

The Nigerian Ports Economic Regulatory Agency Act, 2026: A New Framework for Port Economics

FORTRESS SOLICITORS

Introduction

On 13 August 2026, President Bola Ahmed Tinubu signed the Nigerian Ports Economic Regulatory Agency Act, 2026 (the “Act”) into law, repealing the Nigerian Shippers’ Council Act, Cap. N133, Laws of the Federation of Nigeria, 2004, and formally transitioning the Nigerian Shippers’ Council into the Nigerian Ports Economic Regulatory Agency (“NPERA” or the “Agency”). The assent follows the Bill’s passage by both chambers of the National Assembly on 28 April 2026, and brings to a close a legislative process that stretches back to 2023.¹

The Act is the most consequential reform of Nigeria’s port sector in close to two decades, since the concessioning of terminal operations in 2006. It replaces a shipper-protection body of limited statutory authority with a dedicated, statutorily empowered economic regulator vested with wide-ranging powers over tariffs, licensing, competition, and enforcement across the regulated sector. For terminal operators, shipping lines, freight forwarders, logistics providers, and cargo owners, the Act introduces a materially different compliance environment, one that will require early and deliberate attention.

A Long-Awaited Institutional Reform

The origins of NPERA trace back to 1978, when the Nigerian Shippers’ Council was established under Decree No. 13 to give Nigerian importers and exporters a collective voice against excessive freight and shipping charges.

Its mandate was protective rather than regulatory. That position changed only after the 2006 port concession programme transferred terminal operations to private operators and left a regulatory vacuum around tariffs, rates, and service charges.

In February 2014, following sustained advocacy for a dedicated economic regulator, President Goodluck Jonathan approved the appointment of the Nigerian Shippers’ Council as Nigeria’s interim Port Economic Regulator. That executive designation was tested in litigation brought by terminal operators and shipping companies contesting the Council’s authority to control charges, including in proceedings before the Federal High Court and Court of Appeal. While the courts upheld important aspects of the Council’s regulatory interventions, the appellate proceedings also exposed the limits of relying on executive designation in the absence of a clear statutory mandate.²

The Act now resolves that uncertainty. It converts what had been an interim, executively conferred role into a substantive statutory mandate, placing the economic regulation of Nigeria’s ports on a footing that cannot readily be challenged as exceeding an original legislative purpose.

Objectives, Establishment, and Functions

The Act applies to the “regulated sector”; ports, terminals, off-docks, jetties, and offshore platforms used for the reception, handling, and



¹ Taiye Adegoke and others ‘Transforming Nigeria’s Ports Economy – An Analysis of the Nigerian Ports Economic Regulatory Agency Act 2026’ (G ELIAS, Mondaq, 10 September 2026), citing ‘Tinubu Assents to Ports Economic Regulatory Bill’, The Nation (13 August 2026) <<https://www.mondaq.com/nigeria/marine-shipping/1841566/>>.

See also Global Advisory Experts, ‘NPERA Bill 2026 (Nigeria): What the New Port Economic Regulatory Agency Means for Shipowners, Charterers and Port Operators’ (12 May 2026) <<https://globaladvisoryexperts.com/npera-bill-nigeria/>>, on the Bill’s passage by the National Assembly on 28 April 2026.

² Nzube Akunne, ‘Nigeria Ports Economic Regulatory Agency Act, 2026: Nigerian Shippers’ Council’s Long Journey to Economic Regulation of Nigeria’s Ports’ (Olisa Agbakoba Legal, 7 September 2026) <<https://oal.law/nigeria-ports-economic-regulatory-agency-act-2026-nigerian-shippers-councils-long-journey-to-economic-regulation-of-nigerias-ports/>>.



provision of cargo services, and to “regulated services”, a term defined broadly to capture vessel reception, cargo storage and handling, freight forwarding and clearance, stevedoring, haulage, cargo consolidation, off-dock terminal operations, inland dry port services, and logistics services generally.³

Its two statutory objectives are to establish a legal framework for the efficient economic regulation of regulated services, and to protect the interests of shippers, service providers, and other users of those services. This marks a deliberate broadening from the Shippers’ Council Act, under which the Council’s role was confined to providing a forum for shippers’ interests in import and export shipment matters.

Section 3 establishes NPERA as a body corporate with perpetual succession, capable of suing and being sued, holding property, and contracting in its own name. Section 4 sets out its functions, which include administering and enforcing the Act, implementing the regulatory framework for the regulated sector, conducting periodic reviews of economic activity, monitoring compliance with port concession agreements and service arrangements, setting registration terms and fees, and setting and enforcing performance standards. NPERA is additionally empowered to facilitate the implementation of trade treaties and to resolve economic disputes among port users, including by mediation, and is required to collaborate with the Federal Competition and Consumer Protection Commission on competition matters.⁴

Notably, the Act requires NPERA to exercise its functions without contravening instruments administered by other agencies, and to facilitate compliance with those instruments an express attempt to pre-empt jurisdictional conflict with the Nigerian Ports Authority (“NPA”) and the Nigerian Maritime Administration and Safety Agency (“NIMASA”).

Governance and Institutional Autonomy

NPERA is governed by a Board responsible for formulating general policy, comprising a part-time Chairman, a Director-General who serves as Chief Executive and Accounting Officer, a representative of the Ministry of Marine and Blue Economy, and five part-time members drawn from port management, transport and logistics, law, economics, finance, or administration. Board members are required to hold recognised qualifications and relevant experience in these fields.

In a marked departure from the position under the Shippers’ Council Act, staff service with NPERA is treated as approved service under the Pension Reform Act without requiring separate declaration by the Federal Civil Service Commission, and the Agency is exempted from tax on investment income. The Act also grants NPERA the authority to make its own regulations and guidelines, with ministerial approval, covering inquiries, investigations, arbitration, mediation, registration requirements, performance standards, and enforcement; a degree of regulatory autonomy the Shippers’ Council did not previously enjoy.⁵

Tariff Regulation: The Centrepiece of the Reform

The most significant substantive change concerns tariffs. Under the repealed regime, the Shippers’ Council held only persuasive, negotiation-based authority over NPA tariffs and local shipping charges. The Act now empowers NPERA to set binding guidelines on tariffs, rates, and charges, including minimum and maximum levels chargeable by regulated service providers, developed in consultation with providers and users.

NPERA is further required to monitor and periodically review tariffs against prevailing economic conditions, publish approved tariffs, and enforce service-quality standards covering availability, adequacy, accessibility, affordability, and predictability.⁶

³ Nigerian Ports Economic Regulatory Agency Act 2026 (“the Act”), ss.1–2.

⁴ The Act, ss.3–4.

⁵ The Act, ss.5–8, 13–15, 18, 21, 25

⁶ The Act, s.26

From commencement, every regulated service provider must file its tariffs with NPERA, comply with NPERA's guidelines when fixing charges, and publish its rates. Tariffs imposed or published in contravention of NPERA's guidelines constitute a statutory infraction.⁷

Penalties for tariff violations have increased substantially; from ₦50,000 for a first offence under the repealed regulations to a minimum of ₦20 million, or imprisonment of not less than two years, or both, for shipping companies, terminal operators, and inland dry port operators.

Clearing and forwarding agents, shipping agents, cargo consolidators, haulers, jetty operators, warehouse operators, and logistics providers face a minimum fine of ₦2 million or imprisonment of not less than six months, or both, for a first offence, with penalties doubling for subsequent contraventions. NPERA also holds direct enforcement powers to impose fines and fees, and to suspend, revoke, or withdraw the registration, certificate, or permit of a non-compliant provider; powers the Shippers' Council did not previously possess.⁸

Registration, Offences, and Enforcement Powers.

The Act introduces a registration framework under which NPERA may prescribe which services require registration and the conditions for issuance, suspension, and revocation of certificates. A regulated service provider may not operate, and a user may not engage an unregistered provider, without NPERA's approval; failure to register is punishable by a fine of up to ten times the applicable registration fee, or a prohibition on providing or using the relevant service.⁹

General offences under the Act attract, for individuals, a fine of not less than ₦1 million or imprisonment of not less than one year, or both, for a first offence, rising to ₦2 million or three years for a subsequent offence; corporate bodies face fines of not less than ₦5 million and ₦10 million respectively.

Directors, chief executives, and other officers may be charged jointly with the corporate body unless they establish that the offence occurred without their knowledge or connivance and that reasonable diligence was exercised. The Act also permits NPERA to compound offences by accepting a settlement sum, subject to constitutional constraints, with proceeds payable into the Consolidated Revenue Fund.¹⁰

NPERA's authorised officers and appointed inspectors may enter and inspect regulated premises, examine records, and demand production of licences and permits, generally without prior notice, although the Act requires a warrant before entry; a requirement the legislation leaves undefined pending further regulation. Failure to furnish information NPERA properly requests, after a five-day compliance warning, may result in suspension of up to six months and subsequent blacklisting or de-registration. Providing false or misleading information is separately punishable.¹¹

The Act also protects those who cooperate with NPERA from retaliation, and shields good-faith disclosures to the Agency from liability, while imposing confidentiality obligations and penalties for unauthorised use or disclosure of information obtained in the course of official duties.

Complaints, Investigations, and Rights of Appeal

NPERA may investigate matters referred to it by written complaint, or on its own initiative where it has reasonable grounds to believe an infringement has occurred or is imminent. The investigative process incorporates fair hearing safeguards: respondents must be notified, both parties may appear before the Agency, and no adverse finding may be made without affording the parties 21 days to make written submissions. Investigation reports, including findings and supporting evidence, must be published on conclusion, and parties must be notified in writing, with reasons, where an investigation is discontinued.¹²

⁷ The Act, ss.27, 29(1), 30.

⁸ The Act, s.29(2).

⁹ The Act, s.31.

¹⁰ The Act, ss.33–37.

¹¹ The Act, ss.38–41.

¹² The Act, ss.42–44.

Appeals against NPERA’s decisions lie to the Competition and Consumer Protection Tribunal in competition and consumer protection matters, and to the Federal High Court in all other matters. Claimants seeking to sue the Agency must first serve 30 days’ written notice of intention to commence proceedings, with a three-month notice period required before execution or attachment against NPERA’s assets.¹³

The NPA Relationship: Managing Institutional Overlap

The Act is careful to preserve the operational and infrastructure mandate of the NPA, which continues to provide and maintain port facilities, oversee navigational and pilotage services, and manage harbour dues under the Nigerian Ports Authority Act. NIMASA’s safety, security, and cabotage enforcement functions likewise remain unaffected.

A degree of statutory tension nonetheless persists. The NPA Act empowers the NPA to levy harbour and other dues for the facilities and services it provides, while the NPERA Act gives NPERA authority to regulate tariffs, rates, and charges imposed by port service providers generally. The practical distinction that will need to be maintained through subsidiary regulation is that NPERA sets the economic rules governing the port market, while the NPA operates within those rules as landlord and infrastructure provider, rather than exercising independent pricing authority that could circumvent NPERA’s oversight. Clear inter-agency protocols, to be developed through implementing regulations, will be essential to prevent jurisdictional disputes as the two institutions settle into their respective roles.¹⁴

Conclusion

The Nigerian Ports Economic Regulatory Agency Act, 2026 represents the legislative conclusion of a reform effort that began with the 2006 port concessions and gathered decisive momentum from 2014. It replaces an interim, litigation-tested executive arrangement with a comprehensive statutory framework, granting NPERA extensive authority over tariffs, licensing, registration, monitoring, investigation, and enforcement across Nigeria’s regulated port sector.

The Act’s ultimate effectiveness will depend on the regulations and guidelines NPERA is empowered, but yet to issue, and on how consistently they are enforced. Certain provisions, including the undefined warrant requirement for inspections, the apparent inconsistency between the tenure provisions applicable to the Board and the Director-General, and the precise allocation of tariff and licensing authority as between NPERA and the NPA, will require clarification through subsidiary regulation or judicial interpretation. For now, stakeholders across the maritime and logistics sector should treat the Act’s commencement as the starting point for a structured compliance review, rather than a matter to be addressed once implementing regulations are published.¹⁵

Implications for Stakeholders

- Terminal operators, shipping lines, and logistics providers should review existing tariff structures now against NPERA’s forthcoming guidelines, and prepare for a filing and publication regime that did not previously exist in this form.
- Charterparties, concession agreements, and service contracts involving Nigerian ports should be reviewed for regulatory-change and tariff-variation clauses, given the materially higher penalties and the prospect of tariff volatility during NPERA’s transition period.
- Entities providing regulated services should confirm registration requirements under the Act, including where they already hold licences from other government agencies, as separate NPERA registration will be required before operations commence.
- Port users and cargo interests gain a formal complaints and investigation mechanism, with defined procedural safeguards and a right of appeal, offering a more structured avenue for challenging excessive or discriminatory charges than previously existed.
- Concessionaires whose agreements grant autonomous tariff-setting rights should assess how those rights interact with NPERA’s approval authority, and should engage early with both NPERA and the NPA on transitional treatment of existing arrangements.

13The Act, ss.45, 47, 49.

14 Nzube Akunne, ‘Nigeria Ports Economic Regulatory Agency Act, 2026: Nigerian Shippers’ Council’s Long Journey to Economic Regulation of Nigeria’s Ports’ (Olisa Agbakoba Legal, 7 September 2026) <<https://oal.law/nigeria-ports-economic-regulatory-agency-act-2026-nigerian-shippers-councils-long-journey-to-economic-regulation-of-nigerias-ports/>>

15 The Act, s.50.

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