

SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Thursday, 19h October, 2017

1. The Senate met at 10:56 a.m. The Senate President read Prayers.
2. **Votes and Proceedings:**
The Senate examined the Votes and Proceedings of Wednesday, 18th October, 2017.
Question was put and the Votes and Proceedings were approved.
3. **Messages from Mr. President:**
The Senate President announced that he had received two (2) letters from President, Commander-in-Chief of the Armed Forces of the Federation, which he read as follows:
 - (a) ***Submission of 2018-2020 Medium-Term Expenditure Framework and Fiscal Strategy Paper:***



**PRESIDENT,
FEDERAL REPUBLIC OF NIGERIA**

9th October, 2017

*Distinguished Senator Abubakar Bukola Saraki
President of the Senate,
Senate Chambers,
National Assembly Complex,
Three Arms Zone,
Abuja.*

Dear Distinguished Senate President,

SUBMISSION OF 2018-2020 MEDIUM-TERM EXPENDITURE FRAMEWORK AND FISCAL STRATEGY PAPER

I am pleased to submit the 2018-2020 Medium-Term Expenditure Framework (MTEF) and Fiscal Strategy Paper (FSP) to the Senate. Let me use this opportunity to express my gratitude for the enduring partnership between the Legislative and Executive Arms of Government.

Pursuant to provisions of the Fiscal Responsibility Act, 2007, the preparation towards the submission of the 2018 Budget to the National Assembly is progressing well. The MTEF and FSP

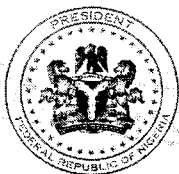
were prepared against the backdrop of a generally adverse global economic uncertainty; as well as fiscal challenges and recovery in the domestic economy to ensure that planned spending is set at prudent and sustainable levels and is consistent with Government's overall developmental objectives and inclusive growth.

I hereby forward the 2018-2020 MTEF and FSP to the Senate and trust that it would be kindly considered and approved expeditiously in order to bring the 2018 FGN Budget preparation process to timely closure.

Please accept Distinguished Senate President, the assurances of my highest consideration.

Yours Sincerely,
(Signed)
Muhammadu Buhari

(b) Nigeria Centre for Disease Control and Prevention (Establishment, etc.) Bill, 2017:



**PRESIDENT,
FEDERAL REPUBLIC OF NIGERIA**

17th October, 2017

*Distinguished Senator Abubakar Bukola Saraki
President of the Senate,
Senate Chambers,
National Assembly Complex,
Three Arms Zone,
Abuja.*

Dear Distinguished Senate President,

**NIGERIA CENTRE FOR DISEASE CONTROL AND
PREVENTION (ESTABLISHMENT, ETC.) BILL, 2017**

I forward herewith, for your kind consideration and passage into law, a Bill for an Act to provide for the Establishment of the Nigeria Centre for Disease Control and prevention.

It is my hope that the Distinguished Senate will consider and pass the Bill in your usual expeditious manner.

Please accept, Distinguished Senate President, the assurances of my highest consideration.

Yours Sincerely,
(Signed)
Muhammadu Buhari

4. Announcement:

Acknowledgment:

The Senate President acknowledged the presence of the Members of the Gregterx Artography Studio, Lokogoma, Abuja who were at the gallery to observe Senate Proceedings.

5. Petitions:

Rising on Rule 41, Senator David Umaru (*Niger East*) drew the attention of the Senate to four (4) petitions from:

(a) Inspector Sanusi Adamu, against the Nigeria Police, over unlawful dismissal;

- (b) Gambo A. Usman, against the Central Bank of Nigeria, over his wrongful termination of appointment;
- (c) PC. Mohammed Musa, against the Nigeria Police, over his dismissal from the Service; and
- (d) PC. Sani Danazumi, against the Nigeria Police, over his unlawful dismissal;

He urged the Senate to look into the matters.

Petitions laid and accordingly referred to the Committee on Ethics, Privileges and Public Petitions [Rule 41(3)] to report within two (2) weeks.

6. Matter of Urgent Public Importance:

Rising on Rule 42, Senator Samuel N. Anyanwu (*Imo East*) drew the attention of the Senate to the continuous depleting of the Paris Club Fund by the Executive and the various State Governments. He noted that no budgetary provision or authorization of releases was approved by the National Assembly. Despite the funding, some State Governments are still owing workers their emoluments. He sought and obtained the leave of the Senate to present the matter.

Matter to stand over to the next Legislative Day [Rule 42(2)].

7. Personal Explanation:

Rising on Rule 43, Senator John O. Enoh (*Cross River Central*) drew the attention of the Senate to the rising tension and outbreak of hostility in his Senatorial District, between Danare Communities in Boki Local Government Area of Cross River State and Bodam Community in Cameroun, resulting in loss of lives and destruction of properties. He urged the Federal Government and all relevant security agencies to improve their presence at the communities.

Chairman, Committee on Police Affairs should intervene to guarantee the security of these communities.

8. Conference Committee:

Report on the 2017 Budget of Federal Inland Revenue Service:

Motion made: That the Senate do receive the Conference Committee Report on the 2017 Budget of Federal Inland Revenue Service (*Senator John O. Enoh — Cross River Central*).

Question put and agreed to.

Report Laid.

9. Ad hoc Committee on Alleged Mis-use, Under-Remittance and Other Fraudulent Activities: Interim Report on Alleged Mis-use, Under-Remittance and other fraudulent Activities:

Motion made: That the Senate do receive the Interim Report of the Senate Ad hoc Committee on Alleged Mis-use, Under-Remittance and Other Fraudulent Activities in Collection, Remittance and Expenditure of Internally Generated Revenue (IGR) by Revenue Generating Agencies (*Senator Solomon O. Adeola — Lagos West*).

Question put and agreed to.

Report Laid.

10. Committee on Tertiary Institutions and TETFUND:

That the Senate do receive the Reports of the Committee on Tertiary Institutions and TETFUND on:

- (a) Federal University of Education, Zaria (Establishment, etc.) Bill, 2017 (SB. 400);

- (b) Alvan Ikoku Federal University of Education, Owerri (Establishment, etc.) Bill, 2017 (SB.398);
- (c) Federal University of Agriculture, Kabba (Establishment, etc.) Bill, 2017 (SB. 402);
- (d) Federal University of Education, Kano (Establishment, etc.) Bill, 2017 (SB. 397);
- (e) Adeyemi Federal University of Education, Akure (Establishment, etc.) Bill, 2017 (SB.399);
- (f) Nigeria Arabic Language Village, Ngala (Establishment, etc.) Bill, 2017 (SB. 386); and
- (g) Nigeria French Language Village, Badagry (Establishment, etc) Bill, 2017 (SB. 387).

Consideration of Reports deferred to another Legislative Day.

11. **Committee on Power, Steel Development and Metallurgy:**
Report on the Hydro-Electricity Power Producing Areas Development Commission (Amendment) Bill, 2017 (SB. 89):

Motion made: That the Senate do consider the Report of the Committee on Power, Steel Development and Metallurgy on the Hydro-Electricity Power Producing Areas Development Commission (Amendment) Bill, 2017 (*Senator Enyinnaya H. Abaribe — Abia South*).

Question put and agreed to.

Report presented.

Motion made: That the Senate do resolve into the Committee of the Whole to consider the Report (*Senate Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO AMEND THE HYDROELECTRIC POWER PRODUCING AREAS DEVELOPMENT COMMISSION (ESTABLISHMENT, ETC.) ACT 2010 TO MAKE PROVISION FOR THE REDUCTION OF PERCENTAGE ON REVENUE GENERATED BY ANY COMPANY OR AUTHORITY FROM THE OPERATIONS OF HYDROELECTRIC DAMS AND FOR RELATED MATTERS, 2017

Clause 1: Amendment of Hydroelectric Power Producing Areas (Establishment, Etc.) Act 2010:

The Hydroelectric Power Producing Areas (Establishment, etc.) Act 2010 (hereafter referred to as the "Principal Act") is hereby amended as set out in this Bill.

Committee's Recommendation:

That the provision in Clause 1 be retained (*Senator Enyinnaya H. Abaribe — Abia South*) — *Agreed to.*

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

PART II - FUNCTIONS AND POWERS OF THE COMMISSION, ETC.

Clause 2: Amendment of Section 8.

2. (a) Section 8 subsection (1) of the principal Act is amended by substituting for paragraph (a) a new paragraph as follows:

(1) The Commission shall —

(a) formulate policies and guidelines for the development of hydroelectric power producing areas without prejudice to the powers of the Minister to issue policy directives and the Nigerian Electricity Regulatory Commission's power to regulate the electricity supply industry under the Electric power Sector Reform act 2005".

(b) Section 8 of the principal Act is further amended in paragraph (f) by inserting immediately after the words "implementation of" the word "measures".

(f) identify factors inhibiting the development of the hydroelectric power producing areas and assist states in formulation and implementation of measures to ensure sound and efficient management of the resources of the hydroelectric power producing areas.

Committee's Recommendation:

That the provision in Clause 2 be retained (*Senator Enyinnaya H. Abaribe — Abia South*) — Agreed to.

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

Clause 3: Amendment of Section 14 (2) (a).**Funds of the Commission:**

Section 14 (2) (a) of the Principal Act is amended by substituting for the expression "30 percent" in line 1, the expression "10 percent".

Section (2) (a) There shall be paid and credited to the fund established pursuant to subsection (1) of this section -

(a) 10 percent of the total revenue generated by any company or authority from the operation of any hydroelectric dams in any member state of the Commission

Committee's Recommendation:

That the provision in Clause 3 be retained (*Senator Enyinnaya H. Abaribe — Abia South*) — Agreed to.

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

Clause 4: Citation.

This Bill may be cited as the Hydroelectric Power Producing Areas Development Commission (Establishment, etc) Act 2010 (Amendment) Bill 2017.

Committee's Recommendation:

That the provision in Clause 4 be retained (*Senator Enyinnaya H. Abaribe — Abia South*) — *Agreed to.*

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

Chairman to report Bill.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Power, Steel Development and Metallurgy on the Hydro-Electricity Power Producing Areas Development Commission (Amendment) Bill, 2017 and approved as follows:

Clauses 1- 4 — As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time (*Senate Leader*).

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

12. Committee on Culture and Tourism:

Report on the Nigerian Tourism Development Corporation Act (Repeal and Re-enactment) Bill, 2017 (SB. 429):

Motion made: That the Senate do consider the Report of the Committee on Culture and Tourism on the Nigerian Tourism Development Corporation Act (Repeal and Re-enactment) Bill, 2017 (*Senator Matthew A. Urhoghide — Edo South*).

Question put and agreed to.

Report presented.

Motion made: That the Senate do resolve into the Committee of the Whole to consider the Report (*Senate Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO REPEAL THE NIGERIAN TOURISM DEVELOPMENT CORPORATION ACT CAP. N137 LAWS OF THE FEDERATION OF NIGERIA, 2004 AND ENACT THE NIGERIAN TOURISM DEVELOPMENT AUTHORITY 2017 AND FOR OTHER RELATED MATTERS, 2017.

PART I — ESTABLISHMENT OF THE NIGERIAN TOURISM AUTHORITY**Clause 1: Establishment of the Nigerian Tourism Development Authority:**

- (1) There is hereby established, an Authority to be known as the Nigerian Tourism Development Authority (in this Act referred to as "The Authority"):
 - (a) The Authority shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name;

- (b) The supplementary provision contained in the First Schedule to this Act shall, where applicable have effect with respect to the proceedings of the Authority and the other matters mentioned therein. (Schedule 1)

Committee's Recommendation:

That the provision in Clause 1 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 2: Membership of the Governing Board:

There is established a Governing Board of the Authority which shall consist of the following:—

- (a) A part time Chairman who shall be appointed by the President and shall be a person of proven integrity and experience in the field of hospitality, travel and tourism;
- (b) Director General;
- (c) Two representatives of the Federation of Tourism Association of Nigerian (FTAN);
- (d) One member representing public interest who must be a private tourism practitioner.
- (e) A representative each of the Federal Ministries/Agencies charged with the responsibility for matters relating to:—
 - (i) Foreign Affairs;
 - (ii) Immigration;
 - (iii) Industry, Trade and Investment;
 - (iv) Environment;
 - (v) Customs;
 - (vi) Culture and Tourism;
 - (vii) Nigerian Investment Promotion Commission (NIPC);
 - (viii) Representative of Nigerian Police;
 - (ix) National Institute of Hospitality and Tourism Development Studies (NIHOTOUR);
 - (x) Standards Organization of Nigeria (SON).

Committee's Recommendation:

That the provision in Clause 2 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 3: Tenure of Office:

Subject to the provision of this Act, a person appointed to be a member of the Board of the Authority and not being an ex-officio member shall hold office for a period of three years from the date of his appointment and may be re-appointed for a further term of three years and no more.

Committee's Recommendation:

That the provision in Clause 3 be retained (*Senator Matthew A. Urhoghide — Edo South*) — Agreed to.

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

Clause 4: Any member of the Board of the Authority not being an ex-officio member may resign his appointment by a letter addressed to the Minister through the Chairman.

Committee's Recommendation:

That the provision in Clause 4 be retained (*Senator Matthew A. Urhoghide — Edo South*) — Agreed to.

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

Clause 5: A member of the Board of the Authority not being an ex-officio member shall be paid such remuneration and allowances as the President may, from time to time, direct.

Committee's Recommendation:

That the provision in Clause 5 be retained (*Senator Matthew A. Urhoghide — Edo South*) — Agreed to.

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

Clause 6: Notwithstanding the provision of section 5, the President may on the recommendation of the Minister remove the Chairman or any member of the Board of the Authority from office for inability to discharge the functions of his office arising from: —

- (a) Infirmary of mind or body;
- (b) Bankruptcy;
- (c) Gross Misconduct;
- (d) Any other cause by which his continued membership will not be in the interest of the Authority.

Committee's Recommendation:

That the provision in Clause 6 be retained (*Senator Matthew A. Urhoghide — Edo South*) — Agreed to.

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

Clause 7: Board Committee:

The Board shall have the following standing Committees:—

- (a) The Appointment and Establishment Committee;
- (b) The Finance and General Purposes Committee;

Committee's Recommendation:

That the provision in Clause 7 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 8: The functions of the standing Committees shall be as determined by the Board.

Committee's Recommendation:

That the provision in Clause 8 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 9: Membership of all standing Committees shall be as determined by the Board.

Committee's Recommendation:

That the provision in Clause 9 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 10: Proceedings of Standing Committees shall be conducted in accordance with the provisions contained in the schedule to this Act.

Committee's Recommendation:

That the provision in Clause 10 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 11: The Board may, subject to such conditions as it may deem fit, delegate any or all of the powers conferred on it by this Act to any Committee or Committees of its members or the Director General to:—

- (a) Inquire into and report to the Board on any matter affecting the Authority;
- (b) Deal with matters of an urgent nature as approved by the Board, subject to such conditions as the board may in writing specify;
- (c) Appoint staff of the Authority to advice on matters relating to appointments and discipline and other relevant tourism issues of the authority.

Committee's Recommendation:

That the provision in Clause 11 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 12: (a) The Board may, from time to time, co-opt any person or Person(s) to carry out any of the functions of the Authority under this Act.

- (b) Any person co-opted under subsection (a) of this section may take part in the proceedings of the Board but shall not be deemed to be a member of the Board for the purpose of voting or forming of quorum.

Committee's Recommendation:

That the provision in Clause 12 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 13: The Functions of the Authority Shall be:—

- (a) To develop and promote Nigeria as a travel and tourism destination by encouraging people living in Nigeria to take their holidays therein and people from abroad to visit Nigeria;
- (b) To encourage the provision and improvement of tourism amenities and facilities in Nigeria including the development of hotels and ancillary facilities;
- (c) To regulate with the states and supervise tourism enterprises for quality assurance, consumer protection and public health and safety purposes by the accreditation and certification of all such enterprises thereby establishing standards, guidelines and codes of practice in tourism in partnership with relevant bodies;
- (d) To oversee the administration of the Tourism Development Fund to ensure that the Fund is utilized for the required purposes;
- (e) To ensure collaboration with other public, private and international agencies;
- (f) To implement all government policies related to tourism;
- (g) To advice the Minister on policy issues relating to tourism generally;

Committee's Recommendation:

That the provision in Clause 13 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 14: In addition to the specific powers conferred on the Authority by or under the subsequent provisions of this Act, the Authority shall have power:—

- (a) To provide advisory and information services;
- (b) To undertake research in the field of tourism;
- (c) To render consultancy services in the field of tourism;
- (d) To render technical advice to the states and local governments in the field of tourism;
- (e) To encourage investors to invest in the tourism sector; and
- (f) To provide statistics in all spheres of tourism.

Committee's Recommendation:

That the provision in Clause 14 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 15: The Authority Shall in Particular have Power to:—

- (a) Carry on any undertaking which appears to the Authority to be necessary for the promotion and development of the tourism industry;
- (b) Assist in the promotion and marketing of:—
 - (i) Tourist Attractions and Festivals;
 - (ii) historic sites;
 - (iii) museums;
 - (iv) parks;
 - (v) game reserves;
 - (vi) beaches;
 - (vii) natural beauty spots;
 - (viii) Holiday resorts;
 - (ix) Souvenir industries;
- (c) Advise appropriate authorities on ways of improving tourism facilities.
- (d) Publicize tourism; and
- (e) Do all such things incidental to the foregoing functions which in its opinion are calculated to facilitate the carrying on of the duties of the Authority under this Act.

Committee's Recommendation:

That the provision in Clause 15 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 16: Establishment of a Tour Operating Company:

The Authority shall set up a tour operating company to operate tour services within and outside Nigeria:—

- (a) The company shall also have offices to operate in all the zones;
- (b) The Authority shall operate the company on a commercial basis, that is it shall ensure that the revenue accruing to the Company from services provided by it are not less than sufficient to meet the total cost of providing these services, taking one year with another.

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 17: Establishment of Conventions and Visitors Bureau (CVB):

The Authority shall establish and manage the Conventions and Visitors Bureau (CVB). The Bureau is to be in charge of destination marketing and to promote Nigeria as a top destination for meetings, exhibitions and events in partnership with relevant bodies as well as be involved with international biddings for Nigeria to host events.

Committee's Recommendation:

That the provision in Clause 17 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 18: Power of Minister to Give Directions:

Subject to this Act, the Minister may give to the Authority directions of a general character or relating generally to particular matters (but not to any particular individual person or to any particular case) with regard to the exercise by the Authority of its functions and it shall be the duty of the Authority to comply with the directions.

Committee's Recommendation:

That the provision in Clause 18 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 19: Appointment of Director General.

There shall be appointed for the Authority, a Director General who shall have such professional qualification and experience in tourism and allied matters appropriate for a person required to perform the functions of that office under this Act:—

- (a) The Director General shall:—
 - (i) be appointed by the President on the recommendation of the Minister;
 - (ii) hold office for a term of four (4) years in the first instance and may be re-appointed for a further term of four years and no more;
 - (iii) hold office on such terms and conditions as to emolument, conditions of service as may be specified in his letter of appointment and on such other terms and conditions as may be determined from time to time by the Minister with the approval of the President;
 - (iv) be the Chief Executive and Chief Accounting Officer of the Authority for the purpose of controlling and disbursing funds accruing to the Authority and as established pursuant to Section 22 of this Act;
 - (v) be responsible for the execution of the policies of the Authority;
 - (vi) be responsible for the day to day administration of the affairs of the Authority and is answerable to the Board for the performance of the functions of that office;
 - (vii) perform any other function determined by the Board.

- (b) The Director General may delegate a function to an officer of the Authority but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

Committee's Recommendation:

That the provision in Clause 19 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 20: Appointment of Secretary to the Board.

- (1) There shall be appointed a Secretary to the Board who shall:—
- (a) be the head of legal services and legal adviser of the Authority;
 - (b) be a legal Practitioner of not less than 10 years post call experience.
- (2) The secretary to the Authority shall:—
- (a) Keep the records and conduct the correspondence of the Board; and
 - (b) Perform such other duties as the Board or the Director-General may, from time to time, direct.

Committee's Recommendation:

That the provision in Clause 20 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 21: Appointment of Employees.

The Authority shall, subject to the provisions of this Act have powers:—

- (a) To appoint such other employees of the Authority who shall be professionally and technically qualified for the purpose of their appointment;
- (b) To pay its employees' remuneration and allowances not less than that payable to persons of equivalent grades in the Public Service of the Federation;
- (c) To set up a superannuating scheme (whether contributory or not) in respect of such of its employees as it may determine; and
- (d) The conditions of service of the employees should be determined by federal civil service commission.

Committee's Recommendation:

That the provision in Clause 21 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

FINANCIAL PROVISIONS

Clause 22: Funds of the Authority.

The funds of the Authority include:—

- (a) Funds appropriated by the National Assembly;
- (b) Fees from income-generating activities;
- (c) Donations, Loans, Bonds and Grants;
- (d) Funds approved by the Board;
- (e) Any other funds that are allocated by the Minister of Finance;
- (f) Funds from the Tourism Development Fund;
- (g) Funds from the Tourism Development Levy.

Committee's Recommendation:

That the provision in Clause 22 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 23: Annual Budget.

The Authority shall, not later than three months before the end of each financial year, cause to be prepared and submitted to the Minister, an annual budget in respect of the ensuing financial year.

Committee's Recommendation:

That the provision in Clause 23 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 24: Accounts and Audit.

- (a) The Authority shall prepare and submit to the appropriate authority, not later than 30th June each year, a report on the activities of the Authority during the immediate preceding year and shall include in the report a copy of the audited account of the Authority for that year, and the Auditors report therein;
- (b) The Authority shall cause to be kept proper account of the Authority in respect of each year and proper records in relation thereto and shall cause the accounts to be audited not later than six months after the end of each financial year by external auditors appointed from the list and in accordance with guidelines supplied by the Auditor-General for the Federation.

Committee's Recommendation:

That the provision in Clause 24 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 25: Powers to Borrow.

The Authority may, with the consent of the Board or Minister, borrow on such terms and conditions as the Authority may determine such sums of money as it may require in the exercise of its functions under this Act.

Committee's Recommendation:

That the provision in Clause 25 be retained (*Senator Matthew A. Urhoghide — Edo South*) — Agreed to.

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

TOURISM DEVELOPMENT FUND**Clause 26: Establishment of the Tourism Development Fund.**

There is hereby established by this Act a Tourism Development Fund, which shall be warehoused in the central bank of Nigeria (CBN).

Committee's Recommendation:

That the provision in Clause 26 be retained (*Senator Matthew A. Urhoghide — Edo South*) — Agreed to.

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

Clause 27: Object of the Fund.

The object of the Fund are:—

- (1) to provide funding for tourism development and tourism-related projects and programmes.
- (2) To achieve the object of the Fund, monies from the Fund shall be applied for relevant tourism activities as the Board may determine including in particular:—
 - (a) Marketing and promotion of tourism;
 - (b) Capacity building, market research and development of tourism infrastructure;
 - (c) Development and promotion of other entrepreneurial activities;
 - (d) Tourism export trade-oriented activities of institutions;
 - (e) Tourism education and training.

Committee's Recommendation:

That the provision in Clause 27 be retained (*Senator Matthew A. Urhoghide — Edo South*) — Agreed to.

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

Clause 28: Sources of the Fund.

The sources of the Fund include:—

- (1) (a) Such monies as may be provided by the Federal Government as seed capital by way of intervention fund, contribution, loan, grant or otherwise howsoever;
- (b) Donations from States, Federal Capital Territory, Local Government Councils, Area Councils, Public Agencies, Private Organizations and Companies, Multinational Companies, Organizations/Agencies and individuals;

- (c) All monies borrowed and capital raised by the Authority under this act or any other enactment including such sums as may be received by the Authority from other sources;
- (d) 3% of funds from Tourism Development Levy.
- (e) Other monies that the Minister of Finance in consultation with the Minister may determine with the approval of the President.

Committee's Recommendation:

That the provision in Clause 28 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

MANAGEMENT OF THE FUND

Clause 29: Tourism Development Fund Management Board.

- (1) There shall be established a Board to manage the Tourism Development Fund.
- (2) The Fund shall be administered by the Board and as advised by the members particularly as it concerns control, investment and administration of the Fund, including the proceeds of securities issued on Fund Assets for the benefit and development of the tourism and hospitality industry.
- (3) The monies for the Fund shall be domiciled with Central bank of Nigeria in accordance with TSA policy.
- (4) In furtherance of subsection (2), the Board shall:—
 - (a) Arrange for the effective and efficient collection of monies assigned to the Fund;
 - (b) Identify other sources of funding;
 - (c) Co-ordinate and ensure total and timely accountability of the fund;
 - (d) Prepare and publish procedures for disbursement of the Fund;
 - (e) Formulate general financial strategies and policies for the growth of the Fund;
 - (f) Evaluate, approve, review and monitor the execution of projects and programs approved for funding by the Authority;
 - (g) Determine the certification necessary to ensure that work is completed according to specification;
 - (h) Review the annual programmes and projects submitted by the public and private sector agencies for funding;
 - (i) To provide financial investments by whichever instrument deemed desirable and beneficial in tourism, travel and hospitality development projects by tourism operators in the six geo-political zones and Federal Capital Territory as the Board may approve;

- (j) To disburse approved funds and provide a framework for which registered and accredited tourism enterprises can access investment and financial incentives for the development of tourism and hospitality facilities;
- (k) To manage and disburse resources from the Fund for the development of national standards in training and human resource skills and capacity building in hospitality and tourism;
- (l) Subject to any general or special direction, the Board may invest the Fund and maintain general financial reserves.

Committee's Recommendation:

That the provision in Clause 29 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 30: Tourism Development Levy.

- (1) There shall be established a Tourism Development Levy which shall be used to promote tourism and shall support the fund where and if necessary Sources of the levy.
- (2) The Sources of the levy shall include but not limited to:—
 - (i) A tourism visa fee as may be approved from time to time;
 - (ii) A tourism development contribution levy of One (1) per cent per room rate or flat rate or any rate as may be prescribed by the authority;
 - (iii) 20% of Tourism departure levy, for the promotion of domestic tourism, which shall be paid by all travelers leaving the country at a rate to be prescribed from time to time by the Authority;

Amendment Proposed:

Leave out the provision in Clause 30(2)(iii) and *insert* the following instead thereof:

- “(iii) Tourism departure levy, for the promotion of domestic tourism, which shall be paid by all travelers leaving the country at a rate to be prescribed from time to time by the Authority;” (*Senator Adamu M. Aliero — Kebbi Central*).

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

- (iv) Levy on corporate Nigeria comprising an approved minimum percentage of interest rate on banks, telecommunications and other corporate entities.
- (3) Such other levies or fees as the Authority may prescribe from time to time for the promotion and Development of the tourism industry in Nigeria (*Senator Matthew A. Urhoghide — Edo South*).

Question that Clause 30 as amended do stand part of the Bill, put and agreed to.

Clause 31: Joint Venture Partnership.

The Authority may enter into joint-venture partnerships with States and other stakeholders for the development of tourism sites and hospitality establishments.

Committee's Recommendation:

That the provision in Clause 31 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 32: Accreditation and Alliance of Tourism Enterprises.

The Authority shall accredit all hospitality and tourism establishments in all the States of the Federation.

Committee's Recommendation:

That the provision in Clause 32 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

Question that Clause 32 do stand part of the Bill, put and agreed to.

Clause 33: The Authority shall create an alliance of Tourism Enterprises after accreditation for the purposes of standardization, quality assurance, consumer protection and public health and safety.

Committee's Recommendation:

That the provision in Clause 33 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 34: The Authority shall accredit and renew all Hospitality and Tourism Enterprises under its Alliance from the beginning of the Second quarter of the year to the end of the Third quarter of every year being 1st April to 30th September.

Committee's Recommendation:

That the provision in Clause 34 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

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

Clause 35: The Authority shall control the classification and grading of all tourism enterprises under the Alliance.

Committee's Recommendation:

That the provision in Clause 35 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

Question that Clause 35 do stand part of the Bill, put and agreed to.

Clause 36: Membership of the Alliance by Accreditation and Certification shall confer privileges and benefits as determined by the Authority from time to time including but not limited to:—

- (a) International status and recognition by the World Tourism Organization (WTO) of which the Authority is a country member thereof;
- (b) eligibility for specific fiscal relief categories and tax exemptions;
- (c) eligibility for Custom duty exemptions by the Ministry of Finance to encourage infrastructural improvements and development of tourism facilities;

- (d) eligibility for financial incentives, subsidy grants and concessionary interest loans from the Tourism Development Fund;
- (e) Promotion of member establishments by the Authority.

Committee's Recommendation:

That the provision in Clause 36 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

Question that Clause 36 do stand part of the Bill, put and agreed to.

Clause 37: Establishment of Hospitality, Travel and Tourism Division.

There is hereby established, a division of the Authority to be known as the Travel and Tourism Division.

- (a) To monitor the accreditation, classification, and grading of Hospitality, Travel and other tourism establishments according to the prescribed standard as determined by the Authority;
- (b) To collect fees and impose such sanctions as may be prescribed or reviewed from time to time by the Authority.

Committee's Recommendation:

That the provision in Clause 37 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

Question that Clause 37 do stand part of the Bill, put and agreed to.

Clause 38: Assignment of Compliance Officers.

The Authority may if deems it fit, assign from time to time, persons to be known as compliance officers for the purposes of this Act.

- (1) Compliance officers assigned under this Act shall, for the purpose of the execution of this Act, have powers to do the following:—
 - (a) To enter, inspect and examine by day or by night any premises being used as a hotel or allied hospitality establishment who is an accredited member of the Alliance;
 - (b) By notice require the proprietor of such or allied hospitality establishment to furnish in such form as he may direct any information on such matters as may be specified by him on notice;
 - (c) To make such examination and inquiry as may be necessary to ascertain whether any regulations made under this Act are being complied with.
- (2) If a Compliance Officer is of the opinion that a hotel, or allied hospitality establishment who is an Alliance member is not up to the prescribed standard, he shall serve an improvement notice on the persons under whose control the hotel or allied establishment lies, requiring the person to take measures to rectify any defects or meet the prescribed standards within such a period as he shall therein specify.
- (3) Where a person fails to comply with an improvement notice issued under subsection (2), the compliance officer shall serve a notice of non-compliance on the hotel or allied hospitality establishment until such time as the prescribed standards are met.

- (4) A person who is aggrieved by a notice issued by a compliance officer under subsection (3) may, within thirty days from the date of such notice, appeal to the Authority who may after considering the appeal by order in writing confirm, revoke or vary the notice.
- (5) A person who is aggrieved with a decision of the Authority made under subsection (4) may within thirty days from the date of the decision, appeal to the Board.
- (6) Without prejudice to the right of aggrieved persons to seek redress in a court of law, the decision of the Board on the appeal lodged under subsection (5) will be final and binding on the Person.

Committee's Recommendation:

That the provision in Clause 38 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

Question that Clause 38 do stand part of the Bill, put and agreed to.

- Clause 39:**
- (1) It is an offence for a person to:—
 - (a) contravene section 41(1)(b);
 - (b) Refuse access to a hotel or allied hospitality establishment to a compliance officer or a person assisting the compliance officer;
 - (c) Obstruct the compliance officer in the exercise of his powers under this Act or any regulation made there under, or induces or attempts to induce any other person to do so;
 - (d) Prevent or attempt to prevent any other person from assisting the officer;
 - (e) In any other way, hinder, impede or oppose the compliance officer in the exercise of his powers under this Act or any regulation made there under;
 - (f) Fail to provide the compliance officer any information required under this Act or Regulation made there under;
 - (g) Make a statement, which he knows to be false—
 - (i) in purported compliance with the requirement to furnish any information imposed by or under any of the relevant statutory provisions or;
 - (ii) for the purpose of obtaining a document under any of the relevant statutory provisions for himself or another person.
 - (h) With intent to deceive, forge or use a document issued or authorized to be issued under any of the relevant statutory provisions or required for the purpose there under make, or have in his possession a document so closely resembling any such document as to be calculated to deceive; or
 - (i) Falsely pretend to be a compliance officer;
 - (j) Refuse to renew accreditation within the prescribed time.

- (2) A person guilty of an offence under section 39(a) shall be liable on conviction to-
- (a) A fine not exceeding N200,000;
 - (b) imprisonment for a term not more than two years;
 - (c) Both fine and imprisonment for a term not more than two years;
 - (d) Further fine of N5,000 for each day during which the offence continues.
- (3) Any Establishment which refuses to comply with the standard improvement notice served, and /or refuses to renew accreditation within the prescribed time or refuses to comply with any other provision of this Act, will after the expiration of the prescribed due process lose his membership of the alliance and a public disclaimer will be made.
- (4) Any establishment which contravenes the provisions of subsection (3) of this Section and the contravention is perceived to be against public interest and safety or to be as a security threat to the public, will be sealed by the Authority and the Authority may call in the assistance of any law enforcement agent and it shall be the duty of such law enforcement agent to assist the Authority in enforcing the provisions of this Act.
- (5) The Authority shall have power to impose such other sanctions as may be prescribed from time to time.

Committee's Recommendation:

That the provision in Clause 39 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

Question that Clause 39 do stand part of the Bill, put and agreed to.

Clause 40: Regulations.

The Minister may with the approval of the President, make regulations generally for the purpose of giving effect to the provisions of this Act.

Committee's Recommendation:

That the provision in Clause 40 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

Question that Clause 40 do stand part of the Bill, put and agreed to.

Clause 41: Repeal.

The Nigerian Tourism Development Corporation Act CAP. N137 Laws of the Federation of Nigeria, 2004 is hereby repealed.

The transitional and savings provisions in the second schedule to this Act shall have effect in relation to the employees, assets and liabilities of the Corporation dissolved under this section and other matters mentioned therein notwithstanding anything to the contrary in this act or any other enactment.

Committee's Recommendation:

That the provision in Clause 41 be retained (*Senator Matthew A. Urhoghide — Edo South*) — *Agreed to.*

Question that Clause 41 do stand part of the Bill, put and agreed to.

Clause 42: Interpretation.

In this Act, unless the context otherwise requires-

"a person" includes hotels, travel agencies, tour operators and all other hospitality and tourism establishments who are accredited;

Question: That the words "A person" be as defined in the Interpretation to this Act, put and agreed to.

"Company" means the Tour Operating Company established by Section 17

Question: That the word "Company" be as defined in the Interpretation to this Act, put and agreed to.

"Authority" means the Nigerian Tourism Development Authority established by Section 3 of this Act;

Question: That the word "Authority" be as defined in the Interpretation to this Act, put and agreed to.

"Division" means Hospitality, Travel and Tourism Division established by Section 43 of this Act;

Question: That the word "Division" be as defined in the Interpretation to this Act, put and agreed to.

"Director General" means the person appointed as Director General by virtue of Section 19 of this Act;

Question: That the words "Director General" be as defined in the Interpretation to this Act, put and agreed to.

"Tourism Development Fund" means the fund created under section 26 of this Act;

Question: That the words "Toursim Development Fund" be as defined in the Interpretation to this Act, put and agreed to.

"Compliance officer" means the person appointed as Compliance officer under Section 39 of this Act;

Question: That the words "Compliance officer" be as defined in the Interpretation to this Act, put and agreed to.

"President" means the President of the Federal Republic of Nigeria;

Question: That the word "President" be as defined in the Interpretation to this Act, put and agreed to.

"Senate" means the Senate of the National Assembly;

Question: That the word "Senate" be as defined in the Interpretation to this Act, put and agreed to.

"Minister" means the Honorable Minister in charge of Information, Culture and Tourism.

Question: That the word "Minister" be as defined in the Interpretation to this Act, put and agreed to.

Committee's Recommendation:

That the provision in Clause 42 be retained (*Senator Matthew A. Urhohide — Edo South*) — *Agreed to.*

Question that Clause 42 do stand part of the Bill, put and agreed to.

Clause 43: Citation.

This Bill may be cited as the Nigerian Tourism Development Authority (Repeal and Enactment) Bill, 2017.

Committee's Recommendation:

That the provision in Clause 43 be retained (*Senator Matthew A. Urhohide — Edo South*) — *Agreed to.*

Question that Clause 43 do stand part of the Bill, put and agreed to.

SCHEDULE

FIRST SCHEDULE

Proceedings of the Board

1. The Board shall meet at least four times in each year at such times and places as may be determined by the Chairman.
2. If not less than five members make a written request to the Chairman for an extraordinary meeting to be convened, the Chairman shall summon a meeting to be held within fifteen days from the date on which he received the request.
3. The Chairman shall preside at meetings of the Board and if he is absent from a meeting the members present shall elect one of their member to preside at the meeting.
4. At a meeting of the Board six members shall form a quorum and questions shall be decided by a majority of those present and voting; but in the case of an equality of votes, the Chairman or other person presiding shall have a second or casting vote.
5. Subject to this Act, the Board may make standing orders regulating the proceedings of the Authority or of any Committee thereof.
6. Any summons, notice or other document required or authorized to be served on the Authority may, except where there is express provision to the contrary, be served-
 - (a) By delivering it to the Director General; or
 - (b) By sending it by registered post addressed to the Director General as the principal officer of the Authority.
7. The fixing of the seal of the Authority shall be authenticated by the signature of the chairman or the Director General, and the Secretary.
8. Any contract or instrument which, if made or executed 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 Authority by any person generally or specially authorized to act for that purpose by the Authority.

9. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Authority shall be received in evidence and, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.
10. Any member of the Board or a Committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or Committees shall forthwith disclose his interest to the Board or Committee and shall not vote on any question relating to the contract or arrangement.

Committees

11. Subject to its standing orders, the Board may appoint such Committees as it thinks fit but the decision of any Committee appointed under this paragraph shall be of no effect until confirmed by the Board.
12. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him as a member for such period as it thinks fit; but a person who is a member by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.
13. The quorum of any Committee of the Board shall be six.
14. The Chairman shall preside at meetings of the Board and if he is absent from a meeting, the members present shall elect one of their members to preside at that meeting.
15. The validity of a proceeding of the Board or a Committee thereof shall not be adversely affected-
 - (a) by a vacancy in the membership of the Board;
 - (b) by a defect in the appointment of member of the Board or Committee; or
 - (c) by reason that a person not entitled to do so took part in the proceeding.

Question that the provision of First Schedule stand part of this Bill — Agreed to.

SECOND SCHEDULE

Transitional and Savings Provisions

1. By virtue of this Act there shall on the commencement of this Act, be vested in the Authority all assets, funds resources and other movable or immovable property which immediately before the commencement of this Act were vested in the Nigeria Tourism Development Corporation (in this schedule referred to as "The dissolved Corporation").
2. Subject to provision of paragraph 1 of this Schedule-
 - (a) the rights, interests, obligations and liabilities of the dissolved Corporation existing immediately before the commencement of this Act under any contract or instrument, or at law or in equity apart from any contract or instrument, shall by virtue of this Act be deemed to have been assigned to and vested in the Authority;
 - (b) Any such contract or instrument as is mentioned in sub-paragraph (a) of this paragraph, shall be of the same force and effect against or in favor of the Authority, and shall be enforceable as fully and effectively as if instead of the dissolved Corporation the Authority had been named therein or had been a party thereto; and

- (c) The Authority shall be subject to all the obligations and liabilities to which the dissolved Corporation was subject immediately before the commencement of this Act and all person shall, as from the commencement of this Act have the same rights, powers and remedies against the Authority as they had against the dissolved Corporation immediately before the day.
3. Any proceeding pending or cause of action existing immediately before the commencement of this Act by or against the dissolved Corporation in respect of any rights, interest, obligation or liability of the dissolved Corporation may be continued, or as the case may require, commenced and the determination of a court of law, tribunal or other authority or person may be enforced, by or against the Authority to the same extent that such cause of action or determination might have been continued or commenced or enforced by or against the dissolved Corporation if this Act has not been made.
4. Notwithstanding the dissolution of the Nigerian Tourism Development Corporation by section 40 of this Act, any person who immediately before the commencement of this Act held office under the dissolved Corporation shall, on the commencement of this Act be deemed to have been transferred to the Authority on terms and conditions not less favorable than those obtaining immediately before the commencement of this Act and service under the dissolved Corporation shall be deemed to be service under the Authority for pensions purpose.
5. For the purposes of paragraph 4 of this Schedule, the terms and conditions comprised in any transferred appointment shall not be construed as being less favorable merely because they are not in all respects identical or superior to the terms and conditions enjoyed by any person concerned immediately before the commencement of this Act if the first mentioned terms and conditions taken as a whole offer substantially equivalent or greater benefits.
6. Within the twelve months after the making of this Act, the Minister, if he thinks fit, may by order published in the gazette make additional transitional or saving provisions for the carrying out of the objectives of this schedule.

Question that the provision of Second Schedule stand part of this Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Culture and Tourism on the Nigerian Tourism Development Corporation Act (Repeal and Re-enactment) Bill, 2017 and approved as follows:

Clauses 1- 29	—	As Recommended
Clause 30	—	As Amended
Clauses 31-43	—	As Recommended
Schedules 1&2	—	As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

Motion made: That the Bill be now Read the Third Time (*Senate Leader*).

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.

13. Committee on Establishment and Public Service:

Report on the Chartered Institute of Entrepreneurs (Establishment, etc.) Bill, 2017 (SB. 07):

Consideration of Report deferred to another Legislative Day.

14. Joint Committee on Judiciary, Human Rights and Legal Matters; and Anti-Corruption and Financial Crimes:

Report on the Proceeds of Crimes Bill, 2017 (SB. 376):

Motion made: That the Senate do resolved into the Committee of the Whole to resume consideration of the Report of the Joint Committee on Judiciary, Human Rights and Legal Matters; and Anti-Corruption and Financial Crimes on the Proceeds of Crimes Bill, 2017 (*Adjourned Consideration 5th October, 2017 — Clause 8*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

RESUMED CONSIDERATION OF A BILL FOR AN ACT TO MAKE COMPREHENSIVE PROVISIONS FOR THE CONFISCATION, FORFEITURE AND MANAGEMENT OF PROPERTIES DERIVED FROM UNLAWFUL ACTIVITIES AND FOR CONNECTED MATTERS, 2017.

Clause 9: Appointment of Asset Manager in Respect of Property Subject to a Preservation Order:

- (1) Where a Court has made a preservation order, it shall, where it deems appropriate or at the request of the law enforcement agencies either at the time of the making of the order or at a later time —
 - (a) subject to the directions of the court or the Agency, appoint an asset manager to do any one or more of the following on behalf of the person against whom the preservation order has been made —
 - (i) assume control of the property;
 - (ii) take care of the property;
 - (iii) administer the property and do any act necessary for that purpose;
 - (iv) where the property is a business or undertaking, carry on of the business or undertaking, with due regard to any law which may be applicable;
 - (v) in the case of property that is perishable, or liable to deterioration, decay or injury by being detained in custody, sell or otherwise dispose of the property; and
 - (vi) sell or otherwise dispose of the property where it is not economically viable to maintain it; and
 - (b) order a person holding any property subject to a preservation order to surrender the property into the custody of the asset manager, immediately or within such period as the Court may determine.

- (2) Where any property subject to a preservation order is not surrendered within the period that has been determined under subsection 1(b) of this section, an officer of the Agency or asset manager may enter by force if necessary, any premises, where he reasonably believes that the property is situated in order to search for and seize the property.
- (3) The officer of the Agency or asset manager may be accompanied by such persons and police officers as are reasonably required in order to effect entry into premises.
- (4) The Court that makes an order under subsection (1) of this section, may make an order relating to the payment of the fees of the asset manager —
 - (a) from the forfeited property where a forfeiture order is made; or
 - (b) by the Agency where no forfeiture order is made.

Committee's Recommendation:

That the provision in Clause 9 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 10: Orders in Respect of Immovable Property Subject to Preservation Order:

- (1) A Court that has made a preservation order in respect of immovable property with a view to ensuring the effective execution of a subsequent order, may at any time, order the appropriate land registration authority to place a restriction on the land register in respect of the immovable property.
- (2) An order under subsection (1) of this section may be made in respect of the following restrictions —
 - (a) the immovable property shall not be mortgaged or otherwise encumbered, unless with the consent of the Court;
 - (b) the immovable property shall not be attached or sold in execution without the consent of the Court; and
 - (c) without the consent of the Court, the immovable property shall not —
 - (i) vest in the Official Receiver concerned, as the case may be, when the estate of the owner of that immovable property is sequestrated, or
 - (ii) where the owner of the immovable property is a company or other body corporate which is being wound up, form part of the assets of that company or body corporate.
- (3) In order to give effect to subsection (1) of this section, the registration authority shall make the necessary —
 - (a) entry in its register and endorsement on the office copy of the title deed; and
 - (b) endorsement on it, when the original of the title deed is produced.
- (4) On the making of the necessary entry and endorsement under subsection (3)(a) of this section, the restriction —

- (a) other than that contemplated in subsection (2)(b) of this section, shall be effective against any person in whose favour a mortgage or other charge was registered prior to the endorsement of the restriction on the title deed of the immovable property; and
 - (b) shall lapse on the transfer of ownership of the immovable property concerned.
- (5) Unless the Court directs otherwise, the custody of immovable property on the title deed of which a restriction contemplated in subsection (2)(c) of this section was endorsed shall, where the —
 - (a) estate of the owner of the immovable property is sequestrated; or
 - (b) owner of the immovable property is a company or other body corporate that is being wound up, vest in the person or persons in whom the custody would have vested where the restriction were not so endorsed.
- (6) Where the Court has granted its consent to a restriction contemplated in subsection (2)(c) of this section and endorsed on the title deed of the immovable property, the immovable property shall, where the —
 - (a) estate of the owner of the immovable property was sequestrated, be deemed to have vested in the Official Receiver concerned, as the case may be, as if such a restriction was not so endorsed; or
 - (b) owner of the immovable property is a company or other body corporate which is being wound up, be deemed to have formed part of the assets of the company or body corporate as if the restriction were not so endorsed.
- (7) A person affected by an order contemplated in subsection (1) of this section may at any time, upon showing good cause, apply for the rescission of the order.

Committee's Recommendation:

That the provision in Clause 10 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 11: Provision for Expenses:

- (1) The Court in making a preservation order in respect of a person holding an interest in property, may make provision for the reasonable legal expenses of the person in connection with proceedings under which the preservation order was granted and reasonable living expenses of the person and his close dependants.
- (2) The Court shall require an independent costs assessor, authorised by the Agency to certify that legal expenses have been properly incurred before permitting the payment of such expenses from any property covered by the preservation order.
- (3) A Court shall not make provision for any expenses under subsection (1) of this section unless it is satisfied that the person —
 - (a) cannot meet the expenses concerned out of his property which is not subject to the preservation order; and

- (b) has disclosed all his interest in the property under oath and has submitted to the Court an affidavit to that effect.

Committee's Recommendation:

That the provision in Clause 11 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 12: Variation and Rescission of Orders.

- (1) A Court that makes a preservation order —
 - (a) may, on application by the person mentioned in section 11 of this Act, vary the preservation order or an order authorising the seizure of the property concerned or any other ancillary order as it may deem appropriate; or
 - (b) shall rescind the preservation order when the proceedings against the defendant concerned are concluded.
- (2) Where a Court varies or rescinds an order authorising the seizure of property under subsection (1) of this section, it shall make such other order, as it considers appropriate for the proper, fair and effective execution of the preservation order concerned.
- (3) A person affected by an order for the appointment of an asset manager may at any time apply for the —
 - (a) variation or rescission of the order;
 - (b) variation of the terms of the appointment of the manager concerned; or
 - (c) discharge of the manager.
- (4) A Court that makes an order for the appointment of an asset manager —
 - (a) may, where it deems it necessary and in the interests of justice, at any time —
 - (i) vary or rescind the order;
 - (ii) vary the terms of the appointment of the manager concerned; or
 - (iii) discharge the manager; or
 - (b) shall rescind the order and discharge the manager concerned where the relevant preservation order is rescinded.
- (5) A person affected by an order in respect of immovable property may, at any time, apply for the rescission of the order.
- (6) A Court that makes an order in respect of immovable property —
 - (a) may, where it deems it necessary and in the interests of justice, at any time rescind the order; or
 - (b) shall rescind the order where the relevant preservation order is rescinded.

- (7) Where an order in respect of immovable property is rescinded, the Court shall direct the registration authority concerned to lift any caveat entered by virtue of that order on the land register in respect of the immovable property and the registration authority shall give effect to the direction.

Committee's Recommendation:

That the provision in Clause 12 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 13: Application for Forfeiture Order:

- (1) Where a preservation order is in force, the Agency may apply to the Court for a forfeiture order against all or any part of the property that is subject to the preservation order.
- (2) The Agency shall give twenty-one working days' notice of an application under subsection (1) of this section to every person who was served notice under section 5(2) of this Act.
- (3) A person who was served notice under section 5(2) of this Act may, subject to compliance with sections 5(3) and (4) of this Act, appear at the hearing of the application under subsection (1) of this section to —
- (a) oppose the making of the order; or
- (b) apply for an order —
- (i) excluding his interest in the property from the operation of the order, or
- (ii) varying the operation of the order in respect of the property, and may adduce evidence at the hearing of the application.
- (4) Where the Court grants the forfeiture order, the property referred to in subsection (1) of this section shall be forfeited to the Agency.

Committee's Recommendation:

That the provision in Clause 13 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 14: Service of Notice Out of Time:

- (1) Where a person for any reason, does not serve notice under section 5(2) of this Act, he may apply to the Court for leave to serve the notice out of time.
- (2) An application under subsection (1) of this section may be made before or after the date on which an application for a forfeiture order is made under section 13(1) of this Act, but shall be made before judgment is given in respect of the application for the forfeiture order.
- (3) A Court may grant leave to an applicant referred to in subsection (1) of this section, to serve notice under section 5(2) of this Act within the period which the Court deems appropriate, where the Court is satisfied on good cause shown that the applicant has —
- (a) for sufficient reason failed to serve notice under section 5(2) of this Act; and

- (b) an interest in the property which is subject to the preservation order.
- (4) A notice served after leave has been obtained under this section shall contain full particulars of the address of the person who serves such notice for the delivery of documents concerning further proceedings under this Part and shall be accompanied by the affidavit referred to in section 5(4) of this Act.
- (5) Where a notice has not been served under section 5(2) of this Act and the Court has granted leave to serve notice under that section within the period that the Court has deemed appropriate, the Court may require the applicant to pay any or all of the costs that have arisen or may arise as a result of the notice being served out of time.

Committee's Recommendation:

That the provision in Clause 14 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 15: Making of Forfeiture Order:

- (1) Subject to section 17 of this Act, a Court shall make an order applied for under section 13(1) of this Act where it finds on a balance of probabilities that the property concerned —
 - (a) is a proceed of unlawful activity;
 - (b) represents the proceeds of unlawful activity; or
 - (c) is involved in the facilitation of unlawful activity; or
 - (d) is intended to facilitate unlawful activity.
- (2) The Court may, where it makes a forfeiture order or at any time thereafter, make any ancillary order that it considers appropriate, including orders for and with respect to facilitating the transfer to the Agency of property forfeited to it under the order.
- (3) The absence of a person whose interest in property may be affected by a forfeiture order does not prevent the Court from making the order.
- (4) The validity of an order under subsection (1) of this section is not affected by the outcome of criminal proceedings or of an investigation with a view to instituting such proceedings, in respect of an offence with which the property concerned is in some way associated.
- (5) The Agency shall publish a notice of a forfeiture order in the Federal Government Gazette and two widely circulated national newspapers as soon as practicable but not more than thirty days after the order is made.
- (6) A forfeiture order shall not take effect before the —
 - (a) period allowed for an application under section 12 of this Act or an appeal under section 20 of this Act has expired; or
 - (b) application or appeal has been disposed of.

Committee's Recommendation:

That the provision in Clause 15 be retained (*Senator David Umaru — Niger North*) — Agreed to.

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

Clause 16: Protection of Third Parties:

- (1) Where an application is made for a forfeiture order against a property, a person who claims an interest in the property may apply to the Court, before which the forfeiture order is made and the Court, if satisfied on a balance of probabilities —
 - (a) that the person was not in any way involved in the unlawful activity or conduct mentioned in section 15(1) of this Act; or
 - (b) that the person had no knowledge of the unlawful activity mentioned in section 15(1) of this Act; or
 - (c) where the person acquired the interest during or after the commission of the unlawful activity or conduct, that he acquired the interest —
 - (i) for sufficient consideration; and
 - (ii) without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time he acquired it, a tainted property, make an order declaring the nature, extent and value of the person's interest, at the time the order was made.
- (2) A person who —
 - (a) had knowledge of the application for the forfeiture order before the order was made; or
 - (b) appeared at the hearing of that application, shall not be permitted to make an application under subsection (1) of this section, except with leave of Court.
- (3) A person who makes an application under subsection (1) of this section shall give not less than fourteen days written notice of the making of the application to the Agency, which shall be a party to any proceedings in the application.
- (4) An applicant or the Agency may appeal against an order made under subsection (1) of this section.
- (5) A person appointed by the Court under this Act as a manager or trustee shall, on application by any person who has obtained an order under subsection (1) of this section, and where the period allowed by the rules of Court with respect to the making of appeals has expired and any appeal against that order has been determined, direct that —
 - (a) the property or part of it to which the interest of the applicant relates, be returned to the applicant; or
 - (b) an amount equal to the value of the interest of the applicant, as declared in the order, be paid to the applicant.

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator David Umaru — Niger North*) — Agreed to.

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

Clause 17: Exclusion of Interests in Property:

- (1) The Court may on application —
 - (a) on application under section 13(3) of this Act, or
 - (b) by a person referred to in section 14(1) of this Act; and when it makes a forfeiture order, make an order excluding certain interests in the property which is subject to the order, from the operation of the order.
- (2) The Court may make an order under subsection (1) of this section in relation to the forfeiture of the proceeds of an unlawful activity, where —
 - (a) it finds, on a balance of probabilities, that the applicant has acquired the interest concerned legally and for a consideration, the value of which is not significantly less than the value of that interest; and
 - (b) in case where the applicant had acquired the interest concerned after the commencement of this Act, that he neither knew nor had reasonable grounds to suspect that the property in which the interest is held is the proceed of an unlawful activity or conduct.
- (3) The Court may make an order under subsection (1) of this section, in relation to the forfeiture of property which is or is intended to be used as an instrumentality in the commission of unlawful activity or conduct, where it finds, on a balance of probabilities, that the applicant for the order had acquired the interest concerned legally and —
 - (a) neither knew nor had reasonable grounds to suspect that the property in which the interest is held has been used or is intended for use in unlawful activity or conduct; or
 - (b) where the offence concerned had occurred before the commencement of this Act, that he has since the commencement of this Act taken all reasonable steps to prevent the use of the property concerned in connection with unlawful activity or conduct.
- (4) Where an applicant for an order under subsection (1) of this section adduces evidence to show that he did not know or did not have reasonable grounds to suspect that the property in which the interest is held is a proceed of crime or an instrumentality of an offence, the Agency may submit proof of the service on the applicant of a notice issued under section 13(3) of this Act in rebuttal of the evidence in respect of the period since the date of such service.
- (5) Where the Agency submits a proof of the service on the applicant under subsection (4) of this section, the applicant shall, in addition to the facts referred to in subsection (2)(a) and (b) of this section, prove on a balance of probabilities that, since the service, he has taken all reasonable steps to prevent the further use of the property as an instrumentality of an offence.
- (6) A Court making an order for the exclusion of an interest in property under subsection (1) of this section may, in the interest of the administration of justice or in the public interest, make the order on the condition that the Court deem appropriate, including a condition requiring the person who applied for the exclusion to take all reasonable steps, within a period that the Court may determine, to prevent the future use of the property in connection with unlawful activity or conduct.

Committee's Recommendation:

That the provision in Clause 17 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 18: Forfeiture Order by Default.

- (1) Where the Agency applies for a forfeiture order by default and the Court is satisfied that no person has appeared on the date upon which an application under section 14(1) of this Act is to be heard and, on the grounds of sufficient proof or otherwise, that all persons who served notices under section 5(3) of this Act have knowledge of notices given under section 14(2) of this Act, the Court may —
 - (a) make any order by default which the Court could have made under section 13(1) and (2) of this Act; or
 - (b) make such order as the Court may consider appropriate in the circumstances.
- (2) The Court may, before making an order under subsection (1) of this section, call upon the Agency to adduce such further evidence, either in writing or orally, in support of its application as the Court may consider necessary.
- (3) A person whose interest in the property concerned is affected by the forfeiture order or other order made by the Court under subsection (1) of this section may, within ninety days after the person has acquired knowledge of such order or direction, set the matter down for variation or rescission by the Court.
- (4) The Court may, upon good cause shown, vary or rescind the default order or give any other direction on such terms, as it deems appropriate.

Committee's Recommendation:

That the provision in Clause 18 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 19: Exclusion of Interests in Forfeited Property:

- (1) A person affected by a forfeiture order who was entitled to receive notice of the application for the order under section 14(2) of this Act, but did not receive the notice, may, within thirty days after the notice is published, apply to the Court for an order excluding his interest in the property concerned from the operation of the order, or varying the operation of the order in respect of the property and his interest therein.
- (2) The hearing of the application in subsection (1) of this section shall, to the extent practicable and consistent with the interests of justice be held within thirty days of the filing of the application.
- (3) The Court may make an order under subsection (1) of this section where it finds on a balance of probabilities that the applicant for the order falls within the provisions of section 14(2) or (3) of this Act.

- (4) The provisions of section 12(4) and (5) of this Act shall apply to any proceedings under this section.

Committee's Recommendation:

That the provision in Clause 19 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 20: Appeal Not to Affect Forfeiture Until Conclusion:

Any preservation order and any order authorising the seizure of the property concerned or other ancillary order that is in force at the time of any decision regarding the making of a forfeiture order under section 15(1) of this Act shall remain in force pending the outcome of any appeal against the decision concerned.

Committee's Recommendation:

That the provision in Clause 20 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 21: Effect of Forfeiture Order:

- (1) With effect from the date when the Court makes a forfeiture order, the property subject to the order shall be forfeited to Agency and vests in the Agency on behalf of the Federal Government.
- (2) Upon a forfeiture order taking effect, the Agency may take possession of the property from any person in possession or entitled to possession of the property

Committee's Recommendation:

That the provision in Clause 21 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 22: Fulfilment of Forfeiture Order:

- (1) The Agency or person authorised to act on behalf of the Agency shall, subject to any order for the exclusion of interests in forfeited property under section 17(2)(a) or 19(3) of this Act and in accordance with the directions of the Agency —
- (a) deposit any moneys forfeited into the Confiscated and Forfeited Properties Account established under section 146 of this Act; or
- (b) dispose of property forfeited by sale or any other means and deposit the proceeds of the sale or disposition into the Confiscated and Forfeited Properties Account.
- (2) Any right or interest in forfeited property not exercisable by or transferable to the Agency, shall expire and shall not revert to the person who has possession, or was entitled to possession of the property immediately before the forfeiture order took effect.
- (3) A person who has possession, or was entitled to possession, of forfeited property immediately before the forfeiture order took effect, or any person acting together with, or on behalf of that person, shall not be eligible to purchase forfeited property at any sale held by the asset manager.

- (4) A person mentioned in subsection (3) of this section who had possession or was entitled to possession of forfeited property immediately before the forfeiture order came into force, or any other person who acts with or on behalf of that person, commits an offence if he purchases or attempts to purchase the forfeited property.
- (5) Any person who contravenes the provision of subsection (4) of this section is liable on conviction to a fine of not less than twice the value of the property sold.
- (6) The expenses incurred in connection with the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertisement and the Court costs shall be defrayed out of the Confiscated and Forfeited Properties Account.

Committee's Recommendation:

That the provision in Clause 22 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 23: Unlawful Activity or Conduct Forming the Basis of Multiple Orders:

The fact that a preservation order or a forfeiture order has been made on the basis of unlawful activity or conduct in which a specific person has been involved shall not prevent the making of another or other preservation orders or forfeiture orders on the basis of the same unlawful activity or conduct.

Committee's Recommendation:

That the provision in Clause 23 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 24: Application of this Part to Deceased Estates:

- (1) A notice authorised or required to be given to a person under this Part shall, in the case of a deceased person, be sufficiently given to the administrator or executor of the deceased person's estate, or to a person acting in that capacity.
- (2) A reference in this section to the property of a person shall, in the case of a deceased person, be a reference to property that the deceased person held immediately before his death.
- (3) An order may be applied for and made under this section —
 - (a) in respect of property which forms part of a deceased person's estate; and
 - (b) on evidence adduced concerning the activities of a deceased person.

Committee's Recommendation:

That the provision in Clause 24 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 25: Effect of Death of Joint Owner of Preserved Property:

- (1) Where a person has an interest in property as a joint owner, his death after a preservation order is made in respect of the interest does not, while the order is in force, operate to vest the interest in the surviving joint owner or owners and the preservation order continues to apply to the interest as if the person had not died.
- (2) A forfeiture order made in respect of the interest referred to in subsection (1) of this section shall apply as if the order took effect in relation to the interest immediately before the person died.
- (3) Subsection (1) of this section does not apply to the interest in property where a preservation order ceases to apply to that interest without a forfeiture order being made in respect of that interest.

Committee's Recommendation:

That the provision in Clause 25 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

PART III — ADDITIONAL INVESTIGATION POWERS IN CIVIL RECOVERY**Clause 26: Discovery Orders:**

- (1) On an ex-parte application by the Agency, a Judge of the Court may make a discovery order where satisfied that the Agency is conducting a civil forfeiture investigation as envisaged in Part II of this Act.
- (2) The requirements for making the order in subsection (1) of this section are that there are reasonable grounds to —
 - (a) suspect that the property specified in the application for the order is property mentioned in section 4(2) of this Act; and
 - (b) believe that the material sought, by itself or together with other material, is likely to be of substantial value into the specified investigation.
- (3) A discovery order shall authorise the Agency to give notice in writing to any person that has relevant information requiring him to do, with respect to any matter relevant to the investigation for which the order is sought, any or all of the following —
 - (a) answer questions at a specified time or at once, at a specified place;
 - (b) provide information by a specified time and in a specified manner;
 - (c) produce specified documents or documents of a specified type, at a specified time or at once, and in a manner so specified.
- (4) "Relevant information" is information whether contained in a document or not that the Agency believes is relevant.
- (5) A person is not bound to comply with a requirement imposed by a notice given under a discovery order unless evidence of authority to give the notice is produced to him.

- (6) The application for a discovery order shall state that —
 - (a) property specified in the application is subject to a civil forfeiture investigation; and
 - (b) the order is sought for the purposes of the investigation.

Committee's Recommendation:

That the provision in Clause 26 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 27: Discovery Order Related Offences:

- (1) A person commits an offence where —
 - (a) without reasonable excuse he fails to comply with a requirement imposed on him under a discovery order;
 - (b) in purporting to comply with a requirement imposed on him by a discovery notice, he —
 - (i) makes a statement which is false or misleading; or
 - (ii) recklessly makes a statement which is false or misleading.
- (2) Where a person contravenes a provision of subsection (1) of this section, he shall on conviction in the case of —
 - (i) a body corporate be liable to a fine of not less than ten million Naira; and
 - (ii) an individual, be liable to a fine of not less than one million Naira or imprisonment for a term of not more than two years or to both.

Committee's Recommendation:

That the provision in Clause 27 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 28: Additional Provisions on Discovery Orders:

- (1) A discovery order shall not confer any right to require a person to provide any information that is subject to legal privilege whether in answer to any question or in any document, except that a person may be required to provide the name and address of his client.
- (2) In consideration of the legal privilege referred to in subsection (1) of this section, no legal privilege shall attach to any of the items listed in section 112(2) of this Act.
- (3) The Agency may take copies of any document produced in compliance to a requirement to produce them which is imposed by a discovery order.
- (4) Where originals of documents are required by the Law Enforcement Agencies, they may be retained until the completion of the investigation.
- (5) The Agency shall not retain originals of documents where certified true copies of the documents would suffice.

Committee's Recommendation:

That the provision in Clause 28 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 29: Variation or Discharge of a Discovery Order:

- (1) An application to vary or discharge a discovery order may be made by —
 - (a) the Director - General of the Agency; or
 - (b) the person affected by the order.
- (2) Where an application is made by a person mentioned in subsection (1) of this section, the Court may —
 - (a) vary the order; or
 - (b) discharge the order.

Committee's Recommendation:

That the provision in Clause 29 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

PART IV — RECOVERY OF CASH BEING IMPORTED OR EXPORTED**Clause 30: Seizure and Detention of Cash Being Imported or Exported:**

- (1) An authorised officer may seize and detain any cash which is being imported into or exported from Nigeria where it is not less than the minimum prescribed amount and he has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of unlawful activity.
- (2) An authorised officer may seize cash, part of which he has reasonable grounds to suspecting to be —
 - (a) the proceeds of unlawful activity or is intended to be an instrumentality of an offence; and
 - (b) which is not less than the minimum prescribed amount; and
 - (c) which is being imported into or exported from Nigeria
- (3) In this Part, cash means —
 - (a) notes and coins in any currency;
 - (b) cheques of any kind, including travellers' cheques;
 - (c) bankers' draft; or
 - (d) bearer bonds and bearer shares.
- (4) Cash also includes any kind of monetary instrument, where the instrument is so specified by the Central Bank of Nigeria.
- (5) 'Exported', in relation to any cash, includes cash being brought to any place in Nigeria for the purpose of being exported.

Committee's Recommendation:

That the provision in Clause 30 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 31: Detention of Seized Cash:

- (1) Where the authorised officer continues to have reasonable grounds for his suspicion, cash seized under section 30 of this Act may be detained initially for a period of seventy-two hours.
- (2) The period referred to in subsection (1) of this section shall not include Saturdays and Sundays or any day which is a public holiday in Nigeria.
- (3) The period for which the cash, or any part of it, may be detained may be extended by an order of the Court but the order shall not authorise the detention of any of the cash beyond the end of the period of three months commencing from the date of the order.
- (4) Subsequent orders for the continued detention of the cash may be made by the Court but no order shall authorise the further detention of the cash beyond a period of three months commencing from the date of the last order.
- (5) Cash shall not be detained for a period beyond two years commencing from the date of the first order.
- (6) An application for an order under subsections (3) and (4) of this section may be made by an authorised officer or by the Agency and the Court may make the order where satisfied in relation to any cash to be further detained that there are reasonable grounds to believe that the cash is —
 - (a) the proceeds of unlawful activity; or
 - (b) is intended to be an instrumentality of an offence and that either —
 - (i) its continued detention is justified while its derivation is further investigated or consideration is given to bringing, in Nigeria or elsewhere, proceedings against any person for an offence with which the cash is connected, or
 - (ii) proceedings against any person for an offence with which the cash is connected have started and have not been concluded.

Committee's Recommendation:

That the provision in Clause 31 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 32: Interest to be Paid on Seized Cash:

- (1) Where cash under section 31 of this Act —
 - (a) is detained for more than the period specified in section 31(1), the cash shall be forwarded to the Agency to be paid into an interest yielding account and held there and the interest accruing shall be added to it on its forfeiture or release; or

- (b) was seized under section 30 (2) of this Act, the Agency on paying it into the account shall, subject to subsection (2) of this section, release the part of the cash to which the suspicion does not relate.
- (2) Where part of the cash, referred to in subsection (1) of this section to which suspicion does not relate, may still be subject to a confiscation order, under section 82 of this Act and an application for a restraint order, under section 51 of this Act in respect of a person who has an interest in the cash has been made and not refused, the Agency may retain the cash in an interest yielding account until such time as a confiscation order is made in respect of the cash or until an application made under sections 56 or 62 of this Act are granted by the Court.

Committee's Recommendation:

That the provision in Clause 32 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

Question that Clause 32 do stand part of the Bill, put and agreed to.

Clause 33: Release of Detained Cash:

- (1) This section applies where cash is detained under section 31 of this Act.
- (2) The Court may direct the release of the whole or any part of detained cash where the condition in subsection (3) of this section is met.
- (3) The condition referred to in subsection (2) of this section requires the Court to be satisfied on application by the person from whom the cash is seized that the conditions in section 31 of this Act no longer exist in relation to the cash to be released.
- (4) The Agency may, after notifying the Court under whose order the cash is detained, release the whole or part of the cash where satisfied that its detention is no longer justified.

Committee's Recommendation:

That the provision in Clause 33 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 34: Forfeiture of Seized Cash:

- (1) Where cash is detained under section 31 of this Act, an application for forfeiture of the whole or part of it may be made to the Court.
- (2) The Court may order forfeiture of cash or any part of it where the Court is satisfied that the cash is proceeds of unlawful activity or is intended to be an instrumentality of an offence.
- (3) Where an application for forfeiture of cash is made under this section, the cash is to be detained and may not be released under a power conferred by this Act until any proceedings in pursuance of the application, including any proceedings on appeal are concluded.

Committee's Recommendation:

That the provision in Clause 34 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

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

Clause 35: Appeals:

- (1) Where a Court refuses an application under section 34 of this Act for forfeiture of cash detained under section 31 of this Act, the Agency may appeal to the Court of Appeal.
- (2) Where an appeal is made to the Court of Appeal by the Agency, cash detained under section 31 of this Act will be further detained pending the outcome of the appeal.
- (3) No appeal may be made under subsection (1) of this section if the cash has been detained for the period mentioned in section 31 (5) of this Act.
- (4) Where a party to proceedings in which an order is made under section 34 of this Act for forfeiture of cash is aggrieved by the order, he may appeal against the Order.
- (5) Appeals under this section shall be —
 - (a) made within thirty days commencing from the date on which the order is made or refused; and
 - (b) by way of a rehearing.
- (6) The Court hearing an appeal under this section may make any order it thinks appropriate in the circumstance and where that Court upholds an appeal made under subsection (4) of this section, it shall order the release of the cash.

Committee's Recommendation:

That the provision in Clause 35 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

Question that Clause 35 do stand part of the Bill, put and agreed to.

Clause 36: Other Owners or Claimants:

- (1) A person other than the person from whom cash was seized, who claims that any cash detained under section 31 of this Act or any part of it belongs to him, may apply to the Court for the cash to be released to him.
- (2) An application under subsection (1) of this section may be made in the course of proceedings under section 31 or 34 of this Act, or at any other time.
- (3) Where it appears to the Court that the —
 - (a) applicant was deprived of the cash to which an application relates, or of property which it represents, by unlawful activity;
 - (b) property the applicant was deprived of was not, immediately before he was deprived of it, recoverable property; and
 - (c) cash belongs to the applicant, the Court may order the cash to which the application relates to be released to the applicant.

Committee's Recommendation:

That the provision in Clause 36 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

Question that Clause 36 do stand part of the Bill, put and agreed to.

Clause 37: Compensation Where Detained Cash Is Not Lodged in Interest Bearing Account:

- (1) Where no forfeiture order is made in respect of cash detained under section 31 of this Act, the person to whom the cash belongs or from whom it was seized may make an application to the Court for compensation.
- (2) Where an opportunity to place cash detained sequel to a forfeiture order in an interest-bearing account arises and 48 hours thereafter the cash was not held in an interest-bearing account while detained, the Court may order an amount of compensation to be paid to the applicant.
- (3) The amount of compensation to be paid under subsection (2) of this section is the amount the Court considers would have accrued in interest in the period for which it was not placed into an interest bearing account.
- (4) Where no forfeiture order was made and the Court is satisfied that because of exceptional circumstances an applicant has suffered loss as a result of the detention of the cash belonging to him, it may order additional compensation, to be paid to him, taking account of any interest to be paid under section 32 or any amount to be paid under subsection (1) of this section.
- (5) The amount of compensation to be paid under subsection (4) of this section is the amount the Court considers reasonable, having regard to the loss suffered and any other relevant circumstances.
- (6) Compensation under this section shall be paid from the Confiscated and Forfeited Properties Account.

Committee's Recommendation:

That the provision in Clause 37 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

Question that Clause 37 do stand part of the Bill, put and agreed to.

Clause 38: "The Minimum Amount":

- (1) In this Part, the "minimum amount" is the equivalent amount in United States Dollars specified in an order made by the Attorney - General of the Federation.
- (2) For the purpose of subsection (1) of this section, any amount of cash imported or exported in a currency other than United States dollars shall be taken to be its United States dollar equivalent, calculated in accordance with the prevailing exchange rate.

Committee's Recommendation:

That the provision in Clause 38 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

Question that Clause 38 do stand part of the Bill, put and agreed to.

PART V — CRIMINAL FORFEITURE AND CONFISCATION

Clause 39: Nature of proceedings under this Part:

- (1) For the purpose of this Part, proceedings on an application for a freezing order, restraint order, forfeiture order or confiscation order are civil proceedings, and not criminal proceedings.

- (2) The rules of evidence applicable in civil proceedings apply to proceedings on an application for a freezing order, restraint order, forfeiture order or confiscation order.
- (3) No rule of evidence or construction applicable only in criminal proceedings shall apply to proceedings on an application for a freezing order, restraint order, forfeiture order or confiscation order.
- (4) Any question of fact to be decided by a Court in any proceedings in respect of an application contemplated under this Part shall be decided on a balance of probabilities.
- (5) Notwithstanding any rule of law or practice relating to hearsay evidence, evidence given in furtherance of this Part is admissible.

Committee's Recommendation:

That the provision in Clause 39 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

Question that Clause 39 do stand part of the Bill, put and agreed to.

Clause 40: Forfeiture After Conviction:

- (1) Where a person is convicted of an offence, the Court shall make an order of forfeiture in relation to —
 - (a) any asset or property constituting or derived from proceeds of the unlawful activity; and
 - (b) instrumentalities of the offence, or any of the defendant's property used in any manner to commit or to facilitate the commission of such offence.
- (2) An order made by the Court under subsection (1) of this section, is in addition to —
 - (a) a sentence which the Court may impose on a person convicted for an offence; or
 - (b) any confiscation order imposed under this Act.

Committee's Recommendation:

That the provision in Clause 40 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

Question that Clause 40 do stand part of the Bill, put and agreed to.

Clause 41: International Forfeiture Provisions:

- (1) Where under this Act a Court is required to order forfeiture in respect of any property, the Court may make an order forfeiting any property within Nigeria which represents the proceeds of unlawful activity or instrumentality of an offence under the laws of a foreign country within whose jurisdiction such offence or activity will be punishable by imprisonment for a term exceeding one year and which will be punishable by imprisonment under the laws of Nigeria if the act or activity had occurred within Nigeria.

- (2) Where it is established that a convicted person has any asset or property in a foreign country, acquired as a result of some criminal activity, the asset or property shall, subject to any treaty or arrangement with that foreign country, be forfeited to the Agency.
- (3) The forfeited property referred to in subsections (1) and (2) of this section shall be effectively transferred to and interest vested in the Agency.
- (4) Where a foreign country has forfeited or confiscated property under the laws of that country that relates to unlawful activity conducted in that country and Nigeria, and that country repatriates the whole or part of that assets or a sum of money that represents the unlawful activity in Nigeria, the property shall be realised and the proceeds or the sum of money shall be paid into the Confiscated and Forfeited Properties Account established under Part IX of this Act.
- (5) Any money paid into the Confiscated and Forfeited Properties Account under subsection (4) of this section shall be utilised to finance any of the purposes specified under section 150(2)(e) of this Act.

Committee's Recommendation:

That the provision in Clause 41 be retained (*Senator David Umaru — Niger North*) — *Agreed to.*

Question that Clause 41 do stand part of the Bill, put and agreed to.

Further consideration of Report deferred to another Legislative Day.

Chairman to report progress.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Judiciary, Human Rights and Legal Matters; and Anti-Corruption and Financial Crimes on the Proceeds of Crimes Bill, 2017 and approved as follows:

Clauses 9 -41 — As Recommended

Further consideration of Report deferred to another Legislative Day.

Question: That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

15. Adjournment:

Motion made: That the Senate do now adjourn till Tuesday, 24th October, 2017 at 10:00 a.m. (*Senate Leader*).

Adjourned accordingly at 12:43 p.m.

Abubakar Olubukola Saraki, CON
President,
Senate of the Federal Republic of Nigeria.