

**MERCHANT SHIPPING (MARINE BOARDS)
REGULATIONS**



ARRANGEMENT OF REGULATIONS

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SCHEDULE

PRESCRIBED FORMS

S. I. 16 of 2010

MERCHANTS SHIPPING ACT

(2007 No. 27)

Merchant Shipping (Marine Boards) Regulations 2010

[9th March, 2010] Commence-
ment

In exercise of the powers conferred upon me by section 435 of the Merchant Shipping Act, 2007 and of all other powers enabling me in that behalf, I, IBRAHIM ISA BIO, Minister of Transportation, hereby make the following Rules:

1. Every investigation shall be conducted on behalf of the Government by the Attorney-General.

Attorney
General to
Conduct
Investigation
for
Government.

2. When any investigation has been ordered, the Minister shall summon the Board by summons as in Form I in the Schedule to these Regulations and he shall, at the same time, cause' notice of the sitting as in Form 2 in the Schedule to these Regulations to be served upon the Attorney-General and upon the owner, master and officers of the ship, and upon any other person who in his opinion ought to be served.

Summoning
of Marine
Board.

[Schedule. Form 1. Form 2.]

3. — (I) When an investigation has been ordered, the Attorney-General may cause a notice (hereinafter referred to as "notice of investigation") to be served upon, the persons already served with notices of the sitting and upon any other person who in his opinion ought to be served with such notice.

Notice of
Investigation.

(2) The notice of investigation shall contain a statement of the questions which on the information then in the possession of the Attorney-General, he intends to raise on the hearing of the investigation and shall be as in Form 3 in the Schedule to these Regulations.

[Schedule. Form 3.]

(3) The Attorney-General may, at any time before the hearing of the . investigation, by a subsequent notice amend, add to or omit any of the questions specified in the notice of investigation.

4. The Attorney-General, the owner, the master, and any officer of the Ship and any other person upon whom a notice of investigation has been served, shall be deemed to be the parties to the proceedings. ,

Parties to
Proceedings.

5. Any other person may, by leave of the President, appear and any person who appears under this regulation shall thereupon become a party to the proceedings.

Parties by .
Permission.

Notice to Produce.

6. A party may give to any other party notice in writing to produce any documents relating to the matters in dispute which may be lawfully produced and which are in the possession or under the control of such other party; and, if the notice is not complied with, secondary evidence of the contents of any such document may be given by or on behalf of the party who gave such notice.

Notice to Admit.

7. A party may give to any other party notice in writing to admit any documents; and, in case of neglect or refusal to admit after such notice, the party so neglecting or refusing shall be liable for all the costs of proving the documents, whatever may be the result, unless the President is of the opinion that the refusal to admit was reasonable; the cost of proving any document shall not be allowed when the notice required by this section has not been given unless the officer by whom the costs are taxed is of the opinion that the omission to give the notice constitutes a saving of expense.

Evidence.

8. Affidavits and statutory declarations may, by permission of the President, be used as evidence at the hearing if sworn to or taken in the manner provided by the law of Nigeria.

Proceedings of Board.

9. At the time and place appointed for holding the investigation, the Board may proceed with the investigation whether the parties, upon whom a notice of investigation has been served, or any of them, are present or not.

Addresses and Evidence for the Parties.

10.—(1) After the question for the opinion of the Board has been stated, the Board shall proceed to hear the parties to the investigation and determine the question so stated _

(2) Each party to the investigation shall be entitled to address the Board and to produce witnesses, or to recall any of the witnesses who have already been examined for further examination, and generally to adduce evidence.

(3) The parties shall be heard and their witnesses examined, cross-examined and re-examined in such order as the President may direct

(4) The Attorney-General may also produce and examine further witnesses, who may be cross-examined by the parties and re-examined by him.

Examination of Witnesses.

11.—(1) The proceedings on the investigation shall commence with the production and examination of witnesses by the Attorney-General.

(2) These witnesses, after being examined by or on behalf of the Attorney-General, may be cross-examined by the parties in such order as the President may direct and may then be re-examined by the Attorney-General.

(3) Questions asked and documents tendered as evidence in the course of the examination of these witnesses shall not be open to objection merely

on the ground that they do, or may raise questions which are not contained in, or which vary from, the statement of the case or questions specified in the notice of investigation or subsequent notices referred to in regulation 3 of these Regulations.

12.—(1) When the examination of the witnesses produced by the Attorney-General has been concluded, the Attorney-General shall state in an open session of the Board the questions in reference to the casualty, and the conduct of the officers, or other persons connected therewith, upon which the opinion of the Board is desired.

Questions for the Board.

(2) In framing the questions for the opinion of the Board, the Attorney General may make such modifications, in addition to or omissions from the questions in the notice of investigation or subsequent notices referred to in regulation 3 of these Regulations as, having regard to the evidence, which has been given, as he may think fit.

13. When the whole of the evidence in relation to the questions for the opinion of the Board has been concluded, any of the parties who desire to do so may address the Board upon the evidence, and the Attorney-General may address the Board in reply upon the whole case.

Address

14. The President may adjourn the investigation from time to time and from place to place; where an adjournment is asked for by a party to the investigation or by the Attorney-General, the President may impose such terms as to payment of costs or otherwise as he may think just as a condition of granting Such adjournment.

Adjournment.

15.—(1) When the certificate of an officer is cancelled or suspended, the decision of the Board to that effect shall always be given in an open session of the Board.

Decision of Board.

(2) In other cases, the President may give the decision in an open session of the Board or by serving a copy thereof on the parties.

(3) The decision of the Board shall be in the form of a report as in Form 5 in the Schedule to these Regulations.

[Schedule. Form 5.]

(4) The report shall be sent to the Minister immediately after the conclusion of the investigation.

16. The President may order that the costs and expenses of the investigation, or any part thereof: shall be paid by the Attorney-General or by any other party as in Form 4 in the Schedule to these Regulations.

Costs.

[Schedule, Form 4.]

Copy or Report.

17. The Minister shall, if application is made to him therefore, give to any party to the proceedings, a copy of the Board's report, on payment of a prescribed fee.

Re-hearing of the Case.

18. Where a High Court remits a case for re-hearing in accordance with section 130 of the Act, the Minister shall within a reasonable time cause such notice to be given to the parties whom he considers to be affected thereby

Service of Notices.

19. Any notice, summons or other document issued under these Regulations may be served by sending the same by registered letter to the address of the person to be served.

Proof of Service.

20. The service of any notice, summons or other document, may be proved by the oath or affidavit of the person by whom it was served.

Assessors Allowances.

21. There shall be paid by the Board to each assessor who is not a member of the public service of the Federation or a State, the sum of twenty-five thousand naira for each day of the hearing or a part thereof.

Publication of Regulations.

22. A copy of these Regulations shall be kept at every Ministry, Mercantile Marine and Harbour Masters' Office and any person desiring to peruse them shall be entitled to do so,

Interpretation.

23. In these Regulations, unless the context otherwise requires

"Act": means the Merchant Shipping Act;

"Attorney-General" means the Attorney-General of the Federation and includes any person authorised by him to exercise his functions under these Regulations;

"Board" means a Marine Board constituted under section 427 of the Act;

"Investigation" means a formal investigation into a shipping casualty or into a charge of incompetency or misconduct;

"Minister" means the Minister charged with the responsibility for transportation,

"prescribed fee" means the fee which may be prescribed by regulations made under section 427 (q) of the Act;

"President" means the president of the Marine Board,

Citation.

24. These Regulations may be cited as the Merchant Shipping (Marine Boards) Regulations 2010,

SCHEDULE

PRESCRIBED FORMS

[Regulations 2, 3 (2), 15 and 16]

FORM I

[Regulation 2]

SUMMONS TO BOARD

In the matter of a formal investigation to be held at
 into the circumstances attending the
 In pursuance of the Merchant Shipping Act and of the Merchant Shipping
 (Marine Boards) Regulations, I hereby summon you to attend as President
 (or Member or Scientific referee) on this investigation aton the
 day orat
 the hour ofin thenoon.
 DATED this day of ,20.....

.....
Minister of Transportation

I Shall attend as summoned.

.....
Signature of Person Summoned

FORM 2

NOTICE OF SITTING OF BOARD

[Regulation 2.]

In the matter of a formal investigation to be held at
 into the circumstances attending the

To; the Master, Managing Owner, or Owner of shares in the
 ship, the appellant (or the Attorney-General).

Take notice that the Board for the above investigation shall meet at

on the day of 20.....
At..... o'clock in the noon to
hear the above matter.

DATE this day of 20

.....
Minister of Transportation

FORM 3

NOTICE OF INVESTIGATION

[*Regulation 2*]

To Master, Mate, Engineer, M.E.A.,
Owner, etc., ofor belonging to the ship of

I hereby give you notice that the Minister has ordered a formal
Investigation into the circumstances attending the
and subjoined hereto is a copy of a report (or statement of the case) upon
which the said investigation has been ordered. You are hereby required
to produce to the Marine Board all documents relevant to this case which
may be in your possession and in particular, the following documents

.....
I further give you notice that on the information at present
available to me, the questions annexed hereto are those upon which it
appears desirable, to seek the opinion of the Marine Board; these
questions are however subject to alteration, addition, omission or
amendment at any time before the hearing of the investigation.

DATED thisday of 20.....

.....
Attorney-General

- I. Report (or statement of case)
- II. Questions.
 - 1. Whether the (*Here insert the proposed questions*).

FORM 4

[Regulation 16.]

ORDER ON A PARTY FOR PAYMENT OF COSTS OF INVESTIGATION

In the matter of a formal investigation held at
on the * days of
before assisted by into the
circumstances attending the

The Board orders —

(1) That of
do pay to the Attorney-General the sum of on
account of the expenses of this investigation; or

(2) That the Attorney-General do pay to
of the sum of on account
of the expenses of this investigation.

GIVEN under my hand this day
of,20:

.....
President

* Here state all the days on which the Marine Board sat,

FORM 5

[Regulation 15 (3).]

REPORT OF BOARD

In the matter of a formal investigation held at
on the *
day of before assisted by into the
circumstances attending the

The Marine Board, having carefully inquired into the circumstances
attending the above-mentioned shipping casualty, finds, for the reasons stated
in the Annex hereto, that the (here state finding of the Board).

GIVEN under my hand thisday of 20

.....
President

I do/do not ; - concur in the above report.

Member.

Member.

Member.

Member.

ANNEX TO THE REPORT

(Here state fully the circumstances of the case. the opinion of the Marine Board touching, the causes of the casualty. and the conduct of any persons implicated therein, and whether the certificate of any officer is either suspended or cancelled. and if so for what reasons).

* Here state all the days on which the Marine Board sat.

If a Member does not concur in the report his reasons for dissenting there from shall be annexed to the report.

MADE at Abuja this 9th day of March, 2010.

IBRAHIM ISA BIO
Minister of Transportation