

A BILL

FOR

AN ACT TO ENCOURAGE WASTE MINIMIZATION AND A DECREASE IN WASTE DISPOSAL IN ORDER TO PROTECT THE ENVIRONMENT FROM HARM; AND PROVIDE ENVIRONMENTAL, SOCIAL, ECONOMIC, AND CULTURAL BENEFITS; ENCOURAGE THE MANUFACTURERS, INDUSTRIALISTS AND ORGANISATIONS INVOLVED IN THE EFFECTIVE REDUCTION, REUSE, RECYCLING, OR RECOVERY OF THE PRODUCT; AND MANAGING ANY ENVIRONMENTAL HARM ARISING FROM THE PRODUCT WHEN IT BECOMES WASTE AND FOR OTHER RELATED MATTERS

Sponsored by Senator Nelson Eftong

[] Commencement

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

1 1. This Bill may be cited as the Industrial Waste Minimization Bill, Citation
 2 2016.

PART 1- PRELIMINARY PROVISIONS

3
 4 2. The Purpose of this Act is to encourage waste minimization and Purpose of this Act
 5 a decrease in waste disposal in order to:

- 6 (a) Protect the environment from harm; and
- 7 (b) Provide environmental, social, economic, and cultural benefits.

8 3. This Act binds the federal, state and local government. Application and Scope of the Act

9 4.-(1) In this Act, unless the context requires another meaning: Interpretation

10 “Accredited scheme” means a product stewardship scheme accredited by
 11 the Minister under section 15;

12 “appointed levy collector” means a person appointed in accordance with
 13 section 40(1)(a) to collect the levy;

14 “auditor” means a person appointed under section 87(1);

15 “disposal” has the meaning set out in section 6;

- 1 “disposal facility” has the meaning set out in section 7;
- 2 “diverted material” means anything that is no longer required for its original
3 purpose and, but for commercial or other waste minimization activities, would
4 be disposed of or discarded;
- 5 “enforcement officer” means a person appointed as an enforcement officer
6 under section 76(1) or (2);
- 7 “environment” has the same meaning as in section 2(1) of the Environmental
8 Impact Assessment Act, LFN, 2004;
- 9 “financial year” means a period of 12 months ending with 31st December
10 every year;
- 11 “infringement fee” means the amount prescribed as the infringement fee for the
12 infringement offence concerned; infringement offence means an offence
13 prescribed as an infringement offence under section 59(a);
- 14 “judicial officer” means a Court Judge, a Justice of the Peace, a Community
15 Magistrate, or a Registrar (not being a constable); levy means the levy imposed
16 by section 26 levy collector, in relation to a disposal facility, means:
- 17 (a) the Secretary, if there is no appointed levy collector for the facility;
- 18 (b) the appointed levy collector for the facility levy money means the
19 money paid as levy;
- 20 “Minister” means the Minister for the Environment;
- 21 “objectives”, in relation to a product stewardship scheme, means the objectives
22 for the product to which the scheme relates as set under section 14(c)(i)
- 23 “operator” means the person in control of a disposal facility or other facility;
- 24 “prescribed” means prescribed by regulations made under this Act;
- 25 “priority product” means a product declared to be a priority product in
26 accordance with section 9;
- 27 “producer” means a person who:
- 28 (a) manufactures a product and sells it in Nigeria under the person's
29 own brand;
- 30 (b) is the owner or licence holder of a trademark under which a

- 1 product is sold in Nigeria;
- 2 (c) imports a product for sale in Nigeria; or
- 3 (d) manufactures or imports a product for use in trade by the person
- 4 or the person's agent; product includes:
- 5 (a) packaging; and
- 6 (b) a class of product recovery:
- 7 (i) means extraction of materials or energy from waste or diverted
- 8 material for further use or processing; and
- 9 (ii) includes making waste or diverted material into compost
- 10 recycling means the reprocessing of waste or diverted material to produce
- 11 new materials; reduction means:
- 12 (a) lessening waste generation, including by using products more
- 13 efficiently or by redesigning products; and
- 14 (b) in relation to a product, lessening waste generation in relation to
- 15 the product;
- 16 "reuse" means the further use of waste or diverted material in its existing
- 17 form for the original purpose of the materials or products that constitute the
- 18 waste or diverted material, or for a similar purpose;
- 19 "sale" includes:
- 20 (a) an offer for sale; and
- 21 (b) distribution or delivery, whether or not for valuable
- 22 consideration (including delivery to an agent for sale on consignment)
- 23 "scheme manager" means the contact person for an accredited scheme;
- 24 treatment:
- 25 (a) means subjecting waste to any physical, biological, or chemical
- 26 process to change its volume or character so that it may be disposed of with
- 27 no or reduced adverse effect on the environment; but
- 28 (b) does not include dilution of waste.
- 29 "Waste:"
- 30 (a) means any thing disposed of or discarded; and

1 (b) includes a type of waste that is defined by its composition or
2 source (for example, organic waste, electronic waste, or construction and
3 demolition waste); and

4 (c) to avoid doubt, includes any component or element of diverted
5 material, if the component or element is disposed of or discarded;

6 "Waste Advisory Board or Board" means the Waste Advisory Board
7 established by section 89 of this Act;

8 "Waste management and minimization" means waste minimization and
9 treatment and disposal of waste;

10 "Waste management and minimization plan or plan" means a waste
11 management and minimization plan adopted by a territorial authority under
12 section 43;

13 "Waste minimization" means:

14 (a) the reduction of waste; and

15 (b) the reuse, recycling, and recovery of waste and diverted material.

16 (2) In this Act:

17 (a) benefits expected from implementing regulations, or from
18 reduction, reuse, recycling, recovery, or treatment of a product, include both
19 monetary and non-monetary benefits:

20 (b) costs expected from implementing regulations include both
21 monetary and non-monetary costs.

Meaning of
disposal

22 5.-(1) In this Act, unless the context requires another meaning,
23 disposal means:

24 (a) the final (or more than short-term) deposit of waste into or onto
25 land set apart for that purpose; or

26 (b) the incineration of waste.

27 (2) In subsection (1)(a), for all purposes relating to the levy, final (or
28 more than short-term) deposit of waste means any deposit of waste other than a
29 deposit referred to in section 26(3).

30 (3) In subsection (1)(b), incineration means the deliberate burning of

1 waste to destroy it, but not to recover energy from it.

2 6.-(1) In this Act, unless the context requires another meaning, Meaning of
disposal facility
3 disposal facility means:

4 (a) a facility, including a landfill:

5 (i) at which waste is disposed of; and

6 (ii) at which the waste disposed of includes household waste; and

7 (iii) that operates, at least in part, as a business to dispose of waste;

8 and

9 (b) any other facility or class of facility at which waste is disposed
10 of that is prescribed as a disposal facility.

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

14 PART 2 - PRODUCT STEWARDSHIP

15 7. The purpose of this Part is to encourage (and, in certain Purpose of Part
16 circumstances, require) the people and organizations involved in the life of a
17 product to share responsibility for:

18 (a) ensuring there is effective reduction, reuse, recycling, or
19 recovery of the product; and

20 (b) managing any environmental harm arising from the product
21 when it becomes waste.

22 *Priority products*

23 8.-(1) The Minister may, by notice in the Gazette, declare a product
24 to be a priority product. Declaration of
priority products

25 (2) The Minister must not make the declaration unless he or she is
26 satisfied that-

27 (a) either:

28 (i) the product will or may cause significant environmental harm
29 when it becomes waste;

30 (ii) there are significant benefits from reduction, reuse, recycling,

1 recovery, or treatment of the product; and

2 (b) the product can be effectively managed under a product
3 stewardship scheme.

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

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

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

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

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

16 *Product stewardship schemes*

Product
stewardship
schemes required
for priority products

17 9. As soon as practicable after a product is declared to be a priority
18 product:

19 (a) a product stewardship scheme for the product must be developed;

20 and

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

Voluntary product
stewardship
schemes

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

Ministerial
guidelines for
product
stewardship
schemes for
priority products

24 11.-(1) The Minister may, by notice in the Gazette, publish guidelines
25 about the contents and expected effects of product stewardship schemes for
26 priority products.

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

29 (3) Without limiting subsection (1), the guidelines may include 1 or
30 more of the following matters:

- 1 (a) the duration of a scheme;
- 2 (b) the expected reduction in harm to the environment from the
3 implementation of a scheme or the expected benefits from reduction, reuse,
4 recycling, recovery, or treatment of the product to which a scheme relates;
- 5 (c) the time within which the matters specified in paragraph (b) are
6 expected to occur;
- 7 (d) the expected waste minimization, treatment, or disposal
8 objectives for the product to which a scheme relates and the time frames for
9 meeting them;
- 10 (e) reporting and information requirements, including information
11 to be provided to purchasers, users, and handlers of the product to which a
12 scheme relates;
- 13 (f) the time within which an application for accreditation of the
14 scheme is expected to be made under section 13.

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

- 16 (a) obtain and consider the advice of the Waste Advisory Board;
17 and
- 18 (b) be satisfied that there has been adequate consultation with
19 persons or organizations who may be significantly affected by the
20 guidelines.

21 *Accreditation of product stewardship schemes*

22 12.-(1) A scheme manager may apply to the Minister for
23 accreditation of a product stewardship scheme.

Application for
accreditation

24 (2) The application must:

- 25 (a) be made in writing in the prescribed manner (if any);
26 (b) include the prescribed information (if any);
27 (c) be accompanied by the prescribed fee (if any);
28 (d) identify how the scheme meets the requirements for
29 accreditation under section 14;
- 30 (e) identify whether regulations under section 22 or 23 will be

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

Requirements
for accreditation

4 **13.** To qualify for accreditation, a product stewardship scheme must:

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 objectives
10 for the product; and

11 (ii) time frames for meeting the objectives.

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

15 (e) list the persons who have agreed to participate in the scheme and
16 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 reporting
25 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, and
28 handlers of the product to which the scheme relates;

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

Accreditation

30 **14.-(1)** The Minister shall accredit a product stewardship scheme if he

1 or she is satisfied that the scheme:

2 (a) meets the requirements of section 14;

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

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

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

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

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

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

18 (a) the scheme manager; or

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

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

24 15.-(1) An accredited scheme may be varied.

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

27 (3) Subsection (2) does not apply if the variation to the scheme is a
28 variation that will not adversely affect the scheme's objectives or its ability
29 to meet those objectives within the time frames set in the scheme but, if the
30 variation adds 1 or more participants to the scheme or adds 1 or more brands

Variation of
accredited scheme

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

Expiry of
accreditation

4 **16.**-(1) The accreditation of a product stewardship scheme expires on
5 the earlier of the following dates:

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

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

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

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

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

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

Revocation of
accreditation

18 **17.**-(1) The Minister may revoke the accreditation of an accredited
19 scheme if:

20 (a) he or she is satisfied that:

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

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

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

26 (c) the product to which the scheme relates was not a priority product
27 at the date of the scheme's accreditation, but has subsequently been declared a
28 priority product, and he or she is satisfied that the objectives of the scheme are
29 no longer adequate in relation to the product.

30 (2) The Minister must not revoke the accreditation of an accredited

1 scheme unless he or she:

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

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

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

9 *Monitoring of accredited schemes*

10 **19.** The Secretary may:

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

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

14 **20.** Any charge payable to the Secretary under section 20 is
15 recoverable as a debt by the Secretary in a court of competent jurisdiction. Monitoring costs
recoverable as
debt if unpaid

16 *Regulations in relation to priority products, accredited schemes,*

17 *products, materials, and waste*

18 **21.**-(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: Regulations in
relation to priority
products and
accredited schemes

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
24 of a 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 Secretary for the

- 1 monitoring of an accredited scheme.
- 2 (2) Before recommending the making of regulations under subsection
- 3 (1)(a), the Minister shall:
- 4 (a) obtain and consider the advice of the Waste Advisory Board; and
- 5 (b) be satisfied that:
- 6 (i) there has been adequate consultation with persons or organizations
- 7 who may be significantly affected by the regulations; and
- 8 (ii) without the regulations, it is likely that either:
- 9 (a) the objectives of any relevant accredited scheme cannot be met;
- 10 (b) the matters referred to in section 12(3)(b) or (d) that are included in
- 11 any guidelines published under section 12 cannot be met;
- 12 (iii) the benefits expected from implementing the regulations exceed
- 13 the costs expected from implementing the regulations; and
- 14 (iv) the regulations are consistent with Nigeria's international
- 15 obligations.
- 16 (3) For the purposes of subsection (1)(e), regulations may provide for
- 17 charges payable to the Secretary using 1 or more of the following methods:
- 18 (a) fixed charges;
- 19 (b) Charges fixed on an hourly or other unit basis;
- 20 (c) estimated charges paid before any monitoring, followed by
- 21 reconciliation and an appropriate payment or refund after the monitoring;
- 22 (d) actual and reasonable charges (having regard to the direct and
- 23 indirect costs of any monitoring);
- 24 (e) refundable or non-refundable deposits paid before any monitoring
- 25 of an accredited scheme.
- 26 (4) However, if more than 1 charging method is provided, the
- 27 Secretary must use the method that he or she believes on reasonable grounds to
- 28 be the most suitable and equitable in the circumstances concerned.
- 29 22.-(1) The President may, by Order in Council made on the
- 30 recommendation of the Minister, make regulations for 1 or more of the

1 following purposes:

2 *Control or prohibition on disposal, sale, etc*

3 (a) controlling or prohibiting the disposal, or anything done for the
4 purpose of disposing, of products or waste;

5 (b) controlling or prohibiting the manufacture or sale of products
6 that contain specified materials:

7 *Take-back services, fees, and refundable deposits*

8 (c) requiring specified classes of person to provide a take back
9 service for products, and prescribing requirements for:

10 (i) the take-back service; and

11 (ii) the reuse, recycling, recovery, treatment, or disposal of
12 products 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;

16 (ii) the stages in the life of the product where the fee must be paid;

17 and

18 (iii) the purposes to which the fee must be applied.

19 (e) requiring specified classes of person to charge a deposit on the
20 sale of a product, requiring the deposits to be refunded in specified
21 circumstances, and prescribing requirements for the application of any
22 deposits not refunded.

23 *Labelling of products*

24 (f) prescribing requirements for the labelling of a product:

25 *Quality standards*

26 (g) for any product or material that has become waste, prescribing
27 standards to be met when reusing, recycling, or recovering the product or
28 material;

29 (h) requiring specified persons or specified classes of person to
30 ensure that the standards prescribed under paragraph;

1 (g) are met:

2 *Information to be collected and provided*

3 (i) requiring specified persons or specified classes of person to
4 collect, and provide to the Secretary, information about any requirements
5 imposed in regulations made under paragraph (a), (b), (c), (d), or (e).

6 *Miscellaneous*

7 (j) providing for any other matter contemplated by this Part.

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

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

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

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

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

19 (b) be satisfied that:

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

22 (ii) the benefits expected from implementing the regulations exceed
23 the costs expected from implementing the regulations; and

24 (iii) the regulations are consistent with Nigeria's international
25 obligations. Nigeria Customs Service to provide information about priority
26 products

Nigeria Customs
Service to provide
information about
priority products

27 23.-(1) The Secretary may request, in writing, the Nigeria Customs
28 Service to provide to the Secretary any information that the Nigeria Customs
29 Service holds about the importers and importation of priority products.

30 (2) The Nigeria Customs Service must comply with a request as soon

1 as practicable.

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

5 PART 3 - WASTE DISPOSAL LEVY

6 24. The purpose of this Part is to enable a levy to be imposed on Purpose of Part
7 waste disposed of to:

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

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

12 *Levy must be paid*

13 25.-(1) A levy is imposed on waste disposed of at a disposal facility. Levy imposed

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

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

18 (b) the waste concerned is exempted from the levy by regulations
19 made under this part.

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

23 (a) reused or recycled;

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

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

27 26. The levy is payable on the amount of waste disposed of at a Rate of levy
28 disposal facility:

29 (a) at the prescribed rate;

30 (b) if the rate is not prescribed, at the rate (exclusive of goods and

1 services tax) of:

2 (i) N15,000 per tonne; or

3 (ii) N15,000 per unit of volume that, in accordance with regulations
4 made under this Part, is considered equivalent to a tonne.

Operator of
disposal facility
must pay levy to
levy collector

5 27.-(1) The operator of a disposal facility must pay the levy on waste
6 disposed of at the facility.

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

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

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

Waiver of levy
payment

12 28. The Secretary may waive, in writing, the requirement for an
13 operator to pay any amount of levy, if satisfied that exceptional circumstances
14 justify the waiver.

15 *Distribution and spending of levy money*

Secretary must
distribute and
spend levy money

16 29. The Secretary must distribute and spend all levy money received
17 by:

18 (a) paying any refunds to operators in accordance with regulations
19 made under section 41(1)(k); and

20 (b) paying shares to territorial authorities in accordance with sections
21 31 and 33; and

22 (c) spending the remainder on 1 or more of the following:

23 (i) collecting and administering the levy;

24 (ii) funding projects that the Minister has approved for funding under
25 section 38;

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

Territorial
authorities to
receive share

29 30.-(1) The Secretary shall pay each territorial authority a share of the
30 total levy money collected in respect of a financial year.

1 (2) A territorial authority's share is calculated using the following
2 formula:

3 $(\text{levy collected} - \text{territorial authority's share} = \text{levy refunded}) \text{ district's}$
4 $\text{population};$
5 $2x \text{ total population where- levy collected is the total levy money collected in}$
6 $\text{respect of the financial year levy refunded is the total levy money refunded}$
7 $\text{in respect of the financial year in accordance with regulations made under}$
8 $\text{section 41(1)(k) zone's population is:}$

9 (a) the population of the district of the territorial authority as shown
10 by the census of population published most recently before the start of the
11 financial year; or

12 (b) if the district was constituted, or its boundaries were altered,
13 after that census was published, the population of the district assessed by the
14 Government Statistician as at the date of the district's constitution or
15 boundary alteration total population is the total of all districts' populations.

16 (3) The zonal authority's share must be paid to the zonal authority
17 in the prescribed manner and at the prescribed times.

18 (4) This section is subject to section 33.

19 31.-(1) A territorial authority may spend the levy money it receives
20 under section 31 only:

21 (a) on matters to promote or achieve waste minimization; and
22 (b) in accordance with its waste management and minimization
23 plan.

24 (2) When making a decision in relation to funding any matter to
25 which subsection (1) applies, the territorial authority must consider the
26 effects that the decision may have on any existing waste minimization
27 services, facilities, and activities (whether provided by the territorial
28 authority or otherwise).

29 32.-(1) Despite section 31, the Secretary shall retain levy money
30 payable to a zonal authority if,-

Spending of levy
money by territorial
authorities

Secretary must
retain levy money
instead of paying
zonal authority
in certain situations

1 (a) at the time the payment is to be made, the zonal authority has not-
 2 (i) adopted a waste management and minimization plan; or
 3 (ii) reviewed its waste management and minimization plan under
 4 section 50, if a review was required before the time for payment; or
 5 (b) the Minister has directed the Secretary to retain the payment under
 6 section 37.

7 (2) The Secretary shall spend any money retained under subsection
 8 (1) in accordance with section 30(c).

9 *Estimated levy and unpaid levy*

Estimation of
 amount of levy
 payable

10 33.-(1) This section applies if the levy collector considers that an
 11 amount of levy payable by an operator under section 28 cannot be accurately
 12 calculated because the operator-

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

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

17 (2) The levy collector may-

18 (a) in the prescribed manner, estimate the amount of levy payable; and
 19 (b) make a written demand for the amount from the operator.

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

Interest on
 unpaid levy

22 34.-(1) If the operator of a disposal facility does not fully pay an
 23 amount of levy (the original amount) by the close of the due day for payment,
 24 the levy owing is to be treated as having been increased by an amount
 25 calculated daily using the following formula:

26 amount of increase = unpaid amount x prescribed rate;

27 where-

28 unpaid amount is any part of the original amount that remains unpaid on the day
 29 of calculation prescribed rate.

30 (2) Any amount of increase calculated under subsection (1) is not

1 itself subject to an increase under that subsection.

2 35. Any levy payable to a levy collector is recoverable as a debt by Unpaid levy is
3 the levy collector in a court of competent jurisdiction. debt

4 *Minister's functions in relation to levy*

5 36. The Minister may direct the Secretary to retain 1 or more Minister may
6 payments of levy money to a zonal authority in respect of a financial year if direct Secretary
7 he or she is satisfied that the zonal authority has not met any of the following to retain payment
8 requirements or standards in respect of the previous financial year: to zonal authority

9 (a) the requirement to spend levy money in accordance with
10 section 32;

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

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

13 37.-(1) The Minister may approve funding of any project to Minister may
14 promote or achieve waste minimization. approve funding
15 of projects to
16 promote or achieve
17 waste minimization

18 (2) The Minister may approve funding of a project on any terms or
19 conditions that he or she thinks fit.

20 (3) In deciding whether to approve funding of a project, the
21 Minister-

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

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

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

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

28 38.-(1) The Minister must review the effectiveness of the levy-

29 (a) not later than 2 years after the commencement of this Part; and Minister must
30 review
effectiveness of
levy.

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

(2) In undertaking a review, the Minister-

(a) shall obtain and consider the advice of the Waste Advisory

Board;

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

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

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

Minister may
appoint levy
collector

8 39.-(1) The Minister may, by notice in the Gazette,-

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

11 (b) remove the person from that appointment.

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

14 (3) Subject to subsection (2), an appointed person shall-

15 (a) pay any levy money collected into a separate trust account to be
16 held on trust for the Secretary; and

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

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

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

24 *Regulations in relation to waste disposal levy and related matters*

Regulations in
relation to waste
disposal levy and
related matters

25 40.-(1) The President may, by Order in Council made on the
26 recommendation of the Minister, make regulations for 1 or more of the
27 following purposes:

28 *Imposition of levy*

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

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

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

6 *Rate of levy*

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

10 (e) prescribing the rate of levy to apply to-

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

12 (ii) 1 or more types of waste.

13 *Calculation and payment of levy*

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

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

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

21 (i) allowing an operator who objects on conscientious or religious
22 grounds to paying the levy in the prescribed manner to pay it in another
23 manner;

24 (j) prescribing the manner in which a levy collector may estimate
25 the amount of levy payable by the operator of a disposal facility.

26 *Distribution and spending of levy money*

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

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

1

Miscellaneous

2

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

3

(2) Before recommending the making of regulations under subsection

4

(l)(a), (b), (c), (d), or (e), the Minister must-

5

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

6

(b) be satisfied that there has been adequate consultation with persons

7

or organizations who may be significantly affected by the regulations; and

8

(c) consider the costs and benefits expected from implementing the

9

regulations.

10

(3) The Minister must not recommend the making of regulations

11

under subsection (l)(b), (c), or (k) unless he or she is satisfied that exceptional

12

circumstances justify the exemption or refund.

13

(4) Regulations made under subsection (l)(e),-

14

(a) if made on or before 30 June in any year, expire on the close of 30

15

June in the following year, unless the National Assembly passes an Act

16

confirming the regulations before they expire;

17

(b) if made on or after 1st July in any year, expire on the close of 31

18

December in the following year, unless the National Assembly passes an Act

19

confirming the regulations before they expire.

20

(5) To avoid doubt, if regulations expire under subsection (4), the levy

21

rate specified in the regulations remains valid in respect of the period before

22

expiry.

23

PART 4

24

Responsibilities of zonal authorities in relation to waste management

25

and minimization

26

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

27

28

Waste management and minimization plans

29

42.-(1) For the purposes of section 42, a territorial authority must

30

adopt a waste management and minimization plan.

Zonal authorities to encourage effective and efficient waste management and minimization

Waste management and minimization plans

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

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

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

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

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

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

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

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

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

23 (4) A waste management plan of the Local Government must be
24 treated as if it were a waste management and minimization plan adopted
25 under this section, and this Part applies to the plan accordingly.

26 43. In preparing, amending, or revoking a waste management and
27 minimization plan, a zonal authority must-

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

30 (i) reduction;

Requirements
when preparing,
amending, or
revoking plans

- 1 (ii) re-use;
- 2 (iii) recycling;
- 3 (iv) recovery;
- 4 (v) treatment;
- 5 (vi) disposal; and
- 6 (b) ensure that the collection, transport, and disposal of waste does
- 7 not, or is not likely to, cause a nuisance;
- 8 (c) have regard to the Nigeria Waste Strategy, or any government
- 9 policy on waste management and minimization that replaces the strategy; and
- 10 (d) have regard to the most recent assessment undertaken by the
- 11 territorial authority.

Joint plans

12 44. Two or more zonal authorities may jointly prepare and adopt a

13 waste management and minimization plan for the whole or parts of their

14 districts, and sections 43 and 44 apply accordingly, with all necessary

15 modifications.

Funding of plans

16 45.-(1) A territorial authority is not limited to applying strict cost

17 recovery or user pays principles for any particular service, facility, or activity

18 provided by the territorial authority in accordance with its waste management

19 and minimization plan.

20 (2) Without limiting subsection (1), a territorial authority may charge

21 fees for a particular service or facility provided by the territorial authority that

22 is higher or lower than required to recover the costs of the service or facility, or

23 provide a service or facility free of charge, if-

24 (a) it is satisfied that the charge or lack of charge will provide an

25 incentive or disincentive that will promote the objectives of its waste

26 management and minimization plan; and

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

Grants

28 46.-(1) If authorized to do so by its waste management and

29 minimization plan, a zonal authority may make grants or advances of money to

30 any person, organization, group, or body of persons for the purpose of

1 promoting or achieving waste management and minimization.

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

5 47.-(1) The President may, by Order in Council made on the
6 recommendation of the Minister, direct a zonal authority to include, omit, or
7 amend 1 or more provisions in its waste management and minimization
8 plan.

President may
give directions
to territorial
authority

9 (2) The Minister shall not make a recommendation under
10 subsection (1), unless he or she is satisfied that-

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

14 (b) the proposed changes to the waste management and
15 minimization plan will achieve or assist in achieving the Nigeria Waste
16 Strategy, or any government policy on waste management and minimization
17 that replaces the strategy.

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

21 (4) Section 44 does not apply to an amendment to a waste
22 management and minimization plan made under this section.

23 48.-(1) The Minister may, by notice in the Gazette, set performance
24 standards for the implementation of waste management and minimization
25 plans.

Minister may
set performance
standards for
zonal authorities

26 (2) A performance standard may apply generally, or to 1 or more
27 territorial authorities.

28 *Review of waste management and minimization plans*

29 49.-(1) A zonal authority must review its waste management and
30 minimization plan-

Review of waste
management and
minimization
plan

- 1 (a) not later than 1 July 2016; and
2 (b) then at intervals of not more than 6 years after the last review.
- 3 (2) Before conducting a review, the territorial authority must make an
4 assessment under section 51.
- 5 (3) If, after the review, the territorial authority considers that the plan-
6 (a) should be amended or revoked and a new plan substituted, it must
7 act under section 44;
8 (b) should continue without amendment, it must use the special
9 consultative procedure, and, in doing so, notify the assessment with the
10 statement of proposal.
- 11 **50.-(1)** A waste assessment must contain-
- 12 (a) a description of the collection, recycling, recovery, treatment, and
13 disposal services provided within the territorial authority's district (whether by
14 the territorial authority or otherwise);
15 (b) a forecast of future demands for collection, recycling, recovery,
16 treatment, and disposal services within the district;
17 (c) a statement of options available to meet the forecast demands of
18 the district with an assessment of the suitability of each option;
19 (d) a statement of the territorial authority's intended role in meeting
20 the forecast demands;
21 (e) a statement of the territorial authority's proposals for meeting the
22 forecast demands, including proposals for new or replacement infrastructure;
23 and
24 (f) a statement about the extent to which the proposals will-
25 (i) ensure that public health is adequately protected;
26 (ii) promote effective and efficient waste management and
27 minimization.
- 28 (2) An assessment is not required to contain any assessment in
29 relation to individual properties.
- 30 (3) Information is required for an assessment to the extent that the

Requirements
for waste
assessment

1 zonal authority considers appropriate, having regard to-

2 (a) the significance of the information;

3 (b) the costs of, and difficulty in, obtaining the information;

4 (c) the extent of the zonal authority's resources; and

5 (d) the possibility that the zonal authority may be directed under
6 the National Health Act to provide the services referred to in that Act.

7 (4) However, an assessment must indicate whether and, if so, to
8 what extent, the matters referred to in subsection (3)(b); and (c) have
9 impacted materially on the completeness of the assessment.

10 (5) In making an assessment, the territorial authority must-

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

12 and

13 (b) consult the Medical Officer of Health.

14 **51.-(1)** A zonal authority may undertake, or contract for, any waste
15 management and minimization service, facility, or activity (whether the
16 service, facility, or activity is undertaken in its own district or otherwise).

Waste management
and minimization
services, facilities,
and activities

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

20 **52.** A zonal authority may sell any marketable product resulting
21 from any activity or service of the zonal authority carried out under this Part,
22 but any proceeds of sale must be used in implementing its waste
23 management and minimization plan.

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

24 *Collection and disposal of waste*

25 **53.** A zonal authority that provides a service that collects waste, or
26 any person who provides a service that collects waste on behalf of a zonal
27 authority, must do so promptly, efficiently, and at regular intervals.

Waste must be
collected promptly,
efficiently, and
regularly

28 **54. -(1)** A Health Protection Officer may serve notice on a zonal
29 authority if-

Health Protection
Officer may serve
notice on zonal
authority for
causing nuisance

30 (a) the zonal authority provides a waste collection service to

1 premises; and

2 (b) he or she considers that-

3 (i) the zonal authority has failed to collect waste from the premises

4 promptly or efficiently; and

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

6 (2) The notice must state-

7 (a) the premises to which it relates;

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

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

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

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

14 (3) On receipt of a notice under subsection (1), the territorial authority
15 must-

16 (a) comply with the notice itself; or

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

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

25 *By-laws*

By-laws

26 55.-(1) A zonal authority may make by-laws for 1 or more of the
27 following purposes:

28 (a) prohibiting or regulating the deposit of waste;

29 (b) regulating the collection and transportation of waste;

30 (c) regulating the manner of disposal of dead animals, including their

1 short-term storage pending disposal;

2 (d) prescribing charges to be paid for use of waste management and
3 minimization facilities provided owned, or operated by the zonal authority;

4 (e) prohibiting, restricting, or controlling access to waste
5 management and minimization facilities provided, owned, or operated by
6 the territorial authority;

7 (f) prohibiting the removal of waste intended for recycling from
8 receptacles provided by the zonal authority by anyone other than-

9 (i) the occupier of the property from which the waste in the
10 receptacle has come; or

11 (ii) a person authorized by the zonal authority to remove the waste.

12 (2) A by-law must not be inconsistent with the zonal authority's
13 waste management and minimization plan.

14 (3) Bylaws made under subsection (1)(b) may provide for the
15 licensing of persons who carry out the collection and transportation of
16 waste, and the conditions specified in the bylaws as conditions of the
17 licences may include conditions requiring each licensee-

18 (a) to provide a performance bond or security, or both, for the
19 performance of the work licensed;

20 (b) to provide to the zonal authority, at times or periods specified in
21 the bylaws, reports setting out the quantity, composition, and destination of
22 waste collected and transported by the licensee (for example, household
23 waste to a disposal facility).

24 56.-(1) A zonal authority must review a bylaw made by it under Review of bylaws
25 section 56-

26 (a) not later than 10 years after the bylaw was made; and

27 (b) then at intervals of not more than 10 years after the last review.

28 (2) A zonal authority must review a bylaw to which section 64
29 applies-

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

- 1 (b) then at intervals of not more than 10 years after the last review.
- Regulations in
relation to by-laws 2 57. The President may, by Order in Council, make regulations for the
3 following purposes:
- 4 (a) prescribing offences against bylaws that are infringement offences
5 under this Act;
- 6 (b) prescribing infringement fees (not exceeding N150,000) for
7 infringement offences;
- 8 (c) prescribing the form of, and any additional particulars required in,
9 infringement notices issued under section 74.
- Relationship of
this Part with
Local Government
By-laws 10 58.-(1) In exercising its powers and performing its duties under this
11 Part, a zonal authority must comply with the Local Government By-laws.
- 12 (2) However, if a conflict arises between this Part and the Local
13 Government Bye-laws, this Part shall prevail.
- 14 PART 5 - OFFENCES AND ENFORCEMENT
- 15 *Offences*
- Offences 16 59.-(1) The following persons commit an offence and are liable on
17 summary conviction to a fine not exceeding N5,000,000:
- 18 (a) a producer who contravenes regulations made under section
19 22(1)(a);
- 20 (b) any person (other than a producer) who knowingly contravenes
21 regulations made under section 22(1)(a);
- 22 (c) a person who contravenes regulations made under section
23 23(1)(c), (d), (e), (f), or (i);
- 24 (d) a person who knowingly contravenes regulations made under
25 section 23(1)(a), (b), (g), or (h);
- 26 (e) a person who contravenes regulations made under section 86(1)(a)
27 or (b);
- 28 (f) a person who, in providing records or other information required
29 by regulations made under section 23(1)(i) or 86(1)(a), (b), or (c), knowingly-
30 (i) supplies false or misleading information; or

1 (ii) makes any material omission.

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

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

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

9 (b) a person who-

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

12 (ii) intentionally supplies false or misleading information to an
13 enforcement officer or an auditor acting under section 79; or

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

16 (4) A territorial authority convicted of an offence under subsection
17 (2) is liable, in addition to the penalty for the offence, for any reasonable
18 costs incurred by the Medical Officer of Health in collecting and disposing
19 of the waste to which the offence relates.

20 **60.** Every person commits an offence who breaches a bylaw made
21 under section 56 and is liable on summary conviction to a fine not exceeding
22 N1,200,000.

Offences against
bylaws

23 **61.**-(1) If a person is convicted of an offence under section 65, the
24 court may, on the application of the Secretary or the zonal authority, as the
25 case may be, in addition to any penalty that the court may impose under that
26 section, order the person to pay an amount not exceeding the value of any
27 commercial gain resulting from the contravention, if the court is satisfied
28 that the contravention occurred in the course of producing a commercial
29 gain.

Additional penalty
for contravention
involving
commercial gain

30 (2) The value of any gain must be assessed by the court, and any

1 amount ordered to be paid is recoverable in the same manner as a fine.

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

4 *Strict liability and defences*

Strict liability

5 62. In any prosecution for an offence specified in section 65(1)(a),
6 (c), or (e), 65(2), or 66, it is not necessary to prove that the defendant intended
7 to commit the offence.

Defences

8 63.-(1) It is a defence to an offence against this Act, or a bylaw made
9 under section 56, if the court is satisfied-

10 (a) that-

11 (i) the act or omission giving rise to the offence was necessary-

12 (a) to save or protect life or health or prevent injury;

13 (b) to prevent serious damage to property; or

14 (c) to avoid actual or likely significant harm to the environment;

15 (ii) the conduct of the defendant was reasonable in the circumstances;

16 and

17 (iii) the effects of the act or omission were adequately remedied or
18 mitigated by the defendant after the offence occurred; or

19 (b) that-

20 (i) the act or omission giving rise to the offence was due to an action or
21 event beyond the control of the defendant;

22 (ii) the action or event could not reasonably have been foreseen or
23 prevented by the defendant; and

24 (iii) the effects of the defendant's act or omission were adequately
25 remedied or mitigated by the defendant after the offence occurred.

26 (2) It is a defence to an offence against section 65(1)(a), (c), or (e) if
27 the court is satisfied that-

28 (a) the defendant took all reasonable steps to prevent or stop the
29 commission of the offence; and

30 (b) the effects of the defendant's act or omission giving rise to the

1 offence were adequately remedied or mitigated by the defendant after the
2 offence occurred.

3 *Liability of principals for acts of agents*

4 64.-(1) The consequence specified in subsection (2) applies if a Liability of
principals for acts
of agents
5 person (person A) commits an offence against this Act while acting as an
6 agent (including a contractor) or employee of another person (person B).

7 (2) Person B is liable under this Act in the same manner and to the
8 same extent as if person B had personally committed the offence.

9 (3) The liability of person B under subsection (2) is without
10 prejudice to the liability of person A.

11 (4) If any proceedings are brought by virtue of subsection (2), it is a
12 defence if person B proves,-

13 (a) in the case of a natural person (including a partner in a firm),
14 that-

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

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

19 (b) in the case of a body corporate, that-

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

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

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

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

30 (b) that he or she knew or could reasonably have been expected to

1 know that the offence was to be or was being committed and failed to take all
2 reasonable steps to prevent or stop it.

Time for laying
information

3 65.-(1) An information in respect of an offence against this Act may
4 be laid at any time within 12 months after the time when the matter giving rise
5 to the information first became known, or should have become known, to the
6 person laying the information.

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

11 *Injunctions*

Injunctions
restraining
commission of
offence under
section 65(2)

12 66.-(1) A High Court may, on the application of the Medical Officer of
13 Health, grant an injunction restraining a territorial authority from committing
14 an offence against section 65(2).

15 (2) An injunction may be granted under subsection (1)-

16 (a) despite anything in any other enactment;

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

19 (c) if a person is convicted of the offence,-

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

21 (ii) in subsequent proceedings.

22 *Infringement offences*

Proceedings for
infringement
offences

23 67. A person who is alleged to have committed an infringement
24 offence may either-

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

26 (b) be served with an infringement notice under section 74.

Issue and service
of infringement
notices

27 68.-(1) An infringement notice may be issued to a person if an
28 enforcement officer-

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

30 (b) has reasonable cause to believe that an infringement offence is

1 being or has been committed by the person.

2 (2) An infringement notice may be served-

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

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

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

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

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

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

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

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

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

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

22 (g) any other particulars that are prescribed.

23 (5) If an infringement notice has been served under this section-

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

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

29 69. A zonal authority may retain the infringement fees received by
30 it for any infringement offences resulting from infringement notices issued

1 by enforcement officers appointed by the territorial authority.

2 *Enforcement officers*

Enforcement
officers

3 70.-(1) The Executive Secretary may appoint-

4 (a) a person to be an enforcement officer for the purposes of ensuring
5 compliance with regulations made under this Act (except any regulations made
6 under section 23(1)(a)); or

7 (b) an auditor to be an enforcement officer for the purposes of
8 exercising the power of entry under section 79(1)(a) in relation to an audit.

9 (2) A zonal authority may appoint a person to be an enforcement
10 officer in its district-

11 (a) for the purposes of ensuring compliance with any regulations
12 made under section 23(1)(a);

13 (b) for the purposes of ensuring compliance with any bylaw made by
14 the territorial authority under section 56.

15 (3) A person must not be appointed as an enforcement officer unless
16 the person has appropriate experience, technical competence, and
17 qualifications relevant to the area of responsibilities proposed to be allocated to
18 that person.

19 (4) The Secretary or the territorial authority, as the case may be, must
20 supply each enforcement officer with a warrant that states-

21 (a) the full name of the person; and

22 (b) the powers conferred on the person under this Act.

23 (5) An enforcement officer who holds a warrant issued under this
24 section must, on the termination of his or her appointment, surrender the
25 warrant to the Secretary or the zonal authority, as the case may be.

Power to inspect
property and
obtain information

26 71.-(1) An enforcement officer may, if he or she believes on
27 reasonable grounds that an offence against this Act or a bylaw made under
28 section 56 has been or is being committed-

29 (a) enter any land, building, or place at any reasonable time;

30 (b) inspect and examine any property and any books, accounts,

1 records, or documents (including records or documents held in electronic or
2 any other form);

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

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

12 72.-(1) An enforcement officer may seize and impound property
13 that is not on private land if-

Seizure of
property not on
private land

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

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

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

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

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

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

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

30 (a) to the person in possession of the property at the time it was

1 seized and impounded; or

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

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

7 (4) A notice must-

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

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

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

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

12 and

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

15 (5) In this section and section 82, offence-

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

17 (b) includes an offence against a bylaw.

Seizure of
property from
private land

18 73.-(1) An issuing officer may issue a warrant authorizing an
19 enforcement officer to enter private land and seize and impound property
20 materially involved in the commission of an offence.

21 (2) A warrant may be issued only if-

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

24 (b) the issuing officer is satisfied that-

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

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

28 and

29 (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 74.-(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
20 District Court 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 75.-(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*

11 76.-(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:

14 *Information from operator of disposal facility*

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

18 *Information from any class of person*

19 (b) requiring any class of person to keep, and provide to the Secretary,
20 records and information to assist the Secretary to compile statistics in order to-

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

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

23 (iii) assess land's performance in waste minimization and decreasing
24 waste disposal;

25 (iv) identify improvements needed in infrastructure for waste
26 minimization.

27 *Information from territorial authority*

28 (c) requiring a zonal authority to keep, and provide to the Secretary
29 each year, records and information about the zonal authority's-

30 (i) spending of levy money;

Regulations in
relation to records,
information, and
reports

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

Audit in respect
of certain matters
relating to facility
or person

3 78.-(1) An auditor may audit the following facilities or persons for the
4 purpose of obtaining, and reporting to the Secretary on, information about the
5 matters specified in relation to the facility or person:

6 (a) a disposal facility, or its operator, in respect of-

7 (i) payment of the levy by the operator;

8 (ii) compliance by the operator with any prescribed requirement to
9 keep or provide records or other information;

10 (b) any person, in respect of the person's compliance with any
11 prescribed requirement to keep or provide records or other information;

12 (c) an appointed levy collector, in respect of the collection of levy that
13 the collector is appointed to collect;

14 (d) a zonal authority that receives levy money, in respect of the
15 spending of the levy money;

16 (e) any person who is paid levy money under section 30(c)(ii), in
17 respect of the spending of the levy money;

18 (f) the scheme manager of an accredited scheme, or any person who
19 has agreed to participate in the scheme, in respect of their compliance with the
20 scheme's requirements to keep records or make reports;

21 (g) any person, in respect of the person's compliance with regulations
22 made under section 22(1)(a) or 23.

23 (2) For the purposes of subsection (1), an auditor may exercise-

24 (a) the power of entry under section 79(1)(a) only if appointed an
25 enforcement officer under section 76(1)(b); or

26 (b) the powers of an enforcement officer under section 79(1)(b) or (c),
27 despite not being an enforcement officer, but must produce evidence of his or
28 her identity and appointment as an auditor whenever reasonably required to do
29 so.

30 (3) An auditor must not disclose to any person information obtained in

1 the exercise of the auditor's powers, except-

2 (a) in a prosecution under this Act;

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

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

6 PART 7 - WASTE ADVISORY BOARD

7 79. This section establishes the Waste Advisory Board.

8 80.-(1) The function of the Board is to provide advice to the
9 Minister upon request, including advice about-

10 (a) declaring a product to be a priority product (under section
11 9(3)(a);

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

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

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

19 (e) recommending the making of regulations in relation to products
20 (whether or not priority products), materials, and waste (under section
21 23(3)(a);

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

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

25 (h) recommending the making of regulations in relation to the
26 imposition of the waste disposal levy or the rate of the levy (under section
27 41(2)(a);

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

30 (2) The advice is to relate to waste minimization or the functions of

Establishment of
Waste Advisory
Board
Functions of
Board

1 the Secretary or the Minister under this Act.

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

Terms of
reference

4 81.-(1) The Minister must, by written notice to the Board, set terms of
5 reference for the advice to be provided under section 86.

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

Minister to
appoint members
to Board

8 82.-(1) The Minister shall appoint at least 4, but not more than 8,
9 members to the Board.

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

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

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

How members
are appointed

14 83.-(1) The Minister shall comply with this section in appointing or
15 Re-appointing members.

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

18 (a) in the Gazette;

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

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

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

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

28 (a) this Act;

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

30 (c) community projects for waste minimization;

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

2 (e) local government.

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

5 84.-(1) A member of the Board holds office for a term of 3 years, or
6 any shorter term stated in his or her notice of appointment. Term of office
of members

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

9 (a) a successor is appointed;

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

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

15 85.-(1) The Minister may remove a member of the Board from
16 office at any time, for just cause. Removal of
members

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

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

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

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

26 87.-(1) A member of the Board shall be entitled to be-

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

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

Fees and expenses
of members

1 the fees framework.

Proceedings of
Board

2 88. The Board may regulate its own proceedings, subject to the
3 provisions of this Part.

Nomination before
commencement
of this Part
must be treated
as complying
with section 88

4 89.-(1) This section applies to any process undertaken before the
5 commencement of this Part-

6 (a) in the manner set out in section 93(2); and

7 (b) for the purpose of receiving nominations for members of the
8 Board.

9 (2) For the purposes of this Act, the process must be treated as
10 complying with section 93.

11

PART I - GENERAL PROVISIONS

Purpose

12 5. The purpose of this Act is to facilitate the monitoring of compliance
13 with the law and the investigation and prosecution of offences in a manner that
14 is consistent with human
15 rights values by-

16 (a) modernizing the law of search, seizure, and surveillance to take
17 into account advances in technologies and to regulate the use of those
18 technologies;

19 (b) providing rules that recognize the importance of the rights and
20 entitlements affirmed in other enactments and

21 (c) ensuring investigative tools are effective and adequate for law
22 enforcement needs.

Citation

23 90. This Bill may be cited as the Waste Minimization Bill, 2016.

24

EXPLANATORY MEMORANDUM

25 This Bill seeks to encourage Waste Minimization and a decrease in waste
26 disposal in order to protect the environment from harm; and provide
27 environmental, social, economic, and cultural benefits; encourage the
28 manufacturers, industrialists and organisations involved in the effective
29 reduction, reuse, recycling, or recovery of the product; and managing any
30 environmental harm arising from the product when it becomes waste.