

NIGERIA'S NEW PORT REGULATOR: WHAT THE NPERA ACT RESOLVES AND WHAT IT LEAVES OPEN

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INTRODUCTION

Nigeria's port economic regulation has entered a new statutory phase. The Nigerian Ports Economic Regulatory Agency Act, 2026 (the "NPERA Act"), received presidential assent on 19 June 2026, and was publicly unveiled as a gazetted law in October 2026. It establishes the Nigerian Ports Economic Regulatory Agency ("NPERA" or the "Agency"), a dedicated agency empowered to regulate the economic aspects of port services.

For businesses operating in Nigeria's maritime sector, the significance of the Act lies not simply in the establishment of another agency. It lies in the extent to which the new framework will change the regulation of port charges, service standards, market conduct and access to port-related services. The Act gives the regulator a clearer statutory foundation, but the practical test is whether its powers can be exercised predictably and coherently alongside those of existing public authorities.

This article examines what the Act changes, the questions it leaves unresolved, and what its implementation means for Nigeria's port industry.

FROM SHIPPER PROTECTION TO STATUTORY ECONOMIC REGULATION

The NPERA Act marks the culmination of a long-running effort to place port economic regulation in Nigeria on a dedicated statutory footing. Following the Federal Government's 2006 port concession programme, which transferred terminal operations to private operators while leaving the Nigerian Ports Authority ("NPA") with important statutory responsibilities, the absence of a dedicated economic regulator to oversee port charges, pricing and service delivery became increasingly apparent.

In February 2014, the Federal Government designated the Nigerian Shippers' Council ("NSC"), whose statutory mandate centred on protecting shippers' interests, as interim port economic regulator. The Nigerian Shippers' Council (Port Economic Regulator) Order 2015 and the Nigerian Shippers' Council (Port Economic) Regulations 2015 subsequently affirmed that role and established a framework for monitoring tariffs, rates and charges, requiring tariff filings and addressing regulatory non-compliance. However, the arrangement raised a fundamental institutional question: whether the NSC's existing statutory foundation adequately supported its expanded economic regulatory role. That question was litigated. In *Apapa Bulk Terminal Ltd & 13 Ors v. Nigerian Shippers' Council*, the Court of Appeal dismissed the terminal operators' challenge and upheld the Council's role as port economic regulator, relying in part on the regulatory powers in the Nigerian Ports Authority's own enabling statute.[1] Even so, the Council's port regulatory authority continued to rest on executive designation and subordinate instruments, not on primary legislation.

The NPERA Act addresses this question by establishing a dedicated statutory agency with express functions and enforcement powers for port economic regulation. This is more than a change of

[1] Judgment delivered on 16 January 2018.

institutional name. It places the Agency's mandate within legislation specifically directed at economic regulation and the protection of shippers, service providers and port users.

The significance of the reform, however, extends beyond providing a firmer statutory foundation. It must also be assessed by reference to whether the Act establishes workable boundaries between NPERA and other authorities whose statutory responsibilities affect port operations.

WHAT THE ACT REPEALS, AND WHAT IT LEAVES IN PLACE

The Act[2] expressly repeals the Nigerian Shippers' Council Act ("**NSC Act**").[3] It also provides for savings and transitional arrangements, including the continuation of relevant acts and matters under the former framework, the transfer of NSC employees to the Agency, and the vesting of the Council's assets, rights, liabilities and obligations in the Agency.[4]

The distinction is important. The Act does not expressly repeal the Nigerian Ports Authority Act ("**NPA Act**")[5] or the Nigerian Maritime Administration and Safety Agency Act ("**NIMASA Act**").[6] The statutory transition is therefore not a wholesale replacement of Nigeria's existing maritime regulatory framework. It is the replacement of the NSC's governing statute within a wider legal environment in which other authorities retain their own enabling legislation.

For port businesses, this means that compliance cannot be assessed by looking at the NPERA Act in isolation. Existing licences, concessions, service arrangements and statutory obligations must be considered against the new framework, including any applicable regulations and guidelines issued under it.

The transition provisions also matter commercially. The transfer of assets, liabilities and obligations provides continuity at the institutional level, but it does not, by itself, answer every question about the treatment of existing approvals, tariff arrangements, ongoing regulatory proceedings or contractual obligations. Those matters require careful examination under the relevant provisions and instruments. The point is sharper than it first appears. Much of the NSC's port economic regulatory activity rested not on the NSC Act itself but on the 2014 designation and the 2015 Order and Regulations. To the extent that the savings provision preserves only things done under the repealed NSC Act, it may not, on its terms, carry over tariff approvals, directions and other measures issued under those separate instruments. Businesses relying on an NSC-era approval should therefore confirm the instrument under which it was issued before treating it as preserved.

Businesses should not assume that the change of regulator automatically extinguishes existing obligations. Equally, they should not assume that every pre-existing regulatory arrangement continues unchanged. The legal effect will depend on the particular instrument, the relevant transitional provision and any subsequent direction or regulation lawfully made under the Act.

THE DIFFICULT BOUNDARY: NPERA AND THE EXISTING AUTHORITIES

The most consequential questions concern the relationship between NPERA's economic regulatory mandate and the statutory functions of other public authorities.

The Act provides that NPERA is to issue guidelines on the determination and publication of tariffs, rates and charges for regulated services "to the exclusion of any other body or authority".[7] Its definition of

[2] Section 50
[3] Cap. N133, LFN 2004
[4] Section 51
[5] Act No. 38 of 1999; now Cap. N126, LFN 2004
[6] Act No. 17 of 2007
[7] Section 29(1)

tariffs, rates and charges is broad, extending beyond terminal handling charges to include port and harbour dues, pilotage dues and other payments made for regulated services.[8]

The potential significance for the NPA is clear. The NPA has statutory responsibilities in relation to ports and retains powers under its own legislation concerning port services and charges. NPERA, meanwhile, has an express mandate over the economic regulation of regulated services, including services provided by public bodies. The Act's definition of prescribed services also brings services supplied by bodies such as the NPA, the National Inland Waterways Authority ("**NIWA**") and the Nigerian Railway Corporation ("**NRC**") within its regulatory framework.

These provisions create a question that cannot be dismissed as an administrative detail: where a charge relates to a service supplied by an authority that has its own statutory powers, how are those powers to operate alongside NPERA's exclusive authority to issue tariff guidelines?

The Act offers a partial answer. It requires NPERA to perform its functions without contravening legal instruments implemented by other government agencies and to facilitate compliance with those instruments.[9] That provision points towards coordination and legal consistency. It does not, however, set out a detailed procedure for resolving every potential conflict between regulatory requirements.

Nor should the exclusivity provision be read as impliedly repealing every tariff-related power conferred on another authority by its enabling legislation.[10] Nigerian courts lean against implied repeal and, where two statutes can be reconciled, will construe them so that both operate. The better analysis is that the provisions must be read together, with attention to the precise nature of the function, the charge concerned and the statutory language governing each authority.

The overlap is not confined to the port authorities. The Act routes appeals on competition and consumer protection matters to the Competition and Consumer Protection Tribunal, while appeals against the Agency's other decisions go to the Federal High Court.[11] That allocation recognises that the Federal Competition and Consumer Protection Commission ("**FCCPC**") retains a role in the sector under the Federal Competition and Consumer Protection Act 2018, which asserts primacy over other enactments on competition and consumer protection matters.[12] The Act does not, however, explain how NPERA and the FCCPC are to divide investigative and enforcement responsibility where the same conduct, such as an abusive pricing practice by a terminal operator, engages both mandates.



[8] Section 52
[9] Section 4(2)
[10] Section 29(1)
[11] Section 45
[12] Section 104, Federal Competition and Consumer Protection Act 2018

The commercial consequences are substantial. If a port authority, terminal operator or other service provider is subject to overlapping requirements, uncertainty over the applicable tariff framework may affect pricing decisions, investment planning, contractual negotiations and the ability to recover legitimate operating costs. Conversely, inconsistent or inadequately coordinated regulation may leave port users exposed to unpredictable charges without a clear explanation of how those charges were determined.

The solution is not to assume that one agency must surrender every relevant function to another. It is to establish a clear, legally defensible division between economic oversight and the operational, technical or other statutory functions of existing authorities. NPERA's guidelines and the agencies' implementation arrangements will be central to that task.

STRONGER POWERS MUST PRODUCE PREDICTABLE REGULATION

The Act gives NPERA a broader regulatory toolkit than a body confined to an advisory or shipper-protection role. Its functions extend to tariff oversight, service standards, registration, monitoring, enforcement and the protection of users and providers of regulated services. Regulated service providers must file their tariffs with the Agency, and charges that do not conform to its guidelines are prohibited.[13] These powers can improve accountability, but their value will depend on how they are exercised.

On registration, the Act requires a service provider licensed by a relevant government agency or authority in the regulated sector to register with NPERA before commencing operations.[14] It also applies the relevant registration provisions to existing regulated service providers.[15] For businesses already operating under another authority's licence, the practical issue is how the registration requirement will be administered alongside existing approvals, including the applicable documentation, timelines and transitional arrangements.

Registration with NPERA should not be confused with the automatic replacement of every licence issued by another competent authority. The Act's requirements must be followed, but businesses should examine the relevant service category and implementing rules before concluding that a particular existing approval is sufficient or no longer required.

Enforcement follows the same logic. The Agency may suspend, blacklist or de-register a provider for specified non-compliance, but a party must be given the opportunity to make written submissions within 21 days before an adverse finding is made against it.[16] For businesses under investigation, that window is the critical point at which to put their position on record, because the Agency's findings will frame any subsequent appeal.

The funding provisions also warrant attention. The Act identifies a charge of "1% freight fee of the freight paid on every import into Nigeria".[17] The stated basis is freight paid, not the value of the imported goods. Its practical administration will matter to importers and other parties involved in freight arrangements. Clarity on assessment, collection, accounting and the treatment of different freight arrangements will help reduce disputes and avoid inconsistent application. Importers and carriers will also want to know how the fee interacts with existing freight-based charges, such as the levy on gross freight payable under the NIMASA Act, so that the same freight is not burdened twice without clear statutory justification.

Independence is another important consideration. The Act authorises the Minister to issue directives of a general nature on policy matters concerning the Agency's functions, with which the Agency must

[13] Sections 26 and 27
[14] Section 32
[15] Section 31(5)
[16] Sections 38 to 41 and 43(4)
[17] Section 19(2)(c)

comply.[18] Properly understood, this is an express ministerial policy-direction power; it is not, on its face, an unrestricted authority to dictate the outcome of every individual regulatory decision. The credibility of the framework will depend on maintaining that distinction in practice.

CONCLUSION

The NPERA Act is a significant change to the economic regulation of Nigeria's port sector, but the creation of a dedicated regulator does not, by itself, resolve the institutional overlaps that have complicated the sector. The Act establishes tariff-guideline, tariff-filing and monitoring powers, registration requirements and service-delivery standards. The more difficult question is how these powers will operate alongside the statutory responsibilities of other agencies without creating parallel requirements, conflicting decisions or additional costs for port users.

The immediate test is therefore implementation. The Agency must provide clear and consistent guidance on the application of its tariff framework, registration requirements and performance standards, while coordinating with existing regulators in the exercise of their respective mandates. For port businesses, the practical concern is not simply compliance with the new Act, but understanding how its requirements will affect existing authorisations, contractual arrangements and operating costs as the regulatory framework develops. Operators should now audit their existing approvals and tariff filings against the Act's filing and registration requirements, confirm whether any NSC-era approval on which they rely is preserved by the savings provision, and monitor the guidelines and regulations the Agency issues on tariffs and charges.

Ultimately, the Act should be judged not by the breadth of the powers it confers, but by whether their exercise produces a more predictable and accountable port system. Port users should be able to understand the charges imposed on them; service providers should be able to plan around stable regulatory requirements; and investors should be able to identify the rules governing their activities without navigating avoidable institutional uncertainty. If it clarifies regulatory responsibility, improves transparency in port charges and reduces avoidable uncertainty, it will represent meaningful reform. If overlapping mandates persist in practice, however, the new framework risks adding another layer of regulation without resolving the problems it was introduced to address.

[18] Section 46