



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 8 March, 2006

1. The House met at 2.30 p.m., Mr Speaker read Prayers.

2. **Votes and Proceedings:**

Mr Speaker announced that he had examined and approved the Votes and Proceedings of Tuesday, March 2, 2006.

By unanimous consent, the Votes and Proceedings was adopted.

3. **Announcements:**

(i) *Conference Committee:*

Mr Speaker named Conferees on a Bill for an Act to Amend the Corrupt Practices and Other Related Offences Act, 2005:

(a)	Hon. Nduesse Essien	—	<i>Leader of Delegation</i>
(b)	Hon. Alex Nwofe	—	<i>Member</i>
(c)	Hon. Gabriel Oiboh	—	<i>Member</i>
(d)	Hon. Bala Ibn Na'Allah	—	<i>Member</i>
(e)	Hon. Gyang Dantong	—	<i>Member</i>
(f)	Hon. Bako Sarai	—	<i>Member</i>

(ii) *Visitors:*

Mr Speaker recognized the presence, in the Gallery, of Members of the Legislative Arm of Orhionmwon Local Government Council, Edo State.

4. **Petition:**

A petition was received and referred to the House Committee on Public Petitions:

Hon. Abdullaziz Idris King, from Mr Sunday Salawu, praying the House to investigate the stoppage of payment of his pension benefits by the Ajaokuta Steel Company Limited and grant the relief sought therein;

5. **Consideration of Reports:**

(i) *Committee on Health:*

Motion made and Question proposed, "That this House do resume consideration of the Report of the Committee on Health on a Bill for an Act to Provide for the Establishment of the National Agency for the Prevention and Control of HIV/AIDS (NAPCA) and for Matters Connected Therewith, 2004 and approve the recommendations therein" {Hon. Aminu Safana}.

Question that the House do resolve into Committee of the Whole to resume consideration of the Report, agreed to.

Question that Order VII, Rule 2 (2) be suspended to enable Mr Speaker preside in the Committee of Whole, put and agreed to.

(HOUSE IN COMMITTEE)*(Mr Speaker in the Chair)*

A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE
NATIONAL AGENCY FOR THE PREVENTION AND CONTROL OF HIV/AIDS (NAPCA);

AND FOR MATTERS CONNECTED THEREWITH

FINANCIAL PROVISIONS

Committee Recommendation:

Clause 15: Funds of the Agency.

- (1) The Agency shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Agency.
- (2) There shall be credited to the fund established in pursuance of subsection (1) of this section such payments as may be made to it by the Federal Government for the running expenses of the Agency and all other assets accruing from time to time to the Agency.
- (3) The Agency may establish and maintain one or more funds into which shall be credited such payments as may be made to it by donors and other agencies from time to time for the purpose of supporting HIV/AIDS activities and programmes in the Federal Republic.
- (4) The Agency shall disburse these funds to ministries, States, and other organisations that qualify and have been granted funding by the Agency for executing HIV/AIDS activities and programmes.
- (5) The Agency shall also, from time to time, apply the funds at its disposal to:
 - (a) the cost of administration of the Agency;
 - (b) paying members of the Board and any Committee set up by the Board for such expenses as may be expressly authorised by the Board or the President in accordance with this Act and at the approved rates;
 - (c) the payment of salaries, fees of other remuneration, allowances, pensions and gratuities payable to officers and servants of the Agency;
 - (d) undertake all activities connected with its functions under this Act (*Hon. Aminu Safana*).

Amendment Proposed:

hi Subclause (5) (b), line 3, *leave out* the word "President" and *insert* the word "Council" instead thereof (*Hon. Solomon Agidiani*).

Question that the amendment be made, put and agreed to.

Question that Clause 15 as amended, stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 16: Gifts, donations, etc.

The Agency may accept gifts, including land, money or other property, on such terms and conditions, if any, as may be specified by the person or organisation making the gift provided that the conditions attached by the person or organisation making the gift are not inconsistent with the functions of the Agency under this Act (*Hon. Aminu Safana*) — *Agreed to.*

Question that Clause 16 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 17: Borrowing powers.

- (1) The Board may, with the consent or in accordance with any specific authority given by the President, borrow by way of loan or overdraft from any source, such specified amount of money as may be required by the Agency for meeting its obligations and discharging its functions under this Act.

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

Cap. 449 LFN, 1990.

- (3) The Board may invest any surplus funds of the Agency in securities as prescribed by the Trustee Investment Act or such other securities as may, from time to time, be approved by the President.

Cap. 202 LFN, 1990.

- (4) Subject to the provisions of the Land Use Act, and any special or general direction which the President may give in that behalf, the Agency may acquire or lease any land required for its purpose under this Act (*Hon. Aminu Safana*).

Amendments Proposed:

- (i) In Subclause (1), line 2, *leave out* the word "President" and *insert* the word "Council" instead thereof — *Consequential Amendment*.
- (ii) In Subclause (2), line 3, *leave out* the word "President" and *insert* the word "Council" instead thereof — *Consequential Amendment*.
- (iii) In Subclause (3), line 3, *leave out* the word "President" and *insert* the word "Council" instead thereof — *Consequential Amendment*.
- (iv) In Subclause (4), line 2, *leave out* the word "President" and *insert* the word "Council" instead thereof — *Consequential Amendment*.

Question that Clause 17 as amended, stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 18: Annual estimates, accounts and audit.

The Director General shall cause to be prepared and submitted to the Board, not later than 30th September of each year, a work plan and budget of the Agency for the following year (*Hon. Aminu Safana*) — *Agreed to*.

Question that Clause 18 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 19: Annual accounts.

The Board shall cause to be kept proper accounts of the Agency in respect of each year and proper records in relation thereto and shall cause the accounts to be audited not later than 6 months after the end of the year by auditors appointed by the Board and in accordance with the guidelines supplied by the Auditor-General of the Federation (*Hon. Aminu Safana*) — *Agreed to*.

Question that Clause 19 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 20: Activities Report.

The Director General shall, not later than 30th March in each year, prepare and submit to the Board a report on the activities and administration of the Agency during the immediately preceding year and shall include in the report a copy of the audited accounts of the Agency for the year and the auditor's report thereon (*Hon. Aminu Safana*) — *Agreed to*.

Question that Clause 20 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 21: Tax exemption.

The Agency shall be exempted from the payment of income tax on any income derived by it under this Act or accruing to it from any investments (*Hon. Aminu Safana*) — *Agreed to*.

Question that Clause 21 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 22: The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Agency (*Hon. Aminu Safana*) — *Agreed to*.

Question that Clause 22 stand part of the Bill, put and agreed to.

PART V n**MISCELLANEOUS**

Committee Recommendation:

Clause 23: Regulation.

The Presidency may make rules or regulations with respect to the exercise of any of the duties, functions or powers of the Agency under this Act (*Hon. Aminu Safana*).

Amendment Proposed:

Retain provision in the Principal Bill — *Consequential Amendment*.

Question that Clause 23 as amended, stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 24: Interpretation.

In this Act, unless the context otherwise requires:

- (a) "Agency" means the National Agency for the Control of HIV/AIDS, established under Section 1 of this Act (*Hon. Aminu Safana*).

Amendment Proposed:

"Agency" means the National Agency for the Prevention and Control of HIV/AIDS, established under Section 1 of this Act — *Consequential Amendment*.

Question that the meaning of the word "Agency" as amended be as defined in the interpretation to this Bill, put and agreed to.

- (b) "Functions" includes duties and powers (*Hon. Aminu Safana*).

Question that the meaning of the word "functions" be as defined in the interpretation to this Bill, put and agreed to.

- (c) "HIV/AIDS" means Human Immuno-deficiency Virus/Acquired Immune Deficiency Syndrome'; and (*Hon. Aminu Safana*).

Question that the meaning of the words "HIV/AIDS" be as defined in the interpretation to this Bill, put and agreed to.

- (d) "Member" means a member of the Board of the Agency and includes the Chairman (*Hon. Aminu Safana*).

Question that the meaning of the word "member" be as defined in the interpretation to this Bill, put and agreed to.

- (e) "Control" includes prevention of HIV/AIDS (*Hon. Aminu Safana*).

Amendment Proposed:

Leave out all the words in Subclause (e) — *Consequential Amendment*.

Question that Clause 24 as amended, stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 25: Citation.

This Act may be cited as the National Agency for the Control of HIV/AIDS Act, 2006 (*Hon. Aminu Safana*).

Amendment Proposed:

This Act may be cited as the National Agency for the Prevention and Control of HIV/AIDS Act, 2006 — *Consequential Amendment*.

Question that Clause 25 as amended, stand part of the Bill, put and agreed to.

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE PROCEEDINGS OF THE BOARD

Committee Recommendation:

Cap. 192 LFN, 1990.

1. Subject to this Act and Section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or those of any of its committees.
2. Every meeting of the Board of the Agency shall be presided over by the Chairman and if the Chairman is unable to attend the members present at the meeting shall elect one of their members to preside at the meeting.
3. The quorum of the Board shall be half of its members plus one other member.
4. The Board shall meet not less than four times in each year and, subject thereto, the Board shall meet whenever it is summoned by the Chairman, or if the Chairman is requested to do so by notice signed by not less than nine other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

Committees

5.
 - (1) Subject to section 9 and standing orders, the Board may appoint such number of standing and *ad-hoc* committees as it thinks fit to consider and report on any matter with which the Board is concerned.
 - (2) Every Committee appointed under subparagraph (1) of this paragraph shall be presided over by a member of the Board and shall be made up of such number of persons, whether or not members of the Board, as the Board may determine in each case.
 - (3) The decision of a committee of the Board shall be of no effect until it is adopted by the Board.
6. The fixing of the seal of the Board shall be authenticated by the signature of the Chairman or the Director General or such other member generally or specifically authorised by the Board to act for that purpose.
7. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Board by the Director General or by any other person generally or specifically authorised by the Board to act for that purpose.
8. Any document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Board shall be received in evidence and, unless the contrary is proved, be presumed, without further proof, to have been so signed or sealed.
9. The validity of any proceedings of the Board or Committee shall not be affected by:
 - (1) any vacancy in the membership of the Board or Committee; or
 - (2) defect in the appointment of a member of the Board or Committee; or
 - (3) reason that a person not entitled to do so took part in the proceedings of the Board or Committee.

TRANSITIONAL PROVISIONS

10. The transitional provisions in the schedule shall be read and applied as substantive provisions of this Act.

PERSONS IN CIVIL SERVICE

11.
 - (1) The Head of Service may designate officers who are engaged in the National Action Committee on AIDS as employees to be seconded to the Agency.
 - (2) An employee contemplated in sub-items (1) shall, as soon as possible after designation, be informed in writing of such designation.
 - (3) The secondment of designated employees must be:

- (a) to ensure the continuity of the activities of the Committee;
 - (b) must stipulate the period of secondment; and
 - (c) may not prevent the later redeployment of the employee to elsewhere in the civil service.
- (4) Any designated employee who disputes a transfer to the Agency may, within 30 days of receiving the notice, refer such a dispute to the Head of Service with a request for redeployment.

ASSETS AND LIABILITIES

12. (1) From the commencement of this Act,
- (a) Immovable property owned by the National Action Committee on AIDS and the National Project Team of the World Bank credit programme, is/are transferred to the Agency;
 - (b) All contractual rights, obligations, assets and liabilities of the National Action Committee on AIDS and the National Project Team, are transferred to the Agency.
- (2) From the commencement date all contractual rights, obligations, assets and liabilities of the National Action Committee on AIDS and the National Project Team, are transferred to the Agency.

DELEGATION OF FUNCTIONS BY BOARD

13. (1) The Board may, by resolution, delegate any of its powers, to—
- (i) a committee appointed under the Act;
 - (ii) the Executive Management Committee or any member thereof; or
 - (iii) any officer or employee of the Agency.
- (2) The Board may delegate its powers subject to any conditions it may determine (*Hon. Aminu Safana*).

Amendments Proposed:

- (i) *Leave out* all the words in paragraph 3 and *insert* the following instead thereof:
"The quorum of the Board shall be 7 — *Consequential Amendment*.
- (iii) In paragraph 4, line 1, *leave out* the words "The Board shall meet not less than four times in each year" and *insert* the words "The Board shall meet at least 4 times a year" instead thereof — *Consequential Amendment*.

Question that the Schedule as amended, stand part of the Bill, put and agreed to.

EXPLANATORY MEMORANDUM

Committee Recommendation:

The Bill seeks to establish the Presidential Council on AIDS (PAC), the National Council on HIV/AIDS (NCA) and the National Agency for the Control of HIV/AIDS (NACA) with its Board, executive and personnel, to co-ordinate the implementation of programmes for the prevention and control of the Acquired Immune Deficiency Syndrome (AIDS) in Nigeria (*Hon. Aminu Safana*).

Amendment Proposed:

In line 2, after the words "for the" *insert* the words "prevention and" — *Consequential Amendment*.

Question that the Explanatory Memorandum as amended stand part of the Bill, put and agreed to.

Chairman to report Bill;

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee Whole resumed consideration of the Report of the Committee on Health on a Bill for an Act to Provide for the Establishment of the National Agency for the Prevention and Control of HIV/AIDS (NAPCA) and for Matters Connected Therewith, 2006. It approved Clause 15 as amended, Clause 16, Clause 17 as amended, approved Clauses 18, 19, 20, 21 and 22, Clauses 23, 24 and 25 as amended, the Schedule as amended and the Explanatory Memorandum to the Bill as amended.

Question that the House do adopt the Report of the Committee of Whole, put and agreed to.

- (ii) *Joint Committee on Judiciary and Justice;*
Motion made and Question proposed, "That this House do consider the Report of the Joint Committee on Judiciary and Justice on a Bill for an Act to Transfer from the Presidency to the National Judicial Council, Responsibility for the Administration and Payment of Pension, Gratuity and Other Retirement Benefits of Judicial Officers, 2005 and approve the Recommendations therein" (Hon. Bala Ibn Na'Allah).

Question that the House do resolve into Committee of the Whole to consider the Report, agreed to.

Question that Order VII, Rule 2 (2) be suspended to enable Mr Speaker preside in the Committee of Whole, put and agreed to.

{HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

A BILL FOR AN ACT TO TRANSFER FROM THE PRESIDENCY TO THE
NATIONAL JUDICIAL COUNCIL, RESPONSIBILITY FOR THE ADMINISTRATION AND
PAYMENT OF PENSION, GRATUITY AND OTHER RETIREMENT
BENEFITS OF JUDICIAL OFFICERS, 2005

Committee Recommendation:

Clause 1: Transfer of responsibility for the administrative and payment of pension benefits of Federal Judicial Officers.

- (1) As from the commencement of this Act, the responsibility for the administration and payment of pension, gratuity and other retiring benefits to any judicial Officer who had retired before or will retire after the commencement of this Act, from the Judicial Service of the Federal Republic of Nigeria, is hereby transferred to the National Judicial Council.
- (2) In that regard, as from the commencement of this Act, the payment of the pension, gratuity or other retirement benefits of a retired or retiring Judicial Officer of the Federation shall no longer devolve on, administered or paid by the Department of Establishments in the Office of the Head of the Civil Service of the Federation or any other department, by whatever name called, which before the commencement of this Act was charged with such responsibility.
- (3) Within three months from the date of the commencement of this Act, the Establishments Department in the Office of the Head of the Civil Service of the Federation, or any Department heretofore charged with responsibility for the administration of Judges Pension Rights, shall submit to the National Judicial Council all such records, files and other documents connected with the administration and payments of the Pension rights of Federal Judicial Officers, been documents in the possession or control of that department as will enable the National Judicial Council carry out its functions under this Act *(Hon. Bala Ibn Na'Allah).*

Amendments Proposed:

- (i) In the Marginal Title, line 2, *leave out* the word "Federal" and wherever it occurs in the Bill *(Hon. ha Enang).*

Question that the amendment be made, put and agreed to.

- (ii) In Subclause (3), line 6, *leave out* the word "Federal" — *Consequential Amendment.*

Question that Clause 1 as amended, stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 2: Law applicable to the Pension rights of the Federal Judicial Officers Cap. 367 LLFN 1990.**

The provisions of the pension Rights of Judges Act shall continue to apply and the Pensions Act shall continue to apply and shall, in addition to this Act, regulate the pension right of Judges in accordance with the provisions of the Act, where such provisions are not in conflict with section 291 of the Constitution of the Federal Republic of Nigeria 1999 (*Hon. Bala Ibn Na'Allah*).

Amendments Proposed:

In the Marginal Title, line 2, leave out the word "Federal" — Consequential Amendment.

Question that Clause 2 as amended stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 3: Authentic age of Judicial Officers and Notice of retirement.**

(1) As from the commencement of this Act, the authentic age of a Judicial Officer shall be the age submitted by him upon entering the Civil Service or the Judicial Service of the Federation or a State, as the case may be; and no alteration shall be entertained thereafter, notwithstanding the emergence of new information or facts, to the contrary.

(2) A Judicial Officer shall serve on the National Judicial Council a Notice of retirement not less than three months of his intention to retire (*Hon. Bala Ibn Na 'Allah*) — *Agreed to.*

Question that Clause 3 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 4: Annual Budgetary request for pension liability purposes.**

The National Judicial Council shall submit to the National Assembly, a proposal of the budgetary needs to meet the standing payment by the Council of the pension rights of retired and retiring Federal Judicial Officers for that particular financial year commencing January 1st and ending December 31st (*Hon. Bala Ibn Na'Allah*).

Amendment Proposed:

In line 3, leave out the word "Federal" — Consequential Amendment.

Question that Clause 4 as amended, stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 5: Interpretation.**

In this Act, unless the context otherwise requires-

"Judicial Officer of the Federation" means the Chief Justice of Nigeria or a Justice of Supreme Court, the President or a Justice of Court of Appeal, the Chief Judge or a Judge of the Federal High Court, the Chief of a Judge of the High Court of the Federal Capital Territory, Abuja, the Grand Kadi or a Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja or the President or a Judge of the Customary Court of Appeal of the Federal Capital Territory, Abuja as provided in section 318 of the Constitution of the Federal Republic of Nigeria, 1999 (*Hon. Bala Ibn Na'Allah*).

Question that the meaning of the words "Judicial Officer of the Federation " be as defined in the interpretation to this Bill, put and agreed to.

Cap. 347 LLFN 1990

"Pension" means pension, gratuity or other retirement benefits payable to Judicial Officers under the provisions of the Constitution of the Federal Republic of Nigeria, 1999 and the Pension Rights of Judges Act (*Hon. Bala Ibn Na 'Allah*).

Question that the meaning of the word "pension" be as defined in the interpretation to this Bill, put and agreed to.

Question that Clause 5 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 6: Commencement.

This Act shall come into force on 1st day of January, 2006 (*Hon. Bala Ibn Na'Allah*) —
Agreed to.

Question that Clause 6 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 7: Citation.

This Act may be cited as the Pension Rights of Federal Judicial Officers (Transfer of Responsibility and Administration) Bill, 2006 (*Hon. Bala Ibn Na'Allah*).

Amendment Proposed:

In line 1, *leave out* the word "Federal" — *Consequential Amendment.*

Question that Clause 7 as amended, stand part of the Bill, put and agreed to.

Chairman to report Bill:

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee Whole considered the Report of the Joint Committee on Judiciary and Justice on a Bill for an Act to Transfer from the Presidency to the National Judicial Council, Responsibility for the Administration and Payment of Pension, Gratuity and Other Retirement Benefits of Judicial Officers, 2005. It approved the Marginal Title as amended, Clause 1 as amended, Clause 2 as amended, approved Clause 3, Clause 4 as amended, approved Clauses 5 and 6 and Clause 7 as amended.

Question that the House do adopt the Report of the Committee of Whole, put and agreed to.

(Hi) *Joint Committee on Banking and Currency and Justice:*

Motion made and Question proposed, "That this House do consider the Report of the Joint Committee on Banking and Currency and Justice on a Bill for an Act to Repeal the Nigeria Deposits Insurance Corporation Act, 1988 and to Re-Enact the Nigeria Deposit Insurance Corporation Act, 2005; and for Matters Connected Therewith and approve the Recommendations therein" (*Hon. Clever Ikisikpo*).

- *Question that the House do resolve into Committee of the Whole to consider the Report, agreed to.*

Question that Order VII, Rule 2 (2) be suspended to enable Mr Speaker preside in the Committee of 'Whole, put and agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

A BILL FOR AN ACT TO REPEAL THE NIGERIA DEPOSITS INSURANCE
 CORPORATION ACT, 1988 AND TO RE-ENACT THE NIGERIA DEPOSIT INSURANCE
 CORPORATION ACT, 2005; AND FOR MATTERS CONNECTED THEREWITH

PART I — ESTABLISHMENT AND FUNCTIONS OF THE NIGERIAN DEPOSIT INSURANCE CORPORATION

Committee Recommendation:

Clause 1: Establishment of the Nigeria Deposit Insurance Corporation.

- (1) There shall continue to be a body known as the Nigerian Deposit Insurance Corporation (hereinafter in this Act referred to as "the Corporation").
- (2) The Corporation shall continue to be a body corporate with perpetual succession and a common seal.
- (3) The Corporation may sue or be sued in its corporate name and may for the purposes of its functions under this Act and subject to the Land Use Act, hold, acquire and dispose of any property movable or immovable (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 1 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 2: Functions of the Corporation.**

The Corporation shall have responsibility for —

- (a) insuring all deposit liabilities of licensed banks and such other deposit taking financial institutions (hereinafter referred to as "insured institutions");
- (b) giving assistance to insured institutions in the interest of depositors, in case of imminent or actual financial difficulties particularly where suspension of payments is threatened, to actual financial difficulties particularly where suspension of payments is threatened, to avoid damage to public confidence in the banking system;
- (c) guaranteeing payments to depositors, in case of imminent or actual suspension of payments by insured institutions up to the maximum amount as provided for in Section 20 of this Act;
- (d) assisting monetary authorities in the formulation and implementation of banking policy so as to ensure sound banking practice and fair competition among insured institutions in the country;
- (e) pursuing any other measure necessary to achieve the functions of the Corporation provided such measures and actions are not repugnant to the objects of the Corporation (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 2 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 3: Prohibition Against Proliferation o Deposit Insurance Scheme.**

- (1) Notwithstanding any provision contained in any other law, no person other than the Corporation shall insure deposit liabilities or guarantee payments to depositors of insured institutions operating in Nigeria.
- (2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable to a fine of N100,000.00 or imprisonment for a term not exceeding five (5) years or to both such fine and imprisonment. Where the offence is committed by a body corporate, the fine shall be N500,000.00 for each day the contravention continues (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 3 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 4: Head Office of the Corporation, etc.**

The Corporation shall have its Head Office in any location which is by law the capital of the Federal Republic of Nigeria and may open offices in any part of Nigeria and appoint agents and correspondents as may be approved by the Board (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 4 stand part of the Bill, put and agreed to.

PART IT — ADMINISTRATION

v

*Committee Recommendation:***Clause 5: Board of Directors, etc.**

- (1) The governing body of the Corporation shall be a Board of Directors (hereinafter in this Act referred to as "the Board").
- (2) The Board shall consist of the following members, that is—
 - (a) the Chairman;
 - (p) the Managing Director;
 - (c) two Executive Directors;
 - (d) a representative of the Central Bank of Nigeria (CBN) not below the rank of a Director;

- (e) a representative of the Federal Ministry of Finance not below the rank of a Director; and
- if) six other members one from each of the six geopolitical zones of the country.
- (3) The President of the Federal Republic of Nigeria shall appoint the Chairman and members of the Board referred to in paragraph (a), (b), (c) and if); provided the chairman's appointment shall be subject to confirmation by the Senate.
- (4) The Chairman and members of the Board referred to in paragraphs (d) (f) of Subsection (2) of this section shall be part-time members.
- (5) The part-time members of the Board referred to in Subsection (3) above shall be experienced persons with relevant background.
- (6) The supplementary provisions contained in the Schedule to this Act shall have effect with respect to the matters therein mentioned (*Hon. Clever Ikisikpo*).

Amendment Proposed:

InSubclause(5), line 3, immediately after the word "appointment", *insert* the words "and that of the six other members in paragraph if) (*Hon. Almajiri Geidam*).

Question that the amendment be made, put and agreed to.

Question that Clause 5 as amended, stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 6: Disqualification, etc. of Members of the Board.

- (1) Notwithstanding the provisions of this Act a person shall cease to hold office as a member of the Board if —
 - (a) he becomes bankrupt, suspends payment or compounds with his creditors; or
 - (b) he is convicted of a felony or any offence involving dishonesty or fraud; or
 - (c) he becomes of unsound mind, or incapable of carrying out his duties; or
 - (d) he is guilty of a serious misconduct in relation to his duties; or
 - (e) in the case a person possessed of professional qualifications, he is disqualified or suspended other than at his own request from practicing his profession in any part of the world by an order of a competent authority made in respect of that Director; or
 - (f) he resigns his appointment by a letter addressed to the President of the Federal Republic of Nigeria, through the Minister of Finance;
 - (g) he is discovered to have significant interest in any insured institution in Nigeria ; or
 - (h) if he is found to have failed to disclose to the board his interest or significant interest of any family member or close associate known to him in any insured institution at the time of his appointment.
- (2) No Director or employee of an insured institution under this Act shall, whilst in office be appointed a Director of the Corporation.
- (3) Whenever the Board is dissolved, the Honourable Minister of Finance shall in consultation with the Governor of CBN constitute a Management Committee for the Corporation to be made up of the following members, one of whom shall be appointed the Chairman, the Managing Director, the Executive Directors, a representative each of CBN and the Federal Ministry of Finance to perform the functions of the Board until a new Board is constituted (*Hon. Clever Ikisikpo*) —
Agreed to.

Question that Clause 6 as amended, stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 7: Powers of the Board.

The Board shall have power—

- (a) to superintend over the affairs of the Corporation;
- (b) for the overall policy and general administration and shall act in the name of the Corporation;
- (c) to acquire offices and other premises for the use of the Corporation;
- (d) to make, alter and revoke rules and regulations for carrying on the business of the corporation under this Act;
- (e) to appoint officers which in the opinion of the Board are required for carrying out the functions of the Corporation with particular reference to the examination of any insured institution or carrying out special examination of any insured institution;
- (F) to fix terms and conditions of service including remuneration of the employees of the Corporation;
- (g) to advise the Central Bank of Nigeria on the need to close an insured institution if in the opinion of the Board its continued operation will jeopardize the interests of depositors;
- (h) to serve notice on an insured institution of its intention to remove the institution from its record of insured institutions;
- (O) to assume, with the concurrence of the CBN, the management of a failing insured institution;
- (f) with the concurrence of the Central Bank of Nigeria, to serve Notice of removal from office on any officer or director who has committed any violation of the law, rules or regulation of the Corporation or has engaged in an unsound practice that may lead to dissipation of assets of, or financial loss to his or her insured institution;
- (k) to extend from time to time the period within which a depositor is required under this Act to file his claim for the payment of insured deposit in a failed insured institution;
- (I) to appoint agents who shall be empowered to carry out any function as may be determined by the Board; and
- (m) to do such other things and enter into such other transactions which in the opinion of the Board are necessary to ensure the efficient performance of its functions (*Hon. Clever Msikpo*) — *Agreed to.*

Question that Clause 7 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 8: Executive Management, etc.

- (1) There shall be appointed for the Corporation the following, that is—
 - (a) the Managing Director, who shall be the Chief Executive Officer of the Corporation;
 - (b) two Executive Directors who shall perform such duties as may be assigned to them from time to time by the Board or the Managing Director.
- (3) Any person appointed as the Managing Director or an Executive Director shall not, while holding that office, hold any other office or be a director in any corporation, company or any other establishment without the prior approval of the Board.

- (4) The Managing Director and Executive Directors appointed pursuant to the provisions of this section shall constitute the Executive Committee of the Board, and shall hold office for a period of five years and shall be eligible for reappointment for a further period of five years.
- (5) Subject to Subsection (4) of this Section, the Managing Director and Executive Directors shall hold office on such terms and conditions as may be specified in their letters of appointment (*Hon. Clever Ikisikpo*).

Amendment Proposed:

Retain the following provision in Subclause (2) of the Principal Bill:

"The President of the Federal Republic of Nigeria shall appoint the Managing Director and the Executive Directors specified in Subsection (1) of this section" (*Hon. Abubakar Momoh*).

Question that the amendment be made, put and agreed to.

Question that Clause 8 as amended, stand part of the Bill, put and agreed to.

Committee Recommendation:

- Clause 9: Board Secretary, staff, etc.
- (1) The Board shall appoint such number of officers and servants as may appear expedient and necessary for the proper and efficient conduct of the business and functions of the Corporation.
 - (2) The Board shall appoint a Secretary who shall be responsible to the Managing Director and shall keep the Board's records, conduct its correspondence and perform such other duties as the Board or the Managing Director may from time to time determine.
 - (3) The terms and conditions of service (including remuneration, allowances and pension benefits) of the Secretary and other staff of the Corporation shall be as may be determined by the Board (*Hon. Clever Ikisikpo*).

Amendment Proposed:

In Subclause (3), line 2, after the word "benefits" insert the words "in accordance with the Pension Act" (*Hon. Almajiri Geidam*).

Question that the amendment be made, put and agreed to. Question that

Clause 9 as amended, stand part of the Bill, put and agreed to. PART in —

CAPITAL AND FUNDS OF THE CORPORATION

Committee Recommendation:

- Clause 10: Funds of the Corporation.
- (1) The funds of the Corporation shall consist of—
 - (a) assessed premiums paid by insured institutions in accordance with Section 17 of this Act;
 - (b) income from the investments of the Corporation;
 - (c) moneys borrowed from any source with the approval of the Board; and
 - (d) moneys from any other source as may be approved by the Board.
 - (2) The Corporation shall have power to establish a separate Deposit Insurance Fund (DIF) for each category of insured institution in which all assessed premiums paid shall be deposited and which fund the Corporation shall utilize for the respective insured institutions.
 - (3) The Corporation shall, with the prior approval of the Board, operate a Current or, other Special Accounts with the Central Bank of Nigeria (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that clause 10 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 11: Capital and Reserve Fund.**

- (1) The authorized capital of the Corporation shall be N5,000,000,000.00.
- (2) On a resolution of the Board, there shall be paid up such amount as shall be subscribed by and paid -up at par in a proportion of 60 percent and 40 percent by the Central Bank Of Nigeria and the Federal Ministry of Finance respectively.
- (3) Notwithstanding the provision of Subsection (1) of this Section, the authorized capital of the Corporation may be increased by such amount as the Board may by special resolution determine from time to time (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 11 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 12: General Reserve.**

- (1) The Corporation shall establish a general reserve fund to which shall be transferred the Corporation's net operational surplus before tax if the reserve fund is less than ten times the authorized capital.
- (2) Where the reserve fund is more than ten times the authorized capital at the end of the year, 75 per cent of the net operational surplus before tax shall be transferred to the reserve fund, 50 per cent of the remaining amount after tax shall be applied to reduce the annual premium payable by insured institutions while the remaining 50 per cent shall be paid to the shareholders.
- (3) The net operational surplus of the Corporation for each year shall be determined after meeting all the current expenditure for that year and after making such provisions as the Board may deem fit for depreciation of assets, contribution to staff pension and superannuation funds and all other contingencies (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 12 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 13: Bank account and investment of monies of the Corporation.**

- (1) The Corporation shall have power to invest money not immediately required in Federal Government Securities or in such other securities as the Board may from time to time determine.
- (2) The incomes from the money invested as prescribed by subsection (1) of this section shall be credited to the account of the Corporation.
- (3) AH administrative expenses shall be defrayed out of the income of the Corporation (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 13 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 14: Expenditure.**

There shall be chargeable to the Corporation—

- (a) all expenses incurred on behalf of the Corporation;
- (b) all refunds of excess assessment;
- (c) monies required for the payment of funds borrowed by the Corporation;
- (d) payment to an insured institution which assumes the deposits liability of another insured institution; and
- (e) payment to depositors when the license of an insured institution is revoked (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 14 stand part of the Bill, put and agreed to.

PART IV — DEPOSIT INSURANCE SCHEME

*Committee Recommendation:***Clause 15: Participating Institutions.**

- (1) All licensed banks and such other financial institutions in Nigeria engaged in the business of receiving deposits shall be required to insure their deposit liabilities with the Corporation.
- (2) Any licensed bank or such other deposit -taking financial institution which contravenes the provisions of subsection 1 of this section shall be guilty of an offence and be liable to a maximum fine of N500,000.00 (Five Hundred Thousand Naira) for each day the offence is committed.
- (3) All principal officers of such a licensed bank or deposit -taking financial institution which contravenes subsection (1) of this section shall be guilty of an offence and be liable to 5 years imprisonment and or a fine not less than N3,000,000.00 (Three Million Naira) or to both such fine and imprisonment (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 15 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 16: Insurance deposit.**

All deposits of a licensed bank or any other licensed deposit-taking financial institution shall be insured with the Corporation with the exception of the following, that is—

- (a) insider deposits, that is, deposits of staff including directors of the licensed bank or financial institution;
- (b) counter-claims from a person who maintains both deposit and loan accounts, the former serving as collateral for the loan; or
- (c) such other deposits as may be specified from time to time by the Board (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 16 stand part of the Bill, put and agreed to.

*Committee Recommendation:***Clause 17: Assessment of Insured Banks and Special Contribution.**

- (1) Every Insured institution being a licensed bank or deposit taking financial institution to which this Act relates, shall be obliged to pay to the Corporation, a premium which shall not exceed ($\frac{15}{16}$) fifteen sixteenth of one per cent per annum for licensed banks and eight-sixteenth ($\frac{8}{16}$) of one percent per annum for other deposit- taking financial institutions of the total deposit liabilities standing in its books as at 31st December of the preceding year in the following manner, that is—
 - (a) the deposit liabilities shall be as certified by the approved auditor of the licensed bank or such other deposit-taking financial institution;
 - (b) the certified deposit liabilities shall be forwarded to the Corporation on or before 31st January of every year; and
 - (c) the annual premium shall be payable not later than 2 months from the date of the demand notice.
- (2) Notwithstanding the provisions of sub-section 1 of this section, and subject to the approval of the board ,the corporation shall have the power to vary the rate or basis of assessment of the premium payable to the corporation by insured institutions or to charge an insured institution or any class of insured institutions premium at a rate or rates which reflects the risk posed to the Corporation 's Deposit Insurance Fund.
- (3) The premium payable under Subsections (1) and (2) of this section shall not be chargeable to depositors in any form whatsoever.

- (4) Where the funds of the corporation are not sufficient for giving assistance to insured institutions within the meaning of this Act or otherwise required for the implementation of the objects of the Corporation, every participating insured institution or category of insured institution shall be obliged without prejudice to subsection (1) and (2) of this section to pay as special contribution out of its profits before tax, a sum equal to its annual premium to the board.
- (5) Where an insured institution has assumed the deposit liabilities of another insured institution, such deposit liabilities of the other institution shall be added to its own total deposit liability for purpose of assessing its premium payable to the corporation.
- (6) Any premium payable by an insured institution and which remains unpaid for more than three months after a demand notice had been served on such institution, shall attract interest at a rate equivalent to the prevailing Minimum Rediscount Rate (MRR) of the CBN (*Hon. Clever Ikisikpo*) — *Agreed to*.

Question that Clause 17 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 18: Payment of dividends by Insured Banks while in default of assessment.

Without prejudice to the provisions of the Banks and Other Financial Institutions Act 1991 as amended no insured institution shall pay any dividend on its capital stock or from profit declared while it remains in default in the payment of any premium obligation due or special contribution due to the Corporation, and any director, manager or officer of any insured institution who is responsible for the declaration or payment of any such dividend shall be guilty of an offence under this Act and shall be liable to a fine of 5 % of the total dividend so declared or paid (*Hon. Clever Ikisikpo*) — *Agreed to*.

Question that Clause 18 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 19: Prohibition of set off.

No premium due from an insured institution to the Corporation shall be reduced, adjusted or withheld on the basis of any set off or claim that an insured institution may have against the Corporation (*Hon. Clever Ikisikpo*) — *Agreed to*.

Question that Clause 19 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 20: Maximum claim.

- (1) A depositor shall receive from the Corporation as provided under Subsection (1) (c) of Section 2 of this Act, a maximum amount of N200,000.00 (two hundred thousand Naira) from the Deposit Insurance Fund of licensed banks or 1^100,000.00 (one hundred thousand) from the Deposit Insurance Fund of other licensed deposit-taking financial institutions in the event of the revocation of operating license of that bank or other deposit taking financial institution.
- (2) Notwithstanding the provisions of Subsection (1) of this Section and subject to the approval of the Board, the Corporation shall have power to vary the maximum amounts which a depositor shall receive from the Corporation as provided under Subsection (1) (c) of Section 2 of this Act in respect of deposits of insured institutions.
- (3) For the purpose of Subsection (1) of this Section, all accounts held together in the same right and capacity shall be merged as one account.
- (4) The payment of the insured sum as provided for under this section shall be without prejudice to the liquidation dividends to be paid once the assets of the failed insured institution has been realized (*Hon. Clever Ikisikpo*) — *Agreed to*.

Question that Clause 20 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 21: Payment of insured deposit.

- (1) Where the license of an insured institution is revoked, payment of the insured deposit in such institution shall be made by the Corporation within 90 days either—

- (a) by cash, negotiable instrument; or
- (b) by making available to each depositor a transferred deposit in another insured institution in an amount equal to the insured deposit of such depositor:

Provided that—

- (i) where the Corporation is liable to make payment in pursuance of this section, it shall, at its discretion, require proof of claim from all depositors with the insured institution ; and
 - (ii) where the Corporation is not satisfied as to the validity of a claim for an insured deposit, it may require the Final determination by a court of competent jurisdiction before paying such claim.
- (2) The Corporation upon the payment of any depositor as provided in subsection (1) of this section shall be subrogated to all rights of the depositor against the failed insured institution to the extent of such payment; and such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such failed insured institution and recoveries on account of shareholder's liabilities as would have been payable to the depositor for any uninsured portion of his deposit.
 - (3) Not later than 90 days after the failure of an insured institution, the Corporation, if it finds that it is advisable in the interest of the depositors or the public, shall appoint another insured institution to assume the insured deposits of the failed insured institution (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 21 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 22: Powers to withhold deposits/discharge of Corporation.

- (1) The Corporation shall have power to withhold pending the determination of culpability or otherwise by a tribunal or court of competent jurisdiction, the payment of insured and excess uninsured deposit claims obtained through or being used in connection with or held in furtherance of criminal activities or where it is satisfied that the depositor had connived with the insured institutions officials or had been a party to or had knowingly benefitted from the circumstances which gave rise to the failure of an insured institution.
- (2) The Corporation may withhold payment of such portion of the insured deposit of any depositor in a failed insured institution as may be required to provide for the payment of any liability of such depositor as a shareholder of the failed institution, or of any liability of such depositor to the failed insured institution or its liquidator /receiver, pending the determination and payment of such liability by such depositor or any other person liable thereof.
- (3) Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of a transferred deposit to any person by an insured institution in which a transferred deposit has been made available shall discharge the Corporation and such other insured institution, to the same extent that payment to such person by the failed institution would have discharged it from liability from the insured institution.
- (4) If, after the Corporation shall have given at least three months notice to pay to every depositor by mailing a copy thereof to his last known address appearing in the records of the failed insured institution , and publishing a general notice in at least two National dailies and two electronic media houses with National coverage, notifying insured depositors of the particular failed insured institution of the dates and venue for payment, any depositor of the failed insured institution who—

- (a) fails to claim his insured deposit from the corporation within six years after the Notice of the Corporation has been sent to the depositor and the Notice of payment to the depositors is published in two National dailies and electronic media houses, shall forfeit such sums to the Corporation; or
 - (b) fails within such period to claim or arrange to continue the transferred deposit with the new insured institution, all the rights of the depositor against the failed insured institution or its shareholders or the receivership estate to which the corporation may have become subrogated shall thereupon revert to the corporation.
- (5) The amount of any transferred deposits not claimed within the period stated in Subsection (4) (b) of this section shall be refunded to the Corporation.
- (6) No Court proceedings shall be commenced against the Corporation in respect of the obligation of the Corporation to make any payment in relation to any deposit held by any person in any insured bank or financial institution after the expiry of the period stipulated in Subsection 4 of this section or any extension that may be granted under paragraph (k) of Section 7 of this Act (*Hon. Clever Ikisikpo*) — *Agreed to.*

Question that Clause 22 stand part of the Bill, put and agreed to.

Chairman to report Progress;

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee Whole considered the Report of the Joint Committee on Banking and Currency and Justice on a Bill for an Act to Repeal the Nigeria Deposits Insurance Corporation Act, 1988 and to Re-Enact the Nigeria Deposit Insurance Corporation Act, 2005; and for Matters Connected Therewith. It approved Clauses 1, 2, 3 and 4, Clause 5 as amended, approved Clauses 6 and 7, Clauses 8 and 9 as amended, approved Clauses 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22. *He asked leave to sit again.*

Question that the House do adopt the Report of the Committee of Whole, put and agreed to.

6. Adjournment:

That this House do now adjourn till Thursday, March 9, 2006 at 10.00 p.m. (*Hon. Patricia Etteh*).

Adjourned accordingly at 5.10 p.m.

Aminu **Bello Masari**
Speaker