

GOVERNMENT OF BAYELSA STATE OF NIGERIA
BOARD OF INTERNAL REVENUE (REPEAL AND RE-ENACTMENT) LAW, 2020

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Establishment of the Bayelsa State Board of Internal Revenue, Composition,
Qualification of members, etc.

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GOVERNMENT OF BAYELSA STATE OF NIGERIA

BOARD OF INTERNAL REVENUE (REPEAL AND RE-ENACTMENT) LAW, 2020

A **Law** to Repeal and Re-enact the Board of Internal Revenue Law, 2006 and for other matters connected therein.

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Commencement

ENACTED by the Bayelsa State House of Assembly and by the Authority of same as follows:

Enactment

PART 1

Establishment of the Bayelsa State Board of Internal Revenue, Composition, Qualification of members etc.

1. (1) There is established a Board to be known as the Bayelsa State Board of Internal Revenue (hereafter in this Law referred to as "the Board") whose operational arm shall be known as the Bayelsa State Internal Revenue Service (hereafter referred to in this Law as "the Service").
(2) The Board –
 - (a) shall be autonomous in the day-to-day running of the technical, professional and administrative affairs of the Service;
 - (b) shall be a body corporate with perpetual succession and common seal;
 - (c) may sue or be sued in its own name; and
 - (d) may acquire, hold and dispose of any property or interest in property, movable or immovable for the purpose of carrying out its functions under this Law.
 - (3) The Board shall have such powers and duties as are conferred on it by this Law or by any other Law.
2. (1) Members of the Board shall be appointed by the Governor and shall comprise:
 - (a) the Chairman of the Service as Chairman of Board who shall be a person experienced in taxation or financial matters and a member of a relevant recognized professional body;
 - (b) four fulltime Executive Directors who shall be members of a relevant professional body and knowledgeable in tax or finance matters;

Establishment of the Bayelsa State Board of Internal Revenue

Composition of the Board

- (c) two Non-Executive Directors from the private sector who must be knowledgeable in tax or finance matters as part time members;
 - (d) three persons one representing each Senatorial District in the State;
 - (e) a Legal Adviser who shall be an officer not below the rank of an Assistant Director to be seconded to the Board from the Ministry of Justice and shall be an ex officio Member;
 - (f) one representative each from the Ministries in charge of:
 - (a) Finance (the Head, Ministry of Finance Incorporated (MOFI),
 - (b) Transport;
 - (c) Trade and Investment;
 - (d) Environment;
 - (e) Lands and Housing; and
 - (f) Budget and Planning,
 who are not below the rank of an Assistant Director and shall serve on part time basis;
 - (g) the Secretary to the Service who shall also be the Secretary and an ex-officio member of the Board.
- (2) The appointment of the Chairman and the four Executive Directors shall be subject to the approval of the State House of Assembly.
3. (1) No person shall qualify to be a member of the Board who –
- (a) is not a citizen of Nigeria;
 - (b) has been adjudged or otherwise declared:
 - (i.) a bankrupt under any Law in force in Nigeria and has not been discharged;
 - (ii.) to be of unsound mind;
 - (c) is under a sentence of death imposed by any court of Law in Nigeria or a sentence of imprisonment for an offence involving dishonesty (by whatever name called) exceeding six months imposed on him by such a court or substituted by competent authority for any other sentence imposed on him by such a court;
 - (d) within a period of less than ten years before his appointment has been convicted and sentenced for an offence involving

*Other Qualifications
of Members of the
Board*

dishonesty or has been found guilty of a contravention of the code of conduct;

- (e) has been found by the report of a Commission or Tribunal of inquiry that while being a public officer he acquired assets unlawfully or defrauded the State or misused or abused his office or willfully acted in a manner prejudicial to the interest of the State or the Federation and such findings have not been set aside on appeal or judicial review; or
- (f) has had his property confiscated as the result of the findings of a commission or tribunal of inquiry and such findings have not been set aside on appeal or judicial review; or
- (g) is otherwise disqualified by any Law for the time being in force in Nigeria

- (2) Without prejudice to subsection (1) of this section, a member of the Board shall cease to be a member if, in the case of a possession of professional qualifications, he is disqualified, otherwise than at his own request, from practicing his profession in Nigeria or in any other country by order of a competent authority made in respect of him personally.

- 4. (1) Any Member appointed under section 2 (a)(b)(c) and (d) of this Law, shall hold office for a period of five years from the date of his appointment and shall be eligible for re-appointment for one further period of five years; thereafter he shall no longer be eligible for re-appointment.

*Tenure of office of
Members*

- (2) Any Member of the Board, not being a public officer, may resign his office by a letter addressed to the Governor, provided the Governor accepts his resignation.

- (3) The Governor may terminate the appointment of a Member of the Board if he is satisfied that it is not in the interest of the Board that the Member concerned should continue in office.

- (4) Where the office of the Chairman or any Member of the Board becomes vacant not exceeding a period of three months, the Commissioner shall notify the Governor of the vacancy and the Governor shall appoint another person in his place in accordance with the provisions of the Law.

- 5. (1) There shall be paid to Members of the Board, not being members in the Public Service of the State, such subsistence, travelling and

*Emoluments of
Members of the
Board*

other allowances as the Commissioner may, with the approval of the Governor, determine.

- (2) Public Servants may, however, be paid such allowances as the Commissioner may with the approval of the Governor, determine in relation to them.

PART II

Powers and Functions of the Board

6. The Board—

Powers of the Board

- (1.) shall have overriding powers with respect to all internally generated revenue matters in all Ministries, Departments and Agencies of the State;
- (2.) shall employ, dismiss and set remuneration of employees of the Service on such terms and conditions as shall be laid down by the Board subject to the provisions of this Law or any other enactment.
- (3.) shall by notice in the Gazette of the State or in writing authorize any person or persons to –
 - (a) perform or exercise on behalf of the Board, any function, duty or power conferred on the Board; and
 - (b) receive any notice or other document to be given or delivered to or in consequence of this Law or any subsidiary legislation made under it.
- (4.) may subject to such conditions as it may determine engage the services of Tax Practitioners or Chartered Accountants as monitoring agents to collect information through tax audit and to monitor compliance with relevant tax Laws except as it relates to income tax assessment to do any act required to be done by it in the execution of its functions under this Law with the aim of achieving the internally generated revenue target of the State Government.
- (5.) Shall pay Tax Practitioners or Chartered Accountants mentioned in subsection (4) of this section out of the cost of the collection of the Board.
- (6.) seek the approval of the Commissioner where the Tax Practitioners or Chartered Accountants so appointed would not be paid out of the cost of collection.

7. (1) The functions of the Board shall be to –

Functions of the Board

- (a) ensure the effectiveness and optimum collection of all taxes and penalties due to the government under the relevant Laws;
 - (b) do all such things as may be considered necessary and expedient for the assessment and collection of all taxes and shall account for all amounts so collected in a manner to be prescribed by the Commissioner;
 - (c) make recommendations, when appropriate, to the Joint Tax Board (JTB) on tax policy, tax reform, tax legislation, tax treaties and exemption as may be required from time to time;
 - (d) generally control the management of the Service on matter of policy, subject to the provisions of the Law setting up the Service; and
 - (e) appoint, promote, transfer and impose discipline on employees of the Service;
 - (f) administer the Personal Income Tax Act, 1995, the Finance Law, 1998, this Law and any tax or levy which shall be under the care and management of the Board; (L.F.N. 2004 cap. p8.)
 - (g) formulate from time to time proposals for the expansion and increase of the internal sources of revenue of the State;
 - (h) identify sources of revenue available in the State;
 - (i) enlighten the public on the subject of taxation;
 - (j) appropriately assess all sources of revenue and taxes in the State;
 - (k) design an effective revenue collection machinery and implement same;
 - (h) enforce all Laws relating to taxation and revenue collection;
 - (i) keep proper accounts and records in relation to all tax or revenue collections made by the Board;
 - (j) monitor and co-ordinate the collection of taxes and revenue by all agencies of Government such as the Ministries, Parastatals and Agencies; and
 - (k) do all such things as may be considered necessary or expedient for the assessment and collection of taxes and revenue.
- (2) Nothing in the foregoing provisions of this section or in any provision of this Law shall be construed as precluding the Board of Internal

Revenue from being the sole Agency responsible for State Revenue collection and Accounting.

- (3) All monies and securities for money collected or received for or on account of taxes and other revenues imposed under the Personal Income Tax Act, 1993, the Finance Law, 1998 and other relevant legislation (including subsidiary legislation) shall be paid into the Consolidated Revenue Fund of the State.
8. (1) The Board may, with the approval of the Governor, by regulations make provision generally for carrying into effect the provisions of this Law. *Power to make Regulations*
- (2) Until such regulations are made, any instrument relating to conditions of service in the Public Service of the State shall be applicable, with such modifications as may be necessary.
9. (1) When the Board considers it necessary with respect to any tax, levy or penalty due, the Board may take and acquire, hold and dispose of any property as security for or in satisfaction of any such tax, levy or penalty or any judgment debt due in respect of the tax or penalty and shall account for any such property and the proceeds of sale thereof in a manner to be prescribed by the Commissioner. *Power to take Property as Security, etc.*
- (2) In the exercise of the powers and duties conferred upon it, the Board shall be subject to authority, direction and control of the Governor, and any direction, order or instruction given by him after consultation with the Chairman of the Board, shall be carried out by the Board; but the Governor shall not give any direction, order or instruction in respect of any particular taxable person which would have the effect of requiring the Board to raise additional assessment upon such person or to increase or decrease any assessment made or to be made or any penalty imposed or to be imposed upon or any relief given to or to deter collection of any tax, penalty or judgment debt due by such person, or which would have the effect of altering the normal course of any proceedings, whether civil or criminal, relating either to the recovery of any tax or penalty or any offence relating to tax.
10. The Board may by notice in writing require any person at the place within the time specified in the notice – *Power to call for Information*
 - (1.) to prepare and deliver any statement specified in the notice;

- (2.) to attend personally before the Board or a member thereof for examination in respect of any matter relating to the income of that person or his employees or his personal circumstances;
- (3.) to produce or cause to be produced for examination any document, book, account or record relating to the income of the person's personal circumstances which the Board considers necessary; and every person so required shall comply with the Board's request.
11. (1) Where the Board is in possession of any information, document or record relating to any person which, in the interest of the public revenue of the State, should be disclosed or transferred to any other tax authority, such information, document or record shall be so disclosed or transferred notwithstanding any provisions as to secrecy contained in any enactment. *Disclosure and procurement of information*
- (2) A member of the Board and any person employed in the offices of the Board shall not disclose any information with respect to the income, tax or personal circumstances of any person which has come into his possession in the course of his duties except:
- (a) as may be expedient in any legal proceedings arising from this Law or the Finance Law, 1998;
 - (b) to a tax authority; or
 - (c) in accordance with the provisions of an arrangement with respect to taxes made in any other State; and
 - (d) such information disclosed to a tax authority shall thereafter be subject to the provisions of subsection (1) of this section and to any secrecy provision in the Finance Law, 1998.
- (3) Subject to subsections (1) and (2) of this section and without prejudice to section 10 of this Law, for the purpose of obtaining information in respect of the income or personal circumstances of any person, the Board may give notice to that person in writing to deliver the information specified therein and within the time limited by the notice; but a person engaged in banking in Nigeria shall not be required to disclose any information concerning customers of the bank other than in respect of interest paid or credited by the bank to those customers.
12. (1) There shall be refunded to tax payers, after proper auditing by the service, such over-payment of tax as is due. *Refund to Tax Payers*

- (2) The Service shall decide on who is eligible for the refund mentioned in subsection (1) of this section subject to such rules and conditions as may be approved by the Board.
- (3) Any tax refund shall be made within 90 days of the decision of the Service made pursuant to subsection (2) of this section, with the option of setting off against future tax payer.
13. (1) The Board shall ordinarily meet for the dispatch of business as the Chairman may from time to time determine but shall meet at least once every three months.
- (2) The Secretary shall summon a meeting of the Board whenever the business requiring the attention of the Board so warrants or upon a written request of three Members.
- (3) At every meeting of the Board, the Chairman shall preside and in his absence, the Members present at the meeting shall elect one of them to preside at the meeting.
- (4) Every question coming before the Board at any meeting shall be decided by a majority of the votes of Members present and voting.
- (5) Any five Members of the Board, of whom one shall be the Chairman or an Executive Director, shall constitute a quorum.
- (6) The Chairman or other person presiding at any meeting of the Board, shall have an original as well as a casting vote.
- (7) The Legal Adviser to the Board may appear for and represent the Board in his professional capacity in any proceedings in which the Board is a party.
- (8) The Board may co-opt any Legal Practitioner or practicing Accountant knowledgeable in tax Laws as an adviser to attend any meeting of the Board. But a person so co-opted shall not have the right to vote on any matter coming before the Board for decision at that meeting.
14. The use of Seal of the Board shall be authenticated by two signatures, namely:
- (1.) the Chairman or one Executive Director of the Service; and
- (2.) the Secretary or one Executive Director of the Service.
15. (1) Any contract or instrument which, if made by instrument or document duly signed or sealed on behalf of the Board by the Chairman and the Secretary or any other person so designated by the Board shall be binding.

Meetings of the Board

The Seal of the Board

Execution of Contracts and Instruments

- (2) Notwithstanding the provisions of Sections 14 and 15 (1) of this Law, the Chairman shall have powers to sign Tax Clearance Certificates and in his absence the Board shall appoint any of the Executive Directors to sign.
16. (1) The Board may issue Tax Clearance Certificate to any person within two weeks of receipt of an application if –
- (a) the Board is of the opinion that:
- (i.) taxes or levies assessed on a person or his income or property for the three (3) years, immediately preceding the current year of the assessment and collectible by the Board as the revenue of the State Government, has been fully paid; or
 - (ii.) no such tax or levy is due on the person or on his income or property;
 - (iii.) the person is not liable to tax for any of those three (3) years;
- (b) the person is able to produce evidence that he paid withholding tax by deduction at source and that the assessment year to which the tax relates falls within the period covered by the tax clearance, and that he has fully paid any balance of the tax after credit has been given for the tax so deducted;
- (c) Provided that payment of income tax for the current year shall not be made a condition for the issuance of the certificate unless the applicant is leaving the State finally.
- (2) The Tax Clearance Certificate may be issued, in paper form or stored in an electronic format on a machine-readable card (herein after referred to as “Smart Tax Card”), which holds tax information peculiar to that applicant and which shall be presented for checking by the holder whenever his tax compliance status is required.
- (3) Where a person who has applied for a Tax Clearance Certificate has discharged his own tax liability but has failed to remit withholding tax or pay as you earn deductions collected by him on behalf of the State Government, no tax clearance may be issued to that person.
- (4) The Board may decline to issue Tax Clearance Certificate but is shall within two weeks of receipt of the application give reason for the denial.
- (5) A Ministry, Department, Agency or official of the State Government, or any Local Government Council official, or any corporate body, statutory authority or person empowered in that regard by this or

*Issuance of Tax
Clearance
Certificate*

any other law shall demand Tax Clearance Certificate for the three years immediately preceding the current year of assessment as pre-condition to transacting any business, including but not limited to the following –

- (a) application for Governor's consent to real property transactions;
 - (b) application for Certificate of Occupancy;
 - (c) application for registration as a contractor;
 - (d) application for award of contracts by government, its agencies and registered companies;
 - (e) application for approval of building plans;
 - (f) application for any government license or permit;
 - (g) any application relating to the establishment or conduct of business;
 - (h) application for State Government loan for housing, business or any other purposes;
 - (i) confirmation of appointment by Government as Chairman or Member of any public board, institution, commission, company or to any other similar position made by the government.
 - (j) Appointment or election into Public Office; and
 - (k) Any other application or process for which Tax Clearance Certificate is required under the provisions of this law, or section 84 of the Personal Income Tax Act.
- (6) Without prejudice to the provisions of the Stamp Duty Act and the Registration of Titles Law, appropriate authority shall demand tax clearance when checking documents of property transaction before accepting such documents for stamping or registration as the case may be.
- (7) The Chairman of the Board is empowered to prescribe by notice in the State Gazette other purposes for which Tax Clearance Certificate may be required.
- (8) A Tax Clearance Certificate must contain the following information relating to each of the three (3) years immediately preceding the current year assessment –
- (a) chargeable income of holder;
 - (b) tax payable;

- (c) tax paid;
- (d) tax outstanding, and
- (e) Tax Payers Identification Number (T.I.N.).

And where no tax is due from the holder or on his income or property, the Tax Clearance Certificate shall contain a statement to that effect.

- (9) The Board shall be the sole authority to issue Tax Clearance Certificate under this Law, but it may exercise its powers by employing the services of person or company, provided that –
 - (a) the information which the Board requires that taxpayer to provide (the data) shall not be excessive in relation to the purposes for which the Tax Clearance Certificate is to be issued;
 - (b) the Board shall request from the taxpayer all details that are necessary to keep the data accurate and up to date;
 - (c) the Board shall make available to the taxpayer at a price determined at its discretion a Smart Tax Card with taxpayer identity number; names, signature and photograph embossed on the front side;
 - (d) the Smart Tax Card shall hold data in respect of a particular taxpayer in a secure format that can be accessed for authentication;
 - (e) the data shall be made accessible to third parties only in a form which permits identification of the taxpayer and access to information on him, for no longer than is necessary, for the purposes of verifying tax clearance status;
 - (f) the Board shall provide terminals free of charge to all persons or authorities empowered by this or any other legislation to demand Tax Clearance Certificates from any person;
 - (g) every person having any official duty or being employed in the administration or this Law shall regard and deal with all documents, returns, assessments or other information as secret and confidential;
 - (h) the Board shall not be liable for damages or any loss incurred by the Smart Tax Card holder as a result of inaccuracies in data supplied by him.
- (10) The Smart Tax Card holder shall upon application, be advised as to –

- (a) confidentiality of the information supplied;
 - (b) fees or charges for reissuing a lost Smart Tax Card;
 - (c) complaint handling procedure; and
 - (d) procedure for review of personal data.
- (11) The Chairman of the Board shall have power, from time to time, to make such other regulations as he may consider necessary for effective implementation of the Smart Tax Card scheme in the State.
- (12) A person who –
- (a) For the purpose of obtaining a tax clearance certificate, gives incorrect information in relation to any matter or thing affecting his liability to tax; or
 - (b) Obtains a tax clearance certificate through misrepresentation, forgery or falsification, is guilty of an offence and liable on conviction to a fine of ₦50,000 (Fifty Thousand Naira) only plus twice the tax payable by him or to imprisonment for three years or to both such fine and imprisonment.
- (13) Where a person is able to produce evidence that he has suffered tax deduction at source and that the year of assessment to which the tax relates falls within the period covered by the Tax Certificate, the person shall not be denied a Tax Clearance Certificate.
- (14) A person be it a government or corporate entity to whom subsection 5 of this section applies who fails to comply with same is guilty of an offence and is liable on conviction to a fine of ₦5,000,000.00 (Five Million Naira) only or to imprisonment for 3 years or both fine and imprisonment.
17. The Board may, on its own motion, make such inquiry or cause such inquiry to be made relating to the income or personal circumstances of any person as it may consider necessary and order such payment of tax as the circumstances of the matter may require. *Board inquiries*
18. (1) In the discharge of its functions under this Law, the Board shall, subject to this Law, so far as practicable, co-operate fully with all Government departments, authorities or agencies, particularly the Joint Tax Board (JTB), Tax Advisory and Review Committee (TARC), Firms, Companies and other bodies. *Relationship with other authorities*
- (2) All the bodies referred to in subsection (1) of this section shall also co-operate with the Board.

PART III
Committees of the Board

19. There is established a Technical Committee of the Board (hereinafter in this Law referred to as "the Technical Committee") which shall comprise – *Establishment of Technical Committee of the Board*
- (1.) the Chairman of the Board as Chairman;
 - (2.) all Executive Directors;
 - (3.) the Directors within the Service (Heads of Departments);
 - (4.) the Legal Adviser to the Board; and
 - (5.) the Secretary to the Board as Secretary.
20. The Technical Committee shall – *Functions of the Technical Committee*
- (1.) consider all matters that require professional and technical expertise and make recommendations to the Board;
 - (2.) advise the Board on all its power and duties specifically mentioned in sections 6 & 7 of this Law; and
 - (3.) have power to co-opt additional staff from within the Service in the discharge of its duties;
 - (4.) attend to such other matters as may from time to time be referred to it by the Board.
21. (1) The Board may appoint one or more standing or Adhoc Committees as it deems fit to carry out on its behalf such functions as it may determine. *Standing and Adhoc Committees of the Board*
- (2) The Committees shall be –
 - (a) Audit and Compliance Committee;
 - (b) Appointment, Promotion and Discipline Committee; and
 - (c) any other standing or adhoc Committee as it deems fit to consider and report to it on any matter with which the Board is concerned.
 - (3) A committee appointed under this section shall consist of such number of persons as may be determined by the Board.
 - (4) The Chairman of any such committee shall be a Member of the Board.
 - (5) A decision of the Committee shall be of no effect until it is ratified by the Board at a duly convened meeting.

PART IV

Local Government Revenue Committee

22. (1) There is established in each Local Government of the State a committee to be known as the Local Government Revenue Committee (hereinafter in this Law referred to as "the Revenue Committee"). *Establishment of Local Government Revenue Committee*
- (2) The Governing body of the Revenue Committee shall comprise –
- (a) the Head, Personnel Management and Administration as Chairman;
 - (b) the Head of Finance/Treasurer as Member;
 - (c) the Supervisor for Finance as a Member;
 - (d) two other Members experienced in revenue matters to be nominated by the Chairman of the Local Government Council.
23. (1) The Revenue Committee shall be responsible for the assessment and collection of all taxes, fines and rates under its jurisdiction and shall account for all amounts so collected in a manner to be prescribed by the Chairman of the Local Government Council. *Functions of the Local Government Revenue Committee*
- (2) The Revenue Committee shall be autonomous of the Local Government Treasury and shall be responsible for the day-to-day administration of the Department, which forms its operational arm.

PART V

Tax Advisory and Review Committee

24. (1) There is established the Tax Advisory and Review Committee (in this Law referred to as "the TARC"). *Establishment of Tax Advisory and Review Committee*
- (2) The TARC shall comprise –
- (a) the Chairman to be Appointed by the Governor;
 - (b) the Commissioner responsible for Finance;
 - (c) the Accountant-General as member;
 - (d) the Attorney-General & Commissioner for Justice as member;
 - (e) the Commissioner responsible for Budget as member;

- (f) the Commissioner responsible for Environment as member;
- (g) the Commissioner responsible for Trade & Investment as member;
- (h) the Commissioner responsible for Agriculture as member;
- (i) the Commissioner responsible for Transport as member;
- (j) the Chairman of the Board of Internal Revenue as member;
- (k) three Executive Directors of the Board of Internal Revenue as members;
- (l) three other persons knowledgeable in taxation, budget and finance matters.
- (m) a Secretary who shall be appointed by the Governor.

25. The functions of the TARC shall be to –

- (1.) advice on the payment of commissions to Ministries, Departments and Agencies of Government collecting revenues, including the Board of Internal Revenue;
- (2.) advice on the appointment of revenue consultants for the Ministries, Departments and Agencies of Government;
- (3.) review the performance of the internal revenue generating Ministries, Departments and Agencies of Government against their budgets;
- (4.) recommend revenue targets for Ministries, Departments and Agencies of Government based on recommendation from the Commissioner;
- (5.) assist in addressing challenges militating against the attainment of set targets by Ministries, Departments and Agencies of Government;
- (6.) coordinate the process of reviewing all Laws relating to revenue generating Ministries, Departments and Agencies of Government with a view to amending all clauses that make revenue generation difficult and enacting new Laws for the expansion of revenue base of the State;
- (7.) act as mediating body between Ministries, Departments and Agencies of Government, the Board and taxable persons; and
- (8.) any other function that may be assigned to the Committee by the Governor.

*Functions of the
Tax Advisory and
Review Committee*

PART VI

The Board, Management and Staff of The Service

26. (1) There is established the Bayelsa State Internal Revenue Service (herein after referred to as "the Service") which shall be the operational arm of the Board *Establishment of Internal Revenue Service*
- (2) The Chairman of the Board shall be the Chief Executive of the Service and shall be charged with directing the day-to-day administration of the Service.
- (3) Where the Chairman of the Service is incapable of performing his functions, the Governor may authorize any of the Executive Directors to perform those functions for the duration of the incapacitation.
- (4) Subject to subsection (2) of this section, the Chairman may delegate to any staff of the Service his functions under this Law and may impose in respect of the exercise of such delegated functions, such conditions he may think fit; but nothing in this subsection shall be construed as absolving the Chairman as Chief Executive of the Service from ultimate responsibility for any act done by any person in the performance of such delegated function.
- (5) (3) Public officers may be transferred or seconded to the Service or may otherwise give assistance thereto.
27. (1) The Board shall appoint suitable persons as Directors or Heads of the following Departments of the Service – *Appointment of Directors or Heads of Departments*
- (a) Assessment;
- (b) Collection;
- (c) Inspectorate, Planning and Research; and
- (d) Finance and Administration.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Board shall create additional departments as it deems fit.
28. The Secretary of the Board shall also be the Secretary of the Service. *The Secretary*
29. The Chairman, as the Chief Executive, shall be the accounting officer of the Service and shall observe all applicable Laws and regulations *Chairman to be Accounting Officer*

governing receipts and disbursements of public funds and other assets entrusted to his care and shall be liable for any breach thereof.

30. The Board shall establish and maintain an Internal Audit Unit to be headed by an Internal Auditor who shall report to the Board. *Internal Audit Unit and Internal Auditor*
31. The Board may also engage the services of such consultants and advisers as the Board may deem fit. *Engagement of Professionals*
32. (1) The existing staff of the Internal Revenue Department of the Ministry of Finance shall become staff of the Service. *Staff of the Service*
- (2) With the coming into effect of this Law, all staff of the Service whose service would no longer be required shall be absorbed by the State Civil Service Commission.

PART VII

Financial Provisions and Funds of the Board

33. (1) The Service shall keep proper accounts and proper records in relation thereto and the account books and records of the Service shall be in such form as the Auditor-General of the State may approve. *Accounts and Audit*
- (2) The books and accounts of the Service shall, within three months after the end of each financial year, be audited by the Auditor-General of the State.
34. (1) There is established a Fund to be administered by the Board, which shall be credited an amount not more than 10% of all revenue collected by the Service excluding Pay-As-You-Earn(P.A.Y.E) of the State workers on a monthly basis known as Cost of Collection, which shall cover the following expense items – *Funds of the Board*
- (a) cost of collection payable to Payment Service Providers;
 - (b) staff salaries and other operating expenses;
 - (c) payment of performance incentives to staff on the attainment of the monthly revenue targets for the respective month;
 - (d) all sums of money accruing to the Service by way of grants-in-aid, gifts, testamentary depositions and endowments and contributions from any source whatsoever.

- (2) The Fund referred to in subsection (1) of this section shall be deducted by the Payment Service Provider in line with negotiated rate.
- (3) Where the Service exceeds the annual approved revenue budget, excluding the State P.A.Y.E, the Service shall be given additional performance incentive to be approved by the Governor which shall be distributed to the staff of the Service.
35. (1) The Service shall defray from the fund of the Board pursuant to Section 35 of this Law all amounts payable under this Law being sums representing:
- Expenditure of the Service*
- (a) any allowance or other payments due to the Executive Chairman and other members of the Board;
 - (b) reimbursement to Members of the Board or any Committees setup by the Board for such expenses as may be expressly authorized by the Board or the Service;
 - (c) all remunerations, allowances or other costs or employment of staff of the Service;
 - (d) pensions and other retirement benefits payable under or pursuant to this Law or any other enactment;
 - (e) cost of acquisition and upkeep of premises belonging to or occupied by the Service and any other capital expenditure of the Service;
 - (f) investments, maintenance of utilities, staff promotion, training, research and similar activities;
 - (g) all other costs that may be necessary for the day-to-day operations of the Service; and
 - (h) any other payment for anything incidental to the forgoing provisions or in connection with or incidental to any other function of the Service.
36. (1) Employment in the Service shall be subject to the provisions of the Pensions legislation in force in the State. *Pensions*
- (2) Staff of the Service shall be entitled to pensions and other retirement benefits as are prescribed under the relevant Laws.
37. Any Chief Executive Officer of a Ministry, Department or Agency who – *Offences*

- (1.) makes an incorrect return to the Board by omitting or understating an income and/or revenue collected on behalf of the State;
 - (2.) gives an incorrect information in relation to any tax or levy so collected; shall be guilty of an offence under this Law.
38. (1) Any Chief Executive of a Ministry, Department or Agency of Government responsible for the collection of any particular tax and levy who commits any of the offences listed in Section 37 of this Law, shall be liable on conviction to a fine of ₦1,000, 000.00(One Million Naira), in addition to the amount of tax which was understated with interest at the prevailing market rate.
- Penalty for making incorrect Returns/Understatement of Revenue Collected*
- (2) Where a Chief Executive of a Ministry, Department or Agency of Government understates revenue, such Chief Executive will be reported to TARC and upon investigation, if found culpable, TARC will recommend his removal to the Governor.

PART VIII

General Provisions

39. (1) Subject to the provisions of this Law, the provisions of the Public Officers Protection Law shall apply in relation to any Suit instituted against any Member, Officer or Employee of the Service.
- Limitation of Suits against the Service*
- (2) Notwithstanding anything contained in any other law or enactment, no Suit against the Chairman, a Member of the Board or any other Officer or employee of the Service for any act done in pursuance or execution of this Law or any other Law or enactment or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Law or any other law or enactment ,duty or authority shall lie or be instituted in any court unless it is commenced –
- (a) within three months next after the act, neglect or default complained of; or
 - (b) in the case of continuance of damage or injury, within six months next after the ceasing thereof
- (3) No Suit shall be commenced against the Chairman, a Member of the Board, or any other Officer or Employee of the Service before the expiration of a period of two months after written notice of the intention to commence the Suit shall have been served on the Service by the intending plaintiff or his agent.

- (4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the –
- (a) cause of action;
 - (b) particulars of claim;
 - (c) name and place of abode of the intending plaintiff; and
 - (d) relief of which he claims.
40. A notice, summons or other authorized documents required to be served on the Service under the provisions of this Law or any other law or enactment may be served by delivering same to the Chairman or by sending it by registered post addressed to the Chairman at the principal office of the Service. *Service of Documents*
41. (1) In any action or suit against the Service, no execution or attachment of process in the nature thereof shall be issued against the Service unless not less than three months' notice of the intention to execute or attach has been given to the Service. *Restriction on Execution Against Property of the Service*
- (2) Any sum of money which by the judgment of any court has been awarded against the Service shall, subject to any direction given by the court, where no notice of appeal against the judgment has been given, shall be refunded.
42. The Chairman, a member of the Board or any officer or employee of the Service shall be indemnified out of the assets of the Service against any liability incurred by him in defending proceedings whether civil or criminal if the proceeding is brought against him in his capacity as the Chairman, a member of the Board, officer or other employee of the Service. *Indemnity*
43. The Governor may after consultation with the Board, give to the Board in writing directions of general or specific character not being inconsistent with this Law or other legal obligations of the Board relating to the exercise by the Board of its functions under this Law and the Board shall give effect to such directions. *Directions by Governor*
44. (1) The Board shall as soon as possible after the end of each financial year, but within six months after the end of that year, submit to the Commissioner an Annual Report dealing generally with the operations of the Board and the Service within that year, which shall, without prejudice to the generality of the foregoing, include a copy of the audited accounts of the Service together with the Auditor-General's report thereon; *Annual Report*

- (2) A copy of the annual report shall be sent to the Governor who shall, as soon as practicable, lay it before the State Executive Council.

45. The Board of Internal Revenue Law, 2006 is hereby repealed.

*Repeal of Board of
Internal Revenue
Law, 2006
the Board*

46. No provision under this Law shall invalidate or nullify any action previously taken by the Board prior to the enactment of this Law.

47. In this Law, except where the context otherwise requires:

Interpretation

"Board" means Board of Internal Revenue;

"Commissioner" means the member of the Executive Council of Bayelsa State of Nigeria charged with responsibility for Finance;

"Executive Director" means a person appointed by the Governor to serve on full time basis;

"Non Executive Director" means a person appointed by the Governor to serve on part time basis;

"Director" means a Director from within the Service;

"Governor" means the Governor of Bayelsa State of Nigeria;

"person" includes an individual, a company or association or body of persons corporate or unincorporated;

"Service" means the Internal Revenue Service;

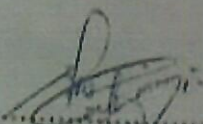
"Smart Tax Card" means an electronic card that holds data in respect of a particular taxpayer in a secure format that can be accessed for authentication;

"State" means Bayelsa State of Nigeria.

48. This Law may be cited as the **Board of Internal Revenue (Repeal and Re-Enactment) Law, 2020** and shall come into force on the day of, 2020.

*Short Title and
Citation*

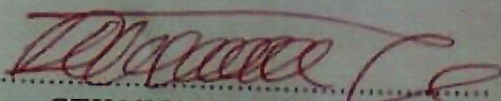
This printed impression has been carefully compared by me with the Bill which has passed the Bayelsa State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.



.....
MR. OWUDOGU KOZIGENA EDWARD

Clerk of the House

Assented the 5TH day of JUNE, 2020.



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SENATOR DOUYE DIRI

Governor of Bayelsa State