

Extraordinary



National Assembly Journal

No. 56

Abuja - 3rd December, 2020

Vol. 17

CONTENTS

INDEX TO LEGISLATIVE INSTRUMENTS

<i>Bill No.</i>	<i>Long Title</i>	<i>Page</i>
SB. 584	A Bill for an Act to Establish the FCT Borderline Community Development Commission to control, regulate and mitigate the problems faced by the Communities around FCT as a result of their proximity and for Related Matters	C 2617 - 2630
SB. 587	A Bill for an Act to Amend the Child's Right Act (Cap C50) LFN, 2003, to protect children from exposure to pornographic and sexually explicit contents, and Other Related Matters, 2020	C 2631 - 2632
SB. 588	A Bill for an Act to Amend the Tribunal of Inquiry Act, LFN, 2004 to make it mandatory to release the reports of any Tribunal, Administrative and Judicial Panels of Inquiries to the general public and for Other Related Matters, 2020	C 2633 - 2633
SB. 589	A Bill for an Act to Establish the National Food Safety Council and the National Food Safety Management Committee for the official control of food and feed safety, the obligations of food and feed business operators and define the functions and powers of institutions of governments with the objective of ensuring that food and feed safety risks are effectively managed, and for Related Matters, 2020	C 2635 - 2681

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

NASSP 56/312/2020/900

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

FCT BORDERLINE COMMUNITY DEVELOPMENT COMMISSION

BILL 2020

ARRANGEMENT OF PARTS AND SECTIONS

Section:

PART ONE - ESTABLISHMENT

1. Establishment of FCT Borderline Community Development Commission

PART TWO - THE COMMISSION

2. Commission
3. Staff of the Commission
4. Governing Board of the Commission
5. Disqualification of Members of the Board

PART THREE - FUNCTIONS AND POWERS OF THE COMMISSION

6. (1) Functions and Powers of the Commission
(2) Powers of the Commission

PART FOUR - PREPARATION AND EXECUTION OF PROJECTS

7. Preparation and Execution of Projects

PART FIVE - FINANCIAL PROVISIONS

8. Financial Provisions
9. Estimates
10. Accounts and Audit
11. Annual Reports
12. Powers to Accept Gift
13. Powers to Borrow

PART SIX - PENSION

14. Pension

PART SEVEN - LIMITATION OF SUITS AGAINST THE COMMISSION

15. Limitations of Suits Against the Commission
16. Service of Documents
17. Restrictions on Execution Against Property of the Commission

18. Indemnity of Officers

PART EIGHT -REGULATIONS

19. Regulations

PART NINE - MISCELLANEOUS PROVISIONS

20. Interpretation

21. Short Title

Schedule

A BILL

FOR

AN ACT TO ESTABLISH THE FCT BORDERLINE COMMUNITY DEVELOPMENT COMMISSION TO CONTROL, REGULATE AND MITIGATE THE PROBLEMS FACED BY THE COMMUNITIES AROUND FCT AS A RESULT OF THEIR PROXIMITY AND FOR RELATED MATTERS

Sponsored by Senator Mohammed Sani Musa

[] Commencement

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

1 PART ONE - ESTABLISHMENT OF THE COMMISSION

2 1. There is hereby established a Commission to be known as FCT
3 Borderline Community Development Commission. Establishment of
FCT Borderline
Community
Commission

4 PART TWO - THE COMMISSION

5 2.-(1) The Commission: Commission

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

8 (b) May sue and be sued in its corporate name and may; for the
9 purpose of its function under this Act, acquire, hold or dispose of property.

10 (2) The Commission shall be headed by a Director General who
11 shall be responsible for the overall operations of the Commission, and shall
12 be equivalent in rank to a Permanent Secretary in the Public Service of the
13 Federation;

14 (3) The Headquarters of the Commission shall be the former FCDA
15 Headquarters/Field Base Suleja, Niger State.

16 3.-(1) There shall be Office of Directors: Staff of the
Commission

17 (a) Admin and Supply;

18 (b) Legal Services;

19 (c) Finance and Account;

1 (d) Research, Planning and Community Development

2 (2) The Terms and condition of service including remuneration,
3 allowances, benefits and pensions of Officers and employees of the
4 Commission shall be determined by the Board provided that the staff of the
5 Commission shall be Public Officers as defined in the Constitution of Federal
6 Republic of Nigeria 1999.

7 (3) Service of the Commission shall be approved service for the
8 purpose of the Pension Act and accordingly Officers and other persons
9 employed in the Commission shall, in respect to their services be entitled to
10 pension, gratuities and other retirement benefits as prescribed there under.

Governing Board
of the Commission

11 4.-(1) The members of the Governing Board, other than the Director
12 General and the Secretary, shall be part time members;

13 (2) The members of the Governing Board other than ex-Officio
14 members shall be appointed by the President and the appointment shall be
15 subject to confirmation by the Senate;

16 (3) The members of the Governing Board other than ex-officio
17 members shall hold office for a period of 4 years and may be re-appointed for a
18 further term of 4 years and no more;

19 (4) A member of the Governing Board may resign his membership by
20 notice in writing addressed to the President and that member shall, on the date
21 of receipt of notice cease to be a member;

22 (5) Where a vacancy occurs in the membership of the Governing
23 Board, it shall be filled by the appointment of a successor to hold office for the
24 remainder of the term of office of his predecessor; and

25 (6) The Governing Board may take a standing order regulating its
26 proceedings or those of its committees.

Disqualification
of Members of
the Board

27 5. No person shall be, or shall continue to be a member of the Board
28 who-

29 (a) is or, at any time, has been convicted of an offence involving moral
30 turpitude; or

- 1 (b) is or, at any time, has been adjudicated insolvent; or
2 (c) is found to be lunatic or of unsound mind; or
3 (d) is a minor; or
4 (e) has a financial interest in any project or a conflicting interest,
5 directly or indirectly, between his interests as a member and his private
6 interest, and has failed to disclose such interest in writing to the
7 Government.

8 PART THREE - FUNCTIONS AND POWERS OF THE COMMISSION

9 **6.-(1)** Functions of the Commission:

Functions of the
Commission

- 10 -(a) The Board shall compile a comprehensive list of FCT
11 Borderline Communities with a view to continuously updating it and
12 provide relief and for these communities which suffer negative
13 consequences of massive immigration into FCT, residing in neighboring
14 communities due to proximity to FCT.

- 15 (b) Prepare and submit proposal on development projects for the
16 borderline communities to the presidency;

- 17 (c) Advise the Presidency on borderline communities'
18 development especially the protection of relocated communities in order to
19 preserve the culture and the socio-economic details that exist in such
20 communities, while improving their living conditions;

- 21 (d) Ensure the elimination of conditions that are detrimental to
22 health, safety and public welfare, through code enforcement, interim
23 rehabilitation assistance and related activities;

- 24 (e) Consult with borderline and liaise with the presidency on areas
25 required for the overall development in order to maintain, sustain and
26 develop borderline communities;

- 27 (g) Identify and determine annually, such deliberate or conscious
28 infrastructural projects required for the overall development of the
29 borderline communities;

- 30 (h) Coordinate the activities of relevant MDA's in the

1 implementation of borderline communities' development policies and
2 programmes;

3 (i) Plan and develop strategies towards ensuring effective and
4 efficient implementation of Federal Projects within the borderline
5 communities and ensure their implementation;

6 (j) Liaise with FCT and State Government on security of life and
7 properties in borderline communities;

8 (k) Liaise with FCT and State Government on security of life and
9 property in communities;

10 (l) Implement a Master Plan for FCT Borderline Communities. The
11 first phase of the Master Plan will involve complete census, valuation of
12 properties of the indigenes in slums and shanties adequate resettlement and
13 reconstruction in these communities;

14 (m) Collaborate with NGOs and corporate institutions to embark on
15 enlightenment programs and studies of the urban cum indigenous problematic
16 scenarios in the FCT borderline communities with the intension of finding
17 lasting solutions to these challenges;

18 (n) Embark on poverty alleviation programmes and orientations that
19 will enlighten the indigenes to embrace the new urban economy and
20 socialization process;

21 (o) Generally enter into any contract or perform any act, whether
22 within the Federal Republic of Nigeria or outside, as will in the opinion of the
23 Governing Board contribute towards attainment of the Commissions'
24 objectives; and

25 (p) Do such other things as which it deems expedient in the
26 performance of its functions under this Act.

Powers of the
Commission

27 (2) Powers of the Commission:

28 In carrying out subsection (1), the Commission may:

29 (a) Request from any Federal, State or Local MDA such information
30 as may be available to or procurable by the MDA that may be use to the

- 1 commission in carrying out its functions;
- 2 (b) Adopt, amend and repeal standing orders and procedures
- 3 governing the operations of and the performance of functions of the
- 4 commission;
- 5 (c) Make recommendations to the Presidency regarding:
- 6 (i) The expenditure of funds at the Federal, State and Local levels
- 7 under this Act;
- 8 (ii) Additional Federal, State and Local Legislations that may be
- 9 necessary to further the purposes of this Act; and
- 10 (iii) Enter into and perform such contracts, leases, corporate
- 11 agreements, or other transactions as are necessary to carry out the functions
- 12 of the commission.

13 PART FOUR - PREPARATION AND EXECUTION OF PROJECTS

- 14 7.-(a) The Commission shall in such form and in such a manner as
- 15 may be prescribed, prepare projects for the FCT Borderline Communities or
- 16 any part thereof and execute or have been executed in the prescribed
- 17 manner; and

Preparation and
Execution of
Projects

- 18 (b) All such projects prepared by the Commission shall be
- 19 submitted to the Government for its approval, except those, the provisional
- 20 estimated cost of which does not exceed such limit as may be prescribed by
- 21 rules or for which no loan or grant is required from Government;

22 PART FIVE - FINANCIAL PROVISIONS

- 23 8.-(a) The Commission shall establish and maintain a fund which
- 24 shall cover all expenditure incurred by the Commission;

Financial
Provisions

- 25 (b) There shall be credited to the fund, established in pursuance of
- 26 subsection (a) of this section, such payments as may be made by the Federal
- 27 Government for the running expenses of the Commission and all other
- 28 assets accruing from time to time to the Commission;

- 29 (c) The Commission may establish and maintain one or more funds
- 30 into which shall be credited such payments as may be made to it by donor

1 and other agencies from time to time for the purpose of supporting FCT
2 Borderline Community Commission.

3 (d) The fund established under subsection (a) of this section shall
4 consist of:

5 (i) the initial take-off grant from the Federal Government;

6 (ii) annual subvention from the federal, States and Local
7 Governments;

8 (iii) 10% of the FCT total revenue allocation deductible at Source;

9 (iv) 5 % of the total monthly statutory allocation due to Borderline
10 Community States deductible at source;

11 (v) 2 % of the total monthly statutory allocation due to Borderline
12 Community Local Government deductible at source;

13 (vi) fees, fines and commissions charged by the Commission; and

14 (vii) income from investment of the commission.

Estimate 15 **9.** The Commission shall cause to be prepared, not later than the 30th
16 day of September in each year, an estimates of its income and of expenditure
17 for the succeeding year.

Accounts and
Audit 18 **10.** The Commission shall cause to keep proper accounts and records
19 in relation thereto, such account shall not later than 4 (four) months after the
20 end of each year, be audited by auditors appointed by the Commission from the
21 list and in accordance with the guidelines supplied by the Auditor General for
22 the Federation.

Annual Report 23 **11.-(1)** The Commission shall not later than 8 months after the end of
24 each year submit to the President and the Public Account Committee of the
25 National Assembly a report on the activities and administration of the
26 Commission during the immediately preceding year and shall include in such
27 report the audited accounts of the Commission and the auditor's report thereon.

28 (2) Without prejudice to subsection (1) of this Section, the
29 Commission may submit such other reports to the President on matters of
30 expediency or urgency relating to its functions under this Act as the

1 Commission may from time to time determine.

2 (3) The Commission shall not later than 60 months after the end of
3 each year publish the annual reports prepared under subsection (1) of this
4 Section in at least 3 National Newspapers circulating in Nigeria.

5 12.-(1) The Commission may accept gift of land, money or other Power to accept
6 property on such terms and conditions, if any, as may be specified by the gifts
7 person or organization making the gift.

8 (2) The Commission shall not accept any gift if the condition
9 attached by the person or organization making the gift is inconsistent with
10 the functions of the Commission.

11 13.-(1) The Commission may, from time to time, borrow by way of Power to Borrow
12 overdraft or otherwise, such sums of money as it may require for the
13 performance of its functions under this Act.

14 (2) The Commission shall not, without the approval of the
15 President, borrow money which exceeds, at any time, the amount set aside
16 by the President.

17 (3) Notwithstanding the provisions of Subsection (1) of this
18 section, where the sum to be borrowed in foreign currency, the Commission
19 shall not borrow, the sum without the approval of the President.

20 PART SIX -PENSION

21 14.-(a) Service in the Commission shall be approved service for Pension
22 purposes of Pension where applicable;

23 (b) Employees of the Commission where applicable, shall be
24 entitled to pension, Lump Sum (Gratuity) and other retirement benefits as
25 are enjoyed by persons holding equivalent grades in the Civil Service of the
26 Federation as per the Pension Reform Act 2014 (as amended);

27 (c) Notwithstanding Sub-Section (1) or (2) of this Section, nothing
28 in this Act shall prevent the appointment of a person to any office on terms
29 which preclude the grant of pension and gratuity in respect of that office;

Pension Act 2014 1 (d) For the purposes of the application of the provisions of the Pension
2 Reform Act, any power exercisable by an authority of the Government of the
3 Federation, other than the power to make regulations under section 23 thereof,
4 is vested in and shall be exercisable by the Board of Management.

5 PART SEVEN - LIMITATION OF SUITS AGAINST THE COMMISSION

Limitation of
suits against the
Commission 6 **15.-(1)** Subject to the provisions of this Act, the provisions of the
7 Public Officers Protection Act shall apply in relation to any suit instituted
8 against any officer or employee of the Commission.

9 (2) Notwithstanding anything contained in any other law or
10 enactment, no suit against any member of the Board of Management, the
11 Director General or any other officer or employee of the Commission for any
12 act done in pursuance or execution of the Act or any other law or enactment, or
13 of any public duty or authority or in respect of any alleged neglect or default in
14 the execution of this Act or such law or enactment, duty or authority, shall lie or
15 be instituted in any court unless-

16 (a) it is commenced within three (3) months next after the act, neglect
17 or default complained of; or

18 (b) in the case of a continuation of damage or injury, within six (6)
19 months next after the ceasing thereof.

20 (3) No suit shall be commenced against a member of the Board of
21 Management, the Director General, officer or employee of the Fund before the
22 expiration of a period of one (1) month after written notice of intention to
23 commence the suit shall have been served upon the Commission by the
24 intending plaintiff or it's/his/her agent.

25 (4) The notice referred to in Sub-Section (3) of this section shall
26 clearly and explicitly state the cause of action, the particulars of the claim, the
27 name and place of abode of the intending plaintiff and the relief which he
28 claims.

Service of
Documents 29 **16.** A notice, summons or other document required or authorized to
30 be served upon the Fund under the provisions of this Act or any other law or

1 enactment may be served by delivering it to the Director General or by
 2 sending it by registered post and addressed to the Director General at the
 3 Head Office of the Commission.

4 **17.-(1)** In any action or suit against the Commission, no execution
 5 or attachment of process in the nature thereof shall be issued

Restriction on
 execution against
 property of the
 Commission

6 (2) Any sum of money which may, by the judgment of any court, be
 7 awarded against the Commission shall, subject to any direction given by the
 8 court where notice of appeal of the said judgment has been given, be paid
 9 from the general reserve fund of the Commission.

10 **18.** A member of the Board of Management, the Director General,
 11 any officer or employee of the Commission shall be indemnified out of the
 12 assets of the Commission against any proceeding, whether civil or criminal,
 13 in which judgment is given in his favour, or in which he is acquitted, if any
 14 such proceeding is brought against him in his capacity as a member of the
 15 Board of Management, the Director General, officer or employee of the
 16 Commission.

Indemnity of
 Officers

17 PART EIGHT - REGULATIONS

18 **19.** The Secretary to the Government of the Federation may, on the
 19 recommendation of the Board of Management and subject to the approval of
 20 the President, make regulations generally for the purposes of this Act and the
 21 due administration thereof.

Regulations

22 PART NINE - MISCELLANEOUS PROVISIONS

23 **20.** In this Bill-

Interpretation

24 (1) "Commission" means FCT Borderline Community
 25 Development Commission;

26 (2) "FCT" means the Federal Capital Territory;

27 (3) "NGO" means Non-Governmental Organization;

28 (4) "Governing Board" means the Board of Management of the
 29 Commission established under Part 2 this Bill;

30 (5) "FCDA" means the Federal Capital Development Authority;

1 (6) "MDG" means Millennium Development Goals;

2 (7) "MDA" means Ministry Departments and Agencies Goals;

3 (8) "Borderline Communities" means Communities under the FCT
4 Borderline Community Development Commission;

5 (9) "Development projects" means projects meant for the Borderline
6 Communities.

Citation

7 **21.** This Bill may be cited as the FCT Borderline Community
8 Development Commission Bill, 2020.

9 SCHEDULE

10 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD OF MANAGEMENT

11 *Proceedings of the Board of Management*

12 (1) Subject to this Act and Section 27 of the Interpretation Act, the
13 Board of Management may make Standing Orders regulating its proceedings
14 or those of any of its committees.

15 (2) The quorum of the Board of Management shall be 2/3 of the
16 members and the quorum of any committee of the Board of Management shall
17 be determined by the Board of Management.

18 (3) The Board of Management shall meet not less than four (4) times
19 in each year and subject thereto, the Board of Management shall meet
20 whenever it is summoned by the Chairman, and if the Chairman is required to
21 do so by notice given to him by not less than 5 other members, he shall summon
22 a meeting of the Board of Management to be held within fourteen (14) days
23 from the date on which the notice is given.

24 (4) At any meeting of the Board of Management, the Chairman shall
25 preside but if he is absent, the members present at the meeting shall appoint one
26 of them to preside at that meeting. At no time should the absence of the
27 Chairman stop the Board from holding its statutory meetings.

28 (5) Where the Board of Management desires to obtain the advice of
29 any person on a particular matter, the Board may co-opt him to the Board for
30 such period as it thinks fit; but a person who is in attendance by virtue of this

1 sub-paragraph shall not be entitled to vote at any meeting of the Board and
2 shall not count towards a quorum.

3 *Committees*

4 (1) The Board of Management may appoint one or more
5 committees to carry out, on behalf of the Board, such of its functions as the
6 Board may determine.

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

12 (3) A decision of a committee of the Board of Management shall be
13 of no effect until it is confirmed by the Board of Management.

14 *Miscellaneous*

15 (1) The fixing of the Seal of the Commission shall be authenticated
16 by the signature of the Chairman and the Director General or, any other
17 person authorized generally or specially to act for that purpose by the Board
18 of Management.

19 (2) Any contract or instrument which, if made or executed by a
20 person not being a body corporate, would not be required to be under Seal
21 may be made or executed on behalf of the Fund by the Director General or
22 any person generally or specially authorized to act for that purpose by the
23 Board of Management.

24 (3) Any document purporting to be a document duly executed
25 under the Seal of the Fund shall be received in evidence and shall, unless and
26 until the contrary is proved, be presumed to be so executed.

27 (4) The validity of any proceeding of the Board of Management or
28 of a Committee thereof shall not be adversely affected by any vacancy in the
29 membership of the Board of Management or Committee, or by any defect in

- 1 the appointment of a member of the Board of Management or of a Committee
2 of the Board.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for comprehensive adequate relief to FCT borderline communities which suffer the negative consequences of massive immigration into FCT, residing in communities in neighboring cities due to their proximity to the FCT.

The Bill seeks to create a specific body for the execution of developmental projects to mitigate the problems faced by the FCT Borderline Communities.

A BILL

FOR

AN ACT TO AMEND THE CHILD'S RIGHT ACT (CAP C50), LAWS OF THE
FEDERATION, 2003, TO PROTECT CHILDREN FROM EXPOSURE TO
PORNOGRAPHIC AND SEXUALLY EXPLICIT CONTENTS, AND OTHER
RELATED MATTERS, 2020

Sponsored by Senator Ezenwa Francis Onyewuchi

[] Commencement

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

- 1 1. The Child's Right Act (Cap C50), Laws of the Federation of
2 Nigeria, 2003 (herein referred to as "Principal Act" is amended as set out in
3 this Act. Amendment pf
Child's Right Act
Cap C50, LFN,
2003
- 4 2. Section 30 of the Principal Act is hereby amended to create new Amendment of
Section 30
5 Subsections 4 and 5, as follows:
- 6 4.(a). A child shall not be exposed to pornographic and sexually
7 explicit contents or any environment where any form of sexual activity is
8 being displayed or practiced, either between humans or animals;
- 9 (b). Pornographic and sexually explicit content shall include sex
10 videos or animations, salacious visual scenes and audio recordings,
11 magazines or novels with excessive erotic expressions, or any form of
12 obscenity whatsoever, whether on the internet, cinemas, T.V shows, night
13 clubs, parties or live performances.
- 14 5. Any adult, be it a parent, guardian, caregiver, teacher or
15 custodian, who exposes a child to pornographic and sexually explicit
16 contents as contained in subsection (4) of this section commits an offence
17 and is liable on conviction to imprisonment for a term of 3 years or an option
18 of fine of 1,000,000.00 Naira or both.

Short title 1 **3.** This Bill may be cited as the Child's Right Act (Amendment) Bill,
 2 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Child's Right Act (Cap C50), Laws of The Federation of Nigeria, 2003, to protect children from exposure to pornographic and sexually explicit content.

A BILL

FOR

AN ACT TO AMEND THE TRIBUNAL OF INQUIRY ACT, LAWS OF THE
FEDERATION OF NIGERIA, 2004 TO MAKE IT MANDATORY TO RELEASE
THE REPORTS OF ANY TRIBUNAL, ADMINISTRATIVE AND JUDICIAL PANELS
OF INQUIRIES TO THE GENERAL PUBLIC AND FOR OTHER RELATED
MATTERS, 2020

Sponsored by Senator Ezenwa Onyewuchi

[] Commencement

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

- | | |
|---|---|
| <p>1 1. The Tribunal of Inquiry Act LFN, 2004 (herein referred to as the</p> <p>2 "Principal Act") is amended as set out in this Act.</p> | <p>Amendment of
Tribunal of Inquiry
Act LFN, 2004</p> |
| <p>3 2. Section 14 of the Principal Act is hereby amended by inserting a</p> <p>4 new Subsection (2) as follows:</p> <p>5 (1) A tribunal shall make and furnish to the proper authority full</p> <p>6 report in writing of its proceedings, findings and recommendations and</p> <p>7 record an opinion and reasons leading to its conclusions; and any member</p> <p>8 dissenting from the conclusions or any part thereof, shall note his reason for</p> <p>9 such dissent.</p> <p>10 (2) Notwithstanding anything contained in any other Act, law or</p> <p>11 regulation, it shall be mandatory to release such report (s) as submitted to the</p> <p>12 proper authority to the general public within a period not exceeding 60 days</p> | <p>Amendment of
Section 14 of the
Principal Act</p> |
| <p>13 3. This Bill may be cited as the Tribunal of Inquiry Act LFN, 2004</p> <p>14 (Amendment) Bill, 2020.</p> | <p>Short title</p> |

EXPLANATORY MEMORANDUM

The bill seeks to amend the Tribunal of Inquiry Act, Laws of The Federation
of Nigeria, 2004 To Make It Mandatory to release the reports of any tribunal,
administrative and judicial panels of inquiries to the General Public.

NATIONAL FOOD SAFETY AND QUALITY BILL, 2020

ARRANGEMENT OF SECTIONS

PART 1: OBJECTIVES, APPLICATION AND SCOPE

- Section 1: Objectives Of The Act
Section 2: Application And Scope Of The Act

PART 2: PRINCIPLES OF FOOD SAFETY

- Section 3: Scientific Basis For Food Safety Measures
Section 4: Risk Communication
Section 5: Risk Management
Section 6: Risk Assessment
Section 7: Precautionary Principle
Section 8: Transparency

PART 3: GENERAL REQUIREMENTS FOR FOOD AND FEED

SAFETY AND QUALITY

- Section 9: Food Safety Requirements
Section 10: Feed Safety Requirements
Section 11: Power To Make Regulations
Section 12: Food Quality Requirements

PART 4: REGISTRATION AND LICENSING OF ESTABLISHMENTS

- Section 13: Registration Of Establishments
Section 14: Licensing Of Establishments
Section 15: Licence Conditions, Suspension And Cancellation
Section 16: Fees For Registration And Licensing

PART 5: RESPONSIBILITIES OF FOOD AND FEED BUSINESS OPERATORS

- Section 17: Responsibilities With Respect To Unsafe Food And Feed
Section 18: Requirement For Traceability Of Food And Feed

PART 6: DECLARATIONS AND LABELING

- Section 19: False And Misleading Descriptions

PART 7: OFFICIAL CONTROL OF SAFETY OF FOOD AND FEED

- Section 20: Official Control Of Safety Of Food And Feed

- Section 21: General Principles Of Inspection⁹
- Section 22: Content Of Inspection
- Section 23: Health And Hygiene Inspection Of Persons In Contact With Food
- Section 24: Sampling For Laboratory Analysis
- Section 25: Annual Food Safety Control Plan And Report
- Section 26: Imported And Exported Food And Feed

PART 8: OFFICIAL TESTING AND REFERENCE LABORATORIES

- Section 27: Nomination Of Official Testing Laboratories
- Section 28: Nomination Of Reference Laboratories

PART 9: EMERGENCIES AND CRISIS MANAGEMENT

- Section 29: Emergency Measures For Ensuring Safety Of Food And Feed
- Section 30: General Plan For Crisis Management

PART 10: ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF THE
NATIONAL FOOD SAFETY COUNCIL AND THE NATIONAL FOOD SAFETY
MANAGEMENT COMMITTEE

- Section 31: Establishment Of The National Food Safety Council
- Section 32: Functions Of The National Food Safety Council Shall Be To
- Section 33: Composition Of The National Food Safety Council
- Section 34: Establishment Of The National Food Safety Management Committee
- Section 35: Functions Of The National Food Safety Management Committee
- Section 36: Composition Of The National Food Safety Management Committee
- Section 37: Meetings Of The National Food Safety Management Committee
- Section 38: Scientific Sub-committee Of The National Food Safety Management committee

Section 39: Scientific Opinions

Section 40: Fees And Expenses

PART 11: POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES

Section 41: Authorised Officers¹⁷

Section 42: Powers Of Authorised Officers

Section 43: Confidentiality

Section 44: Conflicts Of Interest

PART 12: ACTIONS IN RESPECT TO CONTRAVENTIONS

Section 45: Improvement Notice

Section 46: Prohibition Orders

Section 47: Emergency Prohibition Orders

Section 48: Food Or Feed Recall Orders

Section 49: Serious Risk To Health

Section 50: Offences And Penalties

Section 51: Jurisdiction

Section 52: Due Diligence Defence

Section 53: Appeals

PART 13: NOMINATION OF COMPETENT AUTHORITIES

Section 54: Nomination Of Competent Authorities

Section 55: Implementation By State And Local Governments

PART 14: MISCELLANEOUS

Section 56: Repeals And Savings

Section 57: Interpretation

Section 58: Short Title

Schedule:

A BILL

FOR

AN ACT TO ESTABLISH THE NATIONAL FOOD SAFETY COUNCIL AND THE NATIONAL FOOD SAFETY MANAGEMENT COMMITTEE FOR THE OFFICIAL CONTROL OF FOOD AND FEED SAFETY, THE OBLIGATIONS OF FOOD AND FEED BUSINESS OPERATORS AND DEFINE THE FUNCTIONS AND POWERS OF INSTITUTIONS OF GOVERNMENTS WITH THE OBJECTIVE OF ENSURING THAT FOOD AND FEED SAFETY RISKS ARE EFFECTIVELY MANAGED, AND FOR RELATED MATTERS, 2020

Sponsored by Senator

[] Commencement

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

1 PART 1: OBJECTIVES, APPLICATION AND SCOPE

2 1. The primary objective of this Act is to provide the regulatory Objectives of the
3 framework to: Act

4 (a) Protect the health of consumers from hazards which may be
5 present in food and animal feed;

6 (b) Establish the general principles of official control of food and
7 feed safety, the obligations of food and feed business operators; and

8 (c) define the functions and powers of institutions of Federal and
9 State Governments with the objective of ensuring that food and feed safety
10 risks are effectively managed and that food is of the nature, substance and
11 quality expected by the consumer.

12 2.-(a) This Act shall apply to commercial activities concerning the Application and
13 safety of food and feed affecting the health of consumers; Scope of the Act

14 (b) This Act shall apply to all stages of production, processing,
15 preparation, packaging, storage and distribution of food and feed
16 commodities, which are undertaken in the course of a food or feed business;

	1	(c) The control measures under this Act shall be applied in an
	2	independent, scientifically objective and transparent manner.
	3	(d) Subject to Item 62, Part 1 of the Second Schedule to the
	4	Constitution of the Federal Republic Nigeria, 1999 (as amended), this Act,
	5	shall apply throughout the Federation of Nigeria.
	6	PART 2: PRINCIPLES OF FOOD SAFETY
Scientific basis for food safety measures	7	3. In order to achieve the general objective of a high level of
	8	protection of human health and life, the governing authority nominated for risk
	9	management under the Schedule to this Act shall ensure that food and feed
	10	safety measures made and implemented under this Act shall be based on an
	11	assessment the available scientific evidence in relation to food safety risks.
Risk communication	12	4. The governing authority nominated for risk communication under
	13	the Schedule to this Act shall ensure the transparent communication of timely,
	14	reliable, independent, objective and comprehensible information about food
	15	and feed hazards and associated risks to consumers, food or feed business
	16	operators and relevant Competent Authorities.
Risk management	17	5.-(1) The governing authority nominated for risk management and
	18	relevant Competent Authorities nominated under the Schedule to this Act shall
	19	ensure that measures which they apply to reduce or eliminate a risk to health
	20	from the consumption of food:
	21	(a) take into consideration the scientific assessment of the risk as set
	22	out pursuant to Section 3 of this Act; and
	23	(b) are effective, equitable and proportionate.
	24	(2) The governing authority nominated for risk management under
	25	the Schedule to this Act shall ensure that the appropriate prevention and control
	26	measures are applied at the point in the food supply chain where they can be
	27	most effective in reducing or eliminating the risk.
Risk assessment	28	6. During the assessment of food and feed safety risks, the governing
	29	authority nominated under the Schedule to this Act as being responsible for risk
	30	assessment shall:

1 (a) provide relevant, valid and up to date scientific opinions in
2 relation to food and feed hazards to the Government of Nigeria, the
3 agricultural and food and feed industries and consumers.;

4 (b) promote and coordinate the development of uniform risk
5 assessment and official control methodologies in the fields related to safety
6 of food and feed, within Federal, State and Local Governments;

7 (c) commission scientific studies necessary for the
8 accomplishment of risk assessment in fields related to safety of food and
9 feed;

10 (d) search for, collect, collate, analyse and summarise scientific
11 and technical data in the fields related to safety of food and feed;

12 (e) undertake action to identify and characterise emerging risks, in
13 the fields related to safety of food and feed;

14 (f) establish a network of scientific organisations operating in the
15 fields related to safety of food and feed; and

16 (g) provide scientific and technical assistance, when requested to
17 do so by Government, in relation to emergency procedures referred to under
18 Sections 29 and 30 of this Act.

19 7.-(1) Where there is a possibility of harmful effects on health but
20 scientific uncertainty persists, the governing authority nominated for risk
21 management under the Schedule to this Act may apply provisional risk
22 management measures necessary to eliminate or reduce food and feed safety
23 risks.

Precautionary
principle

24 (2) Measures adopted on the basis of sub-section 1 of this section
25 shall be:

26 (a) proportionate and shall not place additional restriction on
27 internal or external trade other than that required to guarantee protection of
28 health of consumers; and

29 (b) be applied for a limited period pending further scientific
30 investigation for a more comprehensive risk assessment.

	<p>1 (3) Where precautionary measures under sub-section 1 of this section</p> <p>2 are implemented in good faith and in accordance with sub-section 2 of this</p> <p>3 section, and subsequent removal of scientific uncertainty indicates that they</p> <p>4 were not required to ensure health protection, the relevant Competent</p> <p>5 Authority implementing them shall not be held liable for any subsequent losses</p> <p>6 incurred as a result of the measures.</p>
Transparency	<p>7 8.-(1) The governing authority nominated for risk management under</p> <p>8 the Schedule to this Act shall undertake open and transparent public</p> <p>9 consultation during the preparation, evaluation and revision of risk</p> <p>10 management measures, except where the urgency of the matter does not allow</p> <p>11 it for the protection of consumer health.</p> <p>12 (2) Without prejudice to the applicable provisions of Evidence Act</p> <p>13 and Freedom of Information Act on access to documents, where there are</p> <p>14 reasonable grounds to suspect that a food or feed may present a risk for human</p> <p>15 or animal health, then, depending on the nature, seriousness and extent of that</p> <p>16 risk, the governing authority for risk communication nominated under the</p> <p>17 Schedule to this Act shall take appropriate steps to inform the general public of</p> <p>18 the nature of the risk to health.</p> <p>19 (3) The governing authority for risk management and relevant</p> <p>20 Competent Authorities nominated under the Schedule to this Act shall identify</p> <p>21 to the fullest extent possible the food, or type of food or feed, the risk that it may</p> <p>22 present, and the measures which are taken or about to be taken to prevent,</p> <p>23 reduce or eliminate that risk.</p>
	<p>24 PART 3: GENERAL REQUIREMENTS FOR FOOD AND FEED SAFETY</p> <p>25 AND QUALITY</p>
Food safety requirements	<p>26 9.-(1) Food business operators shall not place food on the market if it</p> <p>27 is unsafe.</p> <p>28 (2) Food shall be deemed to be unsafe if it is considered to be:</p> <p>29 (a) injurious to health; or</p> <p>30 (b) unfit for human consumption.</p>

1 (3) In determining whether any food is unsafe, regard shall be
2 given to:

3 (a) the normal conditions of use of the food by the final consumer
4 and at each stage of production, processing, storage and distribution, and

5 (b) the information provided to the final consumer, including
6 information on the label, or other information generally available to the final
7 consumer concerning the avoidance of specific adverse health effects from a
8 particular food or category of foods.

9 (4) In determining whether any food is injurious to health, regard
10 shall be had:

11 (a) not only to the probable immediate or short-term and long-term
12 effects of that food on the health of a person consuming it, but also on
13 subsequent generations;

14 (b) to the probable cumulative toxic effects;

15 (c) to the particular health sensitivities of a specific category of
16 consumers where the food is intended for that category of consumers.

17 (5) In determining whether any food is unfit for human
18 consumption, the relevant Competent Authority shall consider whether the
19 food is unacceptable for human consumption according to its intended use
20 or due to contamination through putrefaction, deterioration, decay or by
21 contact with extraneous matter.

22 (6) Where any food which is unsafe is part of a batch, lot or
23 consignment of food of the same class or description, it shall be presumed
24 that all the food in that batch, lot or consignment is also unsafe, unless
25 following a detailed assessment there is no evidence that the rest of the
26 batch, lot or consignment is unsafe.

27 (7) Food which complies with specific regulations governing food
28 safety shall be deemed to be safe as far as the aspects covered by the specific
29 regulations are concerned.

30 (8) Compliance of a food with specific provisions applicable to

Feed safety
requirements

1 that food shall not prevent the relevant Competent Authority from taking
2 appropriate measures to impose restrictions on it being placed on the market or
3 to require its recall from the market where there are reasons to suspect that,
4 despite such compliance, the food is unsafe.

5 **10.**-(1) Feed shall not be placed on the market or fed to any food-
6 producing animal if it is unsafe.

7 (2) Feed shall be deemed to be unsafe for its intended use if it is
8 considered to:

9 (a) have an adverse effect on human or animal health; or

10 (b) make the food derived from food-producing animals unsafe for
11 human consumption.

12 (3) Where a feed which has been identified as not satisfying the feed
13 safety requirement is part of a batch, lot or consignment of feed of the same
14 class or description, it shall be presumed that all of the feed in that batch, lot or
15 consignment is so affected, unless following a detailed assessment there is no
16 evidence that the rest of the batch, lot or consignment fails to satisfy the feed
17 safety requirement.

18 (4) Feed which complies with specific regulations governing feed
19 safety shall be deemed to be safe insofar as the aspects covered by the specific
20 regulations are concerned.

21 (5) Compliance of a feed with specific regulations applicable to that
22 feed shall not bar the relevant Competent Authority from taking appropriate
23 measures to impose restrictions on it being placed on the market or to require its
24 recall from the market where there are reasons to suspect that, despite such
25 compliance, the feed is unsafe.

Power to make
Regulations

26 **11.**-(1) The Minister on the advice of the National Food Safety
27 Council may by regulation make:

28 (a) provision for requiring, prohibiting or regulating the presence in
29 food or feed of any specified substance, or any substance of any specified class,
30 including additives, contaminants and residues, including residues of

1 pesticides and veterinary medicines, and generally for regulating the
2 composition of food or feed;

3 (b) provision for ensuring that food is fit for human consumption
4 and meets such microbiological or other standards as may be specified by or
5 under the regulations;

6 (c) provision for requiring, prohibiting or regulating the use of any
7 process or treatment in the preparation or packaging of food or feed;

8 (d) provision for securing the observance of hygienic conditions
9 and practices with respect to food or feed business and for the training of
10 operatives;

11 (e) provision for imposing requirements or prohibitions as to the
12 labelling, marking, presenting or advertising of food, the descriptions which
13 may be applied to food, and the language used;

14 (f) provision for securing the observance of hygienic conditions
15 and practices with respect to equipment, packaging or contact materials
16 which are intended to come into contact with food intended for human
17 consumption;

18 (g) provision for the application of internal systems applied by
19 food or feed business operators for ensuring the safety of food or feed placed
20 on the market by them;

21 (h) provision for ensuring that the safety measures applied to
22 exported food and feed are equivalent to those applied to food and feed
23 which is imported into or produced within Nigeria;

24 (i) Provision for regulating the treatment and disposal of any food-

25 (i) which is unfit for human consumption; or

26 (ii) which fails to comply with the regulations; or

27 (iii) which, although not unsafe for human consumption, is
28 prohibited from being sold for such consumption on the basis of religious,
29 ethical or aesthetic reasons;

30 (j) such other provision with respect to food and feed as may be

1 scientifically determined to be necessary for the purpose of ensuring that such
2 food and feed complies with food safety requirements or in the interests of the
3 public health;

4 (k) provision for regulating the placing on the market of novel foods,
5 or for defining procedures for approval prior to placing on the market of any
6 such foods;

7 (l) provision for the application of traceability systems;

8 (m) provisions concerning the labelling and advertising of food,
9 including:

10 (i) requiring certain information regarding food to be declared on the
11 label where the food is pre-packaged or by another means in the case of other
12 food;

13 (ii) requiring certain information regarding other foods to be declared
14 in any other manner;

15 (iii) prohibiting specific claims or types of claim regarding food;

16 (iv) establishing common meanings of the name under which food is
17 placed on the market;

18 (n) implementation of official controls to ensure compliance with the
19 provisions of this Act;

20 (o) provision for setting conditions and procedures to be followed in
21 registration and licencing and the application of notices and other actions to be
22 taken when provisions of the Act are contravened, including appeals; and

23 (p) any other matter deemed necessary for the implementation of this
24 Act.

25 (2) Regulations made under this section may refer in full or in part to a
26 Nigerian Standard adopted under the Standards Organisation of Nigeria Act.

Food Quality
requirements

27 **12.-(1)** Food business operators shall ensure that food placed on the
28 market is of the nature, substance and quality expected by the purchaser.

29 (2.) The Minister in consultation with the National Food Safety
30 Council may make regulation regarding the quality of food:

- 1 (a) to prevent:
2 (i) fraudulent or deceptive practices;
3 (ii) the adulteration of food; and
4 (iii) any other practices which may mislead the final consumer.
5 (b) to otherwise protect the economic interests of consumers;
6 (c) to allow consumers to make informed choices in relation to the
7 foods they consume; and
8 (d) without prejudice to the economic interests of the final
9 consumer, in the interests of introducing order to the marketing of food.
10 (3) Regulations introduced under sub section 2 of this section may
11 establish detailed requirements relating to the:
12 (a) Classification, grading and denomination of food;
13 (b) Organoleptic properties and composition of food;
14 (c) Types and quantities of raw materials, additives and other
15 materials used in the primary production and processing of food;
16 (d) Nature of the technological procedures which are applied in
17 primary production and processing;
18 (e) Origin of the food or ingredients used in food; and
19 (f) Any additional data or specific indications which should be
20 specified in product declarations or labels.

21 PART 4: REGISTRATION AND LICENSING OF ESTABLISHMENTS

- 22 **13.-(1)** No person may operate a food or feed business unless he
23 registers the establishment from which he operates with the relevant
24 Competent Authority nominated under the Schedule of the Act.
25 (2) The governing authority nominated under the Schedule of the
26 Act shall maintain a central public register of registered establishments.
27 (3) Where a food business operator does not operate from a fixed
28 establishment he shall be required to register his operation with the relevant
29 Competent Authority.
30 (4) The information to be provided as a condition for registration

Registration of
Establishments

1 under sub-sections 1 and 3 of this section shall be as determined by Regulations
2 made by the Minister in consultation with the National Food Safety Council.

3 (5) No food or feed business operator shall be required to register a
4 particular establishment or operation with more than one relevant Competent
5 Authority.

6 (6) The food or feed business operator shall communicate any
7 material changes to the information provided at registration to the Competent
8 Authority, including transfer, cessation or suspension of business.

9 (7) An establishment registered under this section which is not used as
10 an establishment for the carrying out of a food or feed business for more than
11 six months shall be de-registered by the relevant Competent Authority.

12 14.-(1) Subject to sub-section (2) of this section, the Minister in
13 consultation with the National Food Safety Council, may by regulations make
14 provision for the issue of licences by the relevant Competent Authority
15 nominated under the Schedule of this Act in respect of the use of an
16 establishment for the purposes of a food or feed business, and for prohibiting
17 the use for those purposes of any establishment except in accordance with a
18 licence issued under the regulations.

19 (2) The Minister shall exercise the power conferred by sub-section (1)
20 of this section above only where it appears to be necessary or expedient to do
21 so-

22 (a) for the purpose of ensuring that food and feed complies with safety
23 requirements or in the interests of public health; or

24 (b) for the purpose of protecting or promoting the interests of
25 consumers.

26 (3) A licence granted by a relevant Competent Authority in
27 accordance with sub-section 1 of this section in respect of an establishment
28 shall authorise that establishment to store, process, package or place food or
29 feed on the market for a defined period and for such products and processes as
30 may be specified in the licence.

1 (4.) The governing authority nominated under the Schedule to this
2 Act shall maintain a central public register of licenced establishments and
3 their authorisations pursuant to sub-section 3 of this section.

4 **15.-(1)** Where an establishment requires a licence under this Act, it
5 shall be subject to any general operating and management conditions which
6 may be prescribed by the relevant Competent Authority:

Licence conditions,
suspension and
cancellation

7 (2.) The conditions referred to in sub-section 1 of this section shall
8 relate to:

9 (a) the design, layout and construction of any premises;

10 (b) the design and construction of any equipment used;

11 (c) the conduct of any person entering area in which food or feed is
12 handled;

13 (d) the design and application of internal systems for ensuring the
14 safety of food or feed placed on the market; and

15 (e) the handling of gaseous, liquid and solid wastes and other
16 environmental requirements.

17 (3) In specifying any conditions applied to the award of a licence,
18 the Competent Authority may make reference to existing codes of practice
19 or standards.

20 (4) Where it is considered to be expedient for ensuring the safety of
21 food or feed, the conditions of any licence granted in accordance with
22 Section 14 of this Act may be varied at any time without notice by the written
23 order of the relevant Competent Authority.

24 (5) Any licence granted in accordance with Section 14 of this Act
25 may be altered, suspended or revoked at any time and without notice by the
26 written order of the relevant Competent authority:

27 (a) where an establishment has been used in contravention of this
28 Act or any regulations made pursuant to it or in contravention of any of the
29 conditions of the licence; or

30 (b) where such action is deemed necessary or expedient for the

	1	purpose of protecting public health.
	2	(6) Where a Competent authority alters, suspends or revokes a licence
	3	issued under Section 14 of this Act it shall inform the National Food Safety
	4	Management Committee within seven working days.
Fees for Registration and Licencing	5	16. -(1) Registration under Section 13 of this Act shall be free.
	6	(2) An appropriate fee shall be payable to the relevant Competent
	7	authority in respect of each application for a licence under Section 14 of this
	8	Act and each subsequent application for renewal of a licence granted under this
	9	Act.
	10	(3) The schedule of fees for different kinds of food business operation
	11	shall be determined by regulation made pursuant to this Act and shall reflect the
	12	cost of official control, including sampling and testing.
	13	(4) Fees received by the relevant competent authority under this
	14	Section shall be paid into the Consolidated Revenue of the Federation, or the
	15	State Government, as appropriate.
	16	PART 5: RESPONSIBILITIES OF FOOD AND FEED BUSINESS OPERATORS
Responsibilities with respect to unsafe Food and Feed	17	17. -(1) Where a food or feed business operator considers or has
	18	reason to believe that a food or feed in his possession or which he has sold or
	19	consigned to another person is unsafe, he shall immediately initiate procedures
	20	to prevent the consumption of the product through recall or communication.
	21	(2) Where the food or feed has left the immediate control of that initial
	22	food or feed business operator, he shall take all reasonable steps to recall the
	23	food or feed in question from the market and inform the relevant competent
	24	authority thereof.
	25	(3) Where there is a presumption that the product has reached the final
	26	consumer, the food or feed business operator shall effectively and accurately
	27	inform the final consumers of the reason for its recall and where other measures
	28	are not sufficient to protect the health of consumers, recall any products already
	29	supplied to them.
	30	(4) A food business operator responsible for retail or distribution

1 activities which do not affect the packaging, labelling, safety or integrity of
2 the food shall, within the limits of his respective activities, initiate
3 procedures to recall from the market products not in compliance with the
4 food-safety requirements.

5 (5) Food business operators responsible for retail or distribution
6 activities shall communicate to the relevant Competent Authority relevant
7 information necessary to trace a food and shall cooperate with any action to
8 recall a product from the market taken by producers, processors,
9 manufacturers and for safety of food.

10 (6) A food or feed business operator shall immediately inform the
11 relevant Competent Authority if he considers or has reason to believe that a
12 food which it has placed on the market may be injurious to human health.

13 (7) Food or feed business operators shall inform the relevant
14 Competent Authority of any actions taken to prevent risks to the final
15 consumer from food which is unsafe, and shall not prevent or discourage
16 any person from cooperating with the relevant Competent Authority where
17 this may prevent, reduce or eliminate a risk arising from a food.

18 **18.-(1)** Food and feed business operators shall establish measures
19 for tracing of food-producing animals, food or feed and any other substance
20 intended to be, or expected to be, incorporated into a food at all stages of
21 production, processing and distribution, including packaging materials.

Requirement for
traceability of
Food and Feed

22 (2) Food or feed business operators shall put in place systems and
23 procedures to identify any business operator:

24 (a) from whom they have received a food-producing animal, food
25 or feed or any substance intended to be, or expected to be, incorporated into
26 a food or feed; and

27 (b) to whom their products have been supplied.

28 (3) Food or feed business operators shall ensure that the
29 information set out in sub-section (2) of this section is recorded and made
30 available to the relevant Competent Authority on demand.

1 (4) Food or feed which is placed on the market or is likely to be placed
2 on the market shall be labelled or otherwise identified through relevant
3 documentation or other information to ensure its traceability.

4 PART 6: DECLARATIONS AND LABELLING

False and misleading
description

5 **19.**-(1) The labelling of food shall not mislead the purchaser to a
6 material degree, particularly with regard to:

7 (a) the characteristics of the foodstuff and, in particular, as to its
8 nature, identity, properties, composition, quantity, durability, origin or
9 provenance, method of manufacture or production;

10 (b) attributing to the foodstuff effects or properties which it does not
11 possess; or

12 (c) suggesting that the foodstuff possesses special characteristics
13 when in fact all similar foodstuffs possess such characteristics.

14 (2) Subject to specific regulations as may be introduced regarding
15 foodstuffs for particular nutritional uses, the labelling of food shall not attribute
16 to any foodstuff the property of preventing, treating or curing a human disease,
17 or refer to such properties.

18 (3) The labelling of food shall not be in a language other than English
19 unless accompanied by a statement in English of information required by this
20 Act or regulations made pursuant to it.

21 (4) The prohibitions or restrictions referred to in this section shall also
22 apply to:

23 (a) the presentation of foodstuffs, in particular their shape,
24 appearance or packaging, the packaging materials used, the way in which they
25 are arranged and the setting in which they are displayed; and

26 (b) advertising.

27 PART 7: OFFICIAL CONTROL OF SAFETY OF FOOD AND FEED

Official control
of safety of food
and feed

28 **20.**-(1) Official control of safety of food and feed shall, subject to any
29 subsequent actions under Part 13 of this Act, be comprised of one or more of the
30 following operations:

- 1 (a) inspection;
2 (b) sampling and analysis;
3 (c) medical examination and inspection of staff health and
4 hygiene;
5 (d) examination of written and documentary material;
6 (e) examination of the records described in Section 22 (2) of this
7 Act; and
8 (f) investigation of compliance with the requirements of this Act
9 and regulations made pursuant to it, including in consideration of the issue
10 of a licence under Section 16 of this Act.

11 (2) The relevant Competent Authorities nominated under the
12 Schedule to this Act shall be respectively responsible for the
13 implementation of official controls under this Section.

14 (3) The relevant Competent Authority shall conduct official
15 controls according to written procedures, and shall inform the food or feed
16 business operator in writing of the results of any official controls conducted.

17 **21.-(1)** The relevant Competent Authority shall carry out
18 inspections for official control of safety of food and feed:

General principles
of inspection

19 (a) regularly and according to priorities determined by risk
20 assessment; and

21 (b) where non-compliance is suspected.

22 (2) Inspections shall be carried out using means appropriate to the
23 objective of the inspection.

24 (3) Inspection may cover all stages of production, processing,
25 storage, transport, distribution, retail trade, including import and export.

26 (4) Where practicable, inspections may be carried out without prior
27 notice.

28 (5) A business operator shall be subject to official controls under
29 this Act from only one of the Competent Authorities listed in the Schedule to
30 this Act.

Content of
inspection

1 (6) Where a business operator is subject to controls for food or feed
2 safety by more than one Authority he may inform the National or State Food
3 Safety Management Committee who shall nominate a single Competent
4 Authority.

5 **22.-(1)** Inspections for official control of safety of food and feed shall
6 include an investigation by an authorised officer into:

7 (a) the state and use which is made of the site, establishment, offices,
8 plant surroundings, means of transport, machinery and equipment of food and
9 feed business operators, particularly in relation to licence conditions specified
10 under Section 15 of this Act;

11 (b) raw materials, ingredients, technological aids and other products
12 used for the preparation and production of food and feed;

13 (c) semi-finished food and feed;

14 (d) finished food and feed products;

15 (e) materials and articles intended to come into contact with food and
16 feed;

17 (f) cleaning and maintenance products and processes and pesticides
18 used by food and feed business operators in the course of their business;

19 (g) processes used for the manufacture or processing of food and feed;

20 (h) labelling and presentation of food;

21 (i) preservation methods.

22 (2) The operations enumerated in sub-section (1) of this section may,
23 where necessary, be supplemented by:

24 (a) interviews with the food or feed business operator and with
25 persons in the food or feed business;

26 (b) the reading of values recorded by measuring instruments installed
27 by the undertaking;

28 (c) measurements carried out by the relevant Competent Authority,
29 with its own instruments, or with instruments installed by the undertaking; or

30 (d) information contained in written and documentary material held

1 by food or feed business operators.

2 **23.**-(1) Persons who handle food, or materials which come into Health and hygiene
3 contact with food shall be subject to a hygiene inspection. inspection of persons
in contact with food

4 (2) The inspection referred to in sub-section 1 of this section shall
5 establish whether such persons comply with regulations concerning
6 periodic medical examinations, technical qualification, health status,
7 personal cleanliness and clothing.

8 **24.**-(1) The Competent Authority may take samples of food and Sampling for
9 feed and other substances and materials used in the production, processing, laboratory analysis
10 packaging and placing on the market of food and feed for analysis to provide
11 information for the purposes of assessing whether food and feed is in
12 compliance with the requirements of this Act.

13 (2) Samples collected for the purpose of official control shall be
14 selected and transmitted to the official laboratory by an authorised officer of
15 the relevant Competent Authority or a body to which responsibilities have
16 been delegated.

17 (3) The costs of the analyses for official controls are borne by the
18 relevant Competent Authority.

19 (4) The costs of the analyses for other purposes, including
20 certification for import or export, shall be borne by the food or feed business
21 operator.

22 **25.**-(1) The relevant Competent Authority shall prepare an annual Annual food safety
23 food safety control plan, specifying the: control and report

24 (a) number and type of controls to be carried out; and

25 (b) criteria applied in drawing up the programme.

26 (2) The relevant Competent Authority shall prepare an annual
27 report on official control activities conducted in relation to food and feed
28 safety, specifying the:

29 (a) number and type of control activities carried out in relation to
30 the programme;

1 (b) number and type of infringements identified; and

2 (c) actions taken in the case of non-compliance.

3 (3) Where the relevant Competent Authority delegates
4 responsibilities to other bodies in accordance of this Act, the annual plans and
5 report shall specify the information set out in sub-sections 1 and 2 of this
6 section in relation to each body to which responsibilities are delegated.

7 (4) The annual plans and annual reports of the relevant Competent
8 Authority shall be subject to the comment and approval of the governing
9 authority nominated in the Schedule to this Act.

10 (5) The relevant Competent Authority shall make the annual plans
11 and annual reports approved under this Section available in a publicly
12 accessible format.

Imported and
exported food
and feed

13 **26.-(1)** Food and feed imported into Nigeria for placing on the market
14 shall comply with the relevant requirements of this Act.

15 (2) Unless otherwise there is a specific informed consent provided by
16 the authorities of the importing country, food and feed exported or re-exported
17 from Nigeria for placing on the market of another country shall not be unsafe
18 and shall comply with the relevant requirements of such importing country.

19 (3) Food and feed imported into Nigeria, or exported or re-exported
20 from Nigeria shall be subject to an official control and certification of
21 compliance with this Act and provisions made pursuant to it issued by a
22 relevant Federal Competent Authority listed in the Schedule of this Act.

23 (4) A business operator required to be subject to official controls and
24 certification under this section shall be subject to such official controls and
25 certification from only one of the Competent Authorities listed in the Schedule
26 of this Act.

27 **PART 8: OFFICIAL TESTING AND REFERENCE LABORATORIES**

Nomination of
official testing
laboratories

28 **27.-(1)** The National Food Safety Management Committee shall
29 authorise laboratories to undertake testing of samples collected for analysis

1 under Section 22 of this Act for the purpose of official control of food and
2 feed safety.

3 (2) Official testing laboratories authorised under sub-section 1 of
4 this section may be either private or public sector bodies.

5 (3) The official testing laboratories authorised under sub-section 1
6 of this section for the purposes of analysis in support of official control shall
7 comply with the General Requirements for the Competence of Calibration
8 and Testing Laboratories laid down in ISO Standard 17025 and will
9 participate in appropriate proficiency testing schemes.

10 (4) Subject to an application by the Competent Authority, the
11 requirements set out in sub-section 3 of this section may be derogated by the
12 specific approval of the National Food Safety Management Committee,
13 providing that the scope of the derogation is defined and that the application
14 is accompanied by a written commitment to meet the requirement within a
15 time acceptable to the Committee.

16 (5) The National Food Safety Management Committee shall
17 maintain and publish a list of the official testing laboratories authorized for
18 different types of analysis in connection with official control by different
19 Competent Authorities.

20 (6) This list of official testing laboratories shall be published
21 annually in the Official Gazette of the Government of the Federal Republic
22 of Nigeria.

23 (7) The relevant Competent Authorities shall name in the control
24 plans required under Section 25 of this Act the authorised laboratory
25 selected to undertake testing for official controls.

26 (8) The authorisation and nomination of testing laboratories
27 referred to in this Section may relate to individual tests or groups of tests.

28 **28.-(1)** The National Food Safety Management Committee may
29 nominate one laboratory as a reference laboratory for each test required for
30 the purposes of official control.

Nomination of
reference
laboratories

1 (2) Reference laboratories nominated under this Section shall be
2 responsible for the following duties:

3 (a) advising the relevant competent authorities and the National Food
4 Safety Management Committee on the nomination of official laboratories
5 whose task it is to conduct analyses for the purpose of official control;

6 (b) co-ordinating and supporting, including the offering of training
7 and other services, the activities of official laboratories in respect of the
8 technical standards and methodologies of the testing services which they
9 undertake;

10 (c) organising and participating in comparative tests of standardised
11 samples, on a national and international basis, with a view to monitoring the
12 proficiency of official laboratories;

13 (d) ensuring that all official laboratories maintain internal systems of
14 quality assurance including method validation, record keeping, reagent
15 storage, safety, and routine calibration of equipment;

16 (e) development and promulgation of new testing methods and new
17 application of existing methods;

18 (f) disseminating information from the reference laboratories to the
19 relevant competent authorities and other laboratories carrying out the testing of
20 food and feed, whether or not for the purposes of official control; and

21 (g) arbitration in situations where test results of official testing
22 laboratories are disputed.

23 (3) The costs of the services delivered by reference laboratories under
24 the terms of this Section shall be compensated by the governing authority
25 nominated in the Schedule of this Act.

26 PART 9: EMERGENCIES AND CRISIS MANAGEMENT

Emergency measures
for ensuring safety
of food and feed

27 **29.** Where the governing authority nominated for risk management
28 has reason to believe that food or feed or any class of food or feed constitutes a
29 serious risk to human health and that such risk cannot be contained
30 satisfactorily by means of measures taken under the existing provisions of this

1 Act, such governing authority may immediately adopt one or more of the
2 following measures, depending on the gravity of the situation:

3 (a) in the case of food and feed of national origin:

4 (i) suspension of the placing on the national or international market
5 or use of the food and feed in question;

6 (ii) laying down special conditions for the food and feed in
7 question; or

8 (iii) any other appropriate interim measure;

9 (b) in the case of imported food and feed:

10 (i) suspension of imports of the food and feed in question from all
11 or part of country concerned and, where applicable, from the country of
12 transit;

13 (ii) laying down special conditions for the food and feed in
14 question from all or part of the country concerned;

15 (iii) any other appropriate interim measure.

16 **30.-(1)** The National Food Safety Management Committee shall
17 adopt in cooperation with relevant Competent Authorities and Ministries, a
18 general plan for crisis management in the field of the safety of food and feed
19 to be applied where it is evident that food or feed presents a serious risk to
20 human health and that such risk cannot be contained satisfactorily by means
21 of measures taken under the existing provisions of this Act.

General plan for
crisis management

22 (2) The crisis management plan shall specify the conditions under
23 which a crisis may be declared and by whom, the responsibilities of different
24 Competent Authorities and Ministries and the practical procedures
25 necessary to manage a crisis, including the organization and staffing of a
26 crisis unit, the principles of transparency to be applied and a communication
27 strategy.

28 (3) The National Food Safety Management Committee shall
29 coordinate a system of notifications and alerts regarding food and feed
30 safety incidents, with a view to reducing impact of possible and imminent

1 emergencies and guiding future preventive measures.

2 PART 10: ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF THE
3 NATIONAL FOOD SAFETY COUNCIL AND THE NATIONAL FOOD SAFETY
4 MANAGEMENT COMMITTEE

Establishment
of the National
Food Safety
Council

5 **31.-(1)** There is established National Food Safety Council (herein
6 after in this Act referred to as the "Council").

Functions of the
National Food
Safety Council

7 **32.-(1)** The functions of the Council shall be to:

8 (a) consider and approve recommendations on food safety and quality
9 matters from the National Food Safety Management Committee;

10 (b) ensure the provision of sustainable financial support for the Food
11 Safety Management Committee and its programmes;

12 (c) authorise the processes for collaboration, coordination and
13 partnership between stakeholders that will assure food safety, address public
14 health and barriers to trade;

15 (d) decide on the specific allocation of mandates between relevant
16 Competent Authorities of Federal Government under the Schedule of this Act;

17 (e) provide financial and technical support to accomplish an effective
18 food safety management system;

19 (f) give other directives as may be necessary to advance effective
20 Food Safety System in Nigeria;

21 (g) appoint a chair and a co-chair for the National Food Safety
22 Management Committee; and

23 (h) conduct a regular monitoring and evaluation of the
24 implementation of the National Food Safety System.

Composition of
the National
Food Safety
Council

25 **33.-(1)** The Council shall comprise of:

26 (a) the Vice President who shall be chairman;

27 (b) the Ministers of the Federal Ministries responsible for:

28 (i) Health;

29 (ii) Industry, Trade and Investment;

30 (iii) Agriculture and Rural Development;

- 1 (iv) Science and Technology; and
2 (v) Environment.
3 (c) a representative of the Manufacturers Association of Nigeria;
4 and
5 (d) a representative of the Consumer Coalition Group of Nigeria.
6 (2) The Council may co-opt any other member from among the
7 stakeholders as deemed necessary.
8 (3) The Council shall meet at least twice a year.
9 (4) The Ministry of the Federal Government specified in the
10 Schedule to this Act shall provide the Secretariat to the National Food Safety
11 Council.

12 **34.**-(1) There is the established National Food Safety Management
13 Committee (herein after in this Act referred to as the "Committee") with the
14 objective of implementing the National Policy on Food Safety and its
15 Implementation Strategy.

Establishment
of the National
Food Safety
Management
Committee

16 (2) The National Food Safety Management Committee shall report
17 to the National Food Safety Council.

18 **35.**-(1) The functions of the Committee shall be to:

Functions of the
National Food Safety
Management
Committee

- 19 (a) advise the National Food Safety Council on matters related to
20 food safety and quality;
21 (b) coordinate all governmental programs and activities related to
22 food safety, and specifically to receive comment and adopt the annual plans
23 and report on official control activities submitted by competent authorities
24 in line with Section 25 of this Act;
25 (c) carry out strategic planning, monitor performance and
26 periodically evaluate progress of the implementation strategy of the
27 National Food Safety Policy;
28 (d) facilitate the design, and coordinate training programmes for
29 stakeholders along the food supply chain;
30 (e) coordinate risk assessment and risk management;

1 (f) initiate and coordinate the drafting of the legislation concerning
2 food safety and quality;

3 (g) facilitate the development and/or updating of standards,
4 regulations, guidelines, code of practice, manuals, and similar documents for
5 public and private sectors;

6 (h) inform the public and private sectors regarding current and
7 emerging food safety issues and provide advice on improved food safety
8 conditions;

9 (i) coordinate programs and seek financial and technical assistance
10 from donor agencies and development partners;

11 (j) provide advice, information or assistance to any public authority in
12 relation to food safety;

13 (k) examine complaints and objections lodged in respect of decisions
14 made or official actions taken under this Act; and

15 (l) prepare an annual report on its activities;

Composition of
the National Food
Safety Management
Committee

16 **36.-(1)** The National Food Safety Management Committee shall
17 comprise of one technical representative who shall not be below the rank of an
18 Assistant from each of the following:

19 (a) Federal Ministry responsible for-

20 (i) Health;

21 (ii) Industry Trade and Investment;

22 (iii) Science and Technology;

23 (iv) Environment;

24 (v) Finance; and

25 (vi) Justice;

26 (b) Federal Department of Agriculture;

27 (c) Federal Department of Livestock;

28 (d) Federal Department of Fisheries;

29 (e) Nigeria Agricultural Quarantine Services;

30 (f) Agricultural Research Council of Nigeria;

- 1 (g) National Planning Commission;
- 2 (h) National Agency for Food and Drug Administration and
- 3 Control;
- 4 (i) Institute of Public Analysts of Nigeria;
- 5 (j) Standards Organisation of Nigeria;
- 6 (k) Consumers Protection Council;
- 7 (l) Nigeria Export Promotion Council;
- 8 (m) Federal Produce Inspection Services;
- 9 (n) Nigeria Commodities Exchange;
- 10 (o) National Biotechnology Development Agency;
- 11 (p) National Environmental Standards and Regulations
- 12 Enforcement Agency;
- 13 (q) Environmental Health Officers Registration Council of
- 14 Nigeria;
- 15 (r) Mycotoxicology Society of Nigeria;
- 16 (s) Nigerian Institute of Food Science and Technology;
- 17 (t) Association of Food Beverage & Tobacco Employers;
- 18 (u) National Association of Small Scale Industrialist;
- 19 (v) National Association of Chambers of Commerce, Industry
- 20 Mines and Agriculture;
- 21 (w) Nutrition Society of Nigeria;
- 22 (x) Raw Materials Research and Development Council;
- 23 (y) National Biosafety Management Agency;
- 24 (z) Veterinary Council of Nigeria;
- 25 (aa) Nigerian Institute of Animal Sciences;
- 26 (bb) A representative of the Government of each of the States of the
- 27 Federation and the Federal Capital Territory, Abuja.
- 28 (2) Members of the Committee and a single substitute for each
- 29 shall be nominated in writing by the body which they are to represent and
- 30 shall be appointed for a term of four years by the Council, which may be

1 renewed once for a term of four years.

2 (3) The Chairperson and co-Chairperson of the Committee shall be
3 appointed by the Council from the members of the Committee, subject to the
4 conditions that the individuals appointed shall:

5 (a) come from the public and private sector alternately;

6 (b) possess a track record of administrative and leadership qualities
7 not below the level of a Director in the public service or its equivalent in the
8 private sector.

9 (4) The tenure of the Chairperson and co-Chairperson shall be for a
10 period of two years and may be renewed for another two years and no more;

11 (5) The Authority of the Federal Government specified in the
12 Schedule of this Act shall provide the Secretariat to the Committee.

Meetings of the
National Food
Safety Management
Committee

13 37.-(1) The Committee shall meet quarterly or as often as is expedient
14 to perform its functions.

15 (2) The meetings of the Committee shall be presided over by the
16 Chairperson, co-Chairperson or a member of the Committee in their absence
17 appointed by the Council.

18 (3) The rules of business of the Committee shall be adopted in its first
19 meeting by a majority vote of members present, and shall be subject to the
20 approval of the Council.

21 (4) In determining its recommendations and decisions, the
22 Committee shall apply the principles set out in Part II of the Schedule of this
23 Act.

24 (5) All recommendations, determinations and decisions of the
25 Committee shall be reduced in writing, shall be signed by the Chairperson and
26 shall be made public.

27 (6) Dissenting opinions shall be recorded, along with a rationale.

28 (7) In the discharge of their responsibilities in law, the relevant
29 Competent Authorities specified in Schedule of this Act shall be obliged to take
30 account of the recommendations and decisions of the Committee.

1 (8) The Committee may establish additional sub-committees for
2 the purpose of more efficiently discharging its functions, and may appoint
3 members to those sub-committees.

4 38.-(1) A sub-committee on science shall be appointed and be
5 responsible for developing and proposing the scientific opinions of the
6 Committee, including the assessment of food and feed safety risks, and
7 requesting information and research directed at providing information for
8 the assessment of food and feed safety risks.

Scientific sub-
committee of the
National Food
Safety Management
Committee

9 (2) The sub-committee on science shall be composed of six
10 independent experts in the field of science with relevant qualifications and
11 experience of food and feed safety hazard and their risks, whose term of
12 appointment will be for three-year period which shall be renewable for
13 another term and no more.

14 (3) The sub-committee on science shall adopt its working
15 procedures, in relation to the preparation of scientific opinion on matters of
16 food and feed safety.

17 (4) These procedures referred to in sub-section 3 of this section
18 shall be approved by the Committee and will relate in particular to the:

19 (a) the manner in which tasks and requests for scientific opinions
20 are assigned to the sub-committee on science;

21 (b) the organisation of the work of the sub-committee on science;
22 and

23 (c) the possibility of co-opting additional members to the sub-
24 committee on science on an AdHoc basis as required to meet the needs for
25 specialised scientific advice

26 (5) The members of the sub-committee on science shall be
27 appointed on merit by the Committee, following a call for expressions from
28 candidates published in the national media and relevant scientific journals.

29 39.-(1) The sub-committee on science shall issue a scientific
30 opinion:

Scientific opinions

1 (a) at the request of the Committee, in respect of any matter within its
2 mission, and in all cases where legislation makes provision for the sub-
3 committee on science to be consulted; or

4 (b) on its own initiative, on matters falling within its mission.

5 (2) Requests referred to in sub-section 1(a) of this section shall be
6 accompanied by background information explaining the scientific issue to be
7 addressed.

8 (3) The sub-committee on science will issue scientific opinions
9 within the time limit specified in the requests for opinions, except in duly
10 justified circumstances.

11 (4) The sub-committee on science shall provide an opinion by a
12 majority of their members.

13 (5) The sub-committee on science shall exercise vigilance in order to
14 identify at an early stage any potential source of divergence between its
15 scientific opinions and the scientific opinions issued by other bodies carrying
16 out similar tasks whether in Nigeria or elsewhere.

17 (6) Where the sub-committee on science identifies a potential source
18 of divergence of opinion with other bodies, it shall contact the body in question
19 to ensure that all relevant scientific information is shared and in order to
20 identify potentially contentious scientific issues.

21 (7) Where members of the sub-committee on science cannot agree
22 unanimously on the scientific advice to be offered, a minority opinion may be
23 recorded.

Fees and expenses

24 **40.-(1)** Members of the Committee and its sub-committees shall be
25 reimbursed by the nominated governing authority responsible for its
26 secretariat for their justifiable expenses in undertaking their responsibilities on
27 behalf of the Committee, but will not otherwise receive any payment for their
28 services, except as provided in sub-section 2 of this section.

29 (2) Members of the sub-committee on science will in addition receive
30 a fee for their services from the governing authority responsible for the

1 secretariat of the Committee.

2 (3) Amounts of expenses and fees paid to named individuals
3 participating in the Committee and its sub-committees will be published and
4 stated in the annual accounts of the relevant governing authority.

5 PART 11: POWERS AND RESPONSIBILITIES OF COMPETENT AUTHORITIES

6 **41.**-(1) The relevant Competent Authority may authorise any Authorised officers
7 appropriately qualified public officer to act as an authorised officer for the
8 purposes of implementing the responsibility of the relevant Competent
9 Authority under this Act.

10 (2) The Minister shall by regulation, establish the qualifications
11 considered to be appropriate for authorised officers responsible for
12 implementation of relevant provisions of this Act.

13 (3) The powers of the authorised officer shall be limited to the
14 jurisdiction of the relevant Competent Authority by which he is authorised.

15 (4) The relevant Competent Authority shall issue to every person
16 authorised to act as an authorised officer a certificate of his authority.

17 (5) A list of the authorised officers nominated under this Section
18 along with their qualifications shall be included in the annual control plans
19 prepared by the Competent Authority under Section 25 of this Act.

20 **42.**-(1) An authorised officer may:

21 (a) at any reasonable hour or whenever work is in progress in any Powers of
authorised officers
22 establishment in which food or feed is believed to be stored, processed or
23 packaged, enter and search that establishment for the purposes of
24 determining the existence, nature and extent of any trade or business in food
25 or feed, except that entry to a dwelling place may only be demanded
26 following twenty-four hours' notice;

27 (b) examine any food or feed product in any establishment to which
28 he believes this Act applies, take samples thereof and examine anything
29 which he believes is used or capable of being used for the preparation of any
30 food or feed;

1 (c) stop search or detain any vehicle in which he believes that any food
2 or feed to which this Act applies is conveyed, examine the food or feed and take
3 samples thereof;

4 (d) open and examine any receptacle or package which he believes
5 contains any food or feed to which this Act applies, examine the article and take
6 samples thereof;

7 (e) call for any books, documents or other records in any medium
8 which he believes contain any information relevant to the enforcement of this
9 Act with respect to any food or feed, make copies thereof and take extracts
10 therefrom;

11 (f) subject to written notice detain for such time as may be specified or
12 seize any food or feed by means of, or in relation to which, he believes this Act,
13 or the conditions of a licence issued under this Act, have been contravened

14 (g) exercise any other functions assigned to him by the relevant
15 competent authority

16 (2) Any person who prevents an authorised officer from exercising his
17 powers under sub-section (1) of this section shall be considered to have
18 obstructed the officer.

19 (3) An authorised officer shall in the exercise of his powers under sub-
20 section (1) of this section where required by any person affected, produce his
21 certificate of authority issued to him under Section 41(4) of this Act.

22 (4) An authorised officer shall release any food or feed detained or
23 seized by him under sub-section 1(f) of this section where he is satisfied that the
24 provisions of this Act in relation to the food have been complied with.

25 (5) Where an authorised officer has detained or seized any food or
26 feed under this Act and the owner thereof or the person in whose possession it
27 was at the time of the detention consents to its destruction or disposal, the food
28 or feed shall be destroyed or otherwise disposed of in a safe and permanent
29 manner, as the authorised officer may direct.

30 (6) Where an authorised officer is unable to obtain the consent

1 required under sub-section (5) of this section for the destruction or disposal
2 of the food or feed which he has detained or seized, he may after the issue of
3 written notice to the owner or the person in whose possession the food or
4 feed was at the time of detention or seizure, apply to a Magistrate's court for
5 an order to destroy the food or feed.

6 (7) Where it appears to the Magistrates Court, on the basis of such
7 evidence as he considers appropriate in the circumstances, that any food
8 falling to be dealt with by him under this section fails to comply with food
9 safety requirements, he shall condemn the food and order the food to be
10 destroyed or to be so disposed of as to prevent it from being used for human
11 consumption.

12 (8) Where food or feed is seized and subsequently destroyed or
13 disposed of pursuant to sub-sections 5 or 6 of this section, the Competent
14 Authority shall be entitled to recover the costs of destruction or disposal
15 from the food or feed business operator less any residual value of the food or
16 feed material concerned.

17 (9) The owner or occupier or person in charge of any establishment
18 entered into by an authorised officer pursuant to sub-section 1 of this section
19 or any employee found therein or any person who when requested to give
20 information or any assistance to an authorised officer-

21 (a) fails to give the information or assistance reasonably requested;

22 (b) knowingly makes any statement which he knows or believes to
23 be false or does not believe to be true; shall be considered to have obstructed
24 the authorised officer.

25 (10) No authorized officer shall be liable to suit or to prosecution in
26 respect of anything done in good faith in the performance of his or her
27 functions under this Act.

28 **43.-(1)** No information relating to any individual business which is
29 obtained by the relevant Competent Authority or by the National Food
30 Safety Management Committee or its sub-committees in the course of

Confidentiality

Conflicts of
interest

1 fulfilment of their obligations under this Act shall be disclosed without the
2 previous consent in writing of the person carrying on the business, except:

3 (a) where required to prevent a risk to health, so far as may be
4 necessary for the purposes of this Act; or

5 (b) for the purposes of any proceedings for an offence against the
6 order or any report of those proceedings;
7 and any person who discloses any such information in contravention of this
8 sub-section shall be guilty of an offence.

9 **44.-(1)** Any persons who is:

10 (a) an authorized officer or a member of a relevant Competent
11 Authority; or

12 (b) an employee or a member of a governing authority nominated
13 under the Schedule to this Act, who becomes aware of a conflict between his
14 personal and professional interests in matters subject to this Act shall declare
15 that interest in writing to the Chairman or Senior Executive Officer of the
16 Competent Authority or governing authority concerned, and shall conduct his
17 professional duties so as to reduce or eliminate such conflict.

18 (2) In the case of a conflict of interest involving the Chairman or
19 Senior Executive Officer of the Competent Authority or governing authority,
20 the declaration shall be made to the Minister.

21 **PART 12: ACTIONS IN RESPECT TO CONTRAVENTIONS**

Improvement
notice

22 **45.-(1)** Where a relevant Competent Authority has reason to believe
23 that any food business operator has failed to comply with any provisions of this
24 Act, or regulations made pursuant to it, it may serve an improvement notice
25 upon the food or feed business operator.

26 (2) An improvement notice served under sub-section (1) of this
27 section shall state:

28 (a) the grounds for believing that the food or feed business operator
29 has failed to comply with any provisions of the Act or regulations made
30 pursuant to it;

1 (b) the matters which constitute the food or feed business
2 operator's failure so to comply;

3 (c) the measures which the food or feed business operator should
4 take in order to secure compliance with the relevant provisions of the law

5 (d) the date by which time such measures should have been implemented.

6 **46.**-(1) Where a food or feed business operator is convicted of an Prohibition orders
7 offence under this Act and the Court is satisfied that a continuing health risk
8 exists with respect to the food or feed business the Court may in addition or
9 as an alternative to any penalty imposed, and on the application of the
10 relevant Competent Authority, issue an order which prohibits the food or
11 feed business operator from:

12 (a) using any specified process, treatment, premises or equipment
13 for purposes of the food or feed business; or

14 (b) conducting or operating any food or feed business;

15 (2) A prohibition order issued under sub-section (1) of this section
16 may be issued with or without specifying the period of prohibition

17 **47.**-(1) Where a relevant Competent Authority has reason to Emergency
prohibition orders
18 believe that a serious risk to human health exists with respect to any food or
19 feed business which cannot be resolved with recourse to other powers under
20 this Act, it may, by notice served on the food or feed business operator
21 prohibit the food or feed business operator from using any specified process,
22 treatment, premises or equipment for purposes of the food or feed business.

23 (2) An emergency prohibition order served under sub-section (1)
24 of this section shall state the:

25 (a) grounds for believing that the food or feed business operator
26 presents a serious risk to health;

27 (b) activities subject to the prohibition;

28 (c) measures which the food or feed business operator should take
29 in order to remove the serious risk to health; and

30 (d) period of the prohibition.

	1	(3) An emergency prohibition order served under sub-section (1) of
	2	this section shall not be issued with a period greater than one month.
	3	(4) The relevant Competent Authority shall affix a copy of the
	4	Emergency Prohibition Order on the exterior of any premises to which it
	5	applies, on or adjacent to the main entrance, and may use reasonable force to
	6	ensure that the order is complied with, including sealing the premises.
Food or feed recall orders	7	48. -(1) Where the relevant Competent Authority has reason to believe
	8	that food or feed which presents a serious risk to health has been consigned by a
	9	food or feed business operator to other food or feed business operators or
	10	consumers it may by notice order the food or feed business operator to recall
	11	the food or feed from distribution.
	12	(2) A food or feed recall order issued under sub-section 1 of this
	13	section shall:
	14	(a) identify the food or feed consigned;
	15	(b) state grounds for believing that the food or feed presents a serious
	16	risk to health;
	17	(c) state the treatment which should be applied to the food or feed
	18	subject to recall;
	19	(d) state the information which must be provided to the Competent
	20	Authority in relation to the implementation of the order.
Serous risk to health	21	49. In considering whether a serious risk to health exists in relation to
	22	any business with regard to justifying the issue of an emergency prohibition
	23	order or a food or feed recall order under this Part of this Act, the relevant
	24	Competent Authority shall take into account the level of risk, the severity of the
	25	food safety hazard concerned and the dimensions of the business.
Offences and penalties	26	50. -(1) Any person who contravenes the provisions of this Act or
	27	regulations made under this Act or who fails to obey an order issued under this
	28	Act within the prescribed time commits an offence and shall be liable on
	29	conviction to a fine not exceeding the sum of One million Naira or to

1 imprisonment for a term not exceeding one year or to both such fine and
2 imprisonment.

3 (2) A person who obstructs an authorized officer in the
4 performance of his duties under this Act or Regulations made pursuant to it
5 commits an offence and shall be liable on conviction to a fine not exceeding
6 the sum of Two Million Naira or to imprisonment for a term not exceeding
7 two years or to both such fine and imprisonment.

8 (3) Where an offence under this Act which has been committed by a
9 body corporate is proved to have been committed with the consent or
10 connivance of, or to be attributable to any neglect on the part of any director,
11 manager, secretary or other similar officer of the body corporate, such
12 officer of the body corporate commits an offence and shall be liable on
13 conviction to a fine not exceeding the sum of Two Million Naira while the
14 body corporate shall be liable on conviction to a fine not exceeding be sum
15 of Twenty Million Naira.

16 **51.** The Federal High Court, the High Court of States of the Jurisdiction
17 Federation and of the Federal Capital Territory and Magistrate Courts
18 throughout the Federation shall have jurisdiction to try offences under this
19 Act.

20 **52.-(1)** In any proceedings for an offence under any of the Due diligence
21 preceding provisions of this Act it shall be a defence for the person charged defence
22 to prove that he took all reasonable precautions and exercised all due
23 diligence to avoid the commission of the offence by himself or by a person
24 under his control.

25 (2) A person charged with an offence under this Act, who neither
26 prepared the food or feed in respect of which the offence is alleged to have
27 been committed, nor imported it into Nigeria, shall be taken to have
28 established the defence under sub-section (1) of this section where he
29 satisfies the requirement that:

30 (a) the commission of the offence was due to an act or default of

1 another person who was not under his control, or to reliance on information
2 supplied by such a person; and

3 (b) he carried out all such checks of the food or feed in question as
4 were reasonable in all the circumstances, or that it was reasonable in all the
5 circumstances for him to rely on checks carried out by the person who supplied
6 the food or feed to him.

Appeals

7 **53.**-(1) Where the relevant Competent Authority has taken action
8 under this Act to ensure that an alleged contravention is corrected by a food or
9 feed business operator, the food or feed business operator may appeal to the
10 Magistrate's Court on the basis that the:

11 (a) act or omission in question does not contravene the provisions of
12 this Act;

13 (b) measures taken by the relevant Competent Authority are not
14 proportionate to the contravention;

15 (c) Food or feed was not unsafe, in the case of food or feed destroyed
16 or disposed of under Section 42 (5) of this Act.

17 (2) The onus of proof in the case of appeal is on the food or feed
18 business operator.

19 (3) Appeals lodged under this section on the part of the food or feed
20 business operator shall be made within seven days from the action taken by the
21 Competent Authority.

22 **PART 13: NOMINATION OF COMPETENT AUTHORITIES**

Nomination of
competent
authorities

23 **54.**-(1) In respect of risk analysis, risk communication and risk
24 management in relation to the safety of food or feed, the governing authority is
25 set out in the Schedule of this Act.

26 (2) In respect of official controls in relation to the safety of food or
27 feed, the relevant Competent Authority is set out in the Schedule of this Act.

28 (3) All Federal departments and agencies listed as competent
29 authorities in the Schedule to this Act or subsequently nominated by the
30 Council pursuant to Section 32 of this act shall, subject to the provisions of this

1 Act, operate within their statutory mandates.

2 (4) The Relevant Competent Authorities nominated in the
3 Schedule to this Act may delegate some or all of their powers to another
4 public or private body subject to:

5 (a) clear definition of the scope of delegation in terms of the
6 specific powers and functions being delegated, and their spatial and
7 temporal limits;

8 (b) adequate arrangements being in place for the monitoring of the
9 implementation of the delegated responsibilities, including the preparation
10 of annual inspection plans and reports according to Section 25 of this Act,
11 which are subject to the approval of the delegating authority; and

12 (c) the conditions set out in paragraphs (a) and (b) of this sub-
13 section being specified in written form, and communicated without delay to
14 the Committee.

15 **55.-(1)** State Governments shall nominate the Competent
16 Authorities for State and Local Government Areas primarily responsible for
17 managing food or feed safety conditions within their jurisdiction.

Implementation
by State and Local
Governments

18 (2) State Governments shall establish a State Food Safety
19 Management Committees for each State of the Federation as a means of
20 coordinating food and feed safety measures within their jurisdiction, to
21 include representatives of consumers, food and feed business operators and
22 State and all Local Government Authorities in the State;

23 (3) Where it is considered to be justified on the grounds of limiting
24 the regulatory impact on small scale food business operators or due to
25 particular food or feed safety conditions which are characteristic of a State,
26 such a State Governments may modify, derogate or exempt the provisions of
27 this Act and regulations made pursuant to it insofar as they apply to any class
28 of establishment to which the State Competent Authorities apply official
29 controls as set out in the Schedule of this Act.

30 (4) Where State governments adopt a derogation, exemption or

1 modification of a food or feed safety measure as provided in sub-section 3 of
2 this section, the State Competent Authority shall:

3 (a) ensure that the products concerned do not enter inter-state trade.

4 (b) inform the National Committee on Food Safety Management of
5 the provisions so modified, derogated or exempted, the reasons for doing so
6 and the measures taken to ensure compliance with paragraph (a) of this sub-
7 section.

8 PART 14: MISCELLANEOUS

Repeals and
Savings

9 **56.**-(1) The following legislation is hereby repealed:

10 (a) Import (Prohibition) Act; and

11 (b) Export (Prohibition) Act

12 (2) Any subsidiary legislations made pursuant to any existing Act
13 of the National Assembly relating to food shall, in so far as it is not
14 inconsistent with any provision of this Act, remain in force until revoked.

15 (3) The rights, interests, obligations and liabilities of any
16 establishments existing before the commencement of this Act under any
17 contract or instrument, or in law or in equity shall by virtue of this Act be
18 deemed to have been preserved, assigned and vested in the Council
19 established by this Act to the extent that they are not inconsistent with any
20 provision of this Act.

21 (4) Any contract or instrument under sub-section (3) of this section
22 of this Act shall be of the same force and effect against or in favour of the
23 Council established by this Act, and shall be enforceable as fully and
24 effectively as where instead of the establishments existing before the
25 commencement of this Act, the Council established by this Act had been
26 named therein or had been a party thereto, provided that such contract or
27 instrument is not inconsistent with any provision of this Act.

28 (5) The Council established by this Act shall be subject to all the
29 obligations and liabilities to which the establishments existing before the

1 commencement of this Act was subject immediately before such
2 commencement.

3 **57.** In this Act:

Interpretation

4 "additive" means any substance not normally consumed as food by itself and
5 not normally used as a typical ingredient of food, whether or not it has
6 nutritive value, the intentional addition of which to food for a technological
7 (including organoleptic) purpose in the production, manufacture,
8 preparation, treatment, packing, packaging, transport or storage of such
9 food results, or may be reasonably expected to result (directly or indirectly),
10 in it or its by-products becoming a component of or otherwise affecting the
11 characteristics of such food, but does not include contaminants or
12 substances added to food for the purpose of maintaining or improving
13 nutritional qualities;

14 "adulteration" includes the addition to food or feed of any substance which
15 is injurious to health or in which any constituent has been in whole or in part
16 omitted, substituted, damage concealed, or substance added to increase bulk
17 or weight;

18 "authorised officer" means any public officer designated by the relevant
19 Competent Authority to be an officer authorised under Section 38 of this
20 Act;

21 "contaminant" means any biological or chemical agent, foreign matter or
22 other substances not intentionally added to food that may compromise food
23 safety or suitability;

24 "establishment" means any premises engaged in placing food or feed on the
25 market, including premises where products are prepared, processed
26 (including slaughtered), packaged or stored;

27 "feed" means any single or multiple materials, whether processed, semi-
28 processed or raw, which is intended to be fed directly to food producing
29 animals and includes feed ingredients;

30 "feed ingredient" means a component part or constituent of any combination

1 or mixture making up a feed whether or not it has a nutritional value in the
2 animal's diet, including feed additives;

3 "feed business operator" means the natural or legal persons responsible for
4 ensuring that the requirements of this Act are met within the feed business
5 under their control;

6 "final consumer" means the ultimate consumer of a foodstuff who will not use
7 the food as part of any food business operation or activity.

8 "food" or "foodstuff" for the purposes of this Act, means any substance or
9 product, whether processed, partially processed or unprocessed, intended to
10 be, or reasonably expected to be ingested by humans;

11 "Food" includes drink, chewing gum and other masticates, and any substance,
12 including water, intentionally incorporated into the food during its
13 manufacture, preparation or treatment. It includes water after the point where
14 in the case of water:

15 (a) supplied from a distribution network, the point, within an
16 establishment, at which it emerges from the taps;

17 (b) supplied from a tanker, at the point at which it emerges from the
18 tanker;

19 (c) put into bottles or containers intended for sale, at the point at
20 which the water is put into the bottles or containers;

21 (d) used in a food-production undertaking, at the point where the
22 water is used in the undertaking.

23 "Food" shall not include:

24 (a) animal feed;

25 (b) live animals unless they are prepared for placing on the market for
26 human consumption;

27 (c) plants prior to harvesting;

28 (d) medicinal products within the meaning of the Food and Drugs Act
29 1999;

30 (e) tobacco and tobacco products;

1 (f) narcotic or psychotropic substances within the meaning of the
2 United Nations Single Convention on Narcotic Drugs, 1961, and the United
3 Nations Convention on Psychotropic Substances, 1971;
4 "food business operator" means the natural or legal persons responsible for
5 ensuring that the requirements of this Act are met within the food business
6 under their control;
7 "food business" means any undertaking, whether for profit or not and
8 whether carried out by a public or private sector operator, which undertakes
9 production, processing, storage and distribution of food, whether in the
10 formal or informal sector but excluding activities which are of an
11 exclusively domestic or private nature;
12 "food quality" means the aggregate characteristics of a food that bear on its
13 ability to satisfy the needs of the final consumer but shall not relate to
14 characteristics which affect the health of the final consumer as determined
15 under Section 9. It may include characteristics relating to the economic
16 interests of the final consumer;
17 "genetically modified organism" means any biological entity capable of
18 reproducing itself or transferring genetic material, except the human
19 species, whose genetic material has been modified in a way which is
20 produced neither naturally in the environment nor by natural recombination;
21 "hazard" means a biological, chemical or physical agent in, or condition of,
22 food or feed with the potential to cause an adverse effect on human health;
23 "label" means any tag, brand, mark, pictorial or other descriptive matter,
24 written, printed, stencilled, marked, embossed or impressed on, or attached
25 to food or a container of food;
26 "labelling" includes any written, printed or graphic matter that is present on
27 the label, accompanies the food, or is displayed near the food, including that
28 for the purpose of promoting its sale or disposal;
29 "Minister" means the Minister charged with the responsibility for Health;
30 "novel foods" means foods and food ingredients which have not hitherto

1 been used for human consumption to a significant degree within Nigeria and
2 which fall under the following categories:

3 (a) foods and food ingredients containing or consisting of genetically
4 modified organisms;

5 (b) foods and food ingredients produced from, but not containing,
6 genetically modified organisms;

7 (c) foods and food ingredients with a new or intentionally modified
8 primary molecular structure;

9 (d) foods and food ingredients consisting of or isolated from micro-
10 organisms, fungi or algae;

11 (e) foods and food ingredients consisting of or isolated from plants
12 and food ingredients isolated from animals, except for foods and food
13 ingredients obtained by traditional propagating or breeding practices and
14 having a history of safe food use;

15 (f) foods and food ingredients to which has been applied a production
16 process not currently used, where that process gives rise to significant changes
17 in the composition or structure of the foods or food ingredients which affect
18 their nutritional value, metabolism or level of undesirable substances;

19 "official control" shall have the meaning assigned under Section 20;

20 "recall" shall mean an action to remove food or feed from the market at any
21 stage of the food chain, including that possessed by consumers;

22 "relevant Competent Authority" means an authority or institution of the
23 Federal or State Governments of Nigeria responsible for official control as
24 defined under Section 54 of this Act and the Schedule to this Act;

25 "traceability" means the ability to trace and follow a food, feed, food producing
26 animal or animal used for food production, raw material or substance intended
27 to be, or expected to be incorporated into a food or feed, through all stages of
28 production, processing and distribution;

29 "vehicle" includes any method of transport by land, air or water.

- 1 **58.** This Bill may be cited as the National Food Safety and Quality Short title
2 Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the National Food Safety Council and the National Food Safety Management Committee for the official control of food and feed safety, the obligations of food and feed business operators and define the functions and powers of institutions of governments with the objective of ensuring that food and feed safety risks are effectively managed.