



# **NATIONAL HAJJ COMMISSION OF NIGERIA (NAHCON) (ESTABLISHMENT) ACT, 2006**

## EXPLANATORY MEMORANDUM

This Act repeals the Nigerian Pilgrims Commission Act Cap. 321, Laws of the Federation of Nigeria, 1990 and establishes the National Hajj Commission of Nigeria to be charged with the responsibility of licensing, regulating, performing Oversight and undertaking supervisory functions over agencies and other bodies.

## ARRANGEMENT OF SECTIONS

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<b>SCHEDULE</b>			

AN ACT TO REPEAL THE NIGERIAN PILGRIMS COMMISSION ACT CAP.321, LAWS OF THE FEDERATION OF NIGERIA 1990 AND ESTABLISH THE NATIONAL HAJJ COMMISSION OF NIGERIA TO BE CHARGED WITH THE RESPONSIBILITY OF LICENSING REGULATING, PERFORMING OVERSIGHT AND UNDERTAKING SUPERVISORY FUNCTIONS OVER AGENCIES AND OTHER BODIES; AND FOR RELATED MATTERS

(12th Day of October, 2006)

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

- 1.-(1) The Nigerian Pilgrims Commission Act is repealed and the assets and liabilities of the Commission established by the repealed Act are transferred to the Commission established by this Act.
- (2) The repeal of the Nigerian Pilgrims Commission Act shall not affect any rights or liabilities subsisting in any contract or agreement in so far as any such right or liability continued to subsist immediately before the commencement of this Act.

(3) Where, immediately before the coming into operation of this Act, there are any legal proceedings or actions pending before any court of law brought by Commission pursuant to the provisions of the repealed Nigerian Pilgrims Commission Act, such legal proceedings or actions shall continue to be dealt with and completed or otherwise determined in all respects as if this Act had not been enacted.

2.-(1) There is established a body to be known as National Hajj Commission of Nigeria (NAHCON). (In this Act referred to as "the Commission").

(2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its name.

(3) Subject to and for the purpose of this Act, the Commission may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, re-assign, transfer, or otherwise dispose of, or deal with, any movable or immovable property or any interest therein vested in the Commission upon such terms as it deems fit.

3.-(1)The Commission shall consist of-

(a) a chairman, who shall be-

(i) the Chief Executive and Accounting Officer of the Commission,  
(ii) responsible to the Commission for the day to day management of the affairs of the Commission,

(b) three full time members and six part-time members representing each geopolitical zone, two of whom shall be women,

(c) a representative each of the Ministry of-

(i) Aviation,

(ii) Foreign Affairs,

(iii) Internal Affairs (immigration),

- (iv) Finance,
- (v) Health,
- (d) a representative of the -
  - (i) Central Bank of Nigeria;
  - (ii) Jama'atul Nasril Islam; and
  - (iii) Nigerian Supreme Council for Islamic Affairs.
- (2) The President shall, after due consultation, appoint persons of proven integrity as Chairman and members of the Commission, subject to confirmation by the Senate.
- (3) The Chairman and three Members of the Commission shall serve on full-time basis. The remaining six members, at least two of whom shall be women, shall serve on part-time basis. The President, in the instrument of appointment of members of the Commission, shall designate the members (other than ex officio members) that are to serve on full time basis and those that are to serve on parttime basis.
- (4) The Chairman and members of the Commission shall be paid such remuneration and allowances as the President may from time to time determine.
- (5) The supplementary provisions contained in the Schedule to this Act shall be applied to the proceedings of the Commission and its organs.

4.-(1) The Commission shall-

- (a) license, regulate, supervise and perform oversight functions over organizations, associations ( corporate or non -corporate) or similar bodies engaged in-
  - (i) organising and co-ordinating the movement of persons from Nigeria to Saudi Arabia to perform the Hajj or Umra, and

- (ii) providing accommodation, transportation and other services related to the performance of the Hajj and Umra to pilgrims in Saudi Arabia;
- (b) liaise and co-ordinate with the appropriate government authorities or organs of the Federal Republic of Nigeria and the Kingdom of Saudi Arabia on the rules and regulations governing entry into and staying in Saudi Arabia for the purposes of Hajj and Umra including all appropriate immigration, passport and related consular services;
- (c) co-ordinate the provision of health, financial, security, customs, immigration and related services to persons proceeding to, or returning from Saudi Arabia to perform the Hajj or Umra;
- (d) ensure the establishment and management of pilgrims camps and related facilities, equipment and such other necessary materials;
- (e) establish and maintain an adequate information system and libraries of books and other relevant publications as well as cinematograph and other facilities for use by persons interested in or desirous of undertaking a pilgrimage, so however that the library shall be opened to the public upon and subject to any conditions the Commission may deem fit;
- (f) establish and maintain a biometric data bank of all Nigerian intending pilgrims for the Hajj and Umra;
- (g) conduct educative and enlightenment campaigns on Hajj and Umra, in all the States of the Federation, and the Federal Capital Territory;
- (h) appoint such number of medical practitioners and medical staff as it deems fit;
- (i) issue guidelines and rules that will ensure that States Pilgrims Welfare Agencies provide appropriate welfare services and guides for pilgrims;
- (j) do such other things as are conducive or incidental to the discharge of the foregoing functions, provided that this subsection shall not be interpreted to be conferring any additional functions on the Commission; and

- (k) regulate and control in and outside Nigeria all matters concerning the welfare of Nigerian pilgrims and to formulate policies in connection therewith.
  - (2) The Commission shall establish such number of departments not exceeding five for the day to day running and execution of the policies of the Commission in general and, in particular, take charge of the following Departments-
    - (a) Policy, Personnel Management and Finance;
    - (b) Operations, Inspectorate, and Licensing of Pilgrim Agencies; and
    - (c) Planning, Research, Statistics, and Information including Publicity, and Library services.
  - (3) Each Department mentioned in subsection (2) of this section shall be headed by a full-time member of the Commission.
- 5.-(1) The Chairman and members of the Commission shall hold office for a term of four years, renewable for a further and final term of four years.
- (2) The Chairman or any member of the Commission may resign his appointment by notice in writing under his hand, addressed to the President and the resignation shall take effect upon acknowledgment by the President.
  - (3) The Chairman or any member of the Commission may be removed from office by the President, if the president is satisfied that it is not in the interest of the Commission or the public that the member should continue in office.
  - (4) If the Chairman or any member of the Commission dies, resigns or otherwise vacates his office before the expiration of the term for which he was appointed, the President may appoint another fit and proper person to complete the term.
6. The Chairman or any member of the Commission shall cease to hold office if-

- (a) he becomes of unsound mind;
- (b) he becomes bankrupt or makes a compromise with his creditors; (c) he is convicted of a felony or of any offence involving dishonesty; or
- (d) he commits serious misconduct in relation to his duties.

7.-(1) The Commission shall establish, supervise and regulate a system of Hajj Savings Schemes to be operated by the Pilgrims Welfare Board of each State and the Federal Capital Territory (FCT) for interested intending pilgrims.

(2) The Commission shall set up a Board of Trustees for the Savings Schemes comprising of men of high integrity who are not members of the Commission and may, as well, take such other measures as are desirable for the success of the Scheme.

8.-(1) The Commission shall appoint a Secretary who shall-

- (a) keep the records and conduct the correspondence of the Commission;
- (b) serve as the Secretary at all meetings of the Commission;
- (c) perform such other duties as the Commission or the Chairman may from time to time direct.

(2) The Secretary of the Commission shall-

- (a) possess such requisite qualifications as may be determined by the Commission;
- (b) be a person knowledgeable in Islamic Studies; and
- (c) possess proficient knowledge and use of the Arabic language;

(3) Subject to the provisions of this section, the Secretary shall hold office on such terms as the Commission may determine.

9.-(1) The Commission may employ such other staff as it may consider necessary for the efficient performance of its duties under this Act.

(2) The terms and conditions of service (including terms and conditions as to remuneration, allowances, retiring benefits and discipline) of the Secretary and other staff of the Commission may be determined, from time to time, by the Commission.

(3) The Commission shall determine the remuneration and tenure of office of its employees.

(4) The Commission may accept any member of staff by way of transfer, secondment or deployment from any public service of the Federal, State or Local Government approved establishments.

10.-(1) Service in the Commission shall be an approved service for the purpose of the Pensions Reform Act.

(2) Nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pensions and gratuity.

(3) For the purpose of the application of the provisions of the Pensions Act, any power exercisable there under by a Minister or other authority of the Federal Government (not being power to make regulations under section 20 thereto) is hereby vested in and shall be exercised by the Commission and not by any other person or authority.

11.-(1) The Funds of the Commission shall consist of-

(a) all such sums as may be charged by the Commission as fees, commissions or dues for its services;

(b) all revenue accruing to or vested in the Commission by way of grants-in-aid or otherwise howsoever;

(c) any other money saved by the Commission, provided that, the Commission shall not appropriate any monies belonging to the Hajj Saving Scheme, or borrowed pursuant to the provisions of this Act or any other enactment; and



- (d) bequests, gifts and donations.
12. In respect of the revenue of each financial year, the Commission shall, except in the case of the first pilgrimage after commencement of this Act, prepare and submit to the President not later than three months before every pilgrimage, an estimate of its expenditure and income during the next succeeding financial year, provided that the Commission shall submit an advance estimate whenever it is requested to do so by the President.
  13. Subject to the prescribed rules, the Commission shall keep proper accounts and records in relation to its fund in accordance with the Public Accounts Rules and Guidelines issued by the Accountant General of the Federation.
  14. The Commission shall cause its accounts to be audited not later than six months after the end of each financial year to which the accounts relate and the auditors shall be appointed from a list of auditors approved by the Auditor General of the Federation.
  15. The Commission shall open and operate bank accounts, take advances, borrow money or undertake financial transactions only in accordance with existing financial control legislation.
  - 16.-(1) After having satisfied all due process for registration, the Commission may recognise, register and issue license to a Travel Agency for the purposes of all travel arrangement of pilgrims as may specified by the Commission.
  - (2) The Commission may require an applicant for a pilgrim travel agency license to provide such information or documentation as it may deem necessary for the purpose of determining the application.
  - (3) The Commission may issue to the applicant a pilgrim travel agency license upon payment of prescribed fee and subject to such terms and conditions, as it deems fit or may, refuse to issue such license without assigning any reason therefore.

- (4) Every applicant shall lodge a security refundable deposit with the Commission, in addition to any payment as a registration fee, an amount to be fixed from time to time by the Commission as collateral.
- (5) Any pilgrim travel agency that has been licensed to operate shall deposit a Performance Bond from a reputable bank.
- (6) If the application is refused, the amount deposited (but not registration fee) under subsection (4) of this section shall be returned to the applicant.
- (7) The Secretary shall prepare, keep and maintain a register of every agency licensed by the Commission under this Act, and the register shall be kept in such form as the Commission may approve; and, when so prepared, the Secretary shall thereafter amend it from time to time as circumstances may require, and save in respect of the first pilgrimage after the commencement of this Act, not later than six months before the commencement of a pilgrimage and the Secretary shall, as directed by the Commission, publish the names and addresses of all agencies licensed for the purposes of the pilgrimage.

17.-(1) Any pilgrim travel agent who contravenes any term or condition of his license commits an offence and shall-

- (a) in respect of a first offence, be liable to a fine not exceeding five hundred thousand naira; and
  - (b) in respect of the second offence be liable to a fine not exceeding one million naira.
- (2) The Commission shall revoke the license of any pilgrim's travel agent who has been found guilty of any offence subsequent to subsection (1) (b).
  - (3) The Commission may, upon any pilgrim travel agent being charged with an offence under subsection
    - (1) suspend his pilgrim travel agency license pending the disposal of the case.

18.-(1) Every pilgrim travel agency or his agent resident in Nigeria shall be responsible for the due diligent performance of the following obligations in respect of every aircraft chartered or arranged for by him for the conveyance of pilgrims to or from the Holy land.

(2) Where any pilgrim is abandoned by the Travel Agents in the Holy Land or elsewhere for a period longer than forty-eight hours from the hour and date when confirmed seat on such aircraft was to have been available, the Travel Agency shall pay to the Commission or its agent in the Holy Land or elsewhere such sum as the Commission may from time to time determine to be sufficient as subsistence allowances of each such pilgrim until such a pilgrim has been conveyed back to Nigeria.

19.-(1) The Commission may, in respect of a pilgrimage, delegate any of its functions under section 4 of this Act to the Authority charged with the responsibility for the general care and welfare of pilgrims in any of the States of the Federation and the Federal Capital Territory other than the function of licensing, and such other functions as the Commission may from time to time determine.

(2) Where the Commission delegates its functions under subsection (1) of this section, it shall be subject to any conditions which the Commission may reasonably impose, and the agency shall be deemed to have applied for and been granted a license under this Act and the provisions as to registration shall have been complied with.

20.-(1) The Commission shall, not later than three months after Arafat Day, prepare and submit to the President, under whose Office the Commission shall function, a report on the pilgrimage for each year.

(2) The Commission shall at the end of each financial year prepare and submit to the President and National Assembly-

(a) an Annual Report of all the activities of the Commission in the financial year; and

(b) Audit Report on the financial activities of the Commission in the financial year prepared pursuant to the provision of section 14 of this Act.

21. Where the Commission is satisfied that a person has committed any offence or misconduct specified by the Commission in the regulations made pursuant to Section 24 of this Act, the Commission may disqualify that person from undertaking any pilgrimage organized or supervised by the Commission pursuant to this Act and the disqualification shall have effect for such period as the Commission may specify.
22. If a State at any time defaults in the payment to the Commission of any amount due from the State to the Commission under this Act, the Commission shall notify the President of the default, and thereafter the Federal Government may set off the amount in respect of which default is made in or towards the payment of any sum due from the Federal Government to such State, and the Federal Government shall pay any sum so set off to the Commission.
23. The Commission may, pending the licensing of travel agencies or pilgrims agencies under Section 4 (1) of this Act, continue with the existing arrangements for the provision of accommodation and transportation services to pilgrims.
- 24.-(1) The Commission may make regulations generally for the purpose of carrying into effect the provisions of this Act including-
  - (a) creating and assigning functions to the Departments of the Commission;
  - (b) provisions on matters relating to recruitment, deployment, posting, training, secondment, discipline and the general welfare of staff;
  - (c) specifying offences and type of misconduct, whether committed in Nigeria or elsewhere, that would disqualify a person from undertaking any pilgrimage organized or supervised by the Commission;
  - (d) providing for forms for use under this Act and for the particulars to be included in applications to the Commission for licenses (including notification of any change) by agencies and evidence if required to be produced in support;
  - (e) providing for the fees to be paid to the Commission in respect of the issue or renewal of licenses;

- (f) prescribing in respect of every pilgrims travel agency registered under this Act-
  - (i) the suitable standard of performance which the Agency is obliged to maintain in connection with the provision of services to pilgrims,
  - (ii) the form and nature of compensation to which any person is entitled who is affected by the failure of the agency in meeting the prescribed standard of performance,
  - (iii) the procedure by which complaints against an agency may be dealt with effectively, justly and expeditiously, and
  - (iv) provision for any other matter or thing falling to be prescribed by the Commission in respect of agencies.
- (2) Any regulation prescribing compensation under subsection (1) (d) (iii) of this section shall apply without prejudice to any other remedy that may be available in respect of the act or omission which constitutes the failure described in that subsection.
- (3) Regulations may also provide for the exclusion or removal as the case may be from the register of names of agencies which fail to pay license fees, or renewal of license fees.
- (4) Regulations when made shall be published in the Federal Gazette and in such other manner as the Commission may direct.

25. In this Act-

"Agency" means a Pilgrims Welfare Board! Agency of any of the States in the Federation including a Pilgrims Agency licensed under this Act;

"Arafat Day" means the 9th day of the lunar calendar month of Dhul Hajj or such day as may be designated as "Arafat day" by the appropriate authorities of the Kingdom of Saudi Arabia;

"Chairman" or "member" means the persons so appointed by the President pursuant to Section 3 (2) of this Act;

"Commission" means the body established under Section 2 of this Act;

"Corporate" or "corporation" means any association of persons incorporated under the Companies and Allied Matters Act or a body established by an Act of the National Assembly or by Law of a House of Assembly of a State;

"Functions" includes duties and powers;

"Non-corporate" means any group or body of persons that is not incorporated;

"Person" means, without derogating from the definition in the Interpretation Act, any natural person or group of persons corporate or non-corporate;

"President" means the President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria;

"Secretary" means the Secretary of the Commission appointed under Section 8 of this Act.

"Minister" referred to under section 10 (3) means the Federal Minister for the time being in charge of Pensions Matters.

"State" means any State Government, or organ of such a State Government of the Federal Republic of Nigeria.

Any reference to the "singular" includes the "plural" and vice versa.

Any reference to a "male person" includes reference to a "female person" and vice versa.

26. This Act may be cited as the National Hajj Commission of Nigeria (NAHCON) Citation. Act, 2006. SCHEDULE

Section 3 (5)

SUPPLEMENTATRY PROVISIONS RELATING TO THE COMMISSION

## Proceedings of the Commission

- (1) Subject to the provisions of this Act, the Commission may make standing orders regulating the proceedings of the Commission or of any committee thereof.
- (2) The quorum at any meeting of the Commission shall be one thirds of the membership.
- (3) The Chairman shall preside at all meetings at which he is present and in his absence the members present may elect one of them in attendance to chair the meeting.
- (4) Questions for determination shall be decided by the majority of the votes of members present and voting and every member other than a co-opted member shall have a deliberative vote for the purpose and in the event that the votes are equal the Chairman shall have, in addition to his deliberative vote, a casting vote.
- (5) The Commission shall meet not less than twice in any year and subject to the provisions of any standing order of the Commission, it shall meet at other times whenever it is summoned by the Chairman, and if the Chairman is required to do so by notice in writing given to him by no less than five other members, he shall summon a meeting of the Commission to be held within fourteen days from the date on which the notice is given.
- (6) Where the Commission desires to obtain the advice of any person on a particular matter, the Commission may co-opt that person as a member for such period as it thinks fit but a person who is a member by virtue of this paragraph shall not be entitled to vote at any meeting of the Commission and shall not count towards a quorum.
- (7) The first meeting of the Commission shall, notwithstanding the provisions of this paragraph, be summoned by the President who may give such sections as he thinks fit as to the procedure to be followed at the meeting.

## Committees



- (8) The Commission may appoint one or more committees either standing or ad hoc to carry out, on its behalf such functions as the Commission may determine.
- (9) A committee appointed under this paragraph (8) shall consist of the number of persons to be determined by the Commission and any committee so appointed may co-opt any person whose advice is desired as a member but the co-opted member shall not be entitled to vote at any meeting of the committee and shall not count towards a quorum.
- (10) A decision of a committee of the Commission shall be subject to confirmation by the Commission.
- (11) The fixing of the seal of the Commission shall be authenticated by the signature of the Chairman or of some other member authorized generally or specially by the Commission to act for that purpose.
- (12) Any document purporting to be a document duly executed under the seal of the Commission shall be signed by the Chairman and the Secretary and shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
- (13) The validity of any proceeding of the Commission or a committee thereof shall not be adversely affected by any vacancy in the membership of the Commission or committee, or by any defect in the appointment of a member of the Commission or of a person to serve on the committee, or by reason that a person not entitled to do so took part in the proceedings.
- (14) A member of the Commission who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Commission or a committee thereof shall forthwith disclose his interest to the Commission and shall not vote on any question relating to the contract or arrangement.
- (15) A person shall not, by reason only of his membership of the Commission, be treated as holding an office in the public service of the Federation or of a State.



- (16) No member of the commission shall be personally liable for any act or default of the Commission done or omitted to be done in good faith in the course of the operations of the Commission.



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