriage of freight or passengers including equipment
17 required for their movement;
18 "Train" means two or more items of rolling stock coupled together, at least one
19 of which is a locomotive.

Short title

20 **123.** This Bill may be cited as the Nigeria Railway Authority Act
21 (Repeal and Re-Enactment) Bill, 2024.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

FIRST SCHEDULE

TRANSFER PROVISIONS FOR THE NIGERIA RAILWAY AUTHORITY AND
THE RAILWAY PROPERTY COMPANY LIMITED

PART 1

TRANSFER PROVISIONS FOR THE NIGERIA RAILWAY AUTHORITY

Transfer of Assets and Liabilities

1.-(1) All Assets and funds which immediately before the commencement of this Bill were vested in the Corporation and the Railway Property Company Limited shall by virtue of this Bill vest in the Authority.

(2) All bonds, hypothecations, securities, deeds, contracts, instruments, documents, and working arrangements with respect to the assets transferred, that subsisted immediately before the commencement of this Bill and to which the Corporation was a party shall be as fully effective and enforceable against or in favour of the Authority as if, instead of the Corporation, the Authority had been named therein.

(3) A determination of any court, tribunal or other authority or person made in a proceeding or course of Bill or which existed or was pending with respect to the assets transferred by or against the Corporation immediately before commencement of this Bill, shall be enforced or continued, as the case may be, by or against or in favour of the Authority in the same way that it might have been enforced or continued by or against the Corporation had this Bill not been passed.

(4) The Authority established under this Bill shall be subject to all obligations and liabilities to which the Nigerian Railway Corporation existing immediately before the commencement of this Bill was subject and all other persons shall as from the commencement of this Bill have the same rights, powers, and remedies against the Authority established under this Bill as they had against the Nigerian Railway Corporation existing immediately before the commencement of this Bill.

(5) No action or other proceeding shall be commenced against the

1 Authority in respect of an employee or asset that has been transferred to the
2 Authority, if had there been no transfer, the time for commencing the action or
3 other proceeding would have expired.

4 (6) Nothing in this Bill and nothing done as a result of a transfer under
5 sub-paragraph (1) of this paragraph shall create any new cause of action in
6 favour of-

7 (a) a holder of a debt instrument that was issued by the Corporation
8 before the commencement of this Bill;

9 (b) a party to a contract with the Corporation that was entered into
10 before the commencement of this Bill.

11 (7) Any guarantee or suretyship given or made by the Federal
12 Government or any other person in respect of any debt or obligation of the
13 Corporation, and which was effective immediately before the transfer of the
14 principal debt or obligation, shall remain fully effective against the guarantor
15 or surety on and after the transfer date in relation to the payment of the debt or
16 the performance of the obligation, as the case may be, by the Authority to which
17 the principal debt or obligation was transferred.

18 *Transfer of Employees*

19 2.-(1) Upon the Commencement of this Bill, such number of persons
20 employed by the Corporation and the Railway Property Company Limited as
21 may be required by the Authority shall be transferred to the service of the
22 Authority on terms not less favourable than those enjoyed immediately prior to
23 the transfer.

24 3. Notwithstanding the repeal of the Nigerian Railway Corporation
25 Act referred to in section 1 of this Bill, if the Board thinks it expedient that any
26 vacancy in the Authority should be filled by a person holding office at the
27 commencement of this Bill, the Board shall transfer such a person to the
28 Authority and the previous service in the Corporation by that person shall
29 count as service for the purpose of any pensions or other benefits accruing and
30 being subsequently payable by the Authority.

1 (2) The service rendered by an employee transferred pursuant to
2 sub-paragraph (1) of this paragraph to the Corporation shall be deemed to be
3 service with the Authority for the purpose of determining employment
4 related entitlements as specified in the relevant laws of employment in
5 Nigeria.

6 (3) Until such time as conditions of service are drawn up by the
7 Authority-

8 (a) the terms and conditions of service applicable to employees of
9 the Corporation shall continue to apply to every person transferred to the
10 Authority as if every such person were still in the service of the Corporation;
11 and

12 (b) the Authority shall continue to contribute towards any pension
13 scheme to which the Corporation was contributing in respect of persons in
14 the employ of the Corporation prior to the transfer date.

15 (4) Nothing in this paragraph shall operate as to prevent any
16 employee of the Corporation from resigning or being dismissed from
17 service.

18 (5) Nothing in this paragraph shall operate as to create an
19 entitlement for any employee of the Corporation to become an employee of
20 the Authority.

21 PART 2

22 TRANSFER OF RAILWAY INFRASTRUCTURE TO THE NIGERIA RAILWAY
23 INFRASTRUCTURE COMPANY (NRIC) LIMITED

24 1.-(1) The Minister shall, by Regulations in the Gazette, transfer to
25 the NRIC Limited, all existing railway infrastructure owned by the
26 Authority as are stated in the Regulations.

27 (2) The Regulations shall fix the date on which the railway
28 infrastructure stated therein shall be transferred to the NRIC Limited.

29 (3) The railway infrastructure stated in the Regulations shall on the
30 transfer date, vest in the NRIC Limited.

1 (4) All bonds, hypothecation, securities, deeds, contracts,
2 instruments, documents, and working arrangements with respect to the assets
3 transferred, that subsisted immediately before the transfer date and to which
4 the Authority was a party shall, on and after that date, be as fully effective and
5 enforceable against or in favour of the NRIC Limited as if, instead of the
6 Authority, the NRIC Limited had been named therein.

7 (5) Any cause of action or proceeding which existed or was pending
8 with respect to the assets transferred by or against the Authority immediately
9 before the transfer date shall be enforced or continued, as the case may be, on
10 and after that date by or against or in favour of the NRIC Limited in the same
11 way that it might have been enforced or continued by or against the Authority
12 had the order not been made.

13 (6) No action or other proceeding shall be commenced against the
14 NRIC Limited in respect of any asset that has been transferred to the NRIC
15 Limited, if had there been no transfer, the time for commencing the action or
16 other proceeding would have expired.

17 (7) Nothing in this Bill and nothing done as a result of a transfer under
18 sub-paragraph (2) of this paragraph shall create any new cause of action in
19 favour of-

20 (a) a holder of a debt instrument that was issued by the Authority
21 before the transfer date;

22 (b) a party to a contract with the Authority that was entered into before
23 the transfer date.

24 (8) Any guarantee or suretyship given or made by the Federal
25 Government or any other person in respect of any debt or obligation of the
26 Authority, and which was effective immediately before the transfer of the
27 principal debt or obligation, shall remain fully effective against the guarantor
28 or surety on and after the transfer date in relation to the payment of the debt or
29 the performance of the obligation, as the case may be, by the NRIC Limited to
30 which the principal debt or obligation was transferred.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

PART 3

TRANSFER OF OPERATIONAL ASSETS TO THE NIGERIA NATIONAL RAIL
LINE(NNRL) LIMITED

1.-(1) The Minister shall, by Regulations in the Gazette, transfer to the NNRL Limited, all the operational assets of the Authority as are stated in the order.

(2) The Regulations shall fix the date on which the operational assets stated therein shall be transferred to the NNRL Limited.

(3) The operational assets stated in the Regulations shall on the transfer date, vest in the NNRL Limited.

(4) All bonds, hypothecation, securities, deeds, contracts, instruments, documents, and working arrangements with respect to the operational assets transferred, that subsisted immediately before the transfer date and to which the Authority was a party shall, on and after that date, be as fully effective and enforceable against or in favour of the NNRL Limited as if, instead of the Authority, the NNRL Limited had been named therein.

(5) Any cause of action or proceeding which existed or was pending with respect to the operational assets transferred by or against the Authority immediately before the transfer date shall be enforced or continued, as the case may be, on and after that date by or against or in favour of the NNRL Limited in the same way that it might have been enforced or continued by or against the Authority had the Regulations not been made.

(6) No action or other proceeding shall be commenced against the NNRL Limited in respect of any operational asset that has been transferred to the NNRL Limited, if had there been no transfer, the time for commencing the action or other proceeding would have expired.

(7) Nothing in this Bill and nothing done as a result of a transfer under sub-paragraph (2) of this paragraph shall create any new cause of action in favour of-

(a) a holder of a debt instrument that was issued by the Authority

1 before the transfer date;

2 (b) a party to a contract with the Authority that was entered into before
3 the transfer date.

4 (8) Any guarantee or suretyship given or made by the Federal
5 Government or any other person in respect of any debt or obligation of the
6 Authority, and which was effective immediately before the transfer of the
7 principal debt or obligation, shall remain fully effective against the guarantor
8 or surety on and after the transfer date in relation to the payment of the debt or
9 the performance of the obligation, as the case may be, by the NNRL Limited to
10 which the principal debt or obligation was transferred.

11 PART 4

12 TRANSFER OF NON-OPERATIONAL ASSETS TO THE NIGERIA RAILWAY
13 PROPERTY & ADVERTISEMENT MANAGEMENT COMPANY(NRPAMC) LIMITED

14 1.-(1) The Minister shall, by Regulations in the Gazette, transfer to the
15 NRPAMC Limited, all the non-operational assets of the Authority as are stated
16 in the order.

17 (2) The Regulations shall fix the date on which the non-operational
18 assets stated therein shall be transferred to the NRPAMC Limited.

19 (3) The non-operational assets stated in the Regulations shall on the
20 transfer date, vest in the NRPAMC Limited.

21 (4) All bonds, hypothecation, securities, deeds, contracts,
22 instruments, documents, and working arrangements with respect to the non-
23 operational assets transferred, that subsisted immediately before the transfer
24 date and to which the Authority was a party shall, on and after that date, be as
25 fully effective and enforceable against or in favour of the NRPAMC Limited as
26 if, instead of the Authority, the NRPAMC Limited had been named therein.

27 (5) Any cause of action or proceeding which existed or was pending
28 with respect to the non-operational assets transferred by or against the
29 Authority immediately before the transfer date shall be enforced or continued,
30 as the case may be, on and after that date by or against or in favour of the

1 NRPAMC Limited in the same way that it might have been enforced or
2 continued by or against the Authority had the Regulations not been made.

3 (6) No action or other proceeding shall be commenced against the
4 NRPAMC Limited in respect of any non-operational asset that has been
5 transferred to the NRPAMC Limited, if had there been no transfer, the time
6 for commencing the action or other proceeding would have expired.

7 (7) Nothing in this Bill and nothing done as a result of a transfer
8 under sub-paragraph (2) of this paragraph shall create any new cause of
9 action in favour of-

10 (a) a holder of a debt instrument that was issued by the Authority
11 before the transfer date;

12 (b) a party to a contract with the Authority that was entered into
13 before the transfer date.

14 (8) Any guarantee or suretyship given or made by the Federal
15 Government or any other person in respect of any debt or obligation of the
16 Authority, and which was effective immediately before the transfer of the
17 principal debt or obligation, shall remain fully effective against the
18 guarantor or surety on and after the transfer date in relation to the payment of
19 the debt or the performance of the obligation, as the case may be, by the
20 NRPAMC Limited to which the principal debt or obligation was transferred.

21 SECOND SCHEDULE

22 PART 1

23 *Sections 13 (1) (f), 18 (4) and 31 (1)*

24 PRINCIPLES OF NEGOTIATING INCORPORATED JOINT VENTURES

25 *General Provisions*

26 1.-(1) An IJVC may be created for an existing joint operating
27 agreement and each IJVC shall be formed under the Companies and Allied
28 Matters Act, and the successor company shall enter into negotiations with
29 the other parties to such existing joint operating agreements with a view to,
30 among other things-

1 (a) agreeing and executing a shareholders' agreement in respect of the
2 applicable IJVC;

3 (b) agreeing the provisions of the memorandum and articles of
4 association of the applicable IJVC; and

5 (c) incorporating the applicable IJVC.

6 (2) Prior to the incorporation of each IJVC, the parties to each
7 applicable joint operating agreement shall continue to carry out their
8 obligations under such joint operating agreement in the ordinary course of
9 business.

10 (3) Each IJVC shall be owned by the parties to the applicable existing
11 joint operating agreement in the same proportion as their existing participating
12 interests set forth in such joint operating agreement, or in such other proportion
13 as the parties thereto shall mutually agree.

14 (4) Upon and following the incorporation of an IJVC-

15 (a) it can carry out railway operations in accordance with the
16 provisions of this Bill, provided, however, that where the parties wish to enter
17 into more than one stream of operations, the parties shall incorporate separate
18 companies under section 302 (3) and (4);

19 (b) it shall be deemed to be the sole licensee or lessee (as applicable)
20 of each railway operating licence or lease held jointly under the applicable
21 existing joint operating agreement immediately prior to its incorporation;

22 (c) it shall at all times be the operator of railway operations under each
23 railway operating licence and lease that it holds;

24 (d) it may contract for specific railway services but may not enter into
25 any contract or group of contracts which would have the effect of transferring,
26 directly or indirectly, any of the functions as operator except with the approval
27 of the Authority;

28 (e) it shall by publication on its website make public reasonable
29 details relating to its incorporation and constitutional documents; and

30 (f) it may render any services related to its operations (other than

1 financial and insurance services), to any other IJVC, successor company, or
2 any other third party under such conditions as it may deem necessary or
3 desirable.

4 *Special Provisions Relating to Incorporated Joint Venture Companies*

5 2.-(1) No IJVC shall be subject to the provisions of the Fiscal
6 Responsibility Act, Public Procurement Act and Treasury Single Account.

7 (2) Once incorporated, the following provisions shall apply to each
8 IJVC -

9 (a) prior to any sale of shares in an IJVC by any shareholder, the
10 other shareholders (including the successor company) shall have the right of
11 first refusal on such transaction at fair market value and appropriate
12 government consent; and

13 (b) each IJVC shall have its head office and main operational
14 offices in Nigeria.

15 *Organisation of Incorporated Joint Venture Companies*

16 3.-(1) Each IJVC shall have a Board of directors to be appointed by
17 the shareholders of the IJVC.

18 (2) The Board of directors of each IJVC shall be made up of
19 persons who -

20 (a) have distinguished themselves in their various capacities; and

21 (b) are able to exercise independence and objectivity with respect
22 to the affairs of the IJVC.

23 (3) The powers of the Board of directors of each IJVC shall be
24 established in the articles of association of such IJVC, provided that, the
25 Board of directors of such IJVC shall have the power to approve the annual
26 work program and budget of such IJVC and any revisions thereof.

27 (4) The Board of directors of each IJVC may create committees
28 and subcommittees.

29 (5) Decisions of the Board of directors of each IJVC shall be
30 guided by commercial and technical considerations that represent good

1 international railway sector practices.

2 *Special provisions relating to the shares of Incorporated*

3 *Joint Venture Companies*

4 4.-(1) The share capital of each IJVC shall initially consist only of
5 ordinary shares.

6 (2) The shares held directly or indirectly by a successor company in
7 each IJVC shall at all times during the life of each IJVC remain non-
8 transferable either by way of sale, assignment, mortgage or pledge to any other
9 entity except as approved by the Government and such sale or transfer shall be
10 at fair market value after an open, transparent and competitive bidding process
11 in which only companies who qualify under section 49 (4) of this Bill can
12 participate.

13 *Special provisions relating to rents, royalties, taxes and*

14 *other levies payable by an IJVC*

15 5.-(1) Each IJVC shall be subject to this Bill on payment of rents,
16 royalties and taxes.

17 (2) The initial capitalisation of each IJVC and the transactions
18 required to create such IJVC shall not create any additional tax liabilities for
19 any of the holders of shares in the IJVC, provided that, all assets, interests and
20 liabilities previously held jointly pursuant to the applicable joint operating
21 agreement are transferred to the IJVC at their net book value.

22 (3) Any income received by an IJVC shall be held in bank accounts
23 domiciled in Nigeria and may be used by such IJVC to pay its obligations
24 waiting and outside Nigeria, subject to any obligation of such IJVC under this
25 Bill and any other applicable enactments.

26 (4) The transfer overseas of any fund by an IJVC shall be subject to
27 extant government financial regulations and policies.

28 *Pro-rata dividend distribution*

29 7.-(1) Each IJVC shall pay dividends and other distributions pro rata
30 among the number of issued shares held directly by its shareholders.

1 (2) Each dividend payment or other distribution shall be subject to
2 any withholding tax applicable under the Companies Income Tax Act.

3 *Dividend Policy*

4 8. The Board of directors of each IJVC shall establish and from
5 time to time amend the dividend distribution policy of such IJVC and such
6 dividend distribution policy shall be premised on the prudent and
7 commercially reasonable management of the finances and operations of the
8 IJVC.

9 *Special Provisions Relating to Financing of Operations*

10 9.-(1) Each IJVC shall finance its existing operations/projects,
11 development of new projects, or any other railway or related investments in
12 accordance with the applicable approved annual work program and budget
13 for such incorporated joint venture from the cash flows of the IJVC and any
14 borrowings by such IJVC, in each case as approved by its Board of directors.

15 (2) Where the cash flow, together with any borrowings, of an IJVC
16 is insufficient to finance the work program in respect of existing
17 operations/projects, development of new projects, or any other investments
18 approved by the Board of directors of such IJVC, the shareholders of such
19 IJVC shall consult as to the manner in which further financing can be raised.

20 (3) With respect to subparagraph (2), the shareholders may
21 consider among others-

22 (a) permitting any of the shareholders to contribute equity in
23 exchange for the issuance of ordinary shares; and

24 (b) the creation of preferred shares for any shareholder that wishes
25 to make a financial contribution to the incorporated joint venture.

26 PART 2

27 CONFLICT OF INTEREST

28 1. Subject to the provisions of this schedule, no Member or staff of
29 the Authority shall have a direct or indirect financial interest or investment
30 in any railway company throughout the tenure of his office or employment

1 with the Authority.

2 2. Subject to paragraphs (3) and (4) hereof, each Member or staff of
3 the Authority shall on an annual basis present a written declaration affirming
4 the non-existence of any such interest as is specified in paragraph (1) and shall
5 pledge to disclose and inform the Authority of any such relationship or interest
6 that arises or is likely to arise during his tenure or employment with the
7 Authority.

8 3. Serving Members and staff of the Authority as at the
9 commencement date of this Act shall be entitled to a maximum of six (6)
10 months from the said commencement date within which to divest themselves
11 of their direct or indirect financial interests or investment in any railway
12 company, if any.

13 4. All newly appointed Members and staff of the Authority after the
14 commencement of this Act shall be entitled to a maximum of six (6) months
15 from their respective dates of appointments within which to divest themselves
16 of their direct or indirect financial interests or investments in any railway
17 company, if any.

18 5. Each Member or staff of the Authority shall declare on appointment
19 or at the commencement of employment and annually thereafter, for as long as
20 he serves the Authority, any interest or investment that he-

21 (a) knowingly has; or

22 (b) knows any member of his immediate family to have,

23 in any aspect of the Nigeria Railway sector.

24 6. If a Member or staff of the Authority contravenes the provisions of
25 paragraphs (1) and (2) of this schedule, or gives false information under
26 paragraph 5 of this schedule, he shall be liable, on conviction, to the payment of
27 a fine not exceeding N100,000.00 or imprisonment of a term not exceeding one
28 (1) year or to both.

29 7. Subject to paragraph (8) of this schedule, the Board may from time
30 to time waive the application of the prohibitions specified in paragraph (1) and

1 (2) of this schedule to any Member or staff of the Authority if the
2 Board determines that the financial interest of the relevant person is not of a
3 material nature or is minimal.

4 8. The Authority in determining whether or not the interest of a
5 Member or staff of the Authority is minimal or not of a material nature shall
6 consider factors including but not limited to the following-

7 (a) the revenue, investments, profits and managerial effort of the
8 relevant company or other entity in regard to its railway activities compared
9 with other aspects of the company's or such entity's businesses;

10 (b) the extent to which the Authority regulates and oversees the
11 activity of such company or entity;

12 (c) the degree to which the economic interests of such company or
13 other entity may be affected by an action of the Authority; and

14 (d) the perceptions held or likely to be held by the public regarding
15 the relevant person's financial interest or investment in that company or
16 other entity.

17 9. The Board may at any time review and reverse its determination
18 under paragraph (7) of this schedule and direct the application of the
19 prohibitions contained in this schedule to the affected Member or staff of the
20 Authority and the Board shall not be under any obligation to disclose the
21 reason(s) or basis for its review to the affected Member or staff member.

22 10. In any case in which the Authority exercises the waiver
23 authority or the review thereof as specified in paragraphs (7) and (9) of this
24 schedule, the Authority shall so soon thereafter publish the details thereof
25 and such publication shall include information regarding the identity of the
26 person who has been granted the waiver or whose waiver grant has been
27 reviewed, the position held by such person and, the nature of the financial
28 interests which are the subject of the waiver or the review thereof.

29 11. For the purposes of this schedule-

30 (a) "company" includes partnerships and any other form of

1 undertaking;

2 (b) "immediate family" means a person's spouse and children who are
3 under the age of 18 years;

4 (c) "Member" means a member of the governing board of the
5 Authority.

6 THIRD SCHEDULE

7 SUPPLEMENTARY PROVISIONS RELATING TO THE GOVERNING BOARD

8 *Proceedings of the Board*

9 1. Subject to the provisions of this Bill and section 33 of the
10 Interpretation Act, the Board may make standing orders regulating its
11 proceedings or that of any of its committees.

12 2. The Chairman shall preside at every meeting of the Board
13 and in his absence the members present at that meeting shall appoint one of
14 their numbers to preside at the meeting.

15 *Quorum*

16 3. The quorum for any meeting of the Board shall be a simple majority
17 of the members for the time being constituting the Board provided that, such
18 simple majority shall include a minimum of two (2) Executive Directors.

19 *Meetings of the Board*

20 4. The Board shall meet not less than four (4) times in each calendar
21 year and on such other occasions as the Board considers necessary.

22 5. A member of the Board who directly or indirectly has an interest of
23 a personal nature (including but not limited to financial interests) in any matter
24 being deliberated upon by the Board, or is personally interested in any contract
25 made or proposed to be made by the Authority shall, so soon after the facts of
26 the matter of his interests have come to his knowledge disclose his interest and
27 the nature thereof at a meeting of the Board.

28 6. A disclosure under paragraph (5) of this schedule shall be recorded
29 in the minutes of meetings of the Board and the member concerned-

30 (a) shall not, after the disclosure, take part in any deliberation or

1 decision of the Board or vote on the matter; and

2 (b) shall be excluded for the purpose of constituting a quorum of
3 any meeting of the Board for any deliberation or decision, with regard to the
4 subject matter in respect of which his interest is so disclosed.

5 *Committees*

6 7.-(1) Subject to its standing orders, the Board may appoint such
7 number of standing or ad hoc committees as it thinks fit to consider and
8 report on any matter with which the Authority is concerned.

9 (2) A committee appointed under this paragraph shall-

10 (a) consist of such number of persons who may not necessarily be
11 members of the Board as may be determined by the Board, provided that the
12 appointment of a non-Board member as a committee member shall be
13 subject to such terms as would be indicated in his letter of appointment; and

14 (b) be presided over by a member of the Board.

15 (3) The quorum of any committee set up by the Board shall be as
16 may be determined from time to time by the Board.

17 (4) A decision of a committee of the Board shall be of no effect until
18 it is confirmed by the Board.

19 *Miscellaneous*

20 8. The fixing of the seal of the Authority shall be authenticated by
21 the signature of the Secretary and that of the chairman or any other Board
22 member generally or specifically authorised by the Board to act for that
23 purpose.

24 9. Any contract or instrument which, if made by a person not being
25 a body corporate, would not be required to be under seal may be made or
26 executed on behalf of the Authority by any person generally or specially
27 authorised by the Board to act for that purpose.

28 10. Any document purporting to be a contract, instrument or other
29 document duly signed or sealed on behalf of the Authority shall be received
30 in evidence and shall, unless the contrary is proved, be presumed without

1 further proof to have been so signed or sealed.

2 11. Subject to the provisions of this Act, the validity of any
3 proceedings of the Board or of any of its committees shall not be affected by-

4 (a) any vacancy in the membership of the Board, or committee;

5 (b) any defect in the appointment of a member of the Board or
6 committee; or

7 (c) reason that any person not entitled to do so took part in the
8 proceedings of the Board or committee.

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

12 **FOURTH SCHEDULE**

13 **SUPPLEMENTARY PROVISIONS RELATING TO THE ESTABLISHMENT OF THE**

14 **AUTHORITY Y COMMISSION**

15 **PART 1**

16 **PURPOSE, APPLICATION AND SCOPE OF THE SCHEDULE**

17 *Purpose of the Schedule*

18 1. The purpose of this Schedule is to:

19 (a) establish the Authority y Commission, set out the objectives,
20 functions and powers of the Commission;

21 (b) provide for an economic and safety regulatory framework for the
22 provision of services in the railway industry;

23 (c) provide a mechanism for monitoring compliance of government
24 agencies and service providers with relevant legislation and for providing
25 advice to Government on matters relating to economic and safety regulation of
26 the regulated railway industry;

27 (d) provide for the efficient regulation of the railway sector by an
28 economic and safety regulator; and

29 (e) create an enabling environment for State, Local Government and
30 private sector participation in the provision of services in the railway sector.

1 *Application and Scope*

2 2. This Schedule shall apply to:

3 (1) the provision of or use of all regulated railway services,
4 facilities and infrastructure in Nigeria; and

5 (2) any private service provider or government agency using
6 public infrastructure to provide railway services

7 *Power to Declare a Regulated Railway Sector*

8 3.-(1).Except as otherwise provided in this Section, the President
9 may by Order or the Minister may by Regulation in consultation with the
10 Commission, declare a sector to be a regulated railway industry after having
11 regard to:

12 (a) the existence of a significant and non-transitory market power;

13 (b) the need for economic and/or safety regulation of that industry;

14 (c) the benefits of regulation to the Nigerian public; and

15 (d) any other relevant considerations.

16 (2) The Order or Regulation may declare:

17 (a) which services are to be prescribed in respect of the regulated
18 railway sector; and

19 (b) which prices are to be prescribed prices in respect of a regulated
20 railway sector.

21 PART 2

22 ESTABLISHMENT, FUNCTIONS AND POWERS OF THE AUTHORITY

23 OF THE COMMISSION

24 *Establishment of the Authority Commission*

25 4-(1) There is hereby established an independent railway industry
26 regulator to be known as the Authority Commission ("the Commission").

27 (2) The Commission shall be a body corporate with perpetual
28 succession and a common seal, capable of suing and being sued in its
29 corporate name, and shall have the power to do all and any of the following:

30 (a) enter into contracts and incur obligations;

1 (b) acquire, hold, mortgage, purchase, sell, lease and deal howsoever
2 with property, whether movable or immovable, real or personal for the purpose
3 of this Act;

4 (c) do and suffer all acts and things which a body corporate may by
5 law do and suffer and which are necessary or convenient for the purposes of
6 this Act; and

7 (d) exercise all of the powers given to it under this Act, do and suffer
8 all acts and things which are necessary or convenient for carrying out its
9 functions and duties under this Act.

10 (3) The common seal of the Commission shall be kept in such custody
11 as the Commission directs and shall not be used except as authorised by the
12 Commission.

13 (4) The Commission shall be structured by the Board taking into
14 paramount cognisance the enhancement of intermodalism for the effective
15 discharge of its functions and operations.

16 *Functions and Powers of the Commission*

17 5.-(1) The functions and powers of the Commission under this Act
18 shall be as conferred upon the Commission by this Act and any other legislation
19 as applicable;

20 (2) Subject to the provisions of this Act, the Commission shall:

21 (a) Issue, renew and cancel licences;

22 (b) Approve and fix maximum fees for grant of licences and permits
23 for the provision railway of services;

24 (c) Ensure that users have equitable access to railway facilities,
25 services, channels and routes while having regard to the level of competition
26 in, and efficiency of, the regulated railway industry;

27 (d) Monitor the performance of the regulated sectors including, in
28 relation to-

29 (i) the review and setting of tariffs in cases of abuse of monopoly
30 power or dominant position and anti-competitive behaviour by public and

- 1 private railway service providers and operators;
- 2 (ii) the relationship between public railway service providers
3 and their affiliates, and the relationship between Licences and their
4 affiliates to ensure that no party derives unfair advantage over other
5 railway service providers.
- 6 (iii) the development of standards and indices relating to the
7 quality of railway services and facilities provided to users in Nigeria
8 having regard to the best international performance indicators; and
- 9 (iv) Safety standards and guidelines.
- 10 (e) To facilitate:
- 11 (i) effective competition and promote competitive market
12 conduct as well as ensure that the misuse of monopoly, or dominant
13 position or non-transitory market power is prevented;
- 14 (ii) the financial viability of the regulated railway industry
15 and related services and facilitate the incentive for efficient long-term
16 investment in Nigeria for the provision of railway services and
17 facilities;
- 18 (f) To examine and resolve complaints, objections and
19 disputes between Government agencies and concessionaires, licensed
20 operators, users, shippers and consumers or any other person involved
21 in the regulated railway industry, using such dispute-resolution
22 methods as the Commission may determine from time to time
23 including mediation and arbitration;
- 24 (g) To perform an oversight safety role in respect of the day-
25 to-day technical safety regulation by the government agencies and the
26 private sector service provider in the regulated railway industry to
27 ensure compliance with established standards and quality service
28 delivery subject to the powers and duties conferred on the Authority
29 under this Act;
- 30 (h) To implement Government's economic and safety

1 regulatory policies on railway and execute all such other functions and
2 responsibilities as are given to the Authority under this Act; and

3 (i) To enforce regulatory provisions of all relevant legislation on the
4 regulated railway industry;

5 (3) The Commission shall have the power to do all things necessary or
6 convenient to be done for or in connection with the performance of its functions
7 and to enable it to achieve its objectives under this Act and under any relevant
8 legislation.

9 (4) The Commission shall at all times perform its functions and
10 exercise its powers in such a manner as the Commission considers best
11 achieves the objectives of this Act and any objectives under any subsidiary
12 legislation pursuant to this Act.

13 (5) In the case of conflict between this Schedule and the provisions of
14 this Act on the economic and safety regulatory functions of the Commission,
15 the provisions of this Act shall prevail.

16 *Consultation*

17 6.-(1) This Section applies to the Commission and to prescribed
18 Agencies for the purpose of ensuring that-

19 (a) the regulatory and decision making process of the Commission
20 and prescribed Agencies are closely integrated and better informed; and

21 (b) overlap or conflict between existing and proposed regulatory
22 activities is avoided.

23 (2) The Commission shall consult with a relevant prescribed Agency:

24 (a) in the making of a determination;

25 (b) in the conduct of an inquiry; and

26 (c) in preparing and reviewing industry regulations and regulatory
27 practice.

28 (3) If required to do so by the Commission, a prescribed Agency shall
29 consult with the Commission:

30 (a) in relation to any matter specified by the Commission which is

1 relevant to the objectives or functions of the Commission under this Act and
2 under any relevant legislation; or

3 (b) in respect of any matter specified by the Commission which
4 may impact on a regulated railway industry.

5 (4) A prescribed Agency must ensure that consultation occurs as
6 early as practicable in the regulatory, advisory or decision making processes
7 of the prescribed Agency.

8 (5) The requirements under this Section are in addition to any other
9 requirements or processes under any other relevant legislation or regulatory
10 schemes to the extent that such legislation is consistent with the provisions
11 of this Act.

12 (6) The Commission shall institute a mechanism to advise the
13 Ministry on railway sector policy making and enforcement among the
14 different transport sectors consistent with the Commission's functions under
15 this Act and any subsidiary legislation pursuant to this Act.

16 *Relationship between the Commission and the Ministry*

17 7.-(1) Subject to subsection (2) of this Section, the Ministry shall,
18 in consultation with the Commission formulate policy of Government for
19 the railway sector.

20 (2) The Commission shall comply with and implement the
21 government policy on railway provided that it shall at all times be
22 independent in the performance of its functions.

23 (3) In the execution of his functions and in relating with the
24 Commission, the Minister shall at all times ensure that the independence of
25 the Commission, in regard to the discharge of the Commission's functions
26 and operations under this Act is protected and not compromised in any
27 manner whatsoever.

28

PART 3

29 MEMBERSHIP OF THE BOARD OF THE AUTHORITY Y COMMISSION

30 *Authority y Commission's Board and membership of the Board*

1 8.-(1) The affairs of the Commission shall be governed by a Board
2 comprising a maximum of 9 Commissioners made up of -

3 (a) 5 Non- Executive Commissioners including the Chairman

4 (b) 4 Executive Commissioners including the Chief Executive.

5 (2) Notwithstanding any other provision of this Act, the President
6 shall ensure at all times that there is a duly constituted Board of the
7 Commission and that there are a minimum of 6 serving Commissioners on the
8 Board at any and all times, made up of-

9 (a) The Chief Executive;

10 (b) 2 Executive Commissioners; and

11 (c) 3 non-executive Commissioners.

12 (3) The supplementary provisions set out in the Third Schedule to this
13 Act shall have effect with respect to the proceedings of the Board and the other
14 matters contained therein.

15 (4) Subject to subsection (3) of this Section, the Board shall have the
16 capacity to make standing orders for the regulation of its proceedings and
17 meetings howsoever and acts of the Board shall be deemed to be acts of the
18 Commission.

19 *Qualification for Membership of the Commission's Board*

20 9.-(1) Executive Commissioners shall be persons of recognised
21 expert knowledge, qualification and experience in one or more of the following
22 fields-

23 (a) Ports, airports, railway administration;

24 (b) maritime railway;

25 (c) air railway

26 (d) rail railway;

27 (e) road railway;

28 (f) engineering;

29 (g) economics;

30 (h) finance;

- 1 (i) law;
2 (j) railway logistics; and
3 (k) regulatory matters.

4 (2) In nominating persons for appointment to the Board, the
5 President shall take into consideration the functions of the Commission and
6 the objects of this Act.

7 (3) A person shall not be appointed or remain in office as a
8 Commissioner if

- 9 (a) he is not a Nigerian citizen;
10 (b) he is a serving member of the National Assembly, State House
11 of Assembly or any Local Government Council;
12 (c) he is incapacitated by any physical illness;
13 (d) he has been certified to be of unsound mind;
14 (e) he is an undischarged bankrupt;
15 (f) he has been convicted in Nigeria or elsewhere of a criminal
16 offence;
17 (g) he has at any time been removed from an office of trust on
18 account of misconduct.

19 (4) The Conflict of Interest provisions contained in Part 2 of the
20 Second Schedule to this Bill shall apply to all Commissioners.

21 *Appointment and Tenure of Commissioners*

22 10.-(1) Subject to subsection (3) of this Section, all Commissioners
23 shall be appointed by the President in the following manner:

- 24 (a) The President shall nominate only persons qualified in
25 accordance with Section 9 of this Act;
26 (b) The list of nominees and their proposed position in the Board
27 shall be sent by the President to the Senate of the National Assembly for
28 ratification and confirmation in accordance with the relevant rules of
29 procedure in the Senate; and
30 (c) Upon ratification and confirmation of the nominees, the

1 President shall duly appoint such persons as Commissioners.

2 (2) The President shall appoint one Commissioner as the Chairman of
3 the Commission.

4 (3) The Commission's Board shall appoint a Commissioner to act as
5 Vice Chairman of the Board-

6 (a) during a vacancy in the office of the Chairman; or

7 (b) during any period when the Chairman is unable for any reason to
8 attend meetings of the Board.

9 (4) All Commissioners except the Chief Executive and the Executive
10 Commissioners shall hold office on part-time basis.

11 (5) To ensure continuity in the Board, the initial set of Commissioners
12 shall be appointed to serve for a staggered tenure of 3 (three) to 5 (five) years
13 and thereafter, each Commissioner shall serve for a term of 5 (five) years from
14 the date of his appointment at the expiration of which the President may renew
15 his term for a further period of 5 (five) years.

16 (6) 3 Each Commissioner may serve for a maximum of 2 (two) terms
17 totalling 10 (ten) years after which he shall be ineligible for renewal of his
18 tenure or re-appointment as a Commissioner.

19 *Commissioner's Remunerations and Allowances*

20 11. The remunerations and allowances, howsoever called, payable to
21 the Commissioners, including the Chief Executive and Executive
22 Commissioners, shall be determined by the Board in consultation with the
23 National Salaries, Income and Wages Commission.

24 *Resignation of a Commissioner*

25 12. A Commissioner may resign his office by giving 3 (three) months
26 written notice thereof addressed to the President.

27 *Removal of a Commissioner*

28 13.-(1) Subject to subsections (2), (3) and (4) of this Section, a
29 Commissioner may be suspended or removed from office by the President if
30 he-

1 (a) is found to have been unqualified for appointment as a
2 Commissioner pursuant to Section 9 of this Schedule or is in breach of
3 Section 9(3) of this Schedule after his appointment; or

4 (b) has demonstrated inability to effectively perform the duties of
5 his office; or

6 (c) has been absent from 5 (five) consecutive meetings of the Board
7 without the consent of the Chairman except he shows good reason for such
8 absence; or

9 (d) is guilty of serious misconduct in relation to his duties as a
10 Commissioner; or

11 (e) in the case of a person possessed of professional qualifications,
12 he is disqualified or suspended from practicing his profession in any part of
13 the world by an order of a competent authority; or

14 (f) is in breach of the Conflict of Interest rules set out in Part 2 of the
15 Second Schedule to this Bill.

16 (2) Prior to the suspension or removal of a Commissioner under
17 subsection (1) of this Section, the President shall inform the Commissioner
18 by written notice, as soon as practicable, of his intention to suspend or
19 remove the Commissioner from office and the reasons thereof.

20 (3) The affected Commissioner shall be given a reasonable
21 opportunity to make written submissions to the President within a time
22 period specified in the notice and such time period shall not be less than 14
23 (fourteen) days from the date of the notice.

24 (4) The affected Commissioner may, within the time period
25 specified in the notice, submit a written submission and the President shall
26 consider the submission in making his final decision on the Commissioner's
27 suspension or removal from office.

28 (5) A Commissioner shall not be removed from office except in
29 accordance with the provisions of this Act.

1 *Vacancy on the Board*

2 14. - (1) There shall be a vacancy in the Board if a Commissioner-
3 (a) dies; or
4 (b) is removed from office in accordance with Sections 9(3) or 13 of
5 this Act; or
6 (c) resigns from office; or
7 (d) upon the completion of his tenure of office.

8 (2) A vacancy in the Board shall be filled by the appointment of
9 another person to the vacant office by the President in accordance with Section
10 10 of this Act, as soon as is reasonably practicable after the occurrence of such
11 vacancy.

12 (3) To ensure continuity, any person appointed in accordance with
13 subsection (2) of this Section shall hold office for a term of 5 (five) years from
14 the date of his appointment at the expiration of which the President may renew
15 his term for a further period of 5 (five) years.

16 (4) Any person appointed in accordance with subsection (2) of this
17 Section may serve for a maximum of 2 (two) terms totalling 10 (ten) years after
18 which he shall be ineligible for renewal of his tenure or re-appointment as a
19 Commissioner.

20 **PART 4**

21 **APPOINTMENT/MANAGEMENT AND STAFFING OF COMMISSION**

22 *Chief Executive*

23 15.-(1) The President shall appoint a Chief Executive for the
24 Commission, in accordance with the provisions of Sections 9 and 10 of this
25 Act.

26 (2) The Chief Executive shall be a person possessing expert
27 knowledge of and proven ability in one or more fields of regulated industries
28 and regulatory matters and subject to Sections 10(4) and 10(5) of this Act, he
29 shall hold office for a term of 5 (five) years.

30 (3) The Chief Executive may serve for a maximum of 2 (two) terms

1 totalling 10 (ten) years after which he shall be ineligible for renewal of his
2 tenure or re-appointment as a Chief Executive or Commissioner.

3 (4) The Chief Executive shall be responsible for:

4 (a) the execution of the policies and decisions of the Board;

5 (b) the implementation of the Commission's regulatory and control
6 functions;

7 (c) the day-to-day management and supervision of the activities of
8 the Commission;

9 (d) matters concerning the accounts and records of the
10 Commission;

11 (e) performing such other functions as may, from time to time, be
12 assigned to him by the Board.

13 (5) The Chief Executive may in writing delegate any of his powers
14 or assign any of his duties to any Executive Commissioner of the
15 Commission and shall advise the Board of such delegation or assignment.

16 *Executive Commissioners*

17 16. -(1) The President shall appoint 4 Executive Commissioners
18 for the Commission which number shall include the Chief Executive, in
19 accordance with the provisions of Sections 9 and 10 of this Act.

20 (2) The Executive Commissioners shall be persons possessing
21 expert knowledge of and acknowledged ability in one or more fields of
22 regulated industries and qualified in accordance with Section 9 of this
23 Schedule and subject to Section 10(5) of this Schedule, they shall hold office
24 for respective terms of 5 (five) years renewable only once.

25 *Commission Secretary*

26 17. -(1) There shall be appointed by the Board of the Commission,
27 a Secretary who shall possess relevant and adequate professional
28 qualifications and experience as a barrister-at-law, solicitor or chartered
29 secretary.

30 (2) The Commission Secretary shall keep the corporate records of

1 the Commission and perform such other duties and functions as the Board or
2 the Chief Executive may from time to time direct.

3 *Staff of the Commission*

4 18.-(1) The Commission shall have powers to appoint such number of
5 other persons as it deems necessary as employees of the Commission and pay
6 persons so employed such remuneration including allowances as the
7 Commission may from time to time determine.

8 (2) The employment of the Commission's staff, including the
9 Commission Secretary, shall be subject to such terms and conditions as may
10 from time to time be stipulated by the Board and contained in the respective
11 staff's employment contracts.

12 (3) The Commission shall develop and implement appropriate Staff
13 Conditions of Service for its employees with particular regard to the issues of
14 remuneration, pension's scheme and other service benefits, sufficient for the
15 Commission to attract and retain knowledgeable and expert manpower.

16 (4) The Conflict of Interest provisions contained in Part 2 of the
17 Second Schedule to this Bill shall apply to all employees of the Commission.

18 *Delegation*

19 19. The Commission may, by instrument under its common seal,
20 delegate to-

21 (a) a Commissioner; or

22 (b) a person referred to in Section 18 of this Act; or

23 (c) a member of a department, committee or panel appointed or
24 designated by the Commission any function or power of the Commission under
25 this Act or the regulations or under any other relevant legislation other than this
26 power of delegation or the powers of the Commission under Section 5(d)(i) or

1 Section 57 of this Act.

2

PART 5

3

FINANCIAL PROVISIONS

4

Fund of the Commission

5

20. The Commission shall establish and maintain a Fund ("the Commission's Fund") which shall comprise of-

6

7

(a) an initial subvention as may be appropriated to the Commission by the National Assembly or any other subsequent subvention as shall be appropriated from time to time;

8

9

10

(b) contribution from the regulated railway industry not exceeding 1% of throughput fees collected by an authority empowered to collect such from operators, concessionaires and licencees by sector legislation;

11

12

13

(c) subject to subsection (2) of this Section, all charges, levies and fees collected by the Commission under this Act and any subsidiary legislation pursuant to this Act or under any licence issued pursuant to this Act;

14

15

16

17

(d) licence fees issued annually by the Commission;

18

(e) gifts, loans, grants, aids;

19

(f) all other assets that may from time to time be vested in or accrue to the Commission in the course of performing its functions under this Act or under any subsidiary legislation pursuant to this Act;

20

21

22

(g) any other source of income as the Commission may deem necessary.

23

24

Borrowing Powers, Gifts, etc.

25

21.-(1) The Commission may, borrow such sums of money or raise capital otherwise than from the Government as the Commission may require in the exercise of its functions under this Act and any subsidiary legislation pursuant to this Act.

26

27

28

29

(2) The Commission may accept gifts or grants of money or aids or other property from national, bilateral and multi-lateral organisations and

30

1 upon such terms and conditions, if any, as may be agreed upon between the
2 donor and the Commission provided that such gifts are not inconsistent with
3 the objectives and functions of the Commission under this Act and any
4 subsidiary legislation pursuant to this Act.

5 *Budget and Expenditure*

6 22.-(1) The Commission shall not later than 30th September in each
7 financial year prepare and present to the National Assembly a statement of
8 estimated income and expenditure for the following financial year.

9 (2) Subject to subsection (1) of this Section, the Commission shall
10 apply the monies in the Commission's Fund for-

11 (a) the administrative and operating costs of the Commission;

12 (b) the payment of salaries, wages, fees and other allowances, retiring
13 benefits such as pensions and gratuities and, any other remunerations payable
14 to the Commissioner and staff members of the Commission;

15 (c) the purchase or acquisition of property or other equipment or other
16 capital expenditure or for maintenance of any property acquired or vested in
17 the Commission; and

18 (d) the performance of all or any of the functions of the Commission
19 under this Act and any subsidiary legislation pursuant to this Act.

20 *Financial Year and Audit of Commission's Accounts*

21 23.-(1) The financial year of the Commission shall start on 1st
22 January of each year and end on 31st December of the same year.

23 (2) The Commission shall keep proper records of its accounts in
24 respect of each year and shall cause its accounts to be audited within three
25 months from the end of each financial year by auditors whose appointment
26 shall be approved by the Board and shall be subject to reappointment on annual
27 basis provided that such auditors are on the list of auditors approved from time
28 to time by the Auditor-General of the Federation.

29 *Annual Reports for National Assembly*

30 24. The Commission shall prepare and submit to the National

1 Assembly annually, not later than four months after the end of its financial
2 year, a report on the activities of the Commission for the preceding financial
3 year and shall include the Commission's audited accounts for the year under
4 review together with the auditor's report.

5 *Exemption from taxation*

6 25.-(1) The Commission shall be exempted from the payment of
7 income tax on any income accruing from investments made by the
8 Commission or otherwise howsoever.

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

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Nigerian Railway Corporation Act, (Cap. N129 LFN 2004), to provide for the establishment of the Nigeria Railway Authority, and to establish a framework for private sector participation in the provision of rail services as well as provide for the regulation of the railway sector.