

COASTAL AND INLAND SHIPPING (CABOTAGE) ACT
NO 5 OF 2003
LAWS OF THE FEDERATION OF NIGERIA

Arrangement of Sections

Section

Part 1

Short Title And Interpretation

- | | |
|------------------------|---------------------------|
| 1. Short Title. | 2. Interpretation. |
|------------------------|---------------------------|

Part II

Restriction of Vessels In Domestic Coastal Trade

- | | | |
|---------------------------------------|---------------------------------|--|
| 3. Prohibition | 4. Restriction of Towage | 5. Carriage of Petroleum Products and Ancillary Services. |
| 6. Navigation in Inland Waters | 7. Rebuilt Vessel. | 8. Application to Foreign Vessels. |

Part III

Waivers

- | | | |
|--|--|---|
| 9. Waiver on wholly Nigerian ownership. | 10. . Waiver on manning requirement | 11 Waiver on Nigerian built vessels |
| 12. Order for granting of waiver | 13. Duration of a waiver | 14. Ministers to issue guidelines on waivers |

Part IV

Licence To Foreign Vessel

- | | | |
|---|---|---------------------------------|
| 15. Grant of licence to foreign vessels and conditions | 16. Terms and conditions of Licence. | 17. Duration of Licence. |
|---|---|---------------------------------|

- | | | |
|--|-------------------------------------|---|
| <p>18. Suspension, cancellation and variation of Licence.</p> <p>21. Operating without Licence</p> | <p>19. Tariff on Licence</p> | <p>20. Minister to issue guidelines on Licence</p> |
|--|-------------------------------------|---|

Part V
Registration

- | | | |
|--|---|---|
| <p>22. Registration.</p> <p>25. Deletion from Register.</p> <p>28 Age of Vessels.</p> | <p>23. Ownership Requirements.</p> <p>26. . Citizenship requirement for ship financing.</p> | <p>24. Proof of Ownership.</p> <p>27. Temporary Registration.</p> |
|--|---|---|

Part VI
Enforcement

- | | | |
|---|---|--|
| <p>29. Special Register</p> <p>32. Detention Order.</p> | <p>30. Enforcement Unit and Officers.</p> <p>33. Port Clearance to Vessels.</p> | <p>31. . Power of enforcement Officers.</p> <p>34. Publishing Requirements for employment of Vessels</p> |
|---|---|--|

Part VII
Offences

- | | | |
|--|--|--|
| <p>35. Offences against this Act.</p> <p>38. Deemed separate Offence</p> <p>41. Jurisdiction.</p> | <p>36. Failure to comply with a requirement etc. of an enforcement officer.</p> <p>39. Liability of ship owners, companies and officers.</p> | <p>37. False misleading statements</p> <p>40. Strict liability and general penalty</p> |
|--|--|--|

Part VIII
Cabotage Vessels Financing Fund

42. Cabotage Vessel financing Fund
45. Beneficiaries.
43. Funding.
44. . Collection, etc. of the Fund

Part IX
Miscellaneous

- 46 Regulations..
49. Powers of Delegation.
52. Vessels with valid Licence
55. . Savings as to Court Proceedings
- 47 Licences, waivers on Board
50. Units of Accounts.
53. Repeals and Amendments
48. Requisition of Vessels by Minister.
51. Transitional Provisions.
54. Savings.

Schedule

**COASTAL AND INLAND SHIPPING (CABOTAGE) ACT
NO 5 OF 2003
LAWS OF THE FEDERATION OF NIGERIA**

Act to restrict the use of Foreign Vessels in Domestic Coastal Trade to promote the development of Indigenous Tonnage and to establish a Cabotage Vessel Financing Fund and for Related Matters

30th day of April 2003

Enacted by The National Assembly of The Federal Republic of Nigeria

Part 1

Short Title And Interpretation

1. This Act may be cited as the coastal and inland shipping (Cabotage) Act, 2003.
2. In this Act -
"Cargo" means goods carried in or on a vessel whether or not of commercial value and includes livestock;

"Coastal Trade" or "Cabotage" means-

- (a) The carriage of goods by vessel, or any other mode of transport, from one place in Nigeria or above Nigeria waters to any other place in Nigeria or above Nigeria waters, either directly or via a place outside Nigeria and includes the carriage of goods in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of Nigeria whether in or under Nigerian waters;
- (b) The carriage of passengers by vessel from any place in Nigeria situated on lake or river to the same place, or to any other place in Nigeria, either directly or a place outside Nigeria to the same place without any call at any port outside Nigeria or to any other place in Nigeria, other than as an in-transit or emergency call, either directly or via a place outside Nigeria;
- (c) The carriage of passengers by vessel from any place in Nigeria to any place above or under Nigerian waters to any place in Nigeria, or from any place above Nigerian waters to the same place or to any other place above or under Nigerian waters where the carriage of the passengers is in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources in or under Nigerian waters; and
- (d) The engaging, by vessel, in any other marine transportation activity of a commercial nature in Nigerian waters and, the carriage of any goods or substances whether or not of commercial value within the waters of Nigeria;

"Enforcement officer" means a person so designated to be an enforcement officer for the purpose of this Act;

"Enforcement unit" means the department within the national maritime Authority charge with the responsibility of enforcing the provisions of this Act;

"Exclusive Economic Zone" has the meaning given to it under the Exclusive Economic Zone Act Cap 116, Laws of the federation of Nigeria 1990;

"Foreign vessel" means a vessel other than a Nigerian vessel;

"Hull" means the shell, or outer casing, and internal structure below the main deck which provide both the floatation envelope and structural integrity to the vessel in its normal operation;

"In-transit call" means any call, other than an emergency or technical call, by a vessel at any place where passenger go ashore temporarily but re-board the vessel before the vessel leaves that place or are transported by land to another location to re-board the same vessel and include cargo not discharge at the transit call;

"Inland waters" has the meaning given to it under the National Inland Waterways Authority Act, 1997;

"License" means a document issued pursuant to the Act, authorizing a foreign ship or vessel to be registered for participation in the coastal trade while in Nigerian waters;

"Master" in relation to a vessel has the same meaning as in the merchant shipping Act Cap.224, laws of the federation of Nigeria 1990;

"Minister" means the head of the ministry for the time being charge with the responsibility for matters relating to shipping and ministry has the corresponding meaning;

"Nigerian citizen" means a citizen of Nigeria as defined in the Nigerian constitution;

"Nigerian vessel" means a vessel which is registered in Nigeria and has the meaning given to it in section 23(1) or (2);

"Nigerian waters" shall include inland waters, territorial waters or waters of the exclusive Economic Zone (respectively, together or any combination thereof) and the meaning given to them by the national inland;

"Owner" in relation to a vessel, includes the person having for the time being, either by law or by contract, the right of the owner of the ship as regards the possession and use thereof;

"Place above Nigerian waters" in the context of coastal trade includes any vessel, offshore drilling unit, production platform, artificial island, sub sea installation, pumping station, living accommodation, storage structure, loading or landing platform, dredge, floating crane, pipe laying or other barge or pipeline and any anchor cable or rig pad used in connection therewith;

"Superstructure" means the main deck and any other structural part above the main deck;

"Territorial waters" have the meaning given to it under the territorial waters (Amendment) Act 1998;

"Vessel" includes any description of vessel, ship, boat, hovercraft or craft, including air cushion vehicles and dynamically supported craft, designed, used or capable of being used solely or partly for marine navigation and used for the carriage on through or under water of persons or property without regard to method or lack of propulsion;

"Vessel built in Nigeria" means where all the major component of its hull and superstructure are fabricated in Nigeria or assembled entirely in Nigeria;

"Vessel wholly manned by Nigerians" means where all the shipboard officers and crew employed aboard the vessel is exclusively of Nigerian citizens;

"Wholly owned Nigerian vessel" means a vessel which is owned and registered in Nigeria whose 64 shares are beneficially owned by Nigerian citizens or a company registered in Nigeria with hundred percent of its share capital beneficially owned by Nigerian citizens and the share in the vessel and the ship owning company shall be held by Nigerian citizens free from any trust or obligation in favor of non-Nigerians.

Part II

Restriction Of Vessel In Domestic Coastal Trade

3. A vessel other than a vessel wholly owned and manned by a Nigerian citizens, built and registered in Nigeria shall not engage in the domestic coastal carriage of cargo and passengers within the coastal territorial inland waters, or any point within the waters of the exclusive economic zone of Nigeria.
4. (1) A tug or vessel not wholly owned by a person who is a Nigerian citizen shall not tow any vessel from or to any port or point in Nigeria n waters, or tow any vessel carrying any substance whatsoever whether of value or not or any dredge material whether or not it has commercial value from a point within Nigerian waters.

(2) Nothing in this section shall preclude a foreign vessel from rendering assistance to persons, vessel or aircraft in danger or distress in Nigerian waters.
5. A vessel tug or barge of whatever type other than a vessel, tug and barge whose beneficial ownership resides wholly in a Nigerian citizen shall not engage in the carriage of materials or supply services to and from oil rig, platforms and installationswhether offshore or onshore or within any ports or points in Nigerian waters.
6. A vessel of whatever type or size shall not engage in domestic trading in the inland waters of Nigeria except as a vessel that is wholly owned by Nigerian citizens.
7. (1) In the case of rebuilding a vessel, such vessel, shall be eligible for sabotage services if the

entire building including the construction of any major components of the hull or superstructure of the vessel is effected in Nigeria.

- (2) Vessel built in a foreign yard but forfeited to any Nigerian governmental authority for breach of any laws of Nigeria or captured as war prizes are exempted from the Nigerian built requirement.

8. (1) Section 3-6 apply to every foreign vessel except any foreign vessel that is -

- (a) Engaged in salvage operation is determined by the minister to be beyond the capacity of Nigerian owned and operated salvage vessels and companies;
- (b) engaged with the approval of the minister or any other relevant government agency in activities related to a marine pollution emergency or to any threatened risk thereof ;
- (c) engaged in any ocean research activity commissioned by the Department of Fisheries or any other department of the government responsible for such research;

or

- (d) operated or sponsored by a foreign government that has sought and received the consent of the Minister of Foreign affairs to conduct Marine Scientific Research.

- (2) Notwithstanding the provisions of subsection (1), the requirement for ministerial determination shall not apply to any vessel engaged in salvage operations for the purpose of rendering assistance to person, vessels or aircraft in danger or distress in Nigerian waters;

Part III

Waivers

9. The Minister may on the receipt of an application grant a waiver to a duly registered vessel on the requirement for a vessel under this Act to be wholly owned by Nigerian citizens where he is satisfied that there is no wholly Nigerian owned vessel that is suitable and available to provide the services or perform the activity described in the application.
10. The Minister may on the receipt of an application grant a waiver to a duly registered vessel on the requirement for a vessel under this Act to be wholly manned by Nigerian citizens where he is satisfied that there is no qualified Nigerian officer or crew for the position specified in the application.

- 11.** (1) The Minister may on the receipt of an application grant a waiver to a duly registered vessel on the requirement for a vessel under this act to be built in Nigeria where he is satisfied that no Nigerian shipbuilding Company has the capacity to construct the particular type and size of vessel specified in the application.
- (2) The Ministry shall immediately after the commencement of this Act compile and publish information on the type, size and characteristic of vessels and craft which are built in Nigeria.
- 12.** Where the circumstances described in Sections 9-11 apply, and the Minister has determined that a waiver be granted, the order for granting the waiver shall be.
- (a) in the first instance, to a shipping company and vessels owned by a joint venture arrangement between Nigerian citizens and non-Nigerians-
- (i) the equity shareholding of the Nigerian(s) joint venture partner in the vessel and the shipping company shall not be less than 60 per centum; and
- (ii) the percentage so determined to be held by Nigerian joint venture partner is held by Nigerian citizen(s) free from any trust or obligation in favour of non-Nigerians; and
- (b) in the second instance, to any vessel registered in Nigeria and owned by
- (c) a shipping company registered in Nigeria provided that the applicant shall comply with all the relevant provisions of this Act.
- 13.** A waiver granted under this Act shall specify the period of time for which it shall be valid, which period shall not in any circumstance exceed one (1) year.
- 14.** (1) The Minister shall immediately after the commencement of this Act, establish and publish the criteria and guidelines for the issuance of waivers under this Act.
- (2) The waiver system provided for under this Act may be reviewed after five (5) years from the commencement of this Act by the National Assembly.

Part IV

Licence To Foreign Vessel

- 15.** (1) Upon application for a licence by a person resident in Nigeria acting on behalf of a foreign owned vessel, the Minister may issue a restricted license for the foreign owned vessel to be registered for participation in the Coastel Trade, where the Minister is satisfied that-
- (a) any of the circumstances in sections 9-12 is applicable;

- (b) the foreign owned vessel is eligible to be registered in Nigeria;
 - (c) the owning company of the foreign vessel has a representative office in Nigeria;
 - (d) all applicable duties, levies and tariffs imposed by the relevant authorities applicable to foreign vessels with respect to its participation in the Coastal Trade have been paid.
 - (e) the foreign vessel possess all certificates and documents in compliance with international and regional maritime conventions whether or not Nigeria is a party to the conventions and that such certificates and documents are current and valid; and
 - (f) the foreign vessel meets all safety and pollution requirements imposed by Nigerian law and any international conventions in force.
- (2) In making a determination referred to in subsection (1), the Minister may request from the applicant for the licence to which the determination relates, and from the owner of any Nigerian vessel to which the determination relates, such information and documentation as the Minister may deem necessary.
- (3) The issuance of a licence pursuant to subsection (1) does not affect the application to such foreign vessel of any Nigerian law that imposes safety or pollution prevention requirements in respect of vessels.
- (4) The licence issued under subsection (1) shall be carried on board the vessel at all times.
- 16.** (1) The Minister may issue a licence under section 15 subject to any terms and conditions that the Minister considers appropriate including without restricting the generality of the foregoing terms and conditions respecting-
- (a) the service or foregoing that is to be performed by the foreign vessel to which the license relates; and
 - (b) The place or places where the foreign vessels may perform that service or activity.
- (2) Any license granted under section 15 shall be for a fee and the minister shall, by a notice in the Gazette, specify the amount of the license fee and the terms thereof.
- 17.** A license issued pursuant to section 15 to a foreign vessel shall set out the period of time for which it is valid, which period shall not exceed one (1) year or the term of any certificate or the document referred to in section 15(1)(e) provided that the license term shall not in any circumstance exceed one year.

18. The Minister may by order, suspend or cancel a license or vary the terms and conditions of a license where-

- (a) the owner or master of the licensed vessels is convicted of an offence under this or any other Act of the national Assembly relating to navigation or shipping;
- (b) There has been a contravention of or failure to comply with any term or condition to which the license is subject to ; or
- (c) it is expedient to cancel, suspend or vary the license or permit for reasons of national or public interest.

19. Where it is deemed expedient to grant a license in conformity with the provision of this Act, the Minister shall impose a tariff on the vessel as a condition for granting the waiver.

20. The Minister shall immediately after the commencement of this Act, establish and publish the criteria and guidelines for the issuance of licenses under this Act.

21. A foreign owned and foreign crewed vessels shall not participate in the domestic coastal trade without the license and authorization required by the provisions of this Act.

Part V *Registration*

22. (1) Notwithstanding the provisions of any other laws and subject to section 47 every vessel intended for use under this Act shall be duly registered by the Registrar of Ships in the Special Register for Vessels and Ship Owning Companies engaged in Cabotage and shall meet all the requirements for eligibility as set forth under this Act and the Merchant Shipping Act and its amendments to the extent that the said Merchant Shipping Act is not inconsistent with the provisions of this Act.

- (2) A vessel intended for use in the domestic trade whether for coastal or inland waters shall obtain all the applicable licenses and permits as shall from time to time be determined by the Minister and the relevant Agencies of the Government.
- (3) In order to carry out its functions under this Act, the minister shall on a continuous basis collect information and keep records in the Special Register concerning the availability, characteristics and uses of Nigerian vessels.
- (4) The minister shall immediately after the commencement of this Act issue appropriate guidelines and criteria for the registration of bareboat vessel in the Cabotage Register.
- (5) Vessels eligible for registration under this Act include:

- (a) passenger vessels;
- (b) crew boats;
- (c) bunkering vessels;
- (d) fishing trawlers;
- (e) barges;
- (f) off-shore service vessels;
- (g) tugs;
- (h) anchor handling tugs and supply vessels;
- (i) floating petroleum storage;
- (j) dredgers;
- (k) tankers;
- (l) carriers; and
- (m) any other craft or vessel used for carriage on, through or underwater of persons, property or any substance whatsoever.

23. (1) Subject to sections 9-12 a vessel shall not be registered or use in the domestic trade unless the minister is satisfied that-

- (a) the vessel is wholly and beneficially owned by Nigerian citizens or by a company wholly and beneficially owned by Nigerian citizens and a vessel or company is wholly and beneficially owned by Nigerian citizens where all the shares in the vessel and the company are held by Nigerian citizens free from any trust or obligation in favour of any person not a citizen of Nigeria;
- (b) the vessel is on bareboat charter to Nigerian citizens and is under the full control and management of Nigerian citizens or a company wholly and beneficially owned by Nigerians in terms of subsection (1)(a);
- (c) the vessel is owned by a company registered in Nigeria and the percentage of shares in the company owned by Nigerian citizens is not less than 60 per centum;
- (d) any foreign vessel is licenced in compliance with Part ii of this Act;

- (e) the vessel is exclusively manned by officers and crew of Nigerian citizenship except where Section 10 applies; and
 - (f) the vessel possesses all certificates and documents in compliance with international and regional maritime conventions to which Nigeria is a party including all safety and pollution requirements imposed by a Nigerian law and any international convention in force.
- (2) A vessel shall not be registered for use in the domestic trade unless the controlling interest in the company is owned by Nigerian Citizens.
- (3) The controlling interest shall not be deemed to be vested in Nigerian Citizens-
- (i) if the title to a majority of the shares thereof or 60 per centum are not held by such citizens free from any trust or fiduciary obligation in favour of any person not a citizen of Nigeria; or
 - (ii) if the majority of the voting power in such company is not held by citizens of Nigeria; or
 - (iii) if through any contract or understanding it is so arranged that more than 40 per centum of the voting power may be exercised, directly or indirectly on behalf of any person who is not a citizen of Nigeria; or
 - (iv) if by any other means whatsoever control of any interest in the company in excess of 40 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of Nigeria.

24. In the performance of his duties under this part, the minister shall take due care and carry out adequate investigation to ascertain the true ownership of vessels and ship owning companies and shall issue guidelines for determination thereof which shall include-

- (a) the last certificate of registration of the vessel
- (b) the bill of sale;
- (c) the ownership of shares in the company applying to be registered;
- (d) the apportionment of shares in the vessel;
- (e) a certificate under oath sworn to in a court of superior records by the owner, its duly authorized officer or agent establishing that such applicant has complied with the condition of this Act; and

- (f) affidavit or statutory declaration by the owners of the owning company sworn to in a court of superior records stating their shares and the capacity in which the shares are held; and
- (g) such further requirements as the Minister may specify.

25. Any vessel registered, granted a licence or permit in accordance with the provisions of this Act shall be deleted from the registry where it is determined that-

- (a) a subsequent change in the ownership structure of the vessel or the owning company as the case may be has contravened the provisions of this Act under which the vessel was register and the relevant provisions of the Merchant shipping Act; or
- (b) the required certification and documentation has expired or it is no longer eligible for registration under the Shipping Act or under this Act.

26. (1) In the case of ship mortgage or ship financing by financial institutions a vessel would be eligible for registration under this Act where the following requirements are satisfied-

- (a) the vessel shall be under charter for a term not less than three years;
- (b) and the charterer or mortgagees shall meet the citizenship requirement for operating vessels in the domestic coastal trade under Parts ii and IV of this Act;

(2) In addition to the requirements under subsection (1), the charterer or mortgagee shall before registration produce an affidavit sworn to by the financial institutions in a court of superior records certifying that the financial institutions interest is solely and primarily a financial investment without the ability and intent to contract the vessels operation to a non-citizen and that it does not derive a majority of its aggregate revenue from the operation or management of the vessel.

27. The minister shall immediately after the commencement of this Act issue regulations and guidelines which shall permit foreign owned vessels engaged in the domestic trade, a temporary registration in the Nigerian Registry, which registration shall cover the duration of the contract for which the vessels are employed.

28. Any vessel registered under this Nigerian Registry at the date of coming into force of this Act and who is over 15 years old shall continue to be eligible for participation in the coastal trade for a period of five years after the commence of this Act provided the vessel possesses a certificate of registry and a certificate of seaworthiness from a recognized classification Authority.

Part VI *Enforcement*

- 29.** (1) For the purpose of enforcing this Act, the Minister shall maintain in the office of the Registrar of Ships a separate Register for vessels intended for use in the domestic and inland waters trade under this Act to be called Special Register for Vessels.
- (2) Notwithstanding the provisions of any other laws, the Register for vessels involved in the coastal and inland waters trade under subsection(1) of this section shall be for both large and small vessels.
- 30.** (1) The Minister shall immediately after the commencement of this Act create an enforcement unit within the National Maritime Authority with appropriate operational guidelines and shall designate the officers in that unit as enforcement officers.
- (2) The National Maritime Authority shall issue every enforcement officer with an identity card of that designation which specifies the officer's name and office, and on which appears a recent photograph of the enforcement officer.
- (3) In carrying out the duties and functions of an enforcement officer under this Act, an enforcement officer shall, if so requested, produce the identity card referred to in subsection(2) of this section to the person appearing to be in charge of any ship in respect of which the enforcement officer is acting.
- 31.** (1) Where an enforcement officer believes on reasonable grounds that a vessel has contravened the provisions of this Act, the enforcement officer may stop and board the vessel, detain the vessel or its officers or both and, with a warrant, search the vessel and seize anything found in or on the vessel that the enforcement officer, believes on reasonable grounds shall afford evidence with respect to any contravention of this Act.
- (2) Notwithstanding the provisions of any existing Act, an enforcement officer may carry out the powers under subsection (1) of this section without a warrant if by reason of exigencies it would not be practicable to obtain a warrant.
- (3) while carrying out any of the powers under this section, an enforcement officer may -
- (a) require the owner, master or any person who may have possession of the official logbook on the ship, or any other document or paper that may provide evidence of the contravention, to produce, for inspection or for the purposes of obtaining copies thereof or extracts therefrom, the log book or any other document or paper;
- (b) require the master of such ship to give such information relating to the ship, cargo, stores, crew, passengers or voyage as he may consider necessary;

- (c) require the master or any person found on board the ship to give all the reasonable assistance in the power of the master or any other person, as the case may be, to enable the enforcement officer to carry out the enforcement officer's duties and functions under this Act; and
- (d) where necessary enlist the assistance of the Nigerian Customs Service, the Nigerian Navy, the Nigerian Police and any other law enforcement as he may deem necessary.

32. (1) Where an enforcement officer believes on reasonable grounds that an offence under this Act has been committed by or in respect of a vessel, the enforcement officer may without a court order by reasons of exigent circumstance make a detention order in respect of the ship.

(2) A detention order made under subsection (1) shall as soon as it is practicable be registered in court.

33. Notwithstanding the provisions of any other laws, no port clearance shall be granted to a vessel engaged in domestic coastal shipping unless the owner, charterer, master or agent satisfies the proper customs or such other authority authorized to issue port clearance that the vessel is licensed to engage in domestic shipping or has the prescribed waiver.

34. Any person engaged in the business of employing vessels for the domestic coastal trade shall specify and publish all the requirements to be satisfied with respect to the employment of vessels.

Part VII *Offences*

35. (1) A vessel commits an offence if the vessel contravenes;

- (a) sections 3-6 and is liable on conviction to a fine of not less than N10,000,000.00 and or forfeiture of the vessel involved in the offence or such higher sum as the court may deem fit.
- (b) Section 21 and is liable on conviction to a fine of not less than N15, 000,000.00 and or forfeiture of the vessel or such higher sum as the Court may deem fit and;
- (c) Section 22 and is liable on conviction to a fine of not less than N5, 000,000.00

36. Any person who without reasonable excuse, fails to comply with a requirement made, or direction given, by an enforcement officer under this act commits offence and shall on conviction if it is an individual, be liable to a fine not less than N100, 000.00 and shall on

conviction if the offence is committed by a body corporate, be liable to fine of not less than N5,000,000.00.

- 37.** (1) A person shall not, in purported compliance with a requirement under this Act or for any other reason provide to the relevant governmental Authorities or an enforcement officer-
- (a) Information that is, to the person's knowledge false or misleading particular; or
 - (b) any document containing information that is, to the person's knowledge false or misleading in a material particular.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and on conviction, if it an individual be liable to a fine not less than N500,000.00 and if it is a body corporate to a fine not less than N15,000,000:00 and or forfeiture of the vessel involved with the offence.
- 38.** When an offence is committed by a vessel under sections 3,4,5,6 and 21 on more than one day or is continued by the vessel for more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued.
- 39.** (1) Where an offence is committed under this Act or regulations made under it by a vessel, a ship owning company or a body of persons.
- (a) in the case of a vessel, the shipping company responsible for the vessel or the captain of the vessel shall be deemed to have committed or the offence.
 - (b) in the case of a ship owning company or a body corporate other than a partnership, every director or an officer of the company or body shall also be deemed to have committed the offence;
 - (c) in the case of a partnership every partner or officer of that body shall also be deemed to have committed that offence.
- (2) Any activity engaged in on behalf of a body corporate or natural person by a director, officer or agent of the body, or an officer or agent of the person, within the scope of his or her actual or apparent authority is to be taken, for the purposes of a prosecution for an offence under this Act, to have been engaged in also by the body or person.
- (3) An officer may be prosecuted and convicted of an offence under subsection (1) whether or not the body corporate has been prosecuted for or convicted of the offence.
- (4) In this section an officer in relation to an offence committed by a body corporate, means
- (a) a director of the body corporate or other person however described, responsible for the direction, management and control of the body corporate; or

- (b) any other person who is concerned in, or takes part in the management of the body corporate and whose responsibilities include duties with respect to the matters giving rise to the offence.
 - (5) A reference in this section to director of a body corporate is to be read as including a reference to a member of a body corporate incorporated under the laws of the Federal Republic of Nigeria.
 - (6) A reference in this section to engage in an activity is to be read as including a reference to failing or refusing to engage in the activity.
- 40.** Any person who contravenes any provision of this Act or any regulations made there under commits an offence and shall on conviction, where no specific penalty is prescribed thereof, be liable to a fine not less than N500,000.00.
- 41.** Jurisdiction over the matters and offence referred to in this Act lie with the Federal High Court.

Part VIII
Cabotage Vessel Financing Fund

- 42.** (1) There is established a fund to be known as the Cabotage Vessel Financing Fund (herein this Act referred to as "the Fund")
- (2) The purposes of the Fund shall be to promote the development of indigenous ship acquisition capacity by providing financial assistance to Nigerian operators in the domestic coastal shipping.
- 43.** There shall be paid into the Fund
- (a) a surcharge of 2 per centum of the contract sum performed by any vessel engaged in the coastal trade;
 - (b) a sum as shall from time to time be determined and approved by the National Assembly;
 - (c) monies generated under this Act including the tariffs, fines and fees for licences and waivers;
 - (d) such further sums accruable to the fund by way of interests paid on and repayment of the principal sums of any loan granted from the Fund.

44. The fund shall be collected by the National Maritime Authority and deposited in commercial banks and administered under guideline that shall be proposed by the Minister and approved by the National Assembly.
45. The beneficiaries of the fund shall be Nigerian citizens and shipping companies wholly owned by Nigerians.

Part IX
Miscellaneous

46. (1) The Minister shall, in accordance with this Act and as practicable after the commencement of this Act make regulations for the purposes this Act, and, in particular, may make regulations prescribing the criteria to be applied by the Minister for the making of the determinations referred to in sections 9 - 16
- (2) The Minister may from time to time make regulations for all or any of the following purposes:
 - (a) prescribing the manner or content of applications notice, or any other documentation or informations as may be required under this Act;
 - (b) prescribing the fees payable or the methods for calculating fees and recovering costs in respect of applications for permits, licences, loans and guarantees or other matters under this Act;
 - (c) prescribing the amount, methods for calculating the amount, and circumstances and manner in which holders of licences and permits shall be able to pay for participation in the domestic coastal trade under this Act;
 - (d) requiring the holders of permits and licences granted for any activity under this Act to keep records for any purpose under this Act and prescribing the nature of records, information, and returns, and the form, manner, and times in or at which they shall be kept or furnished.
 - (e) requiring any person engaged in the employment of vessels for the domestic coastal trade to publish their pre-tender qualifications with respect to the desired vessels within a prescribed period; and
 - (f) providing for any other such matters as are contemplated by, or necessary for giving full effect to this Act and for its due administration.
47. Licences, waivers, approvals or permits referred to in this Act shall be carried on board the

vessel at all times.

- 48.** The Minister may in times of economic crisis or national emergency, by order compel vessels registered under this Act, to provide essential services to sustain basic needs of people to fulfil existing multi-lateral agreements.
- 49-** (1) The Minister may be instrument delegate this powers, duty or function under this Act to any person to be exercised or performed by such person, as the case may be, and, if so exercised or performed, shall be deemed to have been exercised by the Minister.
- (2) Any delegation by the Minister under this section may be revoked by instrument.
- 50.** (1) Where any sum of money is mentioned in this Act, it shall be the value of such sum of money at the date of coming into force of this Act.
- (2) The value of such money shall be determined by the Central Bank of Nigeria from time to time and may be made public as and when required by the court.
- 51.** The provisions under this Act shall be enforced from the first anniversary of the day on which this Act comes into force, that is to say, 1(one) year after the commencement date of this Act.
- 52.** In the case of any vessel that, immediately prior to the coming into force of this Act, is operating pursuant to a valid coastal trade license under the Merchant Shipping Act or Sea Fisheries Act, the provisions of this Act shall apply to that vessel in respect of any activity authorized to be performed by the license would otherwise have expired had this Act not come into force.
- 53.** (1) Any provisions of any existing laws with respect to the registration of vessels, ownership, size and type of vessel, participation in Nigerian domestic coastal and inland waters trade in whatever forms that is inconsistent with the provisions of this act is repealed in so far as it affects matters under this Act and in particular as set out in the schedule to this act.
- 54.** All of the provisions of the Merchant Shipping Act and other relevant legislation and regulations that are in force immediately before the commencement of this Act shall, so far as they are consistent with this Act continue to be in force.
- 55.** Except as expressly provided in this Act, nothing in this Act shall affect the rights of any party to any proceedings commenced in any court on or before the commencement of this Act.

Schedule

Repeals and Amendment

Short title of the Act**Repeal or Amendment**

Merchant Shipping Act. Cap. 224
Laws of the Federation of Nigeria, 1990

Section 5 is repealed

Merchant Shipping (Manning) Regulations.
Cap.224
Laws of the Federation of Nigeria 1990.

Regulations 1(2) is repealed

Merchant Shipping (Licensed Ships)
Regulations Cap. 224, Laws of the Federation
of Nigeria 1990.

Regulation 1 is repealed

The Finance (Control and Management) Act,
Cap. 114
Laws of the Federation of Nigeria 1990.

In First Schedule, Part II, insert after paragraph 8,
paragraph 9-
"9.- Cabotage Vessel Financing Fund: The Fund
established by section 45 of the Coastal and Inland
Shipping (Cabotage) Act 2003"

Date passed by Senate
6th day of March 2003

Date passed by House of Representatives

12th day of March 2003

I certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. 4 Laws of the Federation of Nigeria 1990, that this is a true copy of the Act passed by both Houses of the National Assembly.

Ibrahim Salim. CON
Clerk to the National Assembly
23rd day of April 2003

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap.4, Laws of the Federation of Nigeria 1990.

Ibrahim Salim. CON

Clerk to the National Assembly
23rd day of April 2003

I Assent

Chief Olusegun Obasanjo. GCFR
President of the Federal Republic of Nigeria
30th day of April 2003