

# A BILL

## FOR

AN ACT TO PROVIDE A LEGAL FRAMEWORK FOR INDUSTRIAL WASTE MINIMIZATION AND PROHIBIT INDISCRIMINATE WASTE DISPOSAL IN NIGERIA; TO PROTECT HUMANITY AND THE ENVIRONMENT FROM HARM; AND TO PROVIDE FOR ENVIRONMENTAL, SOCIAL, ECONOMIC, AND CULTURAL BENEFITS; ENCOURAGE MANUFACTURERS, INDUSTRIALISTS AND ORGANIZATIONS AND FOR RELATED MATTERS

*Sponsored by Hon. Bassey Eko Ewa*

[ ] Commencement

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

### PART 1 - PRELIMINARY PROVISIONS

- 1           1. The purpose of this Act is to encourage control of indiscriminate  
2           Industrial waste Disposal in Nigeria in order to: Purpose of this Act
- 3           (a) protect the environment and humanity from harm; and
- 4           (b) provide environmental, social, economic, and cultural benefits.
- 5           2. This Act binds the federal, state and local government. Application and Scope of the Act
- 6           3.-(1) In this Act, unless the context requires another meaning,  
7           disposal means: Meaning of disposal
- 8           (a) the final (or more than short-term) deposit of waste into or onto
- 9           land set apart for that purpose; or
- 10          (b) the incineration of waste.
- 11          (2) In subsection (1)(a), for all purposes relating to the levy,
- 12          final (or more than short-term) deposit of waste means any deposit of waste
- 13          other than a deposit referred to in section 26(3).
- 14          (3) In subsection (1)(b), incineration means the deliberate burning
- 15          of waste to destroy it, but not to recover energy from it.

Meaning of  
disposal facility

1 4.-(1) In this Act, unless the context requires another meaning,  
2 disposal facility means:  
3 (a) a facility, including a landfill:  
4 (i) at which waste is disposed of; and  
5 (ii) at which the waste disposed of includes household waste;  
6 (iii) that operates, at least in part, as a business to dispose of waste; and  
7 (b) any other facility or class of facility at which waste is disposed of  
8 that is prescribed as a disposal facility.

9 (2) In subsection (1)(a)(ii), household waste means waste from a  
10 household that is not entirely from construction, renovation, or demolition of  
11 the house.

#### 12 PART 2 - PRODUCT STEWARDSHIP

Purpose of Part

13 5. The purpose of this Part is to encourage (and, in certain  
14 circumstances, require) the people and organizations involved in the life of a  
15 product to share responsibility for:  
16 (a) ensuring there is effective reduction, reuse, recycling, or recovery  
17 of the product; and  
18 (b) managing any environmental harm arising from the product when  
19 it becomes waste.

#### 20 *Priority Products*

Declaration of  
priority products

21 6.-(1) The Minister may, by notice in the Gazette, declare a product to  
22 be a priority product.  
23 (2) The Minister must not make the declaration unless he or she is  
24 satisfied that:  
25 (a) either:  
26 (i) the product will or may cause significant environmental harm  
27 when it becomes waste; or  
28 (ii) there are significant benefits from reduction, reuse, recycling,  
29 recovery, or treatment of the product; and  
30 (b) the product can be effectively managed under a product

1 stewardship scheme.

2 (3) Before the Minister makes the declaration, he or she:

3 (a) must obtain and consider the advice of the Waste Advisory  
4 Board;

5 (b) must consider any public concerns about environmental harm  
6 associated with the product when it becomes waste (including concerns  
7 about its disposal);

8 (c) must provide the public with an opportunity to comment on the  
9 proposal;

10 (d) must consider the effectiveness of any relevant voluntary  
11 product stewardship scheme in terms of the criteria set out in subsection (2);  
12 and

13 (e) may consider any other matters that he or she thinks relevant.

14 (4) The Minister may, by notice in the Gazette, revoke a declaration  
15 made under subsection (1) if he or she is satisfied that it is appropriate to do  
16 so.

17 *Product stewardship schemes*

18 7. As soon as practicable after a product is declared to be a priority  
19 product:

Product  
stewardship  
schemes required  
for priority products

20 (a) a product stewardship scheme for the product must be  
21 developed; and

22 (b) accreditation of the scheme must be obtained.

23 8. A product stewardship scheme that has been developed for a  
24 non-priority product may be accredited under this Part.

Voluntary  
products  
stewardship  
schemes

25 9.-(1) The Minister may, by notice in the Gazette, publish  
26 guidelines about the contents and expected effects of product stewardship  
27 schemes for priority products.

Ministerial  
guidelines for  
product  
stewardship  
schemes for  
priority products

28 (2) The guidelines may be general guidelines or guidelines that  
29 apply to 1 or more products.

30 (3) Without limiting subsection (1), the guidelines may include 1 or

1 more of the following matters:

2 (a) the duration of a scheme;

3 (b) the expected reduction in harm to the environment from the  
4 implementation of a scheme or the expected benefits from reduction, reuse,  
5 recycling, recovery, or treatment of the product to which a scheme relates;

6 (c) the time within which the matters specified in paragraph (b) are  
7 expected to occur;

8 (d) the expected waste minimization, treatment, or disposal  
9 objectives for the product to which a scheme relates and the time frames for  
10 meeting them;

11 (e) reporting and information requirements, including information to  
12 be provided to purchasers, users, and handlers of the product to which a scheme  
13 relates;

14 (f) the time within which an application for accreditation of the  
15 scheme is expected to be made under section 13.

16 (4) Before the Minister makes any guidelines, he or she must:

17 (a) obtain and consider the advice of the Waste Advisory Board; and

18 (b) be satisfied that there has been adequate consultation with persons  
19 or organizations who may be significantly affected by the guidelines.

20 *Accreditation of product stewardship schemes*

Application for  
accreditation

21 **10.-(1)** A scheme manager may apply to the Minister for accreditation  
22 of a product stewardship scheme.

23 (2) The application must:

24 (a) be made in writing in the prescribed manner (if any);

25 (b) include the prescribed information (if any);

26 (c) be accompanied by the prescribed fee (if any);

27 (d) identify how the scheme meets the requirements for accreditation  
28 under section 14;

29 (e) identify whether regulations under section 22 or 23 will be  
30 required to implement the scheme; and

1 (f) include evidence of the agreement of the participants in the  
2 scheme (being the persons referred to in section 14(e)).

3 11. To qualify for accreditation, a product stewardship scheme  
4 must-

Requirements  
for accreditation

5 (a) identify the scheme manager;

6 (b) provide a description of the scope of the scheme, including the  
7 product or brand of product to which it applies;

8 (c) set:

9 (i) measurable waste minimization, treatment, or disposal  
10 objectives for the product; and

11 (ii) time frames for meeting the objectives;

12 (d) list the classes of person involved in the design, manufacture,  
13 sale, use, servicing, collection, recovery, recycling, treatment, and disposal  
14 of the product;

15 (e) list the persons who have agreed to participate in the scheme  
16 and assign responsibility to them for meeting the scheme's objectives;

17 (f) specify the arrangements for:

18 (i) making decisions under the scheme;

19 (ii) the control and overall operation of the scheme;

20 (iii) keeping records and making reports under the scheme;

21 (g) specify the scheme's expiry date;

22 (h) identify the processes for compliance and enforcement of any  
23 agreements between participants to the scheme;

24 (i) provide for assessing the scheme's performance and for  
25 reporting on its performance to the Minister;

26 (j) set out a strategy for publication of the scheme;

27 (k) set out how information will be provided to purchasers, users,  
28 and handlers of the product to which the scheme relates;

29 (l) clearly outline how the scheme is to be funded.

Accreditation

1           12.-(1) The Minister shall accredit a product stewardship scheme if he  
2 or she is satisfied that the scheme:

3           (a) meets the requirements of section 14;

4           (b) is likely to meet the scheme's objectives within the time frames set  
5 in the scheme;

6           (c) is likely to promote waste minimization or reduce the  
7 environmental harm from disposing of the product to which the scheme relates  
8 without, in either case, causing greater environmental harm over the life cycle  
9 of the product;

10          (d) is consistent with Nigeria's international obligations; and

11          (e) if the scheme relates to a priority product, is consistent with any  
12 guidelines published under section 12.

13          (2) Despite subsection (1)(e), the Minister may accredit a product  
14 stewardship scheme that is not consistent with any guidelines published under  
15 section 12 if, before accrediting the scheme, he or she has obtained and  
considered the advice of the Waste Advisory Board.

17          (3) Before deciding whether to accredit a product stewardship  
18 scheme, the Minister may seek further information from:

19          (a) the scheme manager; or

20          (b) any other person who, in the Minister's opinion, is likely to be  
21 significantly affected by the scheme.

22          (4) As soon as practicable after deciding whether to accredit a product  
23 stewardship scheme, the Minister must provide to the scheme manager written  
24 notice of the decision and the reasons for the decision.

25          13.-(1) An accredited scheme may be varied.

26          (2) However, no variation to an accredited scheme has any effect until  
27 the scheme, as varied, is re-accredited under section 15.

28          (3) Subsection (2) does not apply if the variation to the scheme is a  
29 variation that will not adversely affect the scheme's objectives or its ability to  
30 meet those objectives within the time frames set in the scheme but, if the

Variation of  
accredited scheme

1 variation adds 1 or more participants to the scheme or adds 1 or more brands  
2 of product to which the scheme relates, the scheme manager must notify the  
3 Minister, in writing, of the addition not more than 5 working days after the  
4 scheme is varied.

5 **14.**-(1) The accreditation of a product stewardship scheme expires  
6 on the earlier of the following dates:

Expiry of  
accreditation

7 (a) the date specified in the scheme as its expiry date;

8 (b) 7 years after the date that notice is given under section 15(4).

9 (2) However, the accreditation of an existing product stewardship  
10 scheme continues if:

11 (a) not later than 6 months before its expiry date, the scheme  
12 manager applies for accreditation of a scheme to replace it; and

13 (b) at the expiry date, the application for the replacement scheme  
14 has not been determined by the Minister under section 15.

15 (3) A product stewardship scheme to which subsection (2) applies  
16 continues as an accredited scheme until the date that the replacement  
17 scheme is accredited or the application concerned is declined by the  
18 Minister under section 15.

19 **15.**-(1) The Minister may revoke the accreditation of an accredited  
20 scheme if:

Revocation of  
accreditation

21 (a) he or she is satisfied that:

22 (i) reasonable steps are not being taken to implement the scheme;

23 and

24 (ii) the scheme's objectives are not being met or are not likely to be  
25 met within the time frames set out in the scheme; or

26 (b) he or she is satisfied that the reporting requirements for the  
27 scheme are not being complied with; or

28 (c) the product to which the scheme relates was not a priority  
29 product at the date of the scheme's accreditation, but has subsequently been  
30 declared a priority product, and he or she is satisfied that the objectives of the

1 scheme are no longer adequate in relation to the product.

2 (2) The Minister must not revoke the accreditation of an accredited  
3 scheme unless he or she:

4 (a) notifies the scheme manager in writing; and

5 (b) provides a reasonable opportunity for the scheme manager to  
6 make submissions on whether the scheme's accreditation should be revoked.

Accredited scheme  
subject to other  
laws

7 **16.** An accredited scheme applies subject to any other enactment, the  
8 general law, and any bylaws (within the meaning of the Local Government  
9 Law in Nigeria).

Monitoring of  
accredited  
schemes

10 **17.** The Minister may:

11 (a) monitor the performance of an accredited scheme; and

12 (b) recover the costs of doing so from the scheme manager (on behalf  
13 of the scheme) as a charge in the prescribed manner.

Monitoring costs  
recoverable as  
debt if unpaid

14 **18.** Any charge payable to the Ministry under section 20 is  
15 recoverable as a debt by the Ministry in a court of competent jurisdiction.

16 *Regulations in relation to priority products, accredited schemes, products,*  
17 *materials, and waste*

Regulations in  
relation to  
priority products  
and accredited  
schemes

18 **19.**-(1) The President may, by Order in Council made on the  
19 recommendation of the Minister, make regulations for 1 or more of the  
20 following purposes:

21 (a) prohibiting the sale of a priority product, except in accordance  
22 with an accredited scheme;

23 (b) prescribing the manner in which applications for accreditation of a  
24 product stewardship scheme must be made;

25 (c) prescribing the information to be included in an application for  
26 accreditation;

27 (d) prescribing the fee payable for an application for accreditation  
28 (which may include the reasonable costs in assessing and accrediting a  
29 scheme);

30 (e) prescribing the charges payable to the Ministry for the monitoring



1 of an accredited scheme.

2 (2) Before recommending the making of regulations under  
3 subsection (1)(a), the Minister shall:

4 (a) obtain and consider the advice of the Waste Advisory Board;  
5 and

6 (b) be satisfied that:

7 (i) there has been adequate consultation with persons or  
8 organizations who may be significantly affected by the regulations; and

9 (ii) without the regulations, it is likely that either:

10 (a) the objectives of any relevant accredited scheme cannot be met;

11 (b) the matters referred to in section 12(3)(b) or (d) that are included in any  
12 guidelines published under section 12 cannot be met; and

13 (iii) the benefits expected from implementing the regulations  
14 exceed the costs expected from implementing the regulations; and

15 (iv) the regulations are consistent with Nigeria's international  
16 obligations.

17 (3) For the purposes of subsection (1)(e), regulations may provide  
18 for charges payable to the Minister using 1 or more of the following  
19 methods:

20 (a) fixed charges;

21 (b) charges fixed on an hourly or other unit basis;

22 (c) estimated charges paid before any monitoring, followed by  
23 reconciliation and an appropriate payment or refund after the monitoring;

24 (d) actual and reasonable charges (having regard to the direct and  
25 indirect costs of any monitoring);

26 (e) refundable or non-refundable deposits paid before any  
27 monitoring of an accredited scheme.

28 (4) However, if more than 1 charging method is provided, the  
29 Minister must use the method that he or she believes on reasonable grounds  
30 to be the most suitable and equitable in the circumstances concerned.

Regulations in relation to products (whether or not priority products), materials, and waste	1	20.-(1) The President may, by Order in Council made on the
	2	recommendation of the Minister, make regulations for 1 or more of the
	3	following purposes:
Control or prohibition on disposal, sale, etc	4	(a) controlling or prohibiting the disposal, or anything done for the
	5	purpose of disposing, of products or waste:
	6	(b) controlling or prohibiting the manufacture or sale of products that
	7	contain specified materials:
Take-back services, fees, and refundable deposits	8	(c) requiring specified classes of person to provide a take back service
	9	for products, and prescribing requirements for:
	10	(i) the take-back service; and
	11	(ii) the reuse, recycling, recovery, treatment, or disposal of products
	12	taken back:
	13	(d) setting fees payable for the management of a product and
	14	specifying:
	15	(i) the class or classes of person who must pay the fee; and
	16	(ii) the stages in the life of the product where the fee shall be paid; and
	17	(iii) the purposes to which the fee must be applied;
	18	(e) requiring specified classes of person to charge a deposit on the sale
	19	of a product, requiring the deposits to be refunded in specified circumstances,
	20	and prescribing requirements for the application of any deposits not refunded:
Labelling of products	21	(f) prescribing requirements for the labelling of a product;
Quality standards	22	(g) for any product or material that has become waste, prescribing
	23	standards to be met when reusing, recycling, or recovering the product or
	24	material;
	25	(h) requiring specified persons or specified classes of person to ensure
	26	that the standards prescribed under paragraph (g) are met;
Information to be collected and provided	27	(i) requiring specified persons or specified classes of person to
	28	collect, and provide to the Minister, information about any requirements
	29	imposed in regulations made under paragraph (a), (b), (c), (d), or (e);
Miscellaneous	30	(j) providing for any other matter contemplated by this Part.

1 (2) The Minister must not recommend the making of regulations:

2 (a) under subsection (1)(a), unless he or she is satisfied that there is  
3 adequate infrastructure and facilities in place to provide a reasonably  
4 practicable alternative to disposal or, if not, that a reasonable time is  
5 provided before the regulations come into force for adequate infrastructure  
6 and facilities to be put in place;

7 (b) under subsection (1)(b), unless a reasonably practicable  
8 alternative to the specified materials is available.

9 (3) Before recommending the making of regulations under  
10 subsection (1), the Minister must:

11 (a) obtain and consider the advice of the Waste Advisory Board;  
12 and

13 (b) be satisfied that:

14 (i) there has been adequate consultation with persons or  
15 organizations who may be significantly affected by the regulations;

16 (ii) the benefits expected from implementing the regulations  
17 exceed the costs expected from implementing the regulations; and

18 (iii) the regulations are consistent with Nigeria's international  
19 obligations.

20 21.-(1) The Secretary may request, in writing, the Nigeria Customs  
21 Service to provide to the Secretary any information that the Nigeria Customs  
22 Service holds about the importers and importation of priority products.

Nigeria Customs  
Service to provide  
information about  
priority products

23 (2) The Nigeria Customs Service must comply with a request as  
24 soon as practicable.

25 (3) Information provided to the Secretary under this section may be  
26 used by the Secretary only for the purpose of administering and enforcing  
27 regulations made under this Part.

28 PART 3

29 *Waste disposal levy*

30 22. The purpose of this Part is to enable a levy to be imposed on Purpose of Part

1 waste disposed of to:

2 (a) raise revenue for promoting and achieving waste minimization;

3 and

4 (b) increase the cost of waste disposal to recognize that disposal  
5 imposes costs on the environment, society, and the economy.

6 *Levy must be paid*

Levy imposed  
on waste disposed  
of at disposal  
facility

7 **23.**-(1) A levy is imposed on waste disposed of at a disposal facility.

8 (2) However, subsection (1) does not apply to waste disposed of at a  
9 disposal facility if:

10 (a) the facility is exempted from the levy by regulations made under  
11 this Part; or

12 (b) the waste concerned is exempted from the levy by regulations  
13 made under this Part.

14 (3) For all purposes relating to the levy, disposal does not include the  
15 deposit of waste onto land if, not later than 6 months after its deposit (or any  
16 later time that the Secretary has agreed to in writing), the waste is:

17 (a) reused or recycled;

18 (b) recovered or treated on the land and removed from the land for  
19 deposit elsewhere; or

20 (c) removed from the land for any other reason.

Rate of levy

21 **24.** The levy is payable on the amount of waste disposed of at a  
22 disposal facility-

23 (a) at the prescribed rate; or

24 (b) if the rate is not prescribed, at the rate (exclusive of goods and  
25 services tax) of-

26 (i) N25,000 per tonne; or

27 (ii) N25,000 per unit of volume that, in accordance with regulations  
28 made under this Part, is considered equivalent to a tonne.

Operator of  
disposal facility  
must pay levy  
to levy collector

29 **25.**-(1) The operator of a disposal facility must pay the levy on waste  
30 disposed of at the facility.

1 (2) The amount of levy payable must be calculated in accordance  
2 with regulations made under this Part.

3 (3) The levy must be paid to the levy collector in the prescribed  
4 manner and at the prescribed times.

5 (4) This section is subject to section 29.

6 26. The Secretary may waive, in writing, the requirement for an  
7 operator to pay any amount of levy, if satisfied that exceptional  
8 circumstances justify the waiver.

Waiver of levy  
payment

9 *Distribution and spending of levy money*

10 27. The Secretary must distribute and spend all levy money  
11 received by:

Secretary must  
distribute and  
spend levy money

12 (a) paying any refunds to operators in accordance with regulations  
13 made under section 41(1)(k);

14 (b) paying shares to territorial authorities in accordance with  
15 sections 31 and 33; and

16 (c) spending the remainder on or more of the following:

17 (i) collecting and administering the levy;

18 (ii) funding projects that the Minister has approved for funding  
19 under section 38;

20 (iii) administration costs relating to projects that the Minister has  
21 considered or approved for funding (for example, the costs of approving or  
22 declining funding or of auditing the projects).

23 *Estimated levy and unpaid levy*

24 28.-(1) This section applies if the levy collector considers that an  
25 amount of levy payable by an operator under section 28 cannot be accurately  
26 calculated because the operator:

Estimation of  
amount of levy  
payable

27 (a) did not provide records or information in accordance with any  
28 prescribed requirement; or

29 (b) provided records or information that the levy collector  
30 considers, on reasonable grounds, to be incomplete or incorrect.

1 (2) The levy collector may:

2 (a) in the prescribed manner, estimate the amount of levy payable; and

3 (b) make a written demand for the amount from the operator.

4 (3) Once the written demand is made, the estimated amount must be  
5 treated as the correct amount of levy payable by the operator under section 28.

Interest on  
unpaid levy

6 29. -(1) If the operator of a disposal facility does not fully pay an  
7 amount of levy (the original amount) by the close of the due day for payment,  
8 the levy owing is to be treated as having been increased by an amount  
9 calculated daily using the following formula; amount of increase = unpaid  
10 amount x prescribed rate where: unpaid amount is any part of the original  
11 amount that remains unpaid on the day of calculation prescribed rate.

12 (2) Any amount of increase calculated under subsection (1) is not  
13 itself subject to an increase under that subsection.

Unpaid levy  
is debt

14 30. Any levy payable to a levy collector is recoverable as a debt by the  
15 levy collector in a court of competent jurisdiction.

16 *Minister's functions in relation to levy*

17 31. Minister may direct Secretary to retain payment.

18 The Minister may direct the Secretary to retain 1 or more payments of levy  
19 money to a zonal authority in respect of a financial year if he or she is satisfied  
20 that the zonal authority has not met any of the following requirements or  
21 standards in respect of the previous financial year:

22 (a) the requirement to spend levy money in accordance with section  
23 32;

24 (b) a performance standard set by the Minister under section;

25 (c) any prescribed requirement to provide records or information.

26 32. Minister may approve funding of projects to promote industrial  
27 waste minimization.

28 -(1) The Minister may approve funding of any project to promote or  
29 achieve waste minimization.

30 (2) The Minister may approve funding of a project on any terms or

1 conditions that he or she thinks fit.

2 (3) In deciding whether to approve funding of a project, the  
3 Minister:

4 (a) must consider any criteria notified under subsection (4); and

5 (b) may consider any other matters that he or she thinks relevant.

6 (4) The Minister may, by notice in the Gazette, set or vary criteria  
7 for approving funding of a project under this section.

8 (5) Before setting or varying criteria, the Minister must obtain and  
9 consider the advice of the Waste Advisory Board.

10 33.-(1) The Minister must review the effectiveness of the levy:

Minister must  
review  
effectiveness of  
levy

11 (a) not later than 2 years after the commencement of this Part; and

12 (b) then at intervals of not more than 3 years after the last review.

13 (2) In undertaking a review, the Minister:

14 (a) shall obtain and consider the advice of the Waste Advisory  
15 Board;

16 (b) shall consider whether the amount of waste disposed of in  
17 Nigeria and has decreased since the last review (or the commencement of  
18 this Part, in the case of the first review);

19 (c) shall consider whether the amount of waste reused, recycled, or  
20 recovered in Nigeria has increased since the last review (or the  
21 commencement of this Part, in the case of the first review); and

22 (d) may consider any other matters that he or she thinks relevant.

23 34.-(1) The Minister may, by notice in the Gazette:

Minister may  
appoint levy  
collector

24 (a) appoint a person (instead of the Secretary) to collect the levy  
25 from the operators of 1 or more disposal facilities; or

26 (b) remove the person from that appointment.

27 (2) The terms of appointment may permit the appointed person to  
28 retain part of the levy money collected as a collection fee.

29 (3) Subject to subsection (2), an appointed person shall:

30 (a) pay any levy money collected into a separate trust account to be

1 held on trust for the Secretary; and

2 (b) pay the levy money to the Secretary upon request.

3 (4) The levy money in the trust account is not available to pay any  
4 creditor of the appointed person (other than the Secretary) and is not liable to be  
5 attached or taken in execution at the instance of any such creditor.

6 (5) A person who ceases to be an appointed levy collector must  
7 maintain the trust account concerned until all the levy the collector was  
8 appointed to collect is collected and paid to the Secretary.

Regulations in  
relation to waste  
disposal levy and  
related matters

9 35.-(1) The President may, by Order in Council made on the  
10 recommendation of the Minister, make regulations for 1 or more of the  
11 following purposes:

Imposition of  
levy

12 (2)(a) prescribing any facility, or class of facility, at which waste is  
13 disposed of as a disposal facility for the purposes of this Act;

14 (b) specifying any disposal facility, or class of disposal facility, that is  
15 exempt from the levy;

16 (c) specifying the type, volume, or weight of any waste that is exempt  
17 from the levy, whether generally or in respect of 1 or more disposal facilities;

Rate of levy

18 (d) specifying that a single levy rate applies, or different levy rates  
19 apply, to different disposal facilities, classes of disposal facility, or types of  
20 waste;

21 (e) prescribing the rate of levy to apply to:

22 (i) 1 or more disposal facilities or classes of disposal facility; or

23 (ii) 1 or more types of waste:

Calculation and  
payment of levy

24 (f) prescribing the manner in which the amount of levy payable by the  
25 operator of a disposal facility is calculated;

26 (g) prescribing the manner in which, and the times at which, the  
27 operator of a disposal facility must pay the levy;

28 (h) specifying when the operator of a disposal facility may be allowed  
29 more time to pay the levy, and any conditions that may apply to the payment;

30 (i) allowing an operator who objects on conscientious or religious



1 grounds to paying the levy in the prescribed manner to pay it in another  
2 manner;

3 (j) prescribing the manner in which a levy collector may estimate  
4 the amount of levy payable by the operator of a disposal facility;

5 (k) providing for the refund of all or part of a payment of levy  
6 money in any specific case or type of case;

Distribution and  
spending of levy  
money

7 (l) prescribing the manner in which, and the times at which, the  
8 Secretary must pay a share of levy money to a territorial authority;

9 (m) providing for any other matter contemplated by this Part.

Miscellaneous

10 (2) Before recommending the making of regulations under  
11 subsection (1)(a), (b), (c), (d), or (e), the Minister must:

12 (a) obtain and consider the advice of the Waste Advisory Board;

13 (b) be satisfied that there has been adequate consultation with  
14 persons or organizations who may be significantly affected by the  
15 regulations; and

16 (c) consider the costs and benefits expected from implementing the  
17 regulations.

18 (3) The Minister must not recommend the making of regulations  
19 under subsection (1)(b), (c), or (k) unless he or she is satisfied that  
20 exceptional circumstances justify the exemption or refund.

21 (4) Regulations made under subsection (1)(e):

22 (a) if made on or before 30 June in any year, expire on the close of  
23 30 June in the following year, unless the National Assembly passes an Act  
24 confirming the regulations before they expire;

25 (b) if made on or after 1 July in any year, expire on the close of 31  
26 December in the following year, unless the National Assembly passes an Act  
27 confirming the regulations before they expire.

28 (5) To avoid doubt, if regulations expire under subsection (4), the  
29 levy rate specified in the regulations remains valid in respect of the period  
30 before expiry.

## PART 4

*Responsibilities of zonal authorities in relation to waste management  
and minimization*

Zonal authorities  
to encourage  
effective and  
efficient waste  
management  
and minimization

36. A zonal authority must promote effective and efficient waste management and minimization within its district.

Waste management and minimization plans

Waste management  
and minimization  
plans

37.-(1) For the purposes of section 42, a territorial authority must adopt a waste management and minimization plan.

(2) A waste management and minimization plan must provide for the following:

(a) objectives and policies for achieving effective and efficient waste management and minimization within the territorial authority's district;

(b) methods for achieving effective and efficient waste management and minimization within the territorial authority's district, including:

(i) collection, recovery, recycling, treatment, and disposal services for the district to meet its current and future waste management and minimization needs (whether provided by the territorial authority or otherwise);

(ii) any waste management and minimization facilities provided, or to be provided, by the territorial authority; and

(iii) any waste management and minimization activities, including any educational or public awareness activities, provided, or to be provided, by the territorial authority;

(c) how implementing the plan is to be funded;

(d) if the territorial authority wishes to make grants or advances of money in accordance with section 47, the framework for doing so.

(3) A territorial authority may amend its waste management and minimization plan or revoke it and substitute a new plan.

(4) A waste management plan of the Local Government must be treated as if it were a waste management and minimization plan adopted under

1 this section, and this Part applies to the plan accordingly.

2 38. In preparing, amending, or revoking a waste management and  
3 minimization plan, a zonal authority must:

Requirements  
when preparing,  
amending, or  
revoking plans

4 (a) consider the following methods of waste management and  
5 minimization (which are listed in descending order of importance):

6 (i) reduction;

7 (ii) re-use;

8 (iii) recycling;

9 (iv) recovery;

10 (v) treatment;

11 (vi) disposal; and

12 (b) ensure that the collection, transport, and disposal of waste does  
13 not, or is not likely to, cause a nuisance;

14 (c) have regard to the Nigeria Waste Strategy, or any government  
15 policy on waste management and minimization that replaces the strategy;  
16 and

17 (d) have regard to the most recent assessment undertaken by the  
18 territorial authority.

19 39. Two or more zonal authorities may jointly prepare and adopt a  
20 waste management and minimization plan for the whole or parts of their  
21 districts, and sections 43 and 44 apply accordingly, with all necessary  
22 modifications.

Joint plans

23 40.-(1) A territorial authority is not limited to applying strict cost  
24 recovery or user pays principles for any particular service, facility, or  
25 activity provided by the territorial authority in accordance with its waste  
26 management and minimization plan.

Funding of plans

27 (2) Without limiting subsection (1), a territorial authority may  
28 charge fees for a particular service or facility provided by the territorial  
29 authority that is higher or lower than required to recover the costs of the  
30 service or facility, or provide a service or facility free of charge, if:

1 (a) it is satisfied that the charge or lack of charge will provide an  
2 incentive or disincentive that will promote the objectives of its waste  
3 management and minimization plan; and

4 (b) the plan provides for charges to be set in this manner.

Grants

5 41.-(1) If authorized to do so by its waste management and  
6 minimization plan, a zonal authority may make grants or advances of money to  
7 any person, organization, group, or body of persons for the purpose of  
8 promoting or achieving waste management and minimization.

9 (2) A grant or advance of money may be made on any terms or  
10 conditions that the zonal authority thinks fit, including that an advance of  
11 money is free of interest.

President may  
give directions  
to territorial  
authority

12 42.-(1) The President may, by Order in Council made on the  
13 recommendation of the Minister, direct a zonal authority to include, omit, or  
14 amend 1 or more provisions in its waste management and minimization plan.

15 (2) The Minister shall not make a recommendation under subsection  
16 (1) unless he or she is satisfied that:

17 (a) the zonal authority's waste management and minimization plan is  
18 inadequate to promote effective and efficient waste management and  
19 minimization within its district; or

20 (b) the proposed changes to the waste management and minimization  
21 plan will achieve or assist in achieving the Nigeria Waste Strategy, or any  
22 government policy on waste management and minimization that replaces the  
23 strategy.

24 (3) A zonal authority shall, as soon as practicable, amend its waste  
25 management and minimization plan to give effect to a direction given to it  
26 under subsection (1).

Minister may  
set performance  
standards for  
zonal authorities

27 43.-(1) The Minister may, by notice in the Gazette, set performance  
28 standards for the implementation of waste management and minimization  
29 plans.

30 (2) A performance standard may apply generally, or to 1 or more

1 territorial authorities.

2 44.-(1) A zonal authority must review its waste management and  
3 minimization plan:

Review of waste  
management and  
minimization plan

4 (a) not later than 1 July 2016; and

5 (b) then at intervals of not more than 6 years after the last review.

6 (2) Before conducting a review, the territorial authority must make  
7 an assessment under section 51.

8 (3) If, after the review, the territorial authority considers that the  
9 plan:

10 (a) should be amended or revoked and a new plan substituted, it  
11 must act under section 44;

12 (b) should continue without amendment, it must use the special  
13 consultative procedure and, in doing so, notify the assessment with the  
14 statement of proposal.

15 45.-(1) A waste assessment must contain:

Requirements for  
waste assessment

16 (a) a description of the collection, recycling, recovery, treatment,  
17 and disposal services provided within the territorial authority's district  
18 (whether by the territorial authority or otherwise);

19 (b) a forecast of future demands for collection, recycling, recovery,  
20 treatment, and disposal services within the district;

21 (c) a statement of options available to meet the forecast demands of  
22 the district with an assessment of the suitability of each option;

23 (d) a statement of the territorial authority's intended role in meeting  
24 the forecast demands;

25 (e) a statement of the territorial authority's proposals for meeting  
26 the forecast demands, including proposals for new or replacement  
27 infrastructure; and

28 (f) a statement about the extent to which the proposals will:

29 (i) ensure that public health is adequately protected;

1 (ii) promote effective and efficient waste management and  
2 minimization.

3 (2) An assessment is not required to contain any assessment in  
4 relation to individual properties.

5 (3) Information is required for an assessment to the extent that the  
6 zonal authority considers appropriate, having regard to:

- 7 (a) the significance of the information;
- 8 (b) the costs of, and difficulty in, obtaining the information;
- 9 (c) the extent of the zonal authority's resources; and
- 10 (d) the possibility that the zonal authority may be directed under the  
11 National Health Act to provide the services referred to in that Act.

12 (4) However, an assessment must indicate whether and, if so, to what  
13 extent, the matters referred to in subsection (3)(b); and

14 (c) have impacted materially on the completeness of the assessment.

15 (5) In making an assessment, the territorial authority must:

16 (a) use its best endeavours to make a full and balanced assessment;

17 and

18 (b) consult the Medical Officer of Health.

Waste management and minimization services, facilities, and activities

19 46.-(1) A zonal authority may undertake, or contract for, any waste  
20 management and minimization service, facility, or activity (whether the  
21 service, facility, or activity is undertaken in its own district or otherwise).

22 (2) A zonal authority must exercise a power under subsection (1), and  
23 charge fees associated with the exercise of the power, in accordance with its  
24 waste management and minimization plan.

Proceeds from activities and services must be used in implementing waste management and minimization

25 47. A zonal authority may sell any marketable product resulting from  
26 any activity or service of the zonal authority carried out under this Part, but any  
27 proceeds of sale must be used in implementing its waste management and  
28 minimization plan.

Waste must be collected promptly, efficiently, and regularly

29 *Collection and disposal of waste*

30 48. A zonal authority that provides a service that collects waste, or

1 any person who provides a service that collects waste on behalf of a zonal  
2 authority, must do so promptly, efficiently, and at regular intervals.

3 49.-(1) A Health Protection Officer may serve notice on a zonal  
4 authority if:

Health protection  
officer may serve  
notice on zonal  
authority for  
causing nuisance

5 (a) the zonal authority provides a waste collection service to  
6 premises; and

7 (b) he or she considers that:

8 (i) the zonal authority has failed to collect waste from the premises  
9 promptly or efficiently; and

10 (ii) the failure to do so is causing, or is likely to cause, a nuisance.

11 (2) The notice must state:

12 (a) the premises to which it relates;

13 (b) a description of the waste that needs to be collected from the  
14 premises;

15 (c) the time frame in which the Health Protection Officer expects  
16 the waste to be collected;

17 (d) that failure to comply with the notice is an offence; and

18 (e) the Health Protection Officer's name and contact details.

19 (3) On receipt of a notice under subsection (1), the territorial  
20 authority must:

21 (a) comply with the notice itself; or

22 (b) if applicable, give the notice to the person providing the waste  
23 collection service to the premises on its behalf and direct the person to  
24 comply with the notice.

25 (4) The Medical Officer of Health may collect and dispose of the  
26 waste concerned, and may recover the reasonable costs of doing so, as a debt  
27 due, from a territorial authority if the territorial authority, or any person  
28 collecting the waste on its behalf, fails to comply with a notice given under  
29 subsection (1).

By-laws

- 1           50.-(1) A zonal authority may make by-laws for 1 or more of the  
2 following purposes:
- 3           (a) prohibiting or regulating the deposit of waste;
- 4           (b) regulating the collection and transportation of waste;
- 5           (c) regulating the manner of disposal of dead animals, including their  
6 short-term storage pending disposal;
- 7           (d) prescribing charges to be paid for use of waste management and  
8 minimization facilities provided, owned, or operated by the zonal authority;
- 9           (e) prohibiting, restricting, or controlling access to waste  
10 management and minimization facilities provided, owned, or operated by the  
11 territorial authority;
- 12           (f) prohibiting the removal of waste intended for recycling from  
13 receptacles provided by the zonal authority by anyone other than:
- 14           (i) the occupier of the property from which the waste in the receptacle  
15 has come; or
- 16           (ii) a person authorized by the zonal authority to remove the waste.
- 17           (2) A by-law must not be inconsistent with the zonal authority's waste  
18 management and minimization plan.
- 19           (3) Bylaws made under subsection (1)(b) may provide for the  
20 licensing of persons who carry out the collection and transportation of waste,  
21 and the conditions specified in the bylaws as conditions of the licences may  
22 include conditions requiring each licensee:
- 23           (a) to provide a performance bond or security, or both, for the  
24 performance of the work licensed;
- 25           (b) to provide to the zonal authority, at times or periods specified in  
26 the bylaws, reports setting out the quantity, composition, and destination of  
27 waste collected and transported by the licensee (for example, household waste  
28 to a disposal facility).
- 29           51.-(1) A zonal authority must review a bylaw made by it under  
30 section 56:

Review of  
bylaws



- 1 (a) not later than 10 years after the bylaw was made; and  
 2 (b) then at intervals of not more than 10 years after the last review.  
 3 (2) A zonal authority must review a bylaw to which section 64  
 4 applies:

- 5 (a) not later than 1 July 2016; and  
 6 (b) then at intervals of not more than 10 years after the last review.

7 **52.** The President may, by Order in Council, make regulations for Regulations in  
relation to by-laws  
 8 the following purposes;

9 (a) prescribing offences against bylaws that are infringement  
 10 offences under this Act;

11 (b) prescribing infringement fees (not exceeding N150,000) for  
 12 infringement offences;

13 (c) prescribing the form of, and any additional particulars required  
 14 in, infringement notices issued under section 74.

15 **53.** -(1) In exercising its powers and performing its duties under Relationship of  
this Part with  
Local Government  
By-laws  
 16 this Part, a zonal authority must comply with the Local Government By-  
 17 laws.

18 (2) However, if a conflict arises between this Part and the Local  
 19 Government Bye-laws, this Part shall prevail.

20 PART 5 - OFFENCES AND ENFORCEMENT

21 **54.** -(1) The following persons commit an offence and are liable on Offences  
 22 summary conviction to a fine not exceeding N5, 000,000:

23 (a) a producer who contravenes regulations made under section  
 24 22(1)(a);

25 (b) any person (other than a producer) who knowingly contravenes  
 26 regulations made under section 22(1)(a);

27 (c) a person who contravenes regulations made under section  
 28 23(1)(c), (d), (e), (f), or (i);

29 (d) a person who knowingly contravenes regulations made under  
 30 section 23(1)(a), (b), (g) or (h);

1 (e) a person who contravenes regulations made under section 86(1)(a)  
2 or (b);

3 (f) a person who, in providing records or other information required  
4 by regulations made under section 23(1)(i) or 86(1)(a), (b), or (c), knowingly:

5 (i) supplies false or misleading information; or

6 (ii) makes any material omission.

7 (2) A territorial authority that fails to comply with section 55(3)  
8 commits an offence and is liable on summary conviction to a fine not exceeding  
9 N1,000,000.

10 (3) The following persons commit an offence and are liable on  
11 summary conviction to a fine not exceeding N200,000:

12 (a) a person who intentionally prevents an enforcement officer or  
13 auditor from carrying out his or her statutory functions or duties; or

14 (b) a person who:

15 (i) refuses to give information when required to do so by an  
16 enforcement officer or auditor acting under section 79;

17 (ii) intentionally 'supplies false or misleading information to an  
18 enforcement officer or an auditor acting under section 79; or

19 (c) a person who incites any other person to do an act referred to in  
20 paragraph (a) or (b).

21 (4) A territorial authority convicted of an offence under subsection

22 (2) is liable, in addition to the penalty for the offence, for any  
23 reasonable costs incurred by the Medical Officer of Health in collecting and  
24 disposing of the waste to which the offence relates.

Offences against  
bylaws

25 55. Every person commits an offence who breaches a bylaw made  
26 under section 56 and is liable on summary conviction to a fine not exceeding  
27 N1,200,000.

Additional penalty  
for contravention  
involving  
commercial gain

28 56.-(1) If a person is convicted of an offence under section 65, the  
29 court may, on the application of the Secretary or the zonal authority, as the case  
30 may be, in addition to any penalty that the court may impose under that section,

1 order the person to pay an amount not exceeding the value of any  
2 commercial gain resulting from the contravention, if the court is satisfied  
3 that the contravention occurred in the course of producing a commercial  
4 gain.

5 (2) The value of any gain must be assessed by the court, and any  
6 amount ordered to be paid is recoverable in the same manner as a fine.

7 (3) The standard of proof in proceedings under this section is the  
8 standard of proof that applies in civil proceedings.

9 *Strict liability and defences*

10 57. In any prosecution for an offence specified in section 65(1)(a), Strict liability  
11 (c), or (e), 65(2), or 66, it is not necessary to prove that the defendant  
12 intended to commit the offence.

13 58.-(1) It is a defence to an offence against this Act, or a bylaw Defences  
14 made under section 56, if the court is satisfied:

15 (a) that:

16 (i) he or she did not know nor could reasonably be expected to have  
17 known that the offence was to be or was being committed; or

18 (ii) he or she took all reasonable steps to prevent the commission of  
19 the offence;

20 (b) in the case of a body corporate, that:

21 (i) neither the directors nor any person involved in the management  
22 of the body corporate knew or could reasonably be expected to have known  
23 that the offence was to be or was being committed; or

24 (ii) the body corporate took all reasonable steps to prevent the  
25 commission of the offence.

26 (5) If a body corporate is convicted of an offence against this Act,  
27 every director and every person involved in the management of the body  
28 corporate is guilty of the same offence if it is proved:

29 (a) that the act or omission that constituted the offence took place  
30 with that person's authority, permission, or consent; or

1 (b) that he or she knew or could reasonably have been expected to  
 2 know that the offence was to be or was being committed and failed to take all  
 3 reasonable steps to prevent or stop it.

Time for laying  
 information

4 59.-(1) An information in respect of an offence against this Act may  
 5 be laid at any time within 12 months after the time when the matter giving rise  
 6 to the information first became known, or should have become known, to the  
 7 person laying the information.

8 (2) An information in respect of an offence against a bylaw made  
 9 under section 56 may be laid at any time by the territorial authority concerned  
 10 within 6 months after the time when the matter giving rise to the information  
 11 first became known, or should have become known, to the territorial authority.

#### 12 *Injunctions*

Injunctions  
 restraining  
 commission of  
 offence

13 60.-(1) A High Court may, on the application of the Medical Officer of  
 14 Health, grant an injunction restraining a territorial authority from committing  
 15 an offence against section 65(2).

16 (2) An injunction may be granted under subsection (1):

17 (a) despite anything in any other enactment;

18 (b) whether or not proceedings in relation to the offence have been  
 19 commenced;

20 (c) if a person is convicted of the offence:

21 (i) in substitution for, or in addition to, any other penalty; or

22 (ii) in subsequent proceedings.

#### 23 *Infringement offences*

Proceedings for  
 infringement  
 offences

24 61. A person who is alleged to have committed an infringement  
 25 offence may either:

26 (a) be proceeded against under the Summary Proceedings; or

27 (b) be served with an infringement notice under section 66.

Issue and service  
 of infringement  
 notices

28 62.-(1) An infringement notice may be issued to a person if an  
 29 enforcement officer:

30 (a) observes the person committing an infringement offence; or

1 (b) has reasonable cause to believe that an infringement offence is  
2 being or has been committed by the person.

3 (2) An infringement notice may be served:

4 (a) by an enforcement officer (not necessarily the person who  
5 issued the notice) personally delivering it (or a copy of it) to the person  
6 alleged to have committed the infringement offence; or

7 (b) by post addressed to the person's last known place of residence  
8 or business.

9 (3) An infringement notice sent to a person under subsection (2)(b)  
10 must be treated as having been served on the person when it was posted.

11 (4) An infringement notice must be in the prescribed form and must  
12 contain the following particulars:

13 (a) details of the alleged infringement offence sufficient to fairly  
14 inform a person of the time, place, and nature of the alleged offence;

15 (b) the amount of the infringement fee specified for the offence;

16 (c) the time within which the infringement fee must be paid;

17 (d) the address of the place at which the infringement fee must be  
18 paid;

19 (e) a statement that the person served with the notice has a right to  
20 request a hearing;

21 (f) a statement of what will happen if the person served with the  
22 notice neither pays the infringement fee nor requests a hearing;

23 (g) any other particulars that are prescribed.

24 (5) If an infringement notice has been served under this section:

25 (a) proceedings in respect of the offence to which the notice relates  
26 may be commenced in accordance with section 21 of the Summary  
27 Proceedings Act 1957; and

28 (b) the provisions of that section apply with all necessary  
29 modifications.

- Entitlement to  
infringement fees
- 1                    63. A zonal authority may retain the infringement fees received by it  
2 \* for any infringement offences resulting from infringement notices issued by  
3 enforcement officers appointed by the territorial authority.
- Enforcement  
officers
- 4                    64.-(1) The Executive Secretary may appoint:  
5                    (a) a person to be an enforcement officer for the purposes of ensuring  
6 compliance with regulations made under this Act (except any regulations made  
7 under section 23(1)(a)); or  
8                    (b) an auditor to be an enforcement officer for the purposes of  
9 exercising the power of entry under audit.
- 10                   (2) A zonal authority may appoint a person to be an enforcement  
11 officer in its district:  
12                   (a) for the purposes of ensuring compliance with any regulations  
13 made under section 23(1)(a);  
14                   (b) for the purposes of ensuring compliance with any bylaw made by  
15 the territorial authority under section 56.
- 16                   (3) A person must not be appointed as an enforcement officer unless  
17 the person has appropriate experience, technical competence, and  
18 qualifications relevant to the area of responsibilities proposed to be allocated to  
19 that person.
- 20                   (4) The Secretary or the territorial authority, as the case may be, must  
21 supply each enforcement officer with a warrant that states:  
22                   (a) the full name of the person; and  
23                   (b) the powers conferred on the person under this Act.
- 24                   (5) An enforcement officer who holds a warrant issued under this  
25 section must, on the termination of his or her appointment, surrender the  
26 warrant to the Secretary or the zonal authority, as the case may be.
- Power to inspect  
property and  
obtain information
- 27                   65.-(1) An enforcement officer may, if he or she believes on  
28 reasonable grounds that an offence against this Act or a bylaw made under  
29 section 56 has been or is being committed:  
30                   (a) enter any land, building, or place at any reasonable time:

1 (b) inspect and examine any property and any books, accounts,  
2 records, or documents (including records or documents held in electronic or  
3 any other form);

4 (c) require any person to produce any books, accounts, records, or  
5 documents (including records or documents held in electronic or any other  
6 form) in that person's possession or under that person's control, and allow  
7 copies of or extracts from those books, accounts, records, or documents to  
8 be made or taken.

9 (2) Before exercising the power in subsection (1)(a), the officer  
10 must, if practicable, give reasonable notice to the occupier of the land,  
11 building, or place of the intention to exercise the power, unless the giving of  
12 notice would defeat the purpose of the entry.

13 66.-(1) An enforcement officer may seize and impound property  
14 that is not on private land if:

Seizure of  
property not on  
private land

15 (a) the property is materially involved in the commission of an  
16 offence;

17 (b) it is reasonable in the circumstances to seize and impound the  
18 property; and

19 (c) the property is in possession of a person at the time the officer  
20 proposes to seize and impound it, and before seizing and impounding it, the  
21 officer:

22 (i) directs (orally or in writing) the person committing the offence  
23 to stop committing the offence;

24 (ii) advises (orally or in writing) the person committing the offence  
25 that, if he or she does not stop committing the offence, the enforcement  
26 officer has the power to seize and impound the property; and

27 (iii) provides the person with a reasonable opportunity to stop  
28 committing the offence.

29 (2) As soon as practicable after seizing and impounding property,  
30 an enforcement officer must give notice:

1 (a) to the person in possession of the property at the time it was seized  
2 and impounded; or

3 (b) to any person who the enforcement officer can ascertain is the  
4 owner of, or has an interest in, the property, if paragraph (a) does not apply.

5 (3) A notice given in accordance with subsection (2)(b) must be  
6 delivered, or sent by registered mail, not later than 7 working days after the  
7 property concerned was seized.

8 (4) A notice must:

9 (a) include a description of the property seized;

10 (b) state the date and time that the property was seized;

11 (c) state that the property was seized under this section;

12 (d) state the name of the enforcement officer who seized the property;

13 and

14 (e) include the address of the place where inquiries can be made in  
15 relation to the property.

16 (5) In this section and other sections, offence:

17 (a) means an offence against this Act; and

18 (b) includes an offence against a bylaw.

Seizure of  
property from  
private land

19 67.-(1) An issuing officer may issue a warrant authorizing an  
20 enforcement officer to enter private land and seize and impound property  
21 materially involved in the commission of an offence.

22 (2) A warrant may be issued only if:

23 (a) the application for it is made in the manner provided for an  
24 application for a search warrant; and

25 (b) the issuing officer is satisfied that:

26 (i) the property is materially involved in the commission of an  
27 offence;

28 (ii) it is reasonable in the circumstances for the property to be seized;

29 and

30 (iii) the enforcement officer has:



1 (a) directed the person committing the offence to stop committing  
2 the offence;

3 (b) advised the person that, if he or she fails to do so, the officer  
4 intends to apply for a warrant; and

5 (c) given the person committing the offence a reasonable  
6 opportunity to stop committing the offence.

7 68.-(1) The owner of property that has been seized and impounded  
8 under section 81, or the person from whom the property was seized, may  
9 request the Secretary or the territorial authority concerned, as the case may  
10 be, to return the property.

Return of  
property seized  
and impounded

11 (2) The Secretary or the territorial authority must return the  
12 property if:

13 (a) the property is not likely to be involved in the offence for which  
14 it was seized; and

15 (b) the owner or person has paid, or tenders with the request for  
16 payment of, the costs of the Secretary or the zonal authority in seizing,  
17 impounding, transporting, and storing the property.

18 (3) If the Secretary or the territorial authority refuses to return the  
19 property, the owner or person from whom it was seized may apply to a Court  
20 to review the Secretary's or the zonal authority's decision.

21 (4) The High Court may:

22 (a) confirm the Secretary's or the zonal authority's decision; or

23 (b) order that the property be returned.

24 69.-(1) The Secretary or a zonal authority, as the case may be, may  
25 dispose of property seized or impounded that has not been returned within 6  
26 months after it was seized and impounded.

Power to dispose  
of property seized

27 (2) The Secretary or the territorial authority must not dispose of  
28 property before giving the owner of the property and the person it was seized  
29 from not less than 14 working days' notice of his, her, or its intention to do so.

30 (3) The Secretary or the territorial authority may dispose of the

1 property by way of sale or otherwise as it thinks fit.

2 (4) Any proceeds from the disposal of the property must be applied to  
3 pay:

4 (a) first, the costs incurred in seizing, impounding, transporting, and  
5 storing the property;

6 (b) secondly, the costs of disposing of the property;

7 (c) thirdly, any surplus to the owner of the property or the person from  
8 whom it was seized.

9 PART 6 - REPORTING AND AUDITS

10 *Reporting*

Regulations in  
relation to records,  
information and  
reports

11 70.-(1) The President may, by Order in Council made on the  
12 recommendation of the Minister, make regulations for 1 or more of the  
13 following purposes:

Information from  
operator of  
disposal facility

14 (a) requiring the operator of a disposal facility to keep, and provide to  
15 the Secretary and any appointed levy collector, records and information to  
16 enable amounts of levy payable by the operator to be accurately calculated;

Information  
from any class  
of person

17 (b) requiring any class of person to keep, and provide to the Secretary, records  
18 and information to assist the Secretary to compile statistics in order to:

19 (i) measure progress in waste management and minimization;

20 (ii) report on the Nigeria's environment;

21 (iii) assess land's performance in waste minimization and decreasing  
22 waste disposal;

23 (iv) identify improvements needed in infrastructure for waste  
24 minimization:

Information  
from zonal  
authority

25 (c) requiring a zonal authority to keep, and provide to the Secretary  
26 each year, records and information about the zonal authority's:

27 (i) spending of levy money;

28 (ii) performance in achieving waste minimization with the services,  
29 facilities, and activities provided or funded in accordance with its waste  
30 management and minimization plan; and

1 (iii) performance as measured against any performance standards  
2 set by the Minister:

3 *Miscellaneous*

4 (d) prescribing the form and manner in which, and the times at  
5 which, the records and information referred to in paragraph (a), (b), or (c)  
6 must be kept or provided;

7 (e) prescribing requirements for a person to verify that records and  
8 information are correct before providing them under paragraph (a), (b), or  
9 (c);

10 (f) providing for any other matter contemplated by this Part.

11 (2) Before recommending the making of regulations under  
12 subsection (1), the Minister shall:

13 (a) obtain and consider the advice of the Waste Advisory Board;

14 (b) be satisfied that there has been adequate consultation with  
15 persons or organizations who may be significantly affected by the  
16 regulations; and

17 (c) consider the costs and benefits expected from implementing the  
18 regulations.

19 (3) Before recommending the making of regulations under  
20 subsection (1)(b), the Minister must also consult the Government  
21 Statistician.

22 *Audits*

23 71.-(1) The Secretary may appoint, in writing, 1 or more auditors to  
24 conduct an audit under this Act.

Secretary may  
require audit

25 (2) None of the following persons may be appointed as an auditor:

26 (a) a person who may be audited under section 88, or the person's  
27 officers or employees; or

28 (b) a person with a conflict of interest in respect of the audit for  
29 which the auditor is to be appointed.

Audit in respect  
of certain matters  
relating to facility  
or person

- 1                   72.-(1) An auditor may audit the following facilities or persons for the  
2 purpose of obtaining, and reporting to the Secretary on, information about the  
3 matters specified in relation to the facility or person:
- 4                   (a) a disposal facility, or its operator, in respect of:
- 5                   (i) payment of the levy by the operator;
- 6                   (ii) compliance by the operator with any prescribed requirement to  
7 keep or provide records or other information;
- 8                   (b) any person, in respect of the person's compliance with any  
9 prescribed requirement to keep or provide records or other information;
- 10                  (c) an appointed levy collector, in respect of the collection of levy that  
11 the collector is appointed to collect;
- 12                  (d) a zonal authority that receives levy money, in respect of the  
13 spending of the levy money;
- 14                  (e) any person who is paid levy money under section 30( c)(ii), in  
15 respect of the spending of the levy money;
- 16                  (f) the scheme manager of an accredited scheme, or any person who  
17 has agreed to participate in the scheme, in respect of their compliance with the  
18 scheme's requirements to keep records or make reports;
- 19                  (g) any person, in respect of the person's compliance with regulations  
20 made under section 22(1)(a) or 23.
- 21                  (2) For the purposes of subsection (1), an auditor may exercise:
- 22                  (a) the power of entry under section 79(1)(a) only if appointed an  
23 enforcement officer under section 76(1)(b); or
- 24                  (b) the powers of an enforcement officer under section 79(1)(b) or (c),  
25 despite not being an enforcement officer, but must produce evidence of his or  
26 her identity and appointment as an auditor whenever reasonably required to do  
27 so.
- 28                  (3) An auditor must not disclose to any person information obtained in  
29 the exercise of the auditor's powers, except:
- 30                  (a) in a prosecution under this Act;

1 (b) in an action for the recovery of any amount due under this Act;

2 (c) to the Secretary, the Minister, or a person authorized by the  
3 Secretary or the Minister to receive the information.

4 PART 7 - WASTE ADVISORY BOARD

5 73. This section establishes the Waste Advisory Board.

Establishment of  
Waste Advisory  
Board

6 74.-(1) The function of the Board is to provide advice to the  
7 Minister upon request, including advice about:

Functions of  
Board

8 (a) declaring a product to be a priority product (under section  
9 9(3)(a);

10 (b) making guidelines about the contents and expected effects of  
11 product stewardship schemes for priority products (under section 12(4)(a);

12 (c) accrediting a product stewardship scheme that is not consistent  
13 with any guidelines published under section 12 (under section 15(2);

14 (d) recommending the making of regulations prohibiting the sale  
15 of a priority product except in accordance with an accredited scheme (under  
16 section 22(2)(a);

17 (e) recommending the making of regulations in relation to products  
18 (whether or not priority products), materials, and waste (under section  
19 23(3)(a);

20 (f) setting or varying criteria for approving funding of a project  
21 (under section 38(5));

22 (g) reviewing the effectiveness of the levy (under section 39(2)(a);

23 (h) recommending the making of regulations in relation to the  
24 imposition of the waste disposal levy or the rate of the levy (under section  
25 41(2)(a);

26 (i) recommending the making of regulations in relation to records,  
27 information, and reports (under section 86(2)(a)

28 (2) The advice is to relate to waste minimization or the functions of  
29 the Secretary or the Minister under this Act.

1 (3) The Board must provide advice within terms of reference set by  
2 the Minister.

Terms of  
reference

3 75.-(1) The Minister must, by written notice to the Board, set terms of  
4 reference for the advice to be provided under section 86.

5 (2) The Minister may, by written notice to the Board, vary the terms of  
6 reference at any time.

Minister to  
appoint members  
to Board

7 76.-(1) The Minister shall appoint at least 4, but not more than 8,  
8 members to the Board.

9 (2) The Minister shall appoint 1 member as the chairman of the Board.

10 (3) The Minister may reappoint a member for a further term or terms.

11 (4) An appointment shall be made by written notice to the person  
12 concerned.

How members  
are appointed

13 77.-(1) The Minister shall comply with this section in appointing or  
14 re-appointing members.

15 (2) The Minister must request nominations for members of the Board,  
16 and allow 1 month to receive nominations, by giving public notice:

17 (a) in the Gazette;

18 (b) in daily newspapers circulating in all major cities of Nigeria; and

19 (c) on a website maintained by, or on behalf of, the Ministry of  
20 Environment.

21 (3) However, the Minister may appoint a person as a member of the  
22 Board whether or not he or she receives a nomination for the person under  
23 subsection (2).

24 (4) In appointing members, the Minister shall consider the need for  
25 the Board to have available to it, from its members, knowledge, skill, and  
26 experience relating to:

27 (a) this Act;

28 (b) matters that are likely to come before the Board;

29 (c) community projects for waste minimization;

30 (d) industry, including the commercial waste industry; and

1 (e) local government.

2 (6) The Minister shall notify an appointment in the Gazette as soon  
3 as practicable after appointing the member to the Board.

4 78.-(1) A member of the Board holds office for a term of 3 years, or Term of office of  
members  
5 any shorter term stated in his or her notice of appointment.

6 (2) A member continues in office despite the expiry of the  
7 member's term of appointment until:

8 (a) a successor is appointed;

9 (b) the Minister gives written notice to the member that the  
10 member is not to be reappointed and no successor is to be appointed at that  
11 time.

12 (3) A member may resign from office by giving written notice to  
13 the Minister.

14 79.-(1) The Minister may remove a member of the Board from Removal of  
members  
15 office at any time, for just cause.

16 (2) The removal shall be made by written notice to the member  
17 stating the reasons for the removal.

18 (3) The Minister shall notify the removal in the Gazette as soon as  
19 practicable after giving the notice to the member.

20 (4) In subsection (1), just cause includes misconduct, inability to  
21 perform the functions of office, neglect of duty, and breach of duty.

22 80. A member of the Board is not entitled to any compensation or No compensation  
for loss of office  
23 other payment or benefit relating to his or her ceasing, for any reason, to hold  
24 office as a member.

25 81.-(1) A member of the Board shall be entitled to be:

26 (a) paid fees at a rate set by the Minister, in accordance with the fees  
27 framework; and

28 (b) reimbursed for actual and reasonable travelling and other  
29 expenses incurred in carrying out the member's office, in accordance with  
30 the fees framework.

Fees and expenses  
of members

- Proceedings of Board 1           **82.** The Board may regulate its own proceedings, subject to the  
2 provisions of this Part.
- Nomination before commencement of this Part must be treated as complying with section 85 3           **83.**-(1) This section applies to any process undertaken before the  
4 commencement of this Part:  
5           (a) in the manner set out in section 83(2); and  
6           (b) for the purpose of receiving nominations for members of the  
7 Board.  
8           (2) For the purposes of this Act, the process must be treated as  
9 complying with section 93.
- Interpretation 10           **84.**-(1) In this Act, unless the context requires another meaning:  
11 “accredited scheme” means a product stewardship scheme accredited by the  
12 Minister under section 15;  
13 “appointed levy collector” means a person appointed in accordance with  
14 section 40(1)(a) to collect the levy;  
15 “auditor” means a person appointed under section 87(1) disposal has the  
16 meaning set out in section 6;  
17 “disposal facility” has the meaning set out in section 7;  
18 “diverted material” means anything that is no longer required for its original  
19 purpose and, but for commercial or other waste minimization activities, would  
20 be disposed of or discarded;  
21 “enforcement officer” means a person appointed as an enforcement officer  
22 under section 76(1) or (2);  
23 “environment” has the same meaning as in section 2(1) of the Environmental  
24 Impact;  
25 Assessment Act, LFN, 2004;  
26 “financial year” means a period of 12 months ending with 31st December  
27 every year;  
28 “infringement fee” means the amount prescribed as the infringement fee for the  
29 infringement offence concerned;  
30 “infringement offence” means an offence prescribed as an infringement



- 1 offence under section 59(a);
- 2 “judicial officer” means a Court Judge, a Justice of the Peace, a Community  
3 Magistrate, or a Registrar (not being a constable);
- 4 “levy” means the levy imposed by section 26
- 5 “levy collector”, in relation to a disposal facility, means:
- 6 (a) the Secretary, if there is no appointed levy collector for the  
7 facility; or
- 8 (b) the appointed levy collector for the facility
- 9 “levy money” means the money paid as levy;
- 10 “Minister” means the Minister for the Environment;
- 11 “objectives”, in relation to a product stewardship scheme, means the  
12 objectives for the product to which the scheme relates as set under section  
13 14(c)(i);
- 14 “operator” means the person in control of a disposal facility or other facility;
- 15 “prescribed” means prescribed by regulations made under this Act;
- 16 “priority product” means a product declared to be a priority product in  
17 accordance with section 9;
- 18 “producer” means a person who:
- 19 (a) manufactures a product and sells it in Nigeria under the person’s  
20 own brand;
- 21 (b) is the owner or licence holder of a trademark under which a  
22 product is sold in Nigeria;
- 23 (c) imports a product for sale in Nigeria;
- 24 (d) manufactures or imports a product for use in trade by the person  
25 or the person’s agent;
- 26 product includes:
- 27 (a) packaging; and
- 28 (b) a class of product;
- 29 “recovery”:
- 30 (a) means extraction of materials or energy from waste or diverted

1 material for further use or processing; and

2 (b) includes making waste or diverted material into compost

3 recycling means the reprocessing of waste or diverted material to produce new

4 materials;

5 “reduction” means:

6 (a) lessening waste generation, including by using products more

7 efficiently or by redesigning products; and

8 (b) in relation to a product, lessening waste generation in relation to

9 the product;

10 “reuse” means the further use of waste or diverted material in its existing form

11 for the original purpose of the materials or products that constitute the waste or

12 diverted material, or for a similar purpose;

13 sale includes:

14 (a) an offer for sale; and

15 (b) distribution or delivery, whether or not for valuable consideration

16 (including delivery to an agent for sale on consignment)

17 scheme manager means the contact person for an accredited scheme;

18 treatment:

19 (a) means subjecting waste to any physical, biological, or chemical

20 process to change its volume or character so that it may be disposed of with no

21 or reduced adverse effect on the environment; but

22 (b) does not include dilution of waste;

23 waste:

24 (a) means any thing disposed of or discarded;

25 (b) includes a type of waste that is defined by its composition or

26 source (for example, organic waste, electronic waste, or construction and

27 demolition waste); and

28 (c) to avoid doubt, includes any component or element of diverted

29 material, if the component or element is disposed of or discarded;

30 “Waste Advisory Board or Board” means the Waste Advisory Board

- 1 established by section 89 of this Act;
- 2 “waste management and minimization” means waste minimization and  
3 treatment and disposal of waste;
- 4 “waste management and minimization plan or plan” means a waste  
5 management and minimization plan adopted by a territorial authority under  
6 section 43;
- 7 “waste minimization” means:
- 8 (a) the reduction of waste; and
- 9 (b) the reuse, recycling, and recovery of waste and diverted  
10 material.
- 11 (2) In this Act:
- 12 (a) benefits expected from implementing regulations, or from  
13 reduction, reuse, recycling, recovery, or treatment of a product, include both  
14 monetary and non-monetary benefits:
- 15 (b) costs expected from implementing regulations include both  
16 monetary and non-monetary costs.
- 17 **85.** This Bill may be cited as the Industrial Waste Disposal Citation  
18 Prohibition Bill, 2016.

#### EXPLANATORY MEMORANDUM

This Bill seeks to provide a legal framework for Industrial Waste minimization and prohibit indiscriminate waste disposal in Nigeria; to protect humanity and the environment from harm; and to provide for environmental, social, economic, and cultural benefits; encourage manufacturers, industrialists and organizations.

