

A BILL

FOR

AN ACT TO MAKE PROVISIONS FOR THE MONITORING AND CONTROL OF INSTRUMENTS BY WHICH STATUTORY POWERS TO MAKE ORDERS, RULES, REGULATIONS AND OTHER SUBSIDIARY LEGISLATIONS ARE EXERCISED AND FOR MATTERS CONNECTED THEREWITH

Sponsored by Senator Emmanuel Andy Uba

[] Commencement

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

- 1 1. -Where:
- 2 (a) this Act or any Act passed commencement of this Act; or after
- 3 the-
- 4 (b) any Act passed before the commencement of this Act confers
- 5 power to make, confirm or approve orders, rules, regulations or other
- 6 delegated legislation on the President, Minister, an agency of government or
- 7 any rule-making authority, any document by whatever name called through
- 8 which that power is exercised shall be known as a "statutory instrument" and
- 9 the provisions of this Act shall apply.
- 10 2. -(1) Immediately after the making of any statutory instrument, it
- 11 shall be sent to the Government Printer and numbered in accordance with
- 12 regulations made under this Act, and copies of the instrument shall as soon
- 13 as possible be printed and sold by or under the authority of the Government
- 14 Printer.
- 15 (2) Any statutory instrument may, without prejudice to any other
- 16 mode of citation, be cited by the number given to it in accordance with the
- 17 provisions of this section, and the calendar year of the numbering. 3. (1)
- 18 Regulations made for the purposes of this Act shall provide Supplementary
- 19 for the publication by the Government Printer of lists showing provisions as

1 to the date upon which every statutory instrument printed and sold publication
2 by or under the authority of the Government Printer was first issued by or under
3 the authority of that office.

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

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

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

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

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

28 (b) Where any statutory instrument comes into operation before it is
29 laid before the National Assembly, notification of its coming into operation
30 shall immediately be sent to the President of the Senate and the Speaker of the

1 House of Representatives drawing their attention to the fact that copies of
2 the instrument are yet to be laid before the National Assembly and
3 explaining why such copies were not laid before the instrument came into
4 operation.

5 (3) Every copy of any statutory instrument sold by or under the
6 authority of the-

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

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

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

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

26 (2)(a) Where either House within the period of thirty legislative
27 days beginning with the day on which a copy thereof is laid before it,
28 resolves that the instrument be annulled, no further proceedings shall be
29 taken on the instrument after the date of the resolution.

30 (b) The President shall by Order revoke the instrument provided

1 that any such resolution and revocation shall be without prejudice to the
2 validity of anything previously done under the instrument or to the making of a
3 new statutory instrument.

4 6. -(1) Where any Act passed before the commencement of this Act contains
5 provisions requiring that any statutory instrument or other document made in
6 exercise of any power conferred by that or any other Act, any instrument made
7 before the commencement of this Act shall be laid before the National
8 Assembly within 30 working days of the commencement of this Act.

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

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

15 (iv) Any contravention of paragraph (i) of this subsection shall be
16 deemed and treated as an act of gross misconduct.

17 7. -(1) Where this Act or any Act passed after the commencement of
18 this Act provides that

19 a draft of any statutory instrument shall be laid before the National Assembly,
20 but the Act does not prohibit the making of the instrument without the approval
21 of the National Assembly, then,

22 (a) in the case of an Order in Council, the draft shall not be submitted
23 to Federal Executive Council, and

24 (b) in any other case the statutory instrument shall not be made until
25 after the expiration of a period of thirty legislative days beginning with the day
26 on which a copy of the draft
27 is laid before each House of the National Assembly, and if such copies are laid
28 on different days, the later of the two days shall be used.

29 (2) If within that period either House resolves that the draft should not be
30 submitted to the President or that the statutory instrument should not be made,

1 as the case may be, no further proceedings shall be taken on the draft, but
2 without prejudice to the laying of a new draft before the National Assembly.

3 (3) Where any Act passed before the commencement of this Act
4 contains provisions requiring:

5 (a) that a draft of any statutory instrument or other document to be
6 made in exercise of any power conferred by that or any other Act shall be
7 laid before the National Assembly before being submitted to President, or
8 before being made, as the case may be, or (b) that it shall not be so submitted
9 or made if within a specified period either House of the National Assembly
10 passes a resolution to that effect.

11 (4) Subject to the provisions of any regulation made under this Act,
12 a draft of any statutory instrument made in exercise of the said power shall
13 by virtue of this Act be laid before the National Assembly and the provisions
14 of subsection (2) of this section shall apply in substitution for any provisions
15 contained in the Act passed before the commencement of this Act.

16 8. -(1) In reckoning any period of thirty days for the purposes of
17 either of section 5 or 6 of this Act, no account shall be taken of any time
18 during which the National Assembly is dissolved or during which both
19 Houses are adjourned for more than four days.

20 (2) In relation to any instrument required by any Act, whether
21 passed before or after the commencement of this Act, to be laid before any of
22 the Houses of the National Assembly only, the provisions of sections 4, 5
23 and 6 of this Act shall have effect as if references to that House were
24 substituted for references to the National Assembly and for references to
25 either House and each House of the National Assembly.

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

27 (i) any statutory instrument being an order which is subject to
28 special legislative procedure, or

29 (ii) any other instrument which is required to be laid before the
30 National Assembly, or before any of the Houses, for any period before it

1 comes into operation.

2 9. -(1) The Clerk to the National Assembly shall, with the concurrence
3 of the President of the Senate and the Speaker of the House of Representatives,
4 by statutory instrument make regulations for the purposes of this Act, and such
5 regulations shall, in particular-

6 (a) provide for the different treatment of instruments which are of the
7 nature of a public Act, and of those which are of the nature of a local, personal
8 or private Act;

9 (b) make provisions as to the numbering, printing, and publication of
10 statutory instruments including provisions for postponing the numbering of
11 any such instrument which shall not take effect until it has been approved by
12 the National Assembly, or the one of the Houses of the National Assembly as
13 the case may be;

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

19 (d) determine the classes of cases in which the exercise of a statutory
20 power by any rule-making authority constitutes or does not constitute the
21 making of such a statutory rule as is referred to in section 1 of this Act, and
22 provide for the exclusion from that section of any such classes;

23 (e) provide for the determination nominated by the President Speaker
24 of the House of question by a person or persons of the Senate and the
25 Representatives of any-

26 (i) as to the numbering, printing, or publication of any statutory
27 instrument or class or description of such instruments:

28 (ii) whether or to what extent any statutory instrument or class or
29 description of such instrument is, under the regulations, exempt from any such
30 requirement as is mentioned in paragraph (c) of this subsection:

1 (iii) whether any statutory instrument or class or description of
2 such instruments is in the nature of a public Act or a local, personal or private
3 Act: (iv) whether the exercise of any power conferred by an Act passed
4 before the commencement of this Act is or is not the exercise of a power to
5 make a statutory rule.

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

9 10. -(1)(i) If with respect to any power to confirm or approve
10 orders, rules, regulations or other subordinate legislation conferred on the
11 President or any Minister of the Government of the Federation by any Act
12 passed before the commencement of this Act, it appears that,
13 notwithstanding that the exercise of that power did not constitute the making
14 of a statutory rule, it is expedient that the provisions of this Act should apply
15 to documents by which that power is exercised, any House of the National
16 Assembly may by resolution direct that any document by which that power
17 is exercised after such date as may be specified in the resolution shall be
18 known as a "statutory instrument".

19 (ii) The provisions of this Act shall apply to the specified
20 document.

21 (2) A draft of any resolution proposed to be made under this section
22 shall be laid before both Houses of the National Assembly.

23 11.-Any contravention of this Act shall be deemed and treated as a
24 gross misconduct.

25 12. -(1) For the purposes of this Act, any power to make, confirm or
26 approve orders, rules, regulations or other subordinate legislation conferred
27 on any government department shall be deemed to be conferred on the
28 Minister of the Government of the Federation responsible for that
29 department.

30 (2) If any question arises as:

1 (i) whether any board, commission or other body on whom any
2 power is conferred is a government department within the meaning of this
3 section, or

4 (ii) what Minister of the Government of the Federation is in charge
5 of that body, that question shall be referred to and determined by the
6 Secretary to the Government of the Federation.

7 (3) In this Act, unless the context otherwise requires, "President"
8 means the President of the Federal Republic of Nigeria; "statutory
9 instrument" is as defined in section 1 of this Act.

Short Title

10 13. This Act may be cited as the Delegated Legislations
11 (Monitoring and Control) Act 2012.

12 EXPLANATORY MEMORANDUM

13 This Bill seeks to establish legislative monitoring and control over
14 delegated legislations to ensure that delegated legislations confirm with the
15 philosophy and spirit of the primary Act.