

NIGERIA AGRICULTURAL QUARANTINE SERVICE (ESTABLISHMENT) ACT, 2017

EXPLANATORY MEMORANDUM

This Act establishes the Nigeria Agricultural Quarantine Service for the purposes of preventing the entry, establishment and spread of foreign pests and diseases of plant, animal and aquatic resources and products into the country and to promote sanitary and phytosanitary measures as it relates to import and export of agricultural products with a view to minimising the risk to agriculture, food safety and environment.

NIGERIA AGRICULTURAL QUARANTINE SERVICE (ESTABLISHMENT) ACT, 2017

Arrangement of Sections

Section:

PART I - ESTABLISHMENT OF THE NIGERIA AGRICULTURAL QUARANTINE SERVICE AND THE GOVERNING BOARD

1. Establishment of Nigeria Agricultural Quarantine Service.
2. Establishment of the Governing Board.
3. Cessation of membership.
4. Powers of the Minister in the absence of the Board.
5. Allowances of members.

PART II- OBJECTIVES, STRUCTURE, FUNCTIONS OF THE SERVICE AND POWERS OF THE BOARD

6. Objectives of the Service.
7. Structure of the Service.
8. Functions of the Service.
9. Powers of the Board.

PART III -APPOINTMENT OF THE DIRECTOR-GENERAL AND OTHER STAFF

10. Appointment of the Director-General.
11. Appointment of Secretary and Legal Adviser.

PART IV -FINANCIAL PROVISIONS

12. Fund of the Service.
13. Expenditure.
14. Annual account and estimates.
15. Annual report.
16. Power to accept gift.
17. Power to borrow.
18. Power to enter into contract.
19. Power to acquire land.

PART V – MISCELLANEOUS PROVISIONS

20. Power of authorised officer.
21. Offences.
22. Penalties.

PART VI - LEGAL PROCEEDINGS

23. Indemnity.
24. Execution of deeds.
25. Limitation of suits against the Service.
26. Service of documents.
27. Interpretation.
28. Citation.

SCHEDULES

NIGERIA AGRICULTURAL QUARANTINE SERVICE (ESTABLISHMENT) ACT, 2017

A Bill

For

An Act to establish the Nigeria Agricultural Quarantine Service for the purposes of preventing the entry, establishment and spread of exotic pests and diseases of plants, animals and aquatic resources and their products into Nigeria; and for related matters.

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Commencement.

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

PART I - ESTABLISHMENT OF THE NIGERIA AGRICULTURAL QUARANTINE SERVICE AND THE GOVERNING BOARD

1. There is established the Nigeria Agricultural Quarantine Service (in this Act referred to as "the Service") which:
 - (a) shall be a body corporate with perpetual succession and a common seal; and
 - (b) may sue and be sued in its corporate name.

Establishment of Nigeria Agricultural Quarantine Service.
2. (1) There is established for the Service, a Governing Board (in this Act referred to as "the Board") which shall consist of:
 - (a) a chairman;
 - (b) representative of the Federal Ministry of:
 - (i) Agriculture and Rural Development, and
 - (ii) Trade and Investment;
 - (c) Manufacturers Association of Nigeria;
 - (d) Comptroller-General, Nigeria Customs Service;
 - (e) the Director-General of the Service; and
 - (f) three persons to be appointed by the President on the recommendation of the Minister.

Establishment of the Governing Board.

 - (2) Each member of the Board shall hold office for a term of four years and no more.
 - (3) The supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters contained in the Schedule.

First Schedule.

3. (1) A member ceases to be a member if:

Cessation of
membership.

- (a) he resigns as a member by notice in writing signed by him and addressed to the Minister which takes effect from the date specified in the notice or, if no date is specified, from the date of the receipt by the Minister of the notice;
- (b) he is, without permission of the Board, absent for more than two consecutive meetings or, without such permission, is absent from the country for a period exceeding one year; or
- (c) the Minister, subject to the approval of the President:
 - (i) is satisfied that it is not in the interest of the Service or the public for the person appointed to continue in office, and
 - (ii) notifies the member in writing to that effect.

(2) If the Minister is satisfied that a member of the Board:

- (a) has become bankrupt,
- (b) is incapacitated by physical or mental illness,
- (c) holds any other office of profit under the Service,
- (d) enters into contract with the Service or is engaged or he participates in the sharing of the profits of any contract with the Service,
- (e) is guilty of serious misconduct in relation to his duties,
- (f) has been convicted at any time by any court of law in Nigeria or elsewhere for an offence involving financial dishonesty, or
- (g) is otherwise unable or unfit to perform the functions of a member, the Minister may declare his office as a member of the Board, to be vacant.

(3) Where a member ceases to hold office for any reason before the expiration of his term of office, the President, after consulting the Minister, may appoint another person for the unexpired term.

4. Notwithstanding anything to the contrary in this Act, the Minister shall exercise the powers of the Board where:

Powers of
Minister in the
absence of the
Board.

- (a) the Board has not been constituted;
- (b) the Board has been dissolved; and
- (c) any action taken or decision reached in compliance with the provisions of this section shall be valid for all intent and purpose.

5. A member shall be paid such remuneration and allowances as the Federal Government may direct.

Allowances of
members.

PART II- OBJECTIVES, STRUCTURE, FUNCTIONS OF THE SERVICE AND POWERS OF THE BOARD

6. (1) The objectives of the Service are to:

Objectives of the Service.

- (a) prevent the introduction, establishment and spread of exotic pests and diseases of plants, animals and aquatic resources and their products into the country, to safeguard the nation's agricultural economy;
- (b) ensure the nation's indigenous agricultural pest and diseases are not exported, and promote sanitary and phytosanitary measures for agricultural export in international trade;
- (c) control regional and international movement of plant, animal and aquatic resources in order to prevent the introduction and spread of diseases;
- (d) ensure the protection of the nation's ornamental fish species, ecosystems and meet the standard for the ornamental fish spread;
- (e) boost the nation's agricultural productivity by contributing to wealth creation and employment generation to the critical agricultural sub-sector, to ensure food security and increase gross domestic product; and
- (f) prevent pesticides or mycotoxin contamination of agricultural commodities.

7. (1) There shall be established for the Service:

Structure of the Service.

(a) the Department of:

- (i) Plant Quarantine,
- (ii) Animal Quarantine,
- (iii) Aquatic Resources,
- (iv) Laboratory Management,
- (v) Planning, Research and Development, and
- (vi) Finance and Administration; and

(b) such other departments, divisions or units as the Service, with the approval of the Board, may require for effective and efficient performance of its functions under this Act.

(2) Each Department shall be headed by a Director.

(3) The Service shall establish Zonal Quarantine Offices and Directorates in the performance of its functions.

(4) For the purpose of carrying out or enforcing the provisions of this Act, all officers of the Service involved in the enforcement of the provisions of this Act shall have the same powers, authority and privileges as are given by law to members of Nigeria Customs Service.

(5) The officers of the Service, for the purpose of enforcing the provisions of this Act, shall be ranked accordingly as expressly stated in the Second Schedule to this Act. Second Schedule.

8. (1) The Service shall:

Functions of the Service.

- (a) enforce compliance with laws, guidelines, policies and standards on agricultural quarantine procedure;
- (b) coordinate and liaise with stakeholders within and outside Nigeria to ensure compliance with matters of agricultural quarantine standards, regulations and enforcement;
- (c) enforce compliance with the provisions of international agreements, protocols, conventions and treaties on agricultural quarantine, including forestry, endangered species, plants, plant products, animal, animal products, aquatic resources and its products, biologics, sanitation, marine, wildlife, and such other agricultural quarantine agreements as may come into force;
- (d) enforce compliance with any legislation on disposal of plants, plant products, animal, animal products, aquatic resources and its products, biologics, and regulated articles at the ports of entry and Agricultural Quarantine Stations;
- (e) enforce compliance through monitoring the agricultural quarantine regulations and standards on plants, plant products, animal, animal products, aquatic resources and its products ;
- (f) enforce compliance with regulations on the implementation and exportation of plants, plant products, animals, animal products, aquatic resources and its products, biologics, wildlife, wild life trophies, and wood products;
- (g) ensure that agricultural quarantine projects funded by donor organisations and external support agencies are carried out in compliance with regulations in plant health, animal and public health;
- (h) ensure compliance with agricultural quarantine control measures using the registration, licensing, permits, inspection and certification systems;
- (i) conduct agricultural quarantine audit, pest surveys and disease surveillance, containment and eradication programmes of regulated quarantine pests and establish data bank on regulatory and enforcement mechanisms of agricultural quarantine standards;
- (j) prohibit the use of processes, equipment and materials that are capable of undermining public health, sanitation, and endangering the agricultural economy;
- (k) develop agricultural quarantine networks, compile and synthesise data on agricultural quarantine measures compliance from all sectors;
- (l) enter into agreement with public or private organisations and individuals to develop, utilise, coordinate and share monitoring programmes, research works, data on the effect of various activities as they concern the mandate of the Service;
- (m) collect and make available, through publications and other appropriate means and in co-operation with public and private organisations,

scientific data and other information pertaining to agricultural quarantine measures and standards;

- (n) charge fees for tests, inspection, investigations, diagnosis, treatment, prevention, control and other services performed by the Service;
- (o) develop pest and animal diseases diagnostic and analytic capabilities, establish laboratories and quarantine stations at such places as may be deemed necessary, encourage and promote activities related to the functions of the Service with respect to plant, plant products, wild life, wild life trophies and wool products;
- (p) collaborate with relevant agencies in the conduct of public investigation on epidemic, public health and sanitation occasioned by the spread or outbreak of quarantine-able diseases or pests;
- (q) train and develop the staff of the Service and other relevant agencies (national and international) with the approval of the Minister, establish the programmes for setting standards and regulations for the prevention, reduction and elimination of quarantine-able diseases, pest and epidemics caused by these diseases or brought about by these pests;
- (r) enforce and ensure compliance with laws, regulations and schedules of inspection as well as import permits, sanitary and Phytosanitary certificates for importation of plants, animals and aquatic resources;
- (s) intercept and seize all illegal imports and exports of agricultural commodities and regulated materials;
- (t) ensure that any plant or plant products, animal or animal products, aquatic resources and its products meant for export or export processing, or producing facility that utilises raw or semi-processed agricultural products shall undergo quarantine inspection and certification before packaging and labeling;
- (u) ensure that any plant or plant products, animal or animal products, aquatic resources and its products intended for export must be declared to the Service at least 24 hours before the time of departure;
- (v) ensure that any international movement of wood packaging materials including dunnages, crates and pallets shall be subjected to quarantine inspection and certification;
- (w) ensure that any international movement of used vehicles, machinery and equipment must be subjected to Phytosanitary measures to prevent introduction of quarantine pest;
- (x) ensure that all imports of live animals must be subject to quarantine inspection and certification at designated quarantine stations, before release into the national herd;
- (y) ensure that all plant pests and disease outbreaks, shall be reported to the Service for investigation, treatment, control, prevention and the Service shall inform the Minister for necessary action;
- (z) ensure compliance with acceptable levels of pesticides mycotoxin, heavy metals, and other contaminants in agricultural produce meant for export;
- (aa) establish the programmes for setting standards and regulations for the prevention, reduction and elimination of quarantine-able diseases,

pests and epidemics caused by these diseases or brought about by these pests;

(ab) conduct national or international training and development of its staff in the relevant areas of competence either on its own or with other relevant agencies subject to the approval of the Board; and

(ac) ensure that authorised officer shall board and inspect any aircraft, sea vessel, rail wagon, truck or any carriage container, carrying any agricultural product at any of the entry or exit point, such as land borders, interstate control post, airport or sea port.

(2) The Service shall collaborate and cooperate, to the full extent permissible under this Act or other relevant legislation, with Ministries, Departments or Agencies including the Ministry, Veterinary Service, Animal Production, Fisheries, Forestry, and the branches and agencies of these Departments or any agency of the Federal or State Government and international organisations or institutions with functions and responsibilities related to those of the Service.

(3) The Service may cause to be published such studies and reports, which shall include a review of medium and long-term economic prospects and problems, prepared for the use of the Service as it deems fit.

(4) The Board shall comply with any directive given by the Minister under this section.

9. (1) The Board shall have power to:

Powers of the Board.

(a) manage and superintend the affairs of the Service;

(b) subject to the provisions of this Act, make, alter and revoke rules and regulations for carrying out the functions of the Service;

(c) fix the terms and conditions of service including remuneration of employees of the Service in conjunction with the office of the Head of Service of the Federation; and

(d) maintain the efficiency and adequacy of the Service to ensure the efficient performance of its functions.

(2) In the absence of a duly constituted Board for the Service, the Director-General of the Service shall, with the approval of the Minister, carry out such functions of the Board as may be required.

(3) In the exercise of its functions and powers, the Board shall give effect to the policy of the Service in relation to those functions and powers as communicated to it, from time to time in writing, by the Minister.

PART III -APPOINTMENT OF THE DIRECTOR-GENERAL AND OTHER STAFF

10. (1) The President shall appoint for the Service the Director-General on the recommendation of the Minister.

Appointment of the Director-General.

(2) The Director-General shall be a person with cognate and professional experience in agricultural quarantine activities.

(3) The Director-General shall be the Chief Executive and Accounting Officer of the Service and is responsible for the execution of the policies and the day-to-day administration of the Service.

(4) The Director-General shall:

(a) hold office for a term of five years which may be renewed for another term of five years and no more; and

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

(5) If, for any reason, the Director-General is unable to perform his functions or carry out his duties or there exists a vacancy in the office of the Director-General the Board may designate an employee of the Service who is next in rank to act as the Director-General during the period of his inability or vacancy until a Director-General is appointed in accordance with the provisions of this Act and the employee shall, while so acting, have all the powers and perform all the functions of the Director-General.

11. (1) The Board shall appoint for the Service a Secretary and Legal Adviser who shall be a legal practitioner and shall have been so qualified for a period of at least 10 years.

Appointment of
Secretary and
Legal Adviser.

(2) The Secretary and Legal Adviser shall:

(a) be Secretary to the Board;

(b) be responsible for keeping the books and proper records of proceedings and correspondences of the Board and the upkeep of the records of the Service;

(c) administer and discharge all legal obligations of the Service;

(d) administer and discharge all insurance requirements of the Service;

(e) retain external legal services on behalf of the Board as he may deem necessary or expedient; and

(f) perform such other functions as the Board or the Director-General may assign to him.

(3) The Board may deploy or appoint other employees upon such terms and conditions as may be determined by the Board.

PART IV -FINANCIAL PROVISIONS

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

Fund of the
Service.

(2) There shall be paid and credited into the Fund:

(a) such sum as may be appropriated to it by the National Assembly;

(b) 2% of the Agriculture Development Fund;

(c) such sum as may be approved by the President from the National Resource Development Fund;

(d) loans and grants-in-aid from national, bilateral and multilateral agencies;

- (e) all sums accruing to the Service by way of rents, fees grants, subsidies, subscriptions, interest, royalties and other internally generated revenues from services rendered by the Service;
- (f) all sums accruing to the Service by way of gifts, endowments, bequeaths or other voluntary contributions by persons and organisations but the Service shall not be obliged to accept a gift, endowment, bequeath, contribution or donation for a particular purpose unless it approves the terms and conditions attached to the gift;
- (g) any sum or property which may in any manner become payable to or vest in the Service in respect of the performance of its functions;
- (h) any sum derived from the sale of any property held by or on behalf of the Service;
- (i) any other sum and property lawfully received by the Service for the purposes of the Service; and
- (j) all accumulations of income derived from any such property or money.

13. The Service shall apply the funds at its disposal to:

Expenditure.

- (a) the cost of establishing and maintaining the Head Office of the Service located at the Federal Capital Territory, Abuja and its offices and stations in other places in Nigeria;
- (b) the cost of compliance, monitoring and enforcement activities, including provision of uniform materials or paraphernalia, and payment of rents for offices;
- (c) pay allowances and other benefits of members of the Board and of its committees;
- (d) pay the salaries and entitlements of the Director-General and other members of staff of the Service;
- (e) pay the pension, overhead and other administrative costs incurred by the Service;
- (f) training and capacity building of staff of the Service;
- (g) develop and maintain any property vested in or owned by the Service including vehicles, facilities, laboratories, equipment and infrastructure;
- (h) pay for services and contracts entered into by the Service; and
- (i) undertake any other activity in connection with all or any of the functions of the Service.

14. (1) The Service shall every year cause to be prepared and shall adopt annual estimates of income and expenditure of the Service for the ensuing year and, if so directed by the Minister, for any other period and shall submit these estimates not later than such date as the Minister directs.
- (2) A copy of all annual estimates and supplementary estimates shall, upon their adoption by the Board, be sent to the Minister for approval.
- (3) Money shall not be expended by the Service other than in accordance with the estimates of expenditure approved by the Minister.

Annual account
and estimates.