

The following Bill, which will in due course be presented to Parliament for enactment, is published for general information.

DEFENCE INDUSTRIES CORPORATION OF NIGERIA BILL

EXPLANATORY MEMORANDUM

This Bill seeks to establish ordnance factories to meet the defence requirements of Nigeria, and if approved a factory may be expected to go into production towards the end of this year. In order to regulate the organisation and administration of the factories, this Bill seeks to establish a Defence Industries Corporation under the overall control of the Minister of Defence; and it provides for the composition of such Corporation, and for its functions and powers and the responsibility of the Minister of Defence. Other provisions of the Bill relate to financial administration and auditing of the accounts of the Corporation.

ALHAJI MUHAMMADU RIBADU,
Minister of Defence

(898)

DEFENCE INDUSTRIES CORPORATION OF NIGERIA BILL

ARRANGEMENT OF CLAUSES

Clause

1. Defence Industries Corporation of Nigeria.
2. Corporation to act under directions of Minister.
3. Appointment and powers of general manager.
4. Staff.
5. Operation of ordnance factories.
6. Funds of corporation.
7. Accounts and records to be kept.

8. Interest of member to be disclosed on any contract.
 9. Restricted application of Firearms Act.
 10. Application of Factories Act.
 11. Taking part in any strike an offence.
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- Schedule—Constitution, etc., of the corporation.

A BILL

FOR

AN ACT TO ESTABLISH A CORPORATION TO OPERATE, MAINTAIN AND CONTROL FACTORIES FOR THE MANUFACTURE, STORAGE AND DISPOSAL OF ORDNANCE AND ANCILLARY STORES AND MATERIEL; TO PROVIDE FOR ALTERATION IN ANY SUCH MANUFACTURE, STORAGE AND DISPOSAL AT ANY TIME; AND FOR RELATED MATTERS.

[Section 14 (2)]

Commence-
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows:—

Defence
Industries
Corporation
of Nigeria

1.—(1) On a day to be appointed by order of the Minister in the Gazette (in this Act referred to as "the appointed day") the assets of the Government of the Federation in any land or any building thereon erected or in course of erection as an ordnance factory (as hereafter referred to in this section) and so designated in such order as to sufficiently identify it shall vest in and be operated, maintained and controlled by the corporation hereafter mentioned.

(2) There shall be established with effect from the appointed day, a corporation to be known as the Defence Industries Corporation of Nigeria (in this Act referred to as "the corporation") which shall be a body corporate and be charged with—

(a) the operation, maintenance and control in such place or places in Nigeria as the Minister may require, of factories (in this Act referred to as "ordnance factories") for the manufacture, storage and disposal of ordnance and ancillary stores and materiel intended for or capable of being used by the armed forces and such other forces or persons as the Council of Ministers may authorise, and vested in the corporation under subsection (1) of this section or hereafter erected on land the location of which is approved by the Minister;

(b) the inspection or testing, as the case may be, of ordnance and materiel;

(c) such other duties as may be prescribed under this Act.

(3) The provision of the schedule to this Act shall have effect as regards the membership, proceedings and contractual powers of the corporation.

Corporation
to act
under
directions
of
Minister.

2.—(1) The Minister may for all or any of the purposes of this Act initiate or approve policy; and accordingly the Minister may give to the corporation directions of a general or special nature as to—

(a) the manner in which the corporation is to exercise its powers, or

(b) the payment of allowances to members of the corporation,

and it shall be the duty of the corporation to give effect to any such directions.

(2) No policy initiated by the corporation shall be implemented without prior reference to and approval by the Minister, and the Minister may, if he thinks it necessary, consult with the corporation before approving any policy; but the question whether there was any such consultation or what was decided shall not be inquired into by any court.

Appoint-
ment and
powers of
general
manager.

3.—(1) The Minister may from time to time appoint a fit person to be general manager of the corporation. The general manager shall be the chief executive officer of the corporation, and as and when directed so to do, he shall give to the corporation such information as to the activities of the corporation as the Minister or the corporation may reasonably require. 5

(2) The corporation may delegate to the general manager all or any of the powers mentioned in this section; and subject thereto the general manager may authorise programmes and plans for giving effect to policy approved by the Minister or to any direction or recommendation of the corporation as to any ordnance factory in Nigeria or as to staff training therein. 10

(3) The fact that any such powers have been delegated to the general manager shall not preclude the corporation itself from exercising them in any special case. 15

(4) The powers mentioned in this section are—

(a) the executive control over other servants of the corporation,

(b) the supervision of accounts and records,

(c) the preparation for approval of sectional programmes and plans necessary to carry into effect approved policy or any directions of the corporation, 20

(d) the interpretation of such policy to other servants of the corporation where necessary,

(e) the making of any staff recommendations to the corporation,

(f) the establishment of organisational structures and definition of responsibilities. 25

Staff.

4.—(1) Subject to the provisions of this section, the corporation may appoint such persons as members of its staff as it considers necessary and may approve conditions of service, including provision for the payment of pensions: 30

Provided that no pension scheme shall be put into operation without the prior approval in writing of the Federal Minister charged with responsibility for pensions.

(2) The secretary of the corporation shall be appointed subject to the approval of the Minister, and shall keep the records and conduct correspondence and perform such other duties of a clerical nature as the corporation may from time to time direct or require. 35

(3) The general manager and other members of the staff of the corporation shall, unless exempted by the Minister, take such oaths as to secrecy and other matters as the Minister may from time to time direct. 40

(4) If the Minister deems it expedient that any staff vacancy should be filled by a person holding office in the public service of the federation he shall inform the Federal Minister charged with responsibility for establishments to that effect, and thereafter the public service commission of the federation may fill the vacancy by way of secondment or transfer. 45

(5) Where any member of the public service is seconded to the staff of the corporation, he shall be notified of the terms and conditions thereof, and any such secondment shall be without prejudice to any pension rights, which, but for the secondment, would still accrue or become due, owing and payable to such public servant. Any person 50

seconded to such staff may elect to be transferred to the staff, and any previous service in the public service of the federation shall count as service for the purposes of any pension subsequently payable.

- 5 (7) Where any member of the public service is transferred to the corporation, his former service with the public service of the federation shall be taken into account when computing any requirements of the Pensions Act, and where the Federal Minister of Pensions approves, the said Minister shall do all things necessary and that Act shall be construed and have effect as if the service with the corporation thereafter
- 10 of the person so transferred were service with such public service of the federation.

Cap. 147.

- 5.—(1) The corporation shall operate any ordnance factory under its control on a sound commercial basis and so as to fill the normal defence requirements of the armed forces ; and shall plan its activities
- 15 so far as may be necessary to meet other needs from time to time prescribed by the Council of Ministers.

Operation of ordnance factories.

- (2) If there is any surplus capacity in the operation of an ordnance factory, the general manager shall so advise the Minister through the corporation and the Minister with the approval of the Council of
- 20 Ministers may direct that any such surplus capacity may be adapted where necessary and be used towards meeting the civilian needs of Nigeria.

- (3) Where the corporation undertakes the inspection and testing of ordnance and materiel for use by the armed forces, it shall recommend adoption or rejection as the case may be to the Minister, and the Minister
- 25 shall give any directions necessary in the circumstances.

- (4) The corporation may on behalf of any of the governments of Nigeria, test and inspect any substance, material, machine or other thing whatsoever intended for or capable of being used by the armed forces, whether or not it is thereafter so used, or is rejected.

- 30 (5) For all or any of the purposes of this section, the corporation may, in its discretion, institute a system of technical standards of classes of materials, structures and machines.

6. The Funds of the corporation shall consist of—

- 35 (a) such sum as may be required for the completion of any building erected as an ordnance factory and taken over on the appointed day ;
- (b) moneys from time to time voted by Parliament ;
- (c) moneys received from the process of any sale or hire.

Funds of corporation.

- 7.—(1) The corporation shall keep proper accounts and other records and shall not later than the thirtieth day of September in each
- 40 year prepare estimates of receipts and expenditure of the corporation for the next ensuing financial year and shall submit the estimates for the approval of the Minister.

Accounts and records to be kept.

- (2) If the estimated expenditure approved for a financial year is exceeded without the prior approval in writing of the Minister, members
- 45 of the corporation shall be liable to a surcharge on salary or allowances as the case may be, at the instigation of the Director of Audit.

- (3) Separate accounts shall be kept in relation to moneys received and expended by the corporation in connection with the manufacture, production, sale and letting on hire of any equipment authorised for
- 50 release under this Act.

- (4) The accounts of the corporation shall be audited by auditors to be appointed annually by the corporation with the approval of the

Minister ; and as soon as may be after each audit the corporation shall furnish a copy of the statement of accounts to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the corporation.

Interest of member to be disclosed on any contract.

8.—(1) A member of the corporation who has any interest in any company or concern with which the corporation proposes to make any contract or any interest in such contract, shall disclose to the corporation the fact of such interest and the nature thereof, and such disclosure shall be recorded in the minutes of the corporation.

(2) A member having any such interest shall take no part in any deliberation or decision of the corporation relating to such contract.

Restricted application of Firearms Act. Cap. 69.

9.—(1) Nothing in the Firearms Act shall be construed to preclude the importation by the corporation of any firearm as therein defined or ammunition, or the manufacture, assembly, repair, or disposal of any such firearm or ammunition in an ordnance factory.

(2) Every ordnance factory under the control of the corporation shall, for the purposes of the Firearms Act be deemed to have been recognised as a public armoury without further authority than this Act ; but firearms and ammunition therein may be held by the corporation for such period as it thinks fit, anything in the Firearms Act to the contrary notwithstanding.

Application of Factories Act. Cap. 66.

10. In the application of the Factories Act, it shall not be necessary to register any ordnance factory ; and the powers of entry and inspection shall be exercisable during the hours of daylight and then only at such time or times as may be convenient to the general manager, after taking into consideration the nature of the work, or the part of the ordnance factory to be inspected.

Taking part in any strike an offence.

11. It shall be an offence punishable on conviction by a fine of not less than fifty pounds or more than one hundred pounds or by imprisonment for a term of one month, or by both, for any person employed by the corporation in any capacity, and whether or not a member of a trade union to engage, or take part, in any strike.

Regulations.

12.—(1) The Minister may make regulations generally for the purposes of this Act.

(2) Notwithstanding the provisions of subsection (1) of this section, the corporation may, with the approval of the Minister, make regulations—

(a) for prescribing the terms and conditions of service of the general manager and other servants of the corporation ;

(b) for regulating the procedure in the activities of the corporation other than at meetings ;

(c) for prescribing danger zones within or outside an ordnance factory.

Interpretation.

13. In this Act unless the context otherwise requires—

“armed forces” means the army, navy and air force of Nigeria ;

“building” includes fixtures, and any plant, machinery and office furniture supplied or to be supplied under any contract, and whether or not affixed or intended to be affixed to the land ;

“the corporation” means the Defence Industries Corporation of Nigeria established under this Act ;

“materiel” includes any armament, ammunition and equipment ;

“the Minister” means the Federal Minister charged with responsibility for defence ;

5 "ordnance factory" means any public establishment for the manufacture, storage and disposal of ordnance and ancillary stores and materiel intended for or capable of being used by the armed forces, and includes the manufacture of any other thing that may be approved under this Act.

14.—(1) This Act may be cited as the Defence Industries Corporation of Nigeria Act, 1964 and shall apply throughout the Federation.

Short title,
application
and
commence-
ment.

10 (2) This Act shall, as to sections one and six, come into operation on the appointed day which may, in the discretion of the Minister, be the date of its passing; and subject thereto, the provisions of this Act shall commence on a day to be appointed after the passing of this Act, and whether by the same or any further order of the Minister.

SCHEDULE

Section 1(3)

Constitution, etc., of the Corporation

15 1.—(1) The corporation shall be a body corporate with perpetual succession and a common seal.

(2) Membership of the corporation shall consist of nine fit persons appointed by the Minister of whom—

20 (a) the chairman shall be the permanent secretary of the Ministry of Defence,

(b) the general manager who shall be deputy chairman; and the following other members so appointed—

(i) one on the recommendation of the Accountant-General of the Federation,

25 (ii) one from the Ministry of Commerce and Industry on the recommendation of the Federal Minister responsible therefor,

(iii) one from the army on the recommendation of the army council,

(iv) one from the navy on the recommendation of the navy board,

30 (v) one from the air force on the recommendation of the air council,

(vi) one from the Nigeria police force on the recommendation of the Inspector-General of Police,

(vii) the chief accountant in the Ministry of Defence.

35 (3) If the chairman or the deputy chairman is unable to attend, the Minister shall in writing appoint the chairman for any particular meeting.

40 (4) Subject to the foregoing provisions of this paragraph, where any person appointed by virtue of office or otherwise is absent or unable for any reason to attend meetings he may by writing under his hand addressed to the chairman nominate some other person to attend; and any such nominee shall if approved by the chairman and for the purposes of any meeting of the corporation attended by the nominee, be deemed to be a member of the corporation.

45 (5) A member shall hold office for such period and on such terms as may be specified in the relevant instrument of appointment, but

if directed in writing by the Minister shall vacate office anything to the contrary in the instrument notwithstanding; and any person so required to vacate his office shall cease to be a member of the corporation.

2.—(1) The first meeting of the corporation shall be convened and held at such place as the Minister may nominate, and any subsequent meeting shall be convened by the chairman. 5

(2) At any meeting the general manager shall have a deliberative vote, but if at a meeting matters touching or concerning him are being discussed the general manager shall not vote, and if in the chair he shall vacate it in favour of any member appointed for the purpose. For the avoidance of doubt any such temporary chairman may be appointed at the meeting. 10

(3) The quorum for a meeting shall include the chairman and be three, unless at a meeting matters touching or concerning the general manager are under consideration and he is present, when the quorum shall be four. 15

(4) Subject to the foregoing provisions of this paragraph, in the case of equality of votes the chairman shall also have a casting vote.

(5) If for any reason the chairman fails to convene a meeting, the Minister may himself convene the meeting. 20

3.—(1) The corporation may make standing orders for regulating the proceedings of any meeting of the corporation or of any committee of the corporation; but no committee member shall be co-opted from outside the corporation in matters relating to defence.

(2) Where standing orders provide for committees other than of members of the corporation, or comprising partly members thereof and partly persons co-opted for the purpose, they may advise the corporation on matters referred to it by the corporation; but co-opted members shall not be entitled to vote at any meeting they are invited to attend. 25

4.—(1) The application of the seal of the corporation shall be authenticated by the signature of the chairman or by that of the general manager, as the case may be. 30

(2) Every document purporting to be an instrument issued by the corporation and to be so sealed or to be signed on behalf of the corporation, shall be received in evidence and be deemed to be an instrument without further proof unless the contrary is shown. 35

(3) The corporation may sue and be sued in its corporate name and may enter into contracts, and subject to this Act, may engage staff and such technical and other advisers as it deems necessary from time to time. The corporation may also acquire and hold land and any movable property for the purposes of this Act, but no land shall be alienated in any way or be charged as security without the consent in writing of the Minister. 40

Cap. 167. (4) Where the Minister satisfies the Council of Ministers that any land to which the Public Lands Acquisition Act applies is required for the purposes of the corporation and that it has been found impracticable to acquire such land by private treaty or agreement, the President may by order direct that proceedings be taken to acquire such land for the federal government; and any land so acquired may thereafter be vested in the corporation under the authority of this subsection by means of a certificate under the hand and seal of the chief federal land officer. 45 50