



# HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

## VOTES AND PROCEEDINGS

Wednesday, 25 August, 2004

1. The House met at 2.15 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, 24 August, 2004.

*By unanimous consent, the Votes and Proceedings were adopted.*

3. **Announcement:**  
**Obituary:**  
Mr Speaker acknowledged receipt of a letter by Hon. Leo Ogor conveying the sad news of the death of Hon. Kagho Omomedia, a Member, House of Representatives of the First Republic. He called for a minute in silence in honour of the deceased and prayer for the repose of the deceased's soul.

*(One minute in silence observed; Hon. Solomon Agidiani rendered prayers for the repose of the soul of the deceased).*

4. **Petition:**  
**Wrongful Termination of Appointment: Mr Jonathan Onwah:**  
Hon. Leo Ogor presented a petition on behalf of Mr Jonathan Onwah, a former employee of Pipeline and Products Marketing Company Ltd (a subsidiary of NNPC). The petitioner claimed that he was unjustly dismissed from the service of the Company and prayed the House to intervene with a view to converting his dismissal to retirement with full benefit.

*Petition referred to the Committee on Public Petitions.*

5. **Presentation of Report:**  
**Committee on Ethics and Privileges:**  
*Motion made and Question proposed, "That this House do receive the Report of the House Committee on Ethics and Privileges on the Draft Code of Conduct for Hon. Members" (Hon. Bello M. Mutawelle).*

*Question put and agreed to.*

*Report Laid.*

6. **A Bill for an Act to Provide for a Code of Conduct for Law Enforcement Officials in Preforming their Duties; and Related Matters, 2004 (HB. 92) — Second Reading:**  
*Motion made and Question proposed, "That the Bill for an Act to Provide for a Code of Conduct for Law Enforcement Officials in Preforming their Duties; and Related Matters, 2004 be now read a Second Time" (Hon. Monsaro Alao).*

*Debate:*

*Bill by leave of House, withdrawn.*

**7. Consideration of Reports:**

**(i) Committee on Information:**

*Motion made and Question proposed, "That this House do resume consideration the Report of the Committees on Information, Justice and Human Rights on the Bill for an Act to Make Public Records and Information more Freely Available, Provide for Public Access to Public Records and Information, Project Public Records and Information to the Extent Consistent with the Public Interest and the Protection of Personal Privacy, Protect Serving Public Officers from Adverse Consequences for Disclosing Certain Kinds of Official Information without Authorization and Establish Procedures for the Achievement of those Purposes and Related Purposes Thereof, 2003, and approve the recommendations therein" (Hon. Ojomo A. Emmanuel).*

*Question put and agreed to.*

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

*Question, that Order VII, Rule 2 (2) of the Standing Orders be suspended to enable Mr Speaker preside in the Committee of whole to consider the Report, agreed to.*

**(HOUSE IN COMMITTEE)**

*(Mr Speaker in the Chair)*

A BILL FOR AN ACT TO MAKE PUBLIC RECORDS AND INFORMATION MORE FREELY AVAILABLE, PROVIDE FOR PUBLIC ACCESS TO PUBLIC RECORDS AND INFORMATION, PROJECT PUBLIC RECORDS AND INFORMATION TO THE EXTENT CONSISTENT WITH THE PUBLIC INTEREST AND THE PROTECTION OF PERSONAL PRIVACY, PROTECT SERVING PUBLIC OFFICERS FROM ADVERSE CONSEQUENCES FOR DISCLOSING CERTAIN KINDS OF OFFICIAL INFORMATION WITHOUT AUTHORIZATION AND ESTABLISH PROCEDURES FOR THE ACHIEVEMENT OF THOSE PURPOSES AND RELATED PURPOSES THEREOF, 2003

**Committee Recommendation:**

**Clause 8: Extension of time limits.**

The head of government and or public institution may extend the time limit set out in Section 6 or Subsection 7 (1) in respect of a request under this Act for a reasonable period of time, and in any event not exceeding seven days, if—

- (a) the request is for a larger number of records or necessitates a research through a large number of records and meeting the original time limit would unreasonably interfere with the operations of the government and/or public institutions; or
- (b) consultations are necessary to comply with the request that cannot reasonably be completed within the original time limit, by giving notice of the extension stating whether the extension falls under the circumstances set out in paragraph (a) or (b), which notice shall contain a statement that the person has a right to have the decision to extend the time limit reviewed by a Court.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 9: Where access is refused.**

- (1) Where the head of a government and or public institution refuses to give access to a record requested under this Act, or a part thereof, the head of the institution shall state in the notice given under Section 6 (a) the specific provision of this Act on which the refusal was based and shall state in the notice that the person who made the request has a right to have the decision refusing access reviewed by a Court.

- (2) Any notification of denial of any request for records shall set forth the names of each person responsible for the denial of such request.
- (3) The head of a government and or public institution shall be required to indicate under Subsection (1) whether a record exists.
- (4) Where the head of a government and or public institution fails to give access to record requested under this Act or part thereof within the time limits set out in this Act, the head of the institution shall, for the purposes of this Act, be deemed to have refused to give access.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 9 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 10: Fees, etc. and action for waivers.**

- (1) A government or public regulations shall provide that—
  - (a) fees shall be limited to reasonable standard charges for document search, duplication, review and transcription where necessary, when records are requested for commercial use;
  - (b) fees shall be limited to reasonable standard charges for document search, duplication, review and transcription where necessary, when records are not sought for commercial use and the request is made by an educational or noncommercial, scientific research, or a representative of the news media; and
  - (c) for any request described in (a) or (b) fees shall be limited to reasonable standard charges for document search, duplication, review and transcription where necessary.
- (2) Document shall be furnished without any charge or at a charge reduced below the fees established under Section 10 (1) (b) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not operations or activities of the government and is not primarily in the commercial interest of the requester.
- (3) Fees schedules shall provide for the recovery of only the direct costs of search, duplication, reproduction, review or transcription where the record being requested under this Act is produced as a result of the request from a machine readable record under the control of a government and/or public institution.
- (4) Review costs shall include only the direct costs incurred during the initial examination of a document for the purposes of determining whether the documents must be disclosed under this section and for the purpose of withholding any portions exempt from disclosure under this Act.
- (5) Review costs may not include any costs incurred in resolving issues of law or policy that may be raised in the course of processing a request under this section.
- (6) No fee may be charged by any government or public institution—
  - (a) if the costs of routine collection and processing of the fee are likely to equal or exceed the amount for the fee; or (b) for any request described in Section 10 (1) (a) (b) or (c) for the first two hours of search time or for the first one hundred pages of publication;
- (7) No government or public institution may request advance payment of any fees unless the requester has previously failed to pay fees in a timely fashion.

- (8) Nothing in this Act shall supercede fees chargeable under a statute specifically providing for setting the level of fees for particular types of records.
- (9) In any action by a requester regarding the waiver of fees under this section, the court shall determine the matter de novo, provided that court's Fees review of the matter shall be limited to the record before the Government of Public Institution.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 11: Destruction or falsification of record.**

It shall be a criminal offence punishable on conviction with 3 years imprisonment for any officer or the head of any government and/or public institution to which this Act applies who tries to either willfully destroy any records kept in his/her custody or attempts to doctor or otherwise alter same before they are released to any person, entity or community requesting for it.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 12: Access to records.**

- (1) Access to a record shall be given to the person requesting such access in one or more of the following forms—
  - (a) a reasonable opportunity to inspect or copy the record;
  - (b) in the case of a record that is an article or thing from which sounds or visual images are capable of being reproduced, the making of arrangements for the person to hear or view these sounds or visual images;
  - (c) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or which words are contained in the form of shorthand writing or in codified form, provision by the government and/or public institution of a written transcript or the words recorded or contained in the document.
- (2) Subject to Subsection (3) of this section, where the person requesting access has requested such access in a particular form, access shall be given in that form.
- (3) If the giving of access in the form requested by the person—
  - (a) would interfere unreasonably with the operations of the government and or public institution, or the performance by any officer or employee thereof of his functions,
  - (b) would be detrimental to the preservation of the record or, having regard to the physical nature of the record, would not be appropriate; or (c) would, but for the provisions of this Act, involve an infringement of copyright (other than copyright owned by the Federal Republic of Nigeria, a state, or a local government, or a government and or public institution thereof) subsisting in matter contained in the record, being matter that does not relate to the affairs of a government and/or public institution, access in that form may be refused and access shall be given in another form.

- (4) Subject to Subsection 13 (1), where a person requests access to a record in a particular form and, for a reason specified in Subsection (3) hereof access in that

shall not be requested to pay a charge in respect of the provision of access to the record that is greater than the charge that he would have been required to pay if access had been given in the form requested.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 13: Where information is not available in discrete form.**

Where a request is made to a government and or public institution and—

- (a) it appears from the request that the desire of the person requesting access is for information that is not available in distinct form in documents of the government and/or public institution, and
- (b) the government and or public institution could produce a written document containing the information in distinct form by—
  - (i) the use of a computer or of other equipment that is ordinarily available to the government and/or public institution for retrieving or collating stored information, or
  - (ii) the making of a transcript from a sound recording held in the government and or public institution, the government and/or public institution shall deal with the request as if it were a request for access to a written document so produced and containing that information, and, for that purpose, this Act applies as if the government and or public institution had such a document in its possession.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 14: International affairs and defence.**

- (1) The head of a government and or public institution may refuse to disclose any record requested under this Act that contains information the disclosure of which may be injurious to the conduct of international affairs and the defence of the Federal Republic of Nigeria.
- (2) However, such right to refuse the disclosure of any record requested by an applicant ceases to exist where the interest of the public in having the said record being made available to them outweighs whatever injury disclosing such records would have to the aforementioned interests provided that such public overriding interest is to be determined by a Court of law.

*Retain above provisions in the Principal Bill as amended (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 15: Law enforcement and investigations.**

- (1) The head of a government and or public institution may refuse to disclose any record requested under this Act that contains—
  - (a) records compiled by any government and/or public institution for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a government and/or public institution, but only to the extent that disclosure would—

- (i) interfere with pending or actual and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;
  - (ii) interfere with pending administrative enforcement proceedings conducted by any government and/or public institution;
  - (iii) deprive a person of a fair trial or an impartial hearing;
  - (iv) unavoidably disclose the identity of a confidential source;
  - (v) constitute an invasion of personal privacy under Section 19 of this Act, however, where the interest of the public would be better served by having such record being made available, this exemption to disclosure shall not apply;
  - (vi) obstruct an ongoing criminal investigation.
- (b) information the disclosure of which could reasonably be expected to be injurious to the security of penal institutions.
- (2) The head of a government and or public institution may refuse to disclose any record requested under this Act that contains information that could reasonably be expected to facilitate the commission of an offence.
- (3) For the purposes of paragraph (1) (a), "Investigation" means an investigation that—
- (a) pertains to the administration or enforcement of any enactment;
  - (b) is authorized by or pursuant to any enactment.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 16: Economic interest of the Federal Republic on Nigeria.**

The head of a government and or public institution may refuse to disclose any record requested under this Act that contains—

- (a) trade secret, financial, commercial, or technical information that belongs to the government of the Federal Republic of Nigeria or any State or Local Government thereof, and has substantial economic value or is likely to have substantial value;
- (b) information the disclosure of which could reasonably be expected to prejudice the competitive position of a government and/or public institution;
- (c) scientific or technical information obtained through research by an officer or employee of a government and/or public institution, the disclosure of which could reasonably be expected to deprive the officer or employee of priority of publication; or
- (d) information the disclosure of which could reasonably be expected to be materially injurious to the financial interest of the Federal Republic of Nigeria, or any State or Local Government thereof, or the ability of the Federal Government thereof, or the ability of the Federal Government, a State or Local Government to manage its economy, or could reasonably be expected to result in an undue benefit to any person including but not limited to the following information—
  - (i) the currency, coinage or legal tender of the Federal Republic of Nigeria,

- (ii) a contemplated change in the rate of banks interest or in government borrowing;
- (iii) a contemplated change in tariff rates, taxes, duties or any other revenue sources,
- (iv) a contemplated change in the conditions of operation of financial institutions; and
- (v) a contemplated sale or purchase of securities or of foreign or Nigerian currency.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 17: Personal information.**

- (1) Subject to Subsection (2), the head of a government and or public institution shall refuse to disclose any record requested under this Act that contains personal information. Information exempted under this subsection shall include—
  - (i) files and personal information maintained with respect to clients, patients, residents, students, or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or government and or public institutions;
  - (ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any government and/or public institution or applicants for such positions;
  - (iii) files and personal information maintained with respect to any applicant, registrant or licensee by any government and/or public institution cooperating with or engaged in professional or occupational registration, licensure or discipline;
  - (iv) information required of any tax payer in connection with the assessment or collection of any tax unless disclosure is otherwise requested by state statute; and
  - (v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies.
- (2) The head of a government and or public institution may disclose any record requested under this Act that contains personal information if—
  - (a) the individual to whom it relates consents to the disclosure;
  - (b) the information is publicly available.
- (3) Where disclosure of any information referred to in this section would be in the public interest, and if the public interest in the disclosure of such information clearly outweighs the protection of the privacy of the individual to whom such information relates, the head of the government and/or public institution to whom a request for disclosure is made shall disclose such information subject to Section 14 (2) of this Act.

*Retain above provisions in the Principal Bill as amended (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:****Clause 18: Third party information.**

- (1) Subject to this section, the head of a government and/or public institution shall refuse to disclose any record requested under this Act that contains—
  - (a) trade secrets and commercial or financial information obtained from a person or business where such trade secrets or information are proprietary, privileged or confidential, or where disclosure of such trade secrets or information may cause competitive harm. Nothing contained in this subsection shall be construed to prevent a person or business from consenting to disclosure;
  - (b) information the disclosure of which could reasonably be expected to interfere with the contractual or other negotiations of a third party;
  - (c) proposal and bids for any contract, grants, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person.
- (2) The head of a government and or public institution shall not, pursuant to Subsection (1), refuse to disclose a part of a record if that part contains the result or product of environmental testing carried out by or on behalf of a government and/or public institution.
- (3) Where the head of a government and or public institution discloses a record requested under this Act, or a part thereof, that contains the results of a product or environmental testing, the head of the institution shall at the same time as the record or part thereof is disclosed provide a person who requested the record with a written explanation of the methods used in conducting the test.
- (4) The head of a government and public institutions shall disclose any record requested under this Act, or any part thereof, that contains information described in paragraph (1) (a) and (b) if that disclosure would be in the public interest as it relates to public health, public safety or protection of the environment and, if the Public interest in disclosure clearly outweighs in importance any financial loss or gain to, or prejudice to the competitive position of, or interference with contractual or other negotiation of a third party.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:****Clause 19: Advice, etc.**

- (1) The head of a government and or public institution may refuse to disclose any record requested under this Act, that contains preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion thereof shall not be exempted when the record is publicly cited and identified by the head of the government and/or public institution. The exemption provided in this subsection extends to all those records of officers and agencies of National or State Houses of Assembly which pertain to the preparation of legislative documents.
- (2) Subsection (1) does not apply in respect of a record that contains—
  - (a) an account of, or a statement of reasons for a decision that is made in the exercise of a discretionary power or an adjudicative function and which affect the rights of a person; or
  - (b) a report prepared by a consultant or an adviser who was not, at the time the report was prepared, an officer or employee of a government and/or public institution or a member of staff of a Ministry of the Federal Government or Commissioner of a State Government

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 20: Legal Practitioner/Client privilege.**

The head of a government and or public institution may refuse to disclose any record requested under this Act that contains information that is subject to Legal Practitioner-Client privilege.

*Retain above provision in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 21: Course or Research materials.**

The head of a government and or public institution may refuse to disclose any record requested under this Act which contains course materials or research materials prepared by faculty members.

*Retain above provision in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 22: Severability.**

Notwithstanding any other provision of this Act, where a request is made to a government and or public institution for access to a record that the head of the institution is authorized to refuse to disclose under this Act by reason of information or other material contained in the record, the head of the institution shall disclose any part of the record that does not contain, and can be severed from any part that contains any such information or material.

*Retain above provision in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 23: Judicial review.**

Any person who has been refused access to a record requested under this Act, or a part thereof may apply to the Court for a review of the matter within thirty days after the head of the government and/or public institution refuses or is deemed to have refused the request, or within such further time as the Court may either before or after the expiration of those thirty days fix or allow.

*Retain above provision in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 24: Refusal by head of government and/or public institution to disclose records.**

The head of a government and or public institution may refuse to disclose any record requested under this Act that contains information pertaining to—

- (a) test questions, scoring keys and other examination data used to administer an academic examination or determine the qualifications of an application for a license or employment;
- (b) architects' and engineers' plans for buildings not constructed in whole or in part with public funds and for buildings constructed with public funds, to the extent that disclosure would compromise security, and
- (c) library circulation and other records identifying library users with specific

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 25: Hearing in a summary way.**

An application made under section 23 shall be heard and determined summarily.

*Retain above provision in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Clause 26: Access to record by Court.**

Notwithstanding anything contained in any other Decree, Act or enactment or any privilege under the law of evidence, the Court may, in the course of any proceedings before the Court arising from an application under Section 23 of this Act, examine any record to which this Act applies that is under the control of government and/or public institution, and no such record may be withheld from the court on any ground.

*Retain above provision in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 26 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 27: Court to take precautions against disclosing information.**

In any proceedings before the Court arising from an application under Section 23, the Court shall take precaution, including when appropriate, receiving representations ex-parte and conducting hearings in camera to avoid the disclosure by the Court or any person of any information or other material on a basis of which the head of a government and/or public institution will be authorized to disclose a part of a record requested under this Act.

*Retain above provision in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 27 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 28: Burden of proof.**

In any proceedings before the Court arising from an application under Section 23, the burden of establishing that the head of a government and or public institution is authorized to refuse to disclose a record under this Act or a part thereof shall be on the government and/or public institution concerned.

*Retain above provision in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 28 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 29: Order to disclose information.**

- (1) Where the head of a government and or public institution refuses to disclose a record requested under this Act, or a part thereof on the basis of a provision of this Act, the Court shall order the head of the institution to disclose the record or part thereof to the person who requested for access to the record—
  - (i) if the Court determines that the head of the institution is not authorized to refuse to disclose the record or part thereof; or
  - (ii) where the head of the institution is so authorised, but the Court nevertheless determines that the head of the institution did not have reasonable grounds on which to refuse to disclose the record or part thereof;

- (iii) where the court makes a finding that the interest of the public in having the record being made available is greater and more vital than the interest being served if the application is refused, in whatever circumstance.

- (2) Any order the Court makes in pursuance of this section may be made subject to such conditions as the Court deems appropriate.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 29 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 30: Exempted materials.**  
This Act does not apply to—

- (a) published material or material available for purchase by the public;
- (b) library or museum material made or acquired and preserved solely for public reference or exhibition purposes; or
- (c) material placed in the National Library, the National Museum or the non-public section of the National Archives of the Federal Republic of Nigeria on behalf of any person or organization other than a government and/or public institution.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 30 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 31: Protection of Public Officers, Cap. 77 LFN, 1990, Cap. 245 LFN, 1990, Cap 335, 1990.**

- (1) Notwithstanding anything contained in the Criminal Code, Penal Code, the Official Secrets Act, or any other enactment, no civil or criminal proceedings shall lie against any government and or public institution, or against any person acting on behalf of the government and or public institution, and no proceedings shall lie against the Federal Government, State or Local Government or any institution thereof, for the disclosure in good faith of any record or any part of a record pursuant to this Act, for any consequences that flow from that disclosure, or for the failure to give any notice required under this Act, if care is taken to give the required notice.
- (2) Nothing contained in the Criminal Code or the Official Secrets Act shall prejudicially affect any public officer who, without authorization discloses to any person, any public record and/or information which he reasonably believes to show—
  - (a) a violation of any law, rule or regulation,
  - (b) mismanagement, gross waste of funds, fraud, and abuse of authority; or
  - (c) a substantial and specific danger to public health or safety notwithstanding that such information was not disclosed pursuant to the provision of this Act.
- (3) No civil or criminal proceedings shall lie against any person receiving the information or further disclosing it.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 31 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 32: Documents under security classification, Cap. 335 LFN, 1990.**

kept by that institution under security classification or is classified document within the meaning of the Official Secrets Act does not preclude it from being disclosed pursuant to a request for disclosure thereof under the provisions of this Act, but in every case the head of the government and/or public institution to which a request for such record is made shall decide whether such record is of a type referred to in Sections 14, 15, 16, 17, 18, 19, 20 or 21 of this Act.

- (2) If the head of the government and or public institution to which the request for a record mentioned in Subsection (1) is made, decides that such record is not a type mentioned in the sections referred to in Subsection (1) hereof, access to such record shall be given to the person requesting for such access.
- (3) If the head of the government and or public institution to which the request for a record mentioned in Subsection (1) is made decides that such record is of a type mentioned in the sections referred to in Subsection (1) hereof, he shall give notice to the person requesting for the record.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 33 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 33: Submission of reports.**

- (1) On or before February 1 of each year, each government or public institution shall submit to the Attorney General of the Federal Republic of Nigeria a report which shall cover the preceding fiscal year and which shall include—
  - (a) ~~the number of determinations made by the Government or Public Institution not to comply with requests for records made to such Government or Public Institution under this Act and the reasons for each such determinations;~~
  - (b) the number of appeals made by persons under this Act, and the reason for the action upon each appeal that results in a denial of information;
  - (c) a description of whether a court has upheld the decision of the Government or Public Institution to withhold information under such circumstances and a concise description of the scope of any information withheld;
  - (d) the number of requests for records pending before the Government or Public Institution as of October 31 of the preceding year and the median number of days that such request had been pending before the Government or Public Institution as of that date;
  - (e) the number of requests for records received by the Government or Public Institution and the number of requests which the Government or public Institution processes;
  - (f) the median number of days taken by the Government or Public Institution to process different types of requests;
  - (g) the total amount of fees collected by the Government or Public Institution to process such request; and
  - (h) the number of full-time staff of the Government or Public Institution devoted to processing requests for records, and or the total amount expended by the Government or Public Institution for processing such requests.
- (2) Each government or public institution shall make such report available to the public including by computer telecommunications, or if computer telecommunications means have not been established by the Government or Public Institution, by other electronic means.

- (3) The Attorney-General shall make each report, which has been submitted to him, available at a single electronic access point.
- (4) He shall notify the Chairman and ranking minority member of the Committee on Government Reform Oversight of the House of Representatives and the Chairman and ranking minority member of the Committees on Government Affairs and the Judiciary of the Senate, not later than April of the year in which each such report is issued, that such reports are available by electronic means.
- (5) The Attorney-General shall develop reporting and performance guidelines in connection with reports required by this section and may establish additional requirements for such reports as the Attorney-General determines may be useful.
- (6) The Attorney-General shall submit an annual report on or before April 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this Act, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed.
- (7) Such report shall also include a description of the efforts taken by the Ministry of Justice to encourage all government or public institutions to comply with this Act.
- (8) For purposes of this section, the term—
  - (a) "government" includes any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President), or any other independent regulatory government or public institution; and
  - (b) "record" means any term used in this Act in reference to information which includes any information that would be government or public institution record subject to the requirements of this Act when maintained by government or public institution in any format, including an electronic format.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 33 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 34: Complimentary procedures.**

- (1) This Act is intended to complement and not replace existing procedures for access to public records and information and is not intended to limit in any way access to those types of officials information that have, hitherto, been normally available to the general public.
- (2) Where the question whether any public record and or information is to be made available, where that question arises under this Act, the question shall be determined in accordance with the provision stated herein, unless otherwise exempted by this Act.

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

*Question that Clause 34 stand part of the Bill, put and agreed to.*

**Committee Recommendation:**

**Clause 1: Short title.**

This Act may be cited as the Freedom of Information Act, 2004.

*Retain above provision in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:****Clause 2: Interpretation.**

In this Act, unless the text otherwise requires—

"Court" means a State High Court where the official information in question is kept by a local or State government institution, and the Federal High Court where the official information in question is kept by a Federal Government institution; (*Hon. Ojomo A. Emmanuel*).

*Question that the meaning of the word "Court" be as defined in the interpretation to this Act, put and agreed to.*

"Foreign State" means any State other than the Federal Republic of Nigeria; (*Hon. Ojomo A. Emmanuel*).

*Question that the meaning of the words "Foreign State" be as defined in the interpretation to this Act, put and agreed to.*

"Public/Government Institution" means any legislative, executive, judicial, administrative or advisory body of the Federal, State and Local Governments, boards, bureaux, committees or commissions of the State, and any subsidiary body of those public bodies including but not limited to committees and sub-committees which are supported in whole or in part by public fund or which expends public fund and private bodies carrying out public functions; (*Hon. Ojomo A. Emmanuel*).

*Question that the meaning of the words "Public/Government Institution" be as defined in the interpretation to this Act, put and agreed to.*

"Public record or document" means a record in any form having been prepared, or having been or being used, received, possessed or under the control of any public or private bodies relating to matters of public interest and includes—

- (a) any writing on any material;
- (b) any information recorded or stored on other devices; and any material subsequently derived from information so recorded or stored;
- (c) any label, marking, or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
- (d) any book, card, form, map, plan, graph, or drawing;
- (e) any photograph, film, negative, microfilm, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced; (*Hon. Ojomo A. Emmanuel*).

*Question that the meaning of the words "Public records or document" be as defined in the interpretation to this Act, put and agreed to.*

"Minister" means the Minister charged with responsibility for information; (*Hon. Ojomo A. Emmanuel*).

*Question that the meaning of the word "Minister" be as defined in the interpretation to this Act, put and agreed to.*

"Person" includes a corporation sole, and also a body of persons whether corporate or incorporate; acting individually or as a group; (*Hon. Ojomo A. Emmanuel*).

*Question that the meaning of the word "Person" be as defined in the interpretation to this Act, put and agreed to.*

"Personal information" means any official information held about an identifiable person; but does not include information that bears on the public duties of public employees and officials (*Hon. Ojomo A. Emmanuel*).

*Question that the meaning of the words "Personal information" be as defined in the interpretation to this Act, put and agreed to.*

*Retain above provisions in the Principal Bill (Hon. Ojomo A. Emmanuel) — Agreed to.*

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

**Committee Recommendation:**

**Long Title:** That the words "An Bill for an Act to Make Public Records and Information more Freely Available, Provide for Public Access to Public Records and Information, Project Public Records and Information to the Extent Consistent with the Public Interest and the Protection of Personal Privacy, Protect Serving Public Officers from Adverse Consequences for Disclosing Certain Kinds of Official Information without Authorization and Establish Procedures for the Achievement of those Purposes and Related Purposes Thereof, 2004" be the Long Title of the Bill (*Hon. Ojomo A. Emmanuel*).

*Question put and agreed to.*

*Chairman to report Bill.*

**(HOUSE IN PLENARY)**

Mr Speaker in the Chair, reported that the House in the Committee of Whole approved Clauses 8 - 35 and the Long Title with minor amendments.

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

**(ii) Committee on Health:**

*Motion made and Question proposed:*—"That this House do consider the Report of the House Committee on Health on the Investigation into the Oral Polio Vaccine Controversy and approve the Recommendations therein" (*Hon. Aminu Safana*).

*Question put and agreed to.*

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

*Question, that Order VII, Rule 2 (2) of the Standing Orders be suspended to enable Mr speaker preside in the Committee of whole to consider the Report, agreed to.*

**(HOUSE IN COMMITTEE)**

*(Mr Speaker in the Chair)*

*Debate:*

**Recommendation (i):**

"The Oral Polio vaccine is not only safe but remains the best practicable preventive measure against Poliomyelitis in children" (*Hon. Aminu Safana*).

*Question put and agreed to.*

**Recommendation (ii)**

"Immunization for other childhood preventable diseases should be strengthened (i.e. measles, whooping cough, meningitis etc) and be given adequate attention simultaneously with the Polio Vaccine" (*Hon. Aminu Safana*).

*Question put and agreed to.*

**Recommendation (iii):**

"It is in the interest of Public health and the Communities that Government be advised to hasten the completion and commissioning of the National Vaccine Production Laboratory in Yaba, Lagos to give effect to local vaccine production" (*Hon. Aminu Safana*).

*Question put and agreed to.*

**Recommendation (iv):**

"Government should be advised to involve all stakeholders in the immunization exercise at all stages including:

- (a) Planning stage,
- (b) Implementation stage,
- (c) Monitoring and Evaluation stage (M & E),
- (d) Advocacy,
- (e) Mobilization,
- (f) Basic R & D" (*Hon. Aminu Safana*).

*Question put and agreed to.*

**Recommendation (v):**

"Advocacy and mobilisation to be significantly funded, as they are the bedrock of success in any mass immunization programme like that of Polio and other child-killer diseases" (*Hon. Aminu Safana*).

*Question put and agreed to.*

**Recommendation (vi):**

"Religious, Social and Community Groups like mosques, churches, traditional institutions, youth groups, JNI, etc. be involved in advocacy and mobilization to make it effective" (*Hon. Aminu Safana*).

*Question put and agreed to.*

**Recommendation (vii):**

"Government in its effort to help kick out poliomyelitis which is Feco Oral transmitted is advised to address critical issues of poor environmental sanitation, inadequate safe drinking water, housing, personal hygiene, etc. as both short and long term strategies in the fight against Polio and other childhood and killer diseases" (*Hon. Aminu Safana*).

*Question put and agreed to.*

**Recommendation (viii):**

"Government is also advised to continue to support the global effort to eliminate Polio and other diseases by giving more adequate coverage for routine immunization in Nigeria and address its strategy for delivery and administration simultaneously with other more serious child-killer diseases in order to eliminate the mistrust that now exists against the Polio vaccine" (*Hon. Aminu Safana*).

*Question put and agreed to.*

**(HOUSE IN PLENARY)**

Mr Speaker in the Chair, reported that the House in the Committee of Whole considered the Report of the House Committee on Health on the Investigation into the Oral Polio Vaccine Controversy and approved Recommendations (i) to (viii).

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

**8. Adjournment:**

That this House do now adjourn till Thursday, 26 August, 2004 at 10.00 a.m. (*Hon. G. Nnaji*).

*Adjourned accordingly at 3.55 p.m.*

**Aminu Bello Masari**  
*Speaker*