

NATIONAL EMERGENCY MANAGEMENT AGENCY (ESTABLISHMENT, ETC.) ACT

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NATIONAL EMERGENCY MANAGEMENT AGENCY (ESTABLISHMENT, ETC.) ACT

An Act to establish a National Emergency Management Agency and a State Emergency Management Committee for each State in the Federation; and to make provision for other matters connected therewith.

[1999 No. 12.]

[23rd
1999]

March,
[Commencement.]

PART I

Establishment, etc., of the National Emergency Management Agency and the Governing Council

1. Establishment of the National Emergency Management Agency, etc.
 - (1) There is hereby established a body to be known as the National Emergency Management Agency (in this Act referred to as "the Agency").
 - (2) The Agency—
 - (a) shall be a body corporate with perpetual succession; and
 - (b) may sue and be sued in its corporate name.
2. Establishment and membership of the Governing Council of the Agency
 - (1) There is hereby established for the management of the Agency a governing council (in this Act referred to as "the Council").
 - (2) The Council shall consist of—
 - (a) the Vice-President who shall be the chairman;
 - (b) the Secretary to the Government of the Federation;
 - (c) one representative each of the following Federal Ministries who shall not be below the rank of a Director, that is—
 - (i) Aviation;

- (ii) Foreign Affairs;
- (iii) Health;
- (iv) Internal Affairs;
- (v) Transport;
- (vi) Water Resources;
- (vii) Works and Housing;
- (d) one representative each of—
 - (i) the armed forces;
 - (ii) the Nigerian Police Force;
 - (iii) the Nigerian Red Cross Society;
 - (iv) such voluntary organisations as may be determined from time to time; and
- (e) the Director-General of the Agency.
- (3) The members of the Council, other than ex-officio members, shall be appointed by the President; and shall be persons of proven integrity and ability.
- (4) The supplementary provisions set out in the Schedule to this Act shall have effect with respect to the proceedings of the Council and the other matters contained therein.

[Schedule.]

3. Tenure of office

Subject to the provisions of section 4 of this Act, a member of the Council, other than ex-officio members, shall hold office—

- (a) for a term of four years in the first instance and may be re-appointed for a further term of four years and no more; and

(b) on such terms and conditions as may be specified in his letter of appointment.

4. Cessation of membership

(1) Notwithstanding the provisions of section 3 of this Act a person shall cease to hold office as a member of the Council if—

(a) he becomes bankrupt, suspends payment or compounds with his creditors; or

(c) he is convicted of a felony or any offence involving dishonesty or fraud; or

(d) he becomes of unsound mind, or incapable of carrying out his duties; or

(e) he is guilty of a serious misconduct in relation to his duties; or

(f) in the case of a person possessed of professional qualifications, he is disqualified or suspended, other than at his own request, from practising his profession in any part of the world by an order of a competent authority made in respect of that member; or

(g) he resigns his appointment by a letter addressed to the President.

(2) If a member of the Council ceases to hold office, for any reason whatsoever, before the expiration of the term for which he is appointed, another person representing the same interest as that member shall be appointed to the Council for the unexpired term.

(3) A member of the Council may be removed by the President if he is satisfied that it is not in the interest of the Agency or the interest of the public that the member continues in office.

5. Allowances of members

There shall be paid to every member of the Council such allowances and expenses as the Federal Government may, from time to time, direct.

PART II

Functions and powers of the Agency, etc.

6. Functions of the Agency

(1) The Agency shall—

- (a) formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disasters at national level;
- (b) co-ordinate and promote research activities relating to disaster management at the national level;
- (c) monitor the state of preparedness of all organisations or agencies which may contribute to disaster management in Nigeria;
- (d) collate data from relevant agencies so as to enhance forecasting, planning and field operation of disaster management;
- (e) educate and inform the public on disaster prevention and control measures;
- (f) co-ordinate and facilitate the provision of necessary resources for search and rescue and other types of disaster curtailment activities in response to distress call;
- (g) co-ordinate the activities of all voluntary organisations engaged in emergency relief operations in any part of the Federation;
- (h) receive financial and technical aid from international organisations and non-governmental agencies for the purpose of disaster management in Nigeria;
- (i) collect emergency relief supply from local and foreign sources and from international and non-governmental agencies;
- (j) distribute emergency relief materials to victims of natural or other disasters and assist in the rehabilitation of the victims where necessary;

- (k) liaise with State Emergency Management Committees established under section 8 of this Act to assess and monitor, where necessary, the distribution of relief materials to disaster victims;
 - (l) process relief assistance to such countries as may be determined from time to time;
 - (m) liaise with the United Nations Disaster Reduction Organisation or such other international bodies for the reduction of natural and other disaster;
 - (n) prepare the annual budget for disaster management in Nigeria; and
 - (o) perform such other functions which in the opinion of the Agency are required for the purpose of achieving its objectives under this Act.
- (2) For the purpose of paragraphs (e), (f), (j), (k) and (m) of subsection (1) of this section—

“Natural or other disasters” include any disaster arising from any crisis, epidemic, drought, flood, earthquake, storm, train, roads, aircraft, oil spillage or other accidents and mass deportation or repatriation of Nigerians from any other country.

7. Powers of the Council

The Council shall have power to—

- (a) manage and superintend the affairs of the Agency;
- (b) subject to the provisions of this Act, make, alter and revoke rules and regulations for carrying on the functions of the Agency;
- (c) fix the terms and conditions of service, including remuneration of the employees of the Agency after consultation with the Federal Civil Service Commission; and
- (d) do such other things which in the opinion of the Agency are necessary to ensure the efficient performance of the functions of the Agency.

PART III

Establishment of State Emergency Management Committees, etc.

8. Establishment of State Committees

(1) There is hereby established for each State of the Federation, a State Emergency Management Committee (in this Act referred to as "the State Committee").

(2) The State Committee shall consist of—

(a) the Deputy Governor of the state who shall be the chairman;

(b) the Secretary to the State Government;

(c) one representative each from—

(i) the State Ministry of Women and Social Welfare;

(ii) the State Ministry of Health;

(iii) the State Ministry of Works;

(iv) the State Fire Service;

(v) the Federal Airport Authority of Nigeria;

(vi) the State Environmental Protection Agency;

(vii) the Agency;

(viii) the Commander of the Disaster Reaction Units;

(ix) the Nigerian Police Force;

(x) the Federal Road Safety Commission;

(xi) the Nigeria Security and Civil Defence Corps;

(xii) the Nigerian Red Cross Society;

(xiii) the National Maritime Authority in coastal States.

(3) The members of the State Committee shall—

- (a) be persons of proven integrity;
 - (b) other than ex-officio members, hold office on such term as may be specified by the Governor of the State;
 - (c) be appointed by the Governor of the State; and
 - (d) be paid such allowances as the Governor of the State may, from time to time, determine.
- (4) The State Committee may make rules regulating its own proceedings.
- (5) The provisions of section 4 of this Act shall apply mutatis mutandis to the State Committee.

9. Functions of State Committee

The State Committee shall—

- (a) notify the Agency of any natural or other disasters occurring in the State;
- (b) respond to any disaster within the State and may seek assistance from the Agency if it deems fit in each circumstance;
- (c) carry out disaster management activities in the State as may, from time to time, be recommended by the Agency; and
- (d) be accountable to the Agency for all funds accruing to it for purposes of discharging its functions under this Act.

PART IV

Staff

10. Appointment of Director-General of the Agency

- (1) There shall be for the Agency a Director-General, who shall be appointed by the President.

- (2) The Director-General shall be—
 - (a) the chief executive and accounting officer of the Agency;
 - (b) responsible for the day-to-day administration of the Agency.
- (3) The Director-General shall hold office on such terms and conditions as are specified in his letter of appointment.

11. Appointment of other staff of the Agency

- (1) The Council shall appoint for the Agency such number of employees as may in the opinion of the Council be expedient and necessary for the proper and efficient performance of the functions of the Agency.
- (2) The terms and conditions of service (including remuneration, allowances, benefits and pensions) of the employees of the Agency shall be as determined by the Council after consultation with the Federal Civil Service Commission.

12. Service in the Agency to be pensionable

- (1) Service in the Agency shall be approved service for the purposes of the Pensions Act.
- (2) The officers and other persons employed in the Agency shall be entitled to pensions, gratuities and other retirement benefits as are enjoyed by persons holding equivalent grades in the civil service of the Federation.
- (3) Nothing in subsections (1) and (2) of this section shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.
- (4) For the purposes of the application of the provisions of the Pensions Act, any power exercisable thereunder by the Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Board, and not by any other person or authority.

[Cap. P4.]

PART V

Financial provisions

13. Fund of the Agency

- (1) The Agency shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Agency.
- (2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section—
 - (a) any allocation to the Agency from the Federation Account;
 - (b) 20% of the Ecological Fund for the management of ecologically related disasters;
 - (c) such monies as may, from time to time, be granted or lent to the Agency by the Federal Government or a State Government or a local government council;
 - (d) such money as may, from time to time, be granted or received from—
 - (i) the organised private sector;
 - (ii) international or donor organisations and non-Governmental organisations;
 - (e) all monies raised for the purposes of the Agency by way of gifts, loan, grants-in-aid, testamentary disposition or otherwise;
 - (f) such money as may be received from the National Emergency Trust Fund; and
 - (g) all other assets that may, from time to time, accrue to the Agency.
- (3) The fund shall be managed in accordance with the rules made by the President and without prejudice to the generality of the power to make

rules under this subsection, the rules shall in particular contain provisions—

- (a) specifying the manner in which the assets or the fund of the Agency are to be held, and regulating the making of payments into and out of the fund; and
- (b) requiring the keeping of proper accounts and records for the purpose of the fund in such form as may be specified in the rules.

14. Expenditure of the Agency

The Agency shall apply the proceeds of the fund established pursuant to section 13 of this Act to—

- (a) the cost of administration of the Agency;
- (a) the payment of salaries, fees, remuneration, allowances, pensions and gratuities payable to the Council members and the employees of the Agency;
- (c) the payment for all contracts, including mobilisation, fluctuations, variations, legal fees and cost on contract administration;
- (d) the payment for all purchases; and
- (e) undertaking such other activities as are connected with all or any of the functions of the Agency under this Act.

15. Gifts to the Agency

- (1) The Agency may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.
- (2) The Agency shall not accept any gift if the conditions attached by the person or organisation making the gift are inconsistent with the functions of the Agency under this Act.

16. Award of contracts

(1) The Agency shall have power to award contracts not exceeding the sum of N30 million for the performance of any of its functions under this Act.

(2) The Agency shall not award a contract exceeding the said sum of N30 million without the prior approval of the President.

17. Power to borrow

(1) The Agency may, with the consent of the President, borrow on such terms and conditions as the Agency may determine, such sums of money as the Agency may require in the exercise of its functions under this Act.

(2) The Agency shall not, without the approval of the President, borrow money which exceeds, at any time, the limit set by the President.

(3) Notwithstanding subsection (2) of this section, where the sum to be borrowed is in foreign currency, whether or not it exceeds the limit set by the President, the Council shall not borrow the sum without the prior approval of the President.

18. Annual estimates and expenditure

(1) The Council shall, not later than 30 September in each year, submit to the President an estimate of the expenditure and income of the Agency during the next succeeding year.

(2) The Council shall cause to be kept proper accounts of the Agency in respect of each year and proper records in relation thereto and shall cause the accounts to be audited not later than six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

19. Annual report

The Council shall prepare and submit to the President, not later than 30 June in each year, a report in such form as the President may direct on the activities of the Agency during the immediately preceding year, and

shall include in the report a copy of the audited accounts of the Agency for that year and the auditor's report thereon.

PART VI

Miscellaneous

20. Requisition, etc.

- (1) In the exercise of its functions under this Act, the Agency may demand by requisition from any organisation, any available equipment, facilities or personnel which may assist in a speedy and effective search and rescue operation and any other form of disaster operation during a period of emergency.
- (2) Any organisation which—
 - (a) wilfully obstructs or impedes the Agency or any person acting under the authority of the Agency in the exercise of any powers or duties under this Act; or
 - (b) without reasonable excuse fails to—
 - (i) render assistance or release any available equipment, facility or personnel required for a search and rescue operation or other disaster curtailment activities; or
 - (ii) comply with a directive of the Agency, is guilty of an offence and liable on conviction to a fine not exceeding N50,000 or imprisonment for a term of six months or to both such fine and imprisonment.
- (3) The Agency shall provide compensation for loss or damage arising from the use of any equipment, facility or personnel required under this section of this Act.

21. Offices and premises of the Agency

- (1) For the purposes of providing offices and premises necessary for the performance of its functions under this Act, the Agency may, subject to the Land Use Act—

[Cap. L5.]

- (a) purchase or take on lease any interest in land, or other property; and
 - (b) construct offices and premises and equip and maintain same.
- (2) The Agency may, subject to the Land Use Act, sell or lease out any office or premises held by it, which office or premises is no longer required for the performance of its functions under this Act.

[Cap. L5.]

22. Directives by the President

Subject to the provisions of this Act, the President may give to the Agency directives of a general nature or relating generally to matters of policy with regard to the performance by the Agency of its functions and it shall be the duty of the Agency to comply with the directives.

23. Repeal of Cap. 257 L.F.N. 1990 and saving provision

- (1) The National Emergency Relief Agency Act is hereby repealed and accordingly the Agency established under that Act (in this section referred to as "the dissolved Agency") is consequentially dissolved.
- (2) By virtue of this Act, there shall be vested in the Agency immediately at the commencement of this Act, without further assurance, all assets, funds, resources and other movable and immovable property which immediately before the commencement of this Act were vested in the dissolved Agency.
- (3) As from the date of commencement of this Act—

- (a) all rights, interests, obligations and liabilities of the dissolved Agency existing before the commencement of this Act under any contract or instrument, or in law or in equity, shall by virtue of this Act be assigned to and vested in the Agency established by this Act;
- (b) any contract or instrument as is mentioned in paragraph (a) of this subsection shall be of the same force and effect against or in favour of the Agency established by this Act and shall be enforceable as fully and effectively as if instead of the dissolved Agency, the Agency established by this Act had been named therein or had been a party thereto;
- (c) the Agency established by this Act shall be subject to all the obligations and liabilities to which the dissolved Agency was subject immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Agency as they had against the dissolved Agency immediately before the commencement of this Act.
- (4) Any proceedings or cause of action pending or existing immediately before the commencement of this Act by or against the dissolved Agency in respect of any right, interest, obligation or liability of the dissolved Agency may be commenced or continued, as the case may be, and any determination of any court of law, tribunal or other authority or person may be enforced by or against the Agency to the same extent that the proceedings, cause of action or determination might have been continued, commenced or enforced by or against the dissolved Agency as if this Act had not been made.
- (5) Notwithstanding the provisions of this Act but subject to such directions as may be issued by the Agency established by this Act, a person who immediately before the commencement of this Act held office in the dissolved Agency shall be deemed to have been transferred to the Agency established by this Act on terms and conditions not less favourable than those obtaining immediately before the commencement of this Act, and

service in the dissolved Agency shall be deemed to be service in the Agency established by this Act for purposes of pension.

- (6) The President, if he thinks fit, may, within twelve months after the commencement of this Act, by order published in the Gazette, make additional transitional or savings provisions for the better carrying out of the objectives of this section.

24. Regulations

The Agency may, with the approval of the President, make regulations, generally for the purposes of giving full effect to this Act.

25. Interpretation

In this Act, unless the context otherwise requires—

“Agency” means the National Emergency Management Agency established under section 1 of this Act;

“Chairman” means the chairman of the Council;

“Council” means the governing council established for the Agency under section 2 (1) of this Act;

“Member” means a member of the Council and includes the chairman;

“President” means the President of the Federal Republic of Nigeria;

“Vice-President” means the Vice-President of the Federal Republic of Nigeria.

26. Short title

This Act may be cited as the National Emergency Management Agency (Establishment, etc.) Act.

Schedule

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL, ETC.

[Section 2 (4).]

Proceedings of the Council

1. (1) Subject to this Act and section 27 of the Interpretation Act, the Council may make standing orders regulating its proceedings or those of any of its committees.

[Cap. I23.]

- (2) The quorum of the Council shall be the chairman or the person presiding at the meeting and five other members of the Council, and the quorum of any committee of the Council shall be as determined by the Council.
2. (1) The Council shall meet whenever it is summoned by the chairman and if the chairman is required to do so by notice given to him by not less than eight other members, he shall summon a meeting of the Council to be held within fourteen days from the date on which the notice is given.
- (2) At any meeting of the Council, the chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their number to preside at the meeting.
- (3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him to the Council for such period as it deems fit, but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

Committees

3. (1) The Council may appoint one or more committees to carry out, on behalf of the Council, such functions as the Council may determine.
- (2) A committee appointed under this paragraph shall consist of such number of persons as may be determined by the Council and a person shall hold office on the committee in accordance with the terms of his appointment.

- (3) A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

Miscellaneous

4. (1) The fixing of the seal of the Agency shall be authenticated by the signatures of the chairman, the Director-General or any person generally or specifically authorised by the Council to act for that purpose.
- (2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Agency by the Director-General or any person generally or specifically authorised by the Council to act for that purpose.
- (3) A document purporting to be a document duly executed under the seal of the Agency shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.
5. The validity of any proceedings of the Council or of a committee shall not be adversely affected by—
- (a) a vacancy in the membership of the Council or committee; or
- (b) a defect in the appointment of a member of the Council or committee; or
- (c) reason that a person not entitled to do so took part in the proceedings of the Council or committee.

NATIONAL EMERGENCY MANAGEMENT AGENCY (ESTABLISHMENT, ETC.) ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation