

# NIGERIAN PORTS AUTHORITY

## **Land Administration Policy for Nigerian Ports Authority**

## DEFINITIONS

1. **Authority** - Nigerian Ports Authority
2. **TOL** – Temporary Occupation Licence, (usually for one year or below)
3. **SOR** – Nigerian Ports Authority Schedule of Rates on landed properties
4. **Mesne Profit** – It is the sum due to the Lessor from the time the Lessee ceases to hold the premises as a tenant to the time such tenant gives up possession
5. **Jetty** – A structure that is built out into water to protect the coastline and used as a place to get on, get off or tie up a boat.
6. **President**- The President of the Federal Republic of Nigeria.

# **Land Administration Policy for Nigerian Ports Authority (The Authority}**

## **1. Background Information**

While recognizing that all land use in Nigeria is governed by Legislation such as the Land Use Act and various environmental Planning Laws of States, the provisions of part V and section 24 (6) of the Nigerian Ports Authority Act (Ports Act) relating to acquisition of lands and buildings for the purpose of discharging its responsibilities vests in the Authority powers to acquire lands for its functions.

Other legislations that affect the use of lands in the Ports include the International Ship and Ports Facility Security (ISPS) code which stipulates guidelines and policy directions on the use of land within the Ports.

This Policy is intended to enhance optimal use of lands for the benefit of the Authority, Stakeholders, and the national economy

A considerable percentage of Nigeria's foreign trade cargo by volume and value is supported by the maritime transport. This highlights the need to sustain the growth and development of our Ports as they continue to contribute significantly to the Gross Domestic Product (GDP). In consideration of this, and the increasing competition from the neighbouring Ports, the need has arisen to review the various procedures for managing Leases, and consolidate them into a comprehensive policy for land administration.

Considering that Land Policy is one of the most important policy frameworks for operating Ports, this Policy is intended to recommend various ways of increasing efficiency in the Ports and encourage vibrant private sector participation in the Ports through optimization of the land use by the stakeholders.

Globally, land is used to optimize throughput and increase revenue of Ports. It is a well-known practice that Ports allot lands for economic activities including establishment of industries to secure captive cargo for the Ports, and in the process, enhance Port sustainability. Further to this, Port lands are used to establish Special Economic Zones (SEZ) to encourage industrial development in and around the Ports. In addition, Ports are expected to give priority to use of their land for Port related activities over activities incidental to the Port. So, optimum use of land has remained a matter of continuing interest to all Ports.

## **2. Applicability**

The Policy is applicable to all the lands vested in and under the control of the Authority. This Policy will be applicable to all variants of Private Public Partnership relationship with the Nigerian Ports Authority.

## **3. Land Use Plan**

Every Port under the control of the Authority shall have a Land Use Plan approved by Management. The Land Use Plan shall cover all lands owned by Nigerian Ports Authority. Any subsequent proposal for revision of the Land Use Plan shall be approved by the Managing Director for the purpose of engendering development of the Port lands.

The Land Use Plan shall be elaborately explained in the Nigerian Ports Authority Port Master plan which shall be subsequently published for information of interested stakeholders.

## **4. Land allotment Policy**

Pursuant to Sections 24-27 of the Nigerian Ports Authority Act which recognizes the application of the Land Use Act for acquisition of lands, the Nigerian Ports Authority shall grant licenses for temporary use, for a period of one (1) year under a Temporary Occupation License (TOL) or a lease for a maximum of five (5) years in accordance with approved land use plan/zoning in the Port Master Plan.

## **5. Land inside Custom bound Area (within the Port)**

### **5.1 Fresh Allotment**

- a) Usually, Land inside the Port shall be given on TOL basis. The licence is granted vide the approval of the Managing Director unless otherwise as may be changed from time to time. It may be granted for a maximum of one year and shall be in line with the Scale of Rates (SoR) approved by the Management. The licence can be renewed by the Managing Director as many times as the Authority may deem fit. Each renewal shall be deemed to be a fresh licence.
  
- b) The Managing Director may allot land inside the Port on short term Lease for up to five (5) years to Port users for setting up port related structures such as conveyors, silos, pipelines, temporary transit sheds, bagging and stitching plants, weigh-bridges and

other permanent structures (tank farms, storage warehouses etc.). Such allotments may be done on port-need basis. Lease for a period of more than five years shall be processed to the Honourable Minister of Transportation for approval by the President.

**5.2** The allotment of land within the operational areas of the Port shall be for activities directly related to Port business.

**5.3 Grant of Leases:** Every Lease shall be for a term certain in accordance with Land Law requirements. The following procedures are recommended for grant of Leases within the Port area (Port).

- a) Every Lease shall expire on the due date as provided in the Lease agreement. If a Lease is to be given for another term, the guidelines for fresh allotment shall apply. Nonetheless, the right of refusal may be accorded the present Lessee on the condition that the lessee is a bonafide lessee without default.
- b) The grant shall be predicated on payment of rent at the prevailing SoR.
- c) Prior to the grant of a Lease, the Authority shall determine whether the land is required for its immediate use. Where the land is not immediately required, a Lease may be granted subject to payment of rent at the prevailing SoR.

#### **5.4 Temporary Occupation License (TOL)**

- a) All licenses shall be granted vide the approval of the Managing Director.
- b) The licence shall be for a maximum period of one year (12 months) and in compliance with the Schedule of Rates (SoR) approved by the Management. A licence is issued at the discretion of the Managing Director on recommendation by the General Manager, Lands & Assets Administration.
- c) Ownership of the property shall remain vested in the Authority while the license shall be limited to occupation and use of the licensed property for the period.

- d) Erection of permanent structures on licensed land shall not be allowed. Violation of this rule shall lead to revocation of the license without compensation to the Licensee.
- e) An expired license shall not be renewed irrespective of the temporary development/investment on the land if the Authority requires the land for its use.

## **6.5. Schedule of Rates (SoR)**

- a) For short term Leases, SoR for land shall be reviewed, approved and published by the Authority at a minimum of every three years.
- b) For long term Leases, the SoR shall be determined as recommended by the Authority's Lands & Assets Administration Division and approved by the Managing Director. Periodic review of SoR shall be guided by the provisions of the Lease Agreements.
- c) SoR shall vary from port to port locations, and in line with the level of development/economic activities in the area
- d) SoR shall be in line with the purpose of land use. The Lands & Assets Administration Division shall recommend varying SoR in line with the land use stipulated in the Land use plan.
- e) The SoR shall be recommended to Management by a Committee of the Chief Port Estate Officers, and the Divisional and Departmental heads at the Headquarters. The Committee shall take the following factors into consideration to determine the value of Port land.
  - i. Average rate of related transactions recorded in last three years in the Port vicinity plus 3-5% increase as may be justifiable.
  - ii. The location of the land with respect to the current level of economic activities.
  - iii. The nature of the land viz paved, undeveloped, readily accessible
  - iv. The size (dimension) of the land and the prevailing market values.

## **6. Land outside Custom bound Area (Port)**

### **6.1 Temporary Occupation Licence (TOL) for the Authority's land outside the Port**

Licence for use of land outside the Port shall be guided by the same conditions applicable for land inside the Port. At every instance, every request for TOL shall be treated as a fresh application, and may be approved by the Managing Director as many times as desirable providing that the Licensee does not breach the conditions of the Licence.

### **6.2 Lease**

#### **6.2.1 Fresh Lease**

- a) Lease of land shall be strictly guided by the Land Use Plan
- b) Short Lease of land up to five years (5) shall be with the approval of the Managing Director.
- c) Lease for periods beyond five (5) years shall be recommended to the Honourable Minister of Transportation for approval by the President.
- d) The Authority shall not entertain any proposal for allotment of land to religious institutions
- e) For Allotment of land for a Joint Venture with any public Authority for improving port connectivity, the land required for such project may be provided at a nominal value
- f) Land may be allotted to Government Agencies or private parties in compliance with the SoR approved by the Management. Such lands allotted to Government Agencies shall be for their exclusive use and not for any joint venture entered with private party/parties. Such allotments shall first be evaluated by the Lands & Asset Administration Division and thereafter, recommendation shall be made to Management for endorsement to the Federal Ministry of Transportation for approval.
- g) The rent for land Leased on annual basis shall not be lower than the prevailing SoR approved by the Management.

#### **6.2.2 Conditions for approving Leases**

- a) The Authority shall first verify if the land is required for its use. The Authority shall not approve Lease for any land required for its direct/immediate use

- b) If the land is not required by the Authority for its immediate use, the Authority shall confirm that the proposed land use is in line with the land use plan, and thereafter, grants approval.
- c) The rent shall not be less than the prevailing SoR.
- d) Grant of long Lease (longer than five years) shall be made on the basis of recommendation by the Lands & Asset Administration Division stating the reasons for such proposal. Such proposals shall be approved by the Managing Director, and subsequently by the Honorable Minister of Transportation and the President.
- e) Claim for Mesne Profit/Arrears of Rent – upon refusal to vacate the Lease premises at the expiration, termination and or forfeiture of the Lease, the lessee holding over shall upon eviction by lawful process, be liable to pay outstanding rent/arrears of rent and Mesne profit in an amount equal to three times the rent in line with the prevailing SoR.
- f) Within five (5) months of termination/determination of a Lease, the lessee shall remove all equipment from the land free of cost to the Authority. Failure to do this will vest the Authority with the structures free of encumbrances.
- g) The Government/Authority shall reserve the right to repossess Leased land before the expiration of the Lease period if the land is required for use by the Authority. In such circumstances, the lessee may be given a choice to relocate activities to another suitable location to be offered by the Authority if available.
- h) Approval for Renewal of Lease shall be preceded by evaluation of the level of development on the land.
- i) The lessee shall accept in writing to fund the cost of evaluation before approval of the Lease.
- j) Approval for Renewal of Lease of five years and more shall not be granted if there is no evidence of reasonable development on the land.

### **6.2.3 General conditions applicable to existing and fresh Leases**

- a) The procedure and documentation for applying for fresh Lease are listed in Annexure to this Policy
- b) The Lessee may be permitted to transfer (assign) the Lease after prior approval by the Management provided that the Assignee/Sub-Lessee shall take over the liability of the Assignor/Sub-Lessor. The transfer shall be for the remaining duration of the Lease and for same purpose in compliance with the land use plan of the Port/area.



- c) The Assignee/Sub-Lessee shall pay the revised Lease rent prevalent at the time subject to reviews from time to time in line with provisions of the original Lease agreement
- d) Subject to approval by the Managing Director, the Lessee may be permitted to sublet/partially sublet the Leased property for the same user for which it was initially allotted. Such subletting shall be allowed providing payment is made at the prevailing SoR by the Lessee for the remainder of the Lease term. Such subletting shall also be for the purpose stipulated in the land use plan.
- e) All proposals for transfer/subletting shall be appraised by the Lands and Asset Administration Division and recommended to the Managing Director for approval.
- f) Request for change of use may only be allowed providing that such change parameters must be consistent with port operations and conform with the land use plan of the Port/Area. The change of use shall attract payment of rates for the new usage as stipulated in the prevailing SoR approved by the Management.
- g) A Lessee applying for assignment of the Lease shall be in possession for at least two years during which period it should have paid the rent.

### **6.3 Way Leave Permit**

The Way-Leave permit to lay pipelines from Jetties to either tank farms or production facilities within and outside the Port area shall be granted on a temporary basis with the approval of the Managing Director. It shall neither be a license nor a Lease. The granting of Way-Leave permission shall not be attached to the allotment of land to any party. The corridor for Way-Leave shall be for common user and if the same pipeline is required by another party, it shall be spared, on chargeable basis by the party to whom Way-Leave permission is granted. The party shall accept the conditions which are stipulated by the Port in addition to payment of Way-Leave charges. The procedure for issuance of permits for Way-leave is listed in the Annexure

For the Way-Leave permit required for public utilities, relevant regulations such as those for Environment and Safety, applicable for such public utilities shall apply.

#### **6.4. Sand Dredging/Winning**

- a) Sand Dredging/Winning shall be limited to the area allowed by the Land Use Plan
- b) The permit for sand dredging/winning shall be issued subject to approval by the Managing Director
- c) Infraction on the terms of the permit shall invoke revocation.
- d) The procedure for issuance of permit is listed in the Annexure

#### **6.5 Payment window and Revocations**

- a) Payment of commencement fee for TOL shall be made within seven (7) days from the date of offer.
- b) Payment of commencement rent for five years' Lease shall be made within fourteen (14) days from the date of offer
- c) Payment of commencement rent for long Lease shall be made within twenty-one (21) days from the date of offer.
- d) Any offer of new Lease for which the commencement rent is not paid within the prescribed period lapses.
- e) Three months to the expiration, the remaining bills shall be issued to the Lessee for payment of outstanding rents.
- f) Delay in payment of accrued rent for expired Leases, which is intended to be renewed shall attract sanctions. The sanction for failure to pay outstanding rent at expiration will result in the Lease not being renewed.
- g) During the period of a Lease, delay in payment of accrued rent shall attract sanctions. The prescribed periods are as follows.
  - Non-payment of accrued rent 30 days after due date shall attract a penalty of 10% of rent in addition to the rent.
  - Non-payment of accrued rent 60 days after due date shall attract a penalty of 30% of rent in addition to the rent.
  - Non-payment of accrued rent 90 days after due date shall prompt a revocation of the Lease.
  - The above sanctions shall be included in the Lease Agreement accordingly.

#### **6.6 Declaration of intention to renew expiring Licence/Lease**

- a) Holder of a TOL shall declare intention in writing to renew his Licence within one month to the expiration of the Lease.

- b) Holder of five years Lease shall declare intention to renew in writing at least six months to the expiration date of the Lease.
- c) Holder of long Lease (beyond five years) shall declare intention to renew in writing at least twelve (12) months to the expiration date of the Lease.

## **6.7 Development & Approvals**

- a) All beneficiaries of Leases shall commence development in line with the user not later than two (2) years of commencement for long term Lease and not later than one (1) year for short term Lease. Otherwise, the Lease shall be revoked.
- b) All developments shall be preceded by approvals to be granted by the Managing Director.
- c) All Leases shall be dedicated to the approved use
- d) Failure to abide by item 'a' above qualifies the Lease for revocation.
- e) Failure to abide by item 'b' above with respect to long Lease shall attract a fine of ten percent (10%) of annual rent in addition to mandatory commencement of application for the requisite development approval
- f) Failure to abide by item 'b' above with respect to a short Lease shall qualify the Lease for revocation and loss of rent paid and any development on the land.
- g) Failure to abide by item 'c' above qualifies the Lease for revocation.
- h) Requirement for development within one year of commencement shall be waived for inaccessible lands until such lands become accessible.
- i) Development of a permanent structure on a land on TOL shall lead to revocation.

## **6.8 Monitoring visits**

- a) The Chief Estate officers at the Ports shall monitor all lands under the Port jurisdiction to identify encroachments and developments.
- b) The Chief Estate Officers shall submit reports of such visits to the Port Manager and the General Manger, Lands & Assets Administration.
- c) Any case of encroachment shall be promptly reported to the Port Manager who shall take immediate steps to stop the encroachment.

- d) The Port Manager shall report such encroachments and actions taken to Management for further necessary action.
- e) The General Manager, Lands & Assets administration shall in line with Management's approval, organize visits to lands and jetties to monitor encroachments and unauthorized developments.

### **6.9 Administrative procedure**

- a) The proposals for transfer of Leases, change of user/purpose and Way Leave permission shall be evaluated and recommended by the Lands and Asset Administration Division to the Managing Director for approval. The approval of the Managing Director shall be granted only after the due consideration and recommendation by the Legal department.
- b) The Authority shall digitize its land management system into Geographic Information System (GIS).
- c) All land related financial transactions shall be made through the authorized procedures and platforms (banks)

### **7.0 Licence to Construct and Operate Jetties**

The Authority shall encourage Businesses that provide logistics support for port operations through the issuance of construction and operating licenses/ approvals for Jetties. The procedure includes

- a) Prospective operators shall apply to NPA for permit to construct Jetty
- b) The application shall be accompanied with relevant documents as listed in the Annexure
- c) The application shall be appraised by the General Manager Lands & Assets Administration and thereafter make recommendations to the Managing Director for approval.
- d) Upon approval, NPA conveys approval to the Operator to commence jetty construction.
- e) The NPA shall appoint a Project Supervisor to monitor and supervise the jetty construction project.
- f) On completion of the jetty construction, NPA Standing Committee on Private Jetties shall inspect the Jetty and make recommendation to the Managing Director for issuance of operating licence.

- g) Upon approval, the NPA shall recommend approval for jetty operating licence to the Presidential Standing Committee on Private Jetties.
- h) On receipt of licence approval from the Presidential Standing Committee on Private Jetties, the NPA shall convey same to the operator.

## **8.0 Procedures for Alteration/Extension of a Jetty**

- a) Proponents shall apply to the Managing Director for approval to alter or extend a jetty. The application shall be submitted in six copies (6) with detailed Architectural and Structural drawings showing the existing structure, the proposed extension/alteration and detailed Structural Calculations.
- b) The Managing Director sends the application to the Executive Director Engineering & Technical Services for appraisal by the General Manager Lands & Assets Administration.
- c) A Survey shall be carried out in certain cases at the expense of the applicant
- d) The application shall be appraised by the General Manager Lands & Assets Administration and thereafter make recommendations to the Managing Director for approval.
- e) Upon approval, the NPA conveys approval to the Operator to commence jetty reconstruction/extension/alteration.
- f) The NPA shall appoint a Project Supervisor to monitor and supervise the project.

## **9.0 Procedures for Renewal of Jetty License**

- 1. License shall be renewable every two years.
- 2. The Operator shall apply to NPA for renewal three (3) months to the expiration of the existing license
- 3. NPA Standing Committee on Private Jetties shall inspect the jetty to confirm compliance to operational guidelines and regulations as one of the prerequisites for renewal
- 4. The Committee shall make recommendations to the Managing Director for approval.
- i) Upon approval, a recommendation shall be sent to the Presidential Standing Committee on Private Jetties

- j) On receipt of licence approval from the Presidential Standing Committee on Private Jetties, the NPA shall convey same to the Operator.

## **10.0 Review**

The Land Administration Policy shall be due for review every three years to allow for adaptation with changing economic and regulatory realities.

## **Annexure**

### **Issuance of Permits for Way Leave**

#### **Procedure**

Application for License for Way leave is made to the Managing Director with the following documents attached

Submission of the following documents shall be condition precedent for granting of wayleave.

- a) Evidence of registration with Corporate Affairs Commission
- b) Evidence of operating licence in the industry
- c) Immediate past three (3) years tax clearance
- d) All relevant operational licenses and permits itemized and submitted
- e) Evidence of proposed development plan showing route plan of pipeline/conveyor system/other related systems

#### **Lease Administration**

Fresh Lease

Land Lease Renewals – long-term Lease and short-term Lease

#### **Procedure**

Application for **Fresh Lease, Land Lease Renewals and Long-term Leases** is made to the Managing Director with documents (1 – 7) and/or (a-c) attached

#### **Documentation**

1. Evidence of registration with Corporate Affairs Commission
2. Evidence of operating license in the industry where applicable
3. Immediate 3 years' tax clearance certificate
4. All relevant operational licenses and permits to be itemize
5. Evidence of proposed development plan
6. Evidence of financial capability

#### **Land Lease Renewals to include**

- a. Evidence of up-to-date settlement of rental obligation
- b. Evidence of physical development on the site

## **Sand Winning**

## **Sand Winning**

### **Procedure**

- Obtain application form from the Estates Department at the Corporate Headquarters Marina, Ports where applicable.
- Submit duly completed application form in the same office where collected, with copies of documents (1- 7) attached.

### **Documentation**

1. Profile of the Dredging company
2. Evidence of registration with Corporate Affairs Commission
3. Evidence of up-to-date tax payment
4. Plan showing the burrow pit
5. Evidence of Payment of appropriate fees
6. Volume of sand to be wined
7. Bathymetric Survey of the channel showing the burrow pit

### **Procedures for Renewal of License**

1. License issued except temporary License may be renewable annually on the payment of License fees
2. The operator shall apply to NPA for renewal three (3) months to the expiration of the existing license.

## **Documents required for processing applications for construction and operation of Jetties.**

1. The application should be accompanied with relevant documents as follows.
  - Every application shall be in prescribed forms in the first schedule of the Port Piers Regulation (Forms 1, J2, 3, 4), addressed to the Authority accompanied with the under listed documents.
  - Six (6) copies of the following:
    - Architectural Drawings
    - Structural Drawing/Details
    - Structural Design Calculation
    - Bollards/dolphins arrangement and load test



- Material Schedule
- Geotechnical investigation
- 
- Location of the pier in relation to the immediate surrounding land and building if any
- Evidence of title to land
- Evidence of payment of prescribed fees
- Certificate of Business incorporation. Only Nigerian registered Limited Liability companies can be granted jetty License.
- With foreign shareholders, shareholding ratio of the company should be 60% to 40% (Nigerian to Foreign).
- Two (2) copies of Admiralty or NPA chart of the port or approaches where the pier is situated.
- Survey Drawings where necessary
- Particulars of intended use of the pier
- Submission of approved Environmental Impact Assessment (EIA) Report from by the Federal Ministry of Environment
- Facilities: Fencing and railings, mooring facilities, landing steps for boats, life-saving appliances and light on piers unless excepted at the discretion of the Authority

### **Procedures for Alteration or Extension of a Jetty**

Application to the Managing Director NPA to alter or extend a jetty shall be accompanied by the following documents:

1. Six (6) copies of detailed Architectural and Structural drawings showing the existing structure, the proposed extension, or alteration
2. Detailed Structural Calculations
3. Survey to be carried out in certain cases at the expense of the applicant
4. Managing Director sends the documents to NPA Standing Committee on Private Jetties for processing
5. NPA Standing Committee on Private Jetties makes recommendation for Managing Director for approval.
6. Management may forward the recommendations to the Presidential Standing Committee on Private Jetties for approval to construct
7. On receipt of approval from the Presidential Standing Committee on Private Jetties, NPA conveys approval to construct to the operator
8. NPA shall appoint a Project Supervisor to oversee the construction
9. On completion, NPA Standing Committee on Private Jetties shall inspect the Jetty and make recommendations to Management for approval to operate on payment of prescribed fees.