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A BILL EXECUTIVE

FOR

AN ACT TO REPEAL THE COPYRIGHT ACT, CAP C28 LFN, 2004 AND TO
PROVIDE FOR THE REGULATION, PROTECTION AND ADMINISTRATION OF
COPYRIGHT AND FOR RELATED MATTERS, 2021

[] Commencement

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

1 PART I - OBJECTIVES, SCOPE AND SUBSISTENCE OF COPYRIGHT

2 1. The objectives of this Act are to-

Objectives of
the Act

3 (a) protect the rights of authors to ensure just rewards and
4 recognition for their intellectual efforts;

5 (b) provide appropriate limitations and exceptions to guarantee
6 access to creative works;

7 (c) facilitate Nigeria's compliance with obligations arising from
8 relevant international copyright treaties and conventions; and

9 (d) enhance the capacity of the Nigerian Copyright Commission
10 for effective regulation, administration, and enforcement of the provisions
11 of this Act.

12 2.-(1) Subject to this Act, the following works shall be eligible for
13 copyright-

Works eligible
for copyright

14 (a) literary works;

15 (b) musical works;

16 (c) artistic works;

17 (d) audiovisual works;

18 (e) sound recordings; and

19 (f) broadcasts.

20 (2) Notwithstanding the provision of subsection (1) of this section,
21 literary, musical or artistic work shall not be eligible for copyright unless -

	1	(a) effort has been expended on making the work, to give it an original
	2	character; and
	3	(b) the work has been fixed in any medium of expression known or
	4	later to be developed, from which it can be perceived, reproduced or otherwise
	5	communicated either directly or with the aid of any machine or device.
	6	(3) Any work that meets the requirements set out in subsection (2) of
	7	this section shall be eligible for copyright, notwithstanding the quality of the
	8	work or the purpose for which the work was created.
	9	(4) A work shall not be ineligible for copyright by reason only that the
	10	making of the work or the doing of any act in relation to the work involved an
	11	infringement of copyright in some other works.
	12	(5) The copyright in a compilation shall not confer any exclusive right
	13	in the pre-existing material or data.
	14	(6) An artistic work shall not be eligible for copyright, if at the time
	15	the work is made, it is intended by the author to be used as a model or pattern to
	16	be multiplied by any industrial process.
Ineligibility for copyright	17	3. The following shall not be eligible for copyright-
	18	(a) ideas, procedures, processes, formats, systems, methods of
	19	operation, concepts, principles, discoveries or mere data;
	20	(b) official texts of a legislative, administrative or legal nature as well
	21	as any official translations thereof; and
	22	(c) official state symbols and insignia, including flags, coat-of-arms,
	23	anthems, and banknote designs.
Formalities	24	4. Eligibility for copyright under this Act shall not require any
	25	formality.
Copyright by virtue of nationality or habitual residence	26	5. Copyright shall be conferred by this section on every work that is
	27	eligible, where the author or in the case of a work of joint authorship, any of the
	28	authors is at the time when the work or a substantial part thereof made is-
	29	(a) an individual who is a Nigerian citizen or is habitually resident in
	30	Nigeria; or

1	(b) a body corporate incorporated by or under the laws of Nigeria.	
2	6. Copyright shall be conferred by this section on a work, which is	Copyright by reference to country of origin
3	a-	
4	(a) literary, musical or artistic work or an audiovisual that is first	
5	published in Nigeria; or	
6	(b) sound recording made in Nigeria and has not been the subject of	
7	any copyright conferred by section 2 of this Act; or	
8	(c) broadcast transmitted from Nigeria or by a broadcasting	
9	organisation that has its headquarters situated in Nigeria.	
10	7. Copyright shall be conferred by this section on a work that is	Copyright in works of Government, State authorities and international bodies
11	eligible and is made by or under the direction or control of a Government, an	
12	Agency of Government or a prescribed international body.	
13	8.-(1) Copyright shall be conferred by this section on a work, if-	Copyright by reference to international arguments
14	(a) on the date of its first publication, at least one of the authors is a-	
15	(i) citizen of or habitually resident in, or	
16	(ii) body corporate established by or under the laws of a country	
17	that is a party to an obligation in a treaty or other international agreement to	
18	which Nigeria is a party, or	
19	(b) the work is first published in a country which is a party to an	
20	obligation in a treaty or other international agreement to which Nigeria is	
21	party.	
22	(2) Where the question arises as to whether a country is a party to	
23	an obligation in a treaty or other international agreement to which Nigeria is	
24	also a party, a certification from the Commission to that effect shall be	
25	conclusive proof of that fact.	
26	9. Subject to the exceptions specified in Part II of this Act,	Nature of copyright in literary and musical works
27	copyright in a literary or musical work shall be the exclusive right to do and	
28	authorise the doing of any of the following acts-	
29	(a) reproduce the work;	
30	(b) publish the work;	

- 1 (c) perform the work in public;
- 2 (d) produce, reproduce, perform or publish any translation of the
- 3 work;
- 4 (e) make any audiovisual work or a record in respect of the work;
- 5 (f) distribute to the public, for commercial purposes, copies of the
- 6 work, by way of rental, lease, hire, loan or similar arrangement;
- 7 (g) broadcast the work;
- 8 (h) communicate the work to the public;
- 9 (i) make the work available to the public by wire or wireless means in
- 10 such a way that members of the public are able to access the work from a place
- 11 and at a time independently chosen by them;
- 12 (j) make any adaptation of the work; and
- 13 (k) do in relation to a translation or an adaptation of the work, any of
- 14 the acts specified in relation to the work specified under this section.
- 15 **10.-(1)** Subject to the exceptions specified in Part II of this Act,
- 16 copyright in an artistic work shall be the exclusive right to do and authorise the
- 17 doing of any of the following acts-
- 18 (a) reproduce the work;
- 19 (b) publish the work;
- 20 (c) include the work in any audiovisual work;
- 21 (d) broadcast the work;
- 22 (e) communicate the work to the public;
- 23 (f) make the work available to the public by wire or wireless means in
- 24 such a way that members of the public are able to access the work from a place
- 25 and at a time individually chosen by them;
- 26 (g) make any adaptation of the work; and
- 27 (h) do in relation to an adaptation of the work any of the acts specified
- 28 in relation to the work in subparagraphs (a), (b) and (c) of subsection (1) of this
- 29 section.
- 30 (2) The protection of a three dimensional work of artistic

Nature of
copyright in
artistic works

1 craftsmanship shall not extend to its functional aspects,

2 (3) Copyright in a work of architecture shall also include the
3 exclusive right to control the erection of any building, which reproduces the
4 whole or a substantial part of the work either in its original form or in any
5 form recognisably derived from the original, but not the right to control the
6 reconstruction in the same style as the original of a building to which the
7 copyright relates.

8 11. Subject to the exceptions under Part II of this Act, copyright in
9 an audiovisual work shall be the exclusive right to do and authorise the
10 doing of any of the following acts-

Nature of
copyright in
audiovisual works

11 (a) reproduce the audiovisual work;

12 (b) cause the audiovisual work that consists of visual images to be
13 seen in public and of sounds to be heard in public;

14 (c) communicate the audiovisual work to the public;

15 (d) broadcast the audiovisual work;

16 (e) make any copy of the sound track of an audiovisual work;

17 (f) make the work available to the public by wire or wireless means
18 in such a way that members of the public are able to access the work from a
19 place and at a time independently chosen by them;

20 (g) distribute to the public for commercial purposes, copies of the
21 audiovisual work, either by way of rental, lease, hire, loan or similar
22 arrangement;

23 (h) make an adaptation of the audiovisual work;

24 (i) make a translation of the audiovisual work or any part thereof;

25 and

26 (j) do in relation to a translation or an adaptation of the work, any of
27 the acts specified in relation to the work under this section.

28 12. Subject to the exceptions specified in Part II of this Act,
29 copyright in a sound recording shall be the exclusive right to do and
30 authorise the doing of any of the following acts-

Nature of
copyright in sound
recordings

Nature of
copyright in
broadcasts

1 (a) reproduce the whole or a substantial part of the sound recording
2 either in its original form or in any form recognisably derived from the original;

3 (b) broadcast the sound recording;

4 (c) communicate the sound recording to the public;

5 (d) make the sound recording available to the public by wire or
6 wireless means in such a way that members of the public are able to access the
7 sound recording from a place and at a time independently chosen by them; or

8 (e) distribute to the public, for commercial purposes, copies of the
9 sound recording, by way of rental, lease, hire, loan or similar arrangement.

10 **13.-(1)** Subject to the exceptions specified in Part II of this Act,
11 copyright in a broadcast shall be the exclusive right to do and authorise the
12 doing of any of the following acts-

13 (a) rebroadcasting of the broadcast;

14 (b) communication to the public of the broadcast;

15 (c) making the broadcast available to the public by wire or wireless
16 means in such a way that members of the public are able to access the work
17 from a place and at a time independently chosen by them;

18 (d) fixation of the broadcast;

19 (e) reproduction of a fixation of the broadcast;

20 (f) adaptation of a fixation of the broadcast; or

21 (g) distribution of a fixation of the broadcast or copies thereof for
22 commercial purposes by way of rental, lease, hire, loan or similar arrangement.

23 (2) The copyright in a television broadcast shall include the right to
24 control the taking of still photographs from the broadcast.

25 (3) Cable operators who merely retransmit the broadcasts of
26 broadcasting organizations shall not be entitled to the rights provided for in
27 subsection (1) of this section in respect of the broadcasts retransmitted.

Moral rights

28 **14.-(1)** Subject to Part II of this Act, the author of a work in which
29 copyright subsists has the right to-

30 (a) claim authorship of his work, in particular that his authorship be

1 indicated in connection with any of the acts referred to in sections 9, 10
2 and 11 of this Act, except when the work is incidentally or accidentally
3 included in a broadcast when reporting current events; and

4 (b) object and to seek relief in connection with any distortion,
5 mutilation or other modification of, and any other derogatory action in
6 relation to his work, where such action would be or is prejudicial to his
7 honour or reputation.

8 (2) A person has the right to object to a work being falsely
9 attributed to him as the author.

10 (3) The rights referred to in subsection (1) of this section shall-

11 (a) not be transmissible during the life of the author; and

12 (b) upon the death of the author, be transmissible by testamentary
13 disposition or by operation of law.

14 (4) The rights conferred by this section shall subsist for the
15 duration of the copyright in the work.

16 **15.-(1)** Where a sound recording has been published for
17 commercial purposes, the performer and owner of copyright of such sound
18 recordings shall enjoy the right to equitable remuneration for any broadcast
19 of the sound recording.

Right to
remuneration for
broadcasting of
sound recordings

20 (2) The remuneration referred to in subsection (1) of this section,
21 shall be paid by the person who uses the sound recordings or copies thereof.

22 (3) The amount of remuneration and the conditions of payment
23 shall be as agreed between the users of sound recordings on the one hand, the
24 performer and owner of copyright in sound recordings on the other hand or
25 their representatives; and where the parties fail to reach an agreement, it
26 shall be determined by the Commission.

27 (4) Unless otherwise provided for in an agreement, the distribution
28 of the remuneration referred to in subsection (1) of this section between the
29 performer and the owner of copyright in the sound recording shall be
30 determined by the Commission.

(5) Where remuneration is to be received on behalf of a performer and the owner of copyright in the sound recording by more than one collective management organization, the collective management organizations concerned shall agree on which of them shall collect such remuneration on their behalf, failing which the Commission may specify accordingly.

(6) The provisions of subsection (1) of this section shall be exercised without prejudice to the right of a copyright owner to obtain remuneration for the use of his work fixed in such sound recording.

(7) For the purposes of this section, sound recordings made available to the public by wire or wireless means in such a way that members of the public may be accessed from a place and at a time independently chosen by them shall be deemed as published for commercial purposes.

(8) In the exercise of the rights under this section, the performer and owner of copyright in a sound recording shall have a right to the logs, statements and information relating to the broadcast of the sound recording.

Broadcasting
of works
incorporated in
an audiovisual
work

16.-(1) Where the owner of the copyright in a literary, musical or artistic work authorises a person to incorporate the work in an audiovisual work and a broadcasting organization broadcasts the audiovisual work, the owner of the copyright shall, in the absence of any express agreement to the contrary between the owner and the person so authorised, be deemed to have authorised the broadcast.

(2) Notwithstanding subsection (1) of this section, the owner of the right to broadcast the work shall, subject to this Act, be entitled to receive fair compensation from the broadcasting organization.

(3) In the absence of an agreement on the compensation payable under subsection (2) of this section, the amount of compensation shall be determined by the Commission.

Right to share
in proceeds of
sale

17.-(1) Notwithstanding any assignment or sale of the original work, the author of a graphic work, three-dimensional work or manuscript, shall have an inalienable right to a share in the proceeds of any sale of that work or

1 manuscript by public auction or through a dealer.

2 (2) The right conferred by this section shall apply only to originals
3 of such work.

4 (3) The condition for the exercise of the right conferred by this
5 section shall be determined by regulations made by the Commission.

6 (4) The provisions of this section shall not apply to architectural
7 works or works of applied art.

8 (5) In this section, "author" includes heirs and successors-in-title.

9 **18.** Subject to the provisions of sections 3, 4, 5, 6, 7, 8 and 9 of this Act, copyright shall commence when the work is created or made. Commencement
10 of rights

11 **19.**-(1) The duration of copyright conferred under this Act shall be, Duration of
12 in the case of- copyright

13 (a) literary, musical or artistic works other than photographs,
14 seventy years after the end of the year in which the author dies;

15 (b) works deriving copyrights from section 7 of this Act, seventy
16 years after the end of the year in which the work was created or first made;

17 (c) audiovisual works and photographs, fifty years after the end of
18 the year in which the work was created or first made;

19 (d) sound recordings, fifty years after the end of the year in which
20 the recording was first made; and

21 (e) broadcasts, fifty years after the end of the year in which the
22 broadcast first took place.

23 (2) Copyright in anonymous or pseudonymous literary, musical or
24 artistic works shall subsist until seventy years after the year in which the
25 work was created or first made provided that when the author becomes
26 known, the duration of copyright shall be in accordance with the provisions
27 of subsection (1) of this section.

28 (3) In joint authorship work, reference to the death of the author
29 shall be to the author who dies last.

PART II - EXCEPTIONS TO COPYRIGHT

- General exceptions 2 **20.**-(1) The rights conferred in respect of a work by sections 9, 10, 11,
3 12 and 13 of this Act, do not include the right to control-
- 4 (a) any of the acts specified in those sections by way of fair dealing for
5 purposes such as-
- 6 (i) private use;
7 (ii) parody, satire, pastiche, or caricature;
8 (iii) research and private study;
9 (iv) criticism, review or the reporting of current events, subject to the
10 condition that, if the use is public, it shall, where practicable, be accompanied
11 by an acknowledgment of the title of the work and its author except where the
12 work is incidentally included in a broadcast;
13 provided that in determining whether the use of a work in any particular case is
14 fair dealing, the factors to be considered shall include the-
- 15 (i) purpose and character of its usage;
16 (ii) nature of the work;
17 (iii) amount and substantiality of the portion used in relation to the
18 work as a whole; and
19 (iv) effect of the use upon the potential market or value of the work,
20 (b) the inclusion in an audiovisual work or a broadcast of an artistic
21 work situated in a place where it can be viewed by the public;
22 (c) the reproduction and distribution of copies of any artistic work
23 permanently situated in a public place;
24 (d) the incidental inclusion of an artistic work in an audiovisual work
25 or broadcast;
26 (e) quotations in the form of short excerpts from a work;
27 (f) the reading or recitation in public or in a broadcast of any
28 reasonable extract from a published literary work if, accompanied by an
29 acknowledgment of the title of the work and its author;
30 (g) any use made of a work by or under the direction or control of the

1 Government or by such public libraries, non-commercial documentation
2 centres and scientific or other institutions as may be prescribed, where the
3 use is in the public interest, provided that:

4 (i) no revenue is derived therefrom, and

5 (ii) the use does not substantially affect the potential market or
6 value of the work;

7 (h) the reproduction of a work by or under the direction or control
8 of a broadcasting organization, where the reproduction or any copies thereof
9 are intended exclusively for a lawful broadcast and are destroyed before the
10 end of the period of six months immediately following the making of the
11 reproduction or such longer period as may be agreed between the
12 broadcasting organization and the owner of the relevant part of the copyright
13 in the work, provided that any reproduction of a work made under this
14 paragraph-

15 (i) may, if it is of an exceptional documentary character, be
16 preserved in the archives of the broadcasting organization;

17 (ii) shall not be used for any other purpose without the consent of
18 the owner of copyright in the relevant part of the work;

19 (iii) "lawful broadcast" in this paragraph means a broadcast that
20 does not infringe on the copyright in the work,

21 (i) news of the day for public broadcast or publicly communicated
22 by any other means;

23 (j) any use made of a work for the purpose of judicial or legislative
24 proceedings or the reporting of such proceedings;

25 (k) the making of not more than three copies of a work, by or under
26 the direction of the person in charge of a public library, for the use of the
27 library, if such a work is not available for sale in Nigeria;

28 (l) the reproduction for the purpose of research or private study of
29 an unpublished literary or musical work kept in a library, museum or other
30 similar institutions to which the public has access;

1 (m) transient and incidental reproductions, which are integral and
2 essential parts of a technological process, whose sole purpose is to enable
3 transmission in a network between third parties by an intermediary or for other
4 lawful use, where such use has no independent economic significance.

5 (n) without prejudice to section 26 of this Act, use for the benefit of
6 people with disability and of a non-commercial nature, to the extent required
7 by the specific disability;

8 (o) use of an artistic work in the form of a building model or a drawing
9 or plan of a building for the purposes of reconstructing the building;

10 (p) communication or making available of works and other material
11 not subject to purchase or licensing terms to members of the public for the
12 purpose of research or private study through dedicated terminals on the
13 premises of publicly accessible libraries, educational establishments,
14 museums and archives.

15 (2) Notwithstanding the provisions of section 9 of this Act,
16 reproduction of a copy or the adaptation of a computer program is permitted, if
17 the copy or adaptation is necessary for-

18 (a) use with a computer for the purpose for which the computer
19 program was obtained;

20 (b) archival purposes or as a replacement, in the event that the original
21 copy of the computer program is lost, destroyed or rendered unusable;

22 (c) the activation of a machine that lawfully contains an authorised
23 copy of the computer program, for purposes of maintenance or repair only of
24 that machine, subject to the condition that-

25 (i) such new copy is used in no other manner and is destroyed
26 immediately after the maintenance or repair is completed; and

27 (ii) with respect to any computer program or part that is not necessary
28 for that machine to be activated, such program or part is not accessed or used
29 other than to make such new copy by virtue of the activation of the machine.

30 (3) Any contractual term which purports to restrict or prevent the

(4) Any term of a licence which purports to restrict the proportion of work, which may be copied to less than that permitted under this section

	1	shall be of no effect.
Subsequent dealings with authorised copies	2	24. -(1) Where a copy of a work authorised under sections 21,22 and
	3	23 of this Act is subsequently dealt with by way of sale, offering for sale or
	4	rental, it shall be treated as an infringing copy for the purposes of that dealing.
	5	(2) Where a person requesting a copy makes a declaration that is false
	6	in a material particular and is supplied with the copy, which would have been an
	7	infringing copy, if made by him, that person shall be liable for infringement of
	8	copyright as if, he had made the copy himself and the copy supplied shall be
	9	treated as an infringing copy.
Special provisions for archives, libraries, museums and galleries	10	25. Notwithstanding the provisions of sections 9, 10, 11, 12 and 13 of
	11	this Act, archives, libraries, museums and galleries, may for non-commercial
	12	purposes-
	13	(a) make and distribute copies of works protected under this Act as
	14	part of their ordinary activities;
	15	(b) make copies of works in their collection for the purpose of back-
	16	up and preservation;
	17	(c) make or procure a copy of any missing part of a work in its
	18	collection from another institution;
	19	(d) make or procure a copy of any work that is or should be available
	20	in its collection in any chosen format, where the work cannot reasonably be
	21	acquired in that format through general trade or from the publisher; or
	22	(e) make or procure a copy of any work where the permission of the
	23	owner of the copyright cannot be obtained, after reasonable effort, or where the
	24	work is not available by general trade or from the publisher.
	25	(2) Copies of works made in whatever format in accordance with
	26	subsection (1) of this section may be-
	27	(a) lent to users; or
	28	(b) used for private study or research on the premises of the
	29	institution with or without the means of technical equipment.

1 26.-(1) Without prejudice to the provisions of this Act,
2 an authorised entity may, without the permission of the owner of copyright
3 in a work, make or procure an accessible format copy of a work or subject
4 matter and supply the copy thereof to beneficiary persons by any means,
5 including non-commercial lending, or electronic communication by wire or
6 wireless means, on the condition that the-

Special exceptions
for blind, visually
impaired, or
otherwise print
disabled persons

7 (a) authorised entity desiring to undertake any of the activities
8 under this section has lawful access to that work or subject matter or a copy
9 of that work or subject matter;

10 (b) work or subject matter is converted to an accessible format
11 copy;

12 (c) accessible format copy is supplied to be used exclusively by
13 beneficiary persons; and

14 (d) activity is undertaken on a non-profit basis.

15 (2) For the purpose of the requirement of subsection (1), paragraph
16 (c) of this section, an authorised entity shall establish and follow its own
17 practices, to -

18 (a) establish that the persons it serves are beneficiary persons;

19 (b) limit its distribution to beneficiary persons or authorised
20 entities and in making available of accessible format copies;

21 (c) discourage the reproduction, distribution and making available
22 of unauthorised copies; and

23 (d) maintain due care in, and records of, its handling of copies of
24 works or other subject matter while respecting the privacy of beneficiary
25 persons.

26 (3) A beneficiary person is permitted to make an accessible format
27 copy of a work or other subject matter for his personal use, where he has
28 lawful access to that work or subject matter or a copy of that work or subject
29 matter.

30 (4) A person acting on behalf of a beneficiary person, including a

1 primary caretaker or care giver, may assist the beneficiary person to make
2 accessible format copies where the beneficiary person has lawful access to that
3 work or subject matter or a copy of that work or subject matter.

4 (5) An authorised entity may, without the permission of the owner of a
5 copyright, distribute or make available accessible format copies to an
6 authorised entity in another country for the exclusive use of beneficiary
7 persons or to a beneficiary person in another country; provided that prior to the
8 distribution or making available, the said authorised entity did not know or
9 have reasonable grounds to know that the accessible format copy would be
10 used other than for the beneficiary persons.

11 (6) An authorised entity, a beneficiary person or a person acting on his
12 behalf including a primary caretaker or care giver, may without the permission
13 of the owner of copyright import an accessible format copy, including by wire
14 or wireless means.

15 (7) For the purposes of this section -

16 (a) "works" include literary and artistic works in the form of text,
17 notation or related illustrations, whether published or otherwise made publicly
18 available in any media, including audio form;

19 (b) "accessible format copy" means a copy of a work in an alternative
20 manner or form which-

21 (i) gives a beneficiary person access to the work, as feasibly and
22 comfortably as a person without visual impairment or other print disability, and

23 (ii) respects the integrity of the original work, taking due
24 consideration of the changes needed to make the work accessible in the
25 alternative format and of the accessibility needs of the beneficiary persons;

26 (c) "authorised entity" means-

27 (i) an entity that is authorised or recognized by the government, or
28 receives financial support from the government, to provide education,
29 instructional training, adaptive reading or information access to beneficiary
30 persons on a non-profit basis; or

1 (ii) a government institution or non-profit organization that
2 provides education, instructional training, adaptive reading or information
3 access to beneficiary persons as part of its primary activities or institutional
4 obligations.

5 (d) A "beneficiary person" means a person who, regardless of any
6 other disabilities-

7 (i) is blind;

8 (ii) has a visual impairment or a perceptual or reading disability
9 which cannot be improved to give visual function substantially equivalent to
10 that of a person who has no such impairment or disability and so is unable to
11 read printed works to substantially the same degree as a person without an
12 impairment or disability; or

13 (iii) is otherwise unable, through physical disability, to hold or
14 manipulate a book or to focus or move the eyes to the extent that would be
15 normally acceptable for reading.

16 **27.-(1)** The copyright in a musical work is not infringed by a person
17 who makes a recording of the work or of an adaptation thereof in Nigeria, if-

Special exceptions
in respect of sound
recordings of
musical works

18 (a) prior to recording of the work or as the case may be, a similar
19 adaptation of the work, has previously been made, imported into or
20 otherwise made available in Nigeria, for the purpose of retail sale with the
21 consent or licence of the owner of the copyright;

22 (b) before making the recording, the person gives notice in the
23 prescribed manner of his intention to record to the owner of the copyright or
24 the relevant approved collective management organization;

25 (c) the person pays to the owner of the copyright or the relevant
26 approved collective management organisation a royalty of an amount equal
27 to a percentage of the ordinary retail selling price of the record calculated in
28 accordance with regulations made by the Commission.

29 (2) Where a recording comprises two or more musical works in
30 which copyright subsists and the owners of the copyright in the works are

1 different persons, the royalty shall be apportioned among them in such manner
2 as they may agree or in default of such agreement, in accordance with the rules
3 of the relevant collective management organizations or the regulations made
4 under this Act.

5 (3) Where a recording comprises of a performance of a musical work
6 or of an adaptation of a musical work, in which words comprised in a literary
7 work are sung or are spoken and no copyright subsists in that literary work or
8 where copyright subsists, the conditions specified in subsection (1) of this
9 section are fulfilled in relation to that copyright, the making of the recording
10 shall not constitute an infringement of the copyright in the literary work.

11 (4) The provisions of subsection (3) of this section, shall not be
12 construed as requiring the payment of more than one royalty in respect of a
13 recording and where copyright subsists in both the musical work and literary
14 work and their owners are different, the royalty shall be apportioned among
15 them and any other person entitled to a share thereof, as they may agree or in
16 default of agreement, shall be determined by the rules of the relevant collective
17 management organization or the regulations made under this section.

18 (5) For the purpose of this section, an adaptation of a work shall be
19 taken to be similar to an adaptation contained in previous records, if the two
20 adaptations do not differ substantially in their treatment of the work, in respect
21 of style or apart from a difference in number of the performers required to
22 perform the adaptations.

23 (6) The Commission shall have power to make regulations providing
24 for conditions necessary to give effect to the purposes of this section.

25 PART III - OWNERSHIP, TRANSFERS AND LICENCES

First ownership
of copyright

26 **28.**-(1) Except as otherwise provided in an agreement, copyright
27 conferred by this Act, shall initially vest in the author.

28 (2) Where a person in the absence of an agreement to the contrary,
29 creates a work under the direction or control of a Government, a Ministry,
30 Department or Agency of a government or a prescribed international or inter-

1 governmental organization, the copyright in that work shall vest in that
2 Government, Ministry, Department, Agency, prescribed international or
3 inter-governmental organization.

4 (3) Notwithstanding subsection (1) of this section and subject to
5 any agreement between the parties, where a person for private or domestic
6 purposes, commissions the taking of a photograph or the painting or
7 drawing of a portrait or the making of an audiovisual recording, the person
8 who commissioned the work shall be-

9 (a) deemed to have a non-exclusive licence to exploit the
10 commissioned work; or

11 (b) entitled to restrain the publication, exhibition, communication
12 and distribution of copies of the work to the public.

13 **29.** Except as otherwise provided by agreement-

14 (a) copyright in a collective work shall vest in the person on whose
15 initiative or direction the work was created.

Ownership of
copyright in
collective works

16 (b) the authors of the works incorporated in a collective work shall
17 have the right to exploit their works independent of the right in the collective
18 work.

19 **30.-(1)** For the purpose of Chapter 4 of the Constitution of the
20 Federal Republic of Nigeria 1999, copyright shall be deemed to be movable
21 property and shall be transferable by way of assignment, testamentary
22 disposition or operation of law.

Assignment
and licence

23 (2) An assignment or testamentary disposition of copyright may
24 be limited to only some of the acts, which the owner of the copyright has the
25 exclusive right to control or to a part only of the period of the copyright, or to
26 a specified country or other geographical area.

27 (3) An assignment of copyright or an exclusive licence to do an
28 act, the doing of which is controlled by copyright, shall have no effect unless
29 it is in writing.

30 (4) A non-exclusive licence to do an act, the doing of which is

1 controlled by copyright, may be written, oral, or inferred from conduct of the
2 owner of copyright.

3 (5) An assignment or licence granted by one copyright owner, shall
4 have effect as if granted by his co-owner and subject to any agreement between
5 them, any fee received shall be divided equitably among the co-owners.

6 (6) For the purposes of this section, persons shall be deemed to be co-
7 owners, if they-

8 (a) share joint interest in the whole or any part of a copyright; or

9 (b) have interests in the copyright in various works comprised in a
10 production of two or more works.

11 (7) Ownership of a material in which a work is embodied shall not
12 confer ownership of copyright in the work.

13 (8) Except as may otherwise be provided for in an agreement, an
14 owner of copyright who transfers the ownership of the material in which the
15 work is embodied, shall not be deemed to have transferred his copyright or to
16 have granted a licence for the exploitation of the work.

17 (9) Except as may otherwise be provided for in an agreement, an
18 owner of copyright who transfers his copyright or grants a licence for the
19 exploitation of a work shall not be deemed to have transferred the ownership of
20 the material in which the work is embodied.

21 (10) An assignment, licence or testamentary disposition, may be
22 granted or made in respect of a future work or an existing work in which
23 copyright does not subsist, provided that it shall not be permitted to transfer the
24 rights in all future works of an author.

25 (11) A testamentary disposition of a material on which a work is first
26 written or recorded shall, in the absence of any indication to the contrary, be
27 presumed to include any copyright or prospective copyright in the work, which
28 is vested in the deceased.

Compulsory
licence to produce
and publish
translations

29 **31.-(1)** Any qualified person may, for the purposes of teaching,
30 scholarship or research, apply to the Commission for a licence to produce and

1 publish a translation of a literary work, which has been published in printed
2 or analogous forms of reproduction.

3 (2) An application under this section shall be made in the
4 prescribed form and shall state the proposed retail price of a copy of the
5 translation of the work.

6 (3) An applicant for a licence under this section shall pay such fee
7 as may be prescribed by the Commission.

8 (4) Where an application is made to the Commission under this
9 section, the Commission may grant to the applicant a non-exclusive licence
10 to produce and publish a translation of the work in the language mentioned
11 in the application subject to the conditions that-

12 (a) the applicant shall pay to the owner of the copyright in the work,
13 royalties in respect of copies of the translation of the work produced,
14 calculated at such rate as the Commission may, in the circumstances of each
15 case determine and consistent with the standards for licences freely
16 negotiated between persons in Nigeria and owners of translation rights in
17 their country;

18 (b) the licence shall not extend to the export of copies of the
19 translation of the work outside Nigeria; and

20 (c) every copy of such translation shall contain a notice in the
21 language of the translation that the copy is available for distribution only in
22 Nigeria.

23 (5) Subsection (4) of this section shall not apply to export by
24 Government or any of its agencies, of copies of such translation in a
25 language other than English to any country, if such copies are-

26 (a) sent to citizens of Nigeria residing outside Nigeria or to any
27 association of such citizens outside Nigeria; or

28 (b) meant to be used for purposes of teaching, scholarship or
29 research and the government of the country to which the copies are exported
30 agree to receive or distribute the copies.

1 (6) A licence shall not be granted by the Commission under this
2 section until the expiration of-

3 (a) one year from the date of first publication of the work, where the
4 application is for a licence for translation into any language spoken in Nigeria
5 other than English; or

6 (b) three years from the date of first publication of the work, where the
7 application is for a licence for translation into English.

8 (7) A licence shall not be granted by the Commission, except-

9 (a) the Commission is satisfied that no translation of the work into the
10 language in question has been published in printed or analogous forms of
11 reproduction, by or with the permission of the owner of the right of translation
12 or that all previous editions in that language are out of print;

13 (b) the applicant has proved to the satisfaction of the Commission that
14 he had requested and had been denied permission by the owner of the copyright
15 to produce and publish such translation or that he was, after due diligence on
16 his part, unable to find such owner;

17 (c) where the applicant after due diligence on his part, was unable to
18 find the owner of the copyright and that he had sent a request for permission to
19 the publisher whose name appears on the work, not less than two months before
20 applying for the licence;

21 (d) the applicant had at the time he submitted an application under this
22 section informed any national or international information centre designated
23 for this purpose by the government of the country in which the publisher of the
24 work to be translated is believed to have his principal place of business;

25 (e) the Commission is satisfied that the applicant is competent to
26 produce and publish a correct translation of the work and possesses the means
27 to pay to the owner of the copyright the royalties required to be paid to him
28 under this Act;

29 (f) a period of six months, in the case of an application for a licence for
30 translation into English or nine months in the case of an application for a

1 licence for translation into any other language spoken in Nigeria has lapsed
2 from the date of making the request under subsection (1) paragraph (b) of
3 this section;

4 (g) where a request has been sent under subsection (1) paragraph
5 (c) of this section, a period of six months has lapsed from the date of sending
6 the request and the translation of the work in the language mentioned in the
7 application has not been published by the owner of the copyright in the work
8 or any person authorised by him within a period of nine months;

9 (h) the name of the author and the title of the particular edition of
10 the work proposed to be translated are printed on all copies of the
11 translation;

12 (i) where the work is composed mainly of illustrations, the
13 provisions of section 6 of this Act are complied with;

14 (j) the author has not withdrawn copies of the work from
15 circulation; and

16 (k) an opportunity of being heard is given by the Commission,
17 wherever practicable, to the owner of the copyright in the work.

18 **32.-(1)** Any qualified person may apply to the Commission for a
19 licence to reproduce or publish a work in printed or analogous forms of
20 reproduction after the expiration of the relevant period from the date of the
21 first publication of an edition of a literary or artistic work, where copies of
22 the edition are not made available or put on sale in Nigeria for a period of six
23 months by the owner of the right of reproduction or any person authorised by
24 him, at a price normally charged in Nigeria for comparable works.

Compulsory
licence to reproduce
and publish works
for certain purposes

25 (2) An application under this section shall be made in a prescribed
26 form and shall state the proposed retail price of a copy of the work to be
27 reproduced.

28 (3) An applicant for a licence under this section shall pay such fees
29 as may be prescribed by the Commission.

30 (4) Where an application is made to the Commission under this

1 section, the Commission may grant to the applicant a non-exclusive licence to
2 produce and publish a reproduction of the work mentioned in the application
3 subject to the conditions that-

4 (a) the applicant shall pay to the owner of the copyright in the work,
5 royalties in respect of copies of the reproduction calculated at such rate as the
6 Commission may, in the circumstances of each case determine as consistent
7 with the standards for licences freely negotiated between persons in Nigeria
8 and owners of reproduction rights in their country;

9 (b) the licence shall not extend to the export of copies of the
10 reproduction of the work outside Nigeria; and

11 (c) every copy of such reproduction shall contain a notice that the
12 copy is available for distribution only in Nigeria.

13 (5) A licence shall not be granted by the Commission, except-

14 (a) the applicant has proved to the satisfaction of the Commission that
15 he had requested and had been denied permission by the owner of the copyright
16 to reproduce and publish such work, or that he was, after due diligence on his
17 part, unable to find such owner;

18 (b) where the applicant exercised due diligence and was unable to find
19 the owner of the copyright and that he had sent a request for permission to the
20 publisher whose name appears on the work, not less than three months before
21 applying for the licence;

22 (c) the applicant had at the time he submitted an application under this
23 section informed any national or international information centre designated
24 for this purpose by the government of the country in which the publisher of the
25 work to be reproduced is believed to have his principal place of business;

26 (d) the Commission is satisfied that the applicant is competent to
27 reproduce and publish an accurate reproduction of the work and possesses the
28 means to pay to the owner of the copyright, the royalties required to be paid to
29 him under this section;

30 (e) the applicant undertakes to reproduce and publish the work at such

1 price as may be fixed by the Commission at a price normally charged in
2 Nigeria for similar works of the same standard;

3 (f) a period of six months, in the case of an application for the
4 reproduction and publication of any work of natural science, physical
5 science, mathematics or technology or a period of three months in the case of
6 an application for the reproduction and publication of any other work, has
7 lapsed from the date of making the request under subsection (1) paragraph
8 (a) of this section or where a copy of the request has been sent under
9 subsection (1) paragraph(b) of this section, from the date of sending of a
10 copy and a reproduction of the work has not been published by the owner of
11 the copyright in the work or any person authorised by him within a period of
12 six months or three months, as the case may be;

13 (g) the name of the author and the title of the particular edition of
14 the work proposed to be reproduced are printed on all the copies of the
15 reproduction;

16 (h) the author has not withdrawn copies of the work from
17 circulation; and

18 (i) an opportunity of being heard is given by the Commission,
19 wherever practicable, to the owner of the copyright in the work.

20 (6) Notwithstanding the provisions of this section, a licence to
21 reproduce and publish translation of a work shall not be granted save such
22 translation has been published by the owner of the right of translation in a
23 language spoken in Nigeria.

24 (7) The provisions of sections 31 and 32 of this Act shall also apply
25 to the reproduction and publication or translation into a language spoken in
26 Nigeria, of any text incorporated in audio-visual fixations prepared and
27 published solely for the purpose of systematic instructional activities.

28 (8) For the purposes of sections 31 and 32-
29 "relevant period" in relation to any work, means a period of-

30 (a) seven years from the date of the first publication of a work in

	1	respect of fiction, poetry, drama, music or art; and
	2	(b) three years from the date of the first publication of a work in
	3	respect of natural science, physical science, mathematics or technology.
Licence for broadcasting organisations	4	33. -(1) Any broadcasting organisation in Nigeria or any qualified
	5	person who is the holder of a licence for a television or broadcasting station
	6	may apply to the Commission for a licence to produce and publish the
	7	translation of-
	8	(a) a work referred to in section 31 of this Act and published in printed
	9	or analogous forms of reproduction; or
	10	(b) any text incorporated in audio-visual fixations prepared and
	11	published solely for the purpose of systematic instructional activities, for
	12	broadcasting such translation for the purpose of teaching or for the
	13	dissemination of the results of specialised, technical or scientific research to
	14	the experts in any particular field.
Definitions for the purposes of sections 31, 32 to 33	15	34. For the purposes of sections 31 to 33 of this Act-
	16	-(1) "qualified person" means-
	17	(a) a citizen of Nigeria or an individual habitually resident in Nigeria;
	18	(b) a body corporate incorporated under any written law in Nigeria;
	19	(2) "research" shall not include industrial research or research carried
	20	out by bodies corporate not owned or controlled by the Government, carrying
	21	on any business;
	22	(3) "purposes of teaching, research or scholarship" includes all types
	23	of organised educational and instructional activities at any level in educational
	24	institutions.
Compulsory licence for public interest	25	35. -(1) Notwithstanding the provisions of this Act, the Commission
	26	may authorise the use of a work by any person for the purpose of rectifying the
	27	abuse of a dominant market position or to promote public interest.
	28	(2) An application for a licence under this section shall be made in a
	29	manner prescribed, accompanied with evidence of payment of a prescribed fee
	30	and good cause shown for the grant of the licence by the Commission.

1 (3) The Commission may authorise the use of a work under
2 subsection (1) of this section after taking into consideration that the-

3 (a) proposed user has made reasonable effort to obtain permission
4 from the owner of copyright on reasonable commercial terms and
5 conditions and that the effort was not successful;

6 (b) scope, medium and duration of the use shall be limited to the
7 purpose for which it was authorised;

8 (c) use shall be non-exclusive and non-assignable;

9 (d) use shall be exclusively for Nigeria's domestic market; and

10 (e) copyright owner receives payment of adequate remuneration,
11 taking into account the economic value of the work authorised to be used.

12 (4) subject to adequate protection of the interests of the authorised
13 persons, the authorisation may be withdrawn where the circumstances that
14 led to its grant has ceased to exist.

15 (5) The Commission may waive the condition stipulated in
16 subsection (3) paragraph (a) of this section in the event of national
17 emergency or other circumstances of extreme urgency and notify the owner
18 of copyright.

19 (6) The Commission may make regulations providing for
20 conditions necessary to give effect to the provisions of this section.

21 (7) Any person who is dissatisfied with an authorisation granted by
22 the Commission under this section or any remuneration required to be paid
23 pursuant to authorisation granted by the Commission, may apply to the
24 Court for a review.

25 PART IV - COPYRIGHT INFRINGEMENTS

26 **36.** Copyright is infringed by any person who without the
27 authorisation of the owner of the copyright-

Infringement of
copyright

28 (a) does or causes any person to do an act, which constitutes a
29 violation of the exclusive rights conferred under this Act;

30 (b) imports or causes to be imported into Nigeria any copy of a

1 work which if it had been made in Nigeria would be an infringing copy under
2 this Act;

3 (c) sells, offers for sale or hire any work in respect of which copyright
4 is infringed under paragraph (a) of this subsection;

5 (d) makes or has in his possession, plates, master tapes, machines,
6 equipment or contrivances used for the sole purpose of making infringing
7 copies of the work;

8 (e) permits a place of public entertainment or of business to be used
9 for a public performance of the work, where the performance constitutes an
10 infringement of copyright in the work, unless the person permitting the place to
11 be used was not aware and had no reasonable ground to suspect that the
12 performance constitutes an infringement of the copyright;

13 (f) permits within its premises, the reproduction of a copyright work;

14 (g) performs or causes to be performed for the purposes of trade or
15 business or the promotion of a trade or business, any work in which copyright
16 subsists.

17 (2) The doing of any of the acts referred to in this section shall be in
18 respect of the whole or a substantial part of the work either in its original form
19 or in any form recognisably derived from the original.

Action for
infringement

20 **37.-(1)** Subject to the provisions of this Act, infringement of
21 copyright shall be actionable at the instance of the owner, assignee or an
22 exclusive licensee of the copyright in the court exercising jurisdiction in the
23 place where the infringement occurred.

24 (2) In any action for an infringement of copyright, the plaintiff shall
25 be entitled to reliefs such as damages, injunction, accounts or as is available in
26 any corresponding proceedings in respect of infringement of other proprietary
27 rights.

28 (3) Where an action for infringement of copyright brought by the
29 copyright owner or an exclusive licensee relates to an infringement in respect
30 of which both have concurrent rights of action, the copyright owner or the

1 exclusive licensee may not, without the leave of court, proceed with the
2 action unless the other is joined as a plaintiff or added as a defendant.

3 (4) In an action for infringement of copyright, where it is proved or
4 admitted that an infringement was committed, but that at the time of
5 infringement, the defendant was not aware and had no reasonable grounds to
6 suspect that copyright subsisted in the work to which the action relates, the
7 plaintiff shall not be entitled to any damages against the defendant in respect
8 of the infringement, but shall be entitled to an account of profits in respect of
9 the infringement, whether or not any other relief is granted.

10 (5) Where in an action under this section, an infringement of
11 copyright is proved or admitted and the court in which the action is brought,
12 is satisfied that effective relief would not otherwise be available to the
13 plaintiff, the court, in assessing damages for the infringement, shall have
14 power to award such additional damages as the court may consider
15 appropriate in the circumstances and having regard to-

16 (a) the flagrancy of the infringement; and

17 (b) any benefit shown to have accrued to the defendant by reason of
18 the infringement.

19 (6) In any proceeding for infringement of copyright, no order shall
20 be made, which requires a completed or an uncompleted building to be
21 demolished or prevents the completion of an uncompleted building.

22 (7) In this section, "action" includes a counterclaim and references
23 to the plaintiff or the defendant, shall be construed accordingly.

24 **38.-(1)** In any action for infringement of any right under this Act,
25 where an ex parte application is made to the court, supported with an
26 affidavit, that there is reasonable cause to suspect that there is in any house
27 or premises an infringing copy or any plate, film or contrivance used or
28 intended to be used for making infringing copies or capable of being used for
29 the purpose of making copies or any other article, book or document by
30 means of or in relation to which any infringement under this Act has been

Order for
inspection and
seizure

	1	committed, the court may issue an order as it deems just, authorising the
	2	applicant to enter the house or premises at any reasonable time by day or night
	3	accompanied by a police officer or a Copyright Inspector, to-
	4	(a) seize, detain and preserve the infringing copy or contrivance; and
	5	(b) inspect any document, relating to the action, in the custody or
	6	under the control of the defendant.
	7	(2) Any person who knowingly gives false information under this
	8	section shall be guilty of an offence and liable on conviction to a fine of not less
	9	than N100,000.00 or to imprisonment for a term of not less than 1 year or to
	10	both.
Limitation to the right of action	11	39. Notwithstanding the provisions of this Act or any other law, no
	12	action for an infringement of copyright or any right under this Act shall be
	13	commenced or maintained by any person, who-
	14	(a) engages in the business of negotiating and granting of licence;
	15	(b) collects and distributes royalties in respect of copyright works; or
	16	(c) represents more than 50 owners of copyright in any category of
	17	works protected under this Act,
	18	unless it is approved under section 88 of this Act to operate as a collective
	19	management organization or issued with a certificate of exemption by the
	20	Commission.
Forfeiture of infringement copies	21	40. Where a person has an infringing copy of a work in his possession,
	22	custody, or control in the course of business or has in his possession, custody or
	23	control an article specifically designed or adapted for making copies of a
	24	particular copyright work, knowing or having reason to believe that it has been
	25	or is to be used to make infringing copies, the owner of the copyright in the
	26	work may apply to the court for an order that the infringing copy or article be-
	27	(a) forfeited to him or any other person, or
	28	(b) destroyed or otherwise dealt with as the court may deem fit.
Infringement actionable as a breach of statutory duty	29	41.-(1) An infringement of the rights conferred by section 14 of this

1 Act is actionable as a breach of statutory duty owed to the person entitled to
2 the right.

3 (2) In any proceeding for infringement of a right conferred under
4 section 14 of this Act, the person whose rights has been infringed upon shall
5 be entitled to an award of damages, injunction and any other remedy as the
6 court may deem fit to award in the circumstances.

7 **42.** Any of the following facts shall be admitted in any
8 proceedings without further proof, if they are stated in an affidavit made
9 before a Commissioner for Oaths, notary public or other person competent
10 to administer an oath in terms of the law of the country where the oath is
11 made, by or on behalf of the owner of the copyright in a work, that-

Admissibility of
affidavit evidence

12 (a) at the time specified therein, copyright subsists in the work;

13 (b) the person named therein is the owner of the copyright in the
14 work;

15 (c) a copy of the work exhibited to the affidavit is a true copy of the
16 work;

17 (d) the author of the work is a citizen of or domiciled in a country
18 named in the affidavit;

19 (e) the author of the work is a body corporate established or
20 incorporated by or under the laws of the country named in the affidavit;

21 (f) the work was first made or published in the country named in the
22 affidavit; and

23 (g) the certificate attached to the affidavit is a true copy of the
24 certificate or registration of that incorporation.

25 **43.** In an action for infringement of copyright in a work, whether
26 civil or criminal, the following shall be presumed, in the absence of any
27 evidence to the contrary-

Presumptions

28 (a) that copyright subsists in the work which is the subject matter of
29 an alleged infringement;

30 (b) that the name appearing on the work purporting to be the name

1 of the author, is the name of such author;

2 (c) that the name appearing on the work purporting to be that of the
3 publisher or producer of the work is the name of such publisher or producer;

4 (d) where the author is dead, that the work is an original work; and

5 (e) that it was published or produced at the place and on the date
6 appearing on the work.

7 PART V - COPYRIGHT OFFENCES

Criminal liability

8 **44.-(1)** Any person who-

9 (a) makes or causes to be made for sale, hire or for the purposes of
10 trade or business any infringing copy of a work in which copyright subsists;

11 (b) imports or causes to be imported into Nigeria a copy of any work
12 which, if it had been made in Nigeria, would be an infringing copy; or

13 (c) has in his possession, any plate, master tape, machine, equipment
14 or contrivance for the purposes of making any infringing copy of any such
15 work,

16 is guilty of an offence and liable on conviction to a fine of not less than
17 N1,000.00 for every copy dealt with in contravention of this section or to
18 imprisonment for a term of not less than 5 years or to both.

19 (2) Any person who-

20 (a) sells, lets for hire or for the purposes of trade or business, exposes
21 or offers for sale any infringing copy of a work;

22 (b) distributes for the purposes of trade or business any infringing
23 copy of a work;

24 (c) has in his possession other than for his private or domestic use, any
25 infringing copy of a work; or

26 (d) has in his possession, sells, lets for hire or distributes for the
27 purposes of trade or business or exposes or offers for sale or hire any copy of a
28 work which if it had been made in Nigeria would be an infringing copy,

29 is guilty of an offence and liable on conviction to a fine of not less than
30 N1,000.00 for every copy dealt with in contravention of this section or to

1 imprisonment for a term of not less than 3 years or to both.

2 (3) A person is not guilty of an offence under subsections (1) and
3 (2) of this section if, he proves to the satisfaction of the court that he did not
4 know and had no reason to believe that the copy was an infringing copy of
5 any work or that the plate, master tape, machine, equipment or contrivance
6 was for the purpose of making infringing copies of any such work.

7 (4) Any person who, without the consent of the owner, distributes
8 to the public for commercial purposes, by way of rental, lease, hire, loan or
9 similar arrangement, copies of a work in which copyright subsists, is guilty
10 of an offence under this Act and liable on conviction to a fine of not less than
11 N1,000.00 for every copy dealt with or to imprisonment for a term of not less
12 than 3 years or to both.

13 (5) The court before which any proceeding is taken for an offence
14 under subsections (1), (2) and (3) of this section, may order all copies of the
15 works, plates, master tapes, machines, equipment and contrivances in the
16 possession of the alleged offender, which appears to be infringing copies of
17 the works, to be destroyed or surrendered to the owner of the copyright or
18 dealt with as the court may deem fit, whether the alleged offender is
19 convicted or not.

20 (6) Where an article is seized by a law enforcement officer in
21 connection with a suspected offence under this Act, a court may on the
22 application of a Copyright Inspector or owner of the copyright in the article,
23 order that the article be destroyed or delivered up to the owner of the
24 copyright or otherwise dealt with as the court may deem fit, notwithstanding
25 that no person has been charged with the suspected offence.

26 (7) Any person who without the consent of the owner of a work in
27 which copyright subsists, communicates to the public or makes the work
28 available to the public by wire or wireless means in such a way that members
29 of the public are able to access the work from a place and at a time
30 individually chosen by them for commercial purposes, is guilty of an

1 offence under this Act and liable on conviction to a fine of not less than
2 N1,000,000.00 or to imprisonment for a term of not less than 5 years or to both.

3 (8) Any person who without the consent of the owner of a copyright
4 does any of the acts specified in Section 13(1)(a), (b), (c) and (e) of this Act, in
5 respect of a broadcast, is guilty of an offence under this Act and liable on
6 conviction to a fine of not less than N1,000,000.00 or to imprisonment for a
7 term of not less than 5 years or to both.

8 (9) Any person who on demand refuses or omits to pay any royalty
9 accruing by virtue of right to remuneration under this Act or as may be agreed
10 between parties or determined by the Commission, is guilty of an offence and
11 liable on conviction to a fine of not less than N200,000.00 or to imprisonment
12 for a term of not less than 1 year or to both

Aiding and
procuring copyright
offence

13 45. Any person who aids or procures another person to commit an
14 offence under this Act is guilty of an offence and shall be liable on conviction to
15 the same punishment as prescribed under this Act for the commission of the
16 main offence.

Offence by bodies
corporate

17 46.-(1) Where an offence under this Act is committed by a body
18 corporate, the body corporate and its principal officers are deemed to be guilty
19 of the offence and liable to be proceeded against and punished accordingly-
20 provided that nothing contained in this subsection shall render any person
21 liable to any punishment, if he proves that the offence was committed without
22 his knowledge or that he exercised all due diligence to prevent the commission
23 of the offence.

24 (2) Notwithstanding anything contained in subsection (1) of this
25 section, where an offence under this Act has been committed by a body
26 corporate and it is proved that the offence was committed with the consent or
27 connivance of any director, manager, secretary or other officer of the body
28 corporate such director, manager, secretary or other officer shall also be
29 deemed to be guilty of that offence and shall be liable to be proceeded against
30 and punished accordingly.

1 (3) For the purposes of this section-

2 (a) "body corporate" includes a firm or other association of
3 persons; and

4 (b) "director" in relation to a firm includes a partner in the firm.

5 (4) Where a body corporate is convicted of an offence under this
6 Act, the court may order that its assets and properties be forfeited unless the
7 body corporate proves to the satisfaction of the court that such assets were
8 not proceeds of the offence for which the body corporate was convicted.

9 **47.** Notwithstanding the provisions of any law to the contrary, it Simultaneous
actions
10 shall be permissible for both criminal and civil actions to be taken
11 simultaneously in respect of the same infringement under this Act.

12 **PART VI - ANTI-PIRACY AND OTHER MEASURES**

13 **48.** -(1) Any person carrying on the business of production or Duty to keep
records
14 reproduction of works including publishers, printers, producers,
15 manufacturers and aggregators of works in which copyright subsists shall
16 keep a record of all works dealt with in the course of their business, showing
17 the following-

18 (a) name of the author;

19 (b) title of the work;

20 (c) date of use or production;

21 (d) quantity of the work used or produced; and

22 (e) any other information as may be prescribed by the Commission
23 from time to time

24 (2) Any person who-

25 (a) fails to keep the record required under this section;

26 (b) makes or causes to be made a false entry in a record; or

27 (c) produces, tenders or causes to be produced or tendered as
28 evidence any entry knowing the same to be false,

29 is guilty of an offence under this section and liable on conviction to a fine of

Anti-piracy
measures

1 not less than N100,000.00 or to imprisonment for a term of not less than 1 year
2 or to both.

3 (3) A copyright owner or any person having an interest in a work shall,
4 on written demand, be furnished with information relating to the work as
5 contained in the record kept under this section.

6 **49.**-(1) The Commission shall have powers, with the consent of the
7 Minister, to prescribe any design, label, mark, impression or any other anti-
8 piracy device for use on, in, or in connection with any work in which copyright
9 subsists.

10 (2) Any person who-

11 (a) sells, rents, hires or

12 (b) offers for sale, rental or hire,

13 any work in contravention of the prescription made pursuant to subsection (1)
14 of this section commits an offence and is liable on conviction to a fine of not
15 less than N500,000.00 or to imprisonment for a term of not less than 3 years or
16 to both.

17 (3) Any person who without the permission of the Commission-

18 (a) imports into Nigeria; or

19 (b) has in his possession,

20 any machine, instrument or other contrivance intended to be used for
21 the production of anti-piracy device, commits an offence and is liable on
22 conviction to a fine of not less than N1,000,000.00 or to imprisonment for a
23 term of not less than 5 years, or to both.

24 (4) Any person who without the permission of the Commission-

25 (a) reproduces; or

26 (b) counterfeits,

27 any anti-piracy device prescribed under this section, commits an
28 offence and is liable on conviction to a fine of not less than N500,000.00 or to
29 imprisonment for a term of not less than 3 years or to both.

30 (5) Any person who without the permission of the Commission, is in

1 possession of any anti-piracy device prescribed under this section, unless he
2 proves to the satisfaction of the court that he did not know and had no reason
3 to believe that such device was a prescribed anti-piracy device, commits an
4 offence and is liable on conviction to a fine of not less than N100,000.00 or
5 to imprisonment for a term of not less than 1 year or to both.

6 (6) The Commission shall have power, with the consent of the
7 Minister, to make regulations specifying the conditions necessary to give
8 effect to the purpose of this section.

9 **50.**-(1) Subject to the provisions of Part II of this Act, no person
10 shall knowingly circumvent a technological protection measure that
11 effectively protects a work under this Act.

Circumvention
of technological
protection measures

12 (2) No person shall manufacture, import, sell, offer to the public,
13 provide, or otherwise traffic in any technology, product, service, device, or
14 part thereof, that-

15 (a) is primarily designed or produced for the purpose of
16 circumventing protection afforded by a technological measure that protects
17 a work under this Act; or

18 (b) has only limited commercially significant purpose or use other
19 than to circumvent protection afforded by a technological measure that
20 protects a work under this Act.

21 (3) In this section-

22 (a) "circumvent a technological protection measure" as used
23 means avoiding, bypassing, removing, deactivating, decrypting or
24 otherwise impairing a technological measure;

25 (b) for the purposes of this section, a technological measure
26 protects a work under this Act, if the measure in the ordinary course of its
27 operation, prevents or restricts acts in respect of the works, which are not
28 authorised by the authors concerned or permitted by law,
29 provided that this section does not extend to measures, which in the normal

1 cause of operation, only controls access to a work for non-infringing purposes.

2 (4) A non-profit library, archive or educational institution, which
3 gains access to a commercially exploited copyright work in order to make a
4 good faith determination only, of whether to acquire a copy of the work for the
5 purpose of engaging in conduct permitted under this Act shall not be in
6 violation of the provisions of this section, provided that a copy of a work to
7 which access has been gained under this subsection may not be-

8 (a) retained longer than necessary to make the good faith
9 determination; and

10 (b) used for any other purpose.

11 (5) The exemption under subsection (4) of this section shall only
12 apply with respect to a work, when an identical copy of that work is not
13 available in another form.

14 (6) This section does not prohibit any lawfully authorised
15 investigation, protection, information security, intelligence activity, or
16 computer security measures.

17 (7) The provisions of this section shall not affect the exercise of any
18 exception provided in this Act as it relates to the work in respect of which the
19 technological protection measure is applied.

20 (8) Notwithstanding the provisions of this section, a person who has
21 lawfully obtained the right to use a copy of a computer programme, may-

22 (a) circumvent a technological measure that effectively controls
23 access to a particular portion of that programme for the sole purpose of
24 identifying and analysing those elements of the programme; or

25 (b) be necessary to achieve interoperability of an independently
26 created computer programme with other programmes; or

27 (c) have not previously been readily available to the person engaging
28 in the circumvention, to the extent that any acts of identification and analysis
29 do not constitute infringement under this Act.

30 (9) For the purpose of subsection (9) of this section, the term

1 "interoperability" means the ability of computer programmes to exchange
2 information and mutually use the information, which has been exchanged.

3 **51.**-(1) No person shall knowingly and with the intent to induce,
4 enable, facilitate, or conceal infringement, provide rights management
5 information that is false.

Falsification,
alteration or
removal of rights
management
information

6 (2) A person shall not, without the authority of the copyright
7 owner-

8 (a) knowingly remove or alter any rights management information;

9 (b) sell, offer for sale, distribute, import for distribution, broadcast
10 or communicate to the public, works or copies of works knowing that rights
11 management information has been removed or altered without authority,
12 ,and that it will induce, enable, facilitate, or conceal an infringement of any
13 right under this Act.

14 (3) In this section, "rights management information" means
15 information which identifies a work or other subject matter, the author,
16 owner or any right in it including information about the terms and conditions
17 of its use and any number or code that represents such information, attached
18 to, or appearing in connection with the communication to the public of a
19 work or subject matter.

20 **52.**-(1) A person whose right is violated under sections 50 or 51 of
21 this Act may institute an action before a court of competent jurisdiction to
22 seek redress for damages, accounts or injunction as are available to a
23 Plaintiff in any similar proceedings in respect of infringement of other
24 proprietary rights.

Actions for
circumvention
of technological
protection measures
and rights
management
information

25 (2) A court before which an action is brought under this section,
26 may order that any device or product that is in the custody or control of the
27 alleged violator, which the court has reasonable cause to believe was
28 involved in the violation be impounded on such terms as it deems necessary.

29 (3) Any person who, in the course of business, makes or imports
30 into Nigeria a technology or device for the circumvention of a technological

1 protection measure, knowing that it is likely to be so used, is guilty of an
2 offence and liable on conviction to a fine of not less than N1,000,000.00 or to
3 imprisonment for a term of not less than 5 years or to both

4 (4) Any person who, in the course of business, sells, distributes, lets
5 for hire, offers or exposes for sale or hire, a technology or device for the
6 circumvention of a technological protection measure, knowing that it is likely
7 to be so used is guilty of an offence and is liable on conviction to a fine of not
8 less than N500,000.00 or to imprisonment for a term of not less than 3 years or
9 to both.

10 (5) Any person who, in the course of business, provides a service to
11 another knowing that the service is to enable or assist that other person to
12 circumvent a technological protection measure is guilty of an offence and
13 liable on conviction to a fine of not less than N200,000.00 or to imprisonment
14 for a term of not less than 1 year or to both.

Restriction on
importation

15 **53.**-(1) The owner of copyright in a work may give notice in writing to
16 the Director-General, requesting the Commission to notify the Nigerian
17 Customs Service, during the period specified in the notice, to treat as
18 prohibited goods any work in respect of which the right has been infringed.

19 (2) The Director-General shall, upon receipt of a notice under
20 subsection (1) of this section or upon reasonable suspicion that an infringing
21 copyright work is being imported, notify the Comptroller-General of Customs
22 or any other officer in charge of the relevant border, furnishing him with
23 information that may be relevant for the purpose of identifying and
24 intercepting the infringing work which is the subject matter of the notice or
25 suspicion.

26 (3) On receipt of the notice from the Director-General under this
27 section, the Comptroller-General of Customs or such other officer, shall
28 intercept and impound the infringing works and shall permit the Director-
29 General or any person acting on his behalf to inspect the impounded works and
30 take custody of same pending the commencement of any proceedings in

1 accordance with the provisions of this Act.

2 (4) Any work or material impounded under this section shall not be
3 kept for a period exceeding ten working days, which may be extended by
4 another ten working days, within which the right owner or the Commission
5 shall decide whether to initiate any proceedings in accordance with the
6 provisions of this Act.

7 (5) Where an infringing work is intercepted or impounded under
8 this section, the Comptroller-General or any other officer in charge of the
9 relevant border shall notify the importer and the right holder or their
10 authorised representatives, stating the reasons for the action taken.

11 (6) The period specified in the notice under subsection (1) shall not
12 exceed five years nor extend beyond the end of the period for which the
13 copyright subsists.

14 (7) Where a notice has been given under subsection (1) of this
15 section, the importation into Nigeria or exportation from Nigeria during the
16 period specified in the notice, except for private and domestic use, of any
17 works to which the notice relates shall be prohibited.

18 (8) The Director-General or any person acting on his behalf may
19 enter any vehicle, aircraft, ship, vessel, dock, or premises to examine the
20 works which is the subject of the notice under subsection (1) of this section
21 and take further action in accordance with the provisions of this Act.

22 (9) Any person giving notice under subsection (1) of this section
23 shall be required to undertake to indemnify the importer or exporter of the
24 works against any injury that may result from any action taken in respect of
25 the notice, where it is found that the notice ought not to have been given.

26 (10) Without prejudice to subsections (1) and (2) of this section, the
27 Comptroller- General of Customs, or any other officer in charge of a border
28 may, in respect of any imported goods, which he reasonably believes to be
29 infringing copyright, suspend the release of such goods and promptly notify
30 the importer and the right owner of the work.

(11) This section shall apply to works made within or outside Nigeria, which if made or manufactured in Nigeria, would be an infringement under this Act.

(12) The Commission may prescribe the forms, fees and any other requirements for giving notice under this section.

PART VII - PROVISIONS RELATING TO ONLINE CONTENT

Notice to take
down

54.-(1) The owner of copyright in a work, in respect of which copyright has been infringed, may issue notice of the infringement to the relevant service provider requesting the service provider to take down or disable access to any infringing content or link to the content, hosted on its system or network.

(2) A notification under subsection (1) of this section, shall be in writing and may be transmitted electronically, or by any other means, to the service provider or his designated agent and shall include the following-

(a) a physical or electronic signature of a person authorised to act on behalf of the owner of the right allegedly infringed;

(b) identification of each work claimed to have been infringed;

(c) identification of the infringing material or the subject of infringing activity that is to be removed or access to which is to be disabled, including information sufficient to enable the service provider to locate the material;

(d) information sufficient to enable the service provider to contact the complaining party, such as an electronic mail address, telephone number, or a location address at which the complaining party may be contacted;

(e) a declaration on oath that the complainant believes that the use of the material in the manner complained of is not authorised by the owner of copyright, his agent or the law; and

(f) a statement that the information in the notification is accurate and that the complainant is authorised to act on behalf of the owner of the right allegedly infringed.

1 **55.**-(1) A service provider, upon receiving notice of infringement Take down of
2 under section 54 of this Act shall promptly notify the subscriber responsible infringement
3 for the content for which the notice relates informing him of the content of content
4 the notice.

5 (2) If, within 48hours of having received the notice of takedown
6 and the subscriber fails to provide any information justifying the continued
7 keeping of the content complained of, the service provider shall take down
8 or disable access to the infringing content or links to the content hosted on its
9 system or network and notify the owner of copyright accordingly.

10 (3) Where a subscriber has provided information to justify the
11 keeping of the content complained of, or the service provider is convinced
12 that the complaint of the owner of copyright is without merit, the service
13 provider shall promptly inform the owner of copyright of the decision not to
14 take down the content.

15 (4) The service provider may resume access to or restore a content
16 or link that has been removed, if he-

17 (a) receives a written counter notice from the subscriber which he
18 has forwarded to the owner of copyright immediately on receipt; and

19 (b) did not receive, within 10days after forwarding the counter
20 notice, a response from the owner of copyright, indicating that no
21 authorisation has been granted for the subscriber to make the content
22 available.

23 (5) A service provider shall take all reasonable steps to prevent any
24 content taken down or removed pursuant to the provisions of this Act from
25 being reloaded onto its system or network and on becoming aware of such
26 content being reloaded, to promptly remove or disable access to the content
27 without further notice to the subscriber.

28 (6) Any person dissatisfied with a determination or action by the
29 service provider or owner of copyright under this section may refer the
30 matter to the Commission for determination.

1 (7) A service provider shall not be liable to any person for any action
2 taken under this section in good faith.

3 (8) A service provider who fails to comply with the provisions of
4 subsections (1) and (2) of this section, shall be liable for such failure as a breach
5 of statutory duty and for infringement of the content which is the subject matter
6 of the notice under section 54 to the same extent as the person responsible for
7 placing the content on the system or network.

8 (9) Without prejudice to subsection (8) of this section, a service
9 provider, who on receipt of a notice to take down infringing content under
10 section 54 of this Act, fails to comply with the provisions of subsections (1) and
11 (2) of this section, commits an offence, and is liable on conviction to a fine of
12 not less than N2,000,000. 00 or to imprisonment for a term of not less than
13 5years or to both.

Procedure for
suspension of
accounts of
repeat infringers

14 **56.-(1)** A service provider, upon receiving a notification from an
15 owner of copyright or his authorised agent that a particular account has been
16 engaged in repeated infringement, shall-

17 (a) promptly send a warning to the subscriber that has been identified,
18 informing him that another notification will lead to suspension of the account
19 and requiring the subscriber to confirm the receipt of the warning; and

20 (b) after a second notification relating to the same account, where no challenge
21 is pending pursuant to subsection (2) of this section, shall suspend the account
22 for a period of not less than 1 month.

23 (2) A subscriber who receives a warning notice may challenge the
24 notice on the grounds of mistake or misidentification-

25 (a) within 10 days from the date of the warning, send a signed counter-
26 notice to the service provider, furnishing his full contact details and the factual
27 basis of his belief that his account has been misidentified or that the use of the
28 content was not infringing; or

29 (b) If the basis for the challenge under paragraph (a) of this subsection
30 cannot be resolved within 10 days of the receipt of the counter-notice, the

1 matter shall be referred to the Commission to determine the validity of the
2 challenge.

3 (3) A service provider acting in good faith in suspending the
4 account of a subscriber, relying on the information contained in a
5 notification referred to in subsection (2) of this section, shall not be liable to
6 any person for any claim based on the suspension.

7 **57.** A person who knowingly misrepresents under this section, Misrepresentation
8 that-

9 (a) material or activity is infringing; or

10 (b) material or activity was removed or disabled by mistake or
11 misidentification,
12 is liable in damages for injuries suffered by the person as a result of the
13 service provider relying on such misrepresentation.

14 **58.** Except as otherwise provided in this Act, a service provider Information
domiciled in
systems or
networks at
direction of users
15 shall not be liable for monetary relief, for infringement of copyright or other
16 subject matter by reason of the storage at the direction of a user of material
17 that resides on a system or network controlled or operated by or for the
18 service provider, if the service provider-

19 (a) does not have actual knowledge that the material or an activity
20 using the material on the system or network is infringing or in the absence of
21 such actual knowledge, is not aware of facts or circumstances from which
22 infringing activity is apparent or upon obtaining such knowledge or
23 awareness, acts expeditiously to remove, or disable access to, the material;

24 (b) does not receive a financial benefit directly attributable to the
25 infringing activity, where the service provider has the right and ability to
26 control such activity;

27 (c) on notification of infringement as provided for in section 54 of
28 this Act, responds expeditiously to remove or disable access to the material
29 that is claimed to be infringing or to be the subject of infringing activity; and

30 (d) complies with the procedure for suspension of accounts of

	1	repeat infringers as provided in section 54 of this Act.
Information location tools	2	59. Except as otherwise provided in this Act, a service provider shall
	3	not be liable for monetary relief for infringement of copyright or other subject
	4	matter by reason of the provider referring or linking users to an online location
	5	containing infringing material or infringing activity, by using information
	6	location tools, including a directory, index, reference, pointer, or hypertext
	7	link, if the service provider-
	8	(a) does not have actual knowledge that the material or activity is
	9	infringing; or in the absence of such actual knowledge, is not aware of facts or
	10	circumstances from which infringing activity is apparent or upon obtaining
	11	such knowledge or awareness, acts expeditiously to remove or disable access
	12	to the material;
	13	(b) does not receive, financial benefit directly attributable to the
Identification of infringer	14	infringing activity, where the service provider has the right and ability to
	15	control such activity; and
	16	(c) on notification of infringement under section 54 of this Act,
	17	responds expeditiously to remove or disable access to, the material that is
	18	claimed to be infringing or to be the subject of infringing activity.
	19	60.-(1) An owner of copyright or other subject matter under this Act or
	20	his agent may apply to the court for an order to a service provider to identify an
	21	alleged infringer in accordance with this section.
	22	(2) The application referred to in subsection (1) of this section shall be
	23	accompanied with a-
	24	(a) copy of the notification described in section 54 of this Act; and
	25	(b) sworn declaration to the effect that the purpose for which the order
	26	is sought is to obtain the identity of an alleged infringer and that such
	27	information will only be used for the purpose of protecting rights under this
	28	Act.
	29	(3) The court may issue an order to the service provider to
	30	expeditiously disclose to the owner of copyright or other subject matter under

1 this Act or a person authorised by the owner, information sufficient to
2 identify the alleged infringer of the material described in the notification to
3 the extent that the information is available to the service provider.

4 **61.** Notwithstanding the provisions of any other law, the
5 Commission may, directly or with the assistance of any other person block
6 or disable access to any content, link or website hosted on a system or
7 network, which it reasonably believes to infringe copyright under this Act.

Blocking access
to online content

8 **62.**-(1) The limitations to liability under this Part shall apply only
9 to-

Application of
this Part

10 (a) the neutral, automatic and passive activities of a service
11 provider; and

12 (b) service providers who do not take an active role, intervene or
13 participate in the making available of content.

14 (2) The provisions of this Part shall be without prejudice to the
15 powers of the court or any administrative authority to require or direct the
16 service provider to terminate or prevent an infringement.

17 PART VIII - PERFORMER'S RIGHTS

18 **63.**-(1) A performer shall have the exclusive right to control, in
19 relation to his performance, the following acts-

Right of
performers

20 (a) fixation of his unfixed performance;

21 (b) reproduction of a fixation of his performance, in any manner or
22 form, if the-

23 (i) original fixation, other than a fixation excluded by section 68
24 from the necessity for obtaining the consent of the performer, was itself
25 made without his consent; or

26 (ii) reproduction is made for purposes other than those in respect of
27 which such performer gave his consent to the making of the original fixation
28 or of a reproduction thereof; or

29 (iii) original fixation was made in accordance with the provisions

1 of section 68 and the reproduction is made for purposes not covered by those
2 provisions;

3 (c) distribution to the public by sale or other transfer of ownership, of
4 a fixation of his performance, or copies thereof, that have not been subject to a
5 distribution authorised by the performer;

6 (d) broadcast or communicate to the public a performance of such
7 performer, unless the performance is itself a broadcast performance or is made
8 from a fixation of the performance or from a reproduction of such a fixation;

9 (e) rental to the public or public lending of a fixation or copies of the
10 fixation of his performance irrespective of the ownership of the copy rented or
11 lent; and

12 (f) making available to the public of his fixed performance by wire or
13 wireless means, in a way that members of the public may access them from a
14 place or at a time individually chosen by them.

15 (2) In this Part, "performance" includes a-

16 (a) dramatic performance, which includes dance and mime;

17 (b) musical performance; and

18 (c) reading or recitation of literary act or any similar presentation
19 which is a live performance given by one or more individuals.

20 (3) In this part, "performer" includes actors, singers, musicians,
21 dancers, and other persons, who act, sing, deliver, declaim, play in, interpret, or
22 otherwise perform literary or artistic works or expressions of folklore
23 irrespective of whether the work was fixed or only fixed during performance.

Protected
performance

24 **64.** The rights granted to a performer under this Act shall apply in
25 respect of any performance that takes place or is broadcast without fixation or
26 is first fixed in Nigeria or in a country which by her law, grants in her territory
27 similar rights to performers in respect of performances in Nigeria.

Presumption
of consent

28 **65.** In the absence of express agreement to the contrary, a performer's
29 consent to the broadcasting of his performance shall be deemed to include his
30 consent to the rebroadcasting of his performance, the fixation of his

1 performance for broadcasting purposes and the reproduction for
2 broadcasting purposes of such fixation.

3 **66.-(1)** A performer shall have the right to-

Moral rights
of performers

4 (a) be identified as the performer in connection with any use of his
5 performance or the fixation thereof; and

6 (b) object, and prevent any distortion, mutilation or other
7 modification of his performance or the fixation of the performance, and any
8 other derogatory action in relation thereto where such action will be or is
9 prejudicial to his honour or reputation.

10 (2) The rights referred to in subsection (1) of this section, shall not
11 be transmissible during the life of the performer, but upon his death, shall be
12 transmissible by testamentary disposition or by operation of law.

13 (3) The rights conferred by this section shall subsist for the
14 duration of the performer's right.

15 **67.** Where several performers as a group take part in the same
16 performance, it shall suffice, if the consent required under section 65 of this
17 Act, is given by any person in charge of the group and any payment for the
18 use of the performance may, unless otherwise stipulated, be made to such
19 person.

Collective
performances

20 **68. -(1)** Where a performer consents to the inclusion of his
21 performance in a visual or audio-visual fixation, section 65 of this Act shall
22 cease to apply in respect of the performance.

Exceptions to
performer's
rights

23 (2) A performance, a fixation of a performance or a reproduction of
24 such a fixation may be used without the consent required under section 63 of
25 this Act, if it is for the purpose of-

26 (a) judicial, legislative or administrative proceedings;

27 (b) demonstration of recording, amplifying or similar apparatus,
28 provided that the demonstration is made by a licensed dealer on his premises
29 to a specific client;

30 (c) reproduction of short extracts from an object of performer's

- 1 rights in reports on current events, to the extent justified by that purpose;
- 2 (d) research or private study of an object of performer's rights kept in
- 3 publicly accessible libraries, educational establishments, museums or
- 4 archives, on the premises of the said institutions;
- 5 (e) making of an ephemeral recording of an object of performer's
- 6 rights by broadcasting organizations by means of their own facilities and for
- 7 their own broadcasts; Provided that-
- 8 (i) the recordings may be preserved for a period not exceeding thirty
- 9 days and must be erased after their use for broadcasting; and
- 10 (ii) the recordings of an exceptional documentary character may be
- 11 transferred to designated archives for preservation;
- 12 (f) reproduction for the benefit of people with a disability, which is
- 13 directly related to the disability and of a non-commercial nature, to the extent
- 14 required by the disability;
- 15 (g) illustration for teaching or scientific research, criticism or review,
- 16 provided that the source, including the author's name, is indicated, as far as
- 17 practicable; and
- 18 (h) incidental inclusion of an object of performer's rights in other
- 19 material.
- 20 (3) Subject to the provisions of this section, exceptions to copyright in
- 21 Part II of this Act, shall apply in respect of performances.
- 22 **69.**-(1) The provisions of section 30 of this Act shall apply to
- 23 performer's rights subject to any modifications as may be necessary.
- 24 (2) A performer who has authorised the fixation of his performance
- 25 shall, in the absence of any agreement to the contrary, be deemed to have
- 26 granted to the person by whom the arrangements for such fixation is made, the
- 27 exclusive rights under section 63(1) herein.
- 28 (3) Notwithstanding the provision of subsection (2) of this section, a
- 29 Performer shall be entitled to receive remuneration in respect of any broadcast,
- 30 communication to the public of his fixed performance, or making available to

1 the public of such fixed performance by wire or wireless means, in a way
 2 that members of the public may access them from a place or at a time
 3 individually chosen by them.

4 **70.** The right conferred by section 63 of this Act in relation to the
 5 performance shall subsist for a period of fifty years commencing from the
 6 end of the year in which the performance first took place.

Duration of
performer's right

7 **71.** Performer's right is infringed by a person who, without the
 8 performer's consent or authorisation, does any of the following-

Infringement
of performer's
right

9 (a) makes a recording of the whole or substantial part of a live
 10 performance;

11 (b) communicates to the public, broadcasts live, or includes live in
 12 a cable programme, the whole or a substantial part of the live performance;

13 (c) performs in public the whole or a substantial part of the live
 14 performance;

15 (d) shows or plays in public the whole or a substantial part of the
 16 live performance for commercial purposes;

17 (e) broadcasts or includes in a cable programme, a substantial part
 18 of the live performance by means of a recording, which the person knows or
 19 has reason to believe was made without the performer's consent;

20 (f) imports for reasons other than his private or domestic use a
 21 recording of a performer's work which is an infringing recording; or

22 (g) in the course of trade or business, sells or lets for hire, offers,
 23 distributes or displays for sale or hire, a recording of a performer's work
 24 which is an infringing recording.

25 **72.-(1)** An infringement of a right protected under sections 63
 26 and 66 of this Act, shall be actionable as a breach of statutory duty and the
 27 person having the right shall be entitled to damages, injunction, and account
 28 of profits or conversion.

Action for
infringement of
performer's right

29 (2) Where a person, in the course of trade or business, has in his
 30 possession, custody or control, an unauthorised recording of a performance,

1 the person having the performer's right or recording right in relation to the
2 performance, shall be entitled to an order of the court that the recording be
3 forfeited and delivered up to him.

Criminal liability
in respect of
infringement
of performer's
right

4 **73.-(1)** A person who does any of the acts set out in section 71 shall,
5 unless he proves to the satisfaction of the court that he did not know that his
6 conduct was an infringement of the performer's right, be guilty of an offence
7 and shall be liable on conviction in the case of-

8 (a) an individual, to a fine of not less than N100,000.00 or to
9 imprisonment for a term of not less than 1 year or to both; and

10 (b) a body corporate, to a fine of not less than N2,000,000.00.

11 (2) A court before which an offence under this section is tried may
12 order that the recording or any other part thereof be delivered to the person
13 entitled to the performer's right.

14 **PART IX - EXPRESSIONS OF FOLKLORE**

Protection of
expressions of
folklore

15 **74.-(1)** Expressions of folklore are protected against-

16 (a) reproduction;

17 (b) communication to the public by performance, broadcasting,
18 distribution by cable or other means; and

19 (c) adaptations, translations and other transformations, when such
20 expressions are made either for commercial purpose or outside their traditional
21 or customary context.

22 (2) The right conferred by subsection (1) of this section shall not
23 include the right to control-

24 (a) the doing of any of the acts by way of fair dealing for private and
25 domestic use, subject to the condition that if, the use is public, it shall be
26 accompanied by an acknowledgment of the title of the work and its source;

27 (b) the utilisation for purposes of education;

28 (c) utilisation by way of illustration in an original work of an author;

29 (d) the borrowing of expressions of folklore for creating an original

1 work of an author; provided that the extent of such utilisation is compatible
2 with fair practice; or

3 (e) the incidental utilisation of expressions of folklore.

4 (3) In all printed publications or any communication to the public
5 of any identifiable expression of folklore, its source shall be indicated in an
6 appropriate manner, by stating the community or place from where the
7 expression utilised has been derived.

8 (4) The right to authorise acts referred to in subsection (1) of this
9 section shall vest in the Commission.

10 (5) For the purpose of this section, "folklore" means a group-
11 oriented and tradition-based creation of groups or individuals reflecting the
12 expectation of the community as an adequate expression of its cultural and
13 social identity, its standards and values as transmitted orally, by imitation or
14 by other means including-

15 (a) folklore, folk poetry, and folk riddles;

16 (b) folk songs and instrumental folk music;

17 (c) folk dances and folk plays; and

18 (d) productions of folk arts in particular, drawings, paintings,
19 carvings; sculptures, pottery, terracotta, mosaic, woodwork, metal ware,
20 jewellery, handicrafts, costumes, and indigenous textiles.

21 **75.** Any person who, without the consent of the Commission, uses
22 an expression of folklore in a manner not permitted by section 73 of this Act,
23 is in breach of statutory duty and shall be liable to the Commission in
24 damages, injunctions and any other remedies as the court may deem fit to
25 award in the circumstance.

Infringement of
expressions of
folklore

26 **76.-(1)** Any person who intentionally or for commercial purpose-

27 (a) does any of the acts set out in section 73 of this Act without the
28 consent or authorisation of the Commission; or

29 (b) misrepresents the source of an expression of folklore; or

30 (c) distorts an expression of folklore in a manner prejudicial to the

Criminal liability
in respect of
infringement of
expressions of
folklore

1 honour, dignity or cultural interests of the community in which it originates,
2 commits an offence under this Act.

3 (2) A person convicted of an offence under subsection (1) of this
4 section is liable on conviction in the case of -

5 (a) an individual, to a fine of not less than N100,000.00 or to
6 imprisonment for a term of not less than 1 year or to both; and

7 (b) a body corporate, to a fine of not less than N2,000,000.00.

8 (3) A court before, which an offence under this section is tried, may
9 order that the infringing or offending article be delivered to the Commission.

10 PART X - ESTABLISHMENT AND ADMINISTRATION OF THE COMMISSION

Establishment
of the Nigerian
Copyright
Commission

11 77.-(1) There is established a body to be known as the Nigerian
12 Copyright Commission (hereinafter referred to as "the Commission").

13 (2) The Commission-

14 (a) shall be a body corporate with perpetual succession;

15 (b) shall have a common seal;

16 (c) may acquire, hold or dispose any interest in property; and

17 (d) may sue and be sued in its corporate name.

Functions and
powers of the
Commission

18 78.-(1) Subject to the provisions of this Act, it shall be the functions of
19 the Commission to-

20 (a) be responsible for all matters relating to copyright, including
21 administration, regulation and enforcement in Nigeria;

22 (b) monitor and advise Government on Nigeria's position in relation
23 to bilateral and multilateral agreements between Nigeria and any other
24 country;

25 (c) investigate and redress cases of infringement of copyright and
26 settle disputes of copyright, where those disputes have not been specifically
27 reserved for settlement under this Act;

28 (d) enlighten and inform the public on matters relating to copyright;

29 (e) create and maintain a register and database relating to copyright
30 works;

1 (f) provide access to documents and information relating to any
2 copyright kept or maintained by the Commission;

3 (g) be responsible for such other matters as relate to copyright in
4 Nigeria; and

5 (h) exercise any other functions and duties as may be necessary for
6 the attainment of the object of this Act.

7 (2) The Commission shall have powers to-

8 (a) prosecute, conduct or defend before a court any charge,
9 information, complaint or other proceedings arising under this Act;

10 (b) levy such charges or fees as may be reasonable for services and
11 facilities provided by the Commission;

12 (c) regulate and implement measures to promote protection of
13 copyright; and

14 (d) exercise such other powers as are incidental to any of its objects
15 under this Act.

16 **79.**-(1) The Commission shall have a Governing Board
17 (hereinafter referred to as "the Board"), which shall consist of the following
18 members-

Establishment
and membership
of the Governing
Board

19 (a) Chairman to be a person knowledgeable in copyright matters, to
20 be appointed by the President on the recommendation of the Minister;

21 (b) the Director-General of the Commission;

22 (c) a representative of the Federal Ministry of Justice;

23 (d) a representative of the Federal Ministry of Information and
24 Culture;

25 (e) a representative of the Federal Ministry of Science and
26 Technology;

27 (f) a representative of the Federal Ministry of Industry, Trade and
28 Investments;

29 (g) a representative of the Nigeria Police Force, not below the rank
30 of a Commissioner of Police;

	1	(h) a representative of the Nigerian Customs Service, not below the
	2	rank of Comptroller of Customs;
	3	(i) Three persons representing owners of copyright works; and
	4	(j) Two persons representing the interest of users of copyright works.
	5	(2) The representatives of the Ministries shall be officers not below
	6	the rank of a Director.
Schedule	7	(3) The supplementary provisions contained in the schedule to this
	8	Act, shall have effect with respect to the proceedings of the Board and other
	9	matters mentioned therein.
Tenure of Office	10	80. -(1) The Chairman and other members of the Board who are not
	11	ex-officio members shall hold office-
	12	(a) for a period of 4 years in the first instance and may be re-appointed
	13	for a further period of 4 years and no more; and
	14	(b) on such terms and conditions as may be specified in their letters of
	15	appointment.
	16	(2) Notwithstanding the provisions of section 78 of this Act, the
	17	Chairman or any member of the Board may at any time be removed from office
	18	by the President for inability to discharge the functions of his office, whether
	19	arising from infirmity of mind or body or any other cause or misconduct.
Cessation of membership	20	81. Notwithstanding the provisions of section 79 of this Act, a
	21	member of the Board shall cease to hold office as a member, where -
	22	(a) he resigns his appointment as a member of the Board by notice
	23	under his hand addressed to the President of the Federal Republic of Nigeria; or
	24	(b) he becomes of unsound mind; or
	25	(c) he becomes bankrupt; or
	26	(d) he is convicted of a felony or any other offence involving
	27	dishonesty or corruption; or
	28	(e) he becomes incapable of carrying on the functions of his office
	29	either arising from an infirmity of mind or body; or
	30	(f) the President of the Federal Republic of Nigeria is satisfied that it

1 is not in the interest of the Commission or in the interest of the public for the
2 person to continue in office; or

3 (g) he has been found guilty under the Code of Conduct or serious
4 misconduct in relation to his duties; or

5 (h) in the case of a person who becomes a member by virtue of the
6 office he occupies cease to hold such office.

7 **82.**-(1) Where it appears that the Chairman or any member of the
8 Board, other than an ex-officio member, should be removed from office on
9 the grounds of misconduct or inability to perform the functions of his office,
10 the Board shall make recommendation through the Minister to the President
11 for approval.

Removal of the
Chairman or any
member of the
Governing Board
of the Commission

12 (2) Where the President, after making such inquiries as he
13 considers necessary and approves the recommendation made through the
14 Minister by the Board, the Secretary to the Government of the Federation
15 shall, in writing declare the position of such member vacant.

16 (3) Notwithstanding the provision of subsection (1) of this section,
17 the President may remove any member of the Governing Board, where he is
18 satisfied that it is in the interest of the Commission and the public to do so.

19 PART XI - APPOINTMENT OF DIRECTOR-GENERAL AND OTHER
20 STAFF OF THE COMMISSION

21 **83.**-(1) There shall be appointed for the Commission, a Director-
22 General, who shall be the Chief Executive Officer and Accounting Officer
23 of the Commission.

Appointment of
the Director General
of the Commission

24 (2) The Director-General shall-

25 (a) be appointed by the President on the recommendation of the
26 Minister;

27 (b) be responsible to the Board for the management of the affairs
28 of the Commission;

29 (c) be responsible for the execution of the policy and the day-to-
30 day administration of the affairs of the Commission;

1 (d) be entitled to earn a remuneration and allowances as may be
2 specified in his letter of appointment;

3 (e) be a legal practitioner of not less than 15 years post qualification
4 with cognate experience and skills;

5 (f) hold office for a period of four years at the first instance and
6 eligible for re-appointment for another period of four years on such terms and
7 conditions as may be specified in his letter of appointment and no more;

8 (g) keep proper books and records of the proceedings of the Board and
9 Committee of the Board; and

10 (h) exercise control over other employees of the Commission, subject
11 to the supervision of the Board.

Removal of the
Director-General
of the Commission

12 **84.**-(1) Where it appears that the Director-General, should be
13 removed from office on the grounds of misconduct or inability to perform the
14 functions of his office, the Board shall make a recommendation through the
15 Minister to the President for approval.

16 (2) Where the President, after making such inquiries as he considers
17 necessary, approves the recommendation made through the Minister by the
18 Board, the Secretary to the Government of the Federation shall, in writing
19 declare the position of the Director-General vacant.

20 (3) Notwithstanding the provision of subsection (1) of this section,
21 the President may remove the Director-General or any member of the
22 Governing Board, where he is satisfied that it is in the interest of the
23 Commission and the public to do so.

Appointment
of other staff
of the Commission

24 **85.** The Board shall promote within the Commission, the
25 appointment of well-qualified staffs as directors, to be in charge of the
26 departments, under the supervision of Director-General and such other
27 members of staff as may be necessary for the effective performance of the
28 objects of this Act.

Copyright
Inspectors

29 **86.**-(1) The Commission may appoint Copyright Inspectors as may be
30 necessary for the effective enforcement of the provisions of this Act.

1 (2) A Copyright Inspector shall for the purposes of this Act have the
2 power to-

3 (a) enter, inspect and examine at any reasonable time any building
4 or premises which he reasonably suspects is being used for any activity
5 which is an infringement of copyright under this Act;

6 (b) arrest any person who he reasonably believes to have
7 committed an offence under this Act;

8 (c) make such examination and inquiry as may be necessary to
9 ascertain whether the provisions of this Act are complied with;

10 (d) demand the production of any record required to be kept under
11 section 47 of this Act and to inspect, examine or copy such record;

12 (e) demand information and access any database relating to
13 copyright;

14 (f) require any person who, he finds in any building or premises to
15 give such information as it is in his power to give in relation to any purpose
16 specified in this Act and seize, or take into custody any infringing copy,
17 contrivance, material, equipment used or suspected to be used in
18 committing an offence under this Act;

19 (g) seal up premises and carry out any examination, test or analysis
20 within or outside the premises as may be required to give effect to any of the
21 provisions of this Act and may capture any image where such examination,
22 test or analysis is within the premises; and

23 (h) exercise such other powers as are necessary for the effective
24 discharge of his duties or as the Commission may delegate.

25 (3) Any person who obstructs a Copyright Inspector in the
26 performance of his duties shall be guilty of an offence and liable on
27 conviction to a fine of not exceeding N100,000.00 or to imprisonment for a
28 term not less than 1 year or to both.

29 (4) A Copyright Inspector shall have the powers, rights and
30 privileges of a police officer as defined under the Police Act or any other

1 relevant enactment relating to investigation and prosecution of a criminal
2 matter.

3 PART XII - REGISTRATION OF WORKS

Registration
of Works

4 **87.**-(1) The Commission shall establish and maintain a Register of
5 Works (in this Act referred to as "the Register").

6 (2) Any work eligible for copyright protection shall be entered in the
7 Register upon an application made in the prescribed form by or on behalf of the
8 author, owner, assignee or exclusive licensee of the work, provided that the
9 mere registration of a work does not confer copyright.

10 (3) The Register shall be prima facie evidence of the particulars
11 entered therein and documents purporting to be copies of any entries therein or
12 extract therefrom certified by the Commission and shall be admissible in
13 evidence in all proceedings without further proof or production of the original.

14 (4) The Commission shall have power to reproduce and store all or
15 any part of a registered work electronically or in any other format.

16 (5) The Commission may, with the approval of the Minister, make
17 regulations for the purpose of this Part.

18 (6) Any person who knowingly makes or causes to be made, a false
19 entry in the Register, shall be guilty of an offence under this section and be
20 liable on conviction to a fine of not less than N100,000.00 or to imprisonment
21 for a term of not less than 1 year or to both.

Collective
Management
Organisations

22 **88.**-(1) A Collective Management Organisation (in this section
23 referred to as "a CMO") formed by rights owners may apply to the Commission
24 for approval to operate in respect of any one or more categories of works.

25 (2) The Commission may approve a CMO, if it is satisfied that-

26 (a) it is incorporated as a company limited by guarantee;

27 (b) its objects are to negotiate, grant copyright licences, collect
28 royalties on behalf of copyright owners and distribute such royalties;

29 (c) it represents a substantial number of owners of copyright in any
30 category of works protected by this Act; and

1 (d) it complies with the terms and conditions prescribed by
2 regulations made by the Commission under this Act.

3 (3) The Commission shall not approve another CMO in respect of
4 any category of copyright works, if it is satisfied that an existing approved
5 CMO adequately protects the interests of copyright owners in that
6 categories of works.

7 (4) It shall be unlawful for any person or group of persons, however
8 described, to purport to perform the duties of a CMO without the approval of
9 the Commission as required under this Act.

10 (5) Any person who contravenes the provisions of subsection (4) of
11 this section shall be guilty of an offence and liable on conviction in the case
12 of-

13 (a) an individual, to a fine of not less than N1,000,000.00 or to
14 imprisonment for a term of not less than 5 years or to both;

15 (b) a body corporate, to a fine of not less than N5,000,000.00.

16 (6) The Commission may make regulations specifying the
17 conditions necessary to give effect to the purposes of this section.

18 (7) For the purposes of this section-
19 "Collective Management Organization" means an organisation representing
20 copyright owners, which has as its principal objectives the negotiating and
21 granting of licences, collecting and distributing of royalties in respect of
22 copyright works;

23 "group of persons" includes a body corporate or entity.

24 "owners of copyright" includes owners of performer's rights;

25 (8) The Commission may, where it finds it expedient, assist in the
26 establishment of a CMO for any category of copyright works.

27 (9) Notwithstanding the provisions of this Act or any other law, a
28 CMO may issue licences permitting the use of works of owners of copyright
29 who are not members of the CMO, provided that-

30 (a) such works are of the same category as works for which it is

1 approved to issue licences;

2 (b) the owners of copyright in such works are not otherwise
3 represented by any other CMO;

4 (c) there is not more than one CMO approved to operate in the
5 particular category of works concerned;

6 (d) the owner of copyright in such works have not by written notice to
7 the CMO, opted out of collective management of their rights; and

8 (e) the CMO does not discriminate against such owner in terms of the
9 tariffs for the use of their works and the royalties paid to such owner.

Compensation
for private copying

10 **89.**-(1) Compensation shall be paid on every material capable of
11 being used to reproduce a work.

12 (2) The compensation payable under this section and any exemptions
13 from such payment shall be as may be prescribed by the Minister by an Order
14 published in the official Gazette.

15 (3) The Minister may prescribe different rates of compensation for
16 different categories of materials.

17 (4) The compensation payable under this section shall, subject to
18 deductions, be disbursed to approved CMO in accordance with the regulations
19 made by the Commission.

20 (5) In this section, "material" includes any object, equipment,
21 machine, contrivances or any other device used or capable of being used to
22 reproduce a work.

Dispute
Resolution Panel

23 **90.**-(1) The Commission may constitute a Dispute Resolution Panel
24 (hereinafter referred to as "the Panel") to resolve any dispute arising from -

25 (a) payment of royalties;

26 (b) terms of a licence; or

27 (c) any matter in respect of which a determination by the Commission
28 is required under this Act.

29 (2) A Panel established under subsection (1) of this section, shall
30 comprise of three persons knowledgeable in copyright matters, one of whom

1 shall be designated as the chairman.

2 (3) A person shall not be appointed as a member of the Panel if he
3 has any interest in any matter which is required to be determined by the
4 Panel.

5 (4) Where a proceeding before a Panel under this section has
6 commenced and a member of the Panel is unable to continue as a member,
7 the Panel shall remain duly constituted for the purpose of that proceeding
8 with the remaining two members.

9 (5) The Commission shall with the approval of the Minister, make
10 regulations providing for the procedure and operations of the Panel.

11 (6) Any person dissatisfied with a decision of the Panel may apply
12 to the Court for a review of the decision.

13 PART XIII - FINANCIAL PROVISIONS

14 **91.**-(1) The Commission shall establish and maintain a fund which
15 shall be applied towards the promotion of the objectives specified in this
16 Act. Establishment
of Fund for the
Commission

17 (2) There shall be paid and credited to the fund established in
18 pursuance of subsection (1) of this section-

19 (a) government statutory allocation and grant as may be provided
20 by the Government of the Federation or appropriated by the National
21 Assembly for payment into the Fund of the Commission;

22 (b) such monies as may, from time to time, be lent or granted to the
23 Commission by the Federal Government, State or Local Government;

24 (c) all charges, dues, fees or amount recovered by the Commission
25 and dividends from investment;

26 (d) all monies raised for the general purpose of the Commission
27 with the approval of the Board; and

28 (e) foreign aids and assistance from bilateral and multilateral
29 Agencies.

Expenditure of the Commission	1	92. The Commission shall apply the funds established under this Act
	2	to-
	3	(a) execute its statutory functions under this Act and development
	4	activities in the capital project of the Commission;
	5	(b) pay allowances and expenses of members of the Board;
	6	(c) pay salaries, allowances and other benefits of officers of the
	7	Commission;
	8	(d) maintain properties acquired or vested in the Commission; and
	9	(e) undertake any other activity in connection with the object of this
	10	Act.
Annual estimates, accounts and audit	11	93. -(1) The Commission shall not later than 30th September of each
	12	year, submit to the Board for approval its estimates of income and expenditure
	13	for the next financial year.
	14	(2) The Commission shall-
	15	(a) keep proper records of all accounts of its income and expenditure;
	16	and
	17	(b) prepare statement of account in respect of each financial year.
	18	(3) The Commission shall, not later than 30th June of each financial
	19	year, submit its accounts to auditors appointed from the list of qualified
	20	auditors in accordance with guidelines laid down by the Auditor-General of the
	21	Federation and the auditor's fees and expenses shall be paid from the Funds of
	22	the Commission.
Annual Report	23	94. -(1) The Commission shall not later than 30th June of each
	24	financial year, submit to the Board, in respect of the preceding financial year,
	25	an annual report on the activities of the Commission in such form as the Board
	26	may direct.
	27	(2) The report referred to in subsection (1) of this section shall
	28	include-
	29	(a) information on the activities of the Commission for the year;
	30	(b) a copy of the audited accounts of the Commission for that year

1 together with the Auditor-General's report on the accounts of the
2 Commission; and

3 (c) such other information as the Board may request.

4 (3) The Director-General shall provide such information on the
5 affairs of the Commission as the Board may from time to time request.

6 **95.**-(1) The Commission may, with the consent or in accordance
7 with any general authority given by the Board, borrow by way of loan or
8 overdraft from any source, any specified amount of money required by the
9 Commission for its obligations and functions under this Act.

Borrowing and
investment power
of the Commission

10 (2) The Commission may, subject to the provisions of this Act and
11 the conditions of any trust created in respect of any property, invest any of its
12 funds with the consent or general authority of the Board.

13 (3) The Commission may invest any of its surplus funds in such
14 securities as the Board may, from time to time, approve.

15 PART XIV - MISCELLANEOUS

16 **96.**-(1) The Commission may accept gift of land, money or other
17 property upon such terms and conditions, if any, as may be specified by the
18 person or organization making the gift.

Power to accept
gifts

19 (2) The Commission shall not accept any gift where the conditions
20 attached by the person or organization making the gift are inconsistent with
21 the functions and objectives of the Commission.

22 (3) A gift donated to the Commission or project of the Commission
23 shall be made directly to the Commission and shall be utilized only for the
24 purpose.

25 **97.** The Commission may with the consent of the Minister, make
26 Regulations-

Regulations

27 (a) for the effective implementation of the provisions of this Act;
28 and

29 (b) specifying the conditions necessary for the operation of a
30 business involving the production, public exhibition, distribution, sale,

	1	hiring, rental or any other dealings with a work in which copyright subsists
	2	under this Act.
Application of the Pensions Reform Act	3	98. -(1) Service in the employment of the Commission shall be the
	4	approved service under the Pensions Reform Act and accordingly, employees
	5	of the Commission shall, in respect of their services be entitled to pension and
	6	other retirement benefits as are prescribed in the Act.
	7	(2) Notwithstanding the provisions of subsection (1) of this section,
	8	nothing in this Act shall prevent the appointment of a person to any office on
	9	terms, which preclude the grant of a pension and gratuity in respect of that
	10	office.
	11	(3) For the purpose of the application of the Pensions Reform Act, any
	12	power exercisable thereunder by the President or authority other than the
	13	Federal Government (not being the power to make Regulations), shall be
	14	vested in and exercisable by the Commission.
	15	(4) Subject to subsection (2) of this Section, the Pensions Reform Act,
	16	shall in its application of subsection (3) of this section, have effect as if, the
	17	office were in the public service of the Federation within the meaning of the
	18	Constitution of the Federal Republic of Nigeria, 1999 (as Amended).
Power of the Minister to give directives	19	99. The Minister may give to the Commission, directives of a general
	20	character relating to the policies and functions of the Commission and it shall
	21	be the duty of the Commission to comply with such directives.
Restriction on execution against property of the Commission	22	100. -(1) In any action or suit against the Commission, no execution or
	23	attachment of process shall be issued against the Commission, unless prior to
	24	such execution, not less than three months' notice of the intention to execute or
	25	attach has been given to the Commission.
	26	(2) Any sum of money, which by the judgment of any court, has been
	27	awarded against the Commission shall, subject to any direction given by the
	28	court, where notice of appeal against the judgment has been given, be paid from
	29	the fund of the Commission.

1	101. Members of the Board, Director-General or staff of the	Indemnity
2	Commission shall be indemnified out of the assets of the Commission	
3	against any proceedings brought against him in his capacity as a member of	
4	the Board, Director-General, officer or employee of the Commission, where	
5	the act complained of is not ultra vires his power.	
6	102. -(1) Any of the Board members or the Director-General or any	Duty of secrecy
7	other officer of the Commission shall-	
8	(a) not, for his personal gain, make use of any information which	
9	has come to his knowledge in the exercise of this power or is obtained by him	
10	in the ordinary course of his duty as a member of the Board or as Director-	
11	General or officer of the Commission;	
12	(b) treat as confidential any information which has come to his	
13	knowledge in the exercise of his power or is obtained by him in the	
14	performance of his duties under this Act; and	
15	(c) not disclose any information referred to under paragraph (b) of	
16	this subsection, except when required to do so by a court or in such other	
17	circumstances as may be prescribed by the Board from time to time.	
18	(2) Any person who contravenes the provisions of subsection (1) of	
19	this section, commits an offence and is liable on conviction to a fine of not	
20	less than N100,000.00 or imprisonment for a term not exceeding 2 years or to	
21	both.	
22	103. The Federal High Court shall have exclusive jurisdiction for	Jurisdiction
23	the trial of offences and civil actions arising from this Act.	
24	104. -(1) Notwithstanding anything in any other enactment, no suit	Limitation on
25	against the Commission, a member of the Governing Board or any staff of	suit against the
26	the Commission, for an act done-	Commission, etc.
27	(a) in pursuance or execution of his duties under this Act or any	
28	other enactment or law; or	
29	(b) in respect of any alleged neglect or default in the execution of	
30	this Act or any other enactment,	

1 shall lie or be instituted in any court unless the suit is commenced
2 within twelve months next after the act, neglect or default complained of or
3 where the damage or injury continues within twelve months next after the
4 damage or injury ceases.

5 (2) No suit shall be commenced against the Commission or any
6 member of staff of the Commission before the expiration of a period of three
7 months after written notice of intention to commence the suit is served upon the
8 Commission by the intending plaintiff or his agent.

9 (3) The notice referred to in subsection (2) of this section shall clearly
10 state the cause of action, the particulars of the claim, the name and place of
11 abode of the intending plaintiff and the relief which he claims.

Service of
documents

12 **105.** A notice, summons, or other document required or authorised to
13 be served on the Commission under the provisions of this Act or any other
14 enactment or law may be served by delivering same to the Director-General of
15 the Commission or by sending it by registered mail or courier addressed to the
16 Director-General at the Head Office of the Commission.

Repeals and
savings provisions

17 **106.**-(1) The Copyright Act 1988 as amended is hereby repealed.

18 (2) Sections 491, 492 and 493 of the First Schedule to the Criminal
19 Code Act and sections 426 and 427 of the Penal Code are hereby repealed.

20 (3) Without prejudice to section 6 of the Interpretation Act, the repeal
21 of the enactment specified in subsection (1) of this section, shall not affect
22 anything done under or pursuant to the enactment.

Transitional
Provisions

23 **107.**-(1) This Act applies in relation to works made before the
24 commencement of this Act as it applies in relation to works made after the
25 commencement of this Act.

26 (2) Proceedings for infringement of copyright may be taken
27 notwithstanding that the alleged infringement occurred before the
28 commencement of this Act.

29 (3) Where an act done before the commencement of this Act was then
30 an infringement of copyright but is not an infringement of copyright under this

1 Act, proceedings in respect of the act may be taken as if this Act had not been
2 made.

3 (4) Contracts for the licensing of any act in respect of copyright
4 that were effective immediately before the commencement of this Act, shall
5 continue in force as if they related to the corresponding copyright under this
6 Act.

7 (5) A notice given under section 44 of the repealed Act and not
8 withdrawn before the commencement of this Act shall continue in force as if
9 it had been given under section 84 of this Act.

10 (6) Any subsidiary legislation which was in force immediately
11 before the commencement of this Act shall remain in force, subject to any
12 necessary modifications, as if it had been made under this Act, and may be
13 added to, amended, revoked or varied accordingly.

14 **108.-(1)** In this Act, unless the context otherwise requires - Interpretation
15 "adaptation" means the modification of a pre-existing work from one type of
16 work to another and consists in altering work within the same type to make it
17 suitable for different conditions of exploitation and may also involve
18 altering the composition of the work;
19 "artistic work" includes, irrespective of artistic quality, any of the following
20 works or similar works-

21 (a) paintings, drawings, etchings, lithographs, woodcuts,
22 engravings and prints;

23 (b) maps, plans and diagrams;

24 (c) works of sculpture;

25 (d) photographs not comprised in an audiovisual work;

26 (e) works of architecture in the form of building models; and

27 (f) works of artistic craftsmanship, including pictorial woven
28 tissues and articles of applied handicraft;

29 "audiovisual work" means the aggregate of a series of related visual images
30 with or without sound, which is capable of being shown as a moving picture

1 by means of a mechanical, electronic or other device and irrespective of the
2 nature of the material on which the visual images and sounds are carried and
3 includes the sound track, but does not include a broadcast;

4 "author" in the case of-

5 (i) audiovisual work means the person by whom the arrangements for
6 the making of the audiovisual work were made, unless the parties to the making
7 of the audiovisual work, provide otherwise by contract between themselves;

8 (ii) literary, artistic or musical works, means the creator of the work;

9 (iii) a photographic work, means the person who took the photograph;

10 (iv) sound recording, means the person by whom the arrangements
11 for the making of the sound recording were made; and

12 (v) a broadcast transmitted from within any country, means the person
13 by whom the arrangements for the making or the transmission from within that
14 country were undertaken;

15 "broadcast" means the transmission by wire or wireless means, of sounds or
16 images or both, or the representations thereof, in such a manner as to cause such
17 images or sounds to be received by the public and includes rebroadcast and
18 transmission by satellite or cable programmes;

19 "broadcasting organization" means any authority established under any law in
20 Nigeria or elsewhere providing broadcasting services for public reception;

21 "building" includes any fixed structure or a part of a building or fixed structure;

22 "cable programmes" means visual images, sounds or other information sent by
23 means of a telecommunication system otherwise than by wireless telegraphy
24 for reception-

25 (a) at two or more places (whether for simultaneous reception or at
26 different times) in response to request by different users; or

27 (b) for presentation to members of the public;

28 "choreographic work" means a composition of movements for dancing or any
29 other patterned succession of gestures mostly created to accompanying music;

30 "communication to the public" means making a work or a performance

- 1 available to the public by means of a live performance or transmission in
2 such a way that the images or sounds or both the images and sounds in the
3 work or the performance can be perceived or accessed by the public;
4 "computer programme" means a set of statements or instructions, whatever
5 may be the mode or form of their expression, to be used directly or indirectly
6 in a computer in order to bring about a certain result;
7 "copy" means a reproduction in any form including a digital copy;
8 "copyright" means copyright under this Act;
9 "court" means the Federal High Court;
10 "exclusive licence" means a licence signed by or on behalf of a copyright
11 owner, authorising the licensee to the exclusion of all other persons
12 (including the person granting the licence), to exercise any right which
13 would otherwise be exercisable exclusively by the copyright owner;
14 "Government" includes Federal, State and Local Government;
15 "licence" means a lawfully granted licence permitting the doing of an act
16 controlled by this Act;
17 "literary work" includes, irrespective of literary quality, any of the following
18 works or similar works-
- 19 (a) novels, stories and poetical works;
 - 20 (b) plays, stage directions, audiovisual work scenarios and
21 broadcasting scripts;
 - 22 (c) choreographic works;
 - 23 (d) computer programmes;
 - 24 (e) textbooks, treatises, histories, biographies, essays and articles;
 - 25 (f) encyclopaedias, dictionaries, directories and anthologies;
 - 26 (g) letters, reports and memoranda;
 - 27 (h) lectures, addresses and sermons;
 - 28 (i) law reports, excluding decisions of courts;
 - 29 (j) written tables and compilations, including table or compilation
30 of data stored or embodied in a computer or any medium;

- 1 "Minister" means the Minister charged with the responsibility for copyright
2 matters;
- 3 "musical work" means any musical composition, irrespective of musical
4 quality and includes works composed for musical accompaniment;
- 5 "re-broadcast" means a simultaneous or subsequent broadcast by one
6 broadcasting organisation of the broadcast of another broadcasting
7 organisation;
- 8 "reproduction" means the making of one or more copies of a literary, musical or
9 artistic work, audiovisual work or sound recording;
- 10 "service provider" means a provider of online services or network access,
11 including operators of such facilities, and any entity offering the transmission,
12 routing, or providing of connections for digital online communications,
13 between or among points specified by a user, of material of the user's choosing,
14 without modification to the content of the material as sent or received;
- 15 "sound recording" means the fixation of a sequence of sound capable of being
16 perceived aurally and of being reproduced but does not include a sound track
17 associated with an audiovisual work;
- 18 "work" includes translations, adaptations, new versions or arrangements of
19 pre-existing works, and anthologies or collection of works which by reason of
20 the selection and arrangement of their content, present an original character;
- 21 "work of joint authorship" means a work produced by the collaboration of two
22 or more authors in which the contribution of each author is inseparable from the
23 contribution of the other author or authors;
- 24 "year" means-
- 25 (a) in section 52 of this Act, a period of twelve months; and
- 26 (b) elsewhere in this Act, a calendar year, beginning on 1 January and
27 ending on 31 December.
- 28 (2) The following provisions shall apply with respect to publication,
29 that is to say-
- 30 (a) a work shall be deemed to have been published if copies of it have

(c) a publication in any country shall not be treated as being other than the first publication by reason only of an earlier publication elsewhere if the two publications took place within a period of not more than thirty days.

Short title

11 *Section 79(2)*

13 *Proceedings of the Board*

28 4. The quorum of the Board shall consist of the Chairman (or, in an
29 appropriate case, the person presiding at the meeting pursuant to paragraph
30 2 of this Schedule) and five other members and the quorum of any

1 committee of the Board shall be determined by the Board.

2 5. Where the Board desires to obtain the advice of any person on a
3 particular matter, the Board may co-opt him as a member for such period as it
4 deems fit; but a person who is a member by virtue of this sub-paragraph shall
5 not be entitled to vote at any meeting of the Board and shall not count towards
6 the quorum.

7 6. Notwithstanding anything in the foregoing provisions of this
8 paragraph, the first meeting of the Board shall be summoned by the Minister.
9 Committee

10 7.-(1) Subject to its standing orders, the Board may appoint one or
11 more committees to carry out on behalf of the Board such of its functions as the
12 Board may determine.

13 (2) Every committee appointed under the provisions of sub-
14 paragraph (1) of this Paragraph, shall consist of such number of persons(not
15 necessarily all members of Board) as may be determined by the Board and a
16 person other than a member of the Board shall hold office on the committee in
17 accordance with the terms of his appointment.

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

20 *Miscellaneous*

21 8. The fixing of seal of the Commission shall be authenticated by the
22 signature of the Director-General and any other staff authorised generally or
23 specially by the Commission to act for that purpose.

24 9. Any contract or instrument which, if made or executed by a person
25 not being a body corporate, would not be required to be under seal may be made
26 or executed on behalf of the Commission by the Director-General or any
27 person generally or specifically authorised by the Commission to act for that
28 purpose.

29 10. Members of the Board shall be paid such remuneration or
30 allowances as may be approved from time to time by the President.

1 11. The validity of any proceedings of the Board or of a committee
2 thereof shall not be adversely affected by-

3 (1) any vacancy in the membership of the Board; or

4 (2) any defect in the appointment of a member of the Board or
5 committee; or

6 (3) reason that a person not entitled to do so, took part in the
7 proceedings.

8 12. Any member of the Board and any person holding office on a
9 committee of the Board, who has a personal interest in any contract or
10 arrangement entered into or proposed to be considered by the Board or a
11 committee thereof shall forthwith disclose his interest to the Board or
12 committee and shall not vote on any question relating to the contract or
13 arrangement.

EXPLANATORY MEMORANDUM

*(This note does not form part of the above Act but is intended
to explain its purport)*

This Bill seeks to enhance the capacity of the Nigerian Copyright Commission for effective regulation, administration, and enforcement of the provisions of this Act with a view to meeting Nigeria's obligations relating to International Treaties and Conventions.

FINANCIAL REPORTING COUNCIL OF NIGERIA ACT,
(AMENDMENT) BILL, 2021

ARRANGEMENT OF CLAUSES

1. Amendment of the Principal Act
2. Amendment section 2
3. Amendment of section 8
4. Amendment of section 11
5. Amendment of section 15
6. Amendment of section 20
7. Amendment of section 33
8. Amendment of section 41
9. Amendment of section 42
10. Amendment of section 51
11. Amendment of section 53
12. Amendment of section 59
13. Amendment of section 61
14. Amendment of section 63
15. Amendment of section 64
16. Amendment of section 65
17. Amendment of section 68
18. Amendment of section 72
19. Amendment of section 73
20. Amendment of section 77
21. Citation

FOR

Sponsored by Senator Yusuf A. Yusuf

[] Commencement

1	1. The Financial Reporting Council of Nigeria Act, 2011 in this	Amendment of Financial Reporting Council of Nigeria Act, 2011
2	Bill referred to as ("the Principal Act") is amended as set out in this Bill.	
3	<i>Establishment and Membership of the Board</i>	
4	2. Section 2 of the Principal Act is amended by redrafting	Amendment of Section 2
5	subsection (2) as follows:	
6	"(2) The Board shall consist of:	
7	(a) a Chairman who shall be a professional accountant with	
8	considerable professional experience in accounting practices;	
9	(b) one representative from each of the following:	
10	(i) Association of National Accountants of Nigeria;	
11	(ii) Institute of Chartered Accountants of Nigeria;	
12	(iii) Office of the Auditor General for the Federation;	
13	(iv) Chartered Institute of Stockbrokers;	
14	(v) Chartered Institute of Taxation of Nigeria;	
15	(vi) Ministry charged with the responsibility of supervising the	

- 1 activities of the Council;
- 2 (vii) Ministry charged with the responsibility for Finance;
- 3 (viii) Nigerian Accounting Association;
- 4 (ix) Nigerian Association of Chambers of Commerce, Industries,
- 5 Mines and Agriculture;
- 6 (x) Nigerian Institution of Estate Surveyors and Valuers; and
- 7 (xi) Institute of Chartered Secretaries and Administrators of Nigeria
- 8 (ICSAN)."
- 9 (c) the Executive Secretary of the Council.

10 *Functions of the Council*

Amendment
of Section 8

- 11 **3.** Section 8 of the Principal Act is amended as follows:
- 12 "(1) The Council shall-
- 13 (a) develop and publish accounting and financial reporting standards
- 14 to be observed in the preparation of financial statement of public interest
- 15 entities;
- 16 (b) review, promote and enforce compliance with the accounting and
- 17 financial reporting standards adopted by the Council;
- 18 (c) receive notices of non-compliance with approved standards from
- 19 preparers, users, other third parties or auditors of financial statements;
- 20 (d) receive copies of annual reports and financial statements of public
- 21 interest entities from preparers within 60 days of the approval of the Board;
- 22 (e) advise the Federal Government on matters relating to accounting
- 23 and financial reporting standards;
- 24 (f) maintain a register of professional accountants and other
- 25 professionals engaged in the financial reporting process and corporate
- 26 governance;
- 27 (g) maintain a national repository for electronic submission of
- 28 General Purpose Financial Statements;
- 29 (h) monitor compliance with the reporting requirements specified in
- 30 the adopted code of corporate governance;

1 (i) promote compliance with the adopted standards issued by the
2 International Federation of Accountants and International Accounting
3 Standards Board or any other body that may be designated as such and any
4 other international standards setting body relating to the mandate of the
5 Council;

6 (j) monitor and promote education, research and training in the
7 fields of accounting, auditing, financial reporting and corporate
8 governance;

9 (k) conduct practice reviews of registered professionals;

10 (l) review financial statements and reports of public interest
11 entities;

12 (m) enforce compliance with the Bill and the rules of the Council
13 on registered professionals and the affected public interest entities;

14 (n) establish such systems, schemes or engage in any relevant
15 activity, either alone or in conjunction with any other organization or
16 agency, whether local or international, for the discharge of its functions;

17 (o) receive copies of all qualified reports together with detailed
18 explanations for such qualifications from auditors of the financial
19 statements within a period of 30 days from the date of such qualification and
20 such reports shall not be announced to the public until all accounting issues
21 relating to the reports are resolved by the Council;

22 (p) adopt and keep up-to-date accounting and financial reporting
23 standards, and ensure consistency between standards issued and the
24 International Financial Reporting Standards;

25 (q) specify, in the accounting and financial reporting standards, the
26 minimum requirements for recognition, measurement, presentation and
27 disclosure in annual financial statements, group annual financial statements
28 or other financial reports which every public interest entity shall comply
29 with, in the preparation of financial statements and reports;

30 (r) develop or adopt and keep up-to-date auditing standards issued

1 by relevant professional bodies and ensure consistency between the standards
2 issued and the auditing standards and pronouncements of the International
3 Auditing and Assurance Standards Board or any other body that may be
4 designated as such and any other international standards setting body relating
5 to the mandate of the Council; and

6 (s) perform such other functions which in the opinion of the Board are
7 necessary or expedient to ensure the efficient performance of the functions of
8 the Council.

9 (2) The Council may issue rules and guidelines for the purpose of
10 implementing auditing and accounting standards and to further its remit with
11 respect to corporate governance.

12 *Objects of the Council*

Amendment of
Section 11

13 **4.** Section 11 of the Principal Act is redrafted as follows:

14 "11. The objects of the Council shall be to-

15 (a) protect investors and other stakeholders' interest;

16 (b) give guidance on issues relating to financial reporting and
17 corporate governance to bodies listed in sections 2 (2) (b) of this Bill;

18 (c) ensure good corporate governance practices in the public and
19 private sectors of the Nigerian economy;

20 (d) ensure accuracy and reliability of financial reports and corporate
21 disclosures, pursuant to the various laws and regulations currently in existence;
22 and

23 (e) harmonize activities of relevant professional and regulatory
24 bodies as relating to Financial Reporting and Corporate Governance."

25 *Establishment of Committees for the Council*

Amendment of
Section 15

26 **5.** Section 15 of the Principal Act is redrafted as follows:

27 "15.(1) There is established for the Council 3 Standing Committees
28 and any other committee the Board may deem necessary-

29 (a) Technical and Oversight Committee;

30 (b) Finance and General Purposes Committee; and

- 1 (c) Audit Committee (non-executives).
- 2 (2) The functions of the Technical and Oversight Committee shall
- 3 be:
- 4 (a) to receive and review regular reports from the Council on
- 5 breaches observed;
- 6 (b) to receive and deliberate on all appeals against sanctions and
- 7 make recommendations to the Board; and
- 8 (c) to consider reports from the Council and make
- 9 recommendations to the Governing Board on:
- 10 (i) new issues to be addressed by the standard setting directorates;
- 11 and
- 12 (ii) convergence of local and international standards and other
- 13 related matters.
- 14 (3) The functions of the Finance and General Purposes Committee
- 15 shall be:
- 16 (a) to consider the annual budgets and accounts, and make
- 17 recommendations to the Board;
- 18 (b) to appraise financial implication of Council's proposed capital
- 19 spending;
- 20 (c) to review the Executive Secretary's and management's regular
- 21 reports on performance against budget for a financial year;
- 22 (d) to consider the Council's staff establishment, salaries and
- 23 conditions of service, staff training and development and approval of staff
- 24 terminal benefits and make recommendations to the Board; and
- 25 (e) to make recommendations to the Board on the:
- 26 (i) income and expenditure policies;
- 27 (ii) level of fines, penalties and other fees.
- 28 (4) The functions of the Audit Committee shall be:
- 29 (a) to oversee the systems of internal controls regarding finance,
- 30 accounting, and legal compliance;

- 1 (b) to fix the fees of external auditors of the Council;
- 2 (c) to review Council's financial statements and other financial
- 3 information; and
- 4 (d) to review Council compliance with other regulatory requirements.
- 5 (5) Membership of a Standing, Committee shall be 5 persons who are
- 6 experts in the relevant fields, and the Committee shall elect one of them to be
- 7 the Chairman of the Committee.
- 8 (6) Standing Committees shall hold meetings once every 3 months
- 9 and the quorum shall be 3.
- 10 (7) In the absence of the Chairman, members of the committee shall
- 11 elect one of them to act as Chairman, for the meeting.
- 12 (8) Without prejudice to other provisions of this Bill, the Board may
- 13 appoint such other standing or ad-hoc committees as it deems fit to consider
- 14 and report on any matter with which the Board is concerned.
- 15 (9) A committee appointed under sub-section (9) of this section shall:
- 16 (a) consist of such number of persons (not necessarily members of the
- 17 Board) appointed by the Council and shall remain on the Committee in
- 18 accordance with the terms of his appointment; and
- 19 (b) be presided over by a member of the Board.
- 20 (10) A decision of a committee established under this section shall be
- 21 of no effect until it is confirmed by the Board,

PART II - STAFF OF THE COUNCIL

Executive Secretary and other Staff of the Council

Amendment of
Section 20

- 24 **6.** Section 20 of the Principal Act is amended in subsection (3) as
- 25 follows:
- 26 “(3) The Board shall be responsible for the appointment of senior
- 27 management staff from grade level 15 and above for the Council as it may
- 28 deem necessary and expedient from time-to-time for the proper and efficient
- 29 performance of the functions of the Council.”

PART III - FINANCIAL PROVISIONS

Establishment of Fund of the Council

7. Section 33 of the Principal Act is redrafted as follows:

Amendment of
Section 33

"(1) The Council shall establish and maintain a fund into which shall be-

(a) all incomes accruing from annual levies charged from:

(i) all registered professionals;

(ii) all registered firms of professionals;

(iii) Public Interest Entities; and

(v) Other Entities as prescribed by the Council and approved by the Minister.

(b) every registered professional, not less than N10,000.00 annually;

(c) every publicly quoted company, an amount based on its market capitalization, annually as follows:

(i) an amount equal to 0.05 % of market capitalization, where the market capitalization of a company is not more than N1 Billion;

(ii) an amount equal to 0.04% of market capitalization, where the market capitalization of a company is greater than N1 billion but not more than N100 billion;

(iii) an amount equal to 0.03% of market capitalization where the market capitalization of a company is greater than N100 billion but not more than N250 billion;

(iv) an amount equal to 0.02% of market capitalization where the market capitalization of a company is greater than N250 billion but not more than N500 billion; and

(v) an amount equal to 0.025% of market capitalization, where the market capitalization of a company is greater than N500 billion.

(d) every public interest entity other than those covered by paragraph (b), an amount based on its annual turnover as follows:

1 (i) an amount equal to 0.02% of annual turnover, where the annual
2 turnover of the entity is not more than N25 million;

3 (ii) an amount equal to 0.025 % of annual turnover, where the annual
4 turnover of the entity is greater than N25 million but not more than N50
5 million;

6 (iii) an amount equal to 0.03 % of annual turnover, where the annual
7 turnover of the entity is greater than N50 million but not more than N500
8 million;

9 (iv) an amount equal to 0.04 % of annual turnover, where the annual
10 turnover of the entity is greater than N500million but not more than N1 billion;

11 (v) an amount equal to 0.045 % of annual turnover, where the annual
12 turnover of the entity is greater than N1.00 billion but not more than N10
13 billion; and

14 (vi) an amount equal to 0.05 % of annual turnover, where the annual
15 turnover of an entity is greater than N10 billion.

16 (e) budgetary allocations and subventions from the Federal
17 Government;

18 (f) fines and penalties imposed by the Council;

19 (g) fees charged for services rendered by the Council;

20 (h) rents, fees and other internally generated revenues from services
21 provided by the Council;

22 (i) gift, loans, grant-in-aid from national, bilateral and multilateral
23 organizations and agencies; and

24 (j) all other sums accruing to the Council from time-to-time.

25 (2) The levies referred to, in subsection (1) shall:

26 (a) for individual professionals and professional firms, be payable not
27 later than 60 days from 1st January of every year;

28 (b) for public interest entities, be payable not later than 120 days of the
29 financial year; and

1 (c) for other entities be payable not later than 120 days of the
2 Financial year.

3 (3) Where a person or an entity fails to pay the levy as prescribed in
4 sub-section (2) as and when due, the person or entity shall:

5 (a) pay a penalty equivalent to 10% of the amount due for every month
6 of default cumulatively until payment is made;

7 (b) an entity shall be liable to sanctions as may be prescribed by the
8 Council for any default of its agents, officers or personnel engaged in the
9 financial reporting process for failure to comply with the provisions of this
10 Bill;

11 (c) the Council may also prosecute such person or entity for default
12 in payment as prescribed in this section;

13 (d) in addition, in the case of a company, the chief executive officer
14 of the company shall be liable to a penalty as may be prescribed by the
15 Council; and/or imprisonment for a term not exceeding 6 months upon
16 prosecution.

17 *Registration of Professionals*

18 **8.** Section 41 of the Principal Act is amended in subsection (6) by Amendment of
19 rephrasing the provision as follows: Section 41

20 "(6) A person who contravenes sub-section (2) of this section shall
21 be liable to a fine and/or penalty as the Council shall prescribe by regulation;
22 and/or imprisonment for a term not exceeding 6 months upon conviction."

23 *Duration of Registration*

24 **9.** Section 42 of the Principal Act is amended in subsections (1) Amendment of
25 and (2) as follows: Section 42

26 "(1) Every registration made under section 41 shall be renewed
27 annually."

28 (2) Every registered professional accountant shall, not later than 3
29 months before the expiration of the registration, make a written application
30 for renewal of registration to the Council in such form and manner as the

1 Council may from time to time prescribe."

2 *Functions of the Directorate of Corporate Governance*

Amendment
of Section 51

3 **10.** Section 51 of the Principal Act is amended in paragraph (a) by
4 adding the letter "s" to the word "asses" to read:

5 "(a) assess the need for corporate governance in the public and private
6 sector."

7 *Review and Monitoring of Auditing Standards*

Amendment
of Section 53

8 **11.** Section 53 of the Principal Act is amended in subsection (1) by
9 inserting after the word "Board" the words "or any other body that may be
10 designated as such and any other international standards setting body relating
11 to the mandate of the Council" to read thus:

12 "(1) The Council shall develop or adopt and keep up-to-date auditing
13 standards issued by relevant professional bodies and ensure consistency
14 between the standards issued and the auditing standards and pronouncements
15 of the International Auditing and Assurance Standards Board or any other body
16 that may be designated as such and any other international standard setting
17 body relating to the mandate of the Council."

18 *Preparation of financial*

Amendment
of Section 59

19 **12.** Section 59 of the Principal Act is amended by updating paragraphs
20 (a) - (g) in line with the reviews carried out on the relevant applicable laws
21 mentioned therein and a new paragraph (h), introduced as follows:

22 "(a) Banks and other Financial Institutions (Amendment) Act Cap.
23 B3 LFN, 2004;

24 (b) Companies and Allied Matters Act, 2020;

25 (c) Investments and Securities Act, No. 29, 2007;

26 (d) Nigerian Investment Promotion Commission Act Cap. N117,
27 2004;

28 (e) Insurance Act Cap. I17 LFN, 2004;

29 (f) Pensions Reform Act No. 2, 2010;

30 (g) Federal Mortgage Bank of Nigeria Act, Cap. F16 LFN, 2004; and

1 (h) Finance Act, 2020."

2 *Frequency of practice reviews*

3 **12.** Section 61 of the Principal Act is amended by renumbering the Amendment of
4 existing section 61 as 61A and a new section 61B introduced, as follows: Section 61

5 "61A. (1) Annual quality reviews (inspections) shall be conducted
6 for professional accountants that audit more than 20 public interest entities;
7 all others shall be conducted every three years and the Council may order a
8 special inspection of any professional accountant at any time.

9 (2) The Council shall require registered professional accounting
10 firms and other professionals to maintain for a period of not less than 6 years,
11 audit work papers and other information related to any audit report, in
12 sufficient detail to support the conclusion reached in the report.

13 (3) The Council shall require evidence of a second partner review
14 and audit approach that registered professional accountants adopted on
15 quality control.

16 *Execution of warrant of distraint*

17 "61B. (1) The Council may co-opt the assistance and co-operation
18 of any of the law enforcement agencies in the discharge of its duties under
19 this Bill.

20 (2) The law enforcement officers shall aid and assist an authorised
21 officer in the execution of any warrant of distraint and the levying of
22 distraint.

23 (3) Any official of the Council armed with the warrant issued by a
24 judicial officer and accompanied by a number of law enforcement officers
25 as may be determined by the Executive Secretary shall-

26 (a) enter any premises covered by such warrant and seal off the
27 premises, search for, seize and take possession of any book, document or
28 other article used or suspected to have been used in the commission of an
29 offence;

30 (b) inspect, make copies of, or take extracts including digital

1 copies from any book, record, document or computer, regardless of the
2 medium used for their storage or maintenance;

3 (c) search any person who is in or on such premises;

4 (d) open, examine and search any article, container or receptacle;

5 (e) open any outer or inner door or window of any premises and enter
6 or otherwise forcibly enter the premises and every part thereof; or

7 (f) remove by reasonable force any obstruction to such entry, search,
8 seizure or removal as he is empowered to effect.

9 (4) No person shall be bodily searched under this section except by a
10 person who is of the same gender as the person to be bodily searched."

11 *Obstruction of an inspector*

Amendment of
Section 63

12 **13.** Section 63 of the Principal Act is amended in subsection (2) by
13 inserting after the word "Act" the words "shall be liable to a fine and/or penalty
14 as the Council shall prescribe by regulation; and/or imprisonment for a term
15 not exceeding 6 months upon conviction" to read thus:

16 "(2) A person who obstructs an Inspector in the execution of his
17 powers or duties under the provisions of this Act shall be liable to a fine and/or
18 penalty as the Council shall prescribe by regulation; and/or imprisonment for a
19 term not exceeding 6 months upon conviction."

20 *Sanctions for non-compliance*

Amendment of
Section 64

21 **14.** Section 64 of the Principal Act is amended by rephrasing
22 subsection (1) and (3) as follows:

23 "(1) Any person who fails to comply with the prescribed statements of
24 accounting and financial reporting standards developed by the Council or any
25 decision of the Council to the effect that a public interest entity has failed to
26 comply with any of its pronouncements under this Act, and with such other
27 accounting and financial reporting standards as may be specified under the
28 relevant enactments, shall be liable to a fine and/or penalty as the Council shall
29 prescribe by regulation; and/or imprisonment for a term not exceeding 2 years
30 upon conviction, provided that the Council shall bring such non-compliance to

1 the notice of the preparers of such financial statements.

2 "(3) Any public interest entity which fails to comply with the notice
3 referred to in sub-section (2) of this section shall be liable to a fine and/or
4 penalty as the Council shall prescribe by regulation; and shall restate the said
5 financial statements within 30 days thereafter."

6 *Sanctions on public interest entities*

7 **15.** Section 65 of the Principal Act is amended in subsection (3) as Amendment of
Section 65
8 follows:

9 "(3) Any public interest entity which fails to comply with the notice
10 referred to in sub-section (2) of this section shall be liable to a fine and/or
11 penalty as the Council shall prescribe by regulation; and be required to
12 restate the said financial statements within 30 days thereafter and the
13 Council shall require such entity to disclose same in the following year's
14 financial statements."

15 *Limitation of suits against the officers of the Council*
16 *and pre-action notice*

17 **16.** Section 68 of the Principal Act is amended by numbering the Amendment of
Section 68
18 exiting provision as section 68 (1) and new subsections (2) and (3) (a), (b)
19 and (c) introduced thereof, as follows:

20 "(1) Subject to the provisions of this Bill, the provision of the
21 Public Officers Protection Act shall apply in relation to any suit instituted
22 against an officer or employee of the Council.

23 (2) No suit shall be commenced against the Council before the
24 expiration of 30 days after a written notice of intention to commence the suit
25 is served upon the Council by the intending plaintiff or his agent.

26 (3) The notice referred to, in subsection (2) of this section shall
27 clearly and explicitly state-

28 (a) the cause of action;

29 (b) the particulars of the claim;

1 (c) the name and place of abode of the intending plaintiff; and the
2 relief sought.

3 PART IV - MISCELLANEOUS

4 *Publication of Official Bulletin*

Amendment of
Section 72

5 **17.** Section 72 of the Principal Act is redrafted as follow:

6 "72. (1) The Council shall-

7 (a) periodically publish an Official Bulletin, which shall contain:

8 (i) the rules made by the Council; and

9 (ii) such other information as the Council may deem necessary;

10 (b) cause to be published in the Gazette, national daily newspapers
11 and electronic media, notices relating to the rules of the Council which have
12 been altered or revoked.

13 (2) The Council may cause to be published in the Gazette, national
14 daily newspapers and electronic media its findings or decisions under section
15 60 and 61A of this Bill.

16 *Power to make Regulations*

Amendment of
Section 73

17 **18.** Section 73 of the Principal Act is amended by inserting the words
18 "The Council with the approval of the" before the word Minister as follows:

19 "(1) The Council may with the approval of the Minister make such
20 regulations as in his opinion are necessary or expedient for giving full effect to
21 the provisions of this Bill and for the due administration of its provisions."

22 PART V - INTERPRETATIONS

23 *Interpretations*

Amendment of
Section 77

24 **19.** Section 77 of the Principal Act is amended as follows:

25 "Annual report" means the documents that an entity issues on an annual basis
26 on its affairs, including its financial statements together with the audit report
27 thereon, and the report from the Board of Directors;

28 "Audit" has the same meaning as in the International Federation of
29 Accountants (IFAC) Code of Ethics for Professional Accountants;

30 "Audit firm" means a firm which provides audit services;

1 "Auditor" means a professionally qualified Accountant or firm of
2 Accountants appointed to conduct an examination of the records of an
3 enterprise and to form an opinion as to whether the accounts have been
4 prepared in accordance with generally accepted accounting principles.

5 "Board" means the governing body of the Financial Reporting Council of
6 Nigeria, established under section 2(1) of this Bill;

7 "Code of Corporate Governance" means the Code of Corporate Governance
8 issued by the Council under this Bill;

9 "Corporate Governance" refers to the roles of persons entrusted with the
10 supervision, control and direction of an entity;

11 "Director" has the same meaning given to it under the Companies and Allied
12 Matters Act, 2020 or any amendment thereof;

13 "Entity" means any person or body of persons, whether incorporated or
14 unincorporated;

15 "Financial reporting standards" mean accounting, auditing, actuarial and
16 valuation standards issued by the Council under this Bill;

17 "Financial statements" means the Statement of Financial Position or balance
18 sheet, income statements or profit or loss account, statement of changes in
19 equity, statement of cash flows, notes, statements and explanatory materials
20 thereon and other documents, as may be prescribed by the Council under
21 this Bill;

22 "Functions" include powers and duties;

23 "IASB" means the International Accounting Standards Board or its
24 successor body;

25 "IFAC" means the International Federation of Accountants or its successor
26 body;

27 "material irregularity" includes fraud, deliberate misstatements of financial
28 statements, falsifications, defalcations, etc.;

29 "Minister" means the Minister charged with responsibility of supervising
30 the activities of the Council;

1 "Offence" includes but is not limited to default in payment of annual
2 dues/subscriptions, submission of returns and other infractions, irregularities
3 committed by entity or individual against the provisions of this Bill;

4 "Official Bulletin" means the official journal of the Council;

5 "Practice" in relation to an auditor, means the practice of the auditor or the audit
6 firm;

7 "President" means the President of the Federal Republic of Nigeria and
8 Commander-In-Chief of the Armed Forces of the Federation;

9 "Professional Accountant" means a person who is a member of a body of
10 professional Accountancy body, established by an Act of the National
11 Assembly and registered with the Council;

12 "Public Interest Entities" means:

13 (a) Governments and government organizations;

14 (b) listed and non-listed entities that are regulated;

15 (c) Public Companies;

16 (d) private companies that are holding companies of public or
17 regulated entities;

18 (e) concession entities;

19 (f) privatized companies;

20 (g) entities engaged by any tier of government in public works with
21 annual contract value of N1 billion and above, and settled from public funds;

22 (h) Licensees of Government; and

23 (i) entities that are required by law to file returns.

24 (j) "Qualified report" has the same meaning given to IFAC.

Citation

25 **20.** This Bill may be cited as the Financial Reporting Council of
26 Nigeria Act, (Amendment) Bill, 2021.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Financial Reporting Council of Nigeria Act, 2011, to among other things, streamline its provisions in line with global operational standards for efficiency and effectiveness.