

Extraordinary



National Assembly Journal

No. 10

Abuja - 10th July, 2019

Vol. 16

CONTENTS

INDEX TO LEGISLATIVE INSTRUMENTS

| <i>Bill No.</i> | <i>Long Title</i> | <i>Page</i> |
|-----------------|---|--------------|
| HB. 60 | A Bill for an Act to Establish the Federal Capital Territory Health Insurance Agency to institute the Federal Capital Territory Health Insurance Scheme and provide comprehensive, quality and affordable health care services for all residents of the Federal Capital Territory; and for Related Matters | C 865 - 890 |
| HB. 61 | A Bill for an Act to Establish the Socially Displaced Persons Unit to provide for the assessment, care and rehabilitation of Socially Displaced Persons and for Related Matters | C 891 - 901 |
| HB. 62 | A Bill for an Act to Establish the Social Net Service to provide for, reduction of hardcore poverty among rural and urban-vulnerable groups, sustainable development goals and implementation of social protection systems and measures in Nigeria; and for Related Matters | C 903 - 909 |
| HB. 63 | A Bill for an Act to Amend the Fiscal Responsibility Act 2004 and for Related Matters | C 911 - 912 |
| HB. 65 | A Bill for an Act to Repeal the Oil and Gas Export Free Zone Authority Act; and to provide for the designation and establishment of Oil and Gas Free Zones in Nigeria; establishment of the Oil and Gas Free Zones Authority; and for Related Matters | C 913 - 941 |
| HB. 66 | A Bill for an Act to Repeal the Petroleum Technology Development Fund Act, Cap. P15 LFN, 2004 and for Related Matters | C 943 - 958 |
| HB. 67 | A Bill for an Act to Repeal the Federal Capital Territory Abuja Area Courts (Repeal and Enactment) Act, 2010 and for Related Matters | C 959 - 981 |
| HB. 68 | A Bill for an Act to Provide for the Protection of Plant Varieties, establish a Plant Variety Protection Office for the promotion of increased staple crop productivity for small holder farmers in Nigeria and for Related Matters | C 983 - 1007 |

Printed and Published by the National Assembly Press, Abuja, Nigeria

NASSP 10/107/2019/900

Subscribers who wish to obtain the Journal after 1st January should apply to the Clerk, National Assembly, Abuja for amended Subscriptions.

FEDERAL CAPITAL TERRITORY HEALTH INSURANCE AGENCY BILL, 2019

ARRANGEMENT OF SECTIONS

Section:

PART I - ESTABLISHMENT OF THE FCT HEALTH INSURANCE

AGENCY AND BOARD

1. Establishment of the FCT Health Insurance Agency
2. Objective of the Agency
3. Establishment of the Board
4. Tenure of office and cessation of membership of the Board

PART II - OBJECTIVES, FUNCTIONS AND POWERS

5. Functions of the Agency
6. Powers of the Agency
7. Additional powers of the Agency
8. Functions and Powers of the Board
9. Qualification and tenure of the Executive Secretary

PART III - ADMINISTRATIVE STRUCTURE AND CONTROL

10. Organogram
11. Employees of the Agency
12. Pensions
13. Confidentiality and non-disclosure

PART IV - ESTABLISHMENT OF FCT HEALTH INSURANCE SCHEME

14. Establishment of the FCT Health Insurance Scheme
15. Components of the FCT Health Insurance Scheme
16. Applicability of the Scheme
17. Appointment of licences actuary for the Agency
18. Registration of all FCT residents
19. Registration and services of HCPs
20. Registration of TPAs and other health insurance agents
21. Refusal of License
22. Revocation of License
23. Functions of TPAs and HIAs
24. Direct Delivery of health care services
25. Contribution to be inalienable
26. Provisions of the Companies and Allied Matters Act on Liabilities.
27. Role of the FCT Executive Committee

28. Professional Indemnity
29. Immediate access to the Fund of uninsured individuals with pre-existing conditions
30. Reinsurance for early Retirees
31. Non-Discrimination
32. Participation of Area Councils through the appointment of focal persons

PART V - FINANCIAL PROVISIONS

33. Establishment of the FCT Health Insurance Scheme Fund (PHISF)
34. Disbursement of funds
35. Investment of Funds
36. Powers to accept gifts
37. Annual estimates, Accounts and external audit
38. Inspection of Audit and record books HCPs) and HIAs
39. Failure to keep record books
40. Pooling of contribution under the Scheme

PART VI - MISCELLANEOUS PROVISIONS

41. Dispute Resolution
 42. Offences and penalties
 43. Offences by bodies
 44. Prosecution by the Agency
 45. Jurisdiction
 46. Commencement of proceedings
 47. Limitation of suits against the Agency
 48. Court order
 49. Notices, summons and other documents
 50. Restriction of execution on the property of the Agency
 51. Interpretation
 52. Citation
- Schedule

A BILL

FOR

AN ACT TO ESTABLISH THE FEDERAL CAPITAL TERRITORY HEALTH INSURANCE AGENCY TO INSTITUTE THE FEDERAL CAPITAL TERRITORY HEALTH INSURANCE SCHEME AND PROVIDE COMPREHENSIVE, QUALITY AND AFFORDABLE HEALTH CARE SERVICES FOR ALL RESIDENTS OF THE FEDERAL CAPITAL TERRITORY; AND FOR RELATED MATTERS.

Sponsored by Hon. Uzoma Nkem Abonta

[] Commencement

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

1 PART I - ESTABLISHMENT OF THE FCT HEALTH INSURANCE

2 AGENCY AND BOARD

3 1.-(1) There is established the Federal Capital Territory (FCT) FCT
4 Health Insurance Agency (in this Act referred to as "the Agency").

Establishment
of the FCT Health
Insurance Agency

5 (2) The Agency:

6 (a) is a body corporate with perpetual succession and a common
7 seal;

8 (b) may sue and be sued in its corporate name;

9 (c) may acquire, hold or dispose of any moveable or immoveable
10 property for the purpose of its functions under this Act.

11 2. The objective of the Agency is to, supervise and ensure the
12 effective administration of the FCT Health Insurance Scheme.

Objective of the
Agency

13 3.-(1) There is established for the FCT Health Insurance Agency a
14 Governing Board (in this Act referred to as "the Board").

Establishment of
the Board

15 (2) The Board shall consist of:

16 (a) a chairman;

17 (b) the Chairman of Association of Local Governments of Nigeria

18 (ALGON), FCT Chapter;

- 1 (c) Chairman of the FCT Traditional Council;
- 2 (d) one representative each of:
- 3 (i) the Health and Human Services Secretariat, not below the rank of a
- 4 Director,
- 5 (ii) the FCT Hospitals Management Board, not below the rank of a
- 6 Director,
- 7 (iii) the Executive Secretary, FCT Primary Health Care Board,
- 8 (iv) the Department of FCT Economic Planning, Research and
- 9 Statistics, not below the rank of a Deputy Director,
- 10 (v) the Department of Treasury, not below the rank of a Deputy
- 11 Director,
- 12 (vi) the Nigeria Employers Consultative Association, FCT Chapter,
- 13 (vii) Nigeria Labour Congress, FCT Chapter,
- 14 (viii) Trade Union Congress, FCT Chapter,
- 15 (ix) Health Care Providers Association of Nigeria, FCT Chapter,
- 16 (x) FCT Co-ordinator, National Health Insurance Scheme; and
- 17 (e) the Executive Secretary of the Agency, who shall also be the
- 18 Secretary to the Board.
- 19 (3) At least two of the members of the Board shall be females.
- 20 (4) Members of the Board other than the Executive Secretary, shall be
- 21 on part-time and appointed by the Minister on the recommendation of the
- 22 Secretary Health and Human Services Secretariat (HHSS).
- 23 (5) The Chairman shall be a person of integrity with a minimum
- 24 qualification of first degree or its equivalent and a minimum of 10 years
- 25 professional experience.
- 26 (6) Other members of the Board shall be persons of proven integrity.
- 27 (7) The supplementary provisions set out in the Schedule to this Act
- 28 shall have effect with respect to the proceedings of the Board and the other
- 29 matters contained in the Schedule.

| | | |
|----|---|--|
| 1 | 4.-(1) All members of the Board shall hold office for four years and | Tenure of office and cessation of membership of the Board |
| 2 | may be re-appointed for another four years and no more. | |
| 3 | (2) The office of a member of the Board becomes vacant if the | |
| 4 | member: | |
| 5 | (a) resigns by notice in writing under his hand addressed to the | |
| 6 | Minister, submitted through the Secretary of the Board to the Secretary | |
| 7 | HHSS, and the resignation takes effect only on acknowledgement by the | |
| 8 | Minister; | |
| 9 | (b) becomes bankrupt or makes a compromise with his creditors; | |
| 10 | (c) is convicted of a criminal offence; or | |
| 11 | (d) becomes incapable of discharging the duties assigned to him by | |
| 12 | reason of mental or bodily infirmity. | |
| 13 | (3) The Minister may remove a member of the Board from office, if | |
| 14 | he is satisfied that it is in the interest of the Agency or the public that the | |
| 15 | member should not continue in office. | |
| 16 | (4) Where a vacancy occurs in the membership of the Board, it | |
| 17 | shall be filled by the appointment of a successor to hold office for the | |
| 18 | remainder of the term of office of his predecessor, provided that the | |
| 19 | successor shall represent the same interest as the predecessor. | |
| 20 | PART II - OBJECTIVES, FUNCTIONS AND POWERS | |
| 21 | 5. The Agency shall: | Functions of the Agency |
| 22 | (a) regulate, supervise, implement and ensure effective | |
| 23 | administration of the Scheme; | |
| 24 | (b) ensure that all residents of the FCT have financial protection, | |
| 25 | physical access to quality and affordable health care services; | |
| 26 | (c) regulate the cost of healthcare services provided under the | |
| 27 | Scheme; | |
| 28 | (d) ensure equitable distribution of healthcare costs across all | |
| 29 | residents of the FCT; | |

- 1 (e) maintain high standard of healthcare delivery services within the
- 2 Scheme;
- 3 (f) ensure efficiency in healthcare service delivery provided under the
- 4 Scheme;
- 5 (g) improve and harness private sector participation in the provision
- 6 of healthcare services;
- 7 (h) facilitate adequate distribution of health facilities within the FCT;
- 8 (i) ensure appropriate patronage at all levels of the healthcare delivery
- 9 system;
- 10 (j) ensure the availability of alternative sources of funding to the
- 11 health sector for improved services;
- 12 (k) in cases where residents do not have available medical and other
- 13 health services, take such measures as are necessary to plan, organise and
- 14 develop medical and other health service commensurate with the needs of the
- 15 residents; and
- 16 (l) facilitate access to emergency ambulance or ancillary service, with
- 17 emergency service provider or under a private public partnership arrangement
- 18 for the benefit of residents of the FCT.
- 19 **6. The Agency shall:**
- 20 (a) ensure the effective implementation of the policies and procedures
- 21 of the Scheme;
- 22 (b) issue appropriate regulations and guidelines, as approved by the
- 23 Board, to maintain the viability of the health scheme;
- 24 (c) manage the health Scheme in accordance with the provisions of
- 25 this Act;
- 26 (d) approve formats of contracts for the Third-Party Administrations
- 27 (TPAs) and all HCPs;
- 28 (e) carry out public awareness and education on the establishment and
- 29 management of the Scheme;
- 30 (f) promote the development of other programs for wider

Powers of the
Agency

- 1 participation in the Scheme including developing new health plans;
- 2 (g) implement the basic minimum benefit package as defined Act No. 8, 2014
- 3 under the National Health Act;
- 4 (h) define benefit packages to be provided under the health plans as
- 5 provided under section 5 of this Act;
- 6 (i) register National Health Insurance Scheme (NHIS) accredited
- 7 TPAs, FCT accredited healthcare facilities and other relevant institutions;
- 8 (j) classify healthcare facilities and providers in a manner that shall Act No. 8, 2014
- 9 help improve health outcomes in the FCT as required under the National
- 10 Health Act;
- 11 (k) reimburse health care providers in line with services delivered
- 12 under the scheme;
- 13 (l) determine the percentage of the premiums or other
- 14 contributions from private health plans that shall be payable as cross subsidy
- 15 to the Fund for the purpose of financing the EHP under Section 15 for the
- 16 poor and vulnerable;
- 17 (m) approve format of contracts for the TPAs and all healthcare
- 18 providers;
- 19 (n) determine, after due consideration capitation, fee-for service
- 20 and other payment mechanisms due to health care providers, by the TPAs.
- 21 (o) advise the relevant bodies on inter-relationship of the agency
- 22 with other social security services;
- 23 (p) coordinate research and statistics;
- 24 (q) establish quality assurance for all stakeholders;
- 25 (r) ensure the collection, collation, analysis, and reporting on
- 26 quarterly returns from the TPAs and other scheme stakeholders;
- 27 (s) exchange information and data with the National Health
- 28 Insurance Scheme, FCT Health Management Information System, relevant
- 29 financial institutions development partners, non-governmental
- 30 organisations and other relevant bodies;

Additional
powers of the
Agency

- 1 (t) ensure the training and development of staff of the Agency;
- 2 (u) receive and investigate complaints of impropriety leveled against
- 3 any TPAs, Health Care Provider enrollee and other relevant institutions and
- 4 ensure appropriate sanctions are given; and
- 5 (v) perform such other activities as are necessary or expedient for the
- 6 purpose of achieving the objectives of the Agency under this Act;
- 7 7.-(1) The Agency shall have powers to regulate, implement and issue
- 8 guidelines for the:
- 9 (a) registration of employers and employees liable to contribute under
- 10 this Act;
- 11 (b) registration of dependents of employees covered by the Agency;
- 12 (c) compulsory payment of contributions by employers and
- 13 employees;
- 14 (d) amount of contributions to be paid by each employee;
- 15 (e) compulsory payment of contributions by self-employed persons
- 16 and other persons and rates of such contributions;
- 17 (f) maintenance of the records to be kept for the Agency and the
- 18 records to be kept by employers in respect of contributions payable under this
- 19 Act and in respect of their employees;
- 20 (g) methods of receiving contributions under this Act;
- 21 (h) imposition of surcharges in respect of late payment of
- 22 contributions by employers or employees;
- 23 (i) manner and circumstances under which contributions may be
- 24 remitted and refunded;
- 25 (j) negotiated fees and charges payable for medical, dental,
- 26 pharmaceutical and all other health services provided under the Scheme;
- 27 (k) nature and amount of benefits to be provided under this Scheme,
- 28 the circumstances and the manner under which the benefits are to be provided;
- 29 (l) nature and amount of capitation, fee-for-service, per-diem or other
- 30 payment options under this Scheme;

1 (m) reduction, suspension or withdrawal of any payment under this
2 Scheme;

3 (n) submission of returns by employers regarding the employers
4 and their employees; and

5 (o) procedure for assessment of contributions made under this
6 Scheme.

7 (2) Any other matter on which, in the opinion of the Agency, is
8 necessary or desirable to make regulation and issue guidelines for giving
9 effect to this Act.

10 (3) The guidelines issued under subsection (1) (a), (c) and (d) may
11 provide for different levels of contributions payable by different classes of
12 persons.

13 **8.** For the purpose of performing the functions of the Agency, the
14 Board shall, subject to the direction of the Minister, have powers to:

Functions and
Powers of the
Board

15 (a) determine the organisational structure of the Agency;

16 (b) approve for the Agency, private health maintenance,
17 organisations operating in the FCT and their private health plans;

18 (c) determine the overall policies of the Scheme, including the
19 financial and operative procedures of the Scheme;

20 (d) ensure the effective implementation of the policies and
21 procedures of the Scheme;

22 (e) regulate and supervise the Scheme established under this Act;

23 (f) establish standards, rules and guidelines for the management of
24 the Scheme under this Act;

25 (g) approve, license, regulate and supervise TPAs and other
26 institutions relating to the health plan as the Agency may determine;

27 (h) develop or approve mechanisms for identification of the poor
28 and vulnerable persons who will benefit from the EHP as provided under
29 section 15;

30 (i) issue guidelines and approval for the administration and release

- 1 of funds under the Scheme;
- 2 (j) approve health plans as might be determined and put forward by
- 3 the Agency;
- 4 (k) approve the recommendation of the Agency relating to research,
- 5 consultancy and training in respect of the Scheme;
- 6 (l) keep and update a database on all Scheme activities;
- 7 (m) do such other things which, in the opinion of the Agency, are
- 8 necessary or expedient for the performance of its functions under this Act;
- 9 (n) determine the remuneration and allowances of all staff of the
- 10 Agency;
- 11 (o) engage the various ministries and levels of government,
- 12 stakeholders and the public during strategy development, policies and
- 13 procedures of the health scheme; and
- 14 (p) approve annual reports and statement of accounts of the Agency.
- 15 PART III - ADMINISTRATIVE STRUCTURE AND CONTROL
- 16 **9.** The Executive Secretary shall:
- 17 (a) be the Chief Executive and Accounting Officer of the Agency;
- 18 (b) be responsible for the management of the affairs of the Agency;
- 19 (c) be a person of integrity with relevant qualifications in health
- 20 management, health economics or public health with a minimum of 10 years
- 21 professional experience; and
- 22 (d) hold office for four years on such terms and conditions as may be
- 23 specified in his letter of appointment and may be reappointed for another four
- 24 years and no more.
- 25 **10.** The Agency shall have the power to establish and maintain such
- 26 departments, offices, subsidiary divisions, sections and units and make other
- 27 administrative arrangements as may, in its opinion, be necessary or expedient
- 28 for the performance of its functions.
- 29 **11.** Without prejudice to extant legislation, Public Service Rules,
- 30 Scheme of Service and Operational Guidelines of the Agency, the Agency:

Qualification
and tenure of
the Executive
Secretary

Organogram

Employees of
the Agency

1 (a) may appoint or employ such contract or permanent employees
 2 whether professional or non-professional, including reputable and
 3 competent external consultants, as it may require to perform its functions;
 4 and

5 (b) shall determine the allowances and other terms and conditions
 6 of service of staff.

7 **12.-(1)** Employment in the Agency shall be scheduled service for Pensions
 8 purposes of the Pension Reforms Act.

9 (2) Employees of the Agency are entitled to pensions and other Act No. 4, 2014
 10 retirement benefits in accordance with the Pension Reform Act or such other
 11 Act as may be in force to regulate pension matters.

12 **13.-(1)** Members of the Board, employees and other persons Confidentiality
 13 engaged to work for the Agency shall: and non-disclosure

14 (a) not use any information which may come to their knowledge in
 15 the exercise of their powers or which may be obtained by them in the
 16 ordinary course of duty for personal gain except for the purpose of
 17 performing their function under this Act;

18 (b) treat as confidential any information which may be obtained by
 19 them in the performance of their functions under this Act; and

20 (c) not disclose any information referred to under paragraph (a)
 21 except when required to do so by an arbitration, litigation or similar panel of
 22 the Court or in such other circumstances as may be prescribed by the Board.

23 (2) Any person who contravenes subsection (1), commits an
 24 offence and is liable on conviction to penalties contained in Section 42 (3).

25 PART IV - ESTABLISHMENT OF THE FCT HEALTH INSURANCE SCHEME

26 **14.** There is established the FCT Health Insurance Scheme (in this Establishment
 27 Act referred to as "the Scheme"). Insurance Scheme

28 **15.-(1)** The Scheme shall consist of the:

29 (a) FCT Equity Health Plan (EHP) which is a basic plan for Components of
 30 vulnerable groups as defined in this Act and other criteria for eligibility into the FCT Health Insurance Scheme

1 the health plan is as approved by the FCT Executive Committee on the
 2 recommendation of the Agency and the point of entry is designated primary
 3 health care facilities;

4 (b) Informal Health Plan (IHP) which is an 'affordable' Plan providing
 5 a prescribed package of healthcare services at an agreed contribution
 6 accessible to all residents of the FCT employed or engaged in the informal
 7 sector and the point of entry is designated public and private health facilities;

8 (c) Formal Health Plan (FHP) which is a contributory plan for all
 9 public and organised private formal sector employees wherein the employer
 10 and employees shall make contributions as determined by the Board; and

11 (d) any other component as may be developed by the Agency with the
 12 approval of the Board.

13 (2) The operational guideline shall explicitly define the content of
 14 each health plan.

Applicability of
the Scheme

15 **16.** The Scheme is compulsory and applies to all residents of the FCT
 16 except those already covered by the NHIS.

Appointment of
licensed actuary
for the Agency

17 **17.-(1)** The Agency shall appoint a licensed actuary on such terms and
 18 conditions as the Board may determine.

19 (2) The actuary shall review the service package and evaluate it
 20 actuarially, including the rates of contributions payable for the service and
 21 make appropriate recommendation to the Agency.

22 (3) If, having regard to the review and evaluation carried out by the
 23 actuary under subsection (2), the Agency considers that the rates of
 24 contributions have not retained their value in relation to the general level of
 25 earning in Nigeria, the Agency shall, in consultation with the actuary, modify
 26 the rates to the extent considered appropriate and bring the new rates to the
 27 notice of the persons affected by the modification.

Registration of
all FCT residents

28 **18.** Subject to such guidelines and regulations as may be made under
 29 this Act:

30 (a) all residents of the FCT shall be registered under the Scheme; and

1 (b) all employers and their employees in both public and private
2 sectors shall register with the Agency and obtain a Corporate Identification
3 Number (CIN).

4 **19.**-(1) Without prejudice to existing legislations regulating the
5 professional practices of HCPs:

Registration and
services of HCPs

6 (a) the accreditation and registration of participating HCPs under
7 the Scheme shall be in accordance with guidelines as the Agency shall issue
8 under the Act; and

9 (b) only the HCPs registered with the HHSS shall be accredited and
10 registered to participate under this Scheme.

11 (2) A HCPs registered under subsection (1) shall, in consideration
12 for an approved capitation payment or fee for service and any other form of
13 payment, to the extent and manner prescribed herein, provide services in
14 accordance with:

15 (a) the approved Health Plan as is actuarially determined and
16 reviewed annually by the Board;

17 (b) Approved Treatment Guideline; and

18 (c) Approved Drug Formulary

19 **20.**-(1) The Agency shall register NHIS accredited TPAs and other
20 Health Insurance Agents (HIA).

Registration of
TPAs and other
health insurance
agents

21 (2) Approval for the registration of a TPA or HIA and other allied
22 Agency under the agency shall be in accordance with guidelines issued by
23 the Board, requiring the TPA, and other HIA to:

24 (a) be financially viable before and after registration;

25 (b) have a track record of sustained relationship with private
26 healthcare providers;

27 (c) make a complete disclosure of the ownership structure and
28 composition of the organisation;

29 (d) have account with one or more banks as maybe designated by
30 the Agency;

| | | |
|-----------------------|----|---|
| | 1 | (e) comply with other accreditation requirements of the NHIS in the |
| | 2 | case of HMOs; |
| | 3 | (f) give an undertaking that the organisation shall perform activities |
| | 4 | outsourced to it pursuant to this Act in accordance with the guidelines to be |
| | 5 | issued by the Agency; and |
| | 6 | (g) be registered with the Corporate Affairs Commission (CAC) or |
| | 7 | other bodies required by legislations. |
| | 8 | (3) Registration of TPA and other HIAs shall be renewed annually. |
| Refusal of License | 9 | 21. -(1) The Agency may refuse to issue a licence to any applicant on |
| | 10 | an application made under section 20 of this Act if it is satisfied that the: |
| | 11 | (a) information contained in the application for a license is false; or |
| | 12 | (b) application does not meet the requirements prescribed by the |
| | 13 | Agency for grant of a licence; |
| | 14 | (2) Where the Agency refuses to register any organisation, it shall |
| | 15 | forthwith notify the applicant in the prescribed form, specifying the reasons for |
| | 16 | such refusal if need be, but such an organisation may re-apply at a time it has |
| | 17 | fulfilled all the necessary conditions for registration. |
| Revocation of License | 18 | 22. -(1) The Agency may revoke a licence issued to an organisation, if: |
| | 19 | (a) it discovers, after the grant of licence, that a statement was made in |
| | 20 | connection with the application thereof which the applicant knew to be false; |
| | 21 | (b) the organisation is subject to any insolvency proceeding or is to be |
| | 22 | wound up or otherwise dissolved; |
| | 23 | (c) the conduct of affairs of the organisation does not conform to the |
| | 24 | provisions of this Act or any regulations made or directive issued under this |
| | 25 | Act; |
| | 26 | (d) any event occurs which renders the organisation ineligible to |
| | 27 | discharge its duties; |
| | 28 | (e) the organisation is in breach of any condition attached to its |
| | 29 | licence, and |
| | 30 | (f) the organisation fails or neglects to disclose the accurate data of its |

1 private health plan enrollee to the Agency.

2 (2) The Agency shall, before revoking the licence of 30 days' notice
3 of its intention, consider any representation made to it in writing by the
4 organisation within that period before the revocation.

5 **23.**-(1) The organisations referred to in section 20(1) of this Act are Functions of
6 responsible for: TPAs and HIAs

7 (a) sensitisation of the populace on the Scheme;

8 (b) management of their Private Health Plan;

9 (c) remittance of 1% of total collection from their Private Health
10 Plan to the FCT Health Insurance Scheme Fund;

11 (d) supervision of healthcare providers;

12 (e) processing of claims;

13 (f) the payment approved by the TPAs and HCPs which shall be in
14 accordance with operational guidelines released by the Scheme;

15 (g) rendering to the Agency, returns on its activities as may be
16 required by the Board;

17 (h) contracting only with the health care providers approved under
18 the Scheme for the purpose of rendering health care services as provided by
19 this Act;

20 (i) ensuring that all money received from the commission are kept
21 in accordance with guidelines issued by the Board; and

22 (j) establishing and maintaining of a quality assurance.

23 **24.** Notwithstanding anything contained in this Act, TPAs shall Direct delivery
24 not be involved in the direct delivery of health care services. of health care
services

25 **25.** Contributions payable under this Act are inalienable and are Contribution to
26 not assets for the benefit of creditors in the event of the bankruptcy or be inalienable
27 insolvency of a contributor or an organisation.

28 **26.** Where, an order is made by a Court, on mergers which include Provisions of the
29 the transfer to the company of the whole property and liabilities of a Companies and
30 transferor company, the order shall include provisions for the taking over, as Allied Matters
Act on liabilities

| | | |
|--|----|---|
| | 1 | from such date as may be specified in the order, of any liability for any |
| | 2 | contribution which has become due and payable under this Act together with |
| | 3 | any accrued interest, in respect of the employees concerned in the undertaking, |
| | 4 | property or liability transferred. |
| Role of the FCT Executive Committee | 5 | 27. The FCT Executive Committee shall collaborate with relevant |
| | 6 | Federal Government Agencies in the realisation of the set objective of this Act. |
| Professional indemnity | 7 | 28. Health care providers shall be required to take professional |
| | 8 | indemnity cover from a list of insurance companies as may be designated by |
| | 9 | the Agency in consultation with NHIS. |
| Immediate access to the Fund of uninsured individuals with pre-existing conditions | 10 | 29. Any person who is proven to be indigent in the FCT and is not |
| | 11 | insured with the Agency, but has a pre-existing critical medical condition |
| | 12 | which he cannot pay for, shall have access to the Fund of the Agency. |
| Reinsurance for early retirees | 13 | 30. Early retirees shall have access to the fund to the extent of |
| | 14 | available fund retirees |
| Non-discrimination | 15 | 31. No person or group of persons in the FCT with a pre-existing |
| | 16 | medical condition shall be discriminated against to the extent of allotted funds. |
| Participation of Area Councils through the appointment of focal persons | 17 | 32. An Area Council Chairman may, in consultation with the Primary |
| | 18 | Healthcare Board, appoint focal persons who are senior serving officers in the |
| | 19 | service of the Area Council's Department of Health, to coordinate and |
| | 20 | collaborate with the Agency. |
| | 21 | PART V - FINANCIAL PROVISIONS |
| Establishment of the FCT Health Insurance Scheme Fund (PHISF) | 22 | 33.-(1) There is established the FCT Health Insurance Scheme Fund |
| | 23 | (in this Act referred to as "the Fund"). |
| | 24 | (2) The Fund shall consist of: |
| | 25 | (a) the scale up grant from the Federal Capital Territory |
| | 26 | Administration (FCTA) for operational expenses and administration of the |
| | 27 | Agency; |
| | 28 | (b) equity fund contribution of at least 2% of the consolidated revenue |
| | 29 | of the FCTA on behalf of vulnerable persons; |
| | 30 | (c) 1% of the total value of each contract executed by the FCTA; |

- 1 (d) funds from NHIS;
- 2 (e) funds from the Basic Health Care Provision Fund (BHCPF);
- 3 (f) such money as may be due from HMOs;
- 4 (g) contributions received from the formal and informal enrollees
- 5 and their employers including the FCTA and Area Councils for public sector
- 6 enrollees;
- 7 (h) fees, fines and commission charged by the Agency;
- 8 (i) donations or grants-in-aid from private organisations,
- 9 philanthropists, international donor organisations and non-governmental
- 10 organisations;
- 11 (j) interests from investments; and
- 12 (k) all other money which may accrue to the Agency.
- 13 (3) The Fund shall be ring-fenced from other government funds
- 14 and not subject to virement for other purposes other than those listed under
- 15 section 35.
- 16 (4) The funds shall be rolled over at the end of the financial year
- 17 and not subject to refund to the treasury.
- 18 **34.-(1)** The Agency shall disburse at least 80% of premium funds
- 19 directly to the HCPs from the Fund.
- 20 (2) The Agency shall, with the approval of the Board, apply
- 21 administrative funds at its disposal-
- 22 (a) for and in connection with the non-medical objectives of the
- 23 Agency under this Act;
- 24 (b) to the cost of administration of the Agency;
- 25 (c) to the payment of fees, allowances and benefits of members of
- 26 the Board;
- 27 (d) for marketing and distribution costs directly or indirectly
- 28 payable to health insurance agents;
- 29 (e) for reserve to cater for future liabilities.

Disbursement
of funds

| | | |
|--|----|---|
| Investment of Funds | 1 | 35. -(1) All contributions not immediately required shall be invested |
| | 2 | by the Agency in non-speculative short-term instruments with the objectives of |
| | 3 | safety and maintenance of fair returns on amount invested and in accordance |
| | 4 | with the regulations and guidelines issued by the Agency. |
| | 5 | (2) Subject to guidelines issued by the Agency, the Fund shall be |
| | 6 | invested in any: |
| | 7 | (a) bonds, bills and other securities issued or guaranteed by the |
| | 8 | Federal Government and the Central Bank of Nigeria; |
| | 9 | (b) bonds, bills and other securities issued by the FCT and Area |
| | 10 | Councils; or |
| | 11 | (c) bank deposit. |
| Powers to accept gifts | 12 | 36. -(1) The Agency may accept gifts of land, money or other property |
| | 13 | on such terms and conditions, if any, as may be specified by the person or |
| | 14 | organisation making the gift. |
| | 15 | (2) The Agency shall not accept any gift if the conditions attached by |
| | 16 | the person or organisation offering the gift are inconsistent with the objectives |
| Annual estimates, accounts and external audit | 17 | and functions of the Agency under this Act. |
| | 18 | 37. -(1) The Board shall cause to be prepared, not later than the 30th |
| | 19 | day of September in each year, an estimate of the income and expenditure of the |
| | 20 | Agency during the next succeeding year and when prepared, they shall be |
| | 21 | submitted to the FCT Treasury or Department of Economic Planning through |
| | 22 | the HHSS Secretary. |
| | 23 | (2) The Board shall cause to be kept proper accounts of the Agency |
| | 24 | and proper records and when certified by the Board, the accounts shall be |
| | 25 | audited by external auditors appointed by the Board. |
| | 26 | 38. The Agency, through its appointed officers, may enter, inspect |
| Inspection of audit and record books HCPs and HIAs | 27 | and audit any premise, book, account and record of any HCP or HIAs that has |
| | 28 | received payments under this Act at any time and may require the scheme |
| | 29 | stakeholder to verify in a manner prescribed, any information submitted to the |
| | 30 | Agency. |

| | | |
|----|---|--|
| 1 | 39. Where a HCP or HIA fails to keep the books, records and | Failure to keep record books |
| 2 | returns required under this Act or any regulation made under it, the Agency | |
| 3 | may levy appropriate sanction against the HCP or HIA including | |
| 4 | withholding payments due to it until the HCP or HIA complies with the | |
| 5 | provisions of this Act and the regulation made under it. | |
| 6 | 40. -(1) The FCT Health Insurance Scheme Fund shall be | Pooling of contribution under the Scheme |
| 7 | administered through carefully selected banks as approved by the Board, for | |
| 8 | the pooling of all contributions. | |
| 9 | (2) The Agency shall cause HIA's to pay or remit contributions or | |
| 10 | agreed proportions of contributions received from private health plans to | |
| 11 | designated Agency bank accounts. | |
| 12 | (3) The Agency shall cause HIAs to produce, in a recognised | |
| 13 | format and subject to guidelines to be issued by it performance or security | |
| 14 | bond from accredited banks or insurance companies. | |
| 15 | PART VI - MISCELLANEOUS PROVISIONS | |
| 16 | 41. -(1) Whenever there is a dispute amongst parties under this Act, | Dispute resolution |
| 17 | it shall first be referred to arbitration, mediation or conciliation before | |
| 18 | resorting to litigation. | |
| 19 | (2) The membership of the panel shall be subject to the applicable | Cap. No. A18, LFN, 2004 |
| 20 | Arbitration and Conciliation Act. | |
| 21 | 42. -(1) Any person who produces, to an admitting official of a | Offences and penalties |
| 22 | healthcare facility, a Medical Practitioner or a member of his staff, or to a | |
| 23 | person authorised by this Act to provide other health services or a member of | |
| 24 | his staff, a registration card: | |
| 25 | (a) knowing that the person named in the card is at the time of the | |
| 26 | production, not covered under the Act commits an offence and is liable on | |
| 27 | conviction to a fine of at least N100,000.00 or imprisonment not exceeding | |
| 28 | two years or both; or | |
| 29 | (b) knowing that the person on behalf of whom and to facilitate | |
| 30 | whose treatment it is produced is not the person named in the card or a | |

1 dependent of that person, commits an offence, and is liable on conviction, to a
2 fine of N100,000.00 or such sum as may be specified by the Board, in addition
3 to the bills incurred.

4 (2) Any member or agent of the Agency who fails, without reasonable
5 cause, to comply with a requirement of an auditor under section 38 of this Act,
6 commits an offence and is liable on conviction to a fine not exceeding
7 N100,000 or imprisonment for a term not exceeding three months or both.

8 (3) A person convicted of an offence under section 13(1) of this Act is
9 liable:

10 (a) in the case of a first offender, to a fine of at least N100,000.00 or
11 imprisonment not exceeding two years or both; and

12 (b) in the case of a second or subsequent offender, to a fine of at least
13 N250,000 or imprisonment of not more than five years and not less than two
14 years or both.

Offences by
bodies

15 **43.**-(1) Where an offence is committed under this Act by a body
16 corporate, firm or other association of individuals, a person who at the time of
17 the offence:

18 (a) was an officer of the body corporate, firm or other association; or

19 (b) was purporting to act in the capacity of an officer or the body
20 corporate, firm or other association, is deemed to have committed the offence
21 and liable to be prosecuted and punished for the offence in like manner as if he
22 had himself committed the offence.

23 (2) In this section, "officer" includes:

24 (a) in the case of Ministries, Departments and Agencies (MDAs) the
25 accounting officer;

26 (b) in the case of a body corporate, Chief Executive, a Director, by
27 whatever name called, Manager and Secretary of the body corporate;

28 (c) in the case of a firm, a partner, manager and secretary of the firm;
29 and

30 (d) in the case of any other association of individuals, a person

| | | |
|----|---|-------------------|
| 1 | involved in the management of the affairs of the association. | |
| 2 | 44. Any person who contravenes any of the provisions of this Act | Prosecution by |
| 3 | shall be prosecuted by the legal officers of the Agency with the necessary fiat | the Agency |
| 4 | of the Attorney-General of the Federation. | |
| 5 | 45. -(1) The High Court of the FCT shall have jurisdiction to: | Jurisdiction |
| 6 | (a) try offenders under this Act; and | |
| 7 | (b) impose the penalties provided for the offences in this Act. | |
| 8 | 46. Proceedings for an offence under this Act may be commenced | Commencement |
| 9 | at any time after the commission of the offence. | of proceedings |
| 10 | 47. -(1) Subject to the provisions of this Act, the provisions of the | Limitation of |
| 11 | Public Officers Protection Act shall apply in relation to any suit instituted | suits against the |
| 12 | against any officer or employee of the Agency. | Agency |
| 13 | (2) No suit shall be commenced against the Agency, a member of | Cap. P41, LFN, |
| 14 | the Board, the Executive Secretary, officer or employee of the Agency | 2004 |
| 15 | before the expiration of a period of one month after written notice of | |
| 16 | intention to commence the suit is served upon the Agency by the intending | |
| 17 | plaintiff or his agent. | |
| 18 | (3) The notice referred to in subsection (2) shall clearly state the | |
| 19 | cause of the action, the particulars of the claims, the name and place of abode | |
| 20 | of the intended plaintiff and the relief which he claims. | |
| 21 | 48. The Court before which a person is convicted of an offence | Court order |
| 22 | under this Act may, without prejudice to any civil remedy, order a person to | |
| 23 | pay to the Fund of the Scheme the amount of any contributions or other | |
| 24 | payments together with interest and penalty, certified by the Agency to be | |
| 25 | due and payable at the date of the conviction and such amount shall be paid | |
| 26 | into the Fund. | |
| 27 | 49. A notice, summons or other document required or authorised | Notices, |
| 28 | to be served on the Agency under the provisions of this Act or any other | summons and |
| 29 | enactment may be served by delivering it to the Executive Secretary or by | other documents |
| 30 | sending it by registered post and addressed to the Executive Secretary at the | |

| | | |
|---|----|---|
| | 1 | principal office of the Agency. |
| Restriction of execution on the property of the Agency | 2 | 50. -(1) In any action or suit against the Agency, no attachment or |
| | 3 | process shall be issued against the Agency unless 90 days' notice of intention to |
| | 4 | execute or attach has been given to the Agency. |
| | 5 | (2) Any sum of money which may, by the judgment of any court, be |
| | 6 | awarded against the Agency shall, subject to any direction given by the court |
| | 7 | where notice of appeal of the said judgment has been given, be paid from the |
| | 8 | general reserve fund of the Agency. |
| | 9 | (3) No judgment sum or debt shall be attached or issued against the |
| | 10 | Fund of the Scheme established under section 33 (1) of this Act. |
| Interpretation | 11 | 51. In this Act: |
| | 12 | "actuary" means a professional who calculates risk and probabilities for |
| | 13 | payment plan; |
| | 14 | "administrative charge" means a portion of the Fund pooled by the FCT Health |
| | 15 | Insurance Scheme, dedicated to managing the operations of the Scheme; |
| | 16 | "Agency" means FCT Health Insurance Agency; |
| | 17 | "Area Council Chairman" means the political head of an Area Council; |
| | 18 | "Basic Health Plan" means an affordable plan providing a prescribed benefit |
| | 19 | package of accessible healthcare services; |
| | 20 | "BPHCF": means Basic Health Care Provision Fund; |
| | 21 | "Board" means the Governing Board established under section 4 of this Act for |
| | 22 | the Agency; |
| | 23 | "capitation" means a payment to a health care provider in respect of covered |
| | 24 | services to be provided to an insured person registered with the healthcare |
| | 25 | provider, whether the person uses the services or not; |
| | 26 | "contribution" means a premium payable to TPA's and the Fund or any other |
| | 27 | funds under this Act; |
| | 28 | "Executive Secretary" means the Executive Secretary of the Agency; |
| | 29 | "employee" means any person who is ordinarily resident in FCT and is |
| | 30 | employed in the public service or private sector; |

- 1 "employer" means an employer with five or more employees which includes
2 the Federal, FCT and Area Council, any Extra-Ministerial Department or a
3 person with whom an employee has entered into a contract of service or
4 apprenticeship and who is responsible for the payment of the wages or
5 salaries of the employee including the lawful representative, successor or
6 assignee of that person;
- 7 "FCT" Means Federal Capital Territory;
- 8 "fee-for-service" means payment made directly by TPAs, MHAs for
9 completed healthcare services, not included in the capitation fees paid to
10 healthcare providers following approved referrals or professional services
11 (specialist consultation, pharmaceuticals, laboratory and radiological
12 investigations, optometric service sand similar services under the Health
13 Scheme);
- 14 "FHIS" means FCT Health Insurance Scheme;
- 15 "formal sector" means the Public and the organised private sector workers;
- 16 "Health Care Provider (HCP)" means any government or private healthcare
17 facility, hospital, maternity Centre, community pharmacies, and all other
18 service providers registered by the Agency for the provision of prescribed
19 health services for insured persons and their dependents under this Scheme;
- 20 "HIA" means Health Insurance Agents, which refers to organisations tasked
21 with discrete functions by the FHIS which may relate to serving as
22 intermediaries between the FHIS and residents, enrolees or healthcare
23 providers;
- 24 "informal sector" means workers not part of the Formal Sector;
- 25 "insured person" means any person and eligible dependent who pays the
26 required contribution under this Scheme;
- 27 "marketing and distribution charge" means a portion of the Funds pooled by
28 the FCT Health Insurance Scheme, dedicated to marketing and distribution
29 of health plans to residents;
- 30 "Medical Practitioner" means a person with a degree registered with the

Cap. N42, LFN,
2004

Citation

- 1 Medical and Dental Council of Nigeria;
- 2 "member" means a member of the Governing Board and it includes the
- 3 Chairman
- 4 "MHA" means a Mutual Health Association registered under section 20 of this
- 5 Act to provide healthcare services through healthcare providers approved by
- 6 the Agency;
- 7 "Minister" means the Minister of FCT, Abuja;
- 8 "NHIS" means National Health Insurance Scheme as defined in the National
- 9 Health Insurance Act;
- 10 "persons" means any person corporate or individual;
- 11 "premium" means the contribution from the persons covered under any benefit
- 12 package of this scheme;
- 13 "Staff" means staff of the Agency;
- 14 "TPA" means Third Party Administrators; and
- 15 "vulnerable group" refers to pregnant women, children under the age of five,
- 16 the aged as defined by the FCT HIS operational guidelines, the disabled, the
- 17 poor and others in need of special care, support, or protection because of health
- 18 status, age, disability, socio-economic status or risk of abuse or neglect.
- 19 **52.** This Bill may be cited as the Federal Capital Territory Health
- 20 Insurance Agency Bill, 2019.

1 SCHEDULE

2 *Section 3 (7)*

3 SUPPLEMENTARY PROCEEDINGS RELATING TO THE BOARD

4 *Quorum*

5 1.-(1) Subject to this Act and Section 27 of the Interpretation Act,
6 the Agency may make standing orders regulating its proceedings and those
7 of any of its committees.

8 (2) The quorum of the Board shall be the Chairman or the member
9 presiding at the meeting and five other members and the quorum of any
10 Committee of the Board shall be determined by the Board.

11 *Meeting of the Board*

12 2.-(1) The Board shall meet quarterly in a year and the Board shall
13 meet whenever it is summoned by the Chairman, and if the Chairman is
14 required to do so, by notice given to him by at least seven other members, he
15 shall summon a meeting of the Board to be held within 14 days from the date
16 on which the notice is given.

17 (2) At any meeting of the Board, the Chairman shall preside but if
18 he is absent, the members present at the meeting shall appoint one of them to
19 preside at the meeting.

20 *Power to Co-opt*

21 3. Where the Board desires to obtain the advice of any person on a
22 particular matter, the Board may co-opt him to the Board for such period as it
23 deems fit, but a person who is in attendance by virtue of this subparagraph is
24 not entitled to vote at any meeting of the Board and shall not count towards a
25 quorum.

26 *Committee*

27 4.-(1) The Board may constitute one or more committees to
28 perform, on behalf of the Board such of its functions as it may determine.

29 (2) A committee established under this Paragraph shall consist of
30 such number of persons (not necessarily members of the Board as may be

1 determined by the Board), and a person other than a member of the Board shall
2 hold office on the Committee in accordance with the terms of his appointment.

3 *Miscellaneous*

4 5.-(1) The seal of the Agency is authenticated by the signature of the
5 Executive Secretary.

6 (2) Any contract or instrument, which if made or executed by a person
7 not being a body corporate, would not be required to be under seal, may be
8 made or executed on behalf of the Board by the Executive Secretary or any
9 person authorised for that purpose by the Board.

10 (3) Any document purporting to be a document duly executed under
11 the seal of the Agency shall be received in evidence and shall, unless the
12 contrary is proved, be presumed to be so executed.

13 (4) The validity of any proceeding of the Board or of a committee
14 thereof is not adversely affected by:

15 (a) any vacancy in the membership of the Board or committee; or

16 (b) reason that a person not entitled to do so took part in the
17 proceedings of the Board or committee.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Federal Capital Territory Health Insurance Agency to institute the Federal Capital Territory health insurance scheme and provide comprehensive, quality and affordable health care services for all residents of the Federal Capital Territory.

FOR

Sponsored by Hon. Simon D. Mwadkwon

[] Commencement

1 PART I - SOCIAL DISPLACEMENT UNIT

Establishment
of Social
Displacement
Unit

Functions and Responsibilities of the Unit

(b) co-ordinating and monitoring of activities pertinent to the rehabilitation of socially displaced persons;

(d) the establishment and monitoring of care standards for the
socially displaced;

17 (f) advising and making recommendations to the Board on all other
18 matters pertaining to the care of the socially displaced and such other
19 matters as the Minister may refer to.

Staff of the
Unit

- 1 **3.** The staff of the Unit shall include the following persons:
- 2 (a) an Executive Director;
- 3 (b) an Executive Assistant;
- 4 (c) a Social Work Specialist;
- 5 (d) a Psychologist;
- 6 (e) a Medical Doctor;
- 7 (f) a Registered Nurse;
- 8 (g) two Social Workers;;
- 9 (h) one Research Officer;
- 10 (i) one Clerk Typist I;
- 11 (j) a Psychiatrist;
- 12 (k) a Field Officer.

Fund of the Unit

- 13 **4.-(1)** A Social Displacement Fund (hereinafter referred to as “the
- 14 Fund”) is hereby established for the purposes of this Act.
- 15 (2) The purpose of the Fund is to finance social displacement projects
- 16 as are identified by the Unit.
- 17 (3) The resources of the Fund shall consist of:
- 18 (a) any monies that may from time to time be appropriated by the
- 19 National Assembly;
- 20 (b) contributions from corporate and individual citizens;
- 21 (c) contributions from regional and international agencies; and
- 22 (d) all other sums of money that may in any manner become payable
- 23 to or vested in the Fund.
- 24 (4) The accounts of the Fund shall be audited annually by the Auditor
- 25 General.

26 PART II - SOCIAL DISPLACEMENT BOARD

The Board

- 27 **5.-(1)** A Social Displacement Board (hereinafter referred to as "the
- 28 Board") is hereby established for the purposes of this Act.
- 29 (2) The Board shall consist of a Chairman and eleven other members
- 30 all of whom shall be appointed by the Minister.

1 (3) Every appointment shall be for a term of three years but may be
2 revoked by the Minister for any reasonable cause before the expiration of
3 that term.

4 (4) The quorum of the Board shall be six.

5 (5) The members appointed in accordance with subsection (2) shall
6 include:

7 (a) a representative of the Ministry of Youth and Social
8 development;

9 (b) a representative of the Ministry of Health;

10 (c) a representative of the Trade Union Congress;

11 (d) one attorney-at-law of at least five years;

12 (e) a representative of a non-governmental organisation;

13 (f) a qualified accountant;

14 (g) the Executive Director of the Unit who shall be an ex officio
15 member of the Board.

16 (6) A person who has a financial interest in an institution for the
17 care of socially displaced persons shall not be eligible for membership on
18 the Board.

19 (7) The Chairman of the Board shall preside at all meetings of the
20 Board.

21 (8) At a meeting of the Board from which the Chairman is absent,
22 the members present shall appoint one of their number to act as Chairman at
23 that meeting.

24 (9) The Chairman may at any time resign his office by letter
25 addressed to the Minister.

26 (10) A member may at any time resign his office by letter addressed
27 to the Chairman, who shall cause it to be forwarded to the Minister.

28 (11) The appointment of a person as a member and the termination
29 of office of a member whether by death, resignation, revocation, effluxion of
30 time or otherwise shall be notified in the Gazette.

| | | |
|-----------------------|----|---|
| | 1 | (12) If a member is unable to perform the functions of office owing to |
| | 2 | his absence from Nigeria or for any other reason, the Minister may appoint a |
| | 3 | new member. |
| | 4 | 6. The Unit shall provide Secretarial Services to the Board. |
| The seal of the Board | 5 | 7.-(1) There shall be a seal of the Board which shall be kept in the |
| | 6 | custody of the Chairman and may be affixed to instruments pursuant to a |
| | 7 | resolution of the Board in the presence of the Chairman and one other member |
| | 8 | and the Secretary. |
| | 9 | (2) The seal of the Board shall be attested by the signature of the |
| | 10 | Chairman or the Secretary. |
| | 11 | (3) All documents made by the Board, other than those required by |
| | 12 | law to be under seal, and all decisions of the Board may be signified under the |
| | 13 | hand of the Chairman or Secretary. |
| | 14 | (4) Service upon the Board of a notice, order or other document shall |
| | 15 | be executed by delivering it, or sending it by registered post addressed to the |
| | 16 | Secretary at the office of the Board. |
| Board Meeting | 17 | 8.-(1) The Board shall meet at least once a month and at such other |
| | 18 | times as may be necessary or expedient for the transaction of business. The |
| | 19 | meetings shall be held at a place and time to be determined by the Board. |
| | 20 | (2) The Chairman may at any time call a special meeting of the Board |
| | 21 | within seven days of the receipt of a requisition for that purpose addressed to |
| | 22 | him by three members. |
| | 23 | (3) The Secretary shall keep the minutes of each meeting in proper |
| | 24 | form. |
| | 25 | (4) The Chairman shall certify a copy of the confirmed minutes at a |
| | 26 | subsequent meeting and forward it to the Minister. |
| | 27 | (5) The Board may co-opt one or more persons to attend a particular |
| | 28 | meeting of the Board for the purpose of assisting or advising the Board, but a |
| | 29 | co-opted person shall not have the right to vote. |
| | 30 | (6) Subject to this Act, the Board may regulate its own procedure. |

| | | |
|----|--|----------------------------------|
| 1 | 9.-(1) The Board shall be responsible for: | Responsibilities of the Board |
| 2 | (a) the overall policy and direction of the Unit; | |
| 3 | (b) the management of the Social Displacement Fund; and | |
| 4 | (c) assisting the Unit in the attainment of the objectives of the Unit. | |
| 5 | PART III - ASSESSMENT AND CARE CENTERS | |
| 6 | 10.-(1) The Minister shall establish assessment centres and may by | Assessment and Care Centres |
| 7 | order designate an existing facility to be an assessment centre. | |
| 8 | (2) Assessment centres established or designated as such under this | |
| 9 | section shall be under the control of the Unit. | |
| 10 | (3) The Unit shall be responsible for monitoring the assessment, | |
| 11 | evaluation, relocation and rehabilitation of socially displaced persons who | |
| 12 | are admitted to an assessment centre. | |
| 13 | 11. A socially displaced person may voluntarily seek admission to | |
| 14 | an assessment centre and if he is admitted to that centre he shall be required | |
| 15 | to abide by the conditions of admission imposed by this Act or any | |
| 16 | regulations made under this Act. | |
| 17 | 12. Where a field officer determines upon investigation that a | |
| 18 | socially displaced person is unwilling to seek admission to an assessment | |
| 19 | centre and cannot be persuaded to do so, the field officer shall submit to the | |
| 20 | Unit a written report on the case. | |
| 21 | 13.-(1) Where upon receipt of the Report referred to in section 5 the | |
| 22 | unit is satisfied that all efforts to persuade the person named in the Report to | |
| 23 | be admitted to an assessment centre have failed, the unit shall make an | |
| 24 | application in the prescribed form to the court for an order to admit that | |
| 25 | person to the centre. | |
| 26 | (2) Where the court is satisfied on the evidence presented that a | |
| 27 | person named in that application is a socially displaced person, the court | |
| 28 | shall make an order requiring that person to be admitted to an assessment | |
| 29 | centre. | |
| 30 | (3) The person referred to in subsection (1) shall be served with a | |

1 copy of the Order referred to in subsection (2) and the field officer shall advise
2 him that he is entitled to legal aid in accordance with the Legal Aid Act.

3 (4) Notwithstanding any other written law to the contrary, the order is
4 deemed to be a summons:

5 (a) issued in accordance with section 42 and

6 (b) requiring the person to appear in court on the day and time stated
7 therein to show cause why he should not be admitted to the centre.

8 **14.** The procedure governing the making of courts application shall
9 apply mutatis mutandis to the making of an application for an Order under this
10 Act.

11 **15.-(1)** Where the court makes an order under subsection 16(2), the
12 Unit shall arrange for a field officer to remove the socially displaced person
13 named in the order in a humane manner, and in such a way that his dignity is
14 preserved.

15 (2) A field officer shall not remove a socially displaced person unless
16 that officer is accompanied by a police officer.

17 (3) Where a field officer removes a socially displaced person in
18 accordance with this section, the Unit shall inform the next of kin or closest
19 relative of the socially displaced person as soon as it is reasonably practicable
20 to do so.

21 **16.-(1)** The Minister may, subject to this Act, issue a certificate
22 approving the use of any house or home as a care centre authorising the person
23 named in the certificate to admit a socially displaced person for care and
24 treatment as:

25 (a) an urgent admission;

26 (b) a voluntary admission; or

27 (c) a medically recommended person.

28 (2) Every person who has been admitted to a care centre shall be under
29 the care and supervision of a medical practitioner and a social worker.

30 (3) A house shall not be used as a care centre unless:

1 (a) it satisfies the criteria relating to standards of care as set out in
2 the regulations; and

3 (b) a certificate has been issued under subsection (1).

4 (4) An application for a certificate shall be made in the prescribed
5 form.

6 (5) A certificate shall not be issued or renewed unless the house, its
7 location with regard to the neighbouring premises and its proposed facilities
8 and equipment adhere to the standards of care as established by the Unit and
9 the Minister is satisfied as to the character and fitness of the applicant.

10 (6) A certificate issued under this section shall be displayed in a
11 conspicuous part of the house in respect of which it was issued.

12 (7) Every care centre shall be under the supervision of a Medical
13 Practitioner.

14 (8) The manager of a Care Centre shall be paid a fee in an amount to
15 be determined by the Minister from time to time in respect of each person
16 admitted to the care centre.

17 **17.** A person who contravenes section 19(3) or 19(6) or any Regulations
18 regulations made under this Act commits an offence and is liable on
19 summary conviction to a fine of five thousand dollars and to imprisonment
20 for one year.

21 **18.-(1)** Where a person has been admitted into an assessment
22 centre in accordance with the provisions of this Act, the Centre shall
23 undertake an initial assessment at the time of admission.

24 (2) The Unit shall, within fourteen days from the date of admission,
25 conduct a further assessment of that person to determine whether he should
26 be discharged from the assessment centre or should be admitted to one of the
27 following:

28 (a) a mental institution;

29 (b) a medical institution;

30 (c) a detoxification or drug rehabilitation centre; or

Power to
recommend

1 (d) a care centre, as a beginning of the care process, that would
2 facilitate rehabilitation and reintegration into the society.

3 **19.** Every person admitted to a care centre shall be the responsibility
4 of the Manager of the centre.

5 **20.** The Unit shall review the case of each resident of a care centre on
6 a monthly basis to assess his suitability for discharge from the centre.

7 **21.** The Unit shall have the power to recommend that any resident
8 may be discharged from a care centre either conditionally or unconditionally.

9 **22.-(1)** A relative or friend who is willing and able to provide for a
10 socially displaced person who is being cared for at a care centre, may apply to
11 the Director to have that person placed under the care and control of that
12 relative or friend.

13 (2) Where the Director is satisfied that the applicant can provide
14 adequate care and support for the socially displaced person, he may discharge
15 that person into the care of the applicant.

16 (3) Where for any reason the care and support of the relative or friend
17 of the socially displaced person ceases, the relative or friend shall inform the
18 Director of the cessation of such care and support as soon as it is reasonably
19 practicable to do so.

20 **23.-(1)** A person residing in a care centre may be required to engage in
21 any suitable work, for which the Unit certifies him to be capable, either with a
22 view to fitting him for employment outside of the care centre or with a view to
23 his contributing to his maintenance in the care centre.

24 (2) A person residing in a care centre who attends work outside the
25 care centre shall be deemed, while engaged in such employment, to be a
26 resident of the care centre.

27 **24.** A person residing in a care centre may, if so directed by the Unit,
28 be transferred to a hospital or other medical institution for treatment, and shall
29 be deemed to be a resident of the care centre while receiving such treatment.

1 **25.** The Unit may transfer a person residing in a care centre to
2 another care centre.

3 **26.** Where upon investigation, a Field Officer determines that a
4 person:

5 (a) without permission of the Manager, leaves a care centre to
6 which he has been admitted in accordance with section 15 of this Act; or

7 (b) having obtained permission from the Manager, leaves a care
8 centre for a limited time or for a specified purpose and fails to return at the
9 expiration of that time or when that purpose has been accomplished and
10 without reasonable excuse returns to street life, commits an offence and is
11 liable on summary conviction to imprisonment for a term not exceeding one
12 month.

13 **27.** A person residing in a care centre who:

14 (a) takes part in any assault or attack on any officer of the care
15 centre;

16 (b) aggravates or repeatedly assaults any other person residing in
17 the care centre; or

18 (c) willfully destroys or steals any property of the care centre, or of
19 the staff or other residents of the care centre, commits an offence and is liable
20 on summary conviction to imprisonment for a term not exceeding three
21 months.

22 **28.** Any person who is reasonably suspected of having committed
23 an offence under section 28 or 29 and who refuses or fails to accompany a
24 police officer to, or to appear before a Magistrate's Court when required to
25 do so for the purposes of this Act, may be arrested without a warrant.

Arrest without
a warrant

26 **29.** A person who has completed serving a sentence imposed on
27 him under section 28 or 29 shall be returned to a care centre, and the Unit
28 shall have the power to grant admission to such person after he has served
29 his sentence.

Returns to care
centre after serving
sentence

| | | |
|-----------------|----|--|
| Regulations | 1 | 30. The Minister may make regulations for the purpose of giving |
| | 2 | effect to the provisions of this Act and in particular for: |
| | 3 | (a) prescribing anything that is required to be prescribed by this Act; |
| | 4 | (b) governing the issue or withdrawal of a certificate; |
| | 5 | (c) prescribing the fees payable in respect of the issue or renewal of a |
| | 6 | certificate; |
| | 7 | (d) prescribing the constitution and functions of the Unit; |
| | 8 | (e) regulating the management of assessment and care centres and the |
| | 9 | admission of persons to these centres; |
| | 10 | (f) the care, control and rehabilitation of persons residing in care |
| | 11 | centres; |
| | 12 | (g) prescribing the forms to be used for the purpose of this Act; and |
| | 13 | (h) prescribing standards of care. |
| Interpretations | 14 | 31. In this Act, unless the context otherwise requires: |
| | 15 | "assessment centre" means a centre established under section 13 for the |
| | 16 | assessment, evaluation, and treatment of socially displaced persons; |
| | 17 | "Board" means the Social Displacement Board appointed by the Minister |
| | 18 | under section 8; |
| | 19 | "care centre" means any house, home or facility approved as such under section |
| | 20 | 19 for the reception of socially displaced persons who are in need of care and |
| | 21 | treatment; |
| | 22 | "court" means a court of summary jurisdiction; |
| | 23 | "Director" means the Executive Director of the Social Displacement Unit; |
| | 24 | "Field Officer" means a person responsible for the initial assessment of a |
| | 25 | socially displaced person before he is admitted to an assessment centre; |
| | 26 | "Manager" means a person having the management or control of an assessment |
| | 27 | centre or care; |
| | 28 | "Minister" means the Minister to whom is assigned the responsibility for |
| | 29 | Social Development; |
| | 30 | "public place" includes any place to which the public is admitted with or |

- 1 without payment;
- 2 "the Social Displacement Unit" is the Unit established under clause 4;
- 3 "socially displaced person" means any idle person habitually found in a
- 4 public place whether or not he is begging and who by reason of illness or
- 5 otherwise is unable to maintain himself, or has no means of subsistence or
- 6 place of residence, is unable to give a satisfactory account of himself and
- 7 causes or is likely to cause annoyance or damage to persons frequenting that
- 8 public place, or otherwise to create a nuisance.
- 9 **32.** This Bill may be cited as the Socially Displaced Persons Bill, Citation
- 10 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the assessment, care and rehabilitation of socially displaced persons in Nigeria.

SOCIAL SAFETY NET SERVICE BILL, 2019

ARRANGEMENT OF CLAUSES

Clause:

1. Establishment of the Service
2. Objectives and functions of the Service
3. Appointment and qualification of the Head of the Service
4. Some social safety net programs
5. The Service to discontinue Social safety net programs
6. Some criteria for selecting beneficiaries of the social safety net programs
7. Some prerequisite for selection into one or more social safety net program
8. Citation

A BILL

FOR

AN ACT TO ESTABLISH THE SOCIAL SAFETY NET SERVICE TO PROVIDE FOR, REDUCTION OF HARDCORE POVERTY AMONG RURAL AND URBAN VULNERABLE GROUPS, SUSTAINABLE DEVELOPMENT GOALS AND IMPLEMENTATION OF SOCIAL PROTECTION SYSTEMS AND MEASURES IN NIGERIA; AND FOR RELATED MATTERS

Sponsored by Hon. Simon D. Mwadkwon

[] Commencement

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

- | | | |
|----|--|---|
| 1 | 1.-(1) There is established the Social Safety Net Service (in this | Establishment of the Service |
| 2 | Bill referred to as “the Service). | |
| 3 | (2) The Service shall be a department in the Federal Ministry of | |
| 4 | Budget and Planning and shall be created in all branches of the Ministry in | |
| 5 | the 36 States of the Federation. | |
| 6 | (3) The Service shall create safety centers in the 36 States of the | |
| 7 | Federation and safety units in the 774 Local Government Areas in Nigeria. | |
| 8 | 2. The Service shall: | Objectives and functions of the Service |
| 9 | (a) draw up social safety net programs periodically to address | |
| 10 | chronic poverty in rural and urban areas and engage in schemes that will | |
| 11 | graduate poor people from poverty; | |
| 12 | (b) develop good targeting mechanism that will enhance increased | |
| 13 | and level of benefits for the poor; | |
| 14 | (c) provide effective coordination between the safety centers in the | |
| 15 | States and the Safety units in the local government areas to adequately target | |
| 16 | poorest areas and reach individuals better; | |
| 17 | (d) have a monitoring and evaluation unit that will monitor and | |

1 assess projects, programs, beneficiaries and graduates from the social safety
2 net program;

3 (e) have such number of units as are required to work with the Safety
4 Centers in the States and Safety Units in the Local Government Areas for
5 effective implementation of the functions and objectives of the Service;

6 (f) develop a blue print for effective and monthly, quarterly and yearly
7 monitoring, evaluation and analysis of the social safety net programs to ensure
8 that the poor not only receives minimum assistance but graduate from poverty;

9 (g) maintain a register of beneficiaries and a register of graduates
10 from the social safety net programs;

11 (h) develop a sustainable development program to ensure that the
12 graduates from poverty do not fall back into poverty;

13 (i) develop a matrix for poverty reduction by collaborating with
14 Ministries, Departments and Agencies(MDAs) that have a platform for social
15 safety net programs and encourage participation by MDAs that do not have
16 such platforms;

17 (j) enter both public and private partnerships with donor agencies,
18 multinational companies, organizations and public -spirited individuals to
19 carry out social safety net programs:

20 Provided that such partnership will not undermine the integrity,
21 sovereignty and interest of Nigeria;

22 (k) understudy, learn useful systems and practices from middle
23 income Countries where the largest social safety net programs exist to develop
24 quality social safety net programs with good coverage in Nigeria;

25 (l) train and retrain social safety net officers in new forms of social
26 safety net programs and how best to achieve the objective of the Commission;

27 (m) develop a criteria for selecting beneficiaries that qualify to
28 partake in a social safety net program;

29 (n) embark all forms of agricultural projects with both beneficiaries
30 and experts as part of the project to develop food security for both beneficiaries

1 and the nation; and

2 (o) do things that shall enable it carry out the objectives and
3 functions under this Bill.

4 **3.** The Minister shall appoint a Head of the Service who shall:

Appointment
and qualification
of the Head of
the Service

5 (a) not be below the rank of a director;

6 (b) be qualified as an expert in social welfare programs and has at
7 least 15 years experience as a social welfare practitioner in a reputable non-
8 governmental organization, the public service or private sector;

9 (c) is a person of proven integrity, is innovative and has pioneered
10 successful social welfare programs for at list 10 years;

11 (d) have a master's degree in law, public health, development
12 economics, or international economic development.

13 **4.** The social safety net programs of the Service includes:

Some social safety
net

14 (a) food transfers;

15 (b) cash transfers;

16 (c) credit schemes;

17 (d) conditional subsidy programs;

18 (e) rural maintenance programs;

19 (g) households where one or more of the children or dependent is
20 terminally ill;

21 (f) education stipend programs;

22 (g) old age allowance;

23 (h) conditional disability and unconditional disability allowance;

24 (i) agricultural subsidy for marginal farmers; and

25 (j) unemployment housing programs and homeless shelters.

26 **5.** The Service may discontinue one or more of the social safety net
27 programs mentioned in section 4 of this Bill where it becomes irrelevant or
28 does not meet the changing demands of the objectives and functions of the
29 Service.

The service to
discontinue social
net programs

Some criterial
for selecting
beneficiaries
of the social
safety net
programs

- 1 **6.** The Service shall deploy the following criteria to select
- 2 beneficiaries of one or more of the social safety net program:
- 3 (a) households with monthly income of less than N5,000;
- 4 (b) day laborer or temporary worker with less than N3,000 per job;
- 5 (c) households that lack productive assets;
- 6 (d) family of low income professionals which includes fishing,
- 7 subsistent farmers, welders, blacksmiths, plumbers;
- 8 (e) households where the principal occupation of the head is day
- 9 labour;
- 10 (f) destitute woman headed family;
- 11 (h) household live in slums with no proper sewage, ventilation and
- 12 portable drinking water system; and
- 13 (i) such other criteria that the Service will deploy to select
- 14 beneficiaries from time-to-time.

Some prerequisite
for selection
into one or more
social safety net
program

- 15 **7.** The prerequisite for selection of beneficiaries into the social safety
- 16 net program includes:
- 17 (a) the prospective beneficiary must be a permanent resident in the
- 18 area where the Safety Centre or Safety Unit is situated;
- 19 (b) the prospective beneficiary is not a beneficiary of any other
- 20 program organizes by a Non- Governmental Organization;
- 21 (c) where the prospective beneficiary is a young person of
- 22 reproductive age, he or she must have the physical and mental capacity to do
- 23 laborious work; and
- 24 (d) such other prerequisites that the Service may deploy to select
- 25 beneficiaries into one or more social safety net program.

Citation

- 26 **8.** This Bill may be cited as the Social Safety Net Service Bill, 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Social Safety Net Service to provide for, reduction of hardcore poverty among rural and urban vulnerable groups, sustainable development goals and implementation of social protection systems and measures in Nigeria.

A BILL

FOR

AN ACT TO AMEND THE FISCAL RESPONSIBILITY ACT 2004 AND FOR
RELATED MATTERS

Sponsored by Hon. Simon D. Mwadkwon

[] Commencement

BE IT ENACTED by the National Assembly of the Federal
Republic of Nigeria as follows:

- | | |
|---|---|
| <p>1 1. The Fiscal Responsibility Act is hereby amended as set out</p> <p>2 hereunder.</p> | <p>Amendment of Fiscal Responsibility Act</p> |
| <p>3 2. The principal Act is hereby amended by adding a new</p> <p>4 subsection "c" after subsection "b" as follows:</p> <p>5 “The Federal Government shall only guarantee or permit any borrowing by</p> <p>6 State or Local Government where such is sought if all the Local</p> <p>7 Governments in such States are democratically constituted and there must</p> <p>8 be a supporting resolution of the House of Assembly together with the State</p> <p>9 Executive Council and all the elected Legislative Councils of the State”.</p> | <p>Amendment of Section 41 (1)</p> |
| <p>10 3. The principal Act is hereby amended in Section 41 by adding a</p> <p>11 new subsection 3 to read:</p> <p>12 “The States and Local Governments shall only be allowed to borrow from</p> <p>13 the capital market subject to the approval of the National Assembly which</p> <p>14 must be satisfied that the State has complied with Section 7 of the</p> <p>15 constitution and there are resolutions of the State House of Assembly, State</p> <p>16 Executive Councils and elected Local Government Chairmen in support”.</p> | <p>Amendment of Section 41</p> |
| <p>17 4. The principal Act is hereby amended in Section 56 by inserting</p> <p>18 "offence" after "Net debt" but before "President" as follows:</p> <p>19 “Offence wherever used in this law shall be punishable as appropriate with a</p> <p>20 minimum fine of N1 million or minimum imprisonment of two years and</p> <p>21 maximum imprisonment of ten years or both for Banks that are in</p> | <p>Amendment of Section 56</p> |

Citation

1 contravention, all the Directors who signed in support shall be liable while for
2 the State Commissioner of Finance, Permanent Secretary Ministry of Finance,
3 Accountant General of the State shall be liable while for the Federal
4 Government, the Minister and the Permanent Secretary, Federal Ministry of
5 Finance, and Accountant General of the Federation and the Chief Executive of
6 the Debt Management Office and the Director General of the Fiscal
7 Responsibility Commission shall be liable”.

8 **5.** This Bill may be cited as Fiscal Responsibility Commission Act
9 (Amendment) Bill, 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to among other things amend the Fiscal Responsibility Commission Act, 2004 by making it mandatory for states to have democratically elected Local Government Councils before such states can access funds from the capital market and makes provisions for punishment for the offences in the Act.

OIL AND GAS FREE ZONES ACT (REPEAL AND RE-ENACTMENT)

BILL, 2019

ARRANGEMENT OF SECTIONS

Section:

1. Designation and establishment of Oil and Gas Free Zones, etc.
2. Establishment of the Oil and Gas Free Zones Authority
3. Establishment and membership of the Governing Board, etc.
4. Removal from office
5. Functions of the Authority
6. Appointment of the Managing Director, Secretary and other employees, etc.
7. Vesting of property in the Authority
8. Exemption from taxes
9. Approval of enterprise to undertake approved activity
10. Power to grant licence
11. Payments for goods and services
12. Import of goods into the Free Zones
13. Persons not to enter the Free Zone without permission
14. Prohibition of retail trade
15. Special provisions relating to articles imported with customs duty cessions
16. Prohibition of storage of ammunition and dangerous explosives
17. Export of goods from the Free Zone
18. Incentives, etc. for Free Zones
19. Incentives, etc. for Special Investment Areas.
20. Establishment, etc. of Oil and Gas Free Zones Labour Council
21. Enterprises to submit returns
22. Work permit
23. Fund of the Authority
24. Annual estimates, accounts, etc.

- 25. Enactments applicable in customs territory to apply
- 26. Establishment, etc. of Free Zones Training Fund
- 27. Omission and non-compliance
- 28. Regulations
- 29. Legal proceedings, etc.
- 30. Repeal, savings, etc.
- 31. Interpretation
- 32. Short title
- Schedules

A BILL

FOR

AN ACT TO REPEAL THE OIL AND GAS EXPORT FREE ZONE AUTHORITY ACT; AND TO PROVIDE FOR THE DESIGNATION AND ESTABLISHMENT OF OIL AND GAS FREE ZONES IN NIGERIA; ESTABLISHMENT OF THE OIL AND GAS FREE ZONES AUTHORITY; AND FOR RELATED MATTERS

Sponsored by Hon. Benjamin Okezie Kalu

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1 1.-(1) The President, on the recommendation of the Authority, may
2 by Order: Designation and
establishment of
the Oil and Gas
Free Zones, etc.
- 3 (a) designate any area within the Federal Republic of Nigeria as an
- 4 Oil and Gas Free Zone (in this Bill referred to as "Free Zone");
- 5 (b) designate any area within the Federal Republic of Nigeria as an
- 6 Oil and Gas Special Investment Area (in this Bill referred to as "Special
- 7 Investment Area");
- 8 (c) amend, vary or add to the limit of any Free Zone or Special
- 9 Investment Area as the case may be.
- 10 (2) The President hereby designates the Onne/Ikpokiri area and
- 11 Ogu Creek area of Rivers State as an Oil and Gas Free Zone, (in this Bill
- 12 referred to as "the Onne/Ikpokiri Free Zone") and as further specified in
- 13 First Schedule to this Bill.
- 14 (3) Free Zones and Special Investment Areas established pursuant
- 15 to subsection (1) of this section, may be designed, developed, funded or
- 16 operated by the Authority or a combination of both the Authority and a
- 17 private or public enterprise.
- 18 2.-(1) There is hereby established an authority to be known as the Establishment of
the Oil and Gas
Free Zones
Authority
- 19 Oil and Gas Free Zones Authority (in this Bill referred to as "the Authority").

Establishment
and membership
of the Governing
Board, etc.

1 (2) The Authority shall be a body corporate, with perpetual succession
2 and a common seal and may sue and be sued in its corporate name and shall be
3 capable of acquiring, holding or disposing of any property movable or
4 immovable for the purpose of carrying out its functions.

5 3.-(1) There shall be for the Authority a governing board (in this Bill
6 referred to as "the Board") which shall consist of the following members, that
7 is:

8 (a) a Chairman, who shall be appointed by the President, being a
9 person who by reason of his ability, experience or specialized knowledge of
10 trade and investment promotion, commercial or economic matters is capable of
11 making outstanding contributions to the functions of the authority;

12 (b) one representative each of the following, not below the rank of a
13 Director in the public service of the Federation, that is:

14 (i) Federal Ministry of Trade and Investment,

15 (ii) Department of Petroleum Resource,

16 (iii) Federal Ministry of Justice.

17 (c) the Managing Director of the Nigeria Ports Authority or his
18 representative not below the rank of General Manager;

19 (d) the Comptroller-General of Customs or his representative not
20 below the rank of a Assistant Comptroller-General;

21 (e) One representative each of the following bodies, not below the
22 rank of a Director in the public service of the Federation, that is:

23 (i) the Nigerian Association of Chambers of Commerce, Industry and
24 Mines and Agriculture,

25 (ii) the Corporate Affairs Commission,

26 (iii) Commissioner for Commerce in the Government of a state in
27 which a Zone is located or his representative not below the rank of a Director
28 in the public service of that State.

29 (f) the Managing Director of the Federal Aviation Authority of
30 Nigeria or his representative not below the rank of a Director in the Authority;

1 (g) the Chairman of the Federal Inland Revenue Service or his
2 representative not below the rank of a Director;

3 (h) the Governor of the Central Bank of Nigeria or his
4 representative not below the rank of a Director; and

5 (i) the Managing Director of the Authority.

6 (2) A member of the Board other than ex-officio member shall hold
7 office for a period of three years from the date of his appointment as a
8 member and shall be eligible for re-appointment for one further period of
9 two years and no more.

10 (3) Notwithstanding subsection (2) of this section, the President
11 may, on the recommendation of the Minister, require any member of the
12 Board to vacate his office if he is satisfied that it is not in the interest of the
13 public that the member should continue in office.

14 (4) A member of the Board other than an ex-officio member may,
15 by notice in writing addressed to the Board, resign his appointment.

16 (5) The supplementary provisions contained in the First Schedule
17 to this Bill shall have effect with respect to the proceedings of the Board and
18 other matters relating to the Board.

19 ~~4.-(1) If it appears to the Board that a member of the Board should~~
20 ~~be removed from office on grounds of misconduct or inability to perform the~~
21 ~~functions of his office, the Board shall, after consultations with the interests,~~
22 ~~if any, represented by that member, make recommendations to that effect to~~
23 ~~the Minister and if the Minister approves the recommendations, he may~~
24 ~~declare in writing the office of that member vacant.~~

Removal from
office

25 (2) Without prejudice to subsection (1) of this section any member
26 who is absent from two consecutive ordinary meetings of the Board shall file
27 his explanation in writing with the Secretary for consideration by the Board
28 and if the explanation is not accepted by the Board, the Board shall
29 recommend to the Minister that the member be removed from office and the
30 Minister may declare, in writing, the office of that member vacant.

Functions of the
Authority

- 1 **5.-(1)** In addition to any other functions conferred on the Authority by
2 this Bill, the functions and responsibilities of the Authority shall include:
3 (a) the administration of the Authority and management of Free Zones
4 and Special Investment Areas;
5 (b) the grant of all requisite permits and licences to conduct approved
6 enterprises within Free Zones and Special Investment Areas;
7 (c) the approval of development plans for Free Zones and Special
8 Investment Areas, the annual budget in respect of infrastructures,
9 administrative buildings, promotion of Free Zones and Special Investment
10 Areas, the provision and maintenance of services and facilities;
11 (d) the establishment of customs, police, immigration and similar
12 posts in Free Zones and Special Investment Areas;
13 (e) the supervision and co-ordination of the functions of various
14 public and private sector organisations operating within Free Zones and
15 Special Investment Areas and resolving any dispute which may arise amongst
16 them;
17 (f) the resolution of trade disputes between employers and employees
18 in Free Zones on the recommendation of the Labour Council established
19 pursuant to section 20 of this Bill;
20 (g) attract, facilitate and encourage the retention of investments,
21 leading to value addition, into Free Zones and Special Investment Areas;
22 (h) regulate activities and monitor the operations of Free Zones and
23 Special Investment Areas, enterprises as well as organizations that provide
24 services within and to Free Zones and Special Investment Areas;
25 (i) develop and monitor performance standards and indicies relating
26 to Free Zones and Special Investment Areas;
27 (j) act as a "one-stop shop" for all government services for Free Zones
28 and Special Investment Areas;
29 (k) shall establish and maintain a registry as specified in the Fourth
30 Schedule to this Bill; and

1 (l) carry out such activities as may be necessary or expedient for the
2 full discharge of all functions and activities of the Authority under this Bill.

3 (2) As from the commencement of this Bill, the Authority shall
4 without further assurance, take over and perform such functions being
5 hitherto performed by the Nigeria Export Processing Zones Authority
6 established by the Nigeria Export Processing Zone Act, Cap N107, Laws of
7 the Federation of Nigerian, 2004, as they relate to the export of oil and gas.

8 (3) The Authority may, from time to time, approve activities which
9 may be carried on in Free Zones and Special Investment Areas as specified
10 in the Second Schedule to this Bill.

11 **6.-(1)** There shall be for the Authority, a Managing Director who
12 shall:

Appointment of
the Managing
Director, Secretary
and other employees,
etc.

13 (a) be the chief executive; and

14 (b) be appointed by the President on the recommendation of the
15 Minister.

16 (2) The Managing Director shall be responsible for:

17 (a) the preparation of plans, annual programmes and budget of the
18 Authority;

19 (b) the recommendation to the Minister, of such bye-laws which
20 may be applicable in Free Zones and Special Investment Areas;

21 (c) the implementation of approved plans, programmes and budget
22 of the Authority; and

23 (d) the day-day administration of the Authority.

24 (3) The Managing Director shall hold office for a period of four
25 years and may be eligible for re-appointment for another period of two years
26 and no more.

27 (4) Without prejudice to the generality of subsections (1) and (3) of
28 this section, the Authority shall have power to employ such number and
29 category of staff as it may deem fit, including the power to:

30 (a) appoint a Secretary who shall be qualified to practice as a legal

1 practitioner in Nigeria and shall have been so qualified for not less than fifteen
2 years;

3 (b) pay the employees such remuneration and allowances as it may,
4 from time to time, determine;

5 (c) pay the employees such pensions and gratuities as are payable to
6 persons of equivalent grades in the public service of the Federation.

7 (5) The Authority may make staff regulations relating generally to the
8 conditions of service of the employees of the Authority and without prejudice
9 to the generally of the foregoing such regulations may provide for:

10 (a) the appointment, promotion and disciplinary control of all
11 employees of the Authority; and

12 (b) appeal by such employees against dismissal or other disciplinary
13 measures and until such regulations are made, the regulations relating to the
14 conditions of service of the officers in the civil service of the Federation and the
15 provisions of the pensions Act shall be applicable with such modifications as
16 may be necessary to the staff of the Authority.

17 (6) Approved enterprises operating within the Export Free Zone shall
18 make provisions for the pensions and gratuities for their employees.

19 (7) The Secretary of the Authority appointed pursuant to subsection
20 (4)(a) of this section shall:

21 (a) serve as Secretary to the Board;

22 (b) oversee the activities of the Registry established pursuant to
23 section 5 (1) (k) of this Bill; and

24 (c) perform such other duties as the Chairman of the Board or the
25 Managing Director respectively may from time to time direct.

Vesting of
property in the
Authority

26 7. The President or the Governor of a State respectively may by
27 Order, transfer to the Authority, any property belonging to the Federal or State
28 Government which appears to be necessary or expedient to the Authority in
29 carrying out its functions under this Act and such property shall vest in the
30 Authority by virtue of that Order and without further assurance.

- 1 **8.-(1)** Notwithstanding the provisions of any tax law or any Exemption from
2 enactment in force, an approved enterprise or body corporate or firm taxes
3 operating within Free Zones shall be exempted from the payment of Federal,
4 State and Local Government taxes, value added tax, levies, customs duties,
5 rates, withholding tax and deductions for the period (in this Bill referred to
6 as lithe tax free period") specified in this section.
- 7 (2) The tax free period shall be fifteen (15) years, starting from the
8 date an enterprise commences operation in a Free Zone.
- 9 (3) Upon application by an enterprise, the Minister may extend the
10 tax free period for a further period of five (5) years and no more.
- 11 (4) Without prejudice to the provisions of subsection (1) of this
12 section, all employees in the Free Zones shall comply with the provisions of
13 the Personal Income Tax Act.
- 14 **9.-(1)** Any enterprise which proposes to undertake an approved Approval of
15 activity , within Free Zones and Special Investment Areas shall apply to the enterprise to
16 Authority in writing for permission to do so and shall submit such undertake
17 documents and information in support of the application, as the Authority approved activity
18 may require from time to time.
- 19 (2) Subject to the provisions of this Act, the Authority may grant,
20 subject to such terms and conditions as it thinks fit, approval for an
21 enterprise to undertake the approved activity specified in its application
22 brought under subsection (1) of this section.
- 23 **10.-(1)** The authority shall, to the exclusion of any other person or Power to grant
24 authority grant licence for Free Zones and Special Investment Areas and for licence
25 any approved activity in Free Zones and Special Investment Areas to an
26 individual or business concern whether or not the business is incorporated in
27 the customs territory.
- 28 (2) The grant of licence by the Authority shall constitute
29 registration for the purposes of company registration within Free Zones and
30 Special Investment Areas.

1 (3) A body corporate licensed to operate within Free Zones and
2 Special Investment Areas and undertaking an approved activity shall notify the
3 Authority of any purchase, assignment or transfer of shares in the body
4 corporate, except where its shares are quoted and are freely transferable on any
5 international Stock Exchange.

6 (4) The Authority shall by order, from time to time, prescribe the
7 regulations governing Free Zones and Special Investment Areas.

8 (5) In addition to any other powers conferred on the Authority by this
9 Bill, the powers of the Authority shall include:

10 (a) to undertake, or purchase, or otherwise acquire any asset in
11 furtherance of the objectives of the Bill;

12 (b) when it is expedient, to take loans from banks licenced by the
13 Central Bank of Nigeria;

14 (c) to enter into contracts, partnerships and collaborative agreements
15 or arrangements with any company or firm or body which in the opinion of the
16 Authority will facilitate the discharge of its functions under this Bill; and

17 (d) to exercise such other powers as are necessary or expedient for
18 giving effect to the provisions of this Bill.

Payments for
goods and
services

19 11.-(1) Where an approved enterprise operating in Free Zones and
20 Special Investment Areas supplies goods and services to customers within the
21 customs territory, that enterprise shall be entitled to receive payment for such
22 goods and services in foreign currency and for the purposes of such payment,
23 the rules and regulations applicable to importation of goods and services into
24 Nigeria and repatriation of the proceeds of sales or services shall apply.

25 (2) Where a person within the customs territory supplies goods and
26 services to an approved enterprises established within the Free Zones and
27 Special Investment Areas, that person shall be entitled to receive payment for
28 such goods or services in foreign currency and the rules and regulations
29 applicable to export from Nigeria and the repatriation of proceeds from sales or
30 services shall apply.

- 1 12.-(1) The Authority and any approved enterprises shall be Import of goods
2 entitled to import into Free Zones, free of customs duty, any capital goods, into the Export
3 consumer goods, raw materials, components or articles intended to be used Free Zone
4 for the purposes of and in connection with an approved activity, including;
5 any article for the construction, alteration, reconstruction, extension or
6 repair of premises in Free Zones or for equipping such premises.
- 7 (2) For the purposes of this section, articles for equipping premises
8 shall be deemed to include equipment for offices and other ancillary
9 facilities necessary for the proper administration of the premises and for the
10 health, safety, hygiene and welfare of the premises and of persons employed
11 therein.
- 12 (3) All goods brought into Free Zones shall be consigned:
13 (a) to the Authority or to an approved enterprise and the goods may,
14 with the approval of the Authority, be transferred from one approved
15 enterprise to another or from the Authority to an approved enterprise or from
16 an approved enterprise to the Authority; and
17 (b) without prejudice to the provisions of subsection (2) of this
18 section, to a bank acting on behalf of any party to a transaction involving the
19 Authority or an approved enterprise.
- 20 (4) The Authority may take such steps as it deems necessary to
21 preserve goods within Free Zones, whether by moving the goods from one
22 place to another or by storing the goods and where any expenses are incurred
23 by the Authority in so doing, the owner or consignee of the goods shall
24 reimburse the Authority for the expenses.
- 25 (5) Subject to the provisions of this Bill and any regulations made
26 thereunder, goods brought into Free Zones pursuant to this section may:
27 (a) unless otherwise directed by the Authority, be stored, sold,
28 exhibited, broken up, packed, graded, cleaned, marked, re-marked, loaded,
29 unloaded, re-loaded, divided, mixed, separated or otherwise manipulated;
30 (b) be worked, processed or re-processed or otherwise

1 manipulated or manufactured;

2 (c) be consumed if the goods are meant for consumption in Free
3 Zones, unless otherwise directed by the Authority;

4 (d) subject to subsection (6) of this section, be removed from Free
5 Zones or sent into the customs territory, whether as originally packed or
6 otherwise; or

7 (e) subject to any enactment pertaining thereto, be destroyed.

8 (6) Where any goods which are dutiable on entry into the customs
9 territory are sent from Free Zones into the customs territory, the goods shall be
10 subject to the provisions of the Customs, Excise Tariff, Etc. (Consolidation)
11 Act and any regulations made thereunder, and if the goods are intended to be
12 disposed of in the customs territory, shall not be removed from Free Zones
13 unless:

14 (a) the consent of the Authority has been obtained; and

15 (b) the relevant customs authorities are satisfied that all import
16 restrictions relevant thereto have been complied with and all duties payable in
17 connection with the importation thereof into the customs territory have been
18 paid.

19 (7) Samples of goods being taken into the customs territory shall be
20 subject to the provisions of subsection (5) of this section, except in cases where
21 the relevant customs authority is satisfied that such goods are of no commercial
22 value.

23 (8) Where goods being taken into the customs territory into Free
24 Zones for the purposes of an approved activity, the good shall be deemed to be
25 exported.

26 (9) The President shall, appoint for Free Zones, an inspecting agent
27 who shall be charged with responsibility of inspecting goods imported from
28 Free Zones into Nigeria for use by an approved enterprise within Free Zones.

Persons not to
enter the Free
Zone without
permission

29 **13.-(1)** No person shall, without the prior permission of the Authority,
30 enter remain in or reside in Free Zones.

1 (2) Any person who contravenes the provisions of subsection (1) of
2 this section shall have his permit revoked by the Authority.

3 **14.**-(1) No retail trade shall be conducted within Free Zones
4 without the prior approval of the Authority and which may be subject to such
5 terms and conditions as may be imposed, from time to time, by the
6 Authority.

Prohibition of
retail trade

7 (2) Any person who contravenes the provisions of subsection (1) of
8 this section or of a term or condition imposed pursuant to that subsection
9 shall have his licence revoked by the Authority.

10 **15.**-(1) An approved enterprise which imports into Free Zones an
11 article with a benefit in respect of customs duty under the provisions of this
12 Bill shall:

Special provisions
relating to articles
imported with
custom duty
cessions

13 (a) keep such record on the articles so imported in such forms and
14 containing such particulars as may be required by the Authority;

15 (b) causes the articles to be marked with such mark and in such
16 manner as may be required by the Authority;

17 (c) permit the Authority or person authorised by the Authority at all
18 reasonable times:

19 (i) to inspect the records relating to those articles, and

20 (ii) to have access to any factory, warehouse, assembly plant or
21 other premises under the control of the approved enterprise for the purpose
22 of examining the article which the Authority believes to be therein and of
23 satisfying itself of the contained in such records.

24 (2) Any person who contravenes the provisions of subsection (1) of
25 this section is guilty of an offence.

26 **16.**-(1) Notwithstanding any other provision of this Bill, the
27 following goods shall not be imported, taken into or stored in Free Zones:

Prohibition of
storage of
ammunition and
dangerous
explosives

28 (a) firearms and ammunition, other than by members of the Nigeria
29 Police Force, the Armed Forces of the Federation;

30 (b) dangerous explosives, without prior approval of the Authority;

1 (c) petrol, inflammable materials, hazardous cargoes or oil fuels,
2 other than in such quantities and such terms and conditions as may be
3 prescribed by the Authority;

4 (d) goods which the authority by Order has imposed specific or
5 absolute prohibition on their importation into the Export Free Zone.

6 (2) Any person who contravenes the provisions of subsection (1) of
7 this section is guilty of an offence.

Export of goods
from the Free
Zone

8 **17.** Export of goods from Free Zones to the customs territory shall,
9 except as otherwise prescribed by or pursuant to this Bill, be subject to the same
10 customs and licensing requirements as apply to goods imported from other
11 countries.

Incentives, etc.
for Free Zones

12 **18.-(1)** Approved enterprises within Free Zones shall be entitled to
13 the following incentives:

14 (a) legislative provisions pertaining to taxes, levies, duties and
15 foreign exchange regulations shall not apply within Free Zones;

16 (b) repatriation of foreign capital investment in Free Zones at any
17 time with capital appreciation of the investment;

18 (c) remittance of profits and dividends earned by foreign investors in
19 Free Zones;

20 (d) no import or export licences shall be required;

21 (e) up to 100 per cent of production may be sold in the territory against
22 a valid permit, and on payment of appropriate duties;

23 (f) no form of expropriation of foreign investment;

24 (g) up to 100 per-cent foreign ownership of business in Free Zones
25 allowable;

26 (h) foreign managers and qualified personnel may be employed by
27 companies operating in Free Zones;

28 (i) simplification of visa and work permits for expatriate staff of
29 approved enterprises in the Free Zones;

30 (j) up to 75 per cent import duty tariff rebate on any special product

1 imported into Free Zones on which value has been added without changing
2 the essential character of the product after processing in the Free Zone and
3 intended for the customs territory;

4 (k) Government of the Federation to guarantee the supply of crude
5 oil to Free Zones;

6 (l) Government of the Federation to guarantee the protection of
7 critical infrastructure servicing Free Zones; and

8 (m) Government of the Federation to provide market assurance for
9 value added products from Free Zones.

10 (2) The Authority shall be the only agency qualified to:

11 (a) give all approvals; and

12 (b) cancel all licenses.

13 (3) The Authority shall simplify all procedure necessary for
14 authorization of investments in Free Zones and state by Order from time to
15 time its requirements for the grant of authorisations for investments in Free
16 Zones.

17 (4) Operations within a Free Zone shall commence on the date
18 determined by the Authority provided that there shall be consultation with
19 the developer of the Free Zone.

20 (5) There shall be no strikes or lockouts for a period of 10 years
21 following the commencement of operations within Free Zones and any trade
22 dispute arising within Free Zones shall be resolved by the Authority.

23 19.-(1) Approved enterprises within Special Investment Areas
24 shall be entitled to the following incentives:

Incentives, etc.
for Special
Investment Areas

25 (a) legislative provisions pertaining to taxes, levies, duties and
26 foreign exchange regulations shall with such modification authorized by an
27 Order of the Minister apply within Special Investment Areas;

28 (b) repatriation of foreign capital investment in Special Investment
29 Areas at any time with capital appreciation of the investment;

30 (c) remittance of profits and dividends earned by foreign investors

- 1 in Special Investment Areas;
- 2 (d) no form of expropriation of foreign investment;
- 3 (e) foreign managers and qualified personnel may be employed by
- 4 companies operating in Special Investment Areas;
- 5 (f) simplification of visa and work permits for expatriate staff of
- 6 approved enterprises in the Special Investment Areas;
- 7 (g) up to 75 per cent import duty tariff rebate on any special product
- 8 imported into Special Investment Areas on which value has been added
- 9 without changing the essential character of the product after processing in the
- 10 Special Investment Areas and intended for the customs territory
- 11 (h) Government of the Federation to guarantee the supply of crude oil
- 12 to Special Investment Areas;
- 13 (i) Government of the Federation to guarantee the protection of
- 14 critical infrastructure servicing Special Investment Areas;
- 15 (j) Government of the Federation to provide market assurance for
- 16 value added products from Special Investment Areas; and
- 17 (k) ownership of investments may be structured to accommodate
- 18 local communities.
- 19 (2) The Authority shall be the only agency qualified to:
- 20 (a) give all approvals; and
- 21 (b) cancel all licenses.
- 22 (3) The Authority shall simplify all procedure necessary for
- 23 authorization of investments in Special Investment Areas and state by Order
- 24 from time to time its requirements for the grant of authorisations for
- 25 investments Special Investment Areas.
- 26 (4) Operations within a Special Investment Area shall commence on
- 27 the date determined together by the Authority and the developer of the Free
- 28 Zone.

- 1 **20.**-(1) There is established a council to be known as the Oil and Establishment,
2 Gas Free Zones Labour Council (in this Bill referred to as "Labour etc. of Oil and
3 Council") which shall: Gas Free Zones/
4 (a) be responsible for dialogue and resolution of labour issues Labour Council
5 within Free Zones;
6 (b) from time to time, make recommendations to the Authority on
7 resolution of labour issues within Free Zones.
8 (2) The Labour Council shall comprise of:
9 (a) a representative of the Managing Director of the Authority, who
10 shall be the Chairman;
11 (b) a representative of the Federal Ministry of Labour,
12 Employment and Productivity;
13 (c) one representative each of the following:
14 (i) Nigeria Labour Congress (NLC),
15 (ii) National Union of Petroleum and Natural Gas Workers
16 (NUPENG),
17 (iii) Petroleum and Natural Gas Senior Staff Association of Nigeria
18 (PENGASSAN), and
19 (iv) Maritime Workers Union of Nigeria (MWUN); and
20 (d) two persons to represent operators of Free Zones, provided
21 howsoever that they shall be rotated among operators of Free Zones.
22 (3) The tenure of each Labour Council shall be a period of three
23 years.
24 (4) The Labour Council shall regulate its proceedings.
25 **21.** An approved enterprise shall submit to the Authority at such Enterprises to
26 intervals as may be prescribed, such statistical data, and such information submit returns
27 and returns as regards the sales and purchases and other operations of the
28 enterprise as the Authority may require or as may be prescribed, from time to
29 time.
30 **22.** Where a person who is a non-Nigerian citizen is employed by Work permit

1 the Authority or by an approved enterprise established in Free Zones and
2 Special Investment Areas, upon application by the enterprise for a licence to
3 establish itself within Free Zones and Special Investment Areas or at any time
4 thereafter, the enterprise shall apply on behalf of the non-Nigerian citizen,
5 direct to the Authority for the purpose of immigration and employment
6 permits, in such manner as may be prescribed by the Authority.

Fund of the
Authority

7 **23.**-(1) The Authority shall establish and maintain a fund which shall
8 consist of:

- 9 (a) all moneys received from the Federal Government;
10 (b) proceeds from all activities, services and operations of the
11 Authority;
12 (c) grants, loans, gifts and donations made to the Authority; and
13 (d) such other sum as may accrue, from time to time to the Authority.

14 (2) The Authority shall, from time to time, apply the proceeds of the
15 fund established pursuant to subsection (1) of this section:

- 16 (a) to the cost of administration of the Authority;
17 (b) to the payment of the salaries, fees or other remuneration or
18 allowances, pension and gratuities payable to the officers and employees of the
19 Authority;
20 (c) for reimbursing members of the Board or of any committee set up
21 by the Board for such expenses as may be expressly authorised by the Authority
22 in accordance with the rates approved by the Federal Executive Council;
23 (d) for the maintenance of any property vested in the Authority; and
24 (e) for investment, maintenance of Free Zones and Special
25 Investment Areas, marketing, promotion, training, research and similar
26 activities.

Annual estimates,
accounts, etc.

27 **24.**-(1) The Authority shall, not later than 31st October in each year,
28 submit to the Minister an estimate of its expenditure and income (including
29 payments into the fund of the Authority) during next succeeding year.

30 (2) The Authority shall keep proper accounts in respect of each year

1 (and proper records in relation thereto)and shall cause its accounts to be
2 audited within six months after the end of each year by auditors appointed
3 from the list and in accordance with the guidelines supplied by the Auditor-
4 General of the Federation.

5 **25.**-(1) Except as provided under this Bill, an enactment applicable
6 in a customs territory shall apply within Free Zones.

Enactments
applicable in
customs territory
to apply

7 (2) The Minister may, by Order published in the Gazette modify the
8 application of any enactment which is made applicable in Free Zones by
9 subsection (1) of this section, where the enactment concerned restricts or
10 interferes with the smooth running of Free Zones or operation of licences
11 therein.

12 **26.**-(1) There is hereby established a Fund to be known as the Oil
13 and Gas Free Zones Training Fund (in this Bill referred to as the "Fund") into
14 which shall be paid all contributions prescribed under this section.

Establishment, etc.
of Free Zones
Training Fund

15 (2) The Fund shall be utilized to promote and encourage the
16 acquisition of skills in activities in the Free Zones with a view to generating
17 a pool of indigenous trained manpower.

18 (3) Every approved enterprise having ten or more employees in its
19 establishment, shall in respect of each calendar year and or the date
20 prescribed by the Authority, contribute to the Fund 0.5 per cent of its annual
21 payroll.

22 (4) The Provisions of the Industrial Training Fund Act, Cap 19
23 LFN 2004 and the Industrial Training Fund Act (Amendment) Act, 2011
24 shall not apply in Free Zones under this Bill.

25 **27.**-(1) Every omission or neglect to comply with and every act
26 done or attempted to be done contrary to the provisions of this Bill or any
27 regulations made thereunder shall be an offence and in respect of any such
28 offence for which no penalty is expressly provided the offender shall be
29 liable on conviction to a fine of N100,000 or to a term of imprisonment for
30 three months or to both such fine and imprisonment.

Omission and
non-compliance

1 (2) Whoever attempts to commit any offence punishable under this
2 Bill or any regulations made thereunder or abets the commission of such
3 offence shall be punished with the punishment provided for such an offence.

4 (3) Where a body corporate is guilty of an offence under this Bill, and
5 that offence is provided to have been committed with the consent or
6 connivance of, or to be attributable to any neglect on the part of any director,
7 manager, secretary or other similar officer of the body corporate, or any person
8 who was purporting , to act in any such capacity; he, as well as the body
9 corporate, is guilty of that offence and liable to be proceeded against and
10 punished accordingly.

Regulations

11 **28.**-(1) The Authority may make regulations for:

12 (a) investment procedures in the zones;

13 (b) written authorizations, permits assignments and licences granted
14 under this Bill;

15 (c) any fees, charges rates or fines to be imposed pursuant to this Bill;

16 (d) variation of rates of taxes after the expiration of tax-free period
17 specified under this Bill; and

18 (e) such other matters as are necessary for giving full effect to the
19 provisions of this Bill and for their due administration.

Legal proceedings.
etc.

20 **29.**-(1) No suit shall be commenced against the Authority before the
21 expiration of a period of one month after written notice of intention to
22 commence the suit shall have been served on the Authority by the intending
23 plaintiff or his agent and the notice shall clearly and explicitly state:

24 (a) the cause of action;

25 (b) the particulars of the claim;

26 (c) the name and place of abode of the intending plaintiff; and

27 (d) the relief which it claims.

28 (2) In an action or suit against the Authority, no execution or
29 attachment or process in the nature thereof shall be issued against the
30 Authority, but any sum of money which may, by the judgement of the court, be

1 awarded against the Authority shall, subject to any directives given by the
2 Authority, be paid from the general reserve of the Authority.

3 (3) For the purpose of this section:

4 "suit" means a civil proceeding commenced by writ of summons or in such
5 other manner as may be prescribed by rules of court and includes an action,
6 but not a criminal proceeding.

7 (4) The notice referred to in this section and any summons, notice
8 or other document required or authorized to be served on the authority in
9 connection with a suit by or against the Authority, may be served by sending
10 it by registered post, addressed to the Managing Director, at the Head Office
11 of the Authority.

12 (5) In any action or suit against the Authority, no execution or
13 attachment or process in the nature thereof, shall be issued against the
14 Authority, but any sum of money which may by the judgement of the court
15 be awarded to the plaintiff shall be paid by the Authority from the funds of
16 the Authority.

17 (6) A person connected with the direct working of the Authority
18 shall not be removed under arrest when his immediate removal from duty
19 might result in danger of life or goods, whether in execution of a warrant or
20 otherwise, while actually engaged in the performance of his duties until:

21 (a) the head of department in which he is employed; or

22 (b) the officer in immediate charge of the work in which the person
23 is engaged, has been given an opportunity of providing a substitute.

24 (7) In any suit pending before the court, the Authority may be
25 represented in court at any stage of the proceeding by an employee of the
26 Authority.

27 **30.-(1)** The Oil and Gas Export Free Zone Act, Cap OS, Laws of
28 the Federation of Nigeria, 2004 is hereby repealed.

Repeal, savings,
etc.

29 (2) Any subsidiary legislation made under the repealed Act shall, in
30 so far as it is not inconsistent with this Bill, remains in operation until

1 revoked or replaced by a subsidiary legislation made under this Bill, and shall
2 be deemed for all purposes to have been made under this Bill.

3 (3) The transitional and savings provisions in the Third Schedule to
4 this Bill shall have effect in relation to employees, assets and liabilities of the
5 Board dissolved under this section and other matters mentioned therein
6 notwithstanding anything to the contrary in this Bill or any other enactment.

7 (4) Notwithstanding subsection (1) of this section, any order made,
8 registration effected, licence or permit made or other thing done under the
9 repealed Act, which before the commencement of this Bill was in force or
10 effect, shall continue in force and have effect as if made, effected, issued, given
11 or done under the corresponding provisions of this Bill.

Interpretation

12 **31.** In this Act, unless the context otherwise requires:

13 "approved activities" means activities specified and approved by the
14 Authority;

15 "approved enterprise" means any enterprise established within the Free Zone
16 approved by the Authority;

17 "Authority" means the Oil and Gas Free Zone Authority established by section
18 2 of this Bill;

19 "Commissioner" means the Commissioner in a State responsible for commerce
20 or trade;

21 "customs territory" means the territory within the Federal Republic of Nigeria,
22 but excluding the Free Zone;

23 "Free Zone" includes but not restricted to water ways, public and public/private
24 free zones and sub-zones established under this Bill;

25 "Government" means the Federal Government or Government of a State;

26 "inspection agent" means the agent or agents employed by Federal
27 Government to undertake pre-shipment inspection of goods imported into
28 Nigeria;

29 "member" means a member of the Board and includes the Chairman;

1 "Minister" means the Minister charged with responsibility for matters
2 relating to trade;

3 "President" means the President of the Federal Republic of Nigeria; and

4 "security agencies" means private or public security services operating in
5 the Free Zone with the approval of the Authority;

6 "Special Investment Area" means an area deemed to be within the customs
7 territory and which does not have the full status of a Free Zone, but enhanced
8 for the purposes of accelerating investments into value addition into oil and
9 gas, and includes but not restricted to water ways, public and public/private
10 Special Investment Areas and sub-areas established under this Bill;

11 "special product" means any article imported into the Free Zone on which
12 value has been added without changing the essential character of the product
13 after processing; and

14 "value" means any additional process added on a product.

15 **32.** This Bill may be cited as the Oil and Gas Free Zones Act Short title
16 (Repeal and Re-enactment) Bill, 2019.

17 SCHEDULES

18 FIRST SCHEDULE

19 *Section 3(5)*

20 SUPPLEMENTARY PROVISIONS RELATING TO THE AUTHORITY

21 *Proceedings of the Board*

22 1.-(1) Subject to this Bill and to section 26 of the Interpretation Act,
23 the Board may make standing orders regulating the proceedings of the
24 Authority or of any committee thereof.

25 (2) The quorum of the Board shall be eight and the quorum of any
26 committee of the Board shall be as may be determined by the Board from
27 time to time.

28 2.-(1) The Board shall meet not less than four times in each year
29 and, subject thereto the Board shall meet whenever it is summoned by the
30 Chairman, and if the Chairman is required to do so by notice given to him by

1 not less than three other members; he shall summon a meeting of the Board to
2 be held within fourteen days from the date on which the notice is given.

3 (2) At any meeting of the Board, the Chairman shall preside, but if he
4 is absent, the members present at the meeting shall appoint one of their number
5 to preside at that meeting.

6 (3) Where the Board desires to obtain the advice of any person on a
7 particular matter the Board may co-opt him as a member for such period as it
8 thinks fit:

9 Provided that a person who is a member by virtue of this sub-
10 paragraph shall not be entitled to vote at any meeting of the Board and shall not
11 count towards the quorum.

12 *Committees*

13 3.-(1) The Board may appoint one or more committees to carry out on
14 behalf of the Board such of its functions as the Authority may determine.

15 (2) A committee appointed under this paragraph shall consist of such
16 number of persons (not necessarily members of the Board) as may be
17 determined by the Board; and a person other than a member of the Board shall
18 hold office on the committee in accordance with the terms of his appointment.

19 *Miscellaneous*

20 4.-(1) The fixing of the seal of the Authority shall be authenticated by
21 the signature of the Chairman and of any other member authorised generally or
22 specially by the Board to act for that purpose.

23 (2) Any contract or instrument which, if made or executed by a person
24 not being a body corporate, would not be required to be under seal may be made
25 or executed on behalf of the Board by the Chairman and the Managing Director
26 or any person authorised generally or specially by the Authority to act for that
27 purpose.

28 5. Members of the Board shall be paid out of moneys at the disposal
29 of the Board such remuneration, fee or allowances in accordance with such
30 scales as may be approved, from time to time, by the Minister.

6. The validity of any proceedings of the Board or of a committee thereof shall not be adversely affected by any vacancy in the membership of the Board or of a committee or by the defect in the appointment of any member of the Board of committee or by reason that a person not entitled to do so took part in the proceedings.

6 7.-(1) A member of the Board who is:

(a) directly or indirectly interested in any company or enterprise
the affairs of which are being deliberated upon by the Authority; or

9 (b) is interested in any contract made or proposed to be made by the
10 Authority; shall as soon as possible after the relevant facts have come to his
11 knowledge disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under subparagraph (1) of this paragraph, shall be recorded in the minutes of the meeting of the Board and the member shall -

(a) not take part after such disclosure in any deliberation or decision of the Board with regard to the subject matter in respect of which his interest is thus disclosed;

17 (b) be excluded for the purpose of constituting a quorum of the
18 Board for any such deliberation or decision.

19 SECOND SCHEDULE

20 *Section 5(3)*

21 *Approved Activities*

22 1. manufacturing, processing and assembling of goods;

23 2. warehousing, trading, merchandising, freight forwarding and
24 customs clearance;

25 3. packaging, storage, repairing and labeling;

4. handling of duty free goods including transferring goods in transit through land routes, trans-shipment, sorting, marketing activities;

28 5. banking, insurance, stock exchange and leasing activities and
29 auctioneering;

30 6. import of goods for special services, consultancy;

7. import of building materials, raw materials, equipment, semi-finished inputs and intermediate goods and services for industrial, commercial, residential, financial and other operations;

4 8. property development and leasing, real estate management,
5 provision and operations of utility services;

6 9. international commercial arbitration services;

7 10. Oil and gas activities;

8 11. ship building and repairs;

9 12. education, training, research and development;

10 13. hotels and catering, tourism

11 14. information and communication technology;

12 15. Recycling

13 16. other activities that the Authority may from time to time approve.

14 THIRD SCHEDULE

15 *Duty Free Articles*

16 1. building materials

17 2. tools

18 3. plants

19 4. machinery

20 5. pipes

21 6. Pumps

22 7. Conveyor belts

23 8. Other appliances and materials necessary for construction,
24 alteration and repair of premises.

25 9. Capital and consumer goods, raw materials, components of all
26 articles intended to be used for the purpose of reconstruction, extension or
27 repair of premises in a free zone or for equipping such premises and any other
28 items approved by the Authority in a zone or for equipping such Premises and
29 any other items approved by the Commission.

FOURTH SCHEDULE

*Section 5(1)(k)**Registry*

1.-(1) The Authority shall keep in a form as it considers appropriate, a register of holders of current licences issued under this Act specifying:

(a) the company name; and
(b) the address of the principal place at which the company carried on business.

(2) Where:

(a) the holder of the licence ceases to carry on the business to which the licence relates; or

(b) a change occurs in any particulars which are required to be entered in the register of licence holders with respect to the holder of a licence, the holder shall within fourteen days of the occurrence of the event give to the Authority particulars of the change in the prescribed form.

2.-(1) The Authority shall maintain a register in both physical form and electronic media of all matters that are required to be registered under this Act and Rules made pursuant to this Act.

(2) The Authority may at its discretion summarize the content of a material for inclusion in the register and exclude therefrom aspects of the material if it considers such exclusion necessary and justified on grounds of public interest among others.

3.-(1) Any person may on payment of the charge if any to be decided by the Authority:

(a) inspect the register; and
(b) make a copy of or take an extract from the register.

(2) If a person requests that a copy be provided in electronic media, the Authority may provide the relevant information.

(3) The Authority shall from time to time publish guidelines in

1 regard to its various registers, giving details of the registers and indicating
2 among others, assets, processes and procedures for members of the public.

3 4.-(1) A party to a written agreement or debenture who is subject to
4 this Bill shall apply to the Authority for the registration of the agreement.

5 (2) The Authority shall register the written agreement or debenture if
6 the Authority is satisfied that it is consistent with the objective of this Bill.

7 (3) The Authority shall maintain a register of all agreements or
8 debentures required to be registered under this Bill.

9 FIFTH SCHEDULE

10 *Section 30(3)*

11 *Transfer of Assets and Liabilities*

12 1. By virtue of this Bill, there shall be vested in the Authority
13 established under this Bill, all assets, funds, resources and other moveable or
14 immoveable property which immediately before the commencement of this
15 Bill were vested in the Authority established under the repealed Bill.

16 2. Subject to the provisions of paragraph 1 of this Schedule:

17 (a) the rights, interests, obligations and liabilities of the former
18 Authority existing immediately before commencement of this Bill under any
19 contract or instrument, or at law or in equity apart from any contract or
20 instrument, shall be by virtue of this Bill be deemed to have been assigned to
21 and vested in the Authority;

22 (b) any such contract or instrument as is mentioned in sub-paragraph
23 (a) of this paragraph shall be of the same force and effect against or in favour of
24 Authority and shall be enforceable as fully and effectively as if instead of the
25 former Authority the Authority had been named therein or had been a party
26 thereto; and

27 (c) the Authority shall be subject to all the obligations and liabilities to
28 which the former Authority was subject immediately before the
29 commencement of this Bill and all persons shall, from the commencement of
30 the Bill have the same rights, powers and remedies against the Authority as

1 they had against the former Authority.

2 3. Any proceeding or cause of action pending or existing before
3 the commencement of this Act, by or against the former Authority in respect
4 of any rights, interests, obligation or liability of the former Authority, may
5 be continued or as the case may require, commence and the determination of
6 a court of law, tribunal or other authority or person may be enforced by or
7 against the Authority to the same extent commenced or enforced by or
8 against the former Authority as if the act had not been made.

9 4. Any person who before the commencement of this Bill held
10 office under the Authority shall, on the commencement of this Bill be
11 deemed to have been transferred to the Authority on terms and conditions
12 obtained before the commencement of this Bill and the service under the
13 former Authority shall be deemed to be service under the Authority for
14 pension purposes.

EXPLANATORY MEMORANDUM

The Bill seeks to empowers the President to designate the certain areas in Nigeria as Oil and Gas Free Zones and Special Investment Areas. The Bill also establishes the Oil and Gas Free Zones Authority to manage, control and co-ordinate all activities within Oil and Gas Free Zones as well as Special Investment Areas.

PETROLEUM TECHNOLOGY DEVELOPMENT FUND ACT
(REPEAL AND RE-ENACTMENT) BILL, 2019

ARRANGEMENT OF SECTIONS

Section:

1. Establishment of the Petroleum Technology Development Fund
2. Purpose of the Fund
3. The Governing Council
4. Tenure of office
5. Cessation of membership
6. Powers of the Council
7. Appointment of Executive Secretary
8. Appointment of other staff of the Fund
9. Pensions
10. Staff regulations
11. Financial provisions
12. Power to accept gift
13. Annual estimates and accounts
14. Annual reports
15. Exemption from taxes
16. Power to borrow
17. Power to invest
18. Limitation of suit against the Fund
19. Service of documents
20. Legal proceedings
21. Indemnity
22. Confidentiality
23. Directives
24. Regulations
25. Repeal of Cap P1S LFN 2004.
26. Interpretation
27. Short title

A BILL

FOR

AN ACT TO REPEAL THE PETROLEUM TECHNOLOGY DEVELOPMENT FUND ACT CAP P15 LAWS OF THE FEDERATION OF NIGERIA, 2004 AND TO RE-ENACT THE PETROLEUM TECHNOLOGY DEVELOPMENT FUND ACT; AND FOR RELATED MATTERS

Sponsored by Hon. Benjamin Okezie Kalu

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1 1.-(1) There is hereby established a body to be known as the
2 Petroleum Technology Development Fund (in this Bill referred to as "the
3 Fund").
4 (2) The Fund shall be a body corporate with perpetual succession
5 and a common seal and may sue and may be sued in its corporate name and
6 shall be capable of acquiring, holding or disposing of any property
7 moveable or immovable for the purpose of carrying out its functions.
- 8 2. The Fund established under section 1 of this Bill shall be for the
9 purposes of development, promotion and implementation of petroleum
10 technology and manpower development through research and training of
11 Nigerians as graduates, professionals, technicians, and craftsmen in the field
12 of engineering, geology, geosciences, management, economics and other
13 relevant fields in the petroleum industry within Nigeria or abroad; and in
14 particular; and without prejudice to the generality of the foregoing, the Fund
15 shall be utilized to:
16 (a) initiate, design and implement an effective indigenous research
17 and development capacity for Nigeria's oil and gas industry;
18 (b) co-ordinate with research centres in Nigeria and abroad the

Establishment of
the Petroleum
Technology
Development Fund

Purpose of the
Fund

- 1 adaptation of technological innovations for the Nigerian oil and gas industry;
- 2 (c) use existing human resources development facilities in Nigeria for
- 3 an expanded manpower development programmes in the oil and gas industry;
- 4 (d) provide scholarships, bursaries and grants to Nigerians, wholly or
- 5 partially, in universities, polytechnics, colleges, schools and institutions in
- 6 relevant disciplines in Nigeria or abroad;
- 7 (e) sponsor regular or as necessary visits to oil and gas fields,
- 8 platforms, refineries, petrochemical plants, gas processing facilities, oil and
- 9 gas jetties and for arranging any necessary attachments of personnel to
- 10 establishments connected with the development of oil and gas industry in
- 11 Nigeria;
- 12 (f) harmonise human resources and manpower development
- 13 programmes of companies operating in the oil and gas industry in Nigeria;
- 14 (g) make endowments to faculties, schools and colleges in Nigerian
- 15 universities, polytechnics, colleges and other related institutions approved by
- 16 the Government Council of the Fund;
- 17 (h) make available appropriate educational and research materials,
- 18 books, workshops, studies, laboratories and training equipment in the
- 19 institutions specified in paragraph (g) of this section;
- 20 (i) support, as the case may be skill acquisition programmes aimed at
- 21 enhancing employment in the oil and gas industry in Nigeria;
- 22 (j) support the financing of and participation in seminars, conferences
- 23 and workshops that will enhance the development of technology in the oil and
- 24 gas industry in Nigeria;
- 25 (k) periodically compute, evaluate and update the basic needs of
- 26 Nigeria's oil industry in terms of skill, expertise and know-how; and
- 27 (l) enhance and develop infrastructure in the faculties, schools and
- 28 colleges in Nigerian universities, polytechnics, colleges and other related
- 29 institutions approved by the Council of the Fund.

- 1 3.-(1) There is hereby established for the Fund, a Governing The Governing
2 Council (in this Bill referred to as "the Council") which shall be responsible Council
3 for the general control and administration of the Fund.
- 4 (2) The Council shall:
- 5 (a) be a body corporate with perpetual succession; and
- 6 (b) may sue and be sued in its corporate name.
- 7 (3) The Council shall consist of:
- 8 (a) a Chairman;
- 9 (b) one representative each of the Federal Ministry:
- 10 (i) Petroleum Resources,
- 11 (ii) Finance,
- 12 (iii) Education, and
- 13 (iv) Science and Technology;
- 14 (c) one representative each of the:
- 15 (i) Petroleum Technology Association of Nigeria,
- 16 (ii) Lagos chamber of Commerce and Industry,
- 17 (iii) Nigerian Association of Indigenous Petroleum
- 18 Explorationists, and
- 19 (iv) Society of Petroleum Engineers,
- 20 (d) three persons one whom shall be a woman to represent a variety
- 21 of professional interests; and
- 22 (e) the Executive Secretary who shall be a member/Secretary of the
- 23 Council.
- 24 (4) The Chairman and members of the Council shall each be:
- 25 (a) persons of proven integrity; and
- 26 (b) appointed by the President.
- 27 (5) The supplementary provisions set out in the Schedule to this
- 28 Bill shall have effect with respect to the proceedings of the Council and the
- 29 other matter contained therein.
- 30 4.-(1) The Chairman and members of the Council, other than ex- Tenure of office

1 officio members, shall each hold office for a period of 4 years in the first
2 instance and may be re-appointed for a further period of 4 years and no more.

3 (2) The members of the Council shall be paid such remuneration and
4 allowance as the President may, from time to time, determine.

5 (3) A member of the Council, other than an ex-officio member, may
6 resign his appointment by a notice in writing under his hand, addressed to the
7 President and such resignation shall take effect only upon acknowledgment by
8 the President.

Cessation of
membership

9 **5.-(1)** A member of the Council shall cease to hold office if:

10 (a) he becomes of unsound mind;

11 (b) he becomes bankrupt or makes a compromise with his creditors;

12 (c) he is convicted of a felony or of any offence involving dishonesty;

13 (d) he dies; or

14 (e) he is guilty of serious misconduct in relation to his duties.

15 (2) A member of the Council may be removed from office by the
16 President, if, he is satisfied that it is not in the interest of the Fund or the interest
17 of the public that the member should continue in office.

18 (3) Where a vacancy occurs in the membership of the Council, it shall
19 be filled by the appointment of a successor to hold office for the remainder of
20 the term of office of his predecessor, so however that the successor shall
21 represent the same interest and shall be appointed by the President.

Powers of the
Council

22 **6.-(1)** The Council shall have power to do anything which in its
23 opinion is expedient to facilitate the carrying out of the utilization of the fund
24 under this Bill and in particular to:

25 (a) receive all monies accruing to the Fund;

26 (b) control the property and finances of the Council;

27 (c) scrutinize and approve programmes and projects of the Fund;

28 (d) ensure accountability and proper utilization of the monies in the
29 Fund;

30 (e) enter into contractual arrangements for the purpose of executing

- 1 approved activities of the Fund;
- 2 (f) invest funds in such manner and to such extent as it may deem
- 3 necessary and expedient;
- 4 (g) ensure the disbursement of funds for approved programmes
- 5 and projects of the Fund;
- 6 (h) monitor and evaluate the execution of approved programmes
- 7 and projects of the Fund;
- 8 (i) liaise with relevant Ministries, Agencies and other bodies
- 9 connected with the execution of the programmes of the Fund;
- 10 (j) update the Federal Government on its activities and progress
- 11 through annual and audited reports;
- 12 (k) approve the employment of qualified staff for the Fund;
- 13 (1) design and approve conditions of service for the staff of the
- 14 Fund;
- 15 (m) retain the balance of monies accruing to the Fund after the
- 16 disbursement specified in this Bill for the discharge of the utilization of the
- 17 Fund.
- 18 7.-(1) There shall be for the Fund an Executive Secretary who
- 19 shall:
- 20 (a) be appointed by the President on the recommendation of the
- 21 Minister;
- 22 (b) be a person with good knowledge in administrative matters;
- 23 (c) be the chief executive and accounting officer of the Fund;
- 24 (d) have such qualifications and experience as are appropriate for a
- 25 person required to perform the functions of that office under this Bill; and
- 26 (e) hold office for a period of 4 years in the first instance and may
- 27 be eligible for re-appointment for a further period of 4 years and no more on
- 28 such terms and conditions as to emolument, conditions of service as may be
- 29 specified in his letter of appointment.
- 30 (2) The Executive Secretary shall, subject to the general direction

Appointment
of Executive
Secretary

1 of the Council, be responsible:

2 (a) for the day to day administration of the Fund;

3 (b) for keeping the books and proper records of the proceedings of the

4 Council;

5 (c) for the assessment of contributions under this Bill and the

6 collection and payment of moneys into the Fund;

7 (d) for the payment of all disbursements authorized under or by virtue

8 of this Bill by the Council;

9 (e) for accounting for all moneys collected, paid or otherwise

10 expended under this Bill;

11 (f) for ensuring the achievement of the utilization of the Fund under

12 this Bill;

13 (g) for administration of the secretariat of the Council, and

14 (h) for the general direction and control of all other employees of the

15 Fund.

Appointment of
other staff of the
Fund

16 **8.-(1)** The Fund may, with the approval of the Council, appoint such

17 other staff or employees as, in the opinion of the Fund, may be expedient and

18 necessary for the proper and efficient performance of its functions under this

19 Bill.

20 (2) The terms and conditions of service (including remuneration,

21 allowances, benefits and pensions) of the employees of the Fund shall be as

22 determined by the Council.

23 (3) The Fund shall have power to appoint either on transfer or on

24 secondment from any public service in the Federation, such employees as may,

25 in the opinion of the Fund, be required to assist the Fund in the discharge of any

26 of its functions under this Act, and shall have power to pay to persons so

27 employed such remuneration (including allowances) as the Governing Council

28 may, after consultation with the National Salaries and Wages Commission,

29 determine.

Pensions

30 **9.** Service in the Fund shall be approved service for the purposes of

1 pensions and accordingly, the officers, staff or employees of the Fund shall
2 be entitled to pensions and other retirement benefits in accordance with the
3 provisions of the Pension Reform Act.

4 **10.**-(1) The Council may, subject to the provisions of this Bill, Staff Regulations
5 make staff regulations relating generally to the conditions of service of the
6 employees of the Fund and without prejudice to the generality of the
7 foregoing, such regulations may provide for:

8 (a) the appointment, promotion and disciplinary control (including
9 dismissal) of employees of the Fund; and

10 (b) appeals by such employees against dismissal or other
11 disciplinary measures, and until such regulations are made, any instrument
12 relating to the conditions of service of officers in the public service of the
13 Federation shall be applicable.

14 (2) Staff regulations made under subsection (1) of this section shall
15 not have effect until approved by the Minister and when so approved they
16 need not be published in the Federal Gazette but the Fund shall cause them to
17 be brought to the notice of all affected persons in such manner as it may,
18 from time to time, determine.

19 **11.**-(1) The Fund shall establish and maintain a fund which shall Financial
Provisions
20 consist of into which shall be paid:

21 (a) the balance of the monetary assets outstanding in the accounts
22 of the Petroleum Technology Development Fund at the commencement of
23 this Bill;

24 (b) all further sums payable to or received by the Minister in terms
25 of any agreement made by the Government and any company in relation to
26 oil and gas prospecting or mining concession;

27 (c) funds and grants accruing from international and domestic
28 donor organisations for the development of petroleum technology in
29 Nigeria;

30 (d) fees payable for services rendered to local and foreign

1 institutions, agencies and companies in petroleum technology and
2 management services;

3 (e) penalty fees resulting from:

4 (i) non-compliance with relevant expatriate quota provisions, and

5 (ii) violation of the Nigerian content laws;

6 (f) any other sum, from time to time, freely donated or accruing to the
7 Government or the Fund for development of petroleum technology or the
8 training and education of Nigerians in the oil and gas industry as the Governing
9 Council established under Section 3 of this Bill may direct and monies in the
10 said Fund together with Interest (if any) payable in respect thereof shall be
11 applied for the purposes specified in section 2 of this Bill.

12 (2) The Fund may, from time to time, apply the proceeds of the fund
13 established pursuant to subsection (1) of this section to:

14 (a) to the cost of administration of the Fund;

15 (b) to the payment of fees, allowances and expenses of members of
16 the Council, or any committee set up by the Council;

17 (c) to the payment of salaries, allowances, and benefits of staff of
18 Fund;

19 (d) for the maintenance of any property vested in the Fund or under its
20 administration; and

21 (e) for and in connection with all or any of the objectives of the Fund
22 under this Bill.

Power to accept
gifts

23 **12.-(1)** The Fund may accept gifts of and, money or other property
24 upon such terms and conditions, if any, as may be specified by the person or
25 organization making the gift.

26 (2) The Fund shall not accept any gift if the conditions attached by the
27 person or organization making the gift are inconsistent with the objectives of
28 the Fund under this Bill.

Annual estimates,
accounts, etc.

29 **13.-(1)** The Fund shall cause to be prepared, not later than 30th
30 September in each year, an estimate of the expenditure and income of the Fund

1 during the next succeeding year and when prepared, they shall be submitted
2 through the Minister to the National Assembly for approval.

3 (2) The Fund shall cause to be kept proper accounts of the Fund and
4 proper records in relation thereto and when certified by the Council the
5 accounts shall be audited by auditors appointed by the Council from the list
6 and in accordance with the guidelines supplied by the Auditor-General for
7 the Federation.

8 **14.** The Fund shall not later than 3 months immediately preceding Annual Report
9 the beginning of each year, submit to the Minister, a report on the activities
10 and administration of the Fund during the immediate proceeding year and
11 shall include in such reports the audited accounts of the Fund and the
12 Auditor's report thereon.

13 **15.**-(1) The Fund shall be exempted from the payment of tax on any Exemption from
14 income accruing from investments made by the Fund or otherwise taxes
15 howsoever.

16 (2) The provisions of any enactment relating to the taxation of
17 companies or trust funds shall not apply to the Fund.

18 **16.**-(1) The Fund may, from time to time, borrow by overdraft or Power to borrow
19 otherwise such sums as it may require for the performance of its functions
20 under this Bill.

21 (2) The Fund shall not, without the approval of the Minister,
22 borrow money which exceeds, at any time, the amount set by the Minister.

23 (3) Notwithstanding subsection (1) of this section, where the sum
24 to be borrowed is in foreign currency, the Fund shall not borrow the sum
25 without the prior approval of the Minister.

26 **17.** The Fund may, subject to the provisions of this Bill and the Power to invest
27 conditions of any trust created in respect of any property, invest all or any of
28 its funds in any security prescribed by the Trustee Investment Act or in such
29 other securities as may, from time to time, be approved by the Minister.

Limitation of
suit against the
Fund

1 **18.**-(1) Subject to the provisions of this Bill, the provisions of the
2 Public Officers Protection Act shall apply in relation to any suit instituted
3 against an officer or employee of the Fund, etc.

4 (2) Notwithstanding anything contained in any other enactment, no
5 suit against a member of the Council or the Executive Secretary or any other
6 officer or employee of the Fund for any act done in pursuance or execution of
7 this Bill or any other enactment or law, or of any public duty or authority in
8 respect of any alleged neglect or default in the execution of this Bill or any
9 other enactment or law, duty or authority, shall lie or be instituted in any court
10 unless it is commenced:

11 (a) within three months next after the act, neglect or default
12 complained of; or

13 (b) in the case of a continuing damage or injury, within six months
14 next after the ceasing thereof.

15 (3) No suit shall be commenced against a member of the Council or
16 the Executive Secretary or any other officer or employee of the Fund before the
17 expiration of a period of one month after written notice of the intention to
18 commence the suit shall have been served on the Fund by the intending plaintiff
19 or his agent.

20 (4) The notice referred to in subsection (3) of this section shall clearly
21 and explicitly state the cause of action, the particulars of the claim, the name
22 and place of abode of the intending plaintiff and the relief which he claims.

Service of
documents

23 **19.** A notice, summons or other document required or authorized to
24 be served on the Fund under the provisions of this Bill or any other enactment
25 or law may be served by delivering it to the Executive Secretary at the principal
26 office of the Council.

Legal
proceedings

27 **20.**-(1) In any action or suit against the Fund, no execution or
28 attachment of process in the nature thereof shall be issued against the Fund
29 unless not less than three months' notice of the intention to execute or attach has
30 been given to the Fund.

1 (2) Any sum of money which by the judgment of any court has been
2 awarded against the Fund shall, subject to any direction given by the court,
3 where notice of appeal against the judgment has been given, be paid from the
4 fund of the Fund.

5 **21.** A member of the Council or the Executive Secretary or any Indemnity
6 officer or employee of the Fund shall be indemnified out of the assets of the
7 Fund against any liability incurred by him in defending any proceeding,
8 whether civil or criminal, if the proceeding is brought against him in his
9 capacity as a member, Executive Secretary, officer or other employee of the
10 Fund.

11 **22.**-(1) A member of the Council or the Executive Secretary or any Confidentiality
12 other officer or employee of the Fund shall:

13 (a) not, for his personal gain, make use of any information which
14 has come to his knowledge in the exercise of his powers or is obtained by
15 him in the ordinary course of his duty as a member of the Council or as the
16 Executive Secretary, officer or employee of the Fund;

17 (b) treat as confidential any information which has come to his
18 knowledge in the exercise of his powers or is obtained by him in the
19 performance of his duties under this Bill;

20 (c) not disclose any information referred to under paragraph (b) of
21 this subsection, except when required to do so by a court or in such other
22 circumstances as may be prescribed by the Council, from time to time.

23 **23.** Subject to the provisions of this Bill, the President may give to Directives
24 the Council such directives of a general nature with regard to the exercise by
25 the Council of its functions under this Bill and it shall be the duty of the
26 Council to comply with the directives.

27 **24.** The Council may make such regulations as it deems to be Regulations
28 necessary or expedient for giving full effect to the provisions of this Bill.

29 **25.**-(1) The Petroleum Technology Development Fund Act, Cap Repeal of
30 P15, Laws of the Federation of Nigeria, 2004 is hereby repealed. Cap. P15
LFN, 2004

1 (2) Any subsidiary legislation made under the repealed Act shall, in so
2 far as it is not inconsistent with this Bill, remains in operation until revoked or
3 replaced by a subsidiary legislation made under this Bill, and shall be deemed
4 for all purposes to have been made under this Bill.

Interpretation

5 **26.** In this Bill, unless the context otherwise requires:
6 "Council" means the Petroleum and Technology Development Fund
7 Governing Council established by Section 3 of this Bill;
8 "Executive Secretary" means the Executive Secretary of the Fund appointed
9 under section 7 of this Bill;
10 "Financial year" means the period of twelve months Beginning from 1st
11 January and ending 31st December:
12 "Fund" means the Petroleum Technology Development Fund established by
13 section 1 of this Bill;
14 "Government" means the Government of the Federation of Nigeria;
15 "Minister" means the Minister charged with the responsibilities for matters
16 relating to petroleum resources;
17 "property" includes right, assets, liabilities and obligations of the Fund;
18 "regulations" means regulations made pursuant to Section 24 of this Bill.

Short title

19 **27.** This Bill may be cited as the Petroleum Technology Development
20 Fund Act (Repeal and Re-enactment) Bill, 2019.

SCHEDULE

Section 4 (5)

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL

Proceedings of the Council

1.-(1) Subject to this Bill and section 27 of the Interpretation Act, the Council may make standing orders regulating its proceedings or those of any of its committees.

(2) The quorum of the Council shall be the Chairman and one half of the members present and voting and the quorum of any Committee of the Council shall be determined by the Council.

2.-(1) The Council shall meet not less than four times in each Year and subject thereto, the Council shall meet whenever it is summoned by the Chairman, and if the Chairman is required to do so by notice given to him by not less than four other members, he shall summon a meeting of the Council to be held within fourteen days from the date on which the notice is given;

(2) At any meeting of the Council, the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their members to preside at that meeting.

(3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him to the Council for such period as it thinks fit; but a person who is in attendance by virtue of this subparagraph shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

Committees

3.-(1) The Council may appoint one or more committees to carry out, on behalf of the Council, such of its functions as the Council may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily members of the Council) as may be determined by the Council; and a person other than a member of the Council

1 shall hold office on the committee in accordance with the terms of his
2 appointment.

3 (3) A decision of a committee of the Council shall be of no effect until
4 it is confirmed by the Council.

5 *Miscellaneous*

4.-(1) The fixing of the seal of the Council shall be authenticated by the signature of the Chairman or of any other person authorized generally or specially to act for that purpose by the Council and the Executive Secretary.

(2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Council by the Executive Secretary or any person generally or specially authorizes to act for that purpose by the Council.

13 (3) Any document purporting to be a document duly executed under
14 all of the Council shall be received in evidence and shall, unless and the
15 contrary is proved, be presumed to be so executed.

(4) The validity of any proceeding of the Councilor of a committee thereof shall not be adversely affected by Any vacancy in the membership of the Council or committee, or by any defect in the appointment of a member of the Councilor of a committee, or be reason that a person not entitled to do so took part in the proceedings of the Councilor committee.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal and re-enact the Petroleum Technology Development Fund Act so as to make adequate provision for the effective administration of the Fund.

FEDERAL CAPITAL TERRITORY ABUJA AREA COURTS BILL, 2019

ARRANGEMENT OF SECTIONS

Sections:

PART I - ESTABLISHMENT AND CONSTITUTION OF THE AREA COURTS

1. Establishment of Area Courts
2. Constitution and membership of Area Courts.
3. Qualification of Area Court Judge
4. Discipline of members of Area Courts
5. Sessions
6. Indemnity of members of Area Courts

PART II - STAFF OF AREA COURTS

7. Staff of the Court
8. Delegation of duties
9. Bailiffs and messengers
10. Indemnity of staff of Area Courts

PART III - JURISDICTION OF AREA COURTS

11. Institution of proceedings in Area Courts
12. Persons subject to jurisdiction of Area Courts
13. Inquiry by High Court whether person is subject to jurisdiction of Area Courts
14. Criminal and Civil Jurisdiction of Area Courts
15. Place of trial of Criminal and Civil Cases
16. Law to be administered in Criminal and Civil Cases
17. Guardianship of children

PART IV - PRACTICE AND PROCEDURE IN AREA COURTS

18. Practice and procedure generally
19. Jurisdiction of Area Courts not required to be shown on the record.
20. Appearance and Representation of parties
21. Proceedings to be in open court

PART V - TRANSFER BY AREA COURTS

- 22. Power to transfer by Area Courts
- 23. Remission of case to lower grade Area Court

PART VI - ANCILLARY POWERS OF AREA COURTS

- 24. Power to summon witnesses
- 25. Person present may be required to give evidence
- 26. Evidence of person within Jurisdiction
- 27. Execution of judgments
- 28. Execution of orders of other Courts
- 29. Power to grant interim injunction or impound property
- 30. Power to appoint receiver and manager
- 31. Inspection

PART VII - CONTROL OF AREA COURTS

- 32. General supervision of Area Courts
- 33. Appointment and functions of Director of Area Court
- 34. Appointment of Chief Inspector or Inspectors
- 35. Report of cases tried
- 36. Chief Inspector and inspectors' right of access to Area Courts
- 37. Supervisory powers of Chief Inspector and inspectors
- 38. Effect of order to transfer
- 39. Review by Appeal Court on report of Chief Inspector or inspector
- 40. Special plea in bar riot admissible on hearing
- 41. Power of Chief Inspector or inspector not exercisable where appeal instituted

PART VIII - APPEAL

- 42. Appeals from Area Courts
- 43. Restriction on right of appeal
- 44. Appeals out of time
- 45. Powers of appellate court in civil matters
- 46. Powers of courts or appeal to inspect records

47. Substantial justice to be done without undue regard to technicalities

PART IX - OFFENCES

48. Adjudication without authority
49. Jurisdiction of courts under Part IX

PART X - RULES OF COURT

50. Power to make rules

PART XI - MISCELLANEOUS

51. Saving and transitional provisions
52. Interpretation
53. Repeal of the Federal Capital Territory Abuja Area Courts (Repeal and Enactment) Act, 2010
54. Citation

A BILL

FOR

AN ACT TO REPEAL THE FEDERAL CAPITAL TERRITORY ABUJA AREA COURTS (REPEAL AND ENACTMENT) ACT, 2010 AND ENACT THE FEDERAL CAPITAL TERRITORY ABUJA AREA COURTS ACT TO, AMONG OTHER THINGS, EXPAND THE JURISDICTION OF THE AREA COURTS TO ENTERTAIN BOTH CIVIL AND CRIMINAL; AND FOR RELATED MATTERS

Sponsored by Hon. Munir Babba Dan Agundi

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria

1 PART 1- ESTABLISHMENT AND CONSTITUTION OF AREA COURTS

2 1.-(1) There is established such grades of Area Court for the Establishment
3 Federal Capital Territory, Abuja. of Area Courts

4 (2) An Area Court shall exercise the jurisdiction conferred upon it
5 by or under this Act within the area and to the extent specified.

6 (3) The Grand Kadi, shall assign to each Area Court established in
7 pursuance of this section such name and shall issue a warrant under
8 his hand in respect of such court.

9 (4) Except otherwise stated, a warrant issued under this section
10 shall come to force on the day of publication in the Official Gazette.

11 (5) The Grand Kadi, may at any time suspend, cancel or vary any
12 warrant establishing an Area Court or specifying the area within which, or
13 the extent to which, the powers of an Area Court may be exercised.

14 (6) The Grand Kadi shall cause the jurisdiction of each Area Court
15 to be published from time to time in the Official Gazette.

16 2.-(1) An Area Court shall consist of an Area Court Judge sitting Constitution and
17 alone. membership of
Area Courts

| | | |
|--|----|--|
| | 1 | (2) Every Judge of an Area Court shall be an officer in the Public |
| | 2 | Service. |
| Qualification of Area Court Judge | 3 | 3. A person shall not be qualified for an appointment as an Area court |
| | 4 | Judge unless: |
| | 5 | (a) He is a legal practitioner, learned in Islamic Law or; |
| | 6 | (b) He holds a degree in Sharia or related discipline. |
| | 7 | PROVIDED that a person holding the office of an Area Court Judge |
| | 8 | before the commencement of this Act, not being a legal practitioner, learned in |
| | 9 | Islamic Law or holder of a degree in Sharia or related discipline shall continue |
| | 10 | to hold such office and act in that capacity. |
| Discipline of members of Area Courts | 11 | 4.-(1) Subject to the provisions of any written law, the Judicial |
| | 12 | Service Committee shall appoint and exercise disciplinary power on an Area |
| | 13 | Court Judge: |
| | 14 | (a) who appears to have abused his power or to be incapable of |
| | 15 | exercising the same justly; and |
| | 16 | (b) for other sufficient reason. |
| | 17 | (2) The appointment and discipline of an Area Court Judge shall be in |
| | 18 | accordance with the rules and regulations applicable to Area Court Judges. |
| Sessions | 19 | 5.-(1) Subject to the provisions of any written law, an Area Court shall |
| | 20 | hold sessions at such times and places as may be necessary for the convenient |
| | 21 | and speedy dispatch of the business of the court. |
| | 22 | (2) The Grand Kadi may direct that sessions shall be held at times and |
| | 23 | places he deems fit. |
| Indemnity of members of Area Courts | 24 | 6. An Area Court Judge shall not be personally liable for any act done |
| | 25 | by him or ordered by him to be done in the discharge of his judicial duty, |
| | 26 | whether or not within the limits of his jurisdiction: |
| | 27 | Provided that he, at the time in good faith, believed himself to have |
| | 28 | jurisdiction to do or order to be done the act in question. |

1 PART II - STAFF OF AREA COURTS

2 7.-(1) Staff of Area Courts shall be officers in the Public Service of Staff of the
3 the Federation. Court

4 (2) There shall be appointed a Registrar or Clerk and such other
5 staff as may be required by an Area Court.

6 (3) The duties of the Registrar or Clerk shall include:

7 (a) prepare warrants and writs;

8 (b) register orders and judgments;

9 (c) keep records of moneys received or paid by the court; and

10 (d) perform such duties in the execution of the powers and
11 authorities of the court as may be assigned to him by the rules or special
12 order of the court.

13 8. A Registrar or Clerk may, with the consent of the Area Court Delegation of
14 Judge, delegate any of the duties assigned to him to any other servant of the duties
15 court, and in every such case, such servant shall be governed in respect of his
16 duties by the orders and directions of the Registrar or Clerk.

17 9.-(1) Such bailiffs or messengers as may be required shall be Bailiff and
18 appointed to every Area Court. messages

19 (2) A person appointed under subsection (1) of this section shall:

20 (a) effect the service and execution of all writs and other process
21 which he may receive from the Area Court to which he is attached;

22 (b) make all necessary returns in relation to such writs and
23 processes;

24 (c) carry out other duties as may be prescribed by rules made;

25 (d) under this Act; and at all times when he is not engaged in duties
26 which necessitate his absence from the Area Court, attend the Area Court
27 and obey all the lawful directions of the Court.

28 (3) An Area Court may authorize a police officer to perform all or
29 any of the duties mentioned in subsection (2) of this section in so far as they
30 relate to the criminal jurisdiction of the court and any police officer who is in

| | | |
|--|----|---|
| | 1 | possession of any criminal process shall be presumed to be authorized to |
| | 2 | execute such process unless the contrary is proved. |
| | 3 | (4) Subject to the provisions of subsection (3) of this section, no |
| | 4 | person other than a duly appointed bailiff or messenger shall carry out, purport |
| | 5 | or attempt to carry out any of the duties mentioned in subsection (2) of this |
| | 6 | section. |
| Indemnity of staff of Area Courts | 7 | 10. No member of the staff of any Area Court or other person bound |
| | 8 | to execute lawful warrants or orders issued or made in the exercise of |
| | 9 | jurisdiction conferred by this Act is liable to be sued in any court for the |
| | 10 | execution of any warrant or order which he would be bound to execute if the |
| | 11 | person issuing the same had been acting in the exercise of lawful authority. |
| | 12 | PART III - JURISDICTION OF AREA COURT |
| Institution of proceedings in Area Courts | 13 | 11.-(1) Subject to the provisions of this Act and of any other written |
| | 14 | law, any person may institute any cause or matter in an Area Court. |
| | 15 | (2) A person who institutes or prosecutes any cause or matter in any |
| | 16 | Area Court under subsection (1) of this section shall, in that cause or matter be |
| | 17 | subject to the jurisdiction of that Area Court and of any other court exercising |
| | 18 | jurisdiction in that cause or matter. |
| Pensions subject to jurisdiction of Area Courts | 19 | 12.-(1) Subject to the provision of this Act and of any other written |
| | 20 | law, the following persons shall be subject to the jurisdiction of Area Court: |
| | 21 | (a) Any person who is a Muslim; |
| | 22 | (b) Any other person in a cause or matter in which any law, other than |
| | 23 | Islamic Law, applies. |
| Inquiry by High Court whether person is subject to jurisdiction of Area Courts | 24 | 13.-(1) Where at any stage of the proceedings before final judgment in |
| | 25 | any cause or matter in an Area Court, a person alleges that he is not subject to |
| | 26 | the jurisdiction of Area Court, the proceedings shall on the application of that |
| | 27 | person to the High Court be transferred to the High court, which shall inquire |
| | 28 | into and determine the truth of the person's allegation. |
| | 29 | (2) Upon such determination as mentioned in subsection (1), the High |
| | 30 | Court shall make such order for the trial of the proceedings in the High Court, |

1 Magistrate Court, District Court, Area Court or Customary Court as the
2 circumstance of the case may seem just.

3 (3) The applicant shall give notice to the Area Court of the
4 application made by him under subsection (1) of this section and the
5 application shall operate as a stay of the proceedings in the Area Court until
6 the High Court has made an order under subsection (2) of this section.

7 **14.** An Area Court, subject to the provisions of this Act, the
8 Criminal Procedure Code Act and the Administration of Criminal Justice
9 Act, shall have jurisdiction to try all criminal causes and matters in which the
10 parties are subject to the jurisdiction of the Court and in all Civil Causes
11 shall have jurisdiction and power, to the extent set out in the warrant
12 establishing it.

Criminal and
Civil jurisdiction
of Area Courts

13 PROVIDED that in all Criminal Causes and Matters the presiding
14 Area Court Judge shall be a legal practitioner.

15 **15.-(a)** The place of trial of all criminal causes shall be determined
16 in accordance with the provisions of the Criminal Procedure Code Act, the
17 Administration of Criminal Justice Act or any other written law in force;

Place of trial of
criminal cases

18 (b) All civil causes or matters shall be tried and determined by an
19 Area Court which has jurisdiction over the area:

Place of trial of
Civil cases

20 (a) in which the defendant is ordinarily resident;

21 (b) in which the defendant was at the time when the cause of action
22 arose; or

23 (c) where the transaction occurred.

24 **16.** Subject to the provisions of this Act, an Area Court:

25 (a) In all criminal causes and matters shall administer the provisions of:

Law to be
administered
in Criminal and
Civil Cases

26 (i) The Penal Code Act, the Criminal Procedure Code Act, the
27 Administration of Criminal Justice Act and any subsidiary legislation made
28 there under.

29 (ii) Any written law which the court may be authorized to enforce
30 by any order made by the President in respect of Federal Matters and within

1 the local limits of the jurisdiction of such courts all or any of the provisions of
2 any written law made applicable to the Federal Capital Territory, Abuja; and

3 (b) In all Civil Causes and Matters administer:

4 (i) Islamic Law of the Maliki School of Jurisprudence;

5 (ii) Common Law;

6 (iii) Doctrine of Equity and

7 (iv) Statutes of general application which were in force in England on
8 the 1st day of January, 1900.

Guardianship of
children

9 **17.**-(1) In any matter relating to the guardianship of children, the
10 interest and welfare of the child shall be the first and paramount consideration.

11 (2) Whenever it appears to an Area Court that an order made by the
12 court, should, in the interest of a child, be reviewed, the court may of its own
13 motion or upon the application of any interested person, vary or discharge the
14 order.

15 **PART IV - PRACTICE AND PROCEDURE IN AREA COURT**

Practice and
procedure
generally

16 **18.** Subject to the provisions of this Act and of any other written law
17 and any rule which may be made under section 50 of this Act, the provisions of
18 section 16 of this Act shall apply in the regulation of the practice and procedure
19 of Area Courts in civil cases and matters.

Jurisdiction of
Area Court not
required to be
shown on the
record

20 **19.**-(1) All proceedings in the Area Court shall be recorded by the
21 Judge in English Language.

22 (2) An Area Court shall record the reasons for its decisions in every
23 cause or matter.

24 (3) Where an Area Court has jurisdiction in or over any cause or
25 matter or over the parties thereto it shall not be necessary for:

26 (a) such court to state on the face of the record of its proceedings in
27 such cause or matter that the court has jurisdiction in or over such cause or
28 matter or over the parties; and

29 (b) the jurisdiction of such court in or over such cause or matter or
30 over the parties thereto to appear on or from the face of the record of its

1 proceedings in such cause or matter.

2 **20.**-(1) Legal practitioners shall have right of audience before an Appearance and
representation of
parties
3 Area Court.

4 (2) An Area Court may permit:

5 (a) the husband, wife, brother, sister, son, daughter, guardian,
6 servant, master or any inmate of the household of any party, who shall give
7 satisfactory proof that he or she has authority in that behalf; or

8 (b) A relative of a person administering the estate of a deceased
9 person who was subject to the Jurisdiction of an Area Court, to appear for
10 any party before an Area Court.

11 (3) Subject to the provisions of subsections (1) and (2) of this
12 section, in the case of a local authority or in any proceeding pending before
13 an Area Court, a local authority may be represented in Court at any stage of
14 the proceeding by any member or officer of the local authority who shall
15 satisfy the court that he is duly authorized in that behalf.

16 **21.**-(1) The room or place which an Area court sits to hear and Proceedings to
be in open court
17 determine any proceedings shall be an open and public court to which the
18 members of the public shall have a right of access while they shall be of good
19 behaviour and to that extent to which the capacity of the court shall allow.

20 (2) Provision may be made by rules of cOU11 under section 50 of
21 this Act for the exclusion of the public from any Area Court in cases:

22 (a) in which persons under the age of 17 years are involved; or

23 (b) where the administration of justice would be rendered
24 impracticable by the presence of the public.

25 **PART V - TRANSFER BY AREA COURTS**

26 **22.** Area Court may order the transfer of any cause or matter either Power of transfer
by Area Court
27 before hearing or at any stage of the proceedings before judgment is given to
28 any other Area Court of competent jurisdiction and that other Area Court
29 may take any course with regard to the cause or matter which it considers
30 that justice requires.

Remission of
case to lower
grade Area Court

1 **23.** An Area Court may, of its own motion or upon the application of
2 either party to a cause or matter, remit to a lower grade Area Court of competent
3 jurisdiction which is within the territorial jurisdiction of that other lower grade
4 Area Court, any cause or matter before it which, in its opinion, can, for
5 purposes of convenience or otherwise, be more appropriately or expeditiously
6 dealt with by such lower grade Area Court and upon such order being made the
7 lower grade Area Court specified therein shall hear and determine the cause or
8 matter, de novo.

9 PART VI - ANCILLARY POWERS OF AREA COURTS

Power to
summon witnesses

10 **24.** An Area Court shall have power, subject to any limitation that
11 may be imposed by any law, to summon before it, for the purpose of giving
12 evidence, any person.

Person present
may be required
to give evidence

13 **25.** Any person present at an Area Court, whether a party or not to any
14 cause or matter before the court, may be required by the court to give evidence
15 as if he had been summoned to attend and give evidence.

Evidence of
person not within
jurisdiction

16 **26.**-(1) If, in any cause or matter, an Area Court considers that the
17 interest of justice requires that the evidence of a person not Within the area of
18 jurisdiction of the Area Court should be obtained before any other court or any
19 officer, the Area Court may make an application to a Sharia Court of Appeal
20 requesting that the evidence of the person be taken before any other court or
21 officer in the place in which that person is.

22 (2) Upon an application under subsection (1) of this section, the
23 Sharia Court of Appeal to which the application is made, may, in its discretion,
24 make an order in respect of the taking of the evidence of the person as it deems
25 fit.

Execution of
judgments

26 **27.** Any judgment or order given or made by an Area Court in a civil
27 cause or matter may be enforced by seizure and sale of the property of the
28 person against whom the judgment or order is made, or by such other methods
29 of enforcing judgments and orders as may be prescribed by rules made under
30 section 50 of this Act.

| | | |
|----|--|--|
| 1 | 28. An Area Court shall: | Execution of order of other courts |
| 2 | (a) carry into execution any decree or order of all courts or tribunal | |
| 3 | established by law which may be fully directed to them; | |
| 4 | (b) execute all warrants and serve all process issued by the courts or | |
| 5 | tribunal and directed to the Area Courts for execution or service; and | |
| 6 | (c) generally give such assistance to any court or tribunal as may be | |
| 7 | required. | |
| 8 | 29. In any cause or matter before an Area Court in which, pending | Power to grant interim injunction or impound property |
| 9 | final determination it is shown to the satisfaction of the Area Court that any | |
| 10 | property which is in dispute in the cause or matter is in danger of being | |
| 11 | wasted, damaged, alienated or otherwise injuriously dealt with by any party | |
| 12 | to the cause or matter, the Area Court may issue an injunction to the party | |
| 13 | commanding him to refrain from doing the particular act complained of, or | |
| 14 | alternatively, may take and keep the property in custody pending the | |
| 15 | determination of the cause or matter. | |
| 16 | 30.-(1) An Area Court may, whenever it deems it necessary to do so | Power to appoint receiver and manager |
| 17 | for the preservation, proper custody or management of any property in | |
| 18 | dispute in a cause or matter, appoint any person as a receiver or manager to | |
| 19 | receive and take charge of the property and to deal with it in any manner as | |
| 20 | may be directed by the Area Court. | |
| 21 | (2) Any person appointed as a receiver or manager under | |
| 22 | subsection (1) of this section shall be responsible to the Area Court for all | |
| 23 | things done as receiver or manager, and shall account for or pay to the Area | |
| 24 | Court all moneys received in respect of any property referred to in | |
| 25 | subsection (1) of this section. | |
| 26 | (3) An Area Court may make an order as it deems fit in regard to the | |
| 27 | remuneration of any person appointed as receiver and manager and shall pay | |
| 28 | to the party entitled thereto all moneys in the custody of the Area Court in | |
| 29 | respect of any property referred to in subsection (1) of this section. | |

| | |
|--|--|
| Inspection | <p>1 31. In any cause or matter an Area Court, may on the application of</p> <p>2 either party or on its own motion:</p> <p>3 (a) make such order as the court may deem fit for the inspection by the</p> <p>4 Area Court, the parties or any witness of any immovable or movable property</p> <p>5 the inspection of which may be material to the proper determination of the</p> <p>6 question in dispute; and</p> <p>7 (b) give any direction as the court may deem fit respecting the</p> <p>8 inspection.</p> |
| General supervision of Area Courts | <p>9 PART VII - CONTROL OF AREA COURTS</p> <p>10 32.-(1) Subject to the provisions of this Act and any other written law,</p> <p>11 all Area Courts shall be subject to the general supervision of the Sharia Court of</p> <p>12 Appeal.</p> <p>13 (2) Without prejudice to the generality of subsection (1) of this</p> <p>14 section, if it appears to the Sharia Court of Appeal that:</p> <p>15 (a) it is necessary for the purpose of securing, as far as possible, a fair</p> <p>16 and impartial trial, or</p> <p>17 (b) it is expedient in the interest of justice generally that a particular</p> <p>18 cause or matter which is within the jurisdiction of an Area Court should not be</p> <p>19 tried by that court having jurisdiction to do so, the Sharia Court of Appeal may</p> <p>20 order that such cause or matter be tried by such other Area Court which the</p> <p>21 order may direct.</p> <p>22 (3) The powers of the Sharia Court of Appeal under this section may</p> <p>23 be exercised by it either on its own motion or on the application of any party to a</p> <p>24 cause or matter in an Area Court or upon report by an inspector of Area Court.</p> |
| Appointment and functions of Director of Area Court | <p>25 33.-(1) The Judicial Service Committee shall appoint a Director of</p> <p>26 Area Court.</p> <p>27 (2) The functions of the Director of Area Court shall include:</p> <p>28 (a) advising the Chief Registrar in respect of the Constitution,</p> <p>29 jurisdiction and membership of Area Courts;</p> <p>30 (b) subject to the general or special directions of the Chief Registrar,</p> |

1 the organization, guidance and supervision of Area Courts;

2 (c) transferring a matter from one court to another upon a
3 complaint or inspecting the record of the case as the justice of the case may
4 demand and

5 (d) any other function as may, from time to time, be conferred upon
6 him by the Chief Registrar.

7 **34.** The Judicial Service Committee shall, for the purposes of this
8 Act, appoint Chief Inspector and Inspectors.

Appointment of
Chief Inspector
or Inspectors

9 **35.** The Chief Inspector or an Inspector may require an Area Court
10 to submit a report to him of any case tried in that court

Report of cases
tried

11 **36.** The Chief Inspector or an Inspector shall, at all times, have
12 access to all Area Courts within the Federal Capital Territory, Abuja and to
13 the records and proceedings of those courts.

Chief Inspector
and inspectors'
right of access to
Area Courts

14 **37.-(1)** The Chief Inspector or an Inspector shall have power, at any
15 stage of the proceedings before final judgment, either of his own motion or
16 on the application of any party to a cause or matter before an Area Court, by
17 order, to stay the hearing of the cause or matter on terms as the Chief
18 Inspector or Inspector may consider just.

Supervisory powers
of Chief Inspector
or Inspectors

19 (2) Where an order under subsection (1) of this section has been
20 made, the Chief Inspector or an Inspector may, in his discretion, adopt one or
21 any of the following courses:

22 (a) if the cause or matter appears to be within the jurisdiction of an
23 Area Court other than that referred to in subsection (1) of this section, he
24 may, by the same or another order, direct that the cause or matter be inquired
25 into, tried and determined by the Area Court which has jurisdiction over the
26 same;

27 (b) he may direct in like manner that the cause or matter be inquired
28 into, tried and determined by a Magistrate Court, District Court or
29 Customary Court;

30 (c) if the cause or matter is one which in his opinion ought for any

1 reason to be transferred from an Area Court to the Sharia Court of Appeal, he
2 may report the case to the Sharia Court of Appeal.

3 (3) No cause or matter which has been transferred by the High Court
4 or a Magistrate Court or District Court or Customary Court to an Area Court
5 may be reported to the Sharia Court of Appeal or transferred to the same or any
6 other Magistrate Court, District Court or Customary Court under this section.

7 (4) The court to which a cause or matter is transferred under this
8 section shall be informed in writing of the reason for making the order of
9 transfer and may thereafter take any course with regard to the cause or matter
10 which it considers that justice requires.

11 (5) Where a cause or matter is reported to the Sharia Court of Appeal
12 under subsection (2)(c) of this section, the Sharia Court of Appeal shall direct
13 in what mode and in what court the cause or matter shall be heard and
14 determined.

15 (6) Where a cause or matter is transferred from an Area Court to any
16 other court under this section, no summons fee shall be payable in the court to
17 which the cause or matter is transferred if the appropriate summons fee has
18 been paid in the Area Court from which the cause or matter is transferred.

Effect of order
to transfer

19 **38.**-(1) An order of transfer shall operate as a stay of proceedings
20 before the Area Court from which the proceedings are ordered to be transferred
21 in any cause or matter to which the order extends or is applicable, and the
22 process and proceedings in that cause or matter, and a certified copy of the
23 record shall be transmitted to the court to which the same is transferred and all
24 proceedings in the cause or matter shall be taken in the court as if the cause or
25 matter had been commenced therein.

26 (2) A report made under section 37 (2) (c) of this Act shall operate to
27 suspend proceedings, the subject of the report until the directions of the Sharia
28 Court of Appeal have been given under section 37 (4) of this Act.

29 (3) The Chief Inspector or Inspector may, if it appears expedient in the
30 first instance, transmit by post, or through any other means, the contents of any

1 order made by him under subsection (1) of this section and the post or any
2 other means adopted shall, until the receipt of the order, have the same
3 validity and effect as if it were the said order.

4 **39.**-(1) The Chief Inspector or an Inspector, if in his opinion there
5 has been a miscarriage of justice in any case before an Area Court to which
6 he has access under the provisions of section 37 of this Act, may of his own
7 motion or in his discretion on the application of any person concerned,
8 report that case to the court to which an appeal in the case would lie.

Review by Appeal
Court on report
of Chief Inspector
or inspector

9 (2) A report under subsection (1) of this section shall be made in
10 writing and shall record the particulars of the judgment, order or case, and
11 the reason for its being reported and shall be accompanied by a copy of the
12 record of the case.

13 (3) The court to which the case has been reported shall review it,
14 and may:

15 (a) reverse, vary or affirm the decision given;
16 (b) make an order in the proceedings as the lower court could have
17 made;
18 (c) make a further order, as may be necessary or as the justice of the
19 case may require but no order in a civil proceeding to the prejudice of any
20 party shall be made without an opportunity being given to the party of being
21 heard;

22 (d) set aside the judgment or other order of the lower court; and

23 (e) when it considers it desirable, order the case to be retried either
24 by the same court or any other Area Court of competent jurisdiction or by
25 any Magistrate Court, District Court or Customary Court, or if the case is
26 one that appears proper to be heard by the High Court, report the case to the
27 High Court.

28 (4) In the exercise of its powers of review under this section, a court
29 may hear any additional evidence as it considers necessary for the just
30 disposal of the case.

1 (5) The Chief Inspector or an Inspector who has reported any case to a
 2 court under the provisions of this section may have power to direct the lower
 3 court to stay all actions in the interim, pending the determination of the matter
 4 by the court to which the matter is reported.

5 (6) A person aggrieved by a decision of the Sharia Court of Appeal in a
 6 review under this section may appeal from the decision to the Court of Appeal
 7 as if it were a decision in an appeal brought to the Sharia Court of Appeal from
 8 some other court.

Special plea in
 bar not admissible
 on hearing

9 40. Where proceedings are quashed and an order for retrial is made
 10 under the provisions of this Part, no plea of res judicata or autrefois convict
 11 shall be entertained in respect of the proceedings in any subsequent
 12 proceedings.

Power of Chief
 Inspector or
 inspector not
 exercisable
 where appeal
 instituted

13 41. No Chief Inspector or an Inspector shall exercise the powers
 14 conferred upon him under this Part in any case where a party aggrieved by the
 15 decision of the Area Court has appealed from that decision or otherwise
 16 instituted any appeal proceedings in respect of the decision.

17 PART VIII - APPEAL

Appeals from
 Area Courts

18 42.-(1) A party aggrieved by a decision of an Area Court may appeal
 19 to:

20 (a) the Sharia Court of Appeal in cases involving questions regarding
 21 Islamic Personal Law; and

22 (b) the High Court in all other cases.

23 (2) Every such appeal shall be commenced by the appellant giving to
 24 the Registrar of the Area Court notice of the appeal which shall be in writing,
 25 and signed by the appellant or by a legal practitioner if a legal practitioner is
 26 representing him.

27 (3) Subject to the provisions of subsection (4) of this section, a notice
 28 of appeal under subsection (2) of this section shall be given in every case before
 29 the expiration of 30 days from the date of the decision appealed against.

30 (4) A notice of appeal under subsection (2) in respect of an

1 interlocutory decision shall be given within 14 days from the date of the
2 decision appealed against.

3 **43.** Subject to the provisions of the Constitution of the Federal
4 Republic of Nigeria, no appeal shall lie from the lower court at the instance
5 of any person at whose request a case has been reported to a court under
6 section 39 of this Act.

Restriction on
right of appeal

7 **44.** Leave to appeal out of time to any court may be given by the
8 court upon such terms as it may seem just.

Appeals out of
time

9 **45.-(1)** Any court exercising appellate jurisdiction in civil matters
10 under the provisions of this Act may, in the exercise of that jurisdiction:

Powers of
appellate court
in civil matters

11 (a) reverse, vary or affirm the decision of the court from which the
12 appeal is brought and may make any order or exercise any power as the court
13 of first instance could have made or exercised in the case or as the Appeal
14 Court considers that the justice of the case requires;

15 (b) quash any proceeding and, there-upon where it is considered
16 desirable, order such case to be retried before the court of first instance or
17 before any other court of competent jurisdiction.

18 (2) In the exercise of its power under subsection (1) (a) of this
19 section, a court may hear additional evidence if it considers the evidence
20 necessary for the just disposal of the case, and the court shall record its
21 reason for exercising its power under this subsection.

22 **46.** Where an appeal lies from an order or decision of an Area
23 Court, the court to which the appeal is brought shall have powers to inspect
24 the records or books of the Area Court relating to the appeal.

Powers of courts
or appeal to inspect
records

25 **47.** No proceedings in an Area Court and no summons, warrants,
26 process, order or decree issued or made thereby shall be varied or declared
27 void upon appeal or revision solely by reason of any defect in procedure or
28 wants of form but every court or authority established in and for the Federal
29 Capital Territory, Abuja and exercising powers of appeal or revision under
30 this Act shall decide all matters according to substantial justice without

Substantial justice
to be done without
undue regard to
technicalities

| | | |
|--|----|---|
| | 1 | undue regards to technicalities. |
| | 2 | PART IX - OFFENCES |
| Adjudication without authority | 3 | 48. -(1) Any person who exercises or attempts to exercise judicial |
| | 4 | Powers within the area of the jurisdiction of a duly constituted Area Court, |
| | 5 | except in accordance with the provisions of any written law, shall be liable on |
| | 6 | conviction before the High Court, Magistrate Court or Area Court of |
| | 7 | competent jurisdiction, to a fine not exceeding N20,000.00 or to imprisonment |
| | 8 | for a period not exceeding 12 months or to both. |
| | 9 | (2) Nothing contained in this section shall be deemed to prohibit any |
| | 10 | person from adjudicating as an arbitrator upon any civil matter in dispute |
| | 11 | where the parties to the matter have agreed to submit the dispute to his decision |
| Jurisdiction of courts under Part IX | 12 | 49. Subject to the provision of this Act, any proceeding arising under |
| | 13 | this Part may be brought in the High Court, Magistrate Court or Area Court of |
| | 14 | competent jurisdiction. |
| | 15 | PART X - RULES OF COURT |
| Power to make rules | 16 | 50. -(1) The Grand Kadi may make rules providing for any or all of the |
| | 17 | following matters: |
| | 18 | (a) prescribing and providing for: |
| | 19 | (i) the maximum fees which may be charged in Area Courts and for |
| | 20 | appeals from the Area Courts generally, |
| | 21 | (ii) the reduction of the maximum fees in respect of all or any Area |
| | 22 | Court or in respect of all or any proceeding, and |
| | 23 | (iii) the remission in whole or in part of any maximum or reduced fee |
| | 24 | and the manner in which the persons or Area Court by whom or by which the |
| | 25 | remission may be made. |
| | 26 | (b) the disposal and application of files and fees received by Area |
| | 27 | Courts; |
| | 28 | (c) the practice and procedure of Area Courts in their original |
| | 29 | jurisdiction, on review and appeal; |
| | 30 | (d) the time within which any act, matter or thing shall be carried out |

1 or performed for the purpose of this Act and the time within which notice of
2 appeal shall be given from the decision of any Area Court;

3 (e) providing for the execution of:

4 (i) the decrees or orders of Area Court or any class of Area Courts,
5 whether the Area Courts are established under this Act or under any other
6 written law; and

7 (ii) the warrants and the service of the process of the courts or class
8 of courts, where these decrees or orders are made or the warrants or process
9 are issued in respect of persons or property not within the area of the
10 jurisdiction of the Area Court making or issuing the same.

11 (f) prescribing the courts or authority by which the decrees, orders,
12 warrants or process mentioned in paragraph (e) (ii) of this subsection shall
13 be carried into execution, executed
14 or served;

15 (g) the exclusion of the public from an Area Court in accordance
16 with section 21 (2) of this Act; and

17 (h) the procedure of Area Courts in relation to applications for the
18 interpretation of the Constitution of the Federal Republic of Nigeria.

19 (2) Any rule made under this section may apply to all Area Courts
20 or a class of Area Courts or any particular Area Court or those Area Courts or
21 particular Area Courts or those Area Court or particular Area Court as may
22 be determined under the rules.

23 PART XI - MISCELLANEOUS

24 **51.**-(1) All Assets and liabilities of the Area Court established
25 under the Area Court Act Cap. 477, Laws of the Federal Capital Territory
26 Abuja, 2006; and the Federal Capital Territory Abuja Area Courts (Repeal
27 and Enactment) Act, 2010 shall be vested in the Area Court established
28 under this Act.

Saving and
transitional
provisions

29 (2) All appointments or decisions made by the Area Courts
30 established under the Area Courts Act Cap. 477, Laws of the Federal Capital

1 Territory Abuja, 2006; and the Federal Capital Territory Abuja Area Courts
2 (Repeal and Enactment) Act, 2010 shall continue to persist or deemed to have
3 been made by the Area Court established under this Act.

4 (3) Nothing in this Act shall be deemed to affect the powers or
5 functions of the High Court or Magistrate Court in the exercise of their
6 Criminal Jurisdiction or any right or power in any officer or person to institute
7 criminal proceedings in those courts.

Interpretation

8 **52.** In this act:

9 "Area Court" means a court established under this Act for the Federal Capital
10 Territory, Abuja or deemed to have been so established and includes an Upper
11 Area Court;

12 "cause" includes any action, suit or other original proceeding between a
13 plaintiff and a defendant and also any criminal proceeding;

14 "Chief Registrar" means the Chief Registrar of the Sharia Court of Appeal of
15 the Federal Capital Territory, Abuja;

16 "Customary Court" means a Customary Court established under the
17 Customary Court Act, 2007;

18 "District Court" means a District Court established under the District Court
19 Act, 1960;

20 "Grand Kadi" means the Grand Kadi of Sharia Court of Appeal of Federal
21 Capital Territory, Abuja;

22 "Chief Inspectors of Area Courts" or "Inspector" means a person appointed
23 under section 34 to exercise power vested in him under this Act and includes
24 the Director of Area Courts, Chief Inspector or any other Inspector;

25 "Judicial Service Committee" means the Judicial Service Committee of the
26 Federal Capital Territory, Abuja;

27 "Land Cause" means a cause or matter relating to ownership, occupation or
28 possession of Land;

29 "Legal Practitioner" has the same meaning as in the Legal Practitioners Act
30 Cap. LII LFN, 2004;

1 "Local Authority" means an Area Councilor any other body established for
2 the administration of the Federal Capital Territory, Abuja;

3 "Magistrate Court" means a Magistrate court established under or pursuant
4 to Criminal Procedure Code Act or deemed to have been established;

5 "Islamic Personal Law" has the same meaning as it has in Shari a Court of
6 Appeal Act;

7 "Sharia Court of Appeal" means Sharia Court of Appeal established for the
8 Federal Capital Territory, Abuja.

9 **53.** The Federal Capital Territory Abuja Area Courts (Repeal and Repeal
10 Enactment) Act, 2010 is hereby repealed.

11 **54.** This Bill may be cited as the Federal Capital Territory Abuja Citation
12 Area Courts Bill, 2019.

EXPLANATORY NOTE

This Bill seeks to confer Criminal jurisdiction on Area Courts in the Federal Capital Territory in addition to its existing jurisdiction over civil matters in which parties are subject to the jurisdiction of the court to the extent set out in the establishing warrant, It further makes provision for the application of the Penal Code Act, Administration of Criminal Justice Act, 2015 and any other written law which the court may be authorized to enforce in accordance with the provisions of this Bill.

A BILL

FOR

AN ACT TO PROVIDE FOR THE PROTECTION OF PLANT VARIETIES,
ESTABLISH A PLANT VARIETY PROTECTION OFFICE FOR THE PROMOTION
OF INCREASED STAPLE CROP PRODUCTIVITY FOR SMALL HOLDER
FARMERS IN NIGERIA AND FOR RELATED MATTERS

Sponsored Hon. Munir Babba Dan Agundi

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria as follows:

1 PART I - PRELIMINARY PROVISIONS

2 **1.** The objectives of this Act are to: Objectives

3 (a) Promote increased staple crop productivity for smallholder
4 farmers in Nigeria and encourage investment in Plant Breeding and crop
5 variety development;

6 (b) Promote increased mutual accountability in Seed sector;

7 (c) Protection of new varieties of plants.

8 **2.** This Act applies to: Application

9 (a) A breeder;

10 (b) Any plant genera and species.

11 PART II - PLANT VARIETY PROTECTION OFFICE

12 **3.** There is established an office to be known as the Plant Variety
13 Protection Office (herein after referred to as the Office) which shall be
14 domiciled in the National Agricultural Seeds Council Establishment
of Plant Variety
Protection rights
office

15 **4.-(1)** The Director General of the National Agricultural Seeds
16 Council shall be the Registrar of the Plant Variety Protection Office and he
17 shall appoint an officer as Deputy Registrar: Appointment of
Registrar

18 (a) The Deputy Registrar shall have at least a Masters Degree in
19 Plant Breeding, Seed Science, Agronomy or in related fields with a

| | | |
|---|----|---|
| | 1 | minimum of 7 years cognate experience who shall perform the functions |
| | 2 | assigned to him by the Registrar; and |
| | 3 | (b) There shall for the purpose of this Act be appointed such other |
| | 4 | grades of assistants as the Registrar may consider necessary for the |
| | 5 | enforcement of the provisions of this Act. |
| | 6 | (2) The Deputy Registrar shall be responsible for the day to day |
| | 7 | management and administration of the Office and answerable to the Registrar. |
| Functions of the Office | 8 | 5. The functions of the Office shall be to: |
| | 9 | (a) grant breeders' rights; |
| | 10 | (b) maintain a register and provide information on plant breeders' |
| | 11 | rights issued in Nigeria; |
| | 12 | (c) facilitate transfer and licensing of plant breeders' rights; |
| | 13 | (d) collaborate with local and international bodies whose functions |
| | 14 | relate to plant breeders' rights matters; and |
| | 15 | (e) perform any other functions as are necessary for the furtherance of |
| | 16 | the objects of this Act. |
| Register of Plant Variety Protections' rights | 17 | 6.-(1) The Registrar shall maintain a breeders' rights register in which |
| | 18 | the information required to be registered under this Act shall be entered. |
| | 19 | (2) The information to be listed in the register for each registered |
| | 20 | variety shall include: |
| | 21 | (a) the species and denomination of a variety; |
| | 22 | (b) the full name and address of the: |
| | 23 | (i) applicant or holder of the breeder's right, and |
| | 24 | (ii) person who bred or discovered and developed the variety, in case |
| | 25 | such person is different from the applicant or holder of the breeder's right; |
| | 26 | (c) the date and time of inception of the breeder's right; |
| | 27 | (d) any other matter which: |
| | 28 | (i) is required by this Act or any other written law to be entered in the |
| | 29 | Register, and |
| | 30 | (ii) may affect the validity or ownership of plant breeders' rights; and |

1 (e) any other information which may be required by Regulations
2 made pursuant to this Act.

3 (3) The Register shall be a prima facie evidence of any matter
4 entered therein.

5 7.-(1) The register shall be prima facie evidence of all matters Register to be
6 directed or authorized by the Act to be noted therein. evidence

7 (2) A certificate by the registrar to the effect that an entry has or has
8 not been made in the register or that any other thing authorized by this Act to
9 be done, has or has not been done, shall be prima facie evidence of the
10 matters specified in that certificate.

11 (3) A copy of an entry in the register or an extract from the register,
12 certified by the registrar, shall be admitted in evidence in any court without
13 further proof or production of the register.

14 8.-(1) The Register shall be open for inspection by any member of Inspection of
15 the public during business hours. Register

16 (2) A certified copy of any entry in the Register shall be given upon
17 request and payment of the fees prescribed in the regulations made pursuant
18 to this Act.

19 9.-(1) An ad-hoc committee to be known as the Plant Variety Plant Variety
20 Protection' Advisory Committee (hereinafter referred to as the Committee) Protection Advisory
21 may from time to time be established to perform the functions specified in Committee
22 section 10 of this act.

23 (2) The Director General shall, subject to gender consideration,
24 appoint members of the Committee and it shall be composed of one
25 representative each from:

26 (a) the Council, who shall be the Chairman of the Committee;

27 (b) the Ministry;

28 (c) a registered Plant Breeder Association;

29 (d) a registered Seed Traders Association;

30 (e) the registered farmers' association;

| | | |
|--|----|--|
| | 1 | (f) a University offering a course on Plant Breeding; |
| | 2 | (g) the Attorney General of the Federation's office; |
| | 3 | (h) the National Office for Technology Acquisition and Promotion; |
| | 4 | (i) the National Quarantine Services; |
| | 5 | (j) the National Biotechnology Development Agency; |
| | 6 | (k) the National Biosafety Management Agency; |
| | 7 | (l) the National Crop Variety Release Committee; |
| | 8 | (m) Registrar of Trademarks, |
| | 9 | (n) Registrar of Patents and Design; and. |
| | 10 | (o) the deputy Registrar |
| | 11 | (3) The Legal unit of the Council shall be the secretary of the |
| | 12 | Committee. |
| Functions of the Committee | 13 | 10. The Committee shall: |
| | 14 | (a) through the Director General of NASC advise the Minister on |
| | 15 | efficient enforcement of this Act; |
| | 16 | (b) receive reports of plant breeders' rights applications from the |
| | 17 | Registrar; |
| | 18 | (c) receive information on the plant breeders' rights reports and on the |
| | 19 | Registrar's tests results; and |
| | 20 | (d) manage the operations of the Fund. |
| Powers of the Committee | 21 | 11. The Committee shall: |
| | 22 | (a) make its own rules of procedure; |
| | 23 | (b) give the Registrar directives of a specific and general nature; and |
| | 24 | call on breeders and any other interested person for hearing on plant variety |
| | 25 | protection matters. |
| | 26 | PART III - VARIETIES TO BE PROTECTED |
| Genera and Species to be protected | 27 | 12. The protection of varieties under this Act shall apply to all plant |
| | 28 | genera and species. |
| Conditions of Protection | 29 | 13.-(1) The breeder's right shall be granted with respect to a variety |
| | 30 | which is new distinct, uniform and stable. |

1 (2) The grant of the breeder's right shall not be subject to any
2 further or different conditions, provided that the:

3 (a) variety is designated by a denomination in accordance with the
4 provisions of section 19 of this Act; and

5 (b) applicant complies with the provisions of this Act and that he
6 pays the fees prescribed in the Regulations made pursuant to this Act.

7 **14.**-(1) The variety shall be deemed to be new if, at the date of filing Novelty
8 of the application for a breeder's right, propagating or harvested material of
9 the variety has not been sold or otherwise disposed of to any person by or
10 with the consent of the breeder, for purposes of exploitation of the variety in:

11 (a) Nigeria, earlier than one year before the date of filing the
12 application; and

13 (b) a territory other than Nigeria earlier than:

14 (i) four years, or

15 (ii) six years before the said date in the case of a tree or vine.

16 (2) Subject to subsection (1) of this section, the following acts shall
17 not be considered to result in the loss of novelty:

18 (a) a trial of the variety not involving sale or disposal of to others
19 for purposes of exploitation of the variety; and

20 (b) sale or disposal of to:

21 (i) others without the consent of the breeder,

22 (ii) any person that forms part of an agreement for the transfer of
23 rights to the successor in title,

24 (iii) any person that forms part of an agreement under which a
25 person multiplies propagating material of the variety concerned on behalf of
26 the breeder, provided that the property in the multiplied material reverts to
27 the breeder and the multiplied material is not used for the production of
28 another variety,

29 (iv) any person that forms part of an agreement under which a
30 person undertakes field tests or laboratory trials, or small-scale processing

| | | |
|---|----|--|
| | 1 | trials with a view of evaluating the variety, |
| | 2 | (v) any person that forms part of the fulfillment of a statutory or |
| | 3 | administrative obligation concerning biological security or the entry of |
| | 4 | varieties in an official catalogue of varieties admitted to trade, |
| | 5 | (vi) any person of harvested material which is a by-product or a |
| | 6 | surplus product of the creation of the variety or of the activities referred to in |
| | 7 | paragraphs (iii) to (v) provided that the said material is sold or disposed of |
| | 8 | without variety identification for the purposes of consumption, and |
| | 9 | (vii) any person due to or in consequence of the fact that the breeder |
| | 10 | had displayed the variety at an official or officially recognized exhibition. |
| Distinctness | 11 | 15.-(1) A variety shall be deemed to be distinct where it is clearly |
| | 12 | distinguishable from any other variety whose existence is a matter of common |
| | 13 | knowledge at the time of the filing of the application. |
| | 14 | (2) For purposes of subsection (1) of this section, the filing of an |
| | 15 | application for the granting of breeder's right or for the entering of another |
| | 16 | variety in the official register of varieties in any country, shall be deemed to |
| | 17 | render that other variety a matter of a common knowledge from the date of the |
| | 18 | application, provided that the application leads to the granting of breeder's |
| | 19 | right or to the entering of the said other variety in the official |
| | 20 | register of varieties. |
| Uniformity and stability | 21 | 16. A variety shall be deemed to be: |
| | 22 | (a) uniform if, subject to the variation that may be expected from the |
| | 23 | particular features of its propagation, it is sufficiently uniform in its relevant |
| | 24 | characteristics; and |
| | 25 | (b) stable, where its relevant characteristics remain unchanged after |
| | 26 | repeated propagation or, in the case of a particular cycle of propagation, at the |
| | 27 | end of each such cycle. |
| | 28 | PART IV - APPLICATION FOR PLANT VARIETY PROTECTION RIGHTS |
| Application for Plant Variety Protection's right | 29 | 17. A breeder of a new variety may apply for the grant of a breeder's |
| | 30 | right for that variety. |

| | | |
|----|---|-----------------------------------|
| 1 | 18. The application for breeder's right relating to a variety shall | The Contents of an application |
| 2 | contain: | |
| 3 | (a) the name and address of the applicant; | |
| 4 | (b) where the applicant is the successor in title of the person who | |
| 5 | bred, or discovered and developed, the variety: | |
| 6 | (i) proof of title or authority in the form and content satisfactory to | |
| 7 | the Registrar or as may be specified by Regulations establishing the | |
| 8 | existence and validity of the assignment or succession; and | |
| 9 | (ii) the name and address of the person who bred, or discovered and | |
| 10 | developed, the variety; | |
| 11 | (c) the proposed denomination and the description of the | |
| 12 | characteristics of the variety as the Registrar may require; | |
| 13 | (d) samples of the propagating material in such quantities as the | |
| 14 | Registrar may require; and | |
| 15 | (e) any additional information, documents and material that may | |
| 16 | be required in connection with the application as may be prescribed in the | |
| 17 | Regulations. | |
| 18 | 19.-(1) The variety shall be designated by a denomination which | Variety Denomination |
| 19 | shall be its generic designation. | |
| 20 | (2) Subject to subsection (6) of this section, the rights in the | |
| 21 | designation registered as the denomination of the variety shall not hamper | |
| 22 | the free use of the denomination in connection with the variety even after the | |
| 23 | expiration of the breeder's right. | |
| 24 | (3) The denomination: | |
| 25 | (a) shall enable the variety to be identified; | |
| 26 | (b) shall not mislead or cause confusion concerning the | |
| 27 | characteristics, value or identity of the variety or the identity of the breeder; | |
| 28 | (c) shall be different from every denomination which designates, in | |
| 29 | the territory of any member of an international organization dealing with | |
| 30 | plant breeders' rights matters to which Nigeria is a party, an existing variety | |

1 of the same plant species or of a closely related species; and

2 (d) may not consist solely of figures except where this is an
3 established practice for designating varieties.

4 (4) The denomination of the variety shall be submitted by the
5 applicant to the Registrar and where the Registrar finds that the denomination
6 does not satisfy the requirements of this section, he shall:

7 (a) refuse to register it; and

8 (b) direct the applicant to propose another denomination within the
9 period to be prescribed in the Regulations made pursuant to this Act.

10 (5) The Registrar shall register the denomination at the time the
11 breeder's right is granted.

12 (6) Prior rights of third persons shall not be affected and where, by
13 reason of a prior right, the use of the denomination of a variety is forbidden to a
14 person who, in accordance with the provisions of subsection (10) of this
15 section, is obliged to use it, the Registrar shall direct the applicant to submit
16 another denomination for the variety.

17 (7) Where the variety is already protected by a member of an
18 international organization dealing with the plant breeders' rights matters to
19 which Nigeria is a party or an application for the protection of the same variety
20 is filed in a member of such organisation, the variety denomination which has
21 been proposed or registered in that other member of the organization shall be
22 submitted by the applicant to the Registrar.

23 (8) The Registrar shall:

24 (a) register the denomination submitted, unless he considers the
25 denomination unsuitable within Nigeria; and

26 (b) direct the applicant to submit another denomination where the
27 denomination is unsuitable.

28 (9) The Registrar shall in writing, inform the authorities of the
29 members of UPOV on matters concerning variety denominations, in particular
30 the submission, registration and cancellation of the denominations.

1 (10) Any person who, within Nigeria, offers for sale or markets
2 propagating material of a variety protected within the said territory shall be
3 obliged to use the denomination of that variety, even after the expiration of
4 the breeder's right of that variety, except where prior rights prevent such use.

5 (11) When a variety is offered for sale or marketed, it shall be
6 permitted to associate a trademark, trade name or other similar indication
7 with a registered variety denomination and where such an indication is so
8 associated, the denomination shall nevertheless be easily recognizable.

9 PART V - CONSIDERATION AND DISPOSITION OF APPLICATION

10 **20.**-(1) Shall be the date which the application was filed at the The filling date
11 Registry by the applicant. of an application

12 (2) For the purposes of this section, an application shall be deemed
13 to have been submitted in the form prescribed under this Act.

14 **21.**-(1) Any breeder who has duly filed an application for the Right of Priority
15 protection of a variety in one of the members of an international
16 organization dealing with plant breeder's right matters which Nigeria is a
17 party shall enjoy a right of priority for a maximum period of twelve months.

18 (2) The period referred to in subsection (1) of this section shall be
19 computed from the date of filing the first application and the day of filing
20 shall not be included in the latter period.

21 (3) The applicant shall, in order to benefit from the right of priority
22 in the subsequent application in Nigeria, claim within twelve months the
23 priority of the first application.

24 (4) The Registrar may, direct the applicant to furnish, within a
25 period of not less than three months from the filing date, a certified true copy
26 of the documents which constitute the first application that was filed and
27 samples or other evidence indicating that the variety which is the subject
28 matter of both applications is the same.

29 (5) The applicant may submit to the Registrar any necessary
30 information, document or material required in this Act for the purpose of the

| | | |
|---|----|--|
| | 1 | examination within a period of two years after the expiration of the period of |
| | 2 | priority or a period of six months where the first application is rejected or |
| | 3 | withdrawn. |
| Amendment of application | 4 | 22. -(1) An applicant may amend his application for the grant of a |
| | 5 | breeder's right for a variety at any time without affecting its filing date, |
| | 6 | provided that the amendment does not affect the variety which is the subject of |
| | 7 | the application. |
| | 8 | (2) Where any amendment of an application occurs after publication |
| | 9 | of a notice under section 23 of this Act, the applicant shall be liable to pay the |
| | 10 | cost of re-publication. |
| Publication of Notice of Application | 11 | 23. The Registrar shall publish in the Federal Government Gazette or |
| | 12 | in two national daily newspapers of wide circulation, a notice of every filed |
| | 13 | application for plant breeder's right that satisfies the requirements of the Act |
| | 14 | specifying: |
| | 15 | (a) the name and address of the applicant; |
| | 16 | (b) the filing date of the application; |
| | 17 | (c) the proposed denomination; and |
| | 18 | (d) such other information as may be specified in the Regulations. |
| Objection to the proposed grant of breeder's right | 19 | 24. -(1) Any person may submit to the Registrar a written objection to |
| | 20 | the matter specified in the notice under section 23 of this Act within one month |
| | 21 | of its publication. |
| | 22 | (2) A notice of objection made under sub-section (1) of this section |
| | 23 | shall: |
| | 24 | (a) specify the grounds on which the objection is based; |
| | 25 | (b) include a statement of the facts alleged in support of the grounds |
| | 26 | stated under paragraph (a) of this sub-section; and |
| | 27 | (c) be supported by an affidavit or other proof, where required by the |
| | 28 | Registrar. |
| Grounds for Objection | 29 | 25. An objection submitted pursuant to section 24 of this Act shall be |
| | 30 | based on the allegation that the: |

- 1 (a) applicant is not entitled to file the application;
2 (b) application contains a material misrepresentation; and
3 (c) contents of the application do not comply with this Act or the
4 Regulations.

5 **26.**-(1) The Registrar shall, within two weeks from the date on
6 which an objection has been filed:

Notice to the
applicant and reply
to an objection

7 (a) notify the applicant that an objection has been made pursuant to
8 section 24 of this Act; and

9 (b) provide the applicant with a copy of the notice of objection and
10 all the supporting documents that have been submitted with the objection.

11 (2) The applicant may submit a written response to the objection to
12 the Registrar within two weeks or such further period as the Registrar may
13 allow from the date of the notification made under sub-section (1) of this
14 section.

15 (3) Where the applicant submits a response in pursuance to sub-
16 section (2) of this section, he shall send a copy to the person making the
17 objection.

18 (4) The Minister may reply to any objection made against the
19 Federal Government.

20 **27.**-(1) The Registrar shall examine an application and reply upon:

Disposition of
applications

21 (a) completion of the notice requirements under section 23 of this
22 Act; and

23 (b) the expiration of time limits for objections and replies.

24 (2) Upon any decision to grant a breeder's right which require an
25 examination for compliance with the conditions specified under this Act, the
26 Registrar may, in the course of the examination, grow or cause to be grown
27 the Variety or carry out other necessary tests, or take into account the results
28 of growing tests or other trials which have already been carried out.

29 (3) The Registrar may, for the purpose of an examination, direct the
30 breeder to provide the necessary information, document or material.

1 (4) The Registrar shall grant the breeder's right where he concludes
2 that:

- 3 (a) the applicant is entitled to file the application;
- 4 (b) the application conforms to the requirements of this Act;
- 5 (c) no objection has been filed;
- 6 (d) where an objection has been filed, there are no grounds for
7 objection; and

8 (5) For each variety for which breeder's right is granted, the Registrar
9 shall:

- 10 (a) issue a certificate of registration to the holder;
- 11 (b) enter the variety in the register as provided for under section 6 of
12 this Act; and
- 13 (c) publish a notice of the grant of breeder's right and the approved
14 denomination in the Gazette.

15 PART VI - PROVISIONAL AND FINAL PROTECTION

Provisional
protection

16 **28.** The holder of a breeder's right shall be entitled to equitable
17 remuneration from any person who, during the period between the publication
18 of the application under section 23 of this Act for the grant of a breeder's right
19 and the date of the grant of that right, has carried out acts which, once the right
20 is granted, require the breeder's authorization as provided for under section 29
21 of this Act.

Scope of the
breeder's right,
essentially derived
and certain other
varieties

22 **29.**-(1) Subject to sections 30 and 31 of this Act, the following acts in
23 respect of the propagating material of the protected variety shall require the
24 authorization of the holder of the breeder's right:

- 25 (a) production or reproduction(multiplication);
- 26 (b) conditioning for the purpose of propagation;
- 27 (c) offering for sale;
- 28 (d) selling or marketing;
- 29 (e) exporting;
- 30 (f) importing; and

1 (g) stocking for any purposes mentioned in the paragraphs (a) to (f)
2 of this subsection.

3 (2) The holder of the breeder's right may give his authorization
4 subject to conditions and limitations.

5 (3) Subject to the provisions of sections 30 and 31 of this Act, the
6 acts referred to in paragraphs (a) to (g) of sub-section (1) of this section in
7 respect of:

8 (a) harvested material, including entire plants and parts of plants,
9 obtained through the unauthorized use of propagating material of the
10 protected variety, shall require the authorization of the holder of the
11 breeder's right, unless the holder of the breeder's right has had reasonable
12 opportunity to exercise his right in relation to the said propagating material;
13 and

14 (b) products made directly from harvested material of the protected
15 variety falling within the provision of paragraph (a) of this subsection
16 through the unauthorized use of the said harvested material, shall require the
17 authorization of the breeder, unless the breeder has had reasonable
18 opportunity to exercise his right in relation to the said harvested material.

19 (4) The provisions of sub-sections (1), (2) and (3) of this section
20 shall apply to a variety:

21 (a) that is essentially derived from the protected variety, where the
22 protected variety is not itself an essentially derived variety;

23 (b) which is not clearly distinguishable in accordance with section
24 15 of this Act from the protected variety; and

25 (c) whose production requires the repeated use of the protected
26 variety.

27 (5) For the purposes of paragraph (a) of subsection (4), a variety
28 shall be deemed to be essentially derived from another variety (initial
29 variety) when:

30 (a) it is predominantly derived from the initial variety, or from a

1 variety that is itself predominantly derived from the initial variety, while
2 retaining the expression of the essential characteristics that result from the
3 genotype or combination of genotype of the initial variety;

4 (b) it is clearly distinguishable from the initial variety; and

5 (c) except for the differences which result from the act of derivation, it
6 conforms to the initial variety in the expression of the essential characteristics
7 that result from the genotype or combination of genotypes of the initial variety.

8 (6) For the purpose of this section, an essentially derived variety may
9 be obtained through:

10 (a) the selection of a natural or induced mutant or of somaclonal
11 variant;

12 (b) the selection of a variant individual from plants of the initial
13 variety; and

14 (c) backcrossing, or transformation by genetic engineering.

Exceptions to
the breeder's
right

15 **30.**-(1) The Breeder's right shall not extend to any act carried out:

16 (a) privately and for non-commercial purposes;

17 (b) for experimental purposes; and

18 (c) for the purpose of breeding any other variety, and, except where
19 the provisions of section 29 (4) to (6) of this Act apply, any act referred to in
20 section 29 (1) to (3) in respect of such other varieties.

21 (2) For the list of agricultural crops specified by the Minister, the
22 breeder's right shall not extend to a farmer who, within reasonable limits and
23 subject to the safeguarding of the legitimate interests of the holder of the
24 breeder's right, uses for propagating purposes on his own holding, the product
25 of the harvest which he has obtained by planting on his own holding, the
26 protected variety or a variety referred to in section 29 (4)(a) or (b) of this Act.

27 (3) The reasonable limits and the means of safeguarding the
28 legitimate interest of the holder of the breeder's right shall be specified in the
29 regulations made pursuant to this Act.

| | | |
|----|--|--|
| 1 | 31. -(1) The breeder's right shall not extend to an act concerning any | Exhaustion of the breeder's right |
| 2 | material of the protected variety or of a variety covered by the provisions of | |
| 3 | section 29(4) to (6) of this Act, which has been sold or otherwise marketed | |
| 4 | by the breeder or with his consent in Nigeria, or any material derived from | |
| 5 | the said material, unless the act involves: | |
| 6 | (a) further propagation of the variety in question; or | |
| 7 | (b) an export of material of the variety, which enables the | |
| 8 | propagation of the variety, into a country which does not protect varieties of | |
| 9 | the plant genus or species to which the variety belongs, except where the | |
| 10 | exported material is for final consumption purposes. | |
| 11 | (2) In this section "material" means, in relation to a variety: | |
| 12 | (a) propagating material of any kind; | |
| 13 | (b) harvested material, including entire plants and parts of plants; | |
| 14 | and | |
| 15 | (c) any product made directly from the harvested material. | |
| 16 | 32. -(1) Except as specified in part VII of this Act, the breeders' | Duration of a plant breeder's right |
| 17 | rights granted under this Act shall expire after 20 years from the date of the | |
| 18 | grant except for trees and vines whose breeders' rights shall expire after 25 | |
| 19 | years from the date of grant. | |
| 20 | (2) The Registrar may extend the duration referred to in subsection | |
| 21 | (1) of this section for an additional five years where he receives a six month | |
| 22 | written notice from the holder of the Breeder's Right before the expiration of | |
| 23 | the original term. | |
| 24 | 33. -(1) A breeder's right is protected by both civil and criminal | Protection and damages for infringement of a breeder's right |
| 25 | measures stipulated in any written law. | |
| 26 | (2) A suit by the holder of breeder's right against any person who | |
| 27 | infringes the breeder's right may be brought in the court. | |
| 28 | 34. The holder of breeder's right shall pay fees at time and rate | Fees |
| 29 | specified in the Regulations made pursuant to this Act. | |

| | | |
|--|----|--|
| | 1 | PART VII - NULLITY, CANCELLATION AND SURRENDER |
| | 2 | OF BREEDER'S RIGHT |
| Nullity of the breeder's right | 3 | 35. -(1) The Registrar shall declare a breeder's right granted by him |
| | 4 | null and void where it is established that: |
| | 5 | (a) the variety did not comply with the conditions specified in sections |
| | 6 | 14 or 15 at the time the breeder's right was granted; |
| | 7 | (b) where the grant of the breeder's right has been essentially based |
| | 8 | upon information and documents furnished by the applicant, the conditions |
| | 9 | laid down in paragraphs (a) or (b) of section 16 were not complied with at the |
| | 10 | time of the grant of the breeder's right; or |
| | 11 | (c) the breeder's right has been granted to a person who is not entitled |
| | 12 | to it, unless it is transferred to the person who is so entitled. |
| Cancellation of the breeder's right | 13 | 36. -(1) The Registrar may cancel a breeder's right granted by him |
| | 14 | where he has established that the conditions specified in paragraphs (a) or (b) of |
| | 15 | section 16 of this Act are no longer fulfilled. |
| | 16 | (2) Without prejudice to sub-section (1) of this section, the Registrar |
| | 17 | may cancel a breeder's right granted by him, within the prescribed period |
| | 18 | provided in the Regulations made pursuant to this Act, where the holder of the |
| | 19 | breeder's right: |
| | 20 | (a) does not provide the Registrar with the information, documents or |
| | 21 | materials deemed necessary for verifying the maintenance of the variety; |
| | 22 | (b) fails to pay the fees which may be payable to keep his right in |
| | 23 | force; or |
| | 24 | (c) does not propose another suitable denomination where the |
| | 25 | denomination of the variety is cancelled after the grant of the right. |
| Notification of nullification and cancellation | 26 | 37. -(1) The Registrar shall notify the holder of the breeder's right of |
| | 27 | any decision made pursuant to sections 35 and 36 of this Act and the grounds |
| | 28 | for such decision. |
| | 29 | (2) A person who receives the notice referred to in sub-section (1) of |
| | 30 | this section may send a written objection to the Registrar within thirty days |

1 from the date of receipt of the notification.

2 (3) The Registrar may hold, within a reasonable time after receipt
3 of an objection, a hearing or may decide the matter based on the written
4 submission of the interested parties.

5 (4) Where the Registrar nullifies and cancels any breeder's right
6 under this section, he shall publish the nullification or cancellation by a
7 notice in the Gazette or two daily national newspapers of wide circulation,
8 after the expiration of thirty days from the date of the decision or following a
9 decision made under sub-section (3) of this section.

10 (5) The holder of the breeder's right shall return to the Registrar any
11 certificate of the grant of a breeder's right that has been nullified or cancelled
12 under this section.

13 **38.**-(1) A holder of a breeder's right may, by written notice to the Registrar, surrender the right. Surrender of
breeder's right

14
15 (2) The Registrar shall, within one month from the date of
16 receiving the notice referred to sub-section (1) of this section, terminate the
17 breeder's right and publish a notice in the Gazette or two daily national
18 newspapers of the termination.

19 **PART VIII - AUTHORIZATION AND ASSIGNMENTS**

20 **39.** The holder of breeder's right may assign or authorize any Authorization or
assignment of
breeder's right
21 person, to undertake any activity described or referred to in section 29 of this
22 Act.

23 **40.**-(1) The free exercise of a breeder's right shall, unless where Restriction on
the exercise of
breeder's right
24 expressly provided in this Act, not be restricted for reasons other than of
25 public interest.

26 (2) When any such restriction has the effect of the Registrar
27 authorizing a third party to perform any act for which the breeder's
28 authorization is required, the breeder shall receive equitable remuneration.

29 **41.**-(1) A person authorized under section 39 of this Act may, in not Information on
authorization or
assignment of
breeder's right
30 more than sixty days from the effective date of the authorization:

1 (a) notify the Registrar of the transaction; and

2 (b) submit a copy of the authorization agreement to the Registrar.

3 (2) The Registrar may prescribe the form and manner of the
4 notification to be made under sub-section (1) of this section.

5 (3) Upon assignment or other transmission of all of a breeder's right,
6 the assignee or recipient shall notify the Registrar for the purposes of making
7 changes in the Register.

8 PART IX - APPEALS

Appeals from
decision of
Registrar

9 **42.**-(1) An appeal from the decisions of the Registrar made under this
10 Act shall lie to the Minister.

11 (2) A person who is aggrieved by any of the decisions of the Registrar
12 may appeal to the Minister by submitting a notice of the appeal within sixty
13 days following the publication or of the receipt of the individual notice of such
14 decision by the person whose interest is the source or subject of the appeal.

Decisions of
the Minister on
Appeals

15 **43.**-(1) The Minister:

16 (a) may conduct an investigation, if it deems it necessary to do so, and
17 may hold a hearing of the appeal or make a decision based on written
18 submissions;

19 (b) may confirm, set aside or vary any decision or action of the
20 Registrar and may order the Registrar to carry out his decision; and

21 (c) shall give the reasons for his decision in writing, and copies of the
22 decision shall be given to the appellant, the Registrar and any other interested
23 party.

24 (2) Subject to the provisions of this section, a decision of the Minister
25 shall be final.

26 PART X - PLANT BREEDERS' RIGHTS DEVELOPMENT FUND, ACCOUNTS,

27 AUDIT AND ANNUAL REPORT

Plant Breeders
Rights Development
Fund

28 **44.**-(1) The Minister shall, after consultation with the Minister
29 responsible for finance matter, establish a fund to be known as the "Plant

1 Breeders' Rights Development Fund" into which money realized under this
2 Act shall be kept.

3 (2) The sources of moneys for the fund shall include:

4 (a) fees payable under this Act; and

5 (b) any donation or grant from the government or any other person.

6 (3) The purposes of the fund shall be for the financing of:

7 (a) development and promotion of the plant breeders' rights;

8 (b) training of plant breeders on matters concerning plant breeders'
9 rights;

10 (c) establishment and maintenance of the variety collection and
11 data base; and

12 (d) any other activity relating to administration of the Act.

13 (4) In addition to the functions entrusted to it under section 10 of
14 this Act, the committee shall operate as the fund committee, whereby:

15 (a) the registrar shall be a member of the fund committee and shall
16 serve as the secretary of the fund; and

17 (b) the fund committee shall make rules and procedures for the
18 operations and management of the fund provided that such rules and
19 procedures shall not be operative (5) Separate books of accounts and other
20 records in respect of the fund shall be kept properly and maintained and be
21 subject to audit.

22 **45.-(1)** The plant breeders' rights office shall cause to be kept and Accounts and
audit
23 maintain proper books of accounts with respect to:

24 (a) all sums of money received and expended by the Plant Breeders'
25 Rights Office and matters in respect of which the receipt and expenditure
26 take place;

27 (b) all the assets and liabilities of the Plant Breeders' Rights Office
28 and the Fund; and

29 (c) the income and expenditure statement of the Plant Breeders
30 Rights Office.

| | | |
|---|----|--|
| | 1 | (2) The financial year of the Plant Breeders Rights Office and the fund |
| | 2 | shall end on 31st December of each year. |
| | 3 | (3) The books of accounts of the Plant Breeders' Rights Office and the |
| | 4 | Fund shall be audited at the end of each financial year by the Accountant |
| | 5 | General and Auditor General. |
| Annual report to be submitted to the Minister | 6 | 46. -(1) The Registrar shall, submit to the Minister a copy of the |
| | 7 | audited accounts and annual report on the activities of the Plant Breeders' |
| | 8 | Office in respect of that particular year not later than six months after the end of |
| | 9 | each financial year. |
| | 10 | (2) The Registrar shall, within a period of six months or such longer |
| | 11 | period as the National Assembly may by resolution appoint after the accounts |
| | 12 | have been audited, lay the audited accounts and audit report before the National |
| | 13 | Assembly. |
| | 14 | PART XI - OFFENCES AND PENALTIES |
| Offences and penalties | 15 | 47. -(1) Any person who knowingly: |
| | 16 | (a) makes a false entry in the Register; |
| | 17 | (b) makes a writing which falsely purports to be a copy of an entry in |
| | 18 | the Register or of a document lodged with the Registrar; |
| | 19 | (c) produces or tenders a false entry of copy as evidence; |
| | 20 | (d) submits a false document or makes a false statement or |
| | 21 | representation to the Registrar in regard to any action described under this Act; |
| | 22 | (e) obstructs or hinders the Registrar or any officer in the exercise of |
| | 23 | his powers or the carrying out of his functions under this Act; |
| | 24 | (f) having been duly summoned to appear at any proceedings under |
| | 25 | this Act, fails without lawful excuse to appear; |
| | 26 | (g) having appeared as a witness at any proceedings under this Act, |
| | 27 | refuses without lawful excuse to be sworn or to r to produce any document or |
| | 28 | answer any question which he may be lawfully required to produce or answer; |
| | 29 | (h) contravenes the obligation to use the denomination as required by |
| | 30 | subsection 10 of section 19 of this Act; |

1 (i) gives false information in any application or makes any false
2 statement in evidence,

3 (j) violates breeders right,

4 (k) any person who violates the provisions of section 29; and

5 (l) Contravenes any other provisions of this Act commits an
6 offence.

7 (2) Any person who commits an offence referred to under this Act
8 shall be liable upon conviction (a) as a first offender, to imprisonment for a
9 term not exceeding one year or a fine not exceeding N1,000,000; and

10 (b) in the event of such person having been previously convicted
11 under this section, he is liable to imprisonment for a term not exceeding two
12 years or a fine of N2,000,000 or both.

13 PART XII - GENERAL PROVISIONS

14 **48.** Notwithstanding any other provision of this Act, the Registrar
15 shall collect fees from the applicant or any other person filling a document or
16 requesting access of administrative action under this Act, for each
17 application, extension, filling, inquiry or other administrative process or
18 service.

Collection of
fees

19 **49.-(1)** The contents of any license or assignment shall be
20 confidential unless both parties agreed to permit access to a third party and
21 only to the extent of the permission so granted.

Confidentiality
and Disclosure

22 (2) The applicant may declare some portion of the application to be
23 confidential, where declared so, the Registrar shall determine whether the
24 application can be processed without the publication or other violation of
25 that confidentiality, and give the applicant the option of altering his
26 statement of confidentiality or withdraw the application.

27 (3) Except as otherwise provided for in this Act, any person who
28 discloses any information made available under the Act, except to:

29 (a) The Minister, the Registrar or any other person for the purposes
30 of carrying out his duties or the performance of his function under this Act;

| | | |
|---|----|--|
| | 1 | (b) A police officer for the purposes of an investigation or inquiry |
| | 2 | relating to the enforcement of the provision of this Act; or |
| | 3 | (c) Any other person when required to do so by any court or under any |
| | 4 | written law, Commits an offence and upon conviction shall be liable to a fine |
| | 5 | not exceeding N5,000,000 or an imprisonment for a period not exceeding one |
| | 6 | year or to both. |
| Action against the state | 7 | 50. -(1) Subject to the existing law on taking action against the State, |
| | 8 | this Act shall be binding on the Government with regard to its applications for |
| | 9 | breeder's right and other interests acquired or given in breeder's right to the |
| | 10 | same extent and with the same effect as it applies to any other person. |
| | 11 | (2) No claim shall lie against the State, the Minister, the Registrar or |
| | 12 | any other office for anything done in good faith in the discharge of duties under |
| | 13 | the powers conferred by this Act. |
| Breeders right in respect of existing varieties of recent creation | 14 | 51. -(1) Where, according to Section 12, this Act applies to a plant |
| | 15 | genus or species to which it did not previously apply, varieties belonging to |
| | 16 | such plant genus or species shall be considered to satisfy the condition of |
| | 17 | novelty defined in paragraph (1) of Section 14 even where the sale or disposal |
| | 18 | of to others described in that paragraph took place in Nigeria within four years |
| | 19 | before the filing date or, in the case of trees or of vines, within six years before |
| | 20 | the said date. |
| | 21 | (2) Within twelve months from the date of commencement of this Act, |
| | 22 | the breeder of an existing variety of recent creation may apply to the Registrar |
| | 23 | in respect of that variety to benefit from the provisions under paragraph 1 of |
| | 24 | this Section |
| Agreement with foreign governments | 25 | 52. The Minister may enter into bilateral or multilateral agreements |
| | 26 | with the states and intergovernmental or non-governmental organizations in |
| | 27 | order to facilitate cooperation in testing. |
| Agents | 28 | 53. -(1) When the breeder is a non-resident or in the case of a |
| | 29 | corporation, does not have its registered office in Federal Republic of Nigeria, |
| | 30 | he shall have an agent who is resident in Federal Republic of Nigeria. |

1 (2) The Registrar may, for any gross misconduct or prescribed
2 cause or any other reasonable cause considered by the Registrar to be
3 sufficient, refuse to recognize or to continue to recognize any person as
4 authorized by the breeder to act in the capacity of agent.

5 **54.** The Registrar shall make guidelines for the proper Registrar to
6 implementation of this Act and Regulations made under this Act. make guidelines

7 **55.**-(1) The Registrar shall with the approval of the Minister make Regulations
8 Regulations under this Act.

9 (2) Without prejudice to the generality of the sub-section (1) of this
10 section, Regulations made shall prescribe:

11 (a) various forms to be used under this Act;

12 (b) the procedure to be followed in any proceedings before the
13 Registrar;

14 (c) specific information and facilities to be provided, and of the
15 propagating and other materials to be submitted with respect to a variety;

16 (d) the test, trials, examinations and other steps to be taking with
17 respect to a variety, by applicants or by the Registrar and the time within
18 with any such steps are to be taken; and

19 (e) the fees to be paid in respect of:

20 (i) Application for the grants of breeder's right, for extension of its
21 terms,

22 (ii) Maintenance of breeder's right,

23 (iii) Request for administrative review, including objections to
24 nullity and cancellation of breeder's right, appeals from administrative
25 decisions and other administrative actions,

26 (iv) Technical examination,

27 (v) The inspection of obtained record in the Registrar or other
28 transaction involving a breeder's right,

29 (vi) Provision of certified copy of any entry therein, and

30 (vii) Any other fees to be paid under this Act.

Interpretation

- 1 **56.** In this Act:
- 2 "Agent", in relation to an applicant or a holder of plant breeder's right, means a
- 3 person who is duly authorized by the applicant or holder to act, on behalf of the
- 4 applicant or holder;
- 5 "Applicant" means the breeder entitled to file an application for the grant of a
- 6 breeder's right in accordance with the definition of "breeder" provided for in
- 7 this Act;
- 8 "Breeder" means a:
- 9 (a) person who bred or discovered and developed a variety,
- 10 (b) person who is the employer of the person who bred or discovered
- 11 and developed, a variety or who has commissioned the latter's work, or
- 12 (c) a successor in title of a person mentioned in paragraph (a) or (b) as
- 13 the case may be;
- 14 "Breeder's right" means the right of the breeder provided for in this Act;
- 15 "Business hours" means 9am-3pm Mondays -Fridays, excluding public
- 16 holidays;
- 17 "Council" means the national agricultural seed council (NASC);
- 18 "Director General" means the director general of national agricultural seed
- 19 council (NASC);
- 20 "Fund" means the Fund established under section 44 of this Act;
- 21 "Gazette" means the Federal Government Gazette;
- 22 "Minister" means the Minister responsible for agriculture;
- 23 "Ministry" means the Ministry responsible for Agriculture;
- 24 "Register" means the Register of plant breeders' rights kept in terms of section
- 25 6 of this Act;
- 26 "Registrar" means the Registrar of Plant Breeders' Rights appointed in
- 27 accordance with section 4 of this Act;
- 28 "Propagating material" means a plant or part of the plant used to multiply the
- 29 plant;
- 30 "Sell" means to offer, advertise, keep, expose, transmit, convey, deliver or

1 (a) prepare for sale or exchange or dispose of for any consideration;

2 (b) transmit, convey or deliver in pursuance of the sale;

3 "Variety" means a plant grouping within a single botanical tax on of the
4 lowest known rank, which grouping, irrespective of whether the conditions
5 for the grant of a breeder's right are fully met, can be:

6 (a) defined by the expression of the characteristics resulting from a
7 given genotype or combination of genotypes,

8 (b) distinguished from any other plant grouping by the expression
9 of at least one of the said characteristics, and

10 (c) considered as a unit with regard to its suitability for being
11 propagated unchanged.

12 **57.** This Bill may be cited as the Plant Varieties Protection Bill, Short title
13 2019.

EXPLANATORY MEMORANDUM

This Bill seeks for the protection of Plant Varieties, to establish a Plant Variety Protection Office for the promotion of increased staple crop productivity for small holder farmers in Nigeria.