

*Extraordinary*



# National Assembly Journal

**No. 05**

**Abuja - 2nd July, 2019**

**Vol. 16**

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

**NASSP 05/27/2019/900**

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## COMMODITIES EXCHANGE BILL, 2019

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SCHEDULE



# A BILL

## FOR

AN ACT TO REGULATE COMMODITIES FUTURE TRADING IN NIGERIA;  
PROVIDE FOR THE ESTABLISHMENT OF THE COMMODITIES FUTURE  
TRADING COMMISSION AND FOR RELATED MATTERS

*Sponsored by Hon. Uzoma Nkem-Abonta*

[ ] Commencement

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

### PART I - ESTABLISHMENT OF THE COMMODITIES FUTURE

#### TRADING COMMISSION

1.-(1) There is hereby established a body to be known as the  
Commodities Future Trading Commission (in this Act referred to as “the  
Commission”).

Establishment of  
the Commodities  
Futures Trading  
Commission

(2) The Commission –

(a) shall be a body corporate with perpetual succession and a  
common seal;

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

(c) may acquire, hold or dispose of any property, moveable or  
immovable, for the purpose of carrying out any of its functions under this  
Act.

2.-(1) The Commission shall consist of –

Composition of  
the Commission

(a) a Chairman;

(b) one person not below the rank of Director to represent the –

(i) Federal Ministry of Commerce,

(ii) Federal Ministry of Agriculture,

(iii) Federal Ministry of Solid Minerals Development,

(iv) Federal Ministry of Energy,

(v) Federal Ministry of Finance;

	1	(c) two full-time Commissioners who shall be persons with ability,
	2	experience and specialized knowledge in commodities future trading; and
	3	(d) the Director-General.
	4	(2) The Chairman and the Commissioners referred to in paragraphs
	5	(a) and (c) of this subsection (1) shall be appointed by the President upon the
	6	confirmation of the Senate.
	7	(3) The members of the Commission, other than the Director-General
	8	and the two full time Commissioners, shall be part-time members of the
	9	Commission.
Schedule	10	(4) The supplementary provisions set out in the Schedule to this Act
	11	shall have effect with respect to the proceedings of the Commission and the
	12	other matters contained therein.
Tenure of office of Commissioners	13	<b>3.</b> The Commissioners, other than the ex-officio Commissioners,
	14	shall each hold office in the first instance for a term of four years and may be re-
	15	appointed for a further term of four years and no more.
Cessation of membership	16	<b>4.</b> A Commissioner shall cease to hold office if—
	17	(a) he becomes of unsound mind;
	18	(b) he becomes bankrupt;
	19	(c) he is convicted of a felony or any offence involving dishonesty;
	20	(d) he is guilty of serious misconduct in relation to his duties; or
	21	(e) in the case of a person who has a professional qualification, he is
	22	disqualified or suspended from practicing his profession in any part of Nigeria
	23	by the order of any competent authority made in respect of him personally.
Remuneration and allowance	24	<b>5.</b> Member of the Commission appointed under subsection (1) (a) and
	25	(c) of section 2 of this Act shall be paid such remuneration and allowances as
	26	the President may, after consultation with the Minister, from time to time,
	27	direct.
Disclosure of interest	28	<b>6.-(1)</b> A member of the Commission who is directly or indirectly
	29	interested in—
	30	(a) the affairs of any company or enterprise, being deliberated upon



1 by the Commission, or

2 (b) any contract made or proposed to be made by the Commission,  
3 shall, as soon as possible after the relevant facts have come to his  
4 knowledge, disclose the nature of his interest to the Commission at a  
5 meeting of the Commission.

6 (2) A disclosure made under subsection (1) of this section shall be  
7 recorded in the minutes of the Commission and the member shall –

8 (a) not, after the disclosure, take part in any deliberation or decision  
9 of the Commission with regard to the subject matter in respect of which his  
10 interest is so disclosed;

11 (b) be excluded for the purpose of constituting a quorum of the  
12 Commission for any deliberation or decision on the subject matter.

13 7. The members of the Commission shall subscribe to and be Code of ethics  
14 bound by a code of ethics to be approved by the Minister for the  
15 Commission.

16 PART II - FUNCTIONS AND POWERS OF THE COMMISSION

17 8. The Commission shall –

18 (a) regulate commodities future trading in Nigeria as defined in Functions and  
19 this Act; powers of the  
Commission

20 (b) register and regulate Commodities Exchanges, Trading  
21 Facilities and Derivatives Exchanges;

22 (c) render assistance in all aspects including funding as may be  
23 deemed necessary to promoters and investors wishing to establish  
24 Commodities Exchanges and Trading Facilities;

25 (d) prepare adequate guidelines and organize training programmes  
26 and disseminate information necessary for the establishment of  
27 Commodities Exchanges and Trading Facilities;

28 (e) register and regulate corporate and individual commodity  
29 future market operators as defined in section 29 of this Act;

30 (f) facilitate the establishment of a nation-wide system for

1 commodities futures trading in Nigeria in order to protect investors and  
2 maintain fair and orderly markets;

3 (g) facilitate the linking of all markets in commodities through  
4 modern communication and data processing facilities in order to foster  
5 efficiency, enhance competition, and increase the information available to  
6 brokers, dealers and investors;

7 (h) register and regulate central depository companies as well as  
8 clearing and settlement companies;

9 (i) protect the integrity of the commodities market against abuses  
10 arising from the practice of insider trading;

11 (j) act as a regulatory apex organization for the Nigerian commodity  
12 futures market including the promotion and registration of self-regulatory  
13 organizations and commodities future market trade associations to which it  
14 may delegate its powers;

15 (k) call for information from and undertake, inspect, conduct  
16 inquiries and audits of the Commodity Exchanges and Derivative Trading  
17 Facilities as well as other intermediaries and self regulatory organizations;

18 (l) call for or furnish to any agency such information as may be  
19 considered necessary by it for the efficient discharge of its functions;

20 (m) levy fees or other charges on any person for carrying out  
21 commodities futures and derivatives business in Nigeria;

22 (n) conduct research into all or any aspect of the commodities futures  
23 and derivatives industry;

24 (o) prevent fraudulent and unfair trade practices relating to the  
25 commodities futures and derivatives industry;

26 (p) advise the Minister on all matters relating to the commodities  
27 futures and derivatives industry;

28 (q) disqualify unfit individuals from being employed anywhere in the  
29 commodities futures and derivatives industry;

30 (r) liaise effectively with the regulators and supervisors of other

1 commodities futures trading institutions locally and overseas; and  
2 (s) perform such other functions and exercise such other powers  
3 not inconsistent with this Act as are necessary or expedient for given full  
4 effect to the provisions of this Act.

5 **9.** The Commission shall establish specialized departments for the Powers to  
6 purpose of regulating – establish  
department

7 (a) Commodity Exchanges, including Derivatives Trading  
8 Facility;

9 (b) commodities futures market operators including corporate  
10 members, commodity futures exchanges and individuals, professional  
11 firms, that is, accountants, solicitors, engineers and other professionals who  
12 undertake commodities business either as advisers and consultants and  
13 other forms of business combinations under this Act.

14 PART III - STAFF

15 **10.\_** (1) There shall be, for the Commission, a Director-General Director-General  
16 who shall – of the  
Commission

17 (a) be appointed by the President;

18 (b) hold office for a period of five years in the first instance and  
19 may be re-appointed for a further period of five years and no more, on such  
20 terms and conditions as are contained in his letter of appointment;

21 (c) be the chief executive of the Commission.

22 (2) The Director-General shall, subject to the general control of the  
23 Commission, be –

24 (a) responsible for keeping proper records of the proceedings of the  
25 Commission; and

26 (b) the head of the secretariat and be responsible for –

27 (i) the day-to-day administration, and

28 (ii) direction and control of all other employees,  
29 of the Commission.

Other Staff of  
the Commission

1           **11.**-(1) The Commission shall appoint such officers and other  
2 employees as it may from time to time, deem necessary for the purpose of the  
3 Commission.

4           (2) The terms and conditions of service (including remunerations,  
5 allowances, benefits and pensions) of officers and employees of the  
6 Commission shall be as may be determined by the Commission.

Pension

7           **12.**-(1) It is hereby declared that service in the Commission shall be  
8 approved service for the purpose of the Pensions Act and, accordingly,  
9 employees of the Commission shall be entitled to pensions, gratuity or other  
10 retirement benefits as are prescribed under the Pensions Act.

11           (2) Notwithstanding the provisions of subsection (1) of this section,  
12 nothing in this Act shall prevent the appointment of a person to any office on  
13 terms which preclude the grant of a pension, gratuity or other retirement benefit  
14 in respect of that office.

15           (3) For the purpose of the application of the Pensions Act, any power  
16 exercisable by a Minister or other authority of the Federal Government, other  
17 than the power to make regulations under Section 23 of the Pensions Act is  
18 hereby vested in and shall be exercisable by the Commission and not by any  
19 other person or authority.

20                                   PART IV - FINANCIAL PROVISIONS

Fund of the  
Commission

21           **13.**-(1) The Commission shall establish and maintain a fund, which  
22 shall be applied towards the discharge of its functions under this Act.

23           (2) There shall be paid and credited to the fund established pursuant to  
24 subsection (1) of this section, such sums as may be provided by the Federal  
25 Government for the Commission.

powers to  
accept gifts

26           **14.**-(1) The Commission may accept gifts of land, money or other  
27 testamentary dispositions, endowments and contributions on such terms and  
28 conditions, if any, as may be specified by the person or organization making the  
29 gift.

30           (2) The Commission shall not accept any gift if the conditions

1 attached by the person or organization making the gift are inconsistent with  
2 the functions of the Commission.

3 **15.** The Commission shall be entitled to charge, retain and utilize Fees  
4 for its purposes, fees collected for the services rendered by the Commission  
5 under this Act.

6 **16.-(1)** The Commission may, with the consent or in accordance Borrowing, etc.  
7 with any specific authority given by the Minister, borrow by way of loan or by the  
8 overdraft such specified amount of money as may be required by the Commission  
9 Commission for meeting its obligations and discharging its functions under  
10 this Act.

11 (2) The Commission may, subject to the provisions of this Act and  
12 the conditions of any trust created in respect of any property, invest all or any  
13 of its funds.

14 (3) The Commission may invest any of its funds in securities  
15 prescribed by the Trustees Investment Act or in such other securities as may,  
16 from time to time, be approved by the Minister.

17 (4) Subject to the provisions of the Land Use Act, and any special  
18 or general direction, which the Minister may give in that behalf, the  
19 Commission may acquire any land required for its purpose under this Act.

20 **17.** The Commission may, from time to time, apply the proceed of Application of  
21 the Fund established in pursuance of section 13 of this Act to – the Funds of the  
Commission

22 (a) meet the cost of administration of the Commission;

23 (b) reimburse members of the Commission or any committee set  
24 up by the Commission for expenses authorized or approved by the  
25 Commission in accordance with such rates as may be approved in that behalf  
26 by the Minister;

27 (c) the payment of salaries, fees or other remuneration or  
28 allowances, pensions and gratuities payable to the employees of the  
29 Commission;

30 (d) the maintenance of any property acquired by or vested in the

	1	Commission; and
	2	(e) all or any of the functions of the Commission under this Act or any
	3	matter connected with those functions.
Annual estimates, accounts and audit	4	<b>18._</b> (1) The Commission shall cause to be prepared not later than 30 <sup>th</sup>
	5	September in each year an estimate of the expenditure and income of the
	6	Commission during the next succeeding year and when prepared, they shall be
	7	submitted through the Minister to the President for approval.
	8	(2) The Commission shall cause to be kept, proper accounts of the
	9	Commission and proper records in relation thereto and when certified by the
	10	Commission, the accounts shall be audited by auditors appointed by the
	11	Commission from the list and in accordance with the guidelines supplied by the
	12	Auditor-General for the Federation.
Annual report to be submitted to the National Assembly	13	<b>19.</b> The Commission shall not later than three months before the end
	14	of each year, submit to the relevant committees of both chambers of the
	15	National Assembly a report on the activities and the administration of the
	16	Commission during the immediate preceding year and shall include such
	17	reports, audited accounts of the Commission and the auditor's report on those
	18	accounts.
	19	PART V - REGISTRATION OF COMMODITY EXCHANGES AND DERIVATIVES
	20	TRADING FACILITIES
Registration of Commodity Exchanges and Derivatives Trading Facilities	21	<b>20.-(1)</b> No Commodity Exchange or Derivatives Trading Facility as
	22	defined in section 72 of this Act shall commence operation unless it is
	23	registered with the Commission in accordance with the provisions of this Act
	24	and the rules and regulations made thereunder.
	25	(2) An application for registration as a Commodity Exchange or
	26	Derivatives Trading Facility shall be made to the Commission in the prescribed
	27	form and in such a manner as may be specified by the Commission, from time
	28	to time.
Conditions of registration	29	<b>21.-(1)</b> The Commission may register a body corporate as a
	30	Commodity Exchange or Derivatives Trading Facility if it is satisfied that the

- 1 rules of that body corporate make satisfactory provisions –
- 2 (a) for the exclusion from its membership of persons who are not of
- 3 good character and who do not possess a high degree of business integrity;
- 4 (b) for the expulsion, suspension or discipline of members of
- 5 conduct inconsistent with just and equitable principles in the transaction of
- 6 commodities business or for a contravention of or failure to comply with the
- 7 rules of the Commodity Exchange or Derivatives Trading Facility or the
- 8 provisions of this Act;
- 9 (c) with respect to the conditions governing dealings in
- 10 commodities by members;
- 11 (d) with respect to the class or classes of commodities which may
- 12 be dealt in by members;
- 13 (e) with respect to a fair representation of persons in the selection
- 14 of members of the Board of the Commodity Exchange or Derivatives
- 15 Trading Facility and the administration of its affairs and provide that one or
- 16 more members of the Board shall be representatives of listed companies and
- 17 investors; and
- 18 (f) generally, for carrying on of the business of the Commodity
- 19 Exchange or Derivatives Trading Facility in the public interest.
- 20 (2) The Commission in granting its approval under this section
- 21 shall ensure that interest of the public will be served by the granting of its
- 22 approval.
- 23 (3) The Commission may, with the approval of the Minister, revoke
- 24 the certificate of registration to a body corporate registered by it under this
- 25 section.
- 26 **22.** The Commission may with the approval of the Minister, revoke
- 27 the certificate of registration granted under section 21 of this Act if the body
- 28 corporate –
- 29 (a) ceases to operate as a Commodities Exchange or Derivatives
- 30 Trading Facility within the meaning of this Act;

Revocation of  
certificate of a  
Commodity  
Exchange and  
Derivatives  
Trading Facility

	1	(b) is undergoing a process of being wound up; or
	2	(c) is operating in a manner detrimental to the public interest.
Approval of amendments to rules	3	<b>23.</b> -(1) Where an amendment is made, whether by way of rescission,
	4	amendment, alteration or addition to the rules of a Commodity Exchange or
	5	Derivative Trading Facility, the Board of the Commodity Exchange or
	6	Derivatives Trading Facility shall forward a written notice of the amendment to
	7	the Commission for approval.
	8	(2) The Commission shall give notice in writing to the Commodity
	9	Exchange or Derivatives Trading Facilities concerned as to whether or not the
	10	Commission approves the whole or any specified part of the amendment in
	11	question, and until such notice is given, the amendment shall be of no effect.
	12	(3) Nothing in this section shall preclude the Commission, after
	13	consultation with the Board of a Commodity Exchange or Derivatives Trading
	14	Facility, from amending the rules of the Commodity Exchange or Derivatives
	15	Trading Facility by a notice in writing specifying the amendments and the dates
	16	those amendments shall come into force and have effect, but the Commission
	17	may dispense with such consultation if it considers it necessary to do so for the
	18	protection of investors.
	19	(4) Any notice under this section may be served personally or by
	20	registered post.
Commodity Exchange or Derivatives Trading Facility to give notice of disciplinary actions, etc.	21	<b>24.</b> Where a Commodity Exchange or Derivative Trading Facility
	22	reprimands, fines, suspends, expels or otherwise takes disciplinary action
	23	against a member of the Commodity Exchange or Derivative Trading
	24	Facilities, the Commodity Exchange or Derivative Trading Facility shall,
	25	within seven days give to the Commission, in writing, the particulars and name
	26	of the member, the nature of and reason for the action taken, the amount of the
	27	fine, if any, and the period of the suspension, if any.
Disciplinary actions by a Commodity Exchange, etc.	28	<b>25.</b> -(1) The Commission may review any disciplinary action taken by
	29	a Commodity Exchange or Derivatives Trading Facility under subsection (1)
	30	of this section and may affirm or set aside a decision of Commodity Exchange



1 or Derivatives Trading Facility after giving the member and the Commodity  
2 Exchange or Derivatives Trading Facility an opportunity of being heard.

3 (2) Nothing in this section shall preclude the Commission in any  
4 case where a Commodity Exchange or Derivatives Trading Facility fails to  
5 act against a member, from suspending, expelling or otherwise causing  
6 disciplinary action to be taken against a member of the Commodity  
7 Exchange or Derivatives Trading Facility provided that the Commission  
8 shall give the member and the Commodity Exchange or the Derivatives  
9 Trading Facility an opportunity of being heard.

10 (3) Any person who is aggrieved by the decision of a Commodity  
11 Exchange or Derivatives Trading Facility or the Commission under this  
12 section may, with one month after he is notified of the decision, appeal to the  
13 Investment and Securities Tribunal.

14 **26.-(1)** The Commission may, where it is in the public interest,  
15 issue directives to a Commodity Exchange or Derivatives Trading Facility  
16 with respect to –

Powers to issue  
directives to  
Commodity  
Exchange or  
Derivatives  
Trading Facility

17 (a) trading on or through the facilities of that Commodity  
18 Exchange or Derivatives Trading Facility pertaining to any commodity  
19 being traded on that Commodity Exchange or Derivative Trading Facility;

20 (b) the manner in which a Commodity Exchange or Derivatives  
21 Trading Facility carries on its business including the manner of reporting  
22 off-market purchases; or

23 (c) any other matter which the Commission considers necessary  
24 for the effective administration of this Act,  
25 and the Commodity Exchange or Derivatives Trading Facility shall comply  
26 with the directives.

27 (2) A Commodity Exchange or Derivatives Trading Point which,  
28 without reasonable excuse, fails to comply with a directive given under  
29 subsection (1) of this section commits an offence and is liable on conviction  
30 to a fine of not less than N100,000 and further fine of N5,000 for every day

1 during which the non-compliance continues.

2 (3) A Commodity Exchange or Derivative Trading Facility which  
3 feels aggrieved by any directive of the Commission issued under subsection (1)  
4 of this section may appeal to the Investment and Securities Tribunal within  
5 thirty days of the date of the Commission's directive.

6 (4) Where the Commission is satisfied that an executive officer of a  
7 Commodity Exchange or Derivatives Trading Facility has –

8 (a) willfully contravened, or

9 (b) without reasonable justification or excuse, failed to enforce  
10 compliance by a member of the Commodities Exchange or Derivatives  
11 Trading Facility with the provisions of this Act or any regulations made  
12 thereunder or the rules of the Commodity Exchange or Derivatives Trading  
13 Facility,

14 the Commission may remove that executive officer.

15 (5) The Commission may, in the public interest or for the protection of  
16 investors, and after giving the executive officer an opportunity of being heard,  
17 direct the Commodities Exchange or Derivatives Trading Facility in writing to  
18 remove the executive officer, and where the Commodity Exchange or  
19 Derivatives Trading Facility fails to comply with the direction of the  
20 Commission under subsection (4) of this section, the Commission may remove  
21 the executive officer from office.

Power of  
Commission to  
prohibit trading  
in certain  
commodities

22 27.-(1) Where the Commission thinks it is necessary for the  
23 protection of persons buying or selling particular commodities of or made  
24 available by a body corporate on a Commodity Exchange or Derivatives  
25 Trading Facility it shall in particular in the public interest prohibit trading in  
26 those commodities and give notice in writing to the Commodity Exchange or  
27 Derivatives Trading Facility.

28 (2) If, after receiving the notice given under subsection (1) of this  
29 section, the Commodity Exchange or Derivatives Trading Facility fails to take  
30 action to prevent trading in the Commodities to which the notice relates and the

1 Commission still thinks it is necessary to prohibit trading in those  
2 commodities the Commission may, by notice in writing to the Commodity  
3 Exchange or Derivatives Trading Facility, prohibit trading in those  
4 commodities during such period, not exceeding fourteen days, as may be  
5 specified in the notice.

6 (3) Where the Commission gives notice to a Commodity Exchange  
7 or Derivatives Trading Facility under subsection (2) of this section it shall –

8 (a) at the same time, send a copy of the notice to the body corporate  
9 together with a statement setting out the reasons for giving the notice; and

10 (b) as soon as practicable not later than thirty days after giving the  
11 notice, submit to the Minister a written report setting out the reasons for the  
12 notice and shall send a copy of the report to the Commodities Exchange or  
13 Derivatives Trading Facility, as the case may be.

14 (4) A body corporate affected by a notice given to a Commodity  
15 Exchange or Derivatives Trading Facility under subsection (2) of this  
16 section may request the Commission in writing to refer the matter to the  
17 Investment and Securities Tribunal.

18 (5) The Commission shall, on receiving a request under subsection  
19 (4) of this section, forthwith refer the matter to the Investment and Securities  
20 Tribunal, which may vary or confirm the prohibition imposed by the  
21 Commission.

22 (6) A Commodity Exchange or Derivatives Trading Facility which  
23 permits trading in commodities in contravention of a notice under  
24 subsection (2) of this section commits an offence and is liable on conviction  
25 to a fine of N50,000 and to a further fine of N5,000 for every day during  
26 which the contravention continues.

27 **28.** In this part of this Act –

28 “Commodity Exchange” includes a Commodity Exchange or an approved  
29 commodities organization such as an over the counter market, metal  
30 exchange, petroleum exchange, options, futures and derivatives exchanges

Interpretation  
under this part

1 and such other forms of commodities organizations within the meaning of this  
2 Act;  
3 “trading in commodities” means trading in commodities on the floor of a  
4 Commodity Exchange or Derivatives Trading Facility.

5 PART VI - REGISTRATION OF COMMODITY MARKET OPERATOR

Registration of  
commodity  
market operators

6 **29.**-(1) Subject to the provision of subsection (2) of this section, no  
7 floor dealer, floor broker, sub-broker, transfer agent, futures commission  
8 merchant, commodity pool operator, commodity trading adviser and such  
9 other intermediaries associated with the commodities industry shall buy, sell or  
10 deal in commodities except under and in accordance with the conditions of a  
11 certificate of registration obtained from the Commission in accordance with  
12 the regulations made under this Act.

13 (2) A market operator who, immediately before the commencement  
14 of this Act, is associated with the commodities industry for which no  
15 registration certificate was necessary prior to this Act, may continue to operate  
16 as such for a maximum period of three months from the commencement of this  
17 Act or if he has applied for registration under this Act, he shall continue to  
18 operate within that period till the disposal of the application and thereafter in  
19 accordance with the regulations made for registration under this Act.

20 (3) No depository, custodian of commodities, foreign institution  
21 investor, or any other intermediary associated with the commodities market  
22 shall but, sell or engage in any commodities transaction except under and in  
23 accordance with the conditions of a certificate of registration obtained from the  
24 Commission upon compliance with the regulations made under this Act.

25 (4) An application for registration under this part of this Act shall be in  
26 such manner and upon payment of such fees as may be prescribed by the  
27 Commission from time to time.

28 (5) The Commission may, by order, suspend or cancel a certificate of  
29 registration in such manner as may be prescribed but no order under this  
30 subsection shall be made unless the person concerned has been given a

1 reasonable opportunity of being heard.

2 **30.** In this Part of this Act –

Interpretation  
under this part

3 “commodity market operator” includes a floor dealer, floor broker, transfer  
4 agent, futures commission merchant, commodity pool operator, commodity  
5 trading adviser and such other commodity market intermediaries as may be  
6 licenced by the Commission in accordance with the regulations made under  
7 this Act.

8 **PART VII - CONDUCT OF COMMODITIES BUSINESS**

9 **31.** A floor dealer shall, in respect of a transaction of purchase of  
10 commodities, forthwith give a contract note, in accordance with the  
11 provisions of this section where the transaction –

Issue of  
contract notes

12 (a) took place in the ordinary course of business at a Commodity  
13 Exchange or Derivatives Trading Facility and the floor dealer entered into  
14 the transaction otherwise than as principal to the person for whom the floor  
15 dealer entered into the transaction;

16 (b) did not take place in the ordinary course of business at a  
17 Commodity Exchange or Derivatives Trading Facility and the floor dealer  
18 entered into the transaction otherwise than as principal to the person for  
19 whom the floor dealer entered into the transaction and the person with whom  
20 the floor dealer entered into the transaction;

21 (c) did not take place in the ordinary course of business at a  
22 Commodity Exchange or Derivatives Trading Facility and the floor dealer  
23 entered into the transaction as principal to the person with whom the floor  
24 dealer entered into the transaction.

25 **32.** A contract note given by a floor dealer under section 31 of this  
26 Act shall include –

Contents of  
contract note

27 (a) the name or style under which the floor dealer carries on his  
28 business as a floor dealer and the address of the principal place at which he  
29 so carries on business;

30 (b) where the floor dealer is dealing as principal with a person who

- 1 is not the holder of a floor dealer's licence, a statement that he is so acting;
- 2 (c) the name and address of the person to whom the floor dealer gives
- 3 the contract note;
- 4 (d) the day on which the transaction took place and, if the transaction
- 5 did not take place in the ordinary course of business at a Commodities
- 6 Exchange or Derivative Trading Facility, a statement to that effect;
- 7 (e) the number, amount and description of the commodities which are
- 8 the subject of the contract;
- 9 (f) the price per unit of the commodity;
- 10 (g) the amount of the consideration;
- 11 (h) the rate and amount of commission (if any) charged;
- 12 (i) the amount of all stamp duties or other duties and taxes payable in
- 13 connection with the contract; and
- 14 (j) if an amount is to be added to or deducted from the settlement
- 15 amount in respect of the right to a benefit purchased or sold together with the
- 16 commodities, the first mentioned amount and the nature of the benefit.
- 17 (2) A commodity dealer shall not include in a contract note given
- 18 under subsection (1) of this section as the name of the person with or for whom
- 19 he has entered into the transaction, a name which he knows, or should
- 20 reasonably be expected to know, is not the name by which that person is
- 21 ordinarily known.
- 22 (3) A reference in this section to a commodity dealer dealing or
- 23 entering into a transaction as principal includes a reference to a person—
- 24 (a) dealing or entering into a transaction on behalf of a person
- 25 associated with him;
- 26 (b) dealing in commodities on behalf of a body corporate in which he
- 27 has a controlling interest; or
- 28 (c) where he carries on business as a commodity dealer on behalf of a
- 29 body corporate in which his interest and the interest of his directors together
- 30 constitute a controlling interest.

1 (4) For the purpose of this section –

2 (a) a commodity dealer who is a member of a Commodity  
3 Exchange or Derivatives Trading Facility shall not be taken to have entered  
4 into a transaction as principal by reason only that the transaction was entered  
5 into with another dealer who is a member of a Commodities Exchange or  
6 Derivatives Trading Facility; and

7 (b) a transaction takes place in the ordinary course of business at a  
8 Commodity Exchange or Derivatives Trading Facility in the prescribed  
9 circumstances or is a transaction that is a prescribes transaction for the  
10 purposes of this section.

11 (5) Notwithstanding the provisions of subsection (3) of this  
12 section, a person is not associated with another person for the purposes of  
13 this section by reason only that he is a director of a body corporate of which  
14 the other person is also a director whether or not the body corporate carries  
15 on a business of dealing in commodities.

16 33.-(1) Where a person who is a floor dealer, commodity trading  
17 adviser, floor dealer's representative or commodity trading adviser's  
18 representative, sends circulars or similar written communications with  
19 respect to commodities or a class of commodities, he shall cause to be  
20 included in each circular or other communication, in type not less than that  
21 used in the remainder of the circular or other communication, a concise  
22 statement of the nature of any interest in, or any interest in the acquisition or  
23 disposal of those commodities or commodities included in that class which  
24 he or a person associated with him has as the date on which the first  
25 mentioned person last sends the circular or other communication.

Certain persons  
to disclose certain  
interests in  
commodities

26 (2) For the purposes of subsection (1) of this section –

27 (a) the interest of a person in the disposal of commodities includes  
28 any financial benefit or advantage which will, or is likely to, accrue directly  
29 or indirectly to the person on or arising out of the disposal of the  
30 commodities; and

1 (b) without limiting the generality of paragraph (a) of this subsection,  
2 a person who has entered into an underwriting agreement in respect of  
3 commodities shall be deemed to have an interest in the acquisition or disposal  
4 of those commodities.

5 (3) Where a person –

6 (a) has subscribed for or purchased commodities for the purpose of  
7 offering all or any of them to the public for purchase, and

8 (b) offers any of those commodities for purchase,  
9 he shall not make a recommendation, whether orally or in writing and whether  
10 expressly or by implication, with respect to the commodities offered for the  
11 purpose unless he has informed each person to whom the recommendation is  
12 made that he acquired the commodities for that purpose.

13 (4) Where –

14 (a) commodities have been offered for subscription or purchase, and

15 (b) a person has subscribed for or purchased or is willing or may be  
16 required to subscribe for or purchase, any of those commodities under an  
17 underwriting or sub underwriting agreement by reason that some or all of the  
18 commodities have not been subscribed for or purchased,  
19 he shall not, during the period of ninety days after the close of the offer, make an  
20 offer to sell those commodities, otherwise than in the ordinary course of trading  
21 on a Commodities Exchange or Derivatives Trading Facility, or make a  
22 recommendation with respect to those commodities unless the offer or  
23 recommendation complies with the provisions of subsection (5) of this section.

24 (5) An offer or recommendation shall not be made under subsection  
25 (4) of this unless it contains or is accompanied by a statement to the effect that  
26 the offer or recommendation relates to commodities which he has acquired, or  
27 is willing or may be required to acquire under an underwriting or sub-  
28 underwriting agreement by reason that some or all of the commodities have not  
29 been subscribed for or purchased.

30 (6) A person who is a commodity dealer, commodity trading adviser,



1 dealer's representative or commodity trading adviser's representatives shall  
2 not send to any person any circular or other communication or written offer  
3 or recommendation to which subsection (1), (3) or (4) of this section applies  
4 unless the circular or other communication or written offer or  
5 recommendation –

6 (a) if the first-mentioned person is a natural person, is signed by  
7 that person;

8 (b) if the first-mentioned person is a body corporate, is signed by a  
9 director, executive officer or secretary of the body corporate.

10 (7) Where a person who is a commodity dealer, commodity trading  
11 adviser, dealer's representative or trading adviser's representative, sends to  
12 any person a circular or other communication or a written offer or  
13 recommendation to which subsection (1), (3), (4), or (5) of this section  
14 applies, the first-mentioned person shall preserve a copy of the circular or  
15 other communication or of the written offer or recommendation, duly signed  
16 by the person concerned mentioned in subsection (5) for a period of seven  
17 years.

18 (8) Reference in this section to an offer of commodities shall be  
19 construed as including a reference to a statement that is not an offer but  
20 expressly or impliedly invites a person to whom it is made to offer to acquire  
21 commodities.

22 (9) For the purposes of this section, a circular or other  
23 communication or written offer or recommendation signed by the secretary  
24 of a body corporate shall be deemed to have been signed by the body  
25 corporate.

26 (10) The Commission may, if it is in the public interest, exempt a  
27 commodity or any class of commodities from the application of this section.

28 (11) Any person who contravenes the provisions of this section  
29 commits an offence and is liable on conviction to a fine of not less than  
30 N100,000 or to imprisonment for a term not exceeding three years or to both

Dealings as  
principal

1 such fine and imprisonment.

2 **34.\_** (1) Subject to subsection (4) of this section, a commodity dealer  
3 shall not as a principal deal in any commodity with a person who is not a  
4 commodity dealer unless he is acting in the transaction as principal and not as  
5 agent.

6 (2) A reference in this section to a commodity dealer dealing or  
7 entering into a transaction as principal includes a reference to a person –

8 (a) dealing or entering into a transaction on behalf of a person  
9 associated with him;

10 (b) dealing in commodities on behalf of a body corporate in which he  
11 has a controlling interest; or

12 (c) where he carries on business as a dealer, a body corporate in which  
13 his interest and the interest of his directors together constitute a controlling  
14 interest.

15 (3) A commodity dealer who, as a principal, enters into a transaction  
16 of sale or purchase of commodities with a person who is not a commodity  
17 dealer, shall state in the contract note that he is acting in the transaction as  
18 principal and not as agent.

19 (4) The provisions of subsection (1) of this section shall not apply in  
20 relation to a transaction entered into by a dealer who is a member of a  
21 Commodities Exchange or Derivatives Trading Facility and specializes in  
22 transactions relating to odd lots of commodities being a transaction of sale or  
23 purchase of an odd lot of commodities.

24 (5) Where a commodity dealer fails to comply with subsection (1) or  
25 (3) of this section in respect of a contract for sale of commodities by him, the  
26 purchaser of the commodities may, if he has not disposed of them, rescind the  
27 contract by a notice of rescission in writing given to a commodity dealer not  
28 later than thirty days after the receipt of the contract note.

29 (6) Where a dealer fails to comply with subsection (1) or (3) of this  
30 section in respect of a contract for the purchase of commodities by him, the

1 vendor of the commodities may, in like manner, rescind the contract.

2 (7) Nothing in subsections (5) and (6) of this section shall affect  
3 any right which a person has apart from that subsection.

4 (8) A person who contravenes or fails to comply with any of the  
5 provisions of this section commits an offence and is liable on conviction to a  
6 fine of not less than N50,000 or to imprisonment for a term not exceeding six  
7 months or to both such fine and imprisonment.

8 **35.**-(1) A commodity dealer shall not give an unsecured credit to an  
9 employee or to a person who is associated with the employee if the –

Dealings by  
employees of  
holders of  
licences

10 (a) unsecured credit is given for the purpose of enabling or  
11 assisting the person to whom the unsecured credit is given to purchase or  
12 subscribe for any commodity; or

13 (b) person giving the unsecured credit knows or has reason to  
14 believe that the unsecured credit will be used for the purpose of purchasing  
15 or subscribing for commodities.

16 (2) A person who contravenes or fails to comply with any of the  
17 provisions of subsection (1) of this section commits an offence and is liable  
18 on conviction to a fine of not less than N200,000 or to imprisonment for a  
19 term not exceeding two years or to both such fine and imprisonment.

20 **36.**-(1) A dealer shall not, except as permitted by subsection (3) of  
21 this section enter into, as principal or on behalf of a person associated with  
22 him, a transaction of purchase or sale of commodities to be traded on the  
23 floor of a Commodity Exchange or Derivatives Trading Facility if a client of  
24 the dealer who is not associated with the dealer has instructed the dealer to  
25 purchase or sell, respectively, commodities of the same class and the dealer  
26 has not complied with the instruction.

Dealers to give  
priority to  
client's orders

27 (2) A dealer who contravenes the provisions of this section  
28 commits an offence and is liable on conviction to a fine of not less than  
29 N200,000.

30 (3) The provisions of subsection (1) of this section shall not apply

1 in relation to the entering into of a transaction by a commodity dealer as  
2 principal or on behalf of a person associated with him if—  
3 (a) the instruction from the client of the commodities dealer requires  
4 the purchase or sale of commodities on behalf of the client to be effected only  
5 on specified conditions at which the commodities were to be purchased or sold  
6 and the dealer has been unable to purchase or sell the commodities by reasons  
7 of those conditions; or

8 (b) the transaction is entered into in prescribes circumstances.  
9 **37.** For the purpose of preventing the excessive use of credit for the  
10 purchase or carrying of commodities by dealers or member companies, the  
11 commission may make regulations to provide for margin requirements, for the  
12 amount of credit which may, from time to time, be extended and maintained on  
13 all or specified commodities and transactions or class of commodities and  
14 transactions and for matters connected therewith.

Margin  
requirements

15 PART VIII - TRADING IN COMMODITIES

16 **38.-(1)** A person shall not create, or cause to be created, or do anything  
17 which may create a false or misleading appearance of active trading in any  
18 commodity on a Commodity Exchange or Derivatives Trading Facility or a  
19 false or misleading appearance with respect to the market for or the price of any  
20 such commodities.

Margin trading  
and market  
rigging transactions

21 (2) A person shall not, by means of purchases or sale of any  
22 commodity that do not involve a change in the beneficial ownership of those  
23 commodities, or by any fictitious transactions or devices, maintain, inflate,  
24 depress, or cause fluctuations in the market price of any commodity.

25 (3) Without prejudice to the generality of subsection (1) of this  
26 section, a person who—

27 (a) effects, takes part in, is concerned in or carries out, either directly  
28 or indirectly, any transaction or sale or purchase of any commodity, being a  
29 transaction which does not involve any change in the beneficial ownership of  
30 the commodity;

1 (b) makes or causes to be made an offer to sell any commodity at a  
2 specified price where he has made or caused to be made or proposes to make  
3 or to cause to be made, or knows that a person associated with him has made  
4 or caused to be made, an offer to purchase the same number, or substantially  
5 the same number of commodities at a price which is substantially the same  
6 as the first-mentioned price, or

7 (c) makes or causes to be made an offer to purchase any commodity  
8 at a specified price where he has made or caused to be made or proposes to  
9 make or to cause to be made, or knows that a person associated with him has  
10 made or caused to be made or proposes to make or to cause to be made, an  
11 offer to sell the same number of commodities at a price which is  
12 substantially the same as the first-mentioned price,  
13 shall be deemed to have created a false or misleading appearance of active  
14 trading in Commodity Exchange or Derivatives Trading Facility.

15 (4) For an act referred to in subsection (3) of this section, it shall be  
16 a defence if a person establishes that the purpose(s) for which he did the act  
17 was not, or did not include, the purpose of creating a false or misleading  
18 appearance of active trading in commodities on a Commodity Exchange or  
19 Derivative Trading Facility.

20 **39.-(1)** A person shall not effect, take part in, be concerned in or  
21 carry out, either directly or indirectly, two or more transactions in  
22 commodities being transactions which have, or are likely to have, the effect  
23 of raising or lowering the price of commodities on a Commodity Exchange  
24 or Derivatives Trading Facility with intent to induce other persons to  
25 purchase, sell or subscribe for such commodities.

Commodities  
market  
manipulations

26 (2) A person shall not effect, take part in, be concerned in or carry  
27 out, either directly or indirectly, two or more transactions in commodities  
28 being transactions which have, or are likely to have, the effect of  
29 maintaining or stabilizing the price of commodities on a Commodity  
30 Exchange or Derivatives Trading Facility with intent to induce other

1 persons to purchase, sell or subscribe for such commodities.

2 (3) A reference in this section to a transaction in relation to  
3 commodities includes a reference to the making of an –

4 (a) offer to subscribe, sell or purchase commodities; and

5 (b) invitation however made which expressly or impliedly invites a  
6 person to offer to subscribe, sell or purchase such commodities.

False or  
misleading  
statements

7 **40.** No person shall make a statement or disseminate information  
8 which is false or misleading in a material particular and is likely to induce the  
9 sale or purchase of the commodities by other persons or is likely to have the  
10 effect of raising, lowering, maintaining or stabilizing the market price of  
11 commodities if, when he makes the statement or disseminates the information  
12 he –

13 (a) does not care whether the statement or information is true or false;

14 (b) knows or ought reasonably to have known that the statement or  
15 information is false or misleading in a material particular.

Fraudulently  
inducing persons  
to deal in  
commodities

16 **41.** No person shall –

17 (a) by making or publishing any statement, promise or forecast which  
18 he knows to be misleading, false or deceptive, or

19 (b) by any dishonest concealment of material facts, or

20 (c) by the reckless making or publishing, dishonestly or otherwise, of  
21 any statement, promise or forecast which is misleading, false or deceptive, or

22 (d) by recording or storing in, or by means of any mechanical,  
23 electronic or device, create information which he knows to be false or  
24 misleading in a material particular with intent to induce or attempt to induce  
25 another person to deal in commodities.

26 (2) It is a defence to any liability under subsection (1) of this section if  
27 it is established that, at the time when the person so recorded or stored the  
28 information would be available to any other person.

Dissemination of  
illegal information

29 **42.** A person shall not circulate or disseminate, or authorize or be  
30 concerned in the circulation or dissemination of any statement or illegal

1 information to the effect that the price of any commodity will or is likely to  
2 rise or fall or be maintained by reason of any transaction entered into or other  
3 act or thing done in relation to such commodities if the person –

4 (a) or a person associated with that person has entered into any such  
5 transaction or done any such act or thing; or

6 (b) has received or expects to receive directly or indirectly any  
7 consideration or benefit for circulating or disseminating or authorizing or  
8 being concerned in the circulation or dissemination of the statement or  
9 information.

10 **43.** It shall be unlawful for any person directly or indirectly in  
11 connection with the purchase or sale of any commodity to –

Prohibition of  
fraudulent means

12 (a) employ any device, scheme or artifice to defraud;

13 (b) engage in any act, practice or course of business which operates  
14 or would operate as a fraud or deceit upon any person; or

15 (c) make any untrue statement of a material fact or to omit to state a  
16 material fact necessary in order to make the statements made in the light of  
17 the circumstances under which they were made, not misleading.

18 **44.** Any person who contravenes the provisions of sections 38, 39,  
19 40, 41 and 42 of this Act commits an offence and is liable on conviction to a  
20 fine of not less than N500,000 or to imprisonment of a term not exceeding  
21 three years or to both such fine and imprisonment.

Penalties

22 **45.** (1) Subject to section 47 of this Act, an individual who is an  
23 insider of a company shall not buy or sell, or otherwise deal in the  
24 commodities which are offered for sale or subscription if he has information  
25 which he knows is unpublished price sensitive information in relation to  
26 those commodities.

Prohibition of  
dealing in  
commodities by  
insiders

27 (2) The provisions of subsection (3) of this section shall apply  
28 where –

29 (a) an individual has information which he knowingly obtains  
30 (directly or indirectly) from another individual who –

1 (i) is connected with a particular company, or was at any time within  
2 the six months preceding the obtaining of the information, so connected, or

3 (ii) the former individual knows or has reasonable cause to hold the  
4 information by virtue of being so connected; and

5 (b) the former individual knows or has reasonable cause to believe  
6 that, because of the latter's connection and position, it would be reasonable to  
7 expect him not to disclose the information except for the proper performance of  
8 the functions attached to that position.

9 (3) The former individual mentioned in subsection (2) of this section—

10 (a) shall not himself deal in such commodities if he knows that the  
11 information is unpublished price-sensitive information in relation to those  
12 commodities; and

13 (b) shall not himself deal in such commodities if he knows that the  
14 information is unpublished price-sensitive information in relation to those of  
15 commodities and it related to any transaction (actual or contemplated)  
16 involving the first company and the other company, or involving one of them  
17 and commodities of the other, or to the fact that any such transaction is no  
18 longer contemplated.

19 (4) An individual who is for the time being prohibited by the  
20 provisions of this section from dealing on an approved Commodity Exchange  
21 or Derivatives Trading Facility in any commodity, shall not procure any other  
22 person to deal in those commodities, knowing or having reasonable cause to  
23 believe that person would deal in those commodities.

24 (5) An individual who is for the time being prohibited by the provision  
25 of this section from dealing in any commodity by reason of his having any  
26 information, shall not communicate that information to any other person if he  
27 knows or has reasonable cause to believe that other person will make use of the  
28 information for the purpose of dealing or of counseling or procuring any other  
29 person to deal in those commodities.



- 1                   **46.\_** (1) This section applies to any information which –
- 2                   (a) is held by a public officer or former public officer by virtue of
- 3                   his position or former position as a public officer, or is knowingly obtained
- 4                   by an individual (directly or indirectly) from a public officer or former
- 5                   public officer who he knows or has reasonable cause to believe the
- 6                   information by virtue of any such position;
- 7                   (b) it shall be reasonable to expect that an individual in the position
- 8                   of a public officer or former position of a public officer not to disclose except
- 9                   for the proper performance of the functions attaching to that position; and
- 10                  (c) the individual holding it knows it is unpublished price-sensitive
- 11                  information in relation to a particular commodity (hereinafter referred to as
- 12                  “relevant commodity”).
- 13                  (2) This section applies to a public officer holding information to
- 14                  which this section applies and to any individual who knowingly obtained
- 15                  any such information (directly or indirectly) from a public officer or former
- 16                  public officer who that individual knows or has reasonable cause to believe
- 17                  held the information by virtue of his position or former position as a public
- 18                  officer.
- 19                  (3) Subject to section 47 of this Act an individual to whom this
- 20                  section applies shall not –
- 21                  (a) deal in any relevant commodity;
- 22                  (b) counsel or procure any other person to deal in any such
- 23                  commodities, knowingly or having reasonable cause to believe that other
- 24                  person, would deal in those commodities; or
- 25                  (c) communicate to any other person the information held or (as the
- 26                  case may be) obtained as mentioned in subsection (2) of this section if he
- 27                  knows or has reasonable cause to believe that he or some other person shall
- 28                  make use of the information for the purpose of dealing or of counseling or
- 29                  procuring any other person to deal on a Commodity Exchange or
- 30                  Derivatives Trading Facility in any such commodities.

Abuse of  
information  
obtained in  
official capacity

Actions not  
prohibited by  
section 45 and 46

1 (4) If it appears to the Minister that the members, officers or  
2 employees of or persons otherwise connected with any body appearing to him  
3 to exercise public functions, may have access to unpublished price-sensitive  
4 information relating to commodities, he may by order declare that those  
5 persons are public officers for the purposes of this section.

6 **47.-(1)** The provisions of section 45 and 46 of this Act shall not  
7 prohibit an individual by reason of his having any information from doing any  
8 particular thing –

9 (a) otherwise than with a view to making of a profit or the avoidance  
10 of a loss (whether for himself or another person) by the use of that information;

11 (b) if the information was –

12 (i) obtained by him in the course of a business of a floor broker in  
13 which he was engaged or employed;

14 (ii) of a description which it would be reasonable to expect him to  
15 obtain in the ordinary course of that business, and he does that thing in good  
16 faith in the course of that business.

17 (2) An individual shall not, by reason only of his having information  
18 relating to any particular transaction, be prohibited –

19 (a) subsection (2) or (3) (b) of section 45 of this Act from dealing on a  
20 Commodity Exchange or Derivatives Trading Facility in any commodity;

21 (b) subsection (4) or (5) of section 45 of this Act from doing any other  
22 thing in relation to the provisions mentioned in paragraph (a) of this  
23 subsection; or

24 (c) section 46 of this Act from doing any other thing in order to  
25 facilitate the completion or carrying out of the transaction.

Trustees and  
personal  
representatives

26 **48.-(1)** Where a trustee or personal representative is a body corporate  
27 or an individual acting on behalf of that trustee or personal representative who,  
28 with the exception of subsection (1) (a) of section 47 of this Act would be  
29 prohibited by sections 45 and 46 of this Act from dealing or counseling or  
30 procuring any other person from dealing in any commodity, deals in those

1 commodities or counsels or procures any other person from dealing in them,  
2 shall be presumed to have acted with propriety and accordingly exempted  
3 from the provisions of section 45 and 46 of this Act:

4 Provided that he acted on the advice of a person who –

5 (a) appears to him to be an appropriate person from whom to seek  
6 such service; and

7 (b) did not appear to him to be prohibited by virtue of section 45 or  
8 46 of this Act from dealing in those commodities.

9 (2) In this section, the expression “with propriety” means  
10 otherwise than with a view to the making of a profit or the avoidance of a loss  
11 (whether for himself or another person) by the use of the information in  
12 question.

13 **49.** No transaction shall be void or voidable by reason only that it  
14 was entered into in contravention of the provisions of section 45 or 46 of this  
15 Act.

Effect of  
contravention

16 **50.** An insider who contravenes any provision of section 45 of this  
17 Act or any person who contravenes any provision of section 46 of this Act is  
18 guilty of an offence and liable on conviction to –

Civil liberty of  
insider, etc.

19 (a) compensate any person for any direct loss suffered by that  
20 person as a result of the transaction, unless the information was known or  
21 with the exercise of reasonable diligence could have been known to that  
22 person at the time of the transaction; and

23 (b) be accountable to the company for the direct benefit or  
24 advantage received or receivable by the insider as a result of the transaction.

25 (2) An action to enforce a right created by subsection (1) of this  
26 section may be commenced only within two years after the date of  
27 completion of the transaction, which gave rise to the cause of action.

28 **51.** An individual who contravenes the provisions of section 45 or  
29 46 of this Act commits an offence and is liable on conviction to a fine of  
30 N500,000 or to imprisonment for a term of two years or both such fine and

Penalty for  
contravention

	1	imprisonment.
Meaning for certain words used in this part	2	<b>52.</b> -(1) In this part –
	3	“related company” in relation to a company, means any body corporate which
	4	is that company's subsidiary or holding company or a subsidiary of that
	5	company's holding company.
	6	(2) For the purpose of this Part –
	7	(a) an individual is an insider of a company if he is, or at any time in
	8	the preceding six months has been, knowingly connected with the company;
	9	(b) an individual is connected with a company if, but only if –
	10	(i) he is director of that company or a related company, or
	11	(ii) he occupies a position as an officer (other than a director) or
	12	employee of that company or a related company or a person involving a
	13	professional or business relationship between himself (or his employer or a
	14	company of which he is a director) and the first company or a related company
	15	which in either case may reasonably be expected to give him access to
	16	information which, in relation to commodities of either company, is
	17	unpublished price-sensitive information, and which, it would be reasonable to
	18	expect in his position not to disclose except for the proper performance of his
	19	functions;
	20	(c) any reference to unpublished price-sensitive information to any
	21	commodity is a reference to information which –
	22	(i) relates to specific matters or relating or of concern (directly or
	23	indirectly) to that company, that is, is not of a general nature relating or of
	24	concern to that company, and
	25	(ii) is not generally known to those persons who are accustomed to or
	26	would be likely to deal in those commodities but which would, if it were
	27	generally known to them be likely materially to affect the price of those
	28	commodities.
Criminal liability under this Part	29	<b>53.</b> — Any person who contravenes any of the provisions of this Part of
	30	this Act commits an offence and is liable on conviction –

1 (a) in the case of a person not being a body corporate, to a fine of not  
2 less than N500,000 or to imprisonment for a term not exceeding seven years;

3 (b) in the case of a person being a body corporate, to a fine not less  
4 than N1,000,000.

5 **54.**-(1) A person who is liable under this Part of this Act shall pay  
6 compensation at the order of the Commission as the case may be, to any  
7 aggrieved person who, in a transaction for the purchase or sale of  
8 commodities entered into with the first-mentioned person or with a person  
9 acting for or on his behalf, suffers a loss by reason of the difference between  
10 the price at which the commodities would have been likely to have been  
11 dealt in such a transaction at the time when the first-mentioned transaction  
12 took place if the contravention had not occurred.

Compensation to  
be determined by  
Commission

13 (2) The amount of compensation for which a person is liable under  
14 subsection (1) of this section is the amount of the loss sustained by the  
15 person claiming the compensation or any other amount as may be  
16 determined by the Commission.

17 **55.**-(1) An action under this section of this Act for the recovery of a  
18 loss shall not be commenced until after the expiration of 6 months after the  
19 date of completion of the transaction in which the loss occurred.

Limitation to  
recovery

20 PART IX - MISCELLANEOUS

21 **56** Subject to the provisions of this Act, the Minister may give to  
22 the Commission such directives as may appear to him to be just and proper  
23 for the effective discharge of the functions of the Commission under this Act  
24 and it shall be the duty of the Commission to comply.

Power of Minister  
to issue directives

25 **57.** The Commission shall furnish the President through the  
26 Minister reports pertaining to any proposed or existing programme for the  
27 promotion and development of commodities futures trading in Nigeria.

Reports on  
development of  
the commodities  
industry

28 **58.** The Commission may, by general or special order in writing,  
29 delegate to any member, officer of the Commission or any other person  
30 subject to such conditions, if any, as may be specified in the order, such of its

Delegation

	1	powers and functions under this Act as it may deem necessary.
Appeals from decisions of Commission	2	<b>59.-(1)</b> A person aggrieved by any action or decision of the
	3	Commission under this Act, may institute an action in the Investments and
	4	Securities Tribunal or appeal against such decisions in accordance with
	5	provisions of the Investments and Securities Act and any other relevant
	6	enactment.
Right to represent the Commission before court	7	<b>60.</b> Notwithstanding the provisions of any other law or enactment to
	8	the contrary, any legal practitioner employed by the Commission shall be
	9	entitled to represent the Commission before any court.
Protection of action taken in good faith	10	<b>61.</b> No suit, prosecution or other legal proceeding shall lie against any
	11	commissioner, officer or employee of the Commission for anything which is
	12	done in good faith or intended to be done under this Act or the rules or
	13	regulations made thereunder.
Penalty	14	<b>62.</b> Save as otherwise specifically provided under this Act, whosoever
	15	contravenes or attempts to contravene or aids or abets the contravention of the
	16	provisions of this Act or of any rules or regulations made thereunder, commits
	17	an offence and is liable on conviction to a fine not less than N100,000 or to
	18	imprisonment for a term not exceeding three years or to both such fine and
	19	imprisonment.
Offences by companies	20	<b>63.-(1)</b> Where an offence under this Act has been committed by a
	21	company, every person who at the time the offence was committed was in
	22	charge of and was responsible to the company for the conduct of the business of
	23	the company, as well as the company, shall be deemed to be guilty of the
	24	offence and shall be liable to be proceeded against.
	25	(2) Notwithstanding anything contained in subsection (1), where an
	26	offence under this Act has been committed by a company and it is proved that
	27	the offence has been committed with the consent or connivance of, or is
	28	attributable to any neglect on the part of any director, manger, secretary or other
	29	officer of the company, such director, manager, secretary or other officer shall

1 also be deemed to be guilty of the offence and shall be liable to be proceeded  
2 against.

3 **64.** For the purposes of this section –

Interpretation

4 “company” means any body corporate and includes a firm or other  
5 association of individuals; and

6 “director” in relation to a firm, means a partner in the firm.

7 **65.**-(1) If the Minister is of the opinion that it is necessary or  
8 expedient to do so in the public interest, he may, by order published in the  
9 Gazette, exempt any person or class of persons buying or selling  
10 commodities or otherwise dealing with the commodities market from the  
11 operation of the provisions of this Act.

Power to exempt

12 (2) The provision of this Act shall be in addition to, and not in  
13 derogation of the provision of any other law or enactment for the time being  
14 in force.

15 **66.**-(1) If any difficulty arises in giving effect to the provision of  
16 this Act, the Minister may, by order published in the Gazette make such  
17 provisions, not inconsistent with the provisions of this Act, as may appear to  
18 be necessary for removing the impediment:

Power to remove  
impediments

19 Provided that no order shall be made under this section after the expiry of ten  
20 years from the commencement of this Act.

21 **67.**-(1) The Commission may make regulations –

Regulations

22 (a) providing for anything requiring to be prescribed under this  
23 Act; and

24 (b) generally for carrying out the principles and objectives of this  
25 Act.

26 (2) Any instrument issued under subsection (1) of this section shall  
27 be under the signature of the Director-General of the Commission or any  
28 other officer of the Commission as may be designated by him.

29 **68.**-(1) The Commission may appoint one or more committees to

Committees of  
the Commission

1 carry out on its behalf such of its functions as the Commission may determine.

2 (2) A committee appointed under subsection (1) of this section shall  
3 consist of such number of persons as may be determined by the Commission;  
4 and a person other than a member of the Commission shall hold office on the  
5 committee in accordance with such terms of his appointment.

6 (3) A decision of a committee of the Commission shall be of no effect  
7 until it is confirmed by the Commission.

Seal of the  
Commission

8 **69.**-(1) The fixing of the seal of the Commission shall be  
9 authenticated by the signature of the Director-General of any person  
10 specifically authorized by him to act in that capacity.

11 (2) Any contract or instrument which, if made or executed by a person  
12 not being a body corporate, would not be required to be under seal may be made  
13 or executed by or on behalf of the Commission by the Chairman or any person  
14 specifically authorized to act for that purpose by the Commission.

15 (3) Any document purporting to be a document duly executed under  
16 the seal of the Commission shall be received in evidence and shall, unless and  
17 until the contrary is proved be presumed to be so executed.

18 (4) The validity of any proceeding of the Commission or of a  
19 committee thereof shall not be adversely affected by any vacancy in the  
20 membership of the Commission or committee, or by any defect in the  
21 appointment of a member of the Commission or of a committee, or by reason  
22 that a person not entitled to do so took part in the proceedings of the  
23 Commission or committee.

Relevance of  
other laws

24 **70.**-(1) Notwithstanding the provisions of this Act the relevant  
25 provisions of the Investments and Securities Act shall be read with such  
26 modification as to bring them into conformity with the provisions of this Act.

27 (2) If the provision of any other law, including the Investments and  
28 Securities Act are inconsistent with the provisions of this Act, the provisions of  
29 this Act shall prevail and the provisions of the Investments and Securities Act  
30 or that other law shall, to the extent of the inconsistency, be void.



- 1                   71.-(1) The Commission may, from time to time, make rules and      Rules and  
2 regulations for the purpose of giving effect to the provisions of this Act and      Regulations  
3 may in particular, without prejudice to the generality of the foregoing  
4 provisions, make regulations –
- 5                   (a) determining, from time to time, in consultation with the  
6 Minister, what other business shall be included in the definition of  
7 commodities business;
- 8                   (b) prescribing the forms of returns and other information required  
9 under this Act;
- 10                  (c) prescribing the procedure for obtaining any information  
11 required under this Act;
- 12                  (d) requiring returns to be made within the period specified therein  
13 by any company or enterprise to which this Act applies;
- 14                  (e) prescribing any fees payable under this Act;
- 15                  (f) prescribing that the provision of this Act shall not apply or shall  
16 apply with such modifications (if any) as may be specified in the  
17 regulations, to any person or class of persons or any commodity or class of  
18 commodities or to any transaction;
- 19                  (g) prescribing the activities which constitute “insider dealings”  
20 the rules governing dealing in commodities by insiders and defining the  
21 term “insider dealings”;
- 22                  (h) providing for anything requiring to be prescribed under this  
23 Act; and
- 24                  (i) generally for carrying out the principles and objectives of this  
25 Act.
- 26                  (2) Any instrument issued under subsection (1) of this section shall  
27 be under the signature of the Chief Executive of the Commission or any  
28 other officer of the Commission as may be designated by him.
- 29                  (3) Any regulation made under this Act shall come into force  
30 fifteen days after receipt by the Minister or on publication in the Gazette or

1 other official document unless the Minister before the effective date of any  
2 regulation, orders that it be modified, amended or rescinded.

3 (4) Notwithstanding the provisions of subsection (1) of this section,  
4 the Commission may, from time to time, amend or revoke rules for purposes of  
5 giving effect to the provisions of this Act and regulations made thereunder.

6 (5) Any regulations or rules made pursuant to this Part of this Act may,  
7 where appropriate, prescribe penalties not exceeding a fine of N10,000 for  
8 every day of default or imprisonment for six months or both such fine and  
9 imprisonment for any violation of the regulation or rule.

10 PART X - INTERPRETATION AND SHORT TITLE

Interpretation

11 72. In this Act, unless the context otherwise requires –

12 “agent” means a person authorized by another to act for or in place of him and  
13 in relation to a floor dealer, include a person who is, or has been a banker of the  
14 dealer at any given time;

15 “approved commodities organization” means a body corporate which is  
16 approved by the Commission under this Act as a Commodities organization;

17 “associated persons” means a subsidiary, affiliate or agent of a member of any  
18 self regulatory organization;

19 “auditor” means an auditor within the meaning of the Companies and Allied  
20 Matters Act;

21 “broker” means any person engaged in the business of effecting transactions in  
22 commodities for the account of others;

23 “Derivatives Trading Facility” means an Exchange registered by the  
24 Commission pursuant to this Act, which constitutes, maintains or provides  
25 market place for bringing together purchasers and sellers of commodities or for  
26 otherwise performing, with respect to commodities, the functions commonly  
27 performed by a Commodities Exchange;

28 “certificate of registration” means any certificate of licence issued by the  
29 Commission as a part of its registration function under this Act;

30 “clearing and settlement companies” means any corporate body who acts as an

- 1 intermediary in making payments or deliveries or both in connection with  
2 transactions in commodities and provides facilities for comparison of data  
3 regarding the terms of settlement of commodities transactions on or for the  
4 allocation of commodities settlement responsibilities;
- 5 “commodity trading adviser” means a person who –
- 6 (a) carries on a business of advising others concerning  
7 commodities;
- 8 (b) as part of a regular business, issues or promulgates analyses  
9 or makes reports concerning commodities; or
- 10 (c) pursuant to a contract or arrangement with a client,  
11 undertakes on behalf of the client (whether on a discretionary authority  
12 granted by the client or otherwise) the management of a portfolio of  
13 commodities and commodities futures contract;
- 14 so however that the term commodity trading adviser shall not include –
- 15 (i) a bank as defined in the Banks and Other Financial  
16 Institutions Act;
- 17 (ii) a company or society registered under the Insurance Act;
- 18 (iii) a solicitor and advocate or accountant in practice whose  
19 carrying on of that business is solely incidental to the practice of his  
20 profession;
- 21 (iv) a dealer or his employee or a dealer's representative or an  
22 exempt dealer whose carrying on of that business is solely incidental to the  
23 conduct of his business of dealing in commodities; or
- 24 (v) the proprietor of a newspaper and holder of a permit issues  
25 under the Nigerian Press Council Act and where –
- 26 (a) insofar as the newspaper is distributed generally to the  
27 public it is distributed only to subscribers to, and purchasers of, the  
28 newspaper for value;
- 29 (b) the advise is given or the analyses or reports are issued or  
30 promulgated only through newspaper;

1 (c) no person receives any commission or other consideration for  
2 giving the advice or for issuing or promulgating the analyses of reports; and

3 (d) the advice is given and the analyses and reports are issued or  
4 promulgated solely as incidental to the conduct of that person's business as a  
5 newspaper proprietor;

6 “commodity trading adviser's representative” means a person, in the direct  
7 employment of or acting for or by arrangement with any of the functions of a  
8 commodity trading adviser (other than work primarily performed by  
9 accountants, clerks or cashier whether his remuneration is by way of salary,  
10 wages, commission, or otherwise; and includes any director or officer of a body  
11 corporate who performs for such body corporate any of those functions  
12 (whether or not his remuneration is as aforesaid);

13 “Commodity Exchange” means an approved commodities organization such  
14 as a commodity exchange, metal exchange, petroleum exchange, options,  
15 futures, over the counter and other derivatives exchanges;

16 “commodity market” means a market, or other place or facility at which or on  
17 which commodities are traded;

18 “Commission” means the Commodities Futures Trading Commission referred  
19 to in subsection (1) of section 1 of this Act;

20 “company” has the same meaning as is assigned to it in the Companies and  
21 Allied Matters Act;

22 “dealer” means a person engaged in the business of buying and of selling  
23 commodities for accounts through a broker, sub-broker or any person in so far  
24 as he buys or sells commodities for his own account either individually or in  
25 some fiduciary capacity but not as part of a regular business;

26 “dealer's representative” means a person, by whatever name described, in the  
27 direct employment of, or acting for, or by arrangement with, a dealer, who  
28 performs for that dealer any of the functions of a dealer (other than work  
29 ordinarily performed by accountants, clerks or cashiers) whether his  
30 remuneration is by way of salary, wages, commission or otherwise; and

1 includes any director or officer of a body corporate who performs for the  
2 body corporate any of those functions (whether or not his remuneration is  
3 aforesaid);

4 “dealing in commodities” means (whether as principal or as agent) making  
5 or offering to make with any person, or inducing or attempting to induce any  
6 person to enter into or to offer to enter into –

7 (a) any agreement for or with a view to acquiring, disposing or  
8 subscribing for, or underwriting of commodities; or

9 (b) any agreement for the purpose or pretended purpose of  
10 securing a profit to any of the parties from the yield of commodities or by  
11 reference to fluctuations in price of commodities;

12 “director” has the same meaning as is assigned to it in the Companies and  
13 Allied Matters Act;

14 “executive officer” in relation to a body corporate, means any person by  
15 whatever name called and whether or not he is a director of the body  
16 corporate who is concerned or takes part in the management of the body  
17 corporate;

18 “jobbers” are persons who carry on the business of acquiring or disposing  
19 commodities on behalf of others;

20 “licence” includes –

21 (a) a commodity trading adviser's licence,

22 (b) a dealer's licence;

23 “member company” means a company which carries on business of dealing  
24 in commodities and is recognized as a member company by a Commodity  
25 Exchange or Derivative Trading Facility;

26 “Minister” means the Minister responsible for matters relating to  
27 commerce;

28 “relevant authority”–in relation to a member company, means the  
29 Commodity Exchange or Derivative Trading Facility by which the company  
30 is recognized;

1 “relevant committee”– in relation to the National Assembly, means  
2 committees of the National Assembly saddled with the responsibility of  
3 oversight on commodities future trading;  
4 “self-regulatory organization” means any registered Commodity Exchange,  
5 Derivative Trading Facility, an association of commodity dealers, clearing  
6 corporation or any other self-regulatory body approved by the Commission;  
7 “sub-broker” means a person who has satisfied the conditions laid down by a  
8 Commodity Exchange or Derivative Trading Facility for such status and who  
9 is therefore authorized to deal in commodities on the Exchange under the  
10 control and supervision of a dealing member;  
11 “transfer agent” means any person who engages on behalf of an issuer of  
12 commodities or on behalf of itself in –  
13 (a) countersigning commodities upon issuance;  
14 (b) monitoring the issuance of commodities with a view to preventing  
15 unauthorized issuance, a function commonly performed by a person called a  
16 registrar;  
17 (c) registering the transfer of commodities;  
18 (d) exchanging or converting commodities;  
19 (e) offers to sell, purchase or exchange commodities regularly made  
20 or accepted; or  
21 (f) offers or invitations which are intended, or may reasonably be  
22 expected, to result whether directly or indirectly, in the making or acceptance  
23 of offers to sell, purchase or exchange commodities;  
24 “underwriter” means a person who has purchases from an issuer with a view to  
25 or offers or sells for an issuer in connection with the distribution of any  
26 commodity or participates or has direct or indirect participation in any such  
27 undertaking; but does not include a person whose interest is limited to a  
28 commission from an underwriter or a dealer not in excess of the usual and  
29 customary distributor's or seller's commission.

30 **73.** This Bill may be cited as the Commodities Exchange Bill, 2019.

## 1 SCHEDULE

2 [Section 2(4)]

3 *Proceedings of the Commission*

4 1. -(1) Subject to this Act and section 27 of the Interpretation  
5 Act, the Commission may make standing orders regulating its proceedings  
6 or those of its committees.

7 (2) At any meeting of the Commission the chairman shall  
8 preside but if he is absent, the members present at the meeting shall appoint  
9 one of their number to preside at that meeting.

10 (3) Where the Commission desires to obtain the advice of any  
11 person on a particular matter, the Commission may co-opt him as a member  
12 of such period as it thinks fit; but a person is a member by virtue of this sub-  
13 paragraph shall not be entitled to vote at any meeting of the Commission and  
14 shall not count towards a quorum.

15 *Committees*

16 2.-(1) The Commission may appoint one or more standing or  
17 ad hoc committees to carry out on its behalf such of its functions as it may  
18 determine.

19 (2) A committee appointed under this paragraph shall consist  
20 of such number of persons (not necessarily member of the Commission) as  
21 may be determined by the Commission; and a person other than a member of  
22 the Commission shall hold office on the committee in accordance with the  
23 terms of his appointment.

24 (3) A decision of a committee of the Commission shall be of no  
25 effect until it is confirmed by the Commission.

26 (4) The quorum of a meeting of the Commission shall be six.

27 (5) The chairman shall have casting vote.

28 3. A member of the Commission and any person holding  
29 office on a committee of the Commission who has a personal interest in any  
30 contract or arrangement entered into or proposed to be considered by the

- 1 Commission or a committee thereof shall forthwith disclose his interest to the
- 2 Commission and shall not vote on any question relating to the contract or
- 3 arrangement.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the regulation of commodities futures business in Nigeria and for the establishment of the Commodities Future Trading Commission.



EMERGENCY COMMUNICATION BILL, 2019

ARRANGEMENT OF SECTIONS

*Section*

GENERAL PROVISIONS

1. Objectives of the Act
2. Application

EMERGENCY COMMUNICATION FACILITY

3. Universal Emergency Code
4. Mandatory Provision of Emergency Communication Facilities, etc.

EMERGENCY COMMUNICATION FUND

5. Emergency Communication Fund
6. Emergency Communication Charges
7. Annual Estimates to be submitted to the National Assembly
8. Accounts and Audit
9. Investment, Cap 449 LFN

PUBLIC SAFETY ANSWERING CENTRES

10. Public Safety Answering Centres
11. Functions of Public Safety Answering Centres
12. Management of Public Safety Answering Centres

EMERGENCY RESPONSE CO-ORDINATION

13. Federal Response Co-ordinating Committee
14. Local Response Co-ordinating Committee
15. Responder Agencies

EMERGENCY COMMUNICATIONS ADVISORY COMMITTEE

16. Establishment of the Emergency Communications Advisory Committee
17. Membership of the Advisory Committee
18. Tenure of office
19. Cessation of membership

20. Powers of the Advisory Committee

21. Functions of the Advisory Committee

MISCELLANEOUS PROVISIONS

22. Annual Report to be submitted to the National Assembly

23. Directives by the President

24. Regulation

INTERPRETATION AND SHORT TITLE

25. Interpretation

26. Short Title

# A BILL

## FOR

AN ACT TO ENHANCE THE NATION'S INTERNAL SECURITY AND THE CAPACITY TO MANAGE DISASTER AND EMERGENCES THROUGH THE PROVISION OF EMERGENCY COMMUNICATION FACILITIES TO ENABLE CITIZEN-ACTIVATED RESPONSE TO EMERGENCIES; AND THE ESTABLISHMENT OF PUBLIC SAFETY ANSWERING CENTRES THROUGHOUT THE FEDERATION; AND FOR RELATED MATTERS, 2019

*Sponsored by Hon. Uzoma Nkem-Abonta*

[ ] Commencement

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

### GENERAL PROVISIONS

1. The primary objective of this Act is to create and provide for a reliable framework for emergency communication in Nigeria and all matters relating thereto and for that purpose and without detracting from the generality of the foregoing, specifically to–

Objectives of  
the Act

(a) promote the implementation of National Emergency or policy as may from time to time be made, modified and amended;

(b) ensure the deployment of emergency communications facilities throughout the federation;

(c) ensure the implementation and co-ordination of emergency communication for the overall purpose of response activation;

(d) provide for mandatory but unified emergency communication services by telecommunication operators in Nigeria;

(e) provide for adequate funding of emergency communication services through certain proportion of telecommunication bills collectible throughout the federation as well as government subvention;

	1	(f) provide for the establishment of Public Safety Answering Centres;
	2	(g) provide appropriate penalties for offences related to the principle
	3	and practice of emergency communication and swift response mechanism; and
	4	(h) provide for the implementation of a swift response mechanism for
	5	the purpose of management of emergencies.
Application	6	<b>2.</b> This applies to the provision and use of emergency
	7	communications services in whole or in part within Nigeria or on a ship or
	8	aircraft registered in Nigeria.
	9	EMERGENCY COMMUNICATION FACILITY
Universal Emergency Code	10	<b>3.</b> There is hereby established a universal Emergency Code designated
	11	by “911” which shall be the code through which all emergency communication
	12	shall be assessed.
Mandatory Provision of Emergency Communications Facilities, etc.	13	<b>4.</b> Notwithstanding the provision of any other enactment, regulation
	14	or directive, it shall be mandatory for every telecommunications operator in
	15	Nigeria to provide, deploy and maintain such facilities and service that will
	16	encourage emergency communication from its network.
	17	EMERGENCY COMMUNICATION FUND
Emergency Communications Fund	18	<b>5.-(1)</b> There is hereby established a fund to be known as the
	19	Emergency Communication Fund into which shall be paid and credited all
	20	income accruing from emergency communication charges, donations,
	21	subventions, interests and capital increases pursuant to this Act.
	22	(2) The Agency may from time to time, apply the proceeds of the
	23	Emergency Communications Fund established pursuant to subsection 1 of this
	24	section –
	25	(a) to the procurement, construction and expansion of emergency
	26	communication facilities, structures and infrastructures throughout the
	27	federation; and
	28	(b) to such services or projects which it may consider expedient in the
	29	due administration of this Act.

- 1                   **6.-(1)** The Commission shall make regulation(s) prescribing such      Emergency  
2      emergency communication charges which shall be collectible on all      Communications  
3      telephone calls made within the federation other than emergency calls.      Charges
- 4                   (2) The emergency communication charges pursuant to subsection  
5      (1) of this section shall not be more than 2 per cent of call charges;
- 6                   (3) Subject to the provisions of subsection (1) of this section, it  
7      shall be mandatory for all telecommunication operators in Nigeria to ensure  
8      due mobilization and appropriate remittal into the Emergency  
9      Communication Fund all funds standing to the credit of emergency  
10     communication charges.
- 11                  (4) Notwithstanding any other enactment, regulators or directives,  
12     evasion or negligence to the provisions of subsections (3) of this section  
13     shall be an offence.
- 14                  (5) Offenders under subsection (4) of this section shall be liable to  
15     the—
- 16                  (a) withdrawal of operating licence; and  
17                  (b) payment of seven (7) times the amount not remitted or evaded.
- 18                  **7.** The Commission shall prepare and submit to the President, not      Annual Estimates  
19     later than 30th September of each year or such other time, as may be directed  
20     by the President, accounts and an estimate of its income and expenditure  
21     during the succeeding year in respect of the provisions of this Act.
- 22                  **8.-(1)** The Commission shall keep proper accounts and other      Accounts and  
23     records relating thereto, and shall cause to be prepared, a statement of      Audit  
24     accounts relating to the last proceeding year in respect of the provisions of  
25     this Act.
- 26                  (2) The statement of accounts pursuant to this Act, together with  
27     records relating thereto, shall be certified by the Commission and the  
28     accounts shall be audited by the auditors to be appointed by the Commission  
29     from the list, and in accordance with the guidelines, supplied by the Auditor-  
30     General of the Federation.

Investment, Cap 449 LFN	1	<b>9.</b> The Commission may, subject to the provisions of this Act and the
	2	conditions of any trust created in respect of any property, invest all or any of its
	3	fund pursuant to this Act, in any security prescribed by the Trustee Investment
	4	Act or in such other securities as may, from time to time, be approved by the
	5	President.
	6	<b>PUBLIC SAFETY ANSWERING CENTRES</b>
Public Safety Answering Centres	7	<b>10.</b> There is hereby provided for the purposes of this Act, the
	8	establishment of Public Safety Answering Centres (in this Act referred to as
	9	“Centres”) in the capital city of each State of the Federation and the Federal
	10	Capital Territory or as may be reasonably practicable provided that no one
	11	facility will be deemed too be covering more than one State.
Functions of Public Safety Answering Centres	12	<b>11.</b> The Centres shall –
	13	(a) be a report reception and processing centre for all emergency calls;
	14	(b) ensure the efficient transmission of emergency signals to relevant
	15	responder agencies; and
	16	(c) handle such other tasks as may be considered expedient under this
	17	Act.
Management of Public Safety Answering Centres	18	<b>12.-(1)</b> The Centres shall be managed by such officers of the
	19	Commission, as may be designated from time to time.
	20	(2) The officer(s) so designated under subsection (1) of this section
	21	shall report to the Executive Vice Chairman of the Commission on all activities
	22	of the Centers.
	23	<b>EMERGENCY RESPONSE CO-ORDINATION</b>
Federal Response Co-ordinating Committee	24	<b>13.-(1)</b> There is hereby established a committee to be known as
	25	Federal Response Coordinating Committee (in this Act referred to as “the
	26	Federal Committee”) which shall be responsible for the initiation and
	27	coordination of response among responder agencies.
	28	(2) The Federal Committee shall work closely with all the Public
	29	Safety Answering Centres in the Federation as well as the responder agencies
	30	provided under this Act.

1 (3) The Federal Committee shall provide response coordination  
2 exclusively in –

- 3 (a) national security emergencies;
- 4 (b) aviation emergencies;
- 5 (c) navigational emergencies;

6 (4) The Federal Committee shall also provide response  
7 coordination in consultation with the State Committee in –

- 8 (a) natural disasters;
- 9 (b) fire emergencies;
- 10 (c) road emergencies;
- 11 (d) robbery and crime related emergencies

12 (5) The Federal Committee shall consist of a representative of –

13 (a) National Emergency Management Agency, who shall be the  
14 Chairman;

- 15 (b) Nigerian Communications Commission;
- 16 (c) Defence Headquarters;
- 17 (d) Trade unions;
- 18 (e) Civil Societies;
- 19 (f) Nigerian Union of Journalists; and
- 20 (g) Nigeria Police Force.

21 (6) The Federal Committee shall be appointed by the Advisory  
22 Committee on such terms and conditions it shall prescribe.

23 14.-(1) There is hereby established a committee to be known as  
24 State Response Coordinating Committee (in this Act referred to as “the State  
25 Committee”) in all states of the Federation and the Federal Capital Territory,  
26 which shall be responsible for the coordination of response among  
27 responder agencies.

State Response  
Co-ordinating  
Committee

28 (2) The State Committee shall work closely with the Public Safety  
29 Answering Centres in the state of its jurisdiction as well as the Responder  
30 Agencies provided under this Act.

- 1 (3) The State Committee shall also provide response coordination in –  
2 (a) natural disasters;  
3 (b) fire emergencies;  
4 (c) road emergencies;  
5 (d) robbery and crime related emergencies.  
6 (4) The State Committee shall consist of a representative of –  
7 (a) State Emergency Management Agency, who shall be the  
8 Chairman;  
9 (b) Nigerian Communications Commission;  
10 (c) Trade unions;  
11 (d) Civil Societies;  
12 (e) Nigerian Union of Journalists;  
13 (f) Nigeria Police Force; and  
14 (g) National Security and Civil Defence Corps.  
15 (5) The State Committee shall be appointed by the Advisory  
16 Committee on such terms and conditions it shall prescribe.
- 17 **15.-(1)** Pursuant to this Act, the Federal Ministries, Extra-Ministerial  
18 Departments, Parastatals and other bodies as set out in this subsection (2) of  
19 this section shall –  
20 (a) be the responder agencies;  
21 (b) provide swift response to such case(s) of disaster or emergency as  
22 may be referred;  
23 (c) consider its primary and obligatory function as its first area of  
24 jurisdiction to the extent of providing swift response  
25 (d) ensure that all case(s) received get the desired prompt attention  
26 and as well involve all other relevant government agencies; and  
27 (e) carry out other duties that may be assigned to it in the course of  
28 disaster and emergency management.  
29 (2) The responder agencies include –  
30 (a) Federal Ministry of Transport;

Responder  
Agencies



- 1 (b) Federal Ministry of Environment;
- 2 (c) Federal Ministry of Interior;
- 3 (d) Broadcasting Organisation of Nigeria;
- 4 (e) Nigerian Police Force;
- 5 (f) Armed Forces of the Federation;
- 6 (g) Nigerian Meteorological Agency;
- 7 (h) Federal Fire Service and State Fire Service;
- 8 (i) Federal Road Safety Commission;
- 9 (j) National Youth Service Corps;
- 10 (k) Office of the National Security Adviser;
- 11 (l) Nigerian Maritime Authority;
- 12 (m) National Inland Waterways Authority;
- 13 (n) National Emergency Management Agency, which shall be the
- 14 lead organization.

15 (3) Any responder agency, which fails to provide the desired  
 16 appropriate response, shall be liable to the payment of adequate  
 17 compensation as may be determined by a Federal High Court or the High  
 18 Court of a State.

#### 19 EMERGENCY COMMUNICATIONS ADVISORY COMMITTEE

20 **16.**-(1) There is hereby established the Emergency  
 21 Communications Advisory Committee (in this Act referred to as "the  
 22 Advisory Committee").

Establishment of  
the Emergency  
Communications  
Advisory  
Committee

23 **17.**-(1) The Advisory Committee shall consist of the –

Membership of  
the Advisory  
Committee

- 24 (a) a Chairman;
- 25 (b) one representative each of the following Federal Ministries -
- 26 (i) Information and Communication,
- 27 (ii) Transport,
- 28 (c) one representative each of -
- 29 (i) Nigerian Police Force,
- 30 (ii) Nigerian Maritime Authority,

1 (iii) Federal Fire Service,  
 2 (iv) Federal Road Safety Commission,  
 3 (v) Broadcasting Organisation of Nigeria,  
 4 (d) the Director-General National Emergency Management Agency;  
 5 (e) two persons with cognate experience in emergency  
 6 communication; and  
 7 (f) the Vice Chairman, Nigerian Communications Commission or his  
 8 representative.

9 (2) The Chairman and other members of the Advisory Committee,  
 10 other than the ex-officio members, shall be appointed by the President.

11 (3) The supplementary provisions specified in the First Schedule to  
 12 this Act shall have effect with respect to the proceedings of the Advisory  
 13 Committee and other matters mentioned therein.

Tenure of office,  
etc.

14 **18.** The Chairman and other members of the Advisory Committee,  
 15 other than the ex-officio members, shall hold office –

16 (a) for a term of 4 years in the first instance and may be re-appointed  
 17 for further term of 4 years and no more;

18 (b) on such terms and conditions as may be specified in his letter of  
 19 appointment.

Cessation of  
membership

20 **19.-(1)** Notwithstanding the provisions of section 18 of this Act a  
 21 person shall cease to hold office as a member of the Advisory Committee if –

22 (a) he becomes bankrupt;

23 (b) he is convicted of a felony or any offence involving dishonesty or  
 24 fraud;

25 (c) he becomes of unsound mind, or incapable of carrying out his  
 26 duties;

27 (d) he is guilty of a serious misconduct in the relation to his duties;

28 (e) in the case of a person possessed of professional qualifications, he  
 29 is disqualified or suspended from practicing his profession in any part of the  
 30 world by an order of a competent authority made in respect of that member; or

1 (f) he resigns his appointment by a letter addressed to the President.

2 (2) If a member of the Advisory Committee ceases to hold office  
3 for any reason whatsoever, before the expiration of the term for, which he is  
4 appointed, another person representing the same interest as that member  
5 shall be appointed to the Advisory Committee for the unexpired term.

6 (3) A member of the Advisory Committee may be removed by the  
7 President if he is satisfied that it is not in the interest of the Agency or the  
8 interest of the public that the member continues in office.

9 **20.** The Advisory Committee shall have power to –

Powers of the  
Advisory  
Committee

10 (a) give the Executive Vice Chairman directives of a general nature  
11 for carrying the provisions of this Act into full effect;

12 (b) provide general policy guidelines for the Commission in  
13 respect to the provisions of this Act; and

14 (c) do such other things which in its opinion are necessary to ensure  
15 the efficient performance of the functions of the Commission under this Act.

16 **21.** The Commission shall –

Additional  
Functions of the  
Commission

17 (a) co ordinate emergency communications throughout the  
18 Federation;

19 (b) establish public safety answering centers in the capital city of  
20 each state of the federation and the Federal Capital Territory;

21 (c) provide stability and resources to all public safety answering  
22 centers, to facilitate the deployment of emergency communication services  
23 throughout the Federation in a reliable infrastructure;

24 (d) supervise the public safety answering center established under  
25 this Act;

26 (e) ensure the transmission capabilities of all emergency calls to  
27 the relevant responder agencies listed under this Act;

28 (f) carry out public awareness and education on the establishment  
29 and operations of the Agency;

30 (g) ensure the maintenance of a data bank on all emergency calls;

1 (h) assess and review the level of response initiated by the responder  
2 agencies listed under this Act;

3 (i) carry out research work on the needs, impact and problems relating  
4 to emergency communication calls;

5 (j) ensure the collection of all funds accruing to the Agency under this  
6 Act;

7 (k) provide an annual report to the National Assembly in June of each  
8 year, on the activities of the Agency and make recommendations on how to  
9 improve coordination and communication; and

10 (l) carry out other relevant activities that may be assigned to it by the  
11 President.

#### 12 MISCELLANEOUS PROVISIONS

Annual report  
to be submitted  
to the National  
Assembly

13 **22.** (1) As soon as the accounts of the Commission pursuant to this Act  
14 have been audited, the Commission shall prepare a report of its activities  
15 during the proceeding year and shall include in such report a copy of the  
16 audited accounts of the Commission and auditor's report thereon.

17 (2) The Commission shall submit the report prepared pursuant to  
18 subsection (1) of this section to the relevant committees of both houses of the  
19 National Assembly not later than June of each year.

Directives by  
the President

20 **23.** The President may give the Advisory Committee such directive of  
21 a general nature or relating generally to matters of policy with regard to the  
22 exercise of its function as he may consider necessary and it shall be the duty of  
23 the Advisory Committee to comply with the directives or cause them to be  
24 complied with.

Regulation

25 **24.** The Commission may make such regulations as in its opinion are  
26 necessary or expedient for giving full effect to the provisions of this Act and for  
27 the due administration of its provisions.

#### 28 INTERPRETATION AND SHORT TITLE

Interpretation

29 **25.** In this Act, except the context otherwise requires –  
30 “Advisory Committee” means the National Emergency Communication

1       Advisory Committee established under Section 16 of this Act;  
2       “Chairman” means the Chairman of the Advisory Committee of the Agency;  
3       “Centre” means the Public Safety Answering Centres established under  
4       section 21 of this Act;  
5       “Commission” means the Nigerian Communications Commission;  
6       “emergency calls” include all calls made by dialing from any telephone the  
7       designated emergency communication code which terminates at the public  
8       safely answering centers, for the purpose of transmitting information  
9       concerning emergency situations;  
10      “member” means a member of the Advisory Committee and includes  
11      the Chairman;  
12      “Responder Agencies” mean the agencies set out under Section 15 of this  
13      Act.

14               **26.** This Bill may be cited as the Emergency Communication Bill,   Short Title  
15      2019.

## 1 SCHEDULE

2 *Section 17 (3)*

## 3 SUPPLEMENTARY PROVISIONS RELATING TO THE ADVISORY

## 4 COMMITTEE, ETC

5 *Proceeding of the Advisory Committee*

6 1. Subject to this Act and Section 27 of the Interpretation Act (which  
7 provides for the decisions of a statutory body to be taken by majority of its  
8 members and for the person presiding at any meeting, when a vote is ordered, to  
9 have a second or casting vote), the Advisory Committee may make standing  
10 orders regulating its proceedings or that of any of its committees.

11 2. At every meeting of the Advisory Committee, the Chairman shall  
12 preside and in his absence the members present at the meeting shall appoint one  
13 of their number to preside at the meeting.

14 3. The quorum at a meeting of the Advisory Committee shall consist  
15 of the Chairman or, in an appropriate case, the person presiding at the meeting  
16 pursuant to paragraph 2 of this Schedule and six other members.

17 4. The Advisory Committee shall for the purposes of this Act, meet  
18 not less than three times in each year and subject thereto the Advisory  
19 Committee shall meet whenever it is summoned by the Chairman, and if  
20 required to do so, by notice given to him by not less than nineteen other  
21 members, he shall summon a meeting of the Advisory Committee to be held  
22 within 14 days from the date on which the notice is given.

23 5. Where, the Advisory Committee desires to obtain the advice of any  
24 person on a particular matter, the Advisory Committee may co-opt him for such  
25 period as it thinks fit, but a person who is a member by virtue of this sub-  
26 paragraph shall not be entitled to vote at any meeting of the Advisory  
27 Committee and shall not count towards quorum.

28 *Committees*

29 6. -(1) Subject to its standing orders, the Advisory Committee may  
30 appoint such number of standing and ad hoc committees as it thinks fit to

1 consider and report on any matter which the Commission is concerned  
2 pursuant to this Act.

3 (2) A committee appointed under this paragraph shall -

4 (a) consist of such number of persons (not necessarily members of  
5 the Advisory Committee as may be determined by the Advisory Committee)  
6 and a person, other than a member of the Advisory Committee, shall, hold  
7 office on the committee in accordance with the terms of his appointment;  
8 and

9 (b) be presided over by a member of the Advisory Committee.

10 (3) The quorum of any committee set up by the Advisory  
11 Committee shall be as may be determined by the Advisory Committee.

12 (4) A decision of a committee of the Advisory Committee shall be  
13 of no effect until it is confirmed by the Advisory Committee.

14 7. The fixing of the seal of the Commission shall be authenticated  
15 by the signature of the Chairman, the Executive Vice Chairman or any other  
16 person generally or specifically authorized by the Advisory Committee to  
17 act for that purpose.

18 8. Any contract or instrument which, if made by a person not  
19 being a body corporate, would not be required to be under seal may be made  
20 or executed on behalf of the Commission by the Executive Vice Chairman or  
21 by any other person generally or specially authorized by the Advisory  
22 Committee to act for that purpose.

23 9. Any document purporting to a contract, instrument or other  
24 document duly signed or sealed on behalf of the Agency shall be received in  
25 evidence and shall, unless the contrary is proved, be presumed without  
26 further proof to have been so signed or sealed.

27 10. The validity of any proceedings of the Advisory Committee or  
28 of any of its committees shall not be affected by -

29 (a) any vacancy in the membership of the Advisory Committee or  
30 committee;

1 (b) any defect in the appointment of a member of the Advisory  
2 Committee or committee; or

3 (c) reason that any person not entitled to do so took part in the  
4 proceedings of the Advisory Committee.

5 11. A member of a committee who has a personal interest in any  
6 contract or arrangement entered into or proposed to be considered by the  
7 committee shall forthwith disclose his interest to the committee and shall not  
8 vote on any question relating to the contract or arrangement

9 12. No member of the Advisory Committee shall be personally liable  
10 for any act or omission done or made in good faith while engaged in the  
11 business of the Commission.

#### EXPLANATORY MEMORANDUM

The Bill seeks to make provisions for emergency communication facilities in Nigeria so as to enable citizen-activated response to emergencies, and to provide for the construction of public safety answering centers in each State of the Federation.



ELECOMMUNICATIONS FACILITIES (LAWFUL INTERCEPTION OF  
INFORMATION) BILL, 2019  
ARRANGEMENT OF SECTIONS

*Section:*

PART I - GENERAL

1. Purpose of the Act
2. Application of the Act

PART II – OBLIGATIONS CONCERNING INTERCEPTIONS

3. Obligation concerning interception
4. Operational requirements for transmission apparatus
5. No degradation of capabilities
6. Maintaining capabilities in respect of new services
7. Beginning to operate transmission apparatus
8. New software
9. Time limited compliance for small service provider
10. Global limit
11. Order suspending obligations
12. Ministerial orders

PART III – OBLIGATIONS CONCERNING SUBSCRIBER INFORMATION

13. Provision of subscriber information
14. Exceptional circumstances
15. Use of information
16. Internal audit
17. Preservation of existing authority
18. Obligation to provide information
19. Obligation to assist in assessment and testing
20. Notification of change
21. Notification of simultaneous interception capability
22. Persons engaged in interceptions
23. Mandatory reporting in respect of existing service providers
24. No redundant performance required
25. Exemption order by the President

PART IV – REGULATIONS

26. Regulations

PART V – INSPECTION

27. Designation of inspectors

28. Power of inspectors

PART VI – ADMINISTRATIVE MONETARY PENALTIES

29. Violations

30. Designation of enforcement officers

31. Issuance and service

PART VII – DETERMINATION OF RESPONSIBILITY AND PENALTY

32. Payment of penalty

33. Making representations

34. Presumed responsibility

PART VIII – APPEAL TO MINISTER

35. Right of appeal

PART IX – RULES ABOUT VIOLATIONS

36. Liability of employees and agents

37. Officers of corporate bodies, etc.

38. Due diligence

39. Continuing violation

40. Limitation period

41. Violation or offence

42. Admissibility of documents

PART X – RECOVERY OF PENALTIES AND AMOUNTS

43. Debts to the Government of the Federation

44. Certificate

PART XI – OFFENCES

45. Misleading statements and information

46. Offence

47. Offence

48. Due diligence

49. Officers of corporate bodies, etc.

50. Continuing offence

51. Limitation or prescription

PART XII – INJUNCTIONS

52. Injunctions

PART XIII – INTERPRETATION AND SHORT TITLE

53. Interpretation

54. Short title

SCHEDULES

# A BILL

## FOR

AN ACT REQUIRING TELECOMMUNICATIONS FACILITIES TO FACILITATE THE LAWFUL INTERCEPTION OF INFORMATION TRANSMITTED BY MEANS OF THOSE FACILITIES AND RESPECTING THE PROVISION OF TELECOMMUNICATIONS SUBSCRIBER INFORMATION; AND FOR RELATED MATTERS

*Sponsored by Hon. Uzoma Nkem-Abonta*

[ ] Commencement

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

### PART I – GENERAL

1

2           **1.** The purpose of this Act is to ensure that telecommunications  
3 service providers have the capability to enable national security and law  
4 enforcement agencies to exercise their authority to intercept  
5 communications, and to require service providers to provide subscriber and  
6 other information, without unreasonably impairing the privacy of  
7 individuals, the provision of telecommunications services to Nigerians or  
8 the competitiveness of the Nigerian telecommunications industry.

Purpose of the  
Act

9           **2.-(1)** This Act does not apply to telecommunications service  
10 providers in respect of the telecommunications services specified in Part 1  
11 of Schedule 1 or to the telecommunications service providers in the classes  
12 listed in Part 2 of Schedule 1 in respect of the activities specified in it for that  
13 class.

Application of  
the Act

14           **(2)** This Act (other than sections 5, 6, 12, 18 to 20, 22 and 26 to 52)  
15 does not apply to the telecommunications service providers in the classes  
16 listed in Part 1 of Schedule 2 in respect of the activities specified in it for that  
17 class.

18           **(3)** This Act, other than section 20, does not apply to the

Obligation  
relating to  
interceptions

1 telecommunications service providers in the classes listed in Part 2 of Schedule  
2 2 in respect of the activities specified in it for that class.

3 (4) The President may, on the recommendation of the Minister, by  
4 order, amend Schedule 1 or Schedule 2.

5 PART II – OBLIGATIONS CONCERNING INTERCEPTIONS

6 **3.-(1)** Telecommunications service providers, in connection with the  
7 interception of a communication, shall, in accordance with any regulations,  
8 have the capability to do (and, when requested to do so by an authorized person  
9 or by that person's authority, do) the following –

10 (a) provide the intercepted communication to the authorized person;

11 (b) if the intercepted communication is encoded, compressed,  
12 encrypted or otherwise treated –

13 (i) in cases where the service provider has applied the treatment,  
14 either remove the treatment or, if the treatment cannot readily be removed  
15 using the telecommunications facilities controlled by the service provider,  
16 provide the authorized person with the means to remove it, and

17 (ii) in cases where the treatment has been applied by another, either  
18 remove the treatment or, if the service provider does not control all the means  
19 necessary to remove it, provide the authorized person with the means (other  
20 than transmission apparatus) for removing the treatment that the service  
21 provider controls;

22 (c) provide the authorized person with the prescribed information that  
23 is in the possession or control of the service provider in respect of the location  
24 of equipment used in the transmission of the communication; and

25 (d) comply with any prescribed confidentiality or security measures  
26 in respect of interceptions.

27 (2) For greater certainty, a telecommunications service provider has  
28 no obligation under subsection (1)(b) of this section if any other person has  
29 applied the treatment and (either alone or with others, but to the exclusion of  
30 the service provider) controls the means for its removal.

1 (3) A telecommunications service provider that is capable of  
 2 providing intercepted communications to an authorized person in more than  
 3 one form or manner that conforms with the regulations shall provide them in  
 4 whichever of those forms or manners the authorized person requires.

5 4. The operational requirements in respect of transmission Operational  
 6 apparatus are that the telecommunications service provider operating the requirements for  
 7 apparatus have the capability, in accordance with any regulations, to do the transmission  
 8 following – apparatus

9 (a) enable the interception of communications generated by or  
 10 transmitted through the apparatus to or from any temporary or permanent  
 11 user of the provider's telecommunications services;

12 (b) isolate the communication that is authorized to be intercepted  
 13 from other information and provide the intercepted communication to  
 14 authorized persons, including –

15 (i) isolating the communications of the person whose  
 16 communications are authorized to be intercepted from those of other  
 17 persons, and

18 (ii) isolating the transmission data of the person whose  
 19 communications are authorized to be intercepted from the rest of the  
 20 person's communications;

21 (c) provide information that permits the accurate correlation of all  
 22 elements of intercepted communications; and

23 (d) enable simultaneous interceptions by authorized persons from  
 24 multiple national security and law enforcement agencies of  
 25 communications of multiple users, including enabling –

26 (i) at least the minimum number of those interceptions, and

27 (ii) any greater number of those interceptions (up to the maximum  
 28 number and within the time provided for in the regulations) for the period  
 29 that an agency requests in accordance with any regulations.

No degradation of capabilities 1                    **5.** A telecommunications service provider who meets, in whole or in  
2 part, an operational requirement in respect of transmission apparatus that the  
3 service provider operates shall continue to so meet that operational  
4 requirement.

Maintaining capabilities in respect of new services 5                    **6.** A telecommunications service provider who meets, in whole or in  
6 part, an operational requirement in respect of transmission apparatus that the  
7 service provider operates in connection with any of the service provider's  
8 telecommunications services shall meet that operational requirement to the  
9 same extent in respect of any new service that the service provider begins to  
10 provide using that apparatus.

Beginning to operate transmission apparatus 11                    **7.-(1)** A telecommunications service provider who begins to operate a  
12 transmission apparatus for the purpose of providing telecommunications  
13 services shall meet the operational requirements in respect of the apparatus,  
14 whether by means of the apparatus itself or by any other means.

15                    (2) Subsection (1) of this section does not apply in respect of  
16 transmission apparatus that a telecommunications service provider acquires  
17 from another telecommunications service provider and operates in order to  
18 continue to provide the same telecommunications service to approximately the  
19 same users. However, the acquiring service provider shall continue to meet  
20 any operational requirements in respect of the transmission apparatus that the  
21 service provider from whom it was acquired was obligated to meet.

New software 22                    **8.-(1)** When a telecommunications service provider installs new  
23 software for a transmission apparatus that the service provider operates, the  
24 service provider shall meet the operational requirements in respect of that  
25 apparatus to the extent that would be enabled by the installation of the software  
26 in the form available from the software's manufacturer that would most  
27 increase the service provider's ability to meet those operational requirements.

28                    (2) Subsection (1) of this section applies even if the form of the  
29 software in question would require the telecommunications service provider to  
30 acquire additional software licences or telecommunications facilities to

1 achieve that increased ability.

2           **9.** A telecommunications service provider who, together with any  
 3 affiliated or associated telecommunications service provider as defined by  
 4 the regulations, has fewer than 100,000 subscribers, without regard to the  
 5 telecommunications service to which they subscribe, is considered (during  
 6 the three years after this Act comes into force) to meet any operational  
 7 requirement in respect of transmission apparatus that the service provider is  
 8 obligated to meet by virtue of section 7 or 8 of this Act if the service provider  
 9 provides, in accordance with any regulations, a physical connection point  
 10 for the transmission apparatus permitting an authorized person to effect an  
 11 interception.

Time limited  
compliance for  
small service  
provider

12           **10.** Subject to section 12 of this Act, a telecommunications service  
 13 provider is not required, under sections 5 to 8 of this Act, to increase the  
 14 service provider's capability to enable simultaneous interceptions beyond  
 15 the applicable global limit determined in accordance with the regulations.

Global limit

16           **11.**-(1) The Minister may, by order made on the application of a  
 17 telecommunications service provider, suspend in whole or in part any  
 18 obligation of the service provider to meet an operational requirement that  
 19 would arise from the operation of section 7 or 8 of this Act.

Order suspending  
obligations

20           (2) The application must –

21           (a) specify the operational requirement with respect to which an  
 22 order is sought;

23           (b) set out the reasons for making the application;

24           (c) include a plan that –

25           (i) sets out the measures by which and the time within which the  
 26 telecommunications service provider proposes to meet the operational  
 27 requirement specified in accordance with paragraph (a) of this subsection,

28           (ii) describes any measures that the telecommunications service  
 29 provider proposes to take to improve the service provider's capability to  
 30 meet the operational requirements, even if they are not yet applicable, and

1            (iii) identifies the stages at which and methods by which the Minister  
2            can measure progress in the implementation of the plan and the time, manner  
3            and form for reports the service provider proposes to make to the Minister; and

4            (d) conform with any prescribed requirements relating to the content  
5            or form of the application or the manner in which it is to be made.

6            (3) In deciding whether to make an order, the Minister shall take into  
7            account the public interest in national security and law enforcement and the  
8            commercial interests of the telecommunications service provider as well as any  
9            other matter that the Minister considers relevant.

10           (4) The Minister shall, within 120 days after the day on which the  
11           Minister receives the application, notify the applicant of the Minister's decision  
12           to accept or refuse it and, if no notification has been received by the applicant at  
13           the end of that period, the Minister is deemed to have refused the application.

14           (5) In the order, the Minister may include any conditions that the  
15           Minister considers appropriate and shall fix its term for a period of not more  
16           than three years.

17           (6) The telecommunications service provider shall comply with the  
18           conditions of the order as soon as the service provider begins to operate the  
19           telecommunications apparatus or installs the new software, as the case may be.

20           (7) The Minister may revoke an order on written notice to the  
21           telecommunications service provider if—

22           (a) the service provider has contravened this Act, the regulations or  
23           the conditions of the order; or

24           (b) the order was obtained through misrepresentation.

25           (8) The Minister may amend an order with the consent of the  
26           telecommunications service provider.

Ministerial orders 27           **12.-(1)** The Minister may, if in the Minister's opinion it is necessary to  
28           do so, order a telecommunications service provider—

29           (a) to comply with any obligation under section 3(1) of this Act in a  
30           manner or within a time that the Minister specifies;



1                    (b) to enable, in a manner or within a time that the Minister  
2                    specifies, a number of simultaneous interceptions greater than any  
3                    maximum or limit that would otherwise apply;

4                    (c) to comply, in a manner or within a time that the Minister  
5                    specifies, with any confidentiality or security measures respecting  
6                    interceptions that the Minister specifies in addition to any that are  
7                    prescribed;

8                    (d) to meet an operational requirement in respect of transmission  
9                    apparatus operated by the service provider that the service provider would  
10                   not otherwise be required to meet; or

11                   (e) to meet an operational requirement in respect of transmission  
12                   apparatus operated by the service provider in a manner or within a time that  
13                   the Minister specifies.

14                   (2) The Minister may not make an order under section (1) of this  
15                   section in respect of a telecommunications service provider in relation to a  
16                   telecommunications service specified in Part 1 of Schedule 1 or in respect of  
17                   a telecommunications service provider in a class listed in Part 2 of Schedule  
18                   1 or Part 2 of Schedule 2 in relation to the activities specified there for that  
19                   class.

20                   (3) The Minister shall pay the telecommunications service  
21                   provider an amount that the Minister considers reasonable towards the  
22                   prescribed expenses that the Minister considers are necessary for the service  
23                   provider to incur initially to comply with an order made under this section.

24                   (4) The Minister may provide the telecommunications service  
25                   provider with any equipment or other thing that the Minister considers the  
26                   service provider needs to comply with an order made under this section.

27                   (5) Sections 5 and 6 of this Act do not apply in respect of any  
28                   equipment or other thing provided by the Minister under subsection (4) of  
29                   this section.

30                   (6) An order made by the Minister under subsection (1) of this

Provision of  
subscriber  
information

1 section prevails over any orders made by the President under section 29 of this  
2 Act and over the regulations, to the extent of any inconsistency.

3 PART III – OBLIGATIONS CONCERNING SUBSCRIBER INFORMATION

4 **13.-(1)** Every telecommunications service provider shall, in  
5 accordance with the regulations, provide to a person designated under  
6 subsection (3) of this section, on his or her written request, any information in  
7 the service provider's possession or control respecting the name and address of  
8 any subscriber to any of the service provider's telecommunications services  
9 and respecting any other identifiers associated with the subscriber.

10 (2) A designated person shall ensure that he or she makes a request  
11 under subsection (1) of this section only in performing, as the case may be, a  
12 duty or function –

13 (a) of the State Security Service under the National Security Agencies  
14 Act; or

15 (b) of a police service, including any duty or function related to the  
16 enforcement of any laws of Nigeria, of a State or of a foreign jurisdiction.

17 (3) The Inspector-General of Police or the Director-General of the  
18 State Security Service, may designate for the purposes of this section any  
19 employee of his or her agency, or a class of such employees, whose duties are  
20 related to protecting national security or to law enforcement.

21 (4) The number of persons designated under subsection (3) of this  
22 section in respect of a particular agency may not exceed the greater of five and  
23 the number that is equal to five percent of the total number of employees of that  
24 agency.

25 (5) The Inspector-General of Police and the Director-General of the  
26 State Security Service may delegate his or her power to designate persons  
27 under subsection (3) of this section to, respectively, a member of a prescribed  
28 class of senior officers of the Nigeria Police Force or a member of a prescribed  
29 class of senior officials of the State Security Service.

30 (6) A designated person shall, with respect to requests made by the

1 person under subsection (1) of this section –

2 (a) keep, in accordance with the regulations, a record that –

3 (i) identifies the duty or function referred to in subsection (2) of this  
4 section in the performance of which the request is made,

5 (ii) describes the relevance of the information requested to that  
6 duty or function and includes any other information that is necessary to  
7 know the reason for the request; and

8 (b) deal with the information provided in response to those  
9 requests in accordance with the regulations.

10 **14.-(1)** A police officer may request a telecommunications service  
11 provider to provide to the officer the information referred to in section 13(1)  
12 of this Act in the following circumstances –

Exceptional  
circumstances

13 (a) the officer believes on reasonable grounds that the urgency of  
14 the situation is such that the request cannot, with reasonable diligence, be  
15 made under subsection 13(1);

16 (b) the officer believes on reasonable grounds that the information  
17 requested is immediately necessary to prevent an unlawful act that would  
18 cause serious harm to any person or to property; and

19 (c) the information directly concerns either the person who would  
20 perform the act that is likely to cause the harm or the victim, or intended  
21 victim, of the harm.

22 The police officer shall inform the telecommunications service provider of  
23 his or her name, rank, badge number and the place of his primary assignment  
24 and state that the request is being made in exceptional circumstances and  
25 under the authority of this subsection.

26 (2) The telecommunications service provider shall provide the  
27 information to the police officer as if the request were made by a designated  
28 person under section 13(1) of this Act.

29 (3) The police officer shall, within 24 hours after making a request  
30 under subsection (1), communicate to a designated person in the same place

	1	of primary assignment as the officer all the information relating to the request
	2	that would be necessary if it had been made under section 13(1) and inform that
	3	person of the grounds referred to in subsection (1)(a) and (b) of this section.
	4	The designated person shall in writing confirm to the telecommunications
	5	service provider the particulars of the request, including noting that it was
	6	made in exceptional circumstances under the authority of subsection (1) of this
	7	section, and shall, under section 13(6)(a) of this Act, keep a record of the
	8	request that includes those grounds.
Use of information	9	<b>15.</b> Information that is provided in response to a request made under
	10	section 13(1) or 14(1) of this Act shall not, without the consent of the individual
	11	to whom it relates, be used by the agency in which the designated person or
	12	police officer is employed except for the purpose for which the information
	13	was obtained or for a use consistent with that purpose.
Internal audit	14	<b>16.-(1)</b> The Inspector-General of Police or the Director-General of the
	15	State Security Service, who makes a designation under section 13(3) of this Act
	16	shall cause internal audits to be regularly conducted of the practices of his or
	17	her agency to ensure compliance with sections 13 to 15 of this Act and the
	18	regulations made for the purposes of those sections and of the internal
	19	management and information systems and controls concerning requests made
	20	under sections 13 and 14 of this Act.
	21	(2) The person who causes an internal audit to be conducted shall,
	22	without delay, make a report to the Minister of anything arising out of the audit
	23	that in his or her opinion should be brought to the attention of the Minister,
	24	including any corrective action proposed or taken.
Preservation of existing authority	25	<b>17.</b> Nothing in this Act derogates from any other authority under law
	26	to obtain the information referred to in section 13(1) of this Act from a
	27	telecommunications service provider.
Obligation to provide information	28	<b>18.-(1)</b> A telecommunications service provider shall, on the request of
	29	a police officer or an employee of the State Security Service –
	30	(a) provide the prescribed information relating to the service

1 provider's telecommunications facilities;

2 (b) indicate what telecommunications services the service provider  
3 offers to subscribers; and

4 (c) provide the name, address and telephone number of any  
5 telecommunications service providers from whom the service provider  
6 obtains or to whom the service provider provides telecommunications  
7 services, if the service provider has that information.

8 (2) A telecommunications service provider shall, on the request of  
9 an authorized person, provide the prescribed information concerning –

10 (a) telecommunications services that are provided by the service  
11 provider to a person whose communications are the subject of a court order  
12 authorizing their interception; and

13 (b) telecommunications facilities that are used by the service  
14 provider in providing those telecommunications services.

15 **19.** A telecommunications service provider shall, on the request of  
16 a police officer or of an employee of the State Security Service, provide in  
17 accordance with any regulations the assistance that the police officer or  
18 employee reasonably requires to permit him or her to assess or to test the  
19 service provider's telecommunications facilities for the purpose of an  
20 interception.

Obligation to  
assist in  
assessment and  
testing

21 **20.** If the State Security Service or a law enforcement agency has  
22 provided a telecommunications service provider with any equipment or  
23 other thing for intercepting communications, the service provider shall,  
24 before making any change to the service provider's telecommunications  
25 facilities that is likely to impair or reduce the interception capability of the  
26 equipment or other thing, notify the Service or law enforcement agency, as  
27 the case may be, of the change.

Notification of  
change

28 **21.** A telecommunications service provider shall notify the  
29 Minister if –

Notification of  
simultaneous  
interception  
capability

30 (a) in respect of a particular transmission apparatus, the increased

1 number of simultaneous interceptions that the service provider is required, as a  
2 result of a request referred to in section 4(d)(ii) of this Act, to be capable of  
3 enabling is 75% or more of the maximum number that is applicable under that  
4 section; or

5 (b) the number of simultaneous interceptions that the service provider  
6 is required, under sections 5 to 8 of this Act, to be capable of enabling is 75% or  
7 more of the global limit that is applicable under section 10 of this Act.

Persons engaged  
in interceptions

8 **22.-(1)** A telecommunications service provider shall, on the request of  
9 a police officer or of an employee of the State Security Service, provide the  
10 names of the persons who are employed by or carrying out work for the service  
11 provider and who may assist in the interception of communications.

12 (2) The Nigeria Police Force or the State Security Service may  
13 conduct an investigation for the purposes of a security assessment of any of  
14 those persons who consent to the investigation.

Mandatory  
reporting in  
respect of  
existing service  
providers

15 **23.-(1)** Every telecommunications service provider that is providing  
16 telecommunications services on the day this Act comes into force shall submit  
17 a report to the Minister within six months after that day, in the prescribed form  
18 and manner, containing –

19 (a) the prescribed information concerning the extent to which the  
20 service provider meets operational requirements in respect of transmission  
21 apparatus; and

22 (b) any prescribed information relevant to the administration of this  
23 Act.

24 (2) A telecommunications service provider that acquires transmission  
25 apparatus that is referred to in section 7(2) of this Act shall, before using it in  
26 providing telecommunications services, submit to the Minister a report in the  
27 prescribed form and manner containing the prescribed information referred to  
28 in subsection (1) of this section.

29 (3) The Minister may, at any time, require a telecommunications  
30 service provider to submit a report or further report in the form and manner, and

1 within the period, that the Minister specifies containing the information  
2 referred to in subsection (1) of this section and any additional related  
3 information that the Minister specifies.

4 (4) Every report submitted under this section must be accompanied  
5 by a written statement certifying that it does not contain any untrue  
6 statements or omissions of material facts, that it fairly presents the  
7 telecommunications service provider's operations at the time of submission  
8 and that the signatory has taken steps to ensure the report's accuracy and  
9 promises to correct any material error that is detected in the report after its  
10 submission and to submit a revised report to the Minister as soon as possible,  
11 with another similar written statement accompanying it.

12 (5) The statement must be signed –

13 (a) if the telecommunications service provider is a corporation, by  
14 one of its officers or directors; and

15 (b) in any other case, by an individual who is an owner of the  
16 service provider or by an officer or a director of a corporation that is an  
17 owner of the service provider.

18 24. If two or more telecommunications service providers have, in  
19 effect, the same obligation under this Act in connection with any given  
20 transmission apparatus or a given interception and any one of them performs  
21 that obligation, it is deemed to be performed by all.

No redundant  
performance  
required

22 25.-(1) The President may, on the recommendation of the Minister  
23 and the Minister of Communication, make an order exempting any class of  
24 telecommunications service providers from all or part of the obligations  
25 under any of sections 3, 6 to 8, 13, 14 and 23 of this Act or under any  
26 regulations made for the purposes of those sections.

Exemption order  
by the President

27 (2) Before making an order, the President shall consider –

28 (a) the extent to which the exemption would adversely affect  
29 national security or law enforcement;

30 (b) whether the telecommunications service providers can comply

1 with the obligations from which they would be exempted;

2 (c) whether the costs of compliance with those obligations would  
3 have an unreasonable adverse effect on the business of the telecommunications  
4 service providers; and

(d) whether compliance with those obligations would unreasonably impair the provision of telecommunications services to Nigerians or the competitiveness of the Nigerian telecommunications industry.

8                   (3) In the order, the President may include any conditions that he  
9       considers appropriate and shall fix its term for a period of not more than two  
10   years.

(4) When an order under which a telecommunications service provider is exempted from an obligation under section 7 or 8 of this Act expires or is revoked, those sections apply to the telecommunications service provider who was exempted as of the date of expiry or revocation as if the exemption had never been made.

## 16 PART IV – REGULATIONS

## Regulations

17                   **26.-(1)** The President may, on the recommendation of the Minister,  
18   make regulations for carrying out the purposes and provisions of this Act and  
19   prescribing anything that is to be prescribed under this Act, including  
20   regulations –

(a) in respect of obligations under section 3(1) of this Act, including specifying the time, manner and form in which they must be performed and the circumstances in which they do not apply or need not be performed;

(b) requiring telecommunications service providers to specify the locations where intercepted communications will be provided and governing which locations may be so specified;

(c) in respect of the operational requirements referred to in section 4 of this Act, including matters of time, manner and form in relation to them and the circumstances in which they do not apply or need not be met and, for the purposes of section 4(d) –



- 1                    (i) providing for the minimum number and maximum number of  
2 simultaneous interceptions or the manner of determining them,  
3                    (ii) prescribing what is to be counted as a single interception,  
4                    (iii) governing requests to increase the number of those  
5 interceptions, including the circumstances in which requests may be made,  
6 the manner of making them and the duration of the increases, and  
7                    (iv) in respect of the maximum number of agencies for which a  
8 telecommunications service provider is to simultaneously enable  
9 interceptions;  
10                    (d) for the purposes of section 12(3) of this Act, prescribing matters  
11 that the Minister is to consider in deciding what amount is reasonable or  
12 what expenses are necessary;  
13                    (e) for the purposes of sections 13 and 14 of this Act, respecting the  
14 making of requests and the provision of information under those sections,  
15 including—  
16                    (i) specifying information that is to be provided with respect to  
17 name, address or other identifiers, the manner of (and time for) providing it  
18 and the circumstances under which particular information is to be provided,  
19                    (ii) prescribing those other identifiers, and  
20                    (iii) prescribing any confidentiality or security measures with  
21 which the telecommunications service provider must comply in providing  
22 that information;  
23                    (f) for the purposes of section 19 of this Act, in respect of the  
24 assessment and testing of telecommunications facilities and transmission  
25 apparatus; and  
26                    (g) for carrying out sections 29 to 44 of this Act, including—  
27                    (i) designating any provision of this Act or of any regulation, or any  
28 order or class of orders made under this Act or any requirement or condition  
29 of such a provision or order or class of orders (or class of such requirements  
30 or conditions) as a provision, order, requirement or condition whose

1       contravention may be proceeded with as a violation,

2               (ii) prescribing the maximum administrative monetary penalty for a

3       particular violation, which maximum may not exceed N5,000,000, in the case

4       of an individual, and N25,000,000, in any other case,

5               (iii) prescribing criteria to be taken into account in determining the

6       amount of a proposed penalty,

7               (iv) in respect of compliance agreements referred to in section 33(3)

8       of this Act,

9               (v) in respect of the service of notices referred to in those sections,

10       including the manner of serving them, the proof of their service and the

11       circumstances under which they are deemed to have been served, and

12               (vi) in respect of procedure on appeals, which procedure must provide

13       for a reasonable opportunity for the appellant to present written evidence and

14       make representations in writing.

(2) Regulations made under subsection (1) of this section may apply generally or to particular classes of telecommunications service providers and may vary by class of telecommunications service provider, by class of telecommunications service provided, by class of telecommunications facility or according to the population of the region in which a telecommunications facility of a given class is located.

## PART V – INSPECTION

### Designation of inspectors

22                   **27.-(1)** The Minister may designate any qualified person as an  
23   inspector for the purpose of verifying compliance with this Act.

(2) Inspectors are to receive a certificate attesting to their designation and shall, on request, present the certificate to any person appearing to be in charge of any place that they enter in the course of an inspection.

## Powers of inspectors

27                   **28.-(1)** An inspector may, for the purposes for which the inspector is  
28   designated—

(a) enter and inspect, at any reasonable time, any place owned by, or  
under the control of, any telecommunications service provider in which the

1        inspector believes on reasonable grounds there is any document,  
2        information, transmission apparatus, telecommunications facility or other  
3        thing relevant to the enforcement of this Act;

4                (b) examine any document, information or thing found in the place  
5        and open or cause to be opened any container or other thing for those  
6        purposes;

7                (c) examine or test or cause to be tested any telecommunications  
8        facility or transmission apparatus or related equipment found in the place;

9                (d) use, or cause to be used, any computer system at the place to  
10       search and examine any information contained in or available to the system;

11               (e) reproduce, or cause to be reproduced, any information in the  
12       form of a printout, or other intelligible output, and remove the printout, or  
13       other output, for examination or copying; or

14               (f) use, or cause to be used, any copying equipment or means of  
15       telecommunications at the place.

16               (2) An inspector carrying out an inspection may be accompanied  
17       by any other person chosen by the inspector.

18               (3) Despite subsection (1)(a) of this section, an inspector may not  
19       enter a dwelling-place except with the consent of the occupant or under the  
20       authority of a warrant issued under subsection (4) of this section.

21               (4) A Judge may issue a warrant authorizing an inspector named in  
22       it to enter a dwelling-place, subject to any conditions specified in the  
23       warrant, if, on an ex parte application, the judge is satisfied by information  
24       on oath that –

25                (a) the dwelling-place is a place described in subsection (1)(a) of  
26       this section;

27                (b) entry into the dwelling-place is necessary for the enforcement  
28       of this Act; and

29                (c) entry has been refused, there are reasonable grounds for  
30       believing that entry will be refused or consent to entry cannot be obtained

1 from the occupant.

2 (5) An inspector who executes a warrant issued under subsection (4)  
3 of this section shall not use force unless the use of force has been specifically  
4 authorized in the warrant and the inspector either is a peace officer or is  
5 accompanied by one.

6 (6) The owner or person in charge of a place entered or to be entered  
7 by an inspector shall give the inspector –

8 (a) all reasonable assistance to enable the inspector to carry out his or  
9 her duties under this Act; and

10 (b) any information that he or she reasonably requests.

11 (7) When an inspector is carrying out his or her duties under this Act,  
12 no person shall –

13 (a) wilfully resist or obstruct the inspector; or

14 (b) knowingly make a false or misleading statement to the inspector  
15 or knowingly provide false or misleading information to him or her.

16 **PART VI – ADMINISTRATIVE MONETARY PENALTIES**

Violations

17 **29.** Every person who contravenes a provision, order, requirement or  
18 condition designated under section 31(1)(g)(i) commits a violation and is liable  
19 to an administrative monetary penalty not exceeding the prescribed maximum  
20 or, if no maximum has been prescribed, to a penalty not exceeding N5,000,000,  
21 in the case of an individual, and N25,000,000, in any other case.

Designation of  
enforcement  
officers

22 **30.-(1)** The Minister may designate as enforcement officers for the  
23 purposes of this Act persons or classes of persons that the Minister considers  
24 qualified.

25 (2) Enforcement officers shall receive a certificate attesting to their  
26 designation and shall, on request, present the certificate to any person  
27 appearing to be in charge of any place that they enter in the course of carrying  
28 out their duties or functions.

29 (3) Every enforcement officer is, in carrying out his or her duties and  
30 functions, an inspector.

1                   31.-(1) If an enforcement officer believes on reasonable grounds  
2                   that a person has committed a violation, the officer may issue, and shall  
3                   cause to be served on the person, a notice of violation.

4                   (2) The Minister may establish the form and content of notices of  
5                   violation, but each notice of violation must—

6                   (a) set out the name of the person believed to have committed the  
7                   violation;

8                   (b) identify the violation;

9                   (c) set out the penalty that the enforcement officer proposes to  
10                  impose;

11                  (d) inform the person that they may, within 30 days after the day on  
12                  which the notice is served or within any longer period specified in it, either  
13                  pay the penalty proposed in the notice or make representations with respect  
14                  to the alleged violation or proposed penalty (including any representations  
15                  about entering into a compliance agreement) and set out the manner for  
16                  doing so; and

17                  (e) inform the person that, if they fail to pay the penalty or make  
18                  representations in accordance with the notice, they will be considered to  
19                  have committed the violation and the proposed penalty will be imposed in  
20                  respect of it.

21                  (3) The amount of a penalty is, in each case, to be determined  
22                  taking into account the following matters—

23                  (a) that administrative monetary penalties have as their purpose to  
24                  encourage compliance rather than to punish;

25                  (b) the degree of intention or negligence on the part of the person  
26                  who committed the violation;

27                  (c) the harm done by the violation;

28                  (d) the person's history of prior violations or convictions (or  
29                  compliance agreements entered into) under this Act during the five-year  
30                  period immediately before the violation;

- 1 (e) the cumulative amount of the penalties that may be imposed for
- 2 any violation in respect of which section 39 of this Act applies;
- 3 (f) any prescribed criteria; and
- 4 (g) any other relevant matter.

5 PART VII – DETERMINATION OF RESPONSIBILITY AND PENALTY

Payment of  
penalty

6 **32.** If the person pays the penalty proposed in the notice of violation,  
7 the person is considered to have committed the violation and proceedings in  
8 respect of it are ended.

Making  
representations

9 **33.-(1)** The person alleged to have committed a violation may make  
10 representations to an enforcement officer other than the one who issued the  
11 notice of violation.

12 (2) The enforcement officer to whom the representations are made  
13 shall either –

14 (a) enter into a compliance agreement with the person on behalf of the  
15 Minister; or

16 (b) decide on a balance of probabilities whether the person committed  
17 the violation and, if so, impose the penalty proposed, a lesser penalty or no  
18 penalty, taking into account the matters mentioned in section 31(3) of this Act.

19 The enforcement officer shall cause notice of any decision made under  
20 paragraph (b) of this subsection to be issued and served on the person together  
21 with written reasons for the decision and notice of the person's right of appeal  
22 under section 35(1) of this section.

23 (3) A compliance agreement –

24 (a) may include any terms that the officer considers appropriate  
25 including a requirement to give reasonable security, in a form and an amount  
26 that the officer considers satisfactory, for the person's performance of the  
27 agreement; and

28 (b) must provide for payment by the person to the Receiver General of  
29 a specified amount not greater than the penalty proposed in the notice of  
30 violation if the person does not comply with the agreement.

1 (4) Entry into a compliance agreement ends the violation  
 2 proceedings and precludes any further violation or offence proceedings in  
 3 relation to the act or omission in question.

4 (5) The Minister may issue and serve a notice of default on a person  
 5 who has entered into a compliance agreement but has not complied with it.  
 6 On service of the notice, the person is liable to pay without delay the amount  
 7 provided for in the agreement, failing which, the Minister may realize or  
 8 enforce any security for the person's performance of the agreement.

9 34. A person who neither pays the penalty nor makes Presumed  
 10 representations in accordance with the notice of violation is considered responsibility  
 11 have committed the violation, and the enforcement officer shall impose the  
 12 penalty proposed and notify the person of it.

13 PART VIII – APPEAL TO MINISTER

14 35.-(1) A person served with notice of a decision made under Right of appeal  
 15 section 33(2)(b) of this Act may, within 30 days after the day on which the  
 16 notice is served or within any longer period that the Minister allows in  
 17 accordance with any regulations, appeal the decision to the Minister.

18 (2) On an appeal, the Minister may confirm, set aside or vary the  
 19 decision of the enforcement officer.

20 PART IX – RULES ABOUT VIOLATIONS

21 36. A person is liable for a violation that is committed by the Liability of  
 22 person's employee acting in the course of the employment or the person's employees and  
 23 agent acting within the scope of his or her authority, whether or not the agents  
 24 employee, or agent who actually committed the violation is identified or  
 25 proceeded against.

26 37. An officer, director or agent of a person other than an individual Officers of  
 27 that commits a violation under this Act is a party to the violation if he or she corporate bodies,  
 28 directed, authorized, assented to, acquiesced in or participated in the etc.  
 29 commission of the violation and is liable to the administrative monetary  
 30 penalty provided for that violation whether or not the person that committed

	1	the violation has been proceeded against under sections 31 to 34 of this Act. For
	2	greater certainty, an officer or director, or any agent who is an individual, is
	3	liable only to the penalty provided in respect of an individual.
Due diligence	4	<b>38.</b> Due diligence is a defence in a proceeding in relation to a
	5	violation.
Continuing violation	6	<b>39.</b> A violation that is committed or continued on more than one day
	7	constitutes a separate violation for each day on which it is committed or
	8	continued.
Limitation period	9	<b>40.</b> Any proceedings in respect of a violation may be instituted at any
	10	time within, but not later than, two years after the day on which the subject-
	11	matter of the proceedings arose.
Violation or offence	12	<b>41.</b> -(1) If it is possible to proceed with any act or omission as a
	13	violation and it is also possible to proceed with it as an offence, proceeding in
	14	one manner precludes proceeding in the other.
	15	(2) For greater certainty, a violation is not an offence.
Admissibility of documents	16	<b>42.</b> In any proceeding, in the absence of evidence to the contrary, a
	17	document that appears to be a notice issued under section 31(1) or 33(2) or (5)
	18	of this Act or given under section 34 of this Act or a certificate issued under
	19	section 44(1) of this Act is presumed to be authentic and is proof of its contents.
	20	<b>PART X – RECOVERY OF PENALTIES AND AMOUNTS</b>
Debts to the Government of the Federation	21	<b>43.</b> -(1) A penalty imposed under this Act and an amount referred to in
	22	section 33(5) of this Act each constitute a debt due to the Government of the
	23	Federation and may be recovered in the Federal High Court or any other court
	24	of competent jurisdiction.
	25	(2) No proceedings to recover such a debt may be commenced later
	26	than five years after the day on which the debt became payable.
	27	(3) Each such debt is payable to the Receiver General.
Certificate	28	<b>44.</b> -(1) The Minister may issue a certificate certifying the unpaid
	29	amount of any debt referred to in section 43(1) of this Act.
	30	(2) Registration in the Federal High Court or in any other court of



1 competent jurisdiction of the certificate has the same effect as a judgment of  
2 that court for a debt of the amount specified in the certificate and all related  
3 registration costs.

4 PART XI – OFFENCES

5 **45.** No person shall do any of the following things in performing Misleading  
6 any obligation under this Act or in any application, declaration or report statements and  
7 made under it – information

8 (a) knowingly make a false or misleading statement or knowingly  
9 provide false or misleading information; or

10 (b) knowingly omit to state a material fact or to provide material  
11 information.

12 **46.** Every person who wilfully contravenes section 3(1) of this Offence  
13 Act, any of sections 5 to 8 of this Act or an order made under section 12 of  
14 this Act commits an offence and is liable on prosecution by summary  
15 conviction –

16 (a) in the case of an individual, to a fine not exceeding  
17 N10,000,000; or

18 (b) in any other case, to a fine not exceeding N50,000,000.

19 **47.**-(1) Every person who contravenes section 11(6), 20, 23 or 45 Offence  
20 of this Act or a condition referred to in section 25(3) of this Act is guilty of an  
21 offence punishable on summary conviction and liable –

22 (a) in the case of an individual, to a fine not exceeding N2,500,000  
23 for a first offence, or N5,000,000 for a subsequent offence; or

24 (b) in any other case, to a fine not exceeding N10,000,000 for a first  
25 offence, or N25,000,000 for a subsequent offence.

26 (2) Every person who contravenes section 28(6) or (7) of this Act is  
27 guilty of an offence punishable on summary conviction and liable to a fine  
28 not exceeding N1,500,000.

29 (3) Every person who contravenes any other provision of this Act  
30 or a regulation made under this Act is guilty of an offence punishable on

	1	summary conviction and liable to a fine not exceeding N2,500,000.
	2	(4) A prosecution may not be commenced in respect of a
	3	contravention referred to in subsection (1) of this section or section 41 of this
	4	section without the consent of the Attorney General of the Federation.
Due diligence	5	<b>48.</b> Due diligence is a defence in a prosecution for an offence under
	6	this Act.
Officers of corporate bodies, etc.	7	<b>49.</b> If a person other than an individual commits an offence under this
	8	Act, every officer, director, agent of the person who directed, authorized,
	9	assented to, or participated in the commission of the offence is a party to and
	10	guilty of the offence and liable on conviction to the punishment provided for
	11	the offence whether or not the person that committed the offence has been
	12	prosecuted or convicted. For greater certainty, an officer or director, or any
	13	agent who is an individual, is liable only to the punishment provided in respect
	14	of an individual.
Continuing offence	15	<b>50.</b> If an offence under this Act is committed or continued on more
	16	than one day, the person who committed the offence is liable to be convicted for
	17	a separate offence for each day on which the offence is committed or continued.
Limitation or prescription	18	<b>51.</b> Proceedings in respect of an offence under this Act may be
	19	instituted at any time within, but not later than, two years after the day on which
	20	the subject-matter of the proceedings arose.
	21	PART XII – INJUNCTIONS
Injunctions	22	<b>52.-(1)</b> If a court of competent jurisdiction is satisfied, on application
	23	by the Minister, that a contravention of section 7(1) or 8 of this Act is being or is
	24	likely to be committed, the court may grant an injunction, subject to any
	25	conditions that it considers appropriate, ordering the person to cease or refrain
	26	from operating the transmission apparatus referred to in section 7(1) of this Act
	27	or to refrain from acquiring, installing or operating the new software referred to
	28	in section 8 of this Act.
	29	(2) For the purposes of subsection (1) of this section, the Federal High
	30	Court is a court of competent jurisdiction.

PART XIII – INTERPRETATION AND SHORT TITLE

53.-(1) Unless the context otherwise requires –

Interpretation

“authorized” in relation to a person, means having authority, under the –

(a) Police Act,

(b) National Security Agencies Act,

(c) Criminal Code and Penal Code,

to intercept communications;

“communication” means a communication effected by means of telecommunications and includes any related transmission data or other ancillary information;

“intercept” includes listen to, record or acquire a communication;

“Minister” means the Minister of Justice;

“person” includes a partnership, an unincorporated organization, a government, a government agency and any other person or entity that acts in the name of or for the benefit of another such as a trustee, executor, administrator, liquidator of the succession, guardian, curator or tutor;

“prescribed” means prescribed by the regulations;

“telecommunications facility” means any facility, apparatus or other thing that is used for telecommunications or for any operation directly connected with telecommunications;

“telecommunications service” means a service, or a feature of a service, that is provided by means of telecommunications facilities, whether the provider owns, leases or has any other interest in or right respecting the telecommunications facilities and any related equipment used to provide the service;

“telecommunications service provider” means a person who, independently or as part of a group or association, provides telecommunications services;

“transmission apparatus” means any apparatus of a prescribed class whose principal functions are one or more of the following –

(a) the switching or routing of communications,

1                    (b) the input, capture, storage, organization, modification, retrieval,  
2                    output or other processing of communications,

3                    (c) the control of the speed, code, protocol, content, format, switching  
4                    or routing or similar aspects of communications, or

5                    (d) any other function that is similar to one described in paragraphs (a)  
6                    to (c);

7                    “transmission data” means data relating to the telecommunications functions  
8                    of dialing, routing, addressing or signaling that identifies or purports to identify  
9                    the origin, type, direction, date, time, duration, size, destination or termination  
10                    of a telecommunication generated or received by means of a  
11                    telecommunications facility or the type of telecommunications service used.

Short title

12                    **54.** This Bill may be cited as the Telecommunications Facilities  
13                    (Lawful Interception of Information) Bill, 2019.

## 1 SCHEDULES

## 2 SCHEDULE 1

3 (Sections 2(1) and (4) and 12(2))

4 EXCLUSIONS FROM THE APPLICATION OF THE ACT

## 5 PART 1

6                   1. A telecommunications service intended principally for the use  
7                   of its provider and the provider's household or employees and not by the  
8                   public.

## 9 PART 2

10                   **1. Telecommunications service providers** whose principal function  
11           is operating a registered charity within the meaning of that expression in any  
12           legislation, other than any service provider in a class listed in Schedule 2, or  
13           operating an educational institution other than a post-secondary institution,  
14           or operating a hospital, a place of worship, a retirement home or a  
15           telecommunications research network, only in respect of  
16           telecommunications services that they provide ancillary to their principal  
17           function.

18                   **2.** Telecommunications service providers that are also  
19       broadcasting undertakings, as may be defined in the Nigerian Broadcasting  
20       Commission Act, only in respect of broadcasting.

21 SCHEDULE 2

22 (Sections 2(2) to (4) and 12(2))

## 23 PARTIAL APPLICATION OF THE ACT

## 24 PART 1

25                   **1.** Telecommunications service providers that transmit  
26           communications on behalf of other telecommunications service providers,  
27           that do not modify particular communications transmitted and that do not  
28           authenticate the end users of the telecommunications services of those other  
29           service providers, only in respect of the telecommunications services  
30           provided to the other service providers.

## PART 2

1. Telecommunications service providers whose principal business or function is operating a post-secondary educational institution, a library, a community centre, a restaurant or an establishment that provides lodgings or residential accommodations, such as a hotel, an apartment building or a condominium, only in respect of telecommunications services that they provide ancillary to their principal business or function.

## EXPLANATORY MEMORANDUM

This Bill seeks to require telecommunications service providers to put in place and maintain certain capabilities that facilitate the lawful interception of information transmitted by telecommunications and to provide basic information about their subscribers to the Nigeria Police Force and the State Security Service.

# A BILL

## FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE SATELLITE TOWNS  
DEVELOPMENT AGENCY TO BE CHARGED WITH THE RESPONSIBILITY FOR  
DEVELOPMENT AND DEFINING THE BOUNDARIES OF THE SATELLITE  
TOWNS AND FOR RELATED MATTERS

*Sponsored by Hon. Uzoma Nkem-Abonta*

[ ] Commencement

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

### PART I - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE SATELLITE

#### 1 TOWN DEVELOPMENT AGENCY

2 **1.** There is established a Satellite Towns Development Agency for  
3 Federal Capital Territory (in this Bill referred to as “the Agency”).

Establishment of  
the Satellite Towns  
Development  
Agency

4 **2.-(1)** The Agency shall consist of an administrator and other  
5 members who shall be appointed by the Minister after due consultation with  
6 the President.

Composition of  
the Agency

7 (2) The Agency:

8 (a) shall be a body corporate with perpetual succession and  
9 common seal; and

10 (b) may sue and be sued in its corporate name.

11 **3.-(1)** The President shall by order published in the Federal Gazette  
12 designate existing and new towns as satellite towns.

Designation of  
Satellite Towns

13 (2) Satellite towns shall consist of areas not comprising the Federal  
14 Capital Territory.

15 (3) The area comprised in the satellite towns shall, as from the  
16 portion of the Federal Capital Territory be administered by the Agency to the  
17 exclusion of any other person or body.

Ownership of land	1	4. The ownership of the land comprised in the Satellite Towns and the
	2	Federal Territory is vested in the Federal Government.
Functions of the Agency	3	5.-(1) Subject to the provisions of the Federal Capital Territory Act
	4	and in accordance with this Act, the Agency shall be charged with the
	5	responsibility for:
	6	(a) defining the boundaries of the satellite towns by reference to the
	7	limits, distances and hearings demarcated by the authority which shall have
	8	carried out the survey referred to in the FCT Act;
	9	(b) preparation of a master-plan for the satellite towns and precepts
	10	for land use and planning within the satellite towns;
	11	(c) development of the satellite towns so created;
	12	(d) provision of intercity services within the satellite towns;
	13	(e) establishment of infrastructural facilities in accordance with the
	14	master-plan; and
	15	(f) coordination of the activities of the Federal Government within the
	16	satellite towns in the Federal Capital Territory.
	17	(2) Subject to other provisions in this Act, the Agency shall have
	18	power to do anything which in its opinion is calculated to facilitate the
	19	performance of its functions' including and without prejudice to the generality
	20	of the foregoing power:
	21	(a) to hold and manage movable and immovable property;
	22	(b) to construct and maintain such roads, buildings, plants,
	23	machineries and such other works as may be necessary;
	24	(c) to purchase or otherwise acquire or take over any asset, business,
	25	property, privilege, contract, right, obligation and liability of any person or
	26	body (whether corporate or unincorporated) in furtherance of its activities;
	27	(d) to enter into contracts or partnerships with any person or body
	28	(whether corporate or unincorporated) which in the opinion of the Agency will
	29	facilitate the discharge of the functions under this Act;
	30	(e) to train managerial and technical staff for the purpose of



1 discharging the functions conferred on it by or in pursuance of this Act;

2 (f) to undertake such research as may be necessary for the  
3 performance of its functions under this Act;

4 (g) to exercise such other powers as are necessary or expedient to  
5 give full effect to the provisions of this Act.

6 (3) Except with the general or special approval of the President and  
7 as otherwise prescribed by this Act, the Agency shall not have the power to  
8 borrow money or to dispose of any property.

9 **6.-(1)** For the purpose of the efficient discharge of the Power to enter  
premises and  
obtain information  
10 responsibilities of the Agency under this Act, the Administrator, any other  
11 officer or staff of the Agency authorized in that behalf:

12 (a) shall have a right of access at all times to any land or building  
13 within the satellite towns for the purpose of ascertaining that the provisions  
14 of this Act are not being contravened;

15 (b) may issue a notice calling upon any person whom he has reason  
16 to believe is able to give any information respecting the ownership,  
17 possession or the boundaries of land within the Satellite Towns or any part  
18 thereof, or in whose possession or power any documents relating to any such  
19 matter is alleged to be, to attend before him and give such information or  
20 produce such documents on a date and at a place mentioned in the notice;  
21 and

22 (c) may by notice in writing served on any person carrying on an  
23 industrial, commercial, educational or any other undertaking whatsoever,  
24 require that person to furnish in such form as he may direct information on  
25 such matters as may be specified by him.

26 (2) Any person required to furnish information pursuant to  
27 subsection (1) of this section, shall within one month from the date of the  
28 notice comply with the notice.

29 **7.-(1)** The Agency may accept gifts of land, money or other Power to accept  
Gifts  
30 properties on such terms and conditions, if any, as may be specified by the

1 person making the gift.

2 (2) The Agency shall not accept any gift if the conditions attached by  
3 the person making the gift to the acceptance therefore are inconsistent with the  
4 functions of the Agency under this Act.

Borrowing  
power

5 8.-(1) The Agency may, with the approval of the Minister, borrow on  
6 such terms and conditions such sums of money as the Agency may require in  
7 the exercise of functions conferred on it under this Act.

8 (2) The Agency may, subject to the provisions of this Act and the  
9 conditions of any trust created in respect of any property, invest all or any of its  
10 funds with the approval of the Minister or in accordance with any general  
11 guidelines approved by the President.

12 (3) The Agency may invest any surplus funds in such securities as  
13 may be approved by the Minister.

#### 14 PART II - THE ADMINISTRATOR AND STAFF OF THE AGENCY

Staff of the  
Agency

15 9.-(1) There shall be appointed by the Minister after due consultation  
16 with the President an administrator to the Agency who shall be the Chief  
17 Executive Officer of the Agency.

18 (2) The Administrator shall be responsible for the day to day running  
19 of the affairs of the Agency.

20 (3) The Administrator shall hold office on such terms and conditions  
21 as may be specified in his instrument of appointment.

22 (4) The Agency may appoint such other persons to be staff of the  
23 Agency as it may deem fit.

24 (5) The remuneration and tenure of office of the staff (other than the  
25 Administrator) shall be determined by the Agency after due consideration with  
26 the Minister for establishment.

#### 27 PART III - OFFENCES AND PENALTIES

Prohibition of  
development  
Agency's  
approval

28 10.-(1) As from the commencement of this Act, no person or body  
29 shall within satellite towns carry out any development within the meaning of  
30 this Act unless the written approval of the Agency has been obtained by such

1 person or body provided that the Agency may make a general order with  
2 respect to the interim development of land within the satellite towns, and  
3 may make special orders with respect to the interim development of any  
4 portion of land within any particular area.

5 (2) The Agency shall have power to require every person who,  
6 other than in pursuance of any approval granted or order made under  
7 subsection (1) of this section proceeds with or does any work within the  
8 satellite towns land or, where applicable, the "building in the condition in  
9 which it was before the commencement of such work.

10 (3) In the event of any failure on the part of any such person to  
11 comply with any such requirement, the Agency shall cause the necessary  
12 work to be carried out, and may recover the expenses thereof from such  
13 person as debt.

14 (4) In this section:  
15 "development" means the construction of any building, engineering, mining  
16 or other operations in, on over, or under land or water, or the making of any  
17 material change in the use of any land or building thereon or of any stretch of  
18 whatsoever;

19 "interim development" means such temporary development as may be  
20 authorized by the Agency of any land comprised in the satellite towns  
21 between the date of commencement of this Act and the coming into  
22 operation of any of the Agency's schemes of development for the particular  
23 portion of land.

24 11.-(1) If any person required to furnish information pursuant  
25 Section 5 of this Act fails to furnish the information as required, commits an  
26 offence.

Offences and  
penalties

27 (2) If a person in purported compliance with a requirement to  
28 furnishing information, knowingly or recklessly makes, any statement  
29 which is false in a material particular, commits an offence.

30 (3) Any person who willfully obstructs, interferes with, assaults or

1 resists any officer or staff of the Agency in the execution of his duty under this  
2 Act; or who aids, incites, induces or abets any other person to do so shall be  
3 guilty of an offence.

4 (4) Any person found guilty of an offence under this Act shall be liable  
5 on conviction to a fine of N500.00 or to imprisonment for 6 months or to both  
6 such fine and imprisonment.

Offences by  
bodies corporate

7 12. Where an offence under this Act which has been committed by a  
8 body corporate is proved to have been committed with the consent of, or to be  
9 attributed to any neglect on the part of any Director, Manager, Secretary or  
10 other official of the body corporate, or any person purporting to act in any such  
11 capacity, he as well as the body shall be deemed to have committed an offence  
12 and is liable to be proceeded against and punished accordingly.

13 PART IV-FUNDING, ACCOUNTS AND COMPENSATION

Funding

14 13.-(1) The Agency shall establish and maintain a fund from which  
15 shall be defrayed all expenditure incurred by the Agency.

16 (2) There shall be paid into the Fund of:

17 (a) such sums as may, from time to time, be granted to the Agency by  
18 the Federal Government, the Federal Capital Territory and the Area Councils of  
19 the Territory;

20 (b) all fees and other money payable to the Agency in pursuance to  
21 this Act;

22 (c) such money as may be payable to the Agency in the course of the  
23 discharge of its functions under this Act;

24 (d) such money as may, from time to time, be lent or granted to the  
25 Agency by the Federal Government of the Federation, a state, local  
26 government or Area Council.

27 (3) There shall be paid out of the Fund of the Agency:

28 (a) such sums as are expended in the course of administration of the  
29 Agency;

30 (b) reimbursement of members of the Agency or of any committee set

1 up by the Agency for such expenses as maybe expressly authorized by the  
2 Agency in accordance with such rates as may be approved from time to time  
3 by the Minister;

4 (c) payment of salaries, fees or other remuneration or allowances,  
5 pensions, superannuation allowances and gratuities payable to the  
6 employees of the Agency and fees to agents;

7 (d) maintenance of any property acquired or vested in the Agency;  
8 and

9 (e) such other expenses incurred by the Agency in the discharge of  
10 its function under this Act.

11 **14.-(1)** The Agency shall keep proper accounts and records and Accounts  
12 shall prepare in respect of each financial year a statement of accounts in such  
13 forms as it may direct.

14 (2) The Agency shall soon as reasonable after the end of the  
15 financial year cause its accounts to be audited by auditors approved by the  
16 Auditor-General of the Federation.

17 (3) The Auditors shall on completion of the audit of the accounts of  
18 the Agency for each financial year prepare and submit to the Agency the two  
19 reports:

20 (a) a general report setting out the observations and  
21 recommendations of the auditors on the financial affairs of the Agency  
22 generally for that year and on any important matter which the auditors may  
23 consider necessary to bring to the notice of the Agency; and

24 (b) a detailed report containing the observations and  
25 recommendations of the auditors on all aspects of the operations of the  
26 Agency for that year.

27 **15.** The Agency shall prepare and submit to the President no later Reports  
28 than 30th June in each financial year a report in such form as the President  
29 may direct on the activities of the Agency during the immediate preceding  
30 financial year, which shall include a copy of the audited accounts of the

Compensation  
Cap. 503 LFN

1 Agency for that year and of the reports mentioned in section 13 (3) of this Act.

2 **16.-(1)** Subject to the provisions of the Constitution of the Federal  
3 Republic of Nigeria and the Federal Capital Territory Act, compensation  
4 payable in respect of any land comprised in the satellite Towns shall be  
5 assessed and computed in accordance with the provisions of this Act.

6 (2) In computing the compensation payable under this Act, account  
7 shall be taken of any building or crops on the land acquired for the purpose of  
8 this Act, and any compensation payable shall be in respect to:

9 (a) land affected by this Act, for an amount equal to the total rent paid  
10 by the lessee over the period between the date of the execution of the lease, and  
11 the date of its determinations by the Agency and in addition, interest at the bank  
12 rate between the last mentioned date and the date of payment of compensation  
13 shall be made payable;'

14 (b) building on such land, for the amount of the actual cost of  
15 construction of the building (less any depreciation) and interest at the bank rate  
16 over the period between the date of the acquisition of such building and the date  
17 of payment of compensation shall be made payable;

18 (c) crops on such land, for an amount equal to the fair market value of  
19 such crops and the cost of mentioned in the foregoing provisions of this  
20 subsection shall be such as may be determined by the Agency.

21 (3) Any person who claims any right or interest in any land comprised  
22 in the satellite towns shall submit in writing, particulars of his claims to the  
23 Administrator on or before the expiration of a period of twelve months from the  
24 date of commencement of the order made under section 2 of this Act or such  
25 longer period as the President may either generally or in relation to any  
26 particular claim(s) prescribe by notice published in the Federal Gazette.

27 (4) No claim for compensation shall be entertained by the Agency  
28 unless a written notice of the claim in accordance with subsection (3) of this  
29 section is served on the Agency within the period specified in the said  
30 subsection.

## PART V - MISCELLANEOUS

17.-(1) Subject to the provision of this Act, the provisions of the Public Officers Protection Act shall be applicable in relation to any suit instituted against any officer, employee or the Agency.

Limitation of  
the suits

(2) Notwithstanding anything contained in any other enactment, no suit shall lie against any member of the Board, Administrator, Director(s) and employee(s) of the Agency for any act done in pursuance of this Act, or any other enactment of law or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Act shall lie or be instituted in any court of law unless:

(a) it is commenced within three months after the act, neglect or default complained of;

(b) in the case of a continuation of damage or injury, within six months after cessation thereof.

(3) No suit shall be commenced against the Agency, a board member, Administrator or employee of the Agency before the expiration of a period of one month after a written notice of intention to commence the suit have been served upon the Agency by the intending plaintiff or his or her agent.

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

18.-(1) Where there is no express provision on any issue in this Act, the provisions of the Federal Capital Territory Act shall apply to service in the Agency.

Applicability  
Cap. 503 LFN

(2) Service in the Agency shall be approved service for the purpose of the Pension Reform Act, and accordingly, employees of the Agency shall in respect of their service in the Agency be entitled to pensions, gratuities and other retirement benefits as prescribed thereunder.

Cap. 386  
LFN 2004

	1	(3) For the purpose of the application of the Pension Reform Act, any
	2	power exercisable thereunder by a Minister or authority of the Federal
	3	Government not being the powers to make regulation under this Act, is hereby
	4	vested in and shall be exercisable by the Agency and not by any other person or
	5	authority.
Minister's Directives	6	<b>19.</b> The Minister may give to the Agency directives of a general
	7	nature with respect to any of the functions of the Agency and the Board shall
	8	comply with such directives or cause them to be complied with.
Regulations	9	<b>20.</b> The President may make general regulations for carrying into
	10	effect the provisions of this Act.
Interpretation	11	<b>21.</b> In this Act:
	12	"Agency" means the Satellite Towns Development Agency established by
	13	section 1 of this Act;
	14	"Authority" means the Federal Capital Development Authority;
	15	"Board" means the Board of Directors of the Agency;
	16	"Building" includes any structure whatsoever on land;
	17	"Constitution" means the constitution of the Federal Republic of Nigeria;
	18	"Satellite Towns" means the satellite towns as described in section 2 of this Act;
	19	"Minister" means the Minister of the Federal Capital Territory.
Short Title	20	<b>22.</b> This Bill may be cited as the Satellite Towns Development
	21	Agency Bill, 2019.

## EXPLANATORY MEMORANDUM

This Bill seeks to provide for the establishment of the Satellite Towns Development Agency to be charged with the responsibility for development and defining the boundaries of the satellite towns.



ENVIRONMENTAL HEALTH OFFICERS (REGISTRATION, ETC.)

(AMENDMENT) BILL, 2019

ARRANGEMENT OF SECTIONS

*Section:*

1. Amendment of Act No. 11, 2002
2. Amendment of section 1
3. Insertion of new sections 1 A - 1B
4. Amendment of section 2
5. Amendment of section 3
6. Amendment of section 6
7. Insertion of section 6A
8. Amendment of section 8
9. Amendment of section 10
10. Amendment of section 13
11. Substitution for section 17
12. Amendment of section 19
13. Substitution for section 20
14. Substitution for section 27
15. Amendment of section 28
16. Amendment of First Schedule
17. Amendment of Third Schedule
18. Citation



FOR

*Sponsored by Hon. Gideon Gwani*

[ ] Commencement

1                   **1. The Environmental Health Officers (Registration, etc.) Act No.**                   Amendment of  
2                   11, 2002 (in this Act referred to as the "Principal Act") is amended as set out                   Act No. 11, 2002  
3                   in this Act.

4                   **2.** Section 1 of the Principal Act is amended:

5                   (a) in subsection (1), by substituting for the words, "Environmental

6   Health Officers Registration", after the word, "the", in line 1, the words,

7   "Environmental Health"; and

Amendment of  
Section 1

(b) by inserting, after subsection (1), new subsections "(2)" - "(3)" -  
 "(2) Any reference to the Environmental Health Officers  
 Registration Council of Nigeria by the Principal Act shall be construed as  
 the Environmental Health Council of Nigeria.

12           (3) The designation of the body specified in section (1) of this  
13   section shall not affect anything done or purported to be done under the  
14   designated body."

15	3. Insert, after section 1 of the Principal Act, new sections "1A" -	Insertion of new sections 1A-1B
16	"1B"-	

17                    1 A. The Council:

(a) shall be a Council for Environmental Health based on rules and regulations made by the Minister;

- 1 (b) is a body corporate with perpetual succession and a common seal;
- 2 (c) may sue or be sued in its corporate name; and
- 3 (d) may acquire, hold or dispose of any property, movable or
- 4 immovable for the purpose of carrying out its functions under this Act.
- 5 1B. The Council shall be responsible for:
- 6 (a) determining what standards of knowledge and skill are to be
- 7 attained by persons seeking to become members of the profession of
- 8 environmental health (in this Act referred to as "the Profession") and
- 9 improving those standards, from time to time, as circumstances may permit;
- 10 (b) securing, in accordance with the provisions of this Act, the
- 11 establishment and maintenance of register of persons entitled to practise as
- 12 members of the profession and the publication, from time to time the list of
- 13 those persons;
- 14 (c) establishing a code of conduct and reviewing same, from time to
- 15 time, as the Council considers desirable for the effective practice of
- 16 environmental health profession;
- 17 (d) charging practising fees as may be determined by the Council;
- 18 (e) regulating and controlling the practice of environmental health
- 19 profession in all its aspects and ramifications, including corporate practice
- 20 areas as:
- 21 (i) waste collection and disposal,
- 22 (ii) public health pest control,
- 23 (iii) cleaning services,
- 24 (iv) air quality monitoring,
- 25 (v) sanitary inspection of premises, and
- 26 (vi) health impact assessment;
- 27 (f) conducting examinations in the profession and awarding
- 28 certificates or diplomas to successful candidates as appropriate and for such
- 29 purpose, the Council shall prescribe fees to be paid in respect thereof;
- 30 (g) coordinating and liaising with donor agencies, stakeholders and

- 1 non-governmental organisations within and outside Nigeria on matters of  
2 environmental health infrastructural provision and implementation;
- 3 (h) setting regulations and providing infrastructure for medical  
4 waste management;
- 5 (i) setting environmental health standard and working with other  
6 stakeholders to ensure the enforcement and compliance with standards,  
7 legislation and guidelines on environmental health infrastructure provision  
8 and implementation;
- 9 (j) creating public awareness and enlightenment on environmental  
10 health and sanitation;
- 11 (k) working with the private sector in cooperation with  
12 participating States to provide private sector funding for construction and  
13 maintenance of sanitation infrastructure such as sewerage systems,  
14 recycling plants, leasing of sanitation of equipment for use across the  
15 country;
- 16 (l) establishing and supervising the National Institute of  
17 Environmental Health for the purposes of advanced professional education  
18 for members of the profession;
- 19 (m) carrying out research and publishing general scientific and  
20 other data resulting from the performance of its functions;
- 21 (n) supporting national capacity building for managers and staff of  
22 State environmental sanitation agencies to develop needed manpower;
- 23 (o) carrying out such activities as are necessary or expedient for the  
24 performance of its functions;
- 25 (p) having such powers to litigate against or punish any erring  
26 Environmental Health Officer, Environmental Health Service Provider or  
27 other persons registered by the Council or performing environmental health  
28 functions;
- 29 (q) having such powers to litigate against or sanction any erring  
30 individual and corporate individual violating sanitary regulations; and

	1	(r) having such powers and duties as conferred on it under this Act or
	2	by any other law on such matters on which the National Assembly has power to
	3	make law."
Amendment of Section 2	4	<b>4.</b> Section 2 (1) of the Principal Act is amended by:
	5	(a) substituting for paragraph (c), a new paragraph "(c)"-
	6	"(c) six Environmental Health Officers, one each from the six
	7	geopolitical zones of the Federation in rotation"; and
	8	(b) inserting, after paragraph (g), new paragraphs "(h)" - "(i)"-
	9	"(h) "one person who shall be the most Senior Licensed
	10	Environmental Health Officer from the Armed Forces or Para-Military shall
	11	represent the Armed Forces and Para- Military institutions in rotation."; and
	12	(i) the Director-General of the National Institute of Environmental
	13	Health."
Amendment of Section 3	14	<b>5.</b> Section 3 of the Principal Act is amended by substituting for
	15	subsection (2), a new subsection "(2)":
	16	"(2) Subject to this section and any direction of the Minister under this
	17	Act, the Council shall have powers to do anything which, in its opinion, is
	18	calculated to facilitate the carrying on of its activities under this Act."
Amendment of Section 6	19	<b>6.</b> Section 6 (1) of the Principal Act is amended:
	20	(a) in subsection (1), by inserting, after the word, "Registrar", in line
	21	1, the words, "and Chief Executive of the Council"; and
	22	(b) in subsection (2), by substituting for the word, "Registrar", in line
	23	1, and wherever it appears in the Principal Act, the words, "Registrar and Chief
	24	Executive"; and
Insertion of section 6A	25	<b>7.</b> Insert, after section 6 of the Principal Act, a new section "6A":
	26	6A. (1) The Council shall have the following Directorates:
	27	(a) Directorate of Education and Training;
	28	(b) Directorate of Registration and Inspectorate;
	29	(c) Directorate of Ethics and Standards Enforcement;
	30	(d) Directorate of Administration and Accounts; and

1 (e) Directorate of Planning, Research and Statistics.

2 (2) Each Directorate shall be headed by a Director and, except for  
3 the Directorate under subsection (1) (d) of this section, all other Directorates  
4 shall be headed by licensed Environmental Health Officers.

5 (3) The Council and its Directorates shall have adequate numbers  
6 of Units and Divisions as may be required in the discharge of its functions  
7 under this Act.

8 (4) The Council shall have:

9 (a) Zonal Offices in each of the geopolitical zones; and

10 (b) State Offices in all the States of the Federation."

11 **8.** Section 8 of the Principal Act is amended by insetting, after Amendment of  
12 subsection (1), new subsections "(1 A)" - "(1 C)": Section 8

13 "(1A) A person shall not hold an appointment or practise as an  
14 Environmental Health Officer in Nigeria or perform the duties of an  
15 Environmental Health Officer in Nigeria unless he is registered with the  
16 Council under the provisions of this Act";

17 (1B) A registered Environmental Health Officer is entitled to  
18 practise as an Environmental Health Officer anywhere in Nigeria; and

19 (1C) A person registered under this Act as Environmental Health  
20 Assistant, Environmental Health Technician or Environmental Health  
21 Technologist may apply to transfer from a lower register to a higher register  
22 if he obtains an academic qualification or approved equivalent educational  
23 qualification commensurate to the requirement of the higher register he  
24 desires to transfer to and in addition he shall have had the required  
25 experience as well as passed the prescribed examination and other  
26 conditions as may be set out, from time to time, by the Council."

27 **9.** Section 10 of the Principal Act is amended:

Amendment of  
Section 10

28 (a) in subsection (1) (a), by inserting, after the word, "attended" in  
29 line 1, the words, "and successfully completed"; and

30 (b) by insetting new subsections "(3A)" - "(3D)":

1           "(3A) A corporate organization desirous of practising in the  
2 environmental health field shall be entitled to be registered under this Act as an  
3 environmental health service provider and being so registered, to receive a  
4 registration certificate from the Council if the company satisfies the Council  
5 that such company has requisite staff and equipment to practise and shall abide  
6 by the rules made by the Council and pays the prescribed fee.

7           (3B) No registered person or company shall practise as an  
8 Environmental Health Officer or Environmental Health Service Provider in  
9 any year unless he has renewed his licence in respect of that year and this  
10 renewal shall be due every January and not later than 31st March in every year,  
11 as prescribed by the Council.

12           (3C) The Council may, with the confirmation of the Minister from  
13 time to time, vary the practising fees prescribed and the Council shall keep and  
14 utilize the funds realized from the practising fees and other activities of the  
15 Council for the development of the profession;

16           (3D) Any Environmental Health Officer or Environmental Health  
17 Service Provider who, in respect of any year, practises without renewing his  
18 license, commits an offence and is liable on conviction:

19           (a) in the case of first offender, to a fine of twice the prescribed  
20 practising fee;

21           (b) in the case of a second or subsequent offender to a fine of not less  
22 than ten times the prescribed practising fee;

23           (c) where the Environmental Health Officer is in the employment of  
24 any person or organization (public or private), the employer commits an  
25 offence punishable in like manner as the Environmental Health Officer if it is  
26 proved that the failure to pay the practising fee was with his knowledge,  
27 consent and connivance; and

28           (d) where the Environmental Health Service Provider is engaged by  
29 any person or organization (public or private), such person or organization  
30 commits an offence punishable in like manner as the Environmental Health



1 Service Provider if it is proved that the failure to pay the practicing fee was  
2 with his knowledge, consent and connivance"; and

3 (c) by inserting, after subsection (6), a new subsection "(7)":

4 "(7) A registered Environmental Health Officer shall be issued a  
5 practising seal, subject to the rules made by the Council."

6 **10.** Section 13 of the Principal Act is amended by inserting, after Amendment of  
7 subsection (3), a new Amendment of section subsection "(4)": Section 13

8 "(4) The Head of every faculty, department, institute or school of  
9 environmental health in Nigeria approved by the Council shall furnish the  
10 Registrar with the list of candidates admitted or enrolled into a course in  
11 environmental health and the list of candidates successful at the final  
12 environmental health examination immediately after the release of the result  
13 within three months of each event respectively."

14 **11.** Substitute for section 17 of the Principal Act, a new section Substitution for  
15 "17": section 17

16 "17. Any person who holds himself out to be so registered or uses  
17 any name, title, description, dress or symbol calculated to lead any person to  
18 infer that he is so registered,  
19 commits an offence and liable on conviction for:

20 (a) a first offence, to a fine of not less than twenty thousand Naira or  
21 to term of imprisonment for six months or to both; and

22 (b) a second or any subsequent offence, to a term of imprisonment  
23 for not less than one year or more than three years and a fine of fifty thousand  
24 Naira."

25 **12.** Section 19 of the Principal Act is amended: Amendment of  
26 (a) in subsection (3), by substituting for the words, "fifty thousand Section 19

27 Naira", in line 2, the words, "twenty thousand Naira"; and

28 (b) by substituting for subsection (4), a new subsection "(4)":

29 "(4) Where the offence under section 17 of this Act or any other  
30 offence under this Act is committed by a body corporate and is proved to

1 have been committed with the connivance of or to be attributable to any neglect  
2 on the part of any head, director, manager, secretary or other similar officer of  
3 the body corporate or any person purporting to act in any such capacity, he, as  
4 well as the body corporate, commits an offence and is liable on conviction to a  
5 fine of not less than two hundred thousand Naira or to a term of imprisonment  
6 for six months for the head, director, manager, secretary or other similar officer  
7 of the body corporate."

Substitution for  
section 20

8 **13.** Substitute for section 20 of the Principal Act, a new section "20":

9 20 (1) A suit shall not commence against the Council before the  
10 expiration of a period of one month, until after a written notice of intention to  
11 commence the suit shall have been served on the Council by the intending  
12 plaintiff or his agent and the notice shall clearly state the:

13 (a) cause of action;

14 (b) particulars of the claim;

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

16 (d) relief which the plaintiff claims.

17 (2) The notice referred to in subsection (1) of this section and  
18 summons, notice or other document required or authorized to be served on the  
19 Council under the provisions of this Act or any other enactment or law may be  
20 served by:

21 (a) delivering the same to the office of the Registrar; or

22 (b) sending it by registered post addressed to the Registrar at the head  
23 office of the Council.

24 (3) In all litigations against the Council, the provisions of the Public  
25 Officer's Protection Act shall apply."

Substitution for  
section 27

26 **14.** Substitute for section 27 of the Principal Act, a new section "27":

27 "*Regulations:*

28 27. The Minister may make rules and regulations on the advice of the  
29 Council as are necessary or expedient for efficient regulation of environmental  
30 health and sanitation practice to prescribe:

1 (a) the methodologies for private- sector participation in the work  
2 of the Council;

3 (b) the fees to be paid for services rendered by the Council; or

4 (c) generally for the purposes of carrying out or giving full effect to  
5 the functions of the Council under this Act."

6 **15.** Section 28 of the Principal Act is amended by inserting, in Amendment of  
7 alphabetical order, the following new definitions: Section 28

8 "Environmental health":

9 (a) means the control of those aspects of human health and disease  
10 that are determined by factors in the environment; and

11 (b) includes the theory and practice of assessing and controlling  
12 factors in the environment that can potentially affect health;

13 "Environmental Health Officer" means any person registered in accordance  
14 with the relevant sections of this Act and holding a valid practice license;  
15 and

16 "Environmental Health Service Provider" means any company registered to  
17 provide environmental health services by the Council and holding a valid  
18 practice licence."

19 **16.** The First Schedule to the Principal Act is amended, by Amendment of  
20 substituting for paragraph 2 (1), a new paragraph "2 (1)": First Schedule

21 "2. (1) Subject to the provisions of this paragraph, a member of the  
22 Council, other than those in section 2 (1) (c), (e), (t), and (h), shall hold office  
23 for a period of three years from the date of his appointment and may be  
24 eligible for re-appointment for another period of three years only."

25 **17.** The Third Schedule to the Principal Act is amended by Amendment of  
26 inserting, after paragraph (d), new paragraphs "(e)" - "(h)": Third Schedule

27 "(e) Bachelor of Science or Bachelor of Technology in  
28 Environmental Health Sciences from an institution recognized by the  
29 Council, for Environmental Health Officer;

30 (f) Higher National Diploma in Environmental Health from an

1 institution recognized by the Council, for Environmental Health Technologist;  
2 (g) National Certificate for Environmental Health Technicians from  
3 an institution recognized by the Council, for Environmental Health  
4 Technician; and  
5 (h) National Certificate for Environmental Health Assistants from an  
6 institution recognized by the Council, for Environmental Health Assistant."  
Citation 7 **18.** This Bill may be cited as the Environmental Health Officers  
8 (Registration, etc.) (Amendment) Bill, 2019

## EXPLANATORY MEMORANDUM

This Bill seeks to amend the Environmental Health Officers (Registration, etc.) (Amendment) Act No. 11, 2002 to give the Council more professional outlook.

NATIONAL INSTITUTE FOR HOSPITALITY AND TOURISM  
(ESTABLISHMENT) BILL, 2019  
ARRANGEMENT OF SECTIONS

*Section:*

PART I - OBJECTIVES AND APPLICATION

1. Objectives of the Institute
2. Application

PART II - NATIONAL INSTITUTE FOR HOSPITALITY AND TOURISM

3. Establishment of the National Institute for Hospitality and Tourism
4. Functions of the Institute
5. Powers of the Institute

PART III -ESTABLISHMENT OF THE GOVERNING BOARD OF THE  
INSTITUTE

6. Establishment of the Governing Board
7. Membership of the Board
8. Appointment and tenure of members of the Board
9. Functions and powers of the Board
10. Delegation of powers of the Board
11. Remuneration

PART IV - DIRECTOR-GENERAL AND OTHER STAFF OF THE INSTITUTE

12. Appointment, tenure and duties of Director-General
13. Legal Adviser to the Institute
14. Other staff of the Institute
15. Departments, Special Units and Committees
16. Service in the Institute to be pensionable
17. Campus of the Institute
18. Co-operation with other Bodies
19. Appointment of experts

PART V - FINANCIAL PROVISIONS

20. Funds of the Institute

21. Investment of the Fund of the Institute
22. Establishment of Housing Scheme
23. Annual estimates of income and expenditure
24. Accounts, records and audit
25. Annual report
26. Borrowing power
27. Power to accept gift

#### PART VI - REGISTRATION OF HOSPITALITY, TRAVEL AND TOURISM

##### PERSONNEL

28. Registration of hospitality, travel and tourism personnel
29. Registration of provisional member or member
30. Registration of Nigerian citizen who is qualified outside Nigeria
31. Registration of non-Nigerian practitioner
32. Rules for keeping and maintaining Register
33. Publication of Register
34. Correction of entry in the Register
35. Removal of names from the Register
36. Re-entry of names into the register after removal
37. Payment of membership and practising fees
38. Rules as to membership and practising fees for personnel

##### PART VII - PROFESSIONAL DISCIPLINE

39. Establishment of Investigating Panel
40. Establishment of Disciplinary Tribunal
41. Meaning of professional misconduct or infamous conduct
42. Penalties for unprofessional conduct, etc.
43. When a person shall be treated as convicted
44. The jurisdiction of the Disciplinary Tribunal

##### PART VIII - OFFENCES AND PENALTIES

45. General offences, penalties and legal proceedings

## PART IX - MISCELLANEOUS

- 46. Jurisdiction
- 47. Regulations, rules and guidelines
- 48. Power of Minister to give directive
- 49. Compulsory acquisition of land
- 50. Pre-action notice
- 51. Indemnity of officers of the Institute
- 52. Meetings of the Board.
- 53. Transitional provisions
- 54. Interpretation
- 55. Citation
- Schedule





# A BILL

## FOR

AN ACT TO ESTABLISH THE NATIONAL INSTITUTE FOR HOSPITALITY AND  
TOURISM FOR TRAINING, CERTIFICATION AND REGISTRATION OF  
HOSPITALITY, TRAVEL AND TOURISM PERSONNEL IN NIGERIA; AND FOR  
RELATED MATTERS

*Sponsored by Hon. Gideon Gwani*

[ ] Commencement

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

### 1 PART I - OBJECTIVES AND APPLICATION

2 **1.** The objects of the Institute shall be to-

Objectives of  
the Institute

3 (a) educate, train, certify and register personnel in the field of  
4 hospitality, travel, tourism and equip practitioners in the industry to cope  
5 with the dynamics in the field of tourism;

6 (b) develop basic intermediate and advanced skills to upgrade  
7 personnel in the field of the hospitality, travel and tourism industry;

8 (c) maximise the gains of the industry to the economy of Nigeria  
9 and develop a human resource base for Nigeria, Africa and the world; and

10 (d) certify and register qualified personnel in the hospitality, travel  
11 and tourism sector in an approved register.

12 **2.** This Act applies throughout the Federal Republic of Nigeria.

Application

### 13 PART II - NATIONAL INSTITUTE FOR HOSPITALITY AND TOURISM

14 **3.-(1)** There is established the National Institute for Hospitality and  
15 Tourism (in this Bill referred to as "the Institute").

Establishment of  
National Institute  
for Hospitality  
and Tourism

16 (2) The Institute-

17 (a) is a body corporate with perpetual succession and a common  
18 seal; and

19 (b) may sue or be sued in its corporate name.

Functions of  
the Institute

1 (3) The Institute may acquire, own, hold, purchase, dispose, mortgage  
2 and deal with property, movable or immovable, real or personal, in its  
3 corporate name.

4 (4) This Act establishes a bench mark subject to the provisions of the  
5 Constitution of the Federal Republic of Nigeria for the training, certification  
6 and registration of hospitality and tourism personnel in Nigeria or any law  
7 passed by the National Assembly.

8 (5) The Institute shall be in Abuja, Nigeria and it may have campuses  
9 in any part of Nigeria for the purpose of performing its functions under this  
10 Bill.

11 4. The Institute shall-

12 (a) provide full-time and part-time courses of instruction,  
13 professional, technical and specialised training in hospitality, travels and  
14 tourism;

15 (b) provide managerial and supervisory training in the hospitality,  
16 travel and tourism industry;

17 (c) operate as a Sector Skills Board (SSC) and Training Provider for  
18 the delivery of National Vocational Qualifications (NVQs) in Nigeria subject  
19 to extant laws;

20 (d) cooperate with the Standard Organisation of Nigeria and relevant  
21 bodies in updating internationally certified personnel of the hospitality, travel  
22 and tourism industry in Nigeria;

23 (e) determine the standard of knowledge, content and skills to be  
24 attained by persons seeking to become members of the hospitality, travel and  
25 tourism profession and review the standard from time to time as circumstances  
26 may permit;

27 (f) maintain a register of fellows, associates and registered members  
28 entitled to practice as hospitality, travel and tourism professionals in Nigeria  
29 and the publication of lists of those persons;

30 (g) cooperate with relevant bodies in developing and updating the

- 1 national training curriculum for all levels of personnel in the hospitality,  
2 travel and tourism industry by-
- 3 (i) organising and facilitating staff development programmes and  
4 supervisors in approved educational institutions and the hospitality, travel  
5 and tourism industry such as study courses, conferences, lectures,  
6 workshops, seminars in the industry, and
- 7 (ii) issuing certificates of merit and attendance to successful  
8 participants in the courses and training;
- 9 (h) provide consultancy services in hospitality, travel and tourism  
10 industry and accept national and international reputable consultants to the  
11 Institute;
- 12 (i) provide training for trainers in the hospitality, travel and tourism  
13 industry;
- 14 (j) award certificates and diplomas as appropriate;
- 15 (k) establish and maintain a library for research on hospitality,  
16 travel and tourism and matters connected with the industry;
- 17 (l) undertake and provide for the publication of journals, research  
18 papers, books and magazines on hospitality, travel and tourism;
- 19 (m) provide a forum at which representatives of both public and  
20 organised private practitioners and proprietors of institutions in the  
21 hospitality and tourism industry meet to exchange ideas and information on  
22 developments in the hospitality and tourism industry;
- 23 (n) organise seminars and workshops on tourism, hospitality and  
24 travel trade practices for the purpose of quality control;
- 25 (o) ensure that all practitioners in the hospitality, travel and tourism  
26 sub-sectors are certified by the Institute in order to ensure a common  
27 standard;
- 28 (p) affiliate with any university or tertiary institution to offer  
29 programmes in hospitality, travel and tourism;
- 30 (q) source for funds and technical assistance to carry out its

1 functions, activities and programmes as provided in this Act;

2 (r) in conjunction with any professional body, government or  
3 organisation, carry out its functions, activities and programmes as provided in  
4 this Act;

5 (s) enter into such contracts as may be necessary and expedient for  
6 carrying into effect the provisions of this Bill;

7 (t) acquire and hold such movable and immovable property as may be  
8 necessary or expedient for carrying into effect the provisions of this Act and,  
9 for the same purpose, sell, lease, mortgage, allocate or dispose of any property;

10 (u) establish such faculties, institutes, schools, extra-mural  
11 departments and other teaching and research units throughout Nigeria as may  
12 be necessary, subject to the approval of the Board, for effective education,  
13 training and administrative convenience of the Institute; and

14 (v) carry out such activities as are necessary or expedient for the  
15 performance of its functions under this Bill.

Powers of the  
Institute

16 **5.-(1)** The Institute may, in addition to any other power contained in  
17 this Bill-

18 (a) set conditions and standards for institutions or organisations  
19 offering courses in hospitality, travel and tourism management or skill in  
20 Nigeria;

21 (b) approve programmes or courses of training for institutions or  
22 organisations offering courses in hospitality, travel and tourism management  
23 or skill in Nigeria;

24 (c) assess and grade personnel and quality of services rendered by a  
25 practitioner or organisation in the hospitality, travel and tourism industry in  
26 Nigeria;

27 (d) impose subscriptions, fees, levies, penalties and other charges for  
28 services rendered to private individuals, corporate bodies, institutions,  
29 organisations and groups;

30 (e) assess relevant records, documents and training equipment or

1 materials of any institution, tourism or hospitality personnel to which this  
2 Act applies for the purpose of inspection or investigation and grading;

3 (f) require a person in apparent control of any hospitality, travel,  
4 tourism and training school to furnish the Institute with such information on  
5 any aspect of the school's operation as may appear necessary to enable the  
6 Institute perform its functions under this Act;

7 (g) establish and maintain subsidiaries either by itself or in  
8 collaboration with other organisations, government or persons to enhance  
9 the attainment of the functions of the Institute;

10 (h) regulate travel, tourism and hospitality personnel and services Second Schedule  
11 of the institutions and establishments specified in the Second Schedule of  
12 this Act; and

13 (i) do such other things as are necessary for the efficient  
14 performance of the Institute.

15 (2) The Institute may award diplomas and certificates in  
16 accordance with the relevant academic standards as may be prescribed by  
17 the Board.

18 (3) For the purposes of carrying out the objects listed under section  
19 1 of this Bill, the Institute shall-

20 (a) institute lectureship or other posts, establish offices and make  
21 appointments as may be considered appropriate;

22 (b) institute and award fellowships, scholarships, exhibitions,  
23 bursaries, medals, prizes, distinctions, awards and other forms of  
24 recognition or title;

25 (c) be responsible for the discipline and welfare of members of the  
26 Institute under the Public Service Rules, 2008;

27 (d) conduct examinations, award diplomas, certificates and other  
28 distinctions to persons pursuing courses of studies that have been approved  
29 and have satisfied the requirements prescribed by the Institute;

1 (e) conduct research in relevant fields of learning and other human  
2 endeavours;

3 (f) determine the standard of knowledge including content and skill to  
4 be attained by persons seeking to become members of the profession and  
5 review such standards, from time to time;

6 (g) determine course content for the courses in hospitality, travel and  
7 tourism in the Institute;

8 (h) formulate, publish and review the code of conduct, ethics and  
9 practice in the Institute;

10 (i) erect, provide, equip and maintain libraries, laboratories, lecture  
11 halls, halls of residence, refectories, sports grounds, playing fields and other  
12 buildings as are necessary for the carrying out of the objects of the Institute;

13 (j) train, certify and register all personnel engaged in hospitality,  
14 travel and tourism training in the Institute; and

15 (k) set mandatory registration fees and collection of fees by the  
16 Institute or its agents.

### 17 PART III - ESTABLISHMENT OF THE GOVERNING BOARD

#### 18 OF THE INSTITUTE

Establishment  
of the Governing  
Board

19 **6.** There is established a Governing Board for the Institute (in this Bill  
20 referred to as "the Board") which shall initiate, approve and provide the general  
21 policy guidelines for the administration of the Institute.

Membership of  
the Board

22 **7.** The Board shall consist of-

23 (a) a chairman who shall be at least a first degree holder or equivalent  
24 in hospitality and a tourism practitioner with at least 15 years post experience;

25 (b) a representative each not below the rank of a Director or its  
26 equivalent from the-

27 (i) Federal Ministry of Culture and Tourism,

28 (ii) Federal Ministry of Education,

29 (iii) National Board for Technical Education, and

30 (iv) National Directorate of Employment;

- 1 (c) a representative of the -  
2 (i) Center for Management Development,  
3 (ii) Tertiary Education Trust Fund,  
4 (iii) Hotel and Personal Services Employers Association of  
5 Nigeria,  
6 (iv) Federation of Tourism Association of Nigeria, and  
7 (d) the Director-General of the Institute; and  
8 (e) the Director-General, Nigerian Tourism Development  
9 Corporation (NTDC).

10 **8.-(1)** The Chairman and other members of the Board-

11 (a) shall be appointed by the President on the recommendation of  
12 the Minister;

13 (b) shall hold office on part time basis for a term of three years; and

14 (c) may be eligible for re-appointment, on satisfactory  
15 performance, for a further term of three years and no more.

16 (2) The office of the Chairman or a member of the Board shall  
17 become vacant where-

18 (a) his term of office expires;

19 (b) he resigns his appointment as a member of the Board by a notice  
20 in writing signed by him and addressed to the President; or

21 (c) he dies.

22 (3) The President may, on the recommendation of the Minister,  
23 remove the Chairman or a member of the Board where-

24 (a) he has been absent from the meetings of the Board for four  
25 consecutive times without permission;

26 (b) he is incapable of discharging his duties due to mental or  
27 physical infirmity;

28 (c) he has been declared bankrupt or makes compromise with his  
29 creditors;

30 (d) he is guilty of gross misconduct relating to his duties;

Appointment  
and tenure of  
members of the  
Board

1 (e) the President is satisfied that it is not in the interest of the Board or  
2 of the public for the person to continue in office; or

3 (f) in the case of an ex-officio member, he ceases to hold the office on  
4 the basis of which he became a member of the Board.

5 (4) Where a vacancy occurs in the membership of the Board, the  
6 President shall appoint a successor to hold office for the remainder of the term  
7 of office of his predecessor, and the successor shall represent the same interest  
8 as that member whose exit created the vacancy.

9 (5) The Board may invite any person to attend and participate at any of  
10 its meetings provided that a person so invited will only be in attendance and  
11 shall not count towards the quorum or vote at the meeting.

First Schedule

12 (6) The provisions of the First Schedule shall have effect with respect  
13 to the proceedings of the Board and other matters mentioned in the Schedule.

Functions and  
powers of the  
Board

14 **9.** The Board shall-

15 (a) set administrative policies in accordance with government policy  
16 directives and supervise the policy, finances and property of the Institute;

17 (b) promote and discipline staff of the Institute on the advice of the  
18 Management of the Institute;

19 (c) consider and approve the Institute's annual budget or estimates,  
20 external auditor's report and any variation therein;

21 (d) approve the rules and regulations of the Institute as may be  
22 required under this Act;

23 (e) ensure that income and expenditure account of the Institute are  
24 kept and audited annually by auditors appointed by the Board;

25 (f) approve the academic programmes and curricula of the Institute,  
26 plan of activities, programme of studies, research to be undertaken by the  
27 Institute and regulatory operations of the Institute;

28 (g) exercise all such powers conferred on the Board under this Act,  
29 directive of the Minister or the regulations of the Institute; and

30 (h) carry out such other activities as are necessary or expedient for the



1 full performance of any of the functions of the Board under this Bill.

2 **10.**-(1) The Board may, subject to such conditions as it may deem  
3 fit, delegate any of the powers conferred on it to any of its committees or the  
4 Director-General of the Institute.

Delegation of  
powers of the  
Board

5 (2) Nothing in this section prevents a committee of the Board or the  
6 Director-General from exercising any of the powers so delegated within  
7 reasonable limits except where reversed by the Board.

8 **11.** The Chairman and members of the Board shall be paid such  
9 emoluments, allowances and benefits as the President may direct in line  
10 with the recommendations of the Revenue Mobilisation, Allocation and  
11 Fiscal Commission.

Remuneration

12 PART IV - DIRECTOR-GENERAL AND OTHER STAFF OF THE INSTITUTE

13 **12.**-(1) There shall be a Director-General for the Institute who is  
14 appointed by the President on the recommendation of the Minister.

Appointment,  
tenure and duties  
of Director-General

15 (2) The Director-General shall-

16 (a) be a person of proven ability and integrity;

17 (b) possess at least a B.Sc Degree, HND or its equivalent; and

18 (c) possess at least 12 years post qualification experience in the  
19 relevant industry.

20 (3) The Director-General shall hold office -

21 (a) for a term of four years in the first instance;

22 (b) may be re-appointed for a further term of four years and no  
23 more; and

24 (c) on such other terms and conditions as may be specified in his  
25 appointment.

26 (4) The Director-General is the Chief Executive and Accounting  
27 Officer of the Institute and is responsible for the-

28 (a) day-to-day management and administration of the Institute;

29 (b) execution of the policies and programmes of the Institute;

1 (c) organisation, control and management of the affairs of the  
2 Institute;

3 (d) implementation of the functions of the Institute and ensuring that  
4 it achieves its goal;

5 (e) direction, supervision and control of employees of the Institute;

6 (f) promotion of research within the Institute;

7 (g) maintenance of accounting records in accordance with applicable  
8 laws governing statutory bodies and generally accepted international and  
9 accounting standards; and

10 (h) performance of such other functions and duties as may be directed  
11 by the Board.

12 (5) The Director-General shall supervise the keeping and maintaining  
13 of register of hospitality and tourism practitioners under this Act.

14 (6) The office of the Director-General becomes vacant where -

15 (a) his term of office expires;

16 (b) he resigns his appointment as Director-General by a notice in  
17 writing signed by him and addressed to the President; or

18 (c) he dies.

19 (7) The President may, on the recommendation of the Minister,  
20 remove the Director-General from office where-

21 (a) he has been absent from the meetings of the Board for four  
22 consecutive times without permission;

23 (b) he is incapable of discharging his duties due to mental or physical  
24 infirmity;

25 (c) he has been declared bankrupt or he makes compromise with his  
26 creditors;

27 (d) he has been convicted of a felony or any offence involving fraud or  
28 dishonesty;

29 (e) he is guilty of gross misconduct relating to his duties; or

30 (f) the President is satisfied that it is not in the interest of the Board or

1 public for the person to continue in office.

2           **13.**-(1) There shall be for the Institute a Legal Adviser who is Legal Adviser  
to the Institute  
3 appointed by the Board.

4           (2) The Legal Adviser shall-

5           (a) be a Legal Practitioner and a staff of the Institute and has been  
6 so qualified for a period of at least 10 years;

7           (b) be the Secretary to the Board and the Legal Adviser to the  
8 Institute;

9           (c) conduct the correspondence of the Board and arrange the  
10 meetings of the Board; and

11           (d) perform any other function as the Board or Director-General,  
12 may assign to him.

13           **14.**-(1) The Institute shall, with the approval of the Board, appoint, Other staff of  
the Institute  
14 designate or cause to be deployed, directly or on secondment from any  
15 public or private body, such number and category of staff as it may require to  
16 assist it in the effective discharge of its duties and functions under this Act.

17           (2) The Board shall be responsible for determining the job  
18 description, title, terms and qualifications of staff.

19           (3) Salaries, including allowances of the employees of the Institute  
20 shall be determined by the National Income, Salaries and Wages  
21 Commission.

22           (4) The Board shall make rules relating generally to the conditions  
23 of service of staff of the Institute, including rules providing for the  
24 appointment, promotion, advancement, determination of appointment, and  
25 disciplinary control of those employees.

26           **15.**-(1) The Institute may set up departments, special units, Department,  
special units  
and committees  
27 technical committees, four working groups and task forces to assist it in the  
28 performance of its functions under this Act and may make changes to its  
29 structure, with the approval of the Board.

30           (2) There shall be appointed for each of the departments and

	1	special units, a principal officer who shall be known by such designation as the
	2	Institute may determine.
Service in the Institute is pensionable Act No. 4, 2014	3	<b>16.</b> -(1) Service in the Institute shall be public service for the purpose
	4	of the Pension Reform Act and, officers and other staff of the Institute are, in
	5	respect of their service in the Institute, entitled to pension, severance and other
	6	retirement benefits in conformity with provisions of the Pension Reform Act.
	7	(2) Notwithstanding the provisions of subsection (1), nothing in this
	8	Act prevents the appointment of a person to any office on terms which preclude
	9	the grant of pension and retirement benefits in respect of that office.
Act No. 4, 2014	10	(3) For the purpose of the application of the provisions of the Pension
	11	Reform Act, any power exercisable by a Minister or other authority of the
	12	Government of the Federation is vested in, and is exercisable by, the Board.
Campuses of the Institute	13	<b>17.</b> The Institute may establish campuses in any part of Nigeria,
	14	subject to the approval of the Board, for the performance of its functions under
	15	this Bill.
Co-operation with other bodies	16	<b>18.</b> The Institute may cooperate with relevant organisations and
	17	authorities involved in hospitality and tourism related issues in the
	18	performance of its functions under this Bill.
Appointment of experts	19	<b>19.</b> In exercising, performing and discharging the powers, functions
	20	and duties conferred on it under this Bill, the Institute may appoint, contract,
	21	liaise or co-operate with experts, including specialised agencies, resource
	22	persons, academic and technical institutes or advisory committees, in order to
	23	assist it in performing or discharging its functions or duties under this Bill.
	24	PART V - FINANCIAL PROVISIONS
Funds of the Institute	25	<b>20.</b> -(1) There is established for the Institute a fund ("the Fund") which
	26	shall consist of-
	27	(a) budgetary allocations, grants and annual subventions received
	28	from the Government of the Federation;
	29	(b) all money held immediately before the commencement of this Bill
	30	by the National Institute for Hospitality and Tourism;

1 (c) all money raised for the Institute by way of gifts, loans,  
2 endowment, grants-in-aids, testamentary disposition, bequest or other  
3 voluntary contributions from philanthropic organisations or persons, if the  
4 terms and conditions attached are not inconsistent with the functions of the  
5 Institute;

6 (d) 10% of the revenue generated shall be used directly by the  
7 Institute for its administration and programmes;

8 (e) charges, fees and other sums collected or received for services  
9 rendered by the Institute; and

10 (f) all other funds which may accrue to the Institute.

11 (2) Subject to the provisions of the Constitution of the Federal  
12 Republic of Nigeria, 1999, the Fund of the Institute shall be managed in  
13 accordance with Financial Regulations applicable in the Public Service of  
14 the Federation.

15 (3) The Institute may apply the Fund -

16 (a) to pay the costs of administration, charges and expenses of the  
17 Institute;

18 (b) to discharge the cost of maintaining the Head Office and other  
19 campuses of the Institute and for the development and maintenance of any  
20 property vested in or owned by the Institute;

21 (c) for the payment of allowances and other benefits of members of  
22 the Board or any committee set up by it;

23 (d) for the payment of emoluments, allowances, benefits and other  
24 entitlements of the Director-General and other staff of the Institute;

25 (e) for the payment for all purchases made by the Institute and the  
26 training of members of its staff, including the provision of scholarships,  
27 bursaries and awards for specialised training of members of staff of the  
28 Institute;

29 (f) for the payments required to publicise and promote the  
30 activities of the Institute;

	1	(g) for the payment to various stakeholders involved in the activities
	2	of the Institute;
	3	(h) for counterpart payments, annual and other subscriptions and
	4	contributions for the support of national and international professional
	5	organisations, including international exchange programmes;
	6	(i) for maintaining general financial reserves subject to general or
	7	specific directives that may be given by the Minister;
	8	(j) for the payment of all consultancies, legal fees, judgment debts and
	9	costs of contracts awarded by the Board; and
	10	(k) for any other expenditure, as may be approved by the Board in
	11	connection with all or any of its functions and powers under this Bill.
Investment of the Fund of the Institute	12	<b>21.-(1)</b> The Institute may invest any or all money in its Fund, not
	13	immediately required for its current expenditure, in -
	14	(a) any security created or issued by or on behalf of the Federal
	15	Government, as may be approved by the Board.
	16	(b) the purchase or improvement of any land in any part of the
	17	Federation; or
	18	(c) any venture in Nigeria as may be approved by Minister, including
	19	investment in stocks quoted at the Nigerian Stock Exchange.
	20	(2) In the exercise of its powers of investment of its fund under
	21	subsection (1), the Institute may vary such investments in line with extant
	22	Government Regulations.
Establishment of Housing Scheme	23	<b>22.</b> The Institute may, with the approval of the Minister, engage in the
	24	establishment of Staff Housing Scheme.
Annual estimate of income and and expenditure	25	<b>23.-(1)</b> The Institute shall submit to the Minister an estimate of its
	26	expenditure and income for the next succeeding financial year.
	27	(2) Notwithstanding the provisions of subsection (1), the Institute
	28	may, where necessary due to unforeseen circumstances, submit supplementary
	29	or adjusted statements of estimated income and expenditure to the Minister for
	30	onward transmission to the National Assembly for approval.

- 1                   **24.**-(1) The Institute shall- Accounts, records  
and audit
- 2                   (a) keep proper and regular accounts and other records of money
- 3                   received and paid by the Institute and for other purposes for which money
- 4                   has been received or paid, and of its assets, credits and liabilities in respect of
- 5                   each year; and
- 6                   (b) cause its accounts to be audited on or before 31st March of the
- 7                   following year to which the accounts relate, by a firm of auditors appointed
- 8                   from the approved list of auditors, and in accordance with guidelines
- 9                   supplied by the Auditor-General for the Federation.
- 10                  (2) The Institute shall do all things necessary to ensure that all
- 11                  payments of its funds and bank account are correctly made and properly
- 12                  authorised and that adequate control is maintained over its assets.
- 13                  (3) As soon as the accounts and the financial statements of the
- 14                  Institute have been audited in accordance with the requirement of this Bill,
- 15                  the Institute shall forward a copy of the audited financial statements to the
- 16                  Minister together with any report or observations made by the auditors and
- 17                  the Auditor-General for the Federation on the statement of accounts.
- 18                  (4) The remuneration of the auditor shall be paid out of the Fund of
- 19                  the Institute.
- 20                  **25.** The Institute shall- Annual reports
- 21                  (a) not later than 31st July of each year, prepare and submit to the
- 22                  Minister and the Auditor-General of the Federation, a report in such form as
- 23                  the Minister may direct on the activities and administration of the Institute
- 24                  during the immediately preceding year; and
- 25                  (b) include in the report a copy of the audited accounts of the
- 26                  Institute for the year and Auditor-General's report.
- 27                  **26.** The Institute may, with the approval of the Minister, borrow Borrowing power
- 28                  such sums by way of loan, overdraft or from any other source, as may be
- 29                  required for the performance of its functions and meeting its obligations
- 30                  under this Act, and any interest payable on money so borrowed shall be paid

	1	out of the Fund of the Institute.
Power to accept gifts	2	27.-(1) The Institute may accept gifts of land, money, books, vehicles,
	3	equipment or other property from within or outside Nigeria upon such terms
	4	and conditions, if any, as may be specified by the person or organisation
	5	making the gift.
	6	(2) The Institute shall not accept any gift if the conditions attached by
	7	the person or organisation making the gift are inconsistent with the objectives
	8	and functions of the Institute under this Bill.
	9	PART VI - REGISTRATION OF HOSPITALITY, TRAVEL AND TOURISM
	10	PERSONNEL
Registration of hospitality, travel and tourism personnel	11	28.-(1) A person shall not hold any appointment or practise as a
	12	hospitality, travel and tourism personnel in Nigeria unless he is registered with
	13	the Institute under this Bill.
	14	(2) A registered hospitality, travel and tourism personnel is entitled to
	15	practise in any part of Nigeria provided he is licensed to practise.
	16	(3) Subject to the relevant provisions of this Bill, a person is entitled to
	17	be enrolled or registered as a certified registered travel, tourism or hospitality
	18	personnel where he-
	19	(a) passes the qualifying examination for membership conducted by
	20	the Institute and other similar institutes both within and outside Nigeria and
	21	completes the prescribed practical training;
	22	(b) holds a qualification granted outside Nigeria and, for the time
	23	being, accepted by the Institute;
	24	(c) has paid the prescribed registration fees; or
	25	(d) satisfies the Board that he has had sufficient practical experience
	26	as a travel, tourism or hospitality practitioner, if the Board so requires.
	27	(4) An applicant for registration shall, in addition to evidence of
	28	qualification, satisfy the Institute and the Board that he -
	29	(a) is of good character; and
	30	(b) has attained the age of 21 years.



(5) The Institute may, in its discretion, provisionally accept a qualification produced in respect of an application for registration under this section, or direct that the application be renewed within such period as may be specified in the direction.

(6) Any entry directed to be made in the register under subsection (3) shall show that registration is provisional, and no entry so made shall be converted to full registration without the written consent of the Board.

(7) The Institute shall, subject to the approval of the Board, publish, in the Federal Government Gazette, particulars of qualifications for the time being acceptable for registration as hospitality, travel and tourism personnel.

12                   **29.-(1)** A person admitted to membership of the profession in  
13                   Nigeria under the provisions of this Act may be registered as -

Registration of provisional member

14 (a) a provisional member; or

15 (b) a member.

16 (2) A person is entitled to be enrolled as a provisional member  
17 where he-

(a) has submitted a written application in the form prescribed by the Institute and has paid the prescribed registration fee;

(b) has completed a minimum of equivalent of National Vocational  
Qualification (NVO) level one;

22 (c) has sworn to the hospitality and tourism oath;

23 (d) is of good character;

(e) has not been convicted in Nigeria or elsewhere of any criminal  
offence involving fraud or dishonesty; and

(f) meets any other requirement for registration as a provisional member of the profession as may be prescribed by the Institute.

(3) A person is entitled to be registered as a member of the profession where, in addition to holding the qualifications and satisfying all the conditions set out in subsection (2), he-

Registration of  
Nigerian citizen  
who is qualified  
outside Nigeria

- 1 (a) has submitted a written application in the form prescribed by the
- 2 Institute and paid the prescribed fee for his registration;
- 3 (b) has a minimum of equivalent of National Vocational Qualification
- 4 (NVQ) level three;
- 5 (c) has completed the statutory continuous internship training for one
- 6 year in an institution approved by the Institute and has obtained from the
- 7 approved institution a certificate of experience in that regard; and
- 8 (d) meets any other requirement for registration as a member of the
- 9 profession as may be prescribed by the Institute.

10 **30.** A Nigerian citizen who qualifies as hospitality, travel and tourism  
11 practitioner in an approved institution outside Nigeria shall be registered under  
12 this Bill, where he-

13 (a) holds a qualification in a recognised field in hospitality, travel and  
14 tourism awarded by an approved or recognised institution outside Nigeria  
15 which qualification, for the time being, is acceptable to the Board for the  
16 purposes of this Bill;

17 (b) holds a certificate of registration as a practitioner acceptable to the  
18 Board;

19 (c) has completed, in Nigeria, the statutory internship course of  
20 training and obtained certificate specified in section 29 (2) (b) (where  
21 applicable);

22 (d) is of good character;

23 (e) has not been convicted in Nigeria or elsewhere of any criminal  
24 offence involving fraud or dishonesty;

25 (f) submits a duly completed application in writing in the prescribed  
26 form and paid the prescribed fee for his registration; and

27 (g) meets any other requirement for registration as a member of the  
28 profession as may be prescribed by the Board.

Registration of  
non-Nigerian  
practitioners

29 **31.-(1)** A person who is not a citizen of Nigeria may be registered as a  
30 practitioner under this Act where the country of which he is a citizen grants

1 reciprocal registration facility to Nigerian citizens and where he -  
2 (a) holds a requisite qualification recognised by the Institute;  
3 (b) has passed the Institute's examination and such other  
4 examinations as the Institute may prescribe;  
5 (c) has acquired the requisite experience in accordance with  
6 section 29 (3) (b);  
7 (d) has been resident in Nigeria for at least 12 calendar months  
8 immediately preceding the date of his application for registration; and  
9 (e) meets all other requirement for registration as may be  
10 prescribed by the Institute.

11 (2) An applicant applying for registration under this section shall,  
12 in addition to evidence of qualification, satisfy the Institute that he-

13 (a) is of good character;  
14 (b) has not been convicted in Nigeria or elsewhere of any criminal  
15 offence involving fraud or dishonesty;  
16 (c) submits a duly completed application in writing in the  
17 prescribed form; and  
18 (d) has paid the prescribed fee for registration.

19 **32.**-(1) Subject to the provisions of this Bill, the Institute shall  
20 make rules with respect to the form, contents, parts and procedures for  
21 keeping and making of entries in the register of hospitality and tourism  
22 practitioners under this Part.

Rules for keeping  
and maintaining  
register

23 (2) The rules made under subsection (1) shall, in particular, make  
24 provision for-

25 (a) regulating the making and processing of applications for  
26 enrolment of provisional members or registration of full members;

27 (b) providing for the notification to the Director-General of any  
28 change in those particulars by the person to whom the registered particulars  
29 relate;

30 (c) providing for the procedure for the acceptance and registration

1 of additional qualification to the earlier qualification held which is in relation  
2 to the profession;

3 (d) specifying the fees, including any annual subscription to be paid to  
4 the Institute in respect of-

5 (i) entry of names in the register of hospitality, travel and tourism  
6 practitioners, and

7 (ii) payment of annual practising fee;

8 (e) authorising the Director-General to refuse to enter a name in the  
9 register until the fees specified for the entry have been paid in compliance with  
10 the requirements of this Bill or rules made on that behalf which are for the time  
11 being in force; and

12 (f) specifying any other thing not mentioned under this section which  
13 the Institute considers necessary or expedient.

Publication of  
register

14 **33.-(1)** The Institute shall, under the supervision of the Director-  
15 General, cause the register of hospitality, travel and tourism practitioners to be  
16 published and put on sale, not later than two years from the commencement of  
17 this Bill.

18 (2) In each year after the register is first published under subsection  
19 (1), the Institute shall update and cause the updated version of the register to be  
20 published showing alterations made in the register since it was last printed and  
21 a current update version of the Register shall be reviewed every month and then  
22 made available on-line and on the Institute website.

23 (3) The Institute shall-

24 (a) cause a reprint of each edition of the register and of each list of  
25 corrections to be deposited at the principal offices of the Institute and the  
26 Institute; and

27 (b) keep the register and lists of corrections so deposited available at  
28 all reasonable times for inspection by members of the public.

29 (4) A document purporting to be a print of an edition of the register  
30 published under this section by the authority of the Institute, or documents

1 purporting to be prints of an edition of the register and of a list of corrections  
2 to that edition so published is, without prejudice to any other mode of proof,  
3 admissible in any proceeding as evidence that person specified in the  
4 document or the documents read together, as being registered was so  
5 registered at the date of the edition or of the list of corrections, as the case  
6 may be, and that a person not so specified was not so registered.

7 (5) Where in accordance with subsection (4), a person is, in any  
8 proceedings shown to have been or not to have been registered at a particular  
9 date, he shall, unless the contrary is proved, be taken for the purposes of  
10 those proceedings as having at all material times continued to be or not be so  
11 registered.

12 **34.** The Institute shall, under the supervision of the Director-  
13 General-

Correction of  
entries in the  
Register

14 (a) correct any entry in the register in accordance with the Board's  
15 directions or order of the court;

16 (b) make or update any necessary alteration in the register as may  
17 be necessary or expedient; and

18 (c) remove from the register any registered person who is dead or  
19 who has ceased to be so registered.

20 **35.-(1)** Where, the Institute-

21 (a) sends by registered post, e-mail or other recognised means of  
22 communication to any person, a letter addressed to him at the address on the  
23 register of personnel enquiring whether the registered particulars relating to  
24 him are correct and the Institute receives no reply to the letter within a period  
25 of six months from the date of posting or sending it,

Removal of  
names from the  
register

26 (b) considers it necessary upon the expiration of that period of six  
27 months, sends, in the like manner to the person in question, a second similar  
28 letter and receives no reply within three months from the date of posting or  
29 sending it,

30 (c) is satisfied that a member has been convicted for any criminal

Re-entry of  
names into the  
register after  
removal

1 offence involving fraud or dishonesty, or  
2 (d) dismissed a member for professional misconduct,  
3 the Institute may, remove the name and particulars of that person from register.  
4 (2) The Board may direct the Institute to restore to the register any  
5 name or particulars removed from the register under subsection (1).  
6 **36.** Where a-  
7 (a) person provides proof to clarify section 35 (a) and (b) and the  
8 Institute is satisfied with such proof;  
9 (b) criminal convict is granted a ministerial pardon on the  
10 recommendation of the Board;  
11 (c) person was found guilty of misconduct that led to his dismissal on  
12 the recommendation of the Board; and  
13 (d) person is convicted for a second criminal conviction,  
14 his name shall-  
15 (i) in the case of paragraphs (a) and (b), be re-entered,  
16 (ii) in the case of paragraphs (c) and (d), not be re-entered,  
17 into the register.

Payment of  
membership  
and practicing  
fees

18 **37.-(1)** No person shall practise in any year unless he has paid to the  
19 Institute the appropriate practising fees prescribed by the Board which shall be  
20 due in January of each year.  
21 (2) A Person with at least 35 years post registration experience or who  
22 has attained the age of 70 years is exempted from the payment of practising  
23 fees.  
24 (3) A registered personnel who fails to pay the prescribed practising  
25 fee by 31st day of March of every year shall, in addition to the fee, pay a fine of  
26 a sum which is equivalent to 10 per cent of the applicable fee within the year.  
27 (4) A registered personnel who has paid his practising fee in any year  
28 as prescribed in subsection (1) or who is exempted from payment of practising  
29 fee under subsection (2), is entitled to a practising licence for that year  
30 authorising him, subject to any enactment or regulation in force applicable to

1 him, to carry on any legitimate business relating to hospitality, travel and  
2 tourism.

3 (5) The Institute may vary the practising fees prescribed in  
4 subsection (1) provided that the variation of the practising fee does not come  
5 into force unless it is approved by the Board.

6 (6) A member who, in respect of any year, practices the profession  
7 without paying his annual practicing fee commits a misconduct and is liable-

8 (a) in the case of a first offender, to a fine of twice the prescribed  
9 practicing fee;

10 (b) in the case of a second or subsequent offender, to a fine of not  
11 less than 10 times the prescribed practising fees; and

12 (c) where he is in the employment of any person, the employer  
13 commits an offence and is liable in like manner as the member where it is  
14 proved that failure to pay the prescribed fees was with the knowledge,  
15 consent or connivance of the employer.

16 **38.-(1)** The Institute shall make rules-

17 (a) prescribing the amount and due date for payment of the  
18 practicing fees;

19 (b) prescribing the different amounts to be paid either as a fellow,  
20 provisional member or a registered hospitality, travel and tourism  
21 practitioner;

22 (c) prescribing the form of licence to practise to be issued annually  
23 or, if the Board considers fit, by endorsement on an existing licence; or

24 (d) restricting the right to practise as a member in default of  
25 payment of the amount of the annual subscription where the default  
26 continues for longer than such period as may be prescribed by the rules; and

27 (e) prescribing the period of practical training in the office of a  
28 hospitality, travel and tourism personnel in practice to be completed before a  
29 person qualifies for enrolment or a license to practice as a hospitality, travel  
30 and tourism personnel.

Rules as to  
membership and  
practicing fees  
for personnel

	1	(2) Rules made under this section shall be published in the Federal
	2	Government Gazette.
	3	PART VII - PROFESSIONAL DISCIPLINE
Establishment of Investigating Panel	4	<b>39.</b> -(1) There is established the Hospitality, Travel and Tourism
	5	Investigating Panel (in this Act referred to as "the Panel") charged with -
	6	(a) the duty of conducting a preliminary investigation into any case
	7	where it is alleged that a member has misbehaved in his capacity as a
	8	professional hospitality, travel and tourism practitioner or should, for any other
	9	reason, be subject of proceedings before the Tribunal; and
	10	(b) deciding whether the case should be referred to the Tribunal or not.
	11	(2) The Panel shall be appointed by the Institute and shall consist of
	12	one member of the Board, two director carder staff of the Institute appointed by
	13	the Director-General and two members of the profession who are not members
	14	of the Board with a legal practitioner from the Institute as Secretary to the
	15	Penal.
Third Schedule	16	(3) The provisions of the Third Schedule shall, as far as applicable to
	17	the Tribunal and Panel respectively, have effect with respect to those bodies.
	18	(4) The outcome of investigation on any serious case of infraction
	19	handled by the Panel shall be reported to the Minister.
Establishment of Disciplinary Tribuna	20	<b>40.</b> -(1) There is established a Hospitality, Travel and Tourism
	21	Practitioners Disciplinary Tribunal (in this Bill referred to as "the Tribunal"),
	22	charged with the responsibility of considering and determining any case
	23	referred to it by the Panel and any other case of which the Tribunal has
	24	cognisance under the provisions of this Bill.
	25	(2) The Tribunal shall consist of the Chairman, the Director-General
	26	of the Institute, one Board member and two members from the hospitality,
	27	travel and tourism practitioners as may be appointed by the Board.
Meaning of professional misconduct or infamous conduct	28	<b>41.</b> For the purposes of this section, professional misconduct or
	29	infamous conduct in a professional respect includes -
	30	(a) divulging or revealing to unauthorised persons, a client or another



1 practitioner's information or the nature of professional services rendered,  
2 without the client's express consent, or without order or direction of a court;

3 (b) engaging in conduct likely to deceive, defraud or harm the  
4 client or the public or demonstrating a wilful or careless disregard for the  
5 health, welfare or safety of a client or the public or engaging in conduct  
6 which substantially departs from the standards of care ordinarily exercised  
7 by a hospitality and tourism practitioner; or

8 (c) obtaining any money by fraud, misrepresentation or deception.

9 **42.-(1)** Where the Tribunal is satisfied that the name of any person  
10 has been fraudulently registered, the Tribunal may, if it considers fit, give a  
11 direction-

Penalties for  
unprofessional  
conduct

12 (a) reprimanding that person;

13 (b) ordering the Institute to strike out his name off the register; or

14 (c) pay a fine of not less than N200,000.00 as may be specified in  
15 the direction.

16 (2) The Tribunal may, if it considers fit, defer its decision as to the  
17 giving of a direction under subsection (1) until a subsequent meeting of the  
18 Tribunal, provided that-

19 (a) no decision shall be deferred under this subsection for periods  
20 exceeding six months in the aggregate; and

21 (b) a person shall not be a member of the Tribunal for the purposes  
22 of reaching a decision which has been deferred unless he was present as a  
23 member of the Tribunal when the decision to defer the Tribunal's decision  
24 was taken.

25 (3) When the Tribunal gives a direction under subsection (1), the  
26 Tribunal shall cause notice of the direction to be served on the person to  
27 whom it relates.

28 (4) A person to whom a direction under subsection (1) relates may,  
29 at any time within 30 days from the date of service on him of the notice of  
30 direction, appeal against the direction to the Tribunal.

1 (5) The Tribunal shall set-up a new sitting to determine the appeal and  
2 give a direction and the direction is final and cannot be appealed.

3 (6) A direction of the Tribunal under subsection (1) shall take effect,  
4 where-

5 (a) no appeal under subsection (5) is brought against the direction  
6 within the time limited for such an appeal, on the expiration of that time;

7 (b) an appeal under subsection (4) is brought against the direction, but  
8 it is withdrawn or upheld at the appeal sitting.

9 (7) A person whose name is struck out of a register kept under this Bill  
10 under a direction of the Tribunal or whose name as a registered person is  
11 removed or suspended from the register is not entitled to re-registered in that  
12 register, except under a direction given by the Tribunal.

When a person  
is treated as  
convicted

13 **43.** For the purposes of section 45, a person is not treated as convicted  
14 unless-

15 (a) as at the time the conviction is subsisting, no appeal is pending in  
16 an appellate court; or

17 (b) when an appeal or further appeal is brought in connection with the  
18 conviction, the appellate court upheld the conviction, provided that such notice  
19 of appeal is brought within 60 days after the date of conviction.

The jurisdiction  
of the Tribunal

20 **44.** Criminal proceedings shall not oust the jurisdiction of the  
21 Tribunal from determining any case of misconduct or infamous conduct that  
22 violates training, certification and registration of the Institute.

#### 23 PART VIII - OFFENCES AND PENALTIES

General offences,  
penalties and  
legal proceedings

24 **45.-(1)** Any person who knowingly makes a false statement for the  
25 purpose of procuring enrolment, registration or admission into the Institute,  
26 commits an offence.

27 (2) A person who is not a registered hospitality, travel and tourism  
28 practitioner under this Act but practises as such or holds himself out as being so  
29 registered and entitled to practise in that capacity whether for reward or not, or  
30 takes or uses any name, title, addition or description implying that he is so

1 registered and authorised by law to so practise, commits an offence under  
2 this Bill.

3 (3) A person who commits an offence under this section is liable on  
4 conviction, in the case of -

5 (a) subsection (1), to a fine of not less than ₦200,000.00 or to a term  
6 of imprisonment not exceeding one year or both; or

7 (b) subsection (2), to a fine of not less than ₦500,000.00 or to a term  
8 of imprisonment not exceeding two years or both.

9 (4) Where any contribution or payment as required under the  
10 provision of this Act is not paid within the time specified for that purpose, a  
11 sum equal to 5% of the amount unpaid shall be added for each month or part  
12 of the month after the date which payment should have been made and for  
13 the purpose of this subsection "contribution or payment", includes any  
14 interest or penalty payable or imposed for non-payment or for late payment,  
15 as the case may be.

16 (5) Notwithstanding any other provision of this Bill, a contribution  
17 or payment is recoverable by action as a debt owed to the Institute at any  
18 time from the date when the contribution or payment became due.

19 (6) Any person who contravenes any provision of this Bill for  
20 which no specific penalty was provided, commits an offence and is liable on  
21 conviction to a fine not exceeding ₦200,000.00 or imprisonment for a term  
22 not exceeding one year or both.

23 (7) Subject to section 174 of the Constitution of the Federal  
24 Republic of Nigeria, 1999 any employee of the Institute authorised in that  
25 behalf by the Board, and who is a legal practitioner, may, before any court of  
26 competent jurisdiction, conduct or defend any complaint or other  
27 proceeding arising under this Act.

28 PART IX - MISCELLANEOUS

29 46.-(1) The Federal High Court shall have the jurisdiction to hear Jurisdiction  
30 and determine criminal and civil matters including appeals under this Bill.

	1	(2) Appeals from the Tribunal shall be heard and determined by the
	2	Federal High Court.
Regulations, rules and guidelines	3	<b>47.</b> -(1) The Institute may, with the approval of the Minister, make
	4	regulations, rules and guidelines as may be required to give effect to the
	5	provisions of this Bill.
	6	(2) Any regulation, rule or guideline made under this Act shall be
	7	published in the Federal Government Gazette.
	8	(3) The contravention of any regulation, rule or guideline issued
	9	pursuant to any of the provisions of this Act constitutes an offence and is
	10	punishable as prescribed in the particular regulations, rules or guidelines.
Power of Minister to give directives	11	<b>48.</b> The Minister may give directive to the Institute or through the
	12	Board, of a general character with respect to the performance of the functions
	13	of the Institute under this Bill and the Institute shall comply with the
	14	directives.
Compulsory acquisition of land Cap. L5, LFN, 2004	15	<b>49.</b> For the purposes of the Land Use Act which provides for the
	16	compulsory acquisition of land for overriding public interest, any requirement
	17	of land by the Institute shall be deemed to be for the public purposes of the
	18	Federation.
Pre-action notice Cap, P41, LFN, 2004	19	<b>50.</b> -(1) Subject to the provisions of this Act, the provisions of the
	20	Public Officers Protection Act is apply to any suit instituted against the
	21	Institute, a member of the Board, Director-General, academic staff, officer or
	22	employee of the Institute.
	23	(2) A suit shall not commence against the Institute before the
	24	expiration of a period of one month after a written notice of intention to
	25	commence the suit had been served on the Institute by the intending plaintiff or
	26	his agent and the notice shall clearly state the-
	27	(a) cause of action;
	28	(b) particulars of the claim;
	29	(c) name and place of abode of the intending plaintiff; and
	30	(d) relief which the plaintiff claims.

1 (3) The notice referred to in subsection (1) and any summons,  
2 notice or other document required or authorised to be served on the Institute  
3 under this Act or any other law may be served by-

4 (a) delivering it to the Director-General of the Institute; or

5 (b) sending it by registered post addressed to the Director-General  
6 of the Institute at the Head Office of the Institute.

7 **51.** A member of the Board, Director-General, academic staff,  
8 officer or employee of the Institute shall be indemnified out of the assets of  
9 the Institute against any proceeding brought against him in his capacity as a  
10 member of the Board, Director-General, academic staff, officer or employee  
11 of the Institute where the act complained of is not ultra vires his powers.

Indemnity of  
officers of the  
Institute

12 **52.** The Board shall meet at least four times in each year.

Meeting of the  
Board

13 **53.**-(1) Any lawful act done or purported to have been done by the  
14 National Institute for Hospitality and Tourism existing immediately before  
15 the commencement of this Bill (in this Bill referred to as the "Executing  
16 Agency") is validated under this Bill.

Transitional  
provisions

17 (2) Any act lawfully done or purported to have been done by any  
18 person however designated or appointed before the commencement of this  
19 Act for and on behalf of the Institute, including the acquisition of landed  
20 properties or erection of buildings, rentals, supervision or control of the  
21 Institute, is validated.

22 (3) Any agreement to which the Executing Agency under this Bill  
23 was a party, whether or not made in writing and whether or not of such a  
24 nature that the rights, liabilities and obligations under the agreement may be  
25 assigned by the Executing Agency shall, unless its terms or subject matter  
26 make it impossible that it should have effect so far as it relates to property as  
27 if the Institute was a party to the agreement and-

28 (a) reference (however worded and whether express or implied) to  
29 the Executing Agency, in respect of anything not done shall be a reference to  
30 the Institute; and

1 (b) any document which refers, whether specifically or generally, to  
2 the Executing Agency shall be construed as referring to the Institute.

3 (4) Without prejudice to the generality of the provisions of this  
4 section, any right, liability or obligation which the Executing Agency had  
5 before the commencement of this Bill shall vest in the Institute.

6 (5) Any application, liability or obligation, legal proceeding or  
7 enforcement of rights pending against the Executing Agency may be continued  
8 against the Institute.

9 (6) Notwithstanding the provisions of subsections (1)-(5)-

10 (a) existing regulations or rules made or guidelines issued by the  
11 Executing Agency before the commencement of this Act are deemed to have  
12 been made or issued under the relevant sections of this Act;

13 (b) any register kept by the Executing Agency is deemed to be part of  
14 the register kept under this Bill;

15 (c) any direction, order and appointment lawfully given, made or  
16 other acts done by the Executing Agency and in force immediately before the  
17 commencement of this Act Bill, shall be deemed to have been given, made or  
18 done under this Bill and shall have effect accordingly; and

19 (d) all property held by or on behalf of the Executing Agency  
20 immediately before the commencement of this Bill shall, on the  
21 commencement of this Bill, deemed to have been vested in the Institute.

22 (7) Subject to the provisions of this Bill, the Director-General of the  
23 Executing Agency is deemed to have been transferred to the Institute under the  
24 same conditions as Director-General.

25 (8) Any person who, immediately before the commencement of this  
26 Bill, held appointment as an employee of the Institute is, on the  
27 commencement of this Bill, deemed to have been appointed under this Bill for  
28 purposes of pension.

29 (9) As from the commencement of this Act, any disciplinary  
30 proceeding pending or existing against any employee of the Executing Agency

1 shall be continued and completed by the Institute.

2 **54.** In this Bill:

Interpretation

3 "Academic staff" means a member of staff of the Institute whose sole and  
4 primary responsibility is teaching, research and assessment of students;

5 "Chairman" means the Chairman of the Board;

6 "Board" means the Governing Board of the Institute established under  
7 Section 7 (1) of this Act;

8 "Director-General" means the Director-General of the Institute appointed  
9 under section;

10 "enrolled", in relation to a member, means a registered under this Bill;

11 "Executing Agency" means the National Institute for Hospitality and  
12 Tourism established that existed immediately before the commencement of  
13 this Bill;

14 "fees" includes annual subscription;

15 "functions" includes powers and duties;

16 "hospitality" includes a broad category of fields within the service industry  
17 that includes lodging, event planning, theme parks, transportation, cruise  
18 line, and additional fields within the tourism industry;

19 "hospitality, travel and tourism" includes the activities enumerated under  
20 the Second Schedule to this Bill;

21 "Institute" means the National Institute for Hospitality and Tourism  
22 established under this Bill;

23 "Establishment or Enterprise" means the activities enumerated under the  
24 Second Schedule;

25 "Minister" means the Minister charged with the responsibility for matters  
26 relating to culture and tourism;

27 "Officer" means a staff of senior rank of the Institute;

28 "register" means the register of hospitality, travel and tourism practitioners  
29 maintained under this Bill;

30 "tourism" includes the business or industry of providing information,

Citation

1 accommodations, transportation, and other related services to tourists; and  
2 "Tribunal" means the Hospitality, Travel and Tourism Practitioners  
3 Disciplinary Tribunal established under this Bill.

4 **55.** This Bill may be cited as the National Institute for Hospitality and  
5 Tourism (Establishment) Bill, 2019.

6 SCHEDULES

7 FIRST SCHEDULE

8 *Section 8 (6)*

9 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

10 *Proceedings of the Board*

11 1.-(1) Subject to the provisions of this Bill and Section 27 of the  
12 Interpretation Act, the Board may make standing orders regulating its  
13 proceedings or those of any of its committees.

14 (2) The quorum of the Board shall be the Chairman or the person  
15 presiding at the meeting, the Director-General and one third of other members  
16 of the Board. The quorum of any Committee of the Authority shall be as  
17 determined by the Board.

18 *Meetings of the Board*

19 2.-(1) The Board shall meet whenever it is summoned by the  
20 Chairman and if the Chairman is required to do so by notice given to him by not  
21 less than 4 other members, he shall summon a meeting of the Board to be held  
22 within 14 days from the date on which the notice is given.

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

26 (3) The Board shall meet a minimum of four times a year: one meeting  
27 each quarter.

28 *Committees*

29 3.-(1) The Board may appoint one or more committees to carry out, on  
30 behalf of the Board such functions as the Board may determine.



1 (2) A committee appointed under this paragraph shall consist of  
2 such number of persons as may be determined by the Board and a person  
3 shall hold office on the committee in accordance with the terms of his  
4 appointment.

5 (3) A decision of a committee of the Board shall be of no effect until  
6 it is confirmed by the Board.

7 *Seal of the Institute*

8 4.-(1) The fixing of the seal of the Institute shall be authenticated  
9 by the signatures of the Chairman or any other member of the Board  
10 generally, or specifically authorised by the Board to act for that purpose and  
11 the Director-General.

12 (2) A contract or an instrument, which is made or executed by any  
13 person not being a body corporate would not be required to be under seal,  
14 may be made or executed on behalf of the Institute by the Director-General  
15 or by any person generally or specifically authorised to act for that purpose  
16 by the Director-General.

17 (3) A document purporting to be a contract, an instrument or other  
18 document signed or sealed on behalf of the Institute, shall be received in  
19 evidence and, unless the contrary is proved, be presented, without further  
20 proof, to have been properly signed or sealed.

21 *Miscellaneous*

22 5. The validity of any proceedings of the Board or of a committee  
23 shall not be adversely affected by -

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

25 (b) a defect in the appointment of a member of the Board or  
26 committee; or

27 (c) reason that a person not entitled to do so took part in the  
28 proceedings of the Board or Committee.

29 6. Any Member of the Board or committee who has a personal  
30 interest in any arrangement entered into or proposed to be considered by the

1 Board or any committee shall-

2 (a) disclose his interest to the Board or committee; and

3 not vote on any question relating to the arrangement.

4 SECOND SCHEDULE

5 *Sections 5 (1) (h)*

6 PROVISIONS RELATING TO TRAINING, CERTIFICATION AND REGISTRATION

7 OF PERSONNEL IN HOSPITALITY, TRAVEL AND TOURISM

8 Class "H"

9 1. Enterprises.

10 2. Tourism and Hospitality Institutions.

11 THIRD SCHEDULE

12 *Section 39 (3)*

13 SUPPLEMENTARY PROVISIONS RELATING TO THE DISCIPLINARY TRIBUNAL

14 AND INVESTIGATING PANEL

15 *The Tribunal*

16 1. The quorum of the Tribunal is three of whom at least one is a  
17 certified travel tourism and hospitality practitioner.

18 2. The Board shall make rules for the purposes of any proceeding and  
19 as to the procedure to be followed.

20 3. The rules made under paragraph 2 of this Schedule shall, in  
21 particular, provide for-

22 (a) securing that notice of the proceedings shall be given, at such time  
23 and in such manner as may be specified by the rules, to the person who is the  
24 subject of the proceedings;

25 (b) determining who, in addition to the person mentioned in  
26 paragraph (a), a party to the proceedings;

27 (c) securing that any party to the proceedings is, if he so requires,  
28 entitled to be heard by the Tribunal;

29 (d) publishing, in the Federal Government Gazette, notice of any  
30 direction of the Tribunal which has taken effect directing that a person's name

1 shall be struck off a register.

2 *The Panel*

3 4. The quorum of the Panel is three.

4 5. The Panel may, at any meeting of the Panel attended by all the  
5 members of the Panel, make standing orders with respect to the Panel.

6 6. Subject to the provisions of any standing order, the Panel may regulate its  
7 own procedure.

8 *Miscellaneous*

9 7. A person ceasing to be member of the Tribunal or Panel is  
10 eligible for reappointment as a member of that body.

11 8. A person may, if otherwise eligible, be a member of both the  
12 Tribunal and the Panel, but no person who acted as a member of the Panel  
13 with respect to any case shall act as a member of the Tribunal with respect to  
14 that case.

15 9. The Tribunal or Panel may act notwithstanding any vacancy in  
16 its membership and the proceedings of either body is not invalidated by any  
17 irregularity in the appointment of a member of that body, or (subject to  
18 paragraph 6 (b) by reason of the fact that any person who was not entitled to  
19 do so took part in the proceedings of that body.

20 10. Any expenses of the Tribunal or Panel shall be defrayed by the  
21 Institute.

#### EXPLANATORY MEMORANDUM

This Bill establishes the National Institute for Hospitality and Tourism charged with the training, basic skills development, travel and tourism industry, hospitality and tourism personnel.

This Bill also provides an effective legal and institutional framework for the training, registration and certification of hospitality and tourism personnel in Nigeria to ensure improved and quality service delivery.