

A BILL

FOR

AN ACT TO MAKE PROVISIONS FOR THE SCRUTINY, MONITORING AND CONTROL OF STATUTORY INSTRUMENTS AND FOR RELATED MATTERS

Sponsored by Hon. Aminu Shehu Shagari

[] Commencement

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

1 **1.** Where-

2 (a) any Act passed before the commencement of this Act,

3 (b) this Act or any Act passed after the commencement of this Act;

4 confers power to make, confirm or approve orders, rules, regulations or other
5 delegated legislation on the President, Minister, an agency of government or
6 any rule-making authority, any document by whatever name called through
7 which that power is exercised shall be known as a "statutory instrument" and
8 the provisions of this Act shall apply.

Definition of
"Statutory
Instrument" and
application of this
Act

9 **2.-(1)** Immediately after the making of any statutory instrument, it
10 shall be sent to the Government Printer and numbered in accordance with
11 regulations made under this Act, and copies of the instrument shall as soon as
12 possible be printed and sold by or under the authority of the Government
13 Printer.

Numbering,
printing,
publication and
citation

14 (2) Any statutory Instrument may, without prejudice to any other
15 mode of citation, be cited by the number given to it in accordance with the
16 provisions of this section, and the calendar year of the numbering.

17 (3) Regulations made for the purposes of this Act shall provide
18 Supplementary provision for the publication by the Government Printer of
19 lists showing the date upon which every statutory instrument printed and
20 sold by or under the authority of the Government Printer was first issued by
21 or under the authority of that office.

Admissibility in
legal proceedings

1 3.-(1) In any legal proceedings a copy of any list published
2 purporting to bear the imprint of the Government Printer shall be received in
3 evidence as a certified true copy, and an entry in the list shall be evidence of
4 the date on which any statutory instrument was first issued by or under the
5 authority of the Government Printer.

6 (2) In any proceedings against any person for an offence consisting of
7 a contravention of any such statutory instrument, it shall be a defence to prove
8 that the instrument had not been issued by or under the authority of the
9 Government Printer at the date of the alleged contravention unless it is
10 undoubtedly established that at that date reasonable steps had been taken for the
11 purpose of bringing the purport of the instrument to the notice of the public, or
12 of persons likely to be affected by it, or of the person charged.

13 (3) Except where it is expressly provided for, nothing in this section
14 shall affect any enactment or rule of law relating to the time at which any
15 statutory instrument comes into operation.

Statutory
instruments which
are required to be
laid before the
National Assembly

16 4.-(1) If by this Act or any Act passed after the commencement of this
17 Act any statutory instrument is required to be laid before the National Assembly
18 after being made, a copy of the instrument shall be laid before each House of the
19 National Assembly in accordance the provisions of this Act, and shall be so laid
20 before the instrument comes into operation.

21 (2)(a) If it is essential that any such instrument should come into
22 operation before copies of it can be laid in accordance with subsection (1) of this
23 section, the instrument may be made so as to come into operation before it has
24 been so laid;

25 (b) Where any statutory instrument comes into operation before it is
26 laid before the National Assembly, notification of its coming into operation
27 shall immediately be sent to the President of the Senate and the Speaker of the
28 House of Representatives drawing their attention to the fact that copies of the
29 instrument are yet to be laid before the National Assembly and explaining why
30 such copies were not laid before the instrument came into operation.

1 (3) Every copy of any statutory instrument sold by or under the
2 authority of the Government Printer shall bear on the face thereof-

3 (a) a statement showing the date on which the statutory instrument
4 came or will come into operation; and

5 (b) either a statement showing the date on which copies of the
6 instrument were laid before the National Assembly or a statement that such
7 copies are to be laid before the National Assembly.

8 (4) Where any Act passed before the commencement of this Act
9 contains provisions requiring that any statutory instrument or other
10 document made in exercise of any power conferred by that or any other Act
11 be laid before the National Assembly after being made, any statutory,
12 instrument made in exercise of that power shall by virtue of this Act be laid
13 before the National Assembly and the provisions of this section shall apply to
14 the instrument in substitution for provisions as contained in the Act passed
15 before the commencement of this Act.

16 5.-(1) Where this Act or any Act passed after the commencement of
17 this Act, provides that any statutory instrument shall be subject to annulment
18 in pursuance of a resolution of either House of the National Assembly, the
19 instrument shall be laid before the National Assembly after being made and
20 the provisions of section 4 of this Act shall apply accordingly.

Statutory
instruments which
are subject to
annulment by
resolution of either
House of the
National Assembly

21 (2)(a) Where either House within the period of thirty legislative
22 days beginning with the day on which a copy thereof is laid before it, resolves
23 that the instrument be annulled, no further proceeding shall be taken on the
24 instrument after the date of the resolution;

25 (b) The President shall by Order revoke the instrument provided
26 that any such resolution and revocation shall be without prejudice to the
27 validity of anything previously done under the instrument or to the making of
28 a new statutory instrument.

29 6.-(1) Where any Act passed before the commencement of this Act
30 contains provisions requiring that any statutory instrument or other

Acts passed before
the commencement
of this Act

1 document made in exercise of any power conferred by that or any other Act, any
2 instrument made before the commencement of this Act shall be laid before the
3 National Assembly within 30 working days of the commencement of this Act.

4 (2) All instruments laid in accordance with the provisions of paragraph
5 (i) of this subsection shall be subject to the provisions of this Act.

6 (3) Any instrument existing before the commencement of this Act not
7 laid in accordance with the provisions of this subsection shall cease to be of any
8 effect after the stipulated 30 working days and any action taken, based on the
9 provisions of that instrument shall be illegal.

10 (4) Any contravention of paragraph (i) of this subsection shall be
11 deemed and treated as an act of gross misconduct.

Statutory
instrument which
drafts are to be
laid before the
National Assembly

12 7.-(1) Where this Act or any Act passed after the commencement of
13 this Act provides that a draft of any statutory instrument shall be laid before the
14 National Assembly, but the Act does not prohibit the making of the instrument
15 without the approval of the National Assembly, then a statutory instrument shall
16 not come into operation until after the expiration of a period of thirty legislative
17 days beginning with the day on which a copy of the draft is laid before each
18 House of the National Assembly, and if such copies are laid on different days,
19 the later of the two days shall be used.

20 (2) If within that period either House resolves that the statutory
21 instrument should not be made, no further proceedings shall be taken on the
22 draft, but without prejudice to the laying of a new draft before the National
23 Assembly.

24 (3) Where any Act passed before the commencement of this Bill
25 contains provisions requiring-

26 (a) that a draft of any statutory instrument or other document to be
27 made in exercise of any power conferred by that or any other Act shall be laid
28 before the National Assembly; or

29 (b) that it shall not be so submitted or made if within a specified period
30 either House of the National Assembly passes a resolution to that effect.

1 (4) Subject to the provisions of any regulation made under this Bill,
2 a draft of any statutory instrument made shall, by virtue of this Bill, be laid
3 before the National Assembly and the provisions of subsection (2) of this
4 section shall apply in substitution for any provisions contained in the Act
5 passed before the commencement of this Bill.

6 8.-(1) In reckoning any period of thirty days for the purposes of
7 either of section 5 or 6 of this Bill, no account shall be taken of any time
8 during which the National Assembly is dissolved or during which both
9 Houses are adjourned for more than four days.

Supplementary
provisions as to
sections 4, 5, 6
and 7

10 (2) In relation to any instrument required by any Act, whether
11 passed before or after the commencement of this Bill, to be laid before any of
12 the Houses of the National Assembly only, the provisions of sections 4, 5 and
13 6 of this Act shall have effect as if references to that House were substituted
14 for references to the National Assembly and for references to either House
15 and each House of the National Assembly.

16 (3) The provisions of sections 4 and 5 of this Bill shall not apply to-

17 (a) any statutory instrument being an order which is subject to
18 special legislative procedure, or

19 (b) any other instrument which is required to be laid before the
20 National Assembly, or before any of the Houses, for any period before it
21 comes into operation.

22 9.-(1) The Clerk to the National Assembly shall, with the
23 concurrence of the President of the Senate and the Speaker of the House of
24 Representatives, by statutory instrument make regulations for the purposes
25 of this Bill, and such regulations shall, in particular-

Regulations

26 (a) provide for the different treatment of instruments which are of
27 the nature of a public Act, and of those which are of the nature of a local,
28 personal or private Act;

29 (b) make provisions as to the numbering, printing, and publication
30 of statutory instruments including provisions for postponing the numbering

1 of any such instrument which shall not take effect until it has been approved by
2 the National Assembly, or the one of the Houses of the National Assembly as the
3 case may be;

4 (c) provide with respect to any class or description of statutory
5 instrument that shall be exempt, either altogether or to such extent as may be
6 determined by or under the regulations, from the requirement of being printed
7 and of being sold by or under the authority of the Government Printer, or from
8 either of those requirements;

9 (d) determine the classes of cases in which the exercise of a statutory
10 power by any rule-making authority constitutes or does not constitute the
11 making of such a statutory rule as is referred to in section I of this Act, and
12 provide for the exclusion from that section of any such classes;

13 (e) provide for the determination by a person or persons nominated by
14 the President of the Senate and the Speaker of the House of Representatives of
15 any question-

16 (i) as to the numbering, printing, or publication of any statutory
17 instrument or class or description of such instruments;

18 (ii) whether or to what extent any statutory instrument or class or
19 description of such instrument is, under the regulations; exempt from any such
20 requirement as is mentioned in paragraph (c) of this subsection;

21 (iii) whether any statutory instrument or class or description of such
22 instruments is in the nature of a public Act or a local, personal or private Act;

23 (iv) whether the exercise of any power conferred by an Act passed
24 before the commencement of this Act is or is not the exercise of 'a power to
25 make a statutory rule.

26 (2) Every statutory instrument made under this section shall be subject
27 to annulment in pursuance of a resolution of either House of the National
28 Assembly.

Powers to extend
Act to other Orders
etc. to modify
application of certain
provisions thereof

29 **10.**-(1) If with respect to any power to confirm or approve orders,
30 rules, regulations or other subordinate legislation conferred on the President or

1 any Minister of the Government of the Federation by any Act passed before
2 the commencement of this Act, it appears that, notwithstanding that the
3 exercise of that power did, not constitute the making of a statutory rule, it is
4 expedient that the provisions of this Act should apply to documents by which
5 that power is exercised, any House of the National Assembly may by
6 resolution direct that any document by which that power is exercised after
7 such date as may be specified in the resolution shall be known as a "statutory
8 instrument".

9 (2) The provisions of this Act shall apply to the specified document.

10 (3) A draft of any resolution proposed to be made under this section
11 shall be laid before both Houses of the National Assembly.

12 **11.**-(1) For the purposes of this Bill, any power to make, confirm or Interpretation
13 approve orders, rules, regulations or other subordinate legislation conferred
14 on any government department shall be deemed to be conferred on the
15 Minister of the Government of the Federation responsible for that
16 department.

17 (2) In this Bill, unless the context otherwise requires-
18 "President" means the President of the Federal Republic of Nigeria;
19 "statutory instrument" is as defined in section 1 of this Bill.

20 **12.** This Bill may be cited as the Statutory Instruments Bill, 2016. Citation

EXPLANATORY MEMORANDUM

This Bill seeks to make provisions for the scrutiny, monitoring and control of
statutory instruments.