

A BILL

FOR

AN ACT TO AMEND THE COUNTERFEIT AND FAKE DRUGS AND UNWHOLESOME PROCESSED FOODS (MISCELLANEOUS PROVISIONS) ACT CAP C34 LAWS OF THE FEDERATION AND FOR OTHER MATTERS CONNECTED THEREWITH

Sponsored by Senator Biodun Christine Olujimi

[] Commencement

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

1 1. The Counterfeit and Fake Drugs and Unwholesome Processed
2 Foods (Miscellaneous Provisions) Act Cap C34 Laws of the Federation
3 2004 (In this act referred to as "The Principal Act") is amended as set out in
4 this bill.

5 2. Section 3 of the Principal Act is amended by substituting for the
6 existing Subsection (1) the following new sub section (1):

Amendment of Section 3

7 (1) Any person who commits an offence under:

8 (a) Section 1 of this Act is liable on conviction to life
9 imprisonment;

10 (b) Section 2 (1) of this act, is liable on conviction to a fine not
11 exceeding N2,000,000 or imprisonment for a term of not less than 4 years or
12 to both such fine and imprisonment.

13 3. Section 10 of the Principal Act is amended by substituting for
14 the existing Section 10 the following new Section (10):

Amendment of Section 10

15 10. Any drug, poison or unwholesome processed food products
16 seized by a Task Force established by this Act shall be forfeited to the
17 Federal Government and shall be destroyed by the Agency.

18 4. Section 10 is amended by inserting immediately after the
19 existing Section 10 the following new sections:

Insertion of Section 10

1 10A-(1) A person convicted of an offense under this Act shall forfeit
2 to the Federal Government all the assets, money in bank and properties which
3 may have been acquired with the proceeds of the crimes;

4 (2) For the avoidance of doubt and without any further assurance than
5 this Act; all the properties of a person convicted of an offence under this Act
6 and shown to be derived or acquired from such illegal act shall be forfeited to
7 the Federal Government.

8 (3) Where a person is arrested for an offence under this Act, the
9 Agency shall immediately trace and attach all the assets, money in bank and
10 properties of the person acquired as a result of such illegal act and shall
11 thereafter cause to be obtained an interim attachment order by the Court.

12 (4) Where:

13 (a) the assets, money in bank or properties of any person arrested for
14 an offence under this Act has been seized; or

15 (b) any assets, money in bank or property has been seized by the
16 Agency under this Act, the Agency shall cause an application to be made to the
17 Court for an interim order forfeiting the money in bank or property concerned
18 to the Federal Government and the Court shall, if satisfied that there is Prima
19 Facie evidence that the property concerned is liable to forfeiture, make an
20 interim order forfeiting the money in bank or property to the Federal
21 Government.

22 (5) Where an arrested person is convicted of an offence under this Act,
23 the Agency or any authorized officer shall apply to the Court for the order of
24 confiscation and forfeiture of the convicted persons' assets, money in bank and
25 properties acquired or obtained as a result of the crime already subject to an
26 interim under this Act.

27 (6)(a) A copy of every final order forfeiting the asset, money in bank
28 and property of a person convicted under this Act shall be forwarded to the
29 Agency;

30 (b) Upon receipt of a final order pursuant to this section, the Secretary

1 to the Agency shall take steps to dispose of the property concerned by sale or
2 otherwise and where the property is sold, the proceeds thereof and the
3 money in bank shall be paid into the Consolidated Revenue Fund of the
4 Federation.

5 Provided a "Victims Compensation Fund" shall be created from which
6 victims of crimes under this act shall be compensated from.

7 (c) Where any part of the property included in a [mal order is
8 money in a bank account or in the possession of any person, the Agency shall
9 cause a copy of the order to be produced and served on the manager or any
10 person in control of the head office or branch of the bank concerned and that
11 manager or person shall forthwith pay over the money to the Agency without
12 any further assurance than this Act and the Agency shall pay the money
13 received into the Consolidated Fund of the Federation and the Victims
14 Compensation Fund.

15 (7)(a) Where a person is discharged or acquitted by a Court of an
16 offence under this Act, the Court may make an order of revocation or
17 confirmation as the case may be, of an interim order made pursuant to this
18 Act which ever order is considered just, appropriate or reasonable within the
19 circumstances;

20 (b) Where an interim order is revoked by a Court under paragraph
21 (a) of this section, all assets, money in bank and properties of the person
22 concerned shall be released to him by the Agency.

23 18B. The Minister may with the approval of the President make
24 rules and regulations for the effective implementation of the provisions of
25 this act including the percentage to be paid into the victim's compensation
26 fund, the procedure for its operation and for the disposal or sale of any
27 property or assets forfeited pursuant to this Act.

28 4. This bill may be cited as the Counterfeit and Fake Drugs and Short Title
29 Unwholesome Processed Foods (Miscellaneous Provisions) (Amendment)
30 Bill, 2015.

EXPLANATORY MEMORANDUM

The bill seeks to amend the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act Cap C34 Laws of the Federation 2004 to increase the penalties for offences under the act and make provisions for forfeiture of assets from proceeds of crime as well as compensation to victims.