

NATIONAL BIODIVERSITY BILL, 2015

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# A BILL

## FOR

AN ACT TO PROVIDE FOR THE MANAGEMENT AND CONSERVATION OF NIGERIA'S BIODIVERSITY; THE PROTECTION OF SPECIES AND ECOSYSTEMS THAT WARRANT NATIONAL PROTECTION; THE SUSTAINABLE USE OF INDIGENOUS BIOLOGICAL RESOURCES; THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM BIOPROSPECTING INVOLVING INDIGENOUS BIOLOGICAL RESOURCES; THE ESTABLISHMENT AND FUNCTION OF THE NATIONAL BIODIVERSITY INSTITUTE; AND FOR MATTERS CONNECTED THEREWITH

*Sponsored by Senator T.A. Orji*

[ ] Commencement

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

1           PART I - INTERPRETATION, OBJECTIVES AND APPLICATION  
 2           1.-(1) In this Act, unless the context indicates otherwise:  
 3           "Alien species" means:  
 4           (a) a species that is not an indigenous species; or  
 5           (b) an indigenous species translocated or intended to be  
 6           translocated to a place outside its natural distribution range in nature, but not  
 7           an indigenous species that has extended its natural distribution range by  
 8           natural means of migration or dispersal without intervention;  
 9           "benefit", in relation to bioprospecting involving indigenous biological  
 10          resources, means any benefit, whether commercial or not, arising from  
 11          bioprospecting involving such resources, and includes both monetary and  
 12          non- monetary returns;  
 13          "biological diversity" or "biodiversity" means the variability among living  
 14          organisms from all sources including, terrestrial, marine and other aquatic  
 15          ecosystems and the ecological complexes of which they are part and also

Interpretation



1 includes diversity within species, between species, and of ecosystems;

2 "bioprospecting", in relation to indigenous biological resources, means any

3 research on, or development or application of, indigenous biological resources

4 for commercial or industrial exploitation, and includes:

5 (a) the systematic search, collection or gathering of such resources or

6 making extractions from such resources for purposes of such research,

7 development or application;

8 (b) the utilisation for purposes of such research or development of any

9 information regarding any traditional uses of indigenous biological resources

10 by indigenous communities; or

11 (c) research on, or the application, development or modification of,

12 any such "biozone" means a geographic zone which has in terms of section 40

13 (1) been determined as a biozone for the purposes of this Act;

14 "Board" means the board referred to in section 13;

15 "competent authority", in relation to the control of an alien or invasive species,

16 means:

17 (a) the Minister;

18 (b) Agency of Government in the federal, state or local government

19 designated by regulation as a competent authority for the control of an alien

20 species or a listed invasive species in terms of this Act; or traditional uses, for

21 commercial or industrial exploitation;

22 (c) any other agency of government;

23 "components", in relation to biodiversity, includes species, ecological

24 communities, genes, genomes, ecosystems, habitats and ecological processes;

25 "control", in relation to an alien or invasive species, means:

26 (a) to combat or eradicate an alien or invasive species; or

27 (b) where such eradication is not possible, to prevent, as far as may be

28 practicable, the recurrence, re-establishment, re-growth, multiplication,

29 propagation, regeneration or spreading of an alien or invasive species;

30 "critically endangered ecosystem" means any ecosystem listed as a critically



- 1       endangered ecosystem in terms of section 52 (2);
- 2       "critically endangered species" means any indigenous species listed as a
- 3       critically endangered species in terms of section 56;
- 4       "delegation", in relation to a duty, includes an instruction to perform the
- 5       duty;
- 6       "Ministry" means Ministry of Environment;
- 7       "derivative", in relation to an animal, plant or other organism, means any
- 8       part, tissue or extract, of an animal, plant or other organism, whether fresh,
- 9       preserved or processed, and includes any chemical compound derived from
- 10      such part, tissue or extract;
- 11      "ecological community" means an integrated group of species inhabiting a
- 12      given area;
- 13      "ecosystem" means a dynamic complex of animal, plant and micro-
- 14      organism communities and their non-living environment interacting as a
- 15      functional unit;
- 16      "endangered ecosystem" means any ecosystem listed as an endangered
- 17      ecosystem in terms of section 52 (2);
- 18      "endangered species" means any indigenous species listed as an endangered
- 19      species in terms of section 56;
- 20      "export", in relation to the Federal Republic of Nigeria, means to take out or
- 21      transfer, or attempt to take out or transfer, from a place within the Federation
- 22      to another country or to international waters;
- 23      "Gazette", when used in relation to the Minister, means the Federal
- 24      Government Gazette; or
- 25              (a) in relation to the Commissioner for Environment of a State,
- 26      means the Gazette of that State;
- 27      "genetic material" means any material of animal, plant, microbial or other
- 28      biological origin containing functional units of heredity;
- 29              (a) any genetic material; or
- 30              (b) the genetic potential or characteristics of any species;

- 1 "habitat" means a place where a species or ecological community naturally  
2 occurs;
- 3 "import", in relation to the Federal Republic of Nigeria:
- 4 (a) means to land on, bring into or introduce into Nigeria, or attempt to  
5 land
- 6 (b) includes to bring into Nigeria for re-export to a place outside  
7 Nigeria;
- 8 "indigenous biological resource":
- 9 (a) when used in relation to bioprospecting, means any indigenous  
10 biological resource as defined in section 80 (2); or
- 11 (b) when used in relation to any other matter, means any resource  
12 consisting of:
- 13 (i) any living or dead animal, plant or other organism of an indigenous  
14 species;
- 15 (ii) any derivative of such animal, plant or other organism; or
- 16 (iii) any genetic material of such animal, plant or other organism;
- 17 "indigenous species" means a species that occurs, or has historically occurred,  
18 naturally in a free state in nature within the borders of Nigeria, but excludes a  
19 species that has been introduced into Nigeria as a result of human activity;
- 20 "Institute" means the National Biodiversity Institute established in terms of  
21 section 10;
- 22 "introduction", in relation to a species, means the introduction by humans,  
23 whether deliberately or accidentally, of a species to a place outside the natural  
24 range or natural dispersal potential of that species;
- 25 "introduction from the sea", in relation to a specimen of any species, means the  
26 transportation into Nigeria of a specimen taken from a marine environment not  
27 under the jurisdiction of any country;
- 28 "invasive species" means any species whose establishment and spread outside  
29 of its natural distribution range:
- 30 (a) threaten ecosystems, habitats or other species or have

1 demonstrable potential to threaten ecosystems, habitats or other species;

2 and

3 (b) may result in economic or environmental harm or harm to  
4 human health;

5 "issuing authority", in relation to permits regulating the matters mentioned  
6 in section 87, means:

7 (a) the Minister; or

8 (b) agency of government in the federal, state or local government  
9 designated by regulation in terms of section 94 as an issuing authority for  
10 permits of the kind in question;

11 "listed ecosystem" means any ecosystem listed in terms of section 52 (1);

12 "listed invasive species" means any invasive species listed in terms of  
13 section 70 (1);

14 "listed threatened or protected species" means any species listed in terms, of  
15 section 56 (1);

16 "local community" means any community of people living or having rights,  
17 or interests in a distinct geographical area;

18 "management authority", in relation to a protected area, means an authority  
19 to whom the management of a protected area has been assigned;

20 "migratory species" means the entire population or any geographically  
21 separate part of the population of any species or lower tax on of wild  
22 animals, a significant proportion of whose members cyclically and  
23 predictably cross one or more national jurisdictional boundaries;

24 "Minister" means the Minister responsible for environment;

25 "national botanical garden" means land declared or regarded as having been  
26 declared as a national botanical garden in terms of section 33, and includes  
27 any land declared in terms of section 33 as part of an existing botanical  
28 garden;

29 "national environmental management principles" means the principles  
30 referred to in section 7;

- 1 "non-detriment findings" means the determination of the non-detrimental  
2 impact of an action on the survival of a species in the wild;
- 3 "permit" means a permit issued in terms of Part VII;
- 4 "prescribe" means prescribe by regulation in terms of section 94;
- 5 "protected ecosystem" means any ecosystem listed as a protected ecosystem in  
6 terms of section 52 (2);
- 7 "protected species" means any species listed as a protected species in terms of  
8 section 56;
- 9 "re-export", in relation to a specimen of a listed threatened or protected species,  
10 means the export from the Federation of a specimen of a listed threatened or  
11 protected species previously imported into the Federation;
- 12 "restricted activity":
- 13 (a) in relation to a specimen of a listed threatened or protected species,  
14 means:
- 15 (i) hunting, catching, capturing or killing any living specimen of a  
16 listed threatened or protected species by any means, method or device  
17 whatsoever, including searching, pursuing, driving, lying in wait, luring,  
18 alluring, discharging a missile or injuring with intent to hunt, catch, capture or  
19 kill any such specimen;
- 20 (ii) gathering, collecting or plucking any specimen of a listed  
21 threatened or protected species;
- 22 (iii) picking parts of, or cutting, chopping off, uprooting, damaging or  
23 destroying, any specimen of a listed threatened or protected species;
- 24 (iv) importing into the Nigeria, including introducing from the sea,  
25 any specimen of a listed threatened or protected species
- 26 (v) having in possession or exercising physical control over any  
27 specimen of a listed threatened or protected species;
- 28 (vi) growing, breeding or in any other way propagating any specimen  
29 of a listed threatened or protected species, or causing it to multiply;
- 30 (vii) conveying, moving or otherwise trans locating any specimen of a



- 1 listed threatened or protected species;
- 2 (vii) selling or otherwise trading in, buying, receiving, giving,  
3 donating or accepting as a gift, or in any way acquiring or disposing of any  
4 specimen of a listed threatened or protected species; or
- 5 (x) any other prescribed activity which involves a specimen of a  
6 listed threatened or protected species; and
- 7 (b) in relation to a specimen of an alien species or listed invasive  
8 species, means-
- 9 (i) importing into Nigeria, including introducing from the sea, any  
10 specimen of an alien or listed invasive species;
- 11 (ii) having in possession or exercising physical control over any  
12 specimen of an alien or listed invasive species;
- 13 (iii) growing, breeding or in any other way propagating any  
14 specimen of an alien or listed invasive species, or causing it to multiply;
- 15 (iv) conveying, moving or otherwise translocating any specimen  
16 of an alien or listed invasive species;
- 17 (v) selling or otherwise trading in, buying, receiving, giving,  
18 donating or accepting as a gift, or in any way acquiring or disposing of any  
19 specimen of an alien or listed invasive species;
- 20 (vi) any other prescribed activity which involves a specimen of an  
21 alien or listed invasive species;
- 22 "species" means a kind of animal, plant or other organism that does not  
23 normally interbreed with individuals of another kind, and includes any sub-  
24 species, cultivar, variety, geographic race, strain, hybrid or geographically  
25 separate population;
- 26 "specimen" means:
- 27 (a) any living or dead animal, plant or other organism;
- 28 (b) a seed, egg, gamete or propagule or part of an animal, plant or  
29 other organism capable of propagation or reproduction or in any way  
30 transferring genetic traits;

- 1 (c) any derivative of any animal, plant or other organism; or
- 2 (d) any goods which:
- 3 (i) contain a derivative of an animal, plant or other organism; or
- 4 (ii) from an accompanying document, from the packaging or mark or
- 5 label, or from any other indications, appear to be or to contain a derivative of an
- 6 animal, plant or other organism;
- 7 "stakeholder" means:
- 8 (a) a person, agency of government or a community contemplated in
- 9 section 82 (I) (a);
- 10 (b) an indigenous community contemplated in section 82 (I) (b);
- 11 "subordinate legislation", in relation to this Act, means:
- 12 (a) any regulation made in terms of section 97; or 5
- 13 (b) any notice published in terms of section 9, 33, 34,40 (I), 42 (2),43
- 14 (3),46 (2), 52(1), 53 (I), 55, 56 (1),57 (2), 58,66 (I), 67 (I), 68, 70 (I), 72, 86 (I)
- 15 or 100 (I) .
- 16 "sustainable", in relation to the use of a biological resource, means the use of
- 17 such resource in a way and at a rate that:
- 18 (a) would not lead to its long-term decline;
- 19 (b) would not disrupt the ecological integrity of the ecosystem in
- 20 which it occurs;
- 21 (c) would ensure its continued use to meet the needs and aspirations of
- 22 present and future generation of people;
- 23 "this Act" includes any subordinate legislation issued in terms of a provision of
- 24 this Act;
- 25 "threatening process" means a process which threatens, or may threaten:
- 26 (a) the survival, abundance or evolutionary development of an
- 27 indigenous species or ecological community; or
- 28 (b) the ecological integrity of an ecosystem, and includes any process
- 29 identified in terms of section 53 as a threatening process;
- 30 "vulnerable ecosystem" means any ecosystem listed as a vulnerable ecosystem

1 in terms of section 52 (2);

2 "vulnerable species" means any indigenous species listed as a vulnerable  
3 species in of section 56. 25;

4 (2) In this Act, words or expressions derived from words or  
5 expressions defined In subsection (1) have corresponding meanings unless  
6 the context indicates that another meaning is intended.

7 2. The objectives of this Act are to provide for:

Objectives of  
Act

8 (a) the management and conservation of biological diversity  
9 within the Nigeria and of the components of such biological diversity;

10 (b) the use of indigenous biological resources in a sustainable  
11 manner; and

12 (c) the fair and equitable sharing among stakeholders of benefits  
13 arising from bioprospecting involving indigenous biological resources;

14 (d) to give effect to ratified international agreements relating to  
15 biodiversity which are binding on the Federation;

16 (e) to provide for co-operative governance in biodiversity  
17 management and conservation; and

18 (f) to provide for a National Biodiversity Institute to assist in  
19 achieving the objectives of this Act.

20 3. The Federal Government through its Agency that implements  
21 legislation applicable to biodiversity must:

Nigeria's  
Trusteeship of  
Biological  
Diversity

22 (a) manage, conserve and sustain Nigeria's biodiversity and its  
23 components and genetic resources; and

24 (b) implement this Act to achieve the progressive realization of  
25 those rights.

26 4.-(1) This Act applies:

Application

27 (a) in Nigeria, including its territorial waters, exclusive economic  
28 zone and continental shelf described in the Exclusive Economic Zones Act,  
29 CAP314 LFN 2011 ; and

30 (b) to human activity affecting Nigeria's biological diversity and its



	1	components.
	2	(2) This Act binds all Agencies of Government in the federal, states
	3	and local government.
Application of International Agreements	4	5. This Act gives effect to ratified international agreements affecting
	5	biodiversity to which Nigeria is a party, and which bind the Federal Republic of
	6	Nigeria.
Application of other Biodiversity Legislation	7	6. This Act must be read with any applicable provisions of the
	8	National Environmental Standards Regulatory Agency Act.
National Environmental Management Principles	9	7. The application of this Act must be guided by the national
	10	environmental management principles.
Conflicts with other Legislation	11	8. In the event of any conflict between a section of this Act and any
	12	other legislation in force immediately prior to the date of commencement of
	13	this Act, the section of this Act prevails if the conflict specifically concerns the
	14	management of biodiversity or indigenous biological resources;
	15	(1) In the event of any conflict between subordinate legislation issued
	16	in terms of this Act and an Act of National Assembly, the Act of National
	17	Assembly prevails.
Norms and Standards	18	9.-(1) The Minister may, by notice in the Gazette:
	19	(a) issue norms and standards for the achievement of any of the
	20	objectives of this Act, including for the:
	21	(i) management and conservation of Nigeria's biological diversity
	22	and its components;
	23	(ii) restriction of activities which impact on biodiversity and its
	24	components;
	25	(b) set indicators to measure compliance with those norms and
	26	standards; and
	27	(c) amend any notice issued in terms of paragraph (a) or (b).
	28	(2) (a) Before publishing a notice in terms of subsection (1), the
	29	Minister must follow a consultative process in accordance with sections 99 and
	30	100.

1 (b) A consultative process referred to in paragraph (a) need not  
2 apply to a non-substantial change to the notice.

3 (3) Norms and standards may apply:

4 (a) nationwide;

5 (b) in a specific area only; or

6 (c) to a specific category of biodiversity only.

7 (4) Different norms and standards may be issued for:

8 (a) different areas; or

9 (b) different categories of biodiversity.

10 PART 11- NATIONAL BIODIVERSITY INSTITUTE

11 *Establishment, powers and duties of Institute*

12 10.-(1) The National Biodiversity Institute is established by this Establishment  
13 Act.

14 (2) The Institute may sue and be sued in its corporate name.

15 11.-(1) The Institute: Functions

16 (a) must monitor and report regularly to the Minister on:

17 (i) the status of Nigeria's biodiversity;

18 (ii) the conservation status of all listed threatened or protected  
19 species and listed ecosystems; and

20 (iii) the status of all listed invasive species;

21 (b) must monitor and report regularly to the Minister on the  
22 impacts of any genetically modified organism that has been released into the  
23 environment, including the impact on non-target organisms and ecological  
24 processes, indigenous biological resources and the biological diversity of  
25 species used for agriculture;

26 (c) may act as an advisory and consultative body on matters  
27 relating to biodiversity to organs of state and other biodiversity  
28 stakeholders;

29 (d) must coordinate and promote the taxonomy of Nigeria's  
30 biodiversity;

- 1 (e) must manage, control and maintain all national botanical gardens;
- 2 (f) may establish, manage, control and maintain:
- 3 (i) herbaria; and
- 4 (ii) collections of dead animals that may exist;
- 5 (g) must establish facilities for horticulture display, environmental
- 6 education, visitor amenities and research;
- 7 (h) must establish, maintain, protect and preserve collections of plants
- 8 in national botanical gardens and in herbaria;
- 9 (i) may establish, maintain, protect and preserve collections of
- 10 animals and micro-organisms in appropriate enclosures;
- 11 (j) must collect, generate, process, coordinate and disseminate
- 12 information about biodiversity and the sustainable use of indigenous
- 13 biological resources, and establish and maintain databases in this regard;
- 14 (k) may allow, regulate or prohibit access by the public to national
- 15 botanical gardens, herbaria and other places under the control of the Institute,
- 16 and supply plants, information, meals or refreshments or render other services
- 17 to visitors;
- 18 (l) may undertake and promote research on indigenous biodiversity
- 19 and the sustainable use of indigenous biological resources;
- 20 (m) may coordinate and implement programmes for:
- 21 (i) the rehabilitation of ecosystems; and
- 22 (ii) the prevention, control or eradication of listed invasive species;
- 23 (n) may coordinate programmes to involve civil society in:
- 24 (i) the conservation and sustainable use of indigenous biological
- 25 resources; and
- 26 (ii) the rehabilitation of ecosystems;
- 27 (o) on the Minister's request must assist him or her in the performance
- 28 of duties and the exercise of powers assigned to the Minister in terms of this
- 29 Act;
- 30 (p) on the Minister's request must assist him or her in any matter

- 1 regulated in terms of this Act, including:
- 2 (i) the implementation of this Act and any international agreements  
3 affecting biodiversity which are binding on the Federation,
- 4 (ii) the identification of biozones and the contents of any biozonal  
5 plans;
- 6 (iii) other aspects of biodiversity planning;
- 7 (iv) the management and conservation of biological diversity; and
- 8 (v) the sustainable use of indigenous biological resources;
- 9 (q) on the Minister's request, must advise him or her on the  
10 declaration and management of, and development in, national protected  
11 areas; and
- 12 (I) must perform any other duties:
- 13 (i) assigned to it in terms of this Act; or
- 14 (ii) as may be prescribed.
- 15 (2) When the Institute in terms of subsection (1) gives advice on a  
16 scientific matter, it may consult any appropriate organ of state or other  
17 institution which has expertise in that matter.
- 18 **12.** The institute may for the purpose of performing its duties:
- 19 (a) appoint its own staff, subject to section 29;
- 20 (b) obtain, by agreement, the services of any person, including any  
21 Agency of Government, for the performance of any specific act, task or  
22 assignment;
- 23 (c) acquire or dispose of any right in or to movable or immovable  
24 property, or hire or let any property;
- 25 (d) open and operate its own bank accounts;
- 26 (e) invest any of its money, subject to section 32;
- 27 (f) borrow money;
- 28 (g) charge fees:
- 29 (i) for access to national botanical gardens, herbaria and other  
30 places under its control;

General Powers

1 (ii) for any work performed or services rendered by it, except for any  
2 such work performed or services rendered in terms of section 11 (1) (m), (n) or  
3 (o); or

4 (iii) for access to the results of, or to other information in connection  
5 with, any research performed by it;

6 (i) collect royalties resulting from any discoveries, inventions or  
7 computer programmes;

8 (j) insure itself against:

9 (i) any loss, damage or risk; or

10 (ii) any liability it may incur in the application of this Act;

11 (h) perform legal acts, including acts in association with, or on behalf  
12 of, any other person or Agency of Government; and

13 (l) institute or defend any legal action.

14 *Governing board, composition and membership*

Composition

15 **13.-(1) The Institute is governed by a Board consisting of:**

16 (a) not fewer than seven and not more than nine members appointed in  
17 terms of section 15;

18 (b) the Director-General or an official of the Department designated  
19 by the Director-General; and

20 (c) the Chief Executive Officer of the Institute.

21 (2) The Minister:

22 (a) must determine the number of members to be appointed in terms  
23 of subsection (1) (a); and

24 (b) may alter the number determined in terms of paragraph (a), but a  
25 reduction in the number may be effected only when a vacancy in the Board  
26 occurs.

27 (3) The Board takes all decisions in the performance of the duties and  
28 exercise of powers of the Institute, except those decisions taken in  
29 consequence of a delegation in terms of section 27: or



- 1                   **14.-(1)** A member of the Board must: Qualifications
- 2                   (a) be a fit and proper person to hold office as a member; and
- 3                   (b) have appropriate qualifications and experience in the field of
- 4 biodiversity.
- 5                   **15.-(1)** Whenever it is necessary to appoint members of the Board Appointment
- 6 referred to in section 13 (1) (a), the Minister must: Procedure
- 7                   (a) through advertisements in the media circulating nationally and
- 8 in each of the States, invite nominations for appointment as such a member;
- 9 and
- 10                  (b) compile a list of the names of persons nominated, setting out the
- 11 prescribed particulars of each individual nominee.
- 12                  (2) Any nomination made pursuant to an advertisement in terms of
- 13 subsection (1)(a) must be supported by:
- 14                  (a) the personal details of the nominee;
- 15                  (b) nominee's qualifications or experience; and
- 16                  (c) any other information that may be prescribed.
- 17                  (3) The Minister must, subject to subsection (4), appoint-
- 18                  (a) the required number of persons from the list compiled in terms
- 19 of subsection (1) (b); and
- 20                  (b) if such list is inadequate, any suitable person.
- 21                  (4) When making appointments the Minister must:
- 22                  (a) consult the states Commissioners for Environment; and
- 23                  (b) have regard to the need for appointing persons to promote
- 24 representivity.
- 25                  (5) Appointments must be made in such a way that the Board is
- 26 composed of persons covering a broad range of appropriate expertise in the
- 27 field of biodiversity.
- 28                  **16.-(1)** Whenever necessary the Minister must appoint a member Chairperson
- 29 of the Board as the Chairperson of the Board.
- 30                  (2) The Chairperson is appointed for a period which is determined

1 by the Minister which may, in the case of a member referred to in section 13 (I)  
2 (a) not extend beyond the period of his or her term as a member.

3 (3) The Minister may appoint a member of the Board as acting  
4 chairperson of the Board if:

5 (a) the Chairperson is absent for a substantial period; or

6 (b) the appointment of a Chairperson is pending.

Term of Office

7 17. Members of the Board referred to in section 13 (1) (a):

8 (a) are appointed for a period of three years or, if section 22 (2) applies,  
9 for a term determined in terms of that section;

10 (b) on completion of that term, are eligible for reappointment for one  
11 additional term of three years; and

12 (c) may have their appointment in terms of paragraph (a) or (b)  
13 extended by the Minister for a specific period not exceeding one year.

Conditions of  
Appointment

14 18.-{1) The Minister must determine the conditions of employment  
15 of members of the Board referred to in section 13 (1) (a).

16 (2) (a) The Minister may, with the concurrence of the Minister of  
17 Finance, determine the terms and conditions of employment of members of the  
18 Board who are not in the employment of the Government.

19 (b) Their remuneration and allowances are paid by the Institute.

20 (3) (a) Members who are in the employ of the Government are not  
21 entitled to remuneration and allowances, but must be compensated for out of  
22 pocket expenses by the Institute.

23 (b) Such members are appointed on a part-time basis.

Conduct of  
Members

24 19.-{1) A member of the Board:

25 (a) must perform the duties of office in good faith and without favour  
26 or prejudice;

27 (b) must disclose to the Board any personal or private business  
28 interest that member, or any spouse, partner or close family member of that  
29 Board member, may have in any matter before the Board, and must withdraw  
30 from the proceedings of the Board when that matter is considered, unless the



1 Board decides that the interest of that Board member in the matter is trivial  
2 or irrelevant;

3 (c) may not use the position, privileges or knowledge of a member  
4 for private gain or to improperly benefit another person; and

5 (d) may not act in any other way that compromises the credibility,  
6 impartiality, independence or integrity of the Institute.

7 (2) A member of the Board who contravenes or fails to comply with  
8 subsection (1) is guilty of misconduct.

9 20.-(1) A member of the Board referred to in section 13 (1) (a)  
10 ceases to be a member when that person:

Termination of  
Membership

11 (a) is no longer eligible in terms of section 14 to be a member;

12 (b) resigns; or

13 (c) is removed from office in terms of section 21.

14 (2) A member may resign only by giving at least three months'  
15 written notice to the Minister, but the Minister may accept a shorter period in  
16 a specific case.

17 21.-(1) The Minister may remove a member of the Board referred  
18 to in section 13 (1) (a) from office, but only on the ground of:

Removal from  
Office

19 (a) misconduct, incapacity or incompetence;

20 (b) absence from three consecutive meetings of the Board without  
21 the prior permission of the Board except on good cause shown;

22 (c) insolvency; or

23 (d) conviction of a criminal offence without the option of a fine.

24 (2) A member of the Board may be removed from office on the  
25 ground of misconduct or incompetence only after a finding to that effect has  
26 been made by a board of inquiry appointed by the Minister.

27 (3) The Minister may suspend a member under investigation in  
28 terms of this section.

29 22.-(1) A vacancy in the Board is filled:

Filling of  
Vacancies

30 (a) in the case of a vacating Chairperson, by appointing another

1 member in terms of section 16 (1) as the Chairperson; and

2 (b) in the case of a vacating member referred to in section 13 (1) (a),  
3 by following the procedure set out in section

4 (2) A person appointed to fill a vacancy holds office for the remaining  
5 portion of the term of the vacating Chairperson or member.

6 *Operating procedures of Board*

Meetings

7 23.-(1) The Chairperson of the Board decides when and where the  
8 Board meets, but a majority of the members may request the Chairperson in  
9 writing to convene a Board meeting at a time and place set out in the request.

10 (2) The Chairperson presides at meetings of the Board, but if the  
11 Chairperson is absent from a meeting, the members present must elect another  
12 member to preside at the meeting.

Procedures

13 24.-(1) The Board may determine its own procedures subject to the  
14 provisions of this Act.

15 (2) The Board must keep records of its proceedings and of decisions  
16 taken.

Quorum and  
Decisions

17 25.-(1) A majority of the members of the Board serving at any relevant  
18 time constitutes a quorum for a meeting of the Board.

19 (2) A matter before the Board is decided by the votes of a majority of  
20 the members present at the meeting.

21 (3) If on any matter before the Board there is an equality of votes, the  
22 member presiding at the meeting must exercise a casting vote in addition to that  
23 person's vote as a member.

Committees

24 26.-(1) The Board may establish one or more committees to assist it in  
25 the performance of its duties or the exercise of its powers.

26 (2) When appointing members to a committee, the Board is not  
27 restricted to members of the Board.

28 (3) The Board:

29 (a) must determine the duties of a committee;

30 (b) must appoint a chairperson and other members of the committee;

- 1 (c) may remove a member of a committee from office at any time,  
2 and  
3 (d) must determine a working procedure of a committee.  
4 (4) The Board may dissolve a committee at any time.  
5 (5) (a) Section 18 read with the necessary change as the context  
6 may require, applies to the terms and conditions of employment of  
7 committee members;  
8 (b) A staff member of the Institute appointed to a committee serves  
9 on the committee subject to the terms and conditions of that person's  
10 employment.  
11 27.-(1) When necessary for the proper performance of its duties,  
12 the Board may, subject to subsection (2), delegate any of its powers or duties  
13 to:  
14 (a) a member of the Board;  
15 (b) a committee referred to in section 26; or  
16 (c) a staff member of the Institute.  
17 (2) The following powers and duties may not be delegated by the  
18 Board:  
19 (a) The appointment or reappointment of a person as the Chief  
20 Executive Officer in terms of section 28 (1) or (2);  
21 (b) the determination of the terms and conditions of service of the,  
22 Chief Executive Officer in terms of section 28(3);  
23 (c) the determination of an employment policy in terms of section  
24 29(1); and  
25 (d) the setting of financial limits in terms of section 29 (2) (a) or (3).,  
26 (3) A delegation in terms of subsection (1):  
27 (a) is subject to any limitations, conditions and directions that the  
28 Board may impose;  
29 (b) must be in writing;  
30 (c) does not divest the Board of the responsibility concerning the

Delegation of  
Powers and Duties

1 exercise of the delegated power or the performance of the delegated duty; and

2 (d) does not prevent the exercise of the delegated power or the  
3 carrying out of the delegated duty by the Board.

4 (4) The Board may confirm, vary or revoke any decision taken in  
5 consequence of a delegation in terms of this section, subject to any rights that  
6 may have accrued to a person as a result of the decision.

7 *Administration of Institute*

Appointment of  
Chief Executive  
Officer

8 **28.--(1) The Board, acting with the concurrence of the Minister, must**  
9 **appoint a person, with appropriate qualifications and experience as the Chief**  
10 **Executive Officer of the Institute.**

11 **(2) The Chief Executive Officer:**

12 **(a) is appointed for a term not exceeding five years; and**

13 **(b) may be reappointed by the Board with the concurrence of the**  
14 **Minister, but only for one additional term not exceeding five years.**

15 (3) The Chief Executive Officer is employed subject to such terms  
16 and conditions of employment as the Board may determine in accordance with  
17 a policy approved by the Minister with the concurrence of the Cabinet member  
18 responsible for finance.

19 (4) The Chief Executive Officer:

20 (a) is responsible for the management of the Institute;

21 (b) must perform such duties and may exercise such powers as the  
22 Board may delegate to him or her; and

23 (c) must report to the Board on aspects of management, the  
24 performance of duties and the exercise of powers, at such times or intervals and  
25 in such manner, as the Board may determine.

26 (5) (a) The Chairperson of the Board may appoint another employee  
27 of the Institute as acting Chief Executive Officer for a period not exceeding six  
28 months, whenever:

29 (i) the Chief Executive Officer if for any reason absent or unable to  
30 perform his or her duties; or



1 (ii) there is a vacancy in the office of the Chief Executive Officer.

2 (b) Whilst acting as Chief Executive Officer, such employee:

3 (i) has the powers and duties of the Chief Executive Officer; and

4 (ii) is employed subject to such terms and conditions of  
5 employment as the Chairperson may determine in accordance with the  
6 policy referred to in subsection (3).

7 **29.--**{1) The Board, acting with the concurrence of the Minister, Employment of  
Staff  
8 must determine an employment policy for the Institute.

9 (2) The Chief Executive Officer:

10 (a) within the financial limit set by the Board, must determine a  
11 staff establishment necessary for the work of the Institute; and

12 (b) may appoint persons in posts on the staff establishment.

13 (3) An employee of the Institute is employed subject to the terms  
14 and conditions of employment determined by the Chief Executive Officer in  
15 accordance with the employment policy of, and within the financial limits  
16 set by, the Board.

17 (4) (a) A person in the service of another organ of state may be  
18 seconded to the Institute by agreement between the Chief Executive Officer  
19 and such organ of state.

20 (b) Persons seconded to the Institute perform their duties under the  
21 supervision of the Chief Executive Officer.

22 (5) A person in the service of the Institute may, with the consent of  
23 that person, be seconded to another organ of state by agreement between the  
24 Chief Executive Officer and such organ of state.

25 *Financial matters*

26 **30.** The Institute must be accountable and transparent in all their Financial  
Accountability  
27 financial transaction.

28 **31.** The funds of the Institute consist of: Funding

29 (a) income derived by it from the performance of its duties and the  
30 exercise of its powers;

	1	(b) money appropriated by the National Assembly;
	2	(c) grants received from organ state;
	3	(d) voluntary contributions, donations and bequests;
	4	(e) money borrowed in terms of section 12 (g);
	5	(f) income derived from investments referred to in sections 32; and
	6	(g) money derived from any other source, subject to the Public
	7	Finance Management Act.
Investments	8	<b>32.</b> The Institute may invest any of its funds not immediately
	9	required:
	10	(a) subject to any investment policy of the Federal Government.
	11	(b) in such a manner that the Minister may approve.
	12	<i>National botanical gardens</i>
Declaration	13	<b>33.-</b> { 1) The Minister, acting with the approval of the Cabinet member
	14	responsible for the administration of the land in question may, by notice in the
	15	Gazette, declare any state land described in the notice as a:
	16	(a) national botanical garden; or
	17	(b) part of an existing national botanical garden.
	18	(2) The Minister, acting in accordance with an agreement with the
	19	owner of the land described in that agreement may, by notice in the Gazette
	20	declare that land as a:
	21	(a) national botanical garden; or
	22	(b) part of an existing national botanical garden.
	23	(3) A notice in terms of subsection (1) (a) or (2) (a) must assign a name
	24	to the national botanical garden.
Amendment or Withdrawal of Declaration	25	<b>34.-</b> {1) The Minister may, by notice in the Gazette:
	26	(a) amend or withdraw a notice referred to in section 33, subject to
	27	subsection (2); or
	28	(b) amend the name assigned to a national botanical garden.
	29	(2) The declaration of state land as a national botanical garden, or part
	30	of an existing national botanical garden. may be drawn and a part of a

1 national botanical garden on state land may not be excluded from it except  
2 by resolution of each Houses of the National Assembly.

3 *General*

4 **35.-{I) The Minister:**

Minister's  
Supervisory  
Powers

5 (a) must monitor the exercise and performance by the Institute of  
6 its powers and duties;

7 (b) may set norms and standards for the exercise and performance  
8 by the Institute of its powers and duties;

9 (c) may issue directives to the Institute on policy, planning,  
10 strategy and procedural issues to ensure its effective and efficient  
11 functioning;

12 (d) must determine limits on fees charged by the Institute in the  
13 exercise and performance of its powers and duties; and

14 (e) may identify land for new botanical gardens and extensions to  
15 existing botanical gardens.

16 (2) The Institute must exercise its powers and perform its duties  
17 subject to any norms and standards, directives and determinations issued by  
18 the Minister in terms of subsection (1).

19 **36. In the event of absence of a functional Board, the powers and**  
20 **duties of the Board revert to the Minister who, in such a case, must exercise**  
21 **those powers and perform those duties until the Board is functional again.**

Absence of  
functional Board

22 **PART III - BIODIVERSITY PLANNING AND MONITORING**

23 **37. The purpose of this Part is to:**

Purpose of Part

24 (a) provide for integrated and co-ordinated biodiversity planning;

25 (b) provide for monitoring the conservation status of various  
26 components of Nigeria's biodiversity; and

27 (c) promote biodiversity research.

28 *Biodiversity planning*

29 **38.-(1) The Minister:**

30 (a) must prepare and adopt a national biodiversity framework

National  
Biodiversity  
Framework



Contents of  
National  
Biodiversity  
Framework

- 1 within three years of the date on which this Act takes effect;  
2 (b) must monitor implementation of the framework;  
3 (c) must review the framework at least every five years; and  
4 (d) may, when necessary, amend the framework.  
5 (2) The Minister must, by notice in the Gazette, publish the national  
6 biodiversity framework and each amendment of the framework.

7 **39.**-(1) The national biodiversity framework must:

- 8 (a) provide for an integrated, co-ordinated and uniform approach to  
9 biodiversity management by federal departments at all level of government,  
10 non-governmental organisations, the private sector, local communities, other  
11 stakeholders and the public;  
12 (b) be consistent with:  
13 (i) this Act;  
14 (ii) the national environmental management principles; and  
15 (iii) any relevant international agreements binding on the Nigeria:  
16 (c) identify priority areas for conservation action and the  
17 establishment of protected areas; and  
18 (d) reflect zonal co-operation on issues concerning biodiversity  
19 management in Nigeria.

20 (2) The national biodiversity framework may determine norms and  
21 standards for zonal and municipal environmental conservation plans.

Biozones and  
Biozonal Plan

22 **40.**-(1) The Minister for Environment may, by notice in the Gazette:

- 23 (a) determine a geographic zone as a biozone for the purposes of this  
24 Act, if that zone contains whole or several nested ecosystems and is  
25 characterized by its landforms, vegetation cover, human culture and history;  
26 and  
27 (b) publish a plan for the management of biodiversity and the  
28 components of biodiversity in such area.

29 (2) The Minister may determine a zone as a biozone and publish a  
30 biozonal plan for that zone either:

1 (a) on own initiative but after consulting the Commissioner for  
2 Environment in the relevant State; or

3 (b) at the request of a State.

4 (3) The Commissioner for Environment of a relevant State may  
5 determine a zone as a biozone and publish a biozonal plan for that zone only  
6 with the concurrence of the Minister.

7 (4) Any person may, on the request of the Minister or  
8 Commissioner for Environment, assist in the preparation of a biozonal plan.

9 (5) The Minister:

10 (a) may enter into an agreement with a neighboring country to  
11 secure the effective implementation of the plan; and

12 (b) must submit to the National Assembly a copy of any agreement  
13 entered into in terms of paragraph (a).

14 **41. A biozonal plan must:**

15 (a) contain measures for the effective management of biodiversity  
16 and the components of biodiversity in the zone

17 (b) provide for monitoring of the plan; and

18 (c) be consistent with:

19 (i) this Act;

20 (ii) the national environmental management principles;

21 (iii) the national biodiversity framework; and

22 (iv) any relevant international agreements binding on the  
23 Federation.

24 **42.-(1) The Minister or the Commissioner for Environment in the**  
25 **relevant State, as may be appropriate, must review a biozonal plan published**  
26 **in terms of section 40 (1) (b) at least every five years, and assess compliance**  
27 **with the plan and the extent to which its objectives are being met.**

28 (2) The Minister or the Commissioner for Environment may, when  
29 necessary, by notice in the Gazette, amend a biozonal plan or the boundaries  
30 of the biozone.

Contents of  
Biozonal Plans

Review and  
Amendment of  
Biozonal Plans

1 (3) The Commissioner for Environment may amend a biozonal plan  
2 or the boundaries of the biozone only with the concurrence of the Minister.

Biodiversity  
Management  
Plans

3 43.-(1) Any person, organisation desiring to contribute to biodiversity  
4 management may submit to the Minister for his or her approval a draft  
5 management plan for:

6 (a) an ecosystem:

7 (i) listed in terms of section 52; or

8 (ii) which is not listed in terms of section 52 but which does warrant  
9 special conservation attention;

10 (b) an indigenous species:

11 (i) listed in terms of section 56; or

12 (ii) which is not listed in terms of section 56 but which does warrant  
13 special conservation attention; or

14 (c) a migratory species to give effect to the Nigeria's obligations in  
15 terms of an international agreement binding on her.

16 (2) Before approving a draft biodiversity management plan, the  
17 Minister must identify a suitable person, organization or Agency of  
18 Government which is willing to be responsible for the implementation of the  
19 plan.

20 (3) The Minister must:

21 (a) publish by notice in the Gazette a biodiversity management plan  
22 approved in terms of subsection (1);

23 (b) determine the manner of implementation of the plan; and

24 (c) assign responsibility for the implementation of the plan to the  
25 person, organisation or Agency of Government identified in terms of  
26 subsection (2).

Biodiversity  
Management  
Agreements

27 44. The Minister may enter into a biodiversity management  
28 agreement with the person, organisation or Agency of Government identified  
29 in terms of section 43 (2), or any other suitable person, organisation or Agency  
30 of Government regarding the implementation of a biodiversity management

1 plan, or any aspect of it.

2 **45.** A biodiversity management plan must:

3 (a) be aimed at ensuring the long-term survival in nature of the  
4 species or ecosystem to which the plan relates; and

5 (b) provide for the responsible person, organisation or Agency of  
6 Government to monitor and report on progress with implementation of the  
7 plan; and

8 (c) be consistent with:

9 (i) this Act;

10 (ii) the national environmental management principles;

11 (iii) the national biodiversity framework;

12 (iv) any applicable biozonal plan;

13 (v) any municipal integrated development plan;

14 (vi) any other plans prepared in terms of national legislation that is  
15 affected; and

16 (vii) any relevant international agreements binding on Nigeria.

17 **46.-(1)** The Minister must review a biodiversity management plan  
18 published in terms of section 43 (3) at least every five years, and assess  
19 compliance with the plan and the extent to which its objectives are being  
20 met.

21 (2) The Minister, either on own initiative or on request by an  
22 interested person, organisation or Agency of Government, may by notice in  
23 the Gazette amend a biodiversity management plan published in terms of  
24 section 43 (3).

25 (3) Before amending a biodiversity management plan, the Minister  
26 must consult:

27 (a) any person, organization or Agency of Government  
28 implementing the plan; and

29 (b) any Agency of Government whose activities are affected by the  
30 implementation of the plan.

Contents of  
Biodiversity  
Management Plans

Review and  
Amendment of  
Biodiversity  
Management Plans



Consultation 1           47.-(1) Before adopting or approving a national biodiversity  
2 framework, a biozonal plan or a biodiversity management plan, or any  
3 amendment to such a plan, the Minister must follow a consultative process in  
4 accordance with sections 99 and 100.

5           (2) Before adopting a biozonal plan, or any amendment to such a plan,  
6 the commissioner for Environment in the relevant State must follow a  
7 consultative process in accordance with sections 99 and 100.

8           *Co-ordination and alignment of plans, monitoring and research*

Co-ordination  
and alignment of  
Biodiversity Plans

9           48.-(1) The national biodiversity framework, a biozonal plan and a  
10 biodiversity management plan prepared in terms of this Part may not be in  
11 conflict with:

12           (a) any environmental implementation or environmental  
13 management plans;

14           (c) any spatial development frameworks in terms of legislation  
15 regulating land use management, land development and spatial planning; and

16           (d) any other plans prepared in terms of any national legislation that  
17 are affected.

18           (2) An Agency of Government must prepare an environmental  
19 implementation or environmental management plan, must:

20           (a) align its plan with the national biodiversity framework and any  
21 applicable biozonal plan;

22           (b) Incorporate into that plan those provisions of the national  
23 biodiversity framework or a biozonal plan that specifically apply to it; and

24           (c) demonstrate in its plan how the national biodiversity framework  
25 and any applicable biozonal plan may be implemented by that Agency.

26           (3) The Institute may:

27           (a) assist the Minister and others involved in the preparation of the  
28 national biodiversity framework, a biozonal plan or a biodiversity  
29 management plan to comply with subsection (1); and

30           (b) make recommendations to States and Agencies to align their plans

1 referred to in that subsection with the national biodiversity framework and  
2 any applicable biozonal plan.

3 49.-(1) The Minister must for the purposes of this Part designate Monitoring  
4 monitoring mechanisms and set indicators to determine:

5 (a) the conservation status of various components of Nigeria's  
6 biodiversity;

7 (b) any negative and positive trends affecting the conservation  
8 status of the various components.

9 (2) The Minister may require any person, organisation or Agency  
10 involved in terms of subsection (1) in monitoring the matters referred to in  
11 that subsection to report regularly to the Minister on the results of such  
12 monitoring measured against the predetermined indicators.

13 (3) The Minister must:

14 (a) annually report to the National Assembly on the information  
15 submitted to the Minister in terms of subsection (2); and

16 (b) make such information publicly available.

17 50.-(1) The Minister must promote research done by the Institute Research  
18 and other institutions on biodiversity conservation, including the  
19 sustainable use, protection and conservation of indigenous biological  
20 resources.

21 (2) Research on biodiversity conservation may include:

22 (a) the collection and analysis of information about:

23 (i) the conservation status of the various components of  
24 biodiversity;

25 (ii) negative and positive trends affecting the conservation status  
26 of various components; and

27 (iii) threatening processes or activities likely to impact on  
28 biodiversity conservation;

29 (b) the assessment of strategies and techniques for biodiversity  
30 conservation;

1 (c) the determination of biodiversity conservation needs and  
2 priorities; and

3 (d) the sustainable use, protection and conservation of indigenous  
4 biological resources.

5 PART IV - THREATENED OR PROTECTED ECOSYSTEMS AND SPECIES

Purpose of Part

6 **51.** The purpose of this Part is to:

7 (a) provide for the protection of ecosystems that are threatened or in  
8 need of protection to ensure the maintenance of their ecological integrity;

9 (b) provide for the protection of species that are threatened or in need  
10 of protection to ensure their survival in the wild;

11 (c) give effect to the Federation's obligations under international  
12 agreements regulating international trade in specimens of endangered species;  
13 and

14 (d) ensure that the utilisation of biodiversity is managed in an  
15 ecologically sustainable way.

16 *Protection of threatened or protected ecosystems*

Ecosystems that  
are threatened  
or in need of  
protection

17 **52.-(1)** (a) The Minister may, by notice in the Gazette, publish a  
18 national list of ecosystems that are threatened and in need of protection.

19 (b) A Commissioner for Environment in a State may, by notice in the  
20 Gazette, publish a zonal list of ecosystems in the zone that are threatened and in  
21 need of protection.

22 (2) The following categories of ecosystems may be listed in terms of  
23 subsection (1):

24 (a) critically endangered ecosystems, being ecosystems that have  
25 undergone severe degradation of ecological structure, function or composition  
26 as a result of human intervention and are subject to an extremely high risk of  
27 irreversible transformation;

28 (b) endangered ecosystems, being ecosystems that have undergone  
29 degradation of ecological structure, function or composition as a result of  
30 human intervention, although they are not critically endangered ecosystems;



1 (c) vulnerable ecosystems, being ecosystems that have a high risk  
 2 of undergoing significant degradation of ecological structure, function or  
 3 composition as a result of human intervention, although they are not  
 4 critically endangered ecosystems or endangered ecosystems; and

5 (d) protected ecosystems, being ecosystems that are of high  
 6 conservation value or of high national or zonal importance, although they  
 7 are not listed in terms of paragraphs (a), (b) or (c).

8 (3) A list referred to in subsection (1) must describe in sufficient  
 9 detail the location of each ecosystem on the list.

10 (4) The Minister and the Commissioner for Environment in a  
 11 relevant State, respectively, must at least every five years review any  
 12 national or zonal list published by the Minister or Commissioner in terms of  
 13 subsection (1).

14 (5) The Commissioner may publish or amend a zonal list only with  
 15 the concurrence of the Minister.

16 53.-{1) The Minister may, by notice in the Gazette, identify any  
 17 process or activity in a listed ecosystem as a threatening process.

Threatening  
 processes in listed  
 ecosystems

18 (2) A threatening process identified in terms of subsection (1) must  
 19 be regarded as a specified activity and a listed ecosystem must be regarded  
 20 as an area identified.

21 54. An organ of state that must prepare an environmental  
 22 implementation or environmental management plan that must adopt an  
 23 integrated development plan for the protection of listed ecosystems.

Certain plans to  
 take into account  
 in protections of  
 listed ecosystems

24 55. The Minister may, by notice in the Gazette, amend or repeal any  
 25 notice published by him or her in terms of section 52 (1) or 53 (1).

Amendment of  
 notices

26 *Protection of threatened or protected species*

27 56.-{1) The Minister may, by notice in the Gazette, publish a list of:

28 (a) critically endangered species, being any indigenous species  
 29 facing an extremely high risk of extinction in the wild in the immediate  
 30 future;

Listing of  
 species that are  
 threatened or in  
 need of national  
 protection

1 (b) endangered species, being any indigenous species facing a high  
2 risk of extinction in the wild in the near future, although they are not a critically  
3 endangered species;

4 (c) vulnerable species, being any indigenous species facing an  
5 extremely high risk of extinction in the wild in the medium-term future,  
6 although they are not a critically endangered species or an endangered species;  
7 and

8 (d) protected species, being any species which are of such high  
9 conservation value or national importance that they require national  
10 protection, although they are not listed in terms of paragraph (a), (b) or (c).

11 (2) The Minister must review the lists published in terms of  
12 subsection (1) at least every five years.

Restricted  
activities involving  
listed threatened  
or protected  
species

13 57.-(1) A person may not carry out a restricted activity involving a  
14 specimen of a listed threatened or protected species without a permit issued in  
15 terms of Part 7.

16 (2) The Minister may, by notice in the Gazette, prohibit the carrying  
17 out of any activity:

18 (a) which is of a nature that may negatively impact on the survival of a  
19 listed threatened or protected species; and

20 (b) which is specified in the notice, or prohibit the carrying out of such  
21 activity without a permit issued in terms of Part 7.

22 (3) Subsection (J) does not apply in respect of a specimen of a listed  
23 threatened or protected species conveyed from outside Nigeria in transit  
24 through Nigeria to a destination outside the Nigeria, provided that such transit  
25 through Nigeria takes place under the control of an environmental  
26 management inspector.

Amendment of  
notices

27 58. The Minister may by notice in the Gazette amend or repeal any  
28 notice published in terms of section 55 (1) or 56 (2).

Functions of  
Minister

29 *Trade in listed threatened or protected species*

30 59. The Minister:

- 1 (a) must monitor:
- 2 (i) compliance with section 57 (1) insofar as trade in specimens of
- 3 listed threatened or protected species is concerned; and
- 4 (ii) compliance in Nigeria with an international agreement
- 5 regulating international trade in specimens of endangered species which is
- 6 binding on Nigeria;
- 7 (b) must consult the scientific authority on issues relating to trade
- 8 in specimens of endangered species regulated by such an international
- 9 agreement;
- 10 (c) must prepare and submit reports and documents in accordance
- 11 with Nigeria's obligations in terms of such an international agreement;
- 12 (d) may provide administrative and technical support services and
- 13 advice to Agencies of Government to ensure the effective implementation
- 14 and enforcement in Nigeria of such an international agreement;
- 15 (e) may make information and documentation relating to such an
- 16 international agreement publicly available; and
- 17 (f) may prescribe a system for the registration of institutions,
- 18 ranching operations, nurseries, captive breeding operations and other
- 19 facilities.
- 20 60.-(1) The Minister must establish a scientific authority for
- 21 purpose of assisting in regulating and restricting the - trade in specimens of
- 22 listed threatened or protected species.
- 23 (2) The Institute must provide logistical, administrative and
- 24 financial support for the proper functioning of the scientific authority.
- 25 61.-(1) The scientific authority must:
- 26 (a) monitor the legal and illegal trade in specimens of listed
- 27 threatened or protected species;
- 28 (b) advise the Minister and any other interested Agencies of
- 29 Government on the matters that it monitors;
- 30 (c) make recommendations to an issuing authority on applications

Establishment of  
scientific authority

Functions of  
scientific authority

- 1 for permits referred to in section 57(1) or (2);
- 2 (d) make non-detriment findings on the impact of actions relating to
- 3 the international trade in specimens of listed threatened or protected species;
- 4 (e) advise the Minister on:
- 5 (i) the registration of ranching operations, nurseries, captive breeding
- 6 operations and other facilities;
- 7 (ii) whether an operation or facility meets the criteria for producing
- 8 species considered to be bred in captivity or artificially propagated;
- 9 (iii) the choice of a rescue centre or other facility for the disposal of
- 10 forfeited specimens;
- 11 (iv) any amendments to a notice published in terms of section 56 (1) or
- 12 57 (2);
- 13 (v) the nomenclature of species; or
- 14 (vi) any other matter of a specialised nature;
- 15 (f) assist the Minister in the identification of specimens for the
- 16 purpose of enforcing the provisions of this Act;
- 17 (g) issue certificates in which the identification of a specimen is
- 18 verified as being taxonomically accurate;
- 19 (h) perform any other function that may be:
- 20 (i) prescribed; or
- 21 (ii) delegated to it by the Minister by the provisions of this Act; and
- 22 (i) deal with any other matter necessary for, or reasonably incidental
- 23 to, its powers and duties.
- 24 (2) In performing its duties, the scientific authority must:
- 25 (a) base its findings, recommendations and advice on a scientific and
- 26 professional review of available information; and
- 27 (b) consult, when necessary, Agencies of Government, the private
- 28 sector, non-governmental organisations, local communities and other
- 29 stakeholders before making any findings or recommendations or giving any
- 30 advice.







1 assigned to it in paragraphs (a) and (b) of the definition of "specimen" in  
2 section 1 (1).

3 *Alien species*

Restricted activities  
involving alien  
species

4 **65.-(1)** A person may not carry out a restricted activity involving a  
5 specimen of an alien species without a permit issued in terms of Part 7.

6 (2) A permit referred to in subsection (1) may be issued only after a  
7 prescribed assessment of risks and potential impacts on biodiversity is carried  
8 out.

Exemption

9 **66.-(1)** The Minister may, by notice in the Gazette, exempt from the  
10 provisions of section 64:

11 (a) any alien species specified in the notice; or

12 (b) any alien species of a category specified in the notice.

13 (2) Any person may carry out a restricted activity involving a  
14 specimen of an exempted alien species without a permit mentioned in section  
15 65 (1).

16 (3) The Minister must regularly review a notice published in terms of  
17 subsection (1).

Restricted activities  
involving certain  
alien species  
totally prohibited

18 **67.-(1)** The Minister may, by notice in the Gazette, publish a list of  
19 those alien species in respect of which a permit mentioned in section 65(1) may  
20 not be issued.

21 (2) A person may not carry out any restricted activity involving a  
22 specimen of an alien species published in terms of subsection (1).

23 (3) The Minister must regularly review a list published in terms of  
24 subsection (1).

Amendment of  
notices

25 **68.** The Minister may, by notice in the Gazette, amend or repeal any  
26 notice published in terms of section 66 (1) or 67 (1).

Duty of care  
relating to alien  
species

27 **69.-(1)** A person authorised by permit, in terms of section 65(1), to  
28 carry out a restricted activity involving a specimen of an alien species must:

29 (a) comply with the conditions under which the permit has been  
30 issued; and

1 (b) take all required steps to prevent or minimise harm to  
2 biodiversity.

3 (2) A competent authority may, in writing, direct any person who  
4 has failed to comply with subsection (1), or who has contravened section  
5 65(1) or 67(2), to take such steps:

6 (a) as may be necessary to remedy any harm to biodiversity caused  
7 by the actions of that person; and

8 (b) as may be specified in the directive.

9 (3) If that person fails to comply with a directive issued in terms of  
10 subsection (2), the competent authority may:

11 (a) implement the directive; and

12 (b) recover from that person all costs incurred by the competent  
13 authority in implementing the directive.

14 (4) Should an alien species establish itself in nature as an invasive  
15 species because of the actions of a specific person, a competent authority  
16 may hold that person liable for any costs incurred in the control and  
17 eradication of that species.

18 *Invasive species*

19 70.-( 1) (a) The Minister must within 24 months of the date on  
20 which this section takes effect, by notice in the Gazette, publish a national  
21 list of invasive species in respect of which this Part must be applied  
22 nationally.

List of invasive  
species

23 (b) The Commissioner for Environment in a State may, by notice in  
24 the Gazette, publish a zonal list of invasive species in respect of which this  
25 Part must be applied in the State.

26 (2) The Minister or the Commissioner for Environment in a  
27 relevant State must regularly review the national list or any zonal list  
28 published in terms of subsection (1), as may be appropriate.

29 (3) A Commissioner for Environment may only publish or amend

1 a zonal list in terms of subsection (1) or (2) with the concurrence of the  
2 Minister.

Restricted activities  
involving listed  
invasive  
species

3 71.-(1) A person may not carry out a restricted activity involving a  
4 specimen of a listed invasive species without a permit issued in terms of Part  
5 VII.

6 (2) A permit referred to in subsection (1) may be issued only after a  
7 prescribed assessment of risks and potential impacts on biodiversity is carried  
8 out.

Amendment of  
notices

9 72. The Minister or the Commissioner for environmental in any  
10 relevant State may, by notice in the Gazette, amend or repeal any notice  
11 published by him or her in terms of section 70 (1).

Duty of care  
relating to listed  
invasive species

12 73.-(1) A person authorized by permit in terms of section 71 (1) to  
13 carry out a restricted activity involving a specimen of a listed invasive species  
14 must take all the required steps to prevent or minimize harm to biodiversity.

15 (2) A person who is the owner of land on which a listed invasive  
16 species occurs must:

17 (a) notify any relevant competent authority, in writing, of the listed  
18 invasive species occurring on that land;

19 (b) take steps to control and eradicate the listed invasive species and  
20 to prevent it from spreading; and

21 (c) take all the required steps to prevent or minimise harm to  
22 biodiversity.

23 (3) A competent authority may, in writing, direct any person who has  
24 failed to comply with subsection (1) or (2), or who has contravened section 71  
25 (1), to take such steps:

26 (a) as may be necessary to remedy any harm to biodiversity caused  
27 by:

28 (i) the actions of that person; or

29 (ii) the occurrence of the listed invasive species on land of which that  
30 person is the owner; and

- 1 (b) as may be specified in the directive.
- 2 (4) If that person fails to comply with a directive issued in terms of  
3 subsection (3), competent authority may:
- 4 (a) implement the directive; and
- 5 (b) recover all costs reasonably incurred by a competent authority  
6 in implementing the directive:
- 7 (i) from that person; or
- 8 (ii) proportionally from that person and any other person who  
9 benefitted from implementation of the directive.
- 10 **74.-(1) Any person may request a competent authority, in writing,**  
11 **to issue a directive in terms of section 73(3).**
- 12 (2) A competent authority must reply to the request, in writing,  
13 within 30 days of receipt of the request.
- 14 (3) Should a competent authority fail to respond to the request  
15 within the stated period or refuses the request, the person who made the  
16 request may apply to a court for an order directing that competent authority  
17 to issue the directive.
- 18 **75.-(1) Control and eradication of a listed invasive species must be**  
19 **carried out by means of methods that are appropriate for the species**  
20 **concerned and the environment in which it occurs.**
- 21 (2) Any action taken to control and eradicate a listed invasive  
22 species must be executed with caution and in a manner that may cause the  
23 least possible harm to biodiversity and damage to the environment.
- 24 (3) The methods employed to control and eradicate a listed  
25 invasive species must also be directed at the offspring, propagating material  
26 and re-growth of such invasive species in order to prevent such species from  
27 producing offspring, forming seed, regenerating or re-establishing itself in  
28 any manner.
- 29 (4) The Minister must ensure the coordination and implementation

Requests to  
competent  
authorities to  
issues directives

Control and  
eradication of  
listed invasive  
species

1 of programmes for the prevention, control or eradication of invasive species.

2 (5) The Minister may establish an entity consisting of public servants  
3 to coordinate and implement programmes for the prevention, control or  
4 eradication of invasive species.

Invasive species  
control plans of  
Agency of  
Government

5 76.-{1) An Agency of Government preparing a management plan  
6 must incorporate into the management plan an invasive species control and  
7 eradication strategy.

8 (2) (a) All agencies of government at all of government must prepare  
9 an invasive species monitoring, control and eradication plan for land under  
10 their control, as part of their environmental plans;

11 (b) The invasive species monitoring, control and eradication plans of  
12 municipalities must be part of their integrated development plans.

13 (3) The Minister may request the institute to assist municipalities in  
14 performing their duties in terms of subsection (2).

15 (4) An invasive species monitoring, control and eradication plan must  
16 include:

17 (a) a detailed list and description of any listed invasive species  
18 occurring on the relevant land;

19 (b) a description of the parts of that land that are infested with such  
20 listed invasive species;

21 (c) an assessment of the extent of such infestation;

22 (d) a status report on the efficacy of previous control and eradication  
23 measures;

24 (e) the current measures to monitor, control and eradicate such  
25 invasive species; and

26 (f) measurable indicators of progress and success, and indications of  
27 when the control plan is to be completed.

Invasive species  
status reports

28 77.-(I) The management authority of a protected area must at regular  
29 intervals prepare and submit to the Minister or the Commissioner for  
30 Environment in the State a report on the status of any listed invasive species



1 that occurs in that area.

2 (2) A status report must include:

3 (a) a detailed list and description of all listed invasive species that  
4 occur in the protected area;

5 (b) a detailed description of the parts of the area that are infested  
6 with listed invasive species;

7 (c) an assessment of the extent of such infestation; and

8 (d) a report on the efficacy of previous control and eradication  
9 measures.

10 *Other threats*

11 78.-(1) If the Minister has reason to believe that the release of a  
12 genetically modified organism into the environment under a permit may  
13 pose a threat to any indigenous species or the environment, no permit for  
14 such release may be issued unless an environmental assessment has been  
15 conducted.

Genetically  
modified organisms

16 (2) The Minister must convey his or her belief referred to in  
17 subsection (1) to the authority issuing permits before the application for the  
18 relevant permit is decided.

19 (3) For the purposes of subsection (1) "release" means trial release  
20 or general release.

21 *General provisions*

22 79.(1) Before publishing a notice in terms of section 66 (1), 67 (1)  
23 or 70 (1), or amending or repealing such a notice in terms of section 68 or 72,  
24 the Minister must follow a consultative process in accordance with sections  
25 99 and 100.

Consultation

26 (2) Before publishing a notice in terms of section 70(1), or  
27 amending or repealing such a notice in terms of section 72, the  
28 Commissioner for Environment in the relevant State must follow a  
29 consultative process in accordance with sections 99 and 100.

Purpose and  
application of  
Part

- 1                   PART VI - BIOPROSPECTING, ACCESS AND BENEFIT-SHARING
- 2                   **80.**-(1) The purpose of this Part is:
- 3                   (a) to regulate bioprospecting involving indigenous biological
- 4 resources;
- 5                   (b) to regulate the export from the Nigeria of indigenous biological
- 6 resources for the purpose of bioprospecting or any other kind of research; and
- 7                   (c) to provide for a fair and equitable sharing by stakeholders in
- 8 benefits arising from bioprospecting involving indigenous biological
- 9 resources.
- 10                  (2) In this Part:
- 11 "indigenous biological resources":
- 12                  (a) includes:
- 13                  (i) any indigenous biological resources as defined in paragraph (b) of
- 14 the definition of "indigenous biological resource" in section I, whether
- 15 gathered from the wild or accessed from any other source, including any
- 16 animals, plants or other organisms of an indigenous species cultivated, bred or
- 17 kept in captivity or cultivated or altered in any way by means of biotechnology;
- 18                  (ii) any cultivar, variety, strain, derivative, hybrid or fertile version of
- 19 any indigenous species or of any animals, plants or other organisms referred to
- 20 in subparagraph ii); and
- 21                  (iii) any exotic animals, plants or other organisms, whether gathered
- 22 from the wild or accessed from any other source which, through the use of
- 23 biotechnology, have been altered with any genetic material or chemical
- 24 compound found in any indigenous species or any animals, plants or other
- 25 organisms referred to in subparagraph (i) or (ii); but
- 26                  (b) excludes:
- 27                  (i) genetic material of human origin;
- 28                  (ii) any exotic animals, plants or other organisms, other than exotic
- 29 animals, plants or other organisms referred to in paragraph (a)(iii); and
- 30                  (iii) indigenous biological resources listed in terms of the

1 International Treaty on Plant Genetic Resources for Food and Agriculture.

2 **81.**-(1) No person may, without a permit issued in terms of Part Permits

3 VII:

4 (a) engage in bioprospecting involving any indigenous biological  
5 resources; or

6 (b) export from the Federation any indigenous biological resources  
7 for the purpose of bioprospecting or any other kind of research.

8 (2) Before any application for a permit referred to in subsection (1)  
9 may be considered by a relevant issuing authority, the applicant must at the  
10 request of the issuing authority, disclose to the issuing authority all  
11 information concerning the proposed bioprospecting and the indigenous  
12 biological resources to be used for such bioprospecting that is relevant for a  
13 proper consideration of the application.

14 **82.**-(1) Before a permit referred to in section 81 (1) (a) or (b) is  
15 issued, the issuing authority considering the application for the permit must  
16 in accordance with this section protect any interests any of the following  
17 stakeholders may have in the proposed bioprospecting project:

Certain interests  
to be protected  
before permits  
are issued

18 (a) A person, including any organ of state or community, providing  
19 or giving access to the indigenous biological resources to which the  
20 application relates; and

21 (b) an indigenous community:

22 (i) whose traditional uses of the indigenous biological resources to  
23 which the application relates have initiated or will contribute to or form part  
24 of the proposed bioprospecting; or

25 (ii) whose knowledge of or discoveries about the indigenous  
26 biological resources to which the application relates are to be used for the  
27 proposed bioprospecting.

28 (2) If a stakeholder has an interest as set out in subsection (1) (a), an  
29 issuing authority may issue a permit only if:

30 (a) the applicant has disclosed all material information relating to

1 the relevant bioprospecting to the stakeholder and on the basis of that  
2 disclosure has obtained the prior consent of the stakeholder for the provision of  
3 or access to such resources;

4 (b) the applicant and the stakeholder have entered into:

5 (i) a material transfer agreement that regulates the provision of or  
6 access to such resources; and

7 (ii) a benefit-sharing agreement that provides for sharing by the  
8 stakeholder in any future benefits that may be derived from the relevant  
9 bioprospecting; and

10 (c) the Minister has in terms of sections 83 (2) and 84 (2) approved  
11 such benefit-sharing and material transfer agreements.

12 (3) If a stakeholder has an interest as set out in subsection (1) (b), an  
13 issuing authority may issue a permit only if:

14 (a) the applicant has disclosed all material information relating to the  
15 relevant bioprospecting to the stakeholder and on the basis of that disclosure  
16 has obtained the prior consent of the stakeholder to use any of the stakeholder's  
17 knowledge of or discoveries about the indigenous biological resources for the  
18 proposed bioprospecting;

19 (b) the applicant and the stakeholder have entered into a benefit-  
20 sharing agreement that provides for sharing by the stakeholder in any future  
21 benefits that may be derived from the relevant bioprospecting; and

22 (c) the Minister has in terms of section 83(2) approved such benefit-  
23 sharing agreement.

24 (4) An issuing authority:

25 (a) may engage the applicant and stakeholder on the terms and  
26 conditions of a benefit-sharing or material transfer agreement;

27 (b) may facilitate negotiations between the applicant and stakeholder  
28 and ensure that those negotiations are conducted on an equal footing;

29 (c) on request by the Minister, must ensure that any benefit-sharing



1 arrangement agreed upon between the applicant and stakeholder is fair and  
2 equitable;

3 (d) may make recommendations to the Minister; and

4 (e) must perform any other functions that may be prescribed.

5 **83.-(1)** A benefit-sharing agreement must:

Benefit-sharing  
agreements

6 (a) be in a prescribed format;

7 (b) specify:

8 (i) the type of indigenous biological resources to which the  
9 relevant bioprospecting relates;

10 (ii) the area or source from which the indigenous biological  
11 resources are to be collected or obtained;

12 (iii) the quantity of indigenous biological resources that is to be  
13 collected or obtained;

14 (iv) any traditional uses of the indigenous biological resources by  
15 an indigenous community; and

16 (v) the present potential uses of the indigenous biological  
17 resources;

18 (c) name the parties to the benefit-sharing agreement;

19 (d) set out the manner in which and the extent of which the  
20 indigenous biological resources are to be utilised or exploited for purposes  
21 of such bioprospecting;

22 (e) set out the manner in which and the extent to which the  
23 stakeholder will share in any benefits that may arise from such  
24 bioprospecting;

25 (f) provide for a regular review of the agreement by the parties as  
26 the bioprospecting progresses; and

27 (g) comply with any other matters that may be prescribed.

28 (2) A benefit-sharing agreement or any amendment to such an  
29 agreement:

30 (a) must be submitted to the Minister for approval; and



	1	(b) does not take effect unless approved by the Minister.
Materials transfer agreements	2	<b>84.</b> -(1) A material transfer agreement must:
	3	(a) be in a prescribed format;
	4	(b) specify:
	5	(i) particulars of the provider, and the exporter or recipient, of the
	6	indigenous biological resources;
	7	(ii) the type of indigenous biological resources to be provided or to be
	8	given access to;
	9	(iii) the area or source from which the indigenous biological resources
	10	are to be collected, obtained or provided;
	11	(iv) the quantity of indigenous biological resources that is to be
	12	provided, collected, obtained or exported;
	13	(v) the purpose for which such indigenous biological resources are to
	14	be exported;
	15	(vi) the present potential uses of the indigenous biological resources;
	16	and
	17	(vii) conditions under which the recipient may provide any such
	18	indigenous biological resources, or their progeny, to a third party.
	19	(2) A material transfer agreement or any amendment to such an
	20	agreement:
	21	(a) must be submitted to the Minister for approval; and
	22	(b) does not take effect unless approved by the Minister.
Establishing of Bioprospecting trust Fund	23	<b>85.</b> -(1) A Bioprospecting Trust Fund is established into which all
	24	moneys arising from benefit-sharing agreements and material transfer
	25	agreements, and due to stakeholders, must be paid, and from which all
	26	payments to, or for the benefit of, stakeholders must be made.
	27	(2) The Director-General must manage the Fund in the prescribed
	28	manner.
Exemptions	29	<b>86.</b> -(1) The Minister may by notice in the Gazette:
	30	(a) declare that this Part does not apply to indigenous biological

1 resources specified in the notice or to an activity relating to such indigenous  
2 biological resources; and

3 (b) amend or withdraw a notice referred to in paragraph (a).

4 (2) Before publishing a notice in terms of subsection (1) the  
5 Minister must follow a consultative process in accordance with sections 99  
6 and 100.

7 **PART VII - PERMITS**

8 **87. The purpose of this Part is to provide for the regulation of the** Purpose of Part  
9 **issuing of permits authorizing:**

10 (a) restricted activities involving specimens of:

11 (i) listed threatened or protected species in terms of section 57 (1);

12 (ii) alien species in terms of section 65 (1); or

13 (iii) listed invasive species in terms of section 71 (1);

14 (b) activities regulated in terms of a notice published in terms of  
15 section 57 (2);

16 (c) bioprospecting involving indigenous biological resources in  
17 terms of section 81 (1); or

18 (d) the export of indigenous biological resources for  
19 bioprospecting or any other type of research in terms of section 81 (1).

20 *Permit system*

21 **88.-(1) A person may apply for a permit by lodging an application** Application for  
22 **on the prescribed form to the authority.** permits

23 (2) An issuing authority may:

24 (a) request the applicant to furnish any additional information  
25 before it considers the application;

26 (b) require the applicant to comply with such reasonable  
27 conditions as it may impose before it grants the application;

28 (c) issue a permit unconditionally or issue it subject to conditions;

29 (d) refuse a permit.

30 (3) A decision of the issuing authority to issue or refuse a permit or

1 to issue it subject to conditions, must be consistent with:

- 2 (a) the applicable provisions of this Act;
- 3 (b) the national environmental management principles;
- 4 (c) the national biodiversity framework;
- 5 (d) any other relevant plans adopted or approved in terms of Part III;
- 6 (e) any applicable international agreements binding on the
- 7 Federation;
- 8 (f) any requirements that may be prescribed.

9 (4) If compulsory conditions are prescribed for any kind of permit, an

10 issuing authority may not issue a permit of that kind other than subject to those

11 conditions.

12 (5) If an application is rejected, the issuing authority must give

13 reasons for the decision in writing to the applicant.

Risk assessments  
and expert  
evidence

14 89. Before issuing a permit, the issuing authority may in writing

15 require the applicant to furnish it, at the applicant's expense, with such

16 independent risk assessment or expert evidence as the issuing authority may

17 determine.

Permits

18 90.-(1) A permit:

19 (a) must specify:

- 20 (i) the purpose for which it is issued;
- 21 (ii) the period for which it will remain valid; and
- 22 (iii) any other matters that may be prescribed;

23 (b) may be issued on conditions specified in the permit; and

24 (c) must be in the form and contain such other particulars as may be

25 prescribed.

26 (2) A permit issued in terms of section 91 does not absolve the holder

27 or any other person from complying with the provisions of any other applicable

28 law.

Additional  
requirements  
relating to alien  
and invasive  
species

29 91. An issuing authority may issue a permit for a restricted activity

30 involving a specimen of an alien species or of a listed invasive species only if:

1 (a) adequate procedures have been followed by the applicant to  
2 assess the risks and potential impacts associated with the restricted activity;

3 (b) the relevant species has been found to have negligible or no  
4 invasive potential;

5 (c) the benefits of allowing the activity are significantly greater  
6 than the costs associated with preventing or remedying any resultant  
7 damage to the environment or biodiversity; and

8 (d) it is satisfied that adequate measures have been taken by the  
9 applicant to prevent the escape and spread of the species.

10 92.-(1) If the carrying out of an activity mentioned in section 90 is *Integrated permits*  
11 also regulated in terms of other law, the authority empowered under that  
12 other law to authorise that activity and the issuing authority empowered  
13 under this Act to issue permits in respect of that activity may:

14 (a) exercise their respective powers jointly; and

15 (b) issue a single integrated permit instead of a separate permit and  
16 authorisation.

17 (2) An authority empowered under that other law may issue an  
18 integrated permit for the activity in question if that authority is designated in  
19 terms of this Act also as an issuing authority for permits in respect of that  
20 activity.

21 (3) An integrated permit may be issued only if:

22 (a) the relevant provisions of this Act and that other law have been  
23 complied with;

24 (b) the permit specifies the:

25 (i) provisions in terms of which it has been issued; and

26 (ii) authority or authorities that have issued it.

27 93. An issuing authority which issued a permit may cancel the *Cancellation of*  
28 permit if: *permits*

29 (a) the permit was issued as a result of misleading or false

- 1 representations by the applicant or a person acting on behalf of the applicant; or  
2 (b) the applicant or permit holder has contravened or failed to comply  
3 with:  
4 (i) any condition of the permit;  
5 (ii) any provision of this Act or other law governing the permitted  
6 activity;  
7 (iii) any foreign law governing the permitted activity.

### 8 *Appeals*

Appeals to be  
lodged with  
Minister

9 94.-(1) An applicant who feels aggrieved by the decision of an issuing  
10 authority in terms of section 88 (2) (c) or (d), or a permit holder whose permit  
11 has been cancelled in terms of section 93, may lodge with the Minister an  
12 appeal against the decision within 30 days after having been informed of the  
13 decision.

14 (2) The Minister must either:

15 (a) consider and decide the appeal;

16 (b) redirect the appeal to the Commissioner for Environment in the  
17 relevant State to consider and decide the appeal; or

18 (c) designate a panel of persons to consider and decide the appeal.

19 (3) An appeal does not suspend the decision against which the appeal  
20 is lodged unless the Minister, Commissioner for Environment or appeal panel  
21 considering the appeal directs otherwise.

Appeal Panels

22 95.-(1) If the Minister decides that the appeal must be considered and  
23 decided by an appeal panel, the Minister must designate:

24 (a) a number of persons with appropriate knowledge as members of  
25 the panel; and

26 (b) one of the panel members as the presiding member.

27 (2) The presiding member of the appeal panel decides when and  
28 where the panel meets.

29 (3) An appeal panel must:

30 (a) consider and decide the appeal in accordance with a prescribed



1 procedure; and

2 (b) keep a record of its proceedings and decisions.

3 **96.-(1) The Minister, Commissioner for Environment or appeal** Decisions  
4 panel considering an appeal may:

5 (a) either uphold or refuse the appeal; and

6 (b) when upholding or refusing the appeal, make such other orders  
7 as may be appropriate.

8 (2) If the appeal is upheld against:

9 (a) a refusal to issue a permit, the Minister, Commissioner for  
10 Environment or appeal panel may issue the permit unconditionally or  
11 subject to conditions;

12 (b) a condition subject to which the permit was issued, the Minister  
13 Commissioner for Environment or appeal panel may withdraw or amend the  
14 condition; or

15 (c) the cancellation of a permit, the Minister, Commissioner for  
16 Environment or appeal panel may restore the permit.

17 **PART VIII - ADMINISTRATION OF ACT**

18 *Regulations*

19 **97.-(1) The Minister may make regulations relating to:**

Regulations by  
Minister

20 (a) the monitoring of compliance with and enforcement of norms  
21 and standards referred to in section 9;

22 (b) (i) the designation of Agencies of Government which may be  
23 issuing authorities for permits referred to in section 57(1) or (2):

24 (ii) the facilitation of the implementation and enforcement of  
25 section 57 (1) or any notice published in terms of section 57 (2);

26 (iii) the carrying out of a restricted activity involving a specimen of  
27 a listed threatened or protected species;

28 (iv) the facilitation of the implementation and enforcement of an  
29 international agreement regulating international trade in specimens of listed  
30 threatened or protected species which is binding on the Nigeria;

- 1 (v) the minimising of the threat to the survival in the wild of a listed  
2 threatened or protected species;
- 3 (vi) the minimising of the threat to the ecological integrity of a listed  
4 ecosystem;
- 5 (vii) the composition and operating procedure of the scientific  
6 authority; or
- 7 (viii) the ecologically sustainable utilization of biodiversity;
- 8 (c) (i) the designation of agency of government which may be issuing  
9 authorities for permits referred to in section 67 (1) or 71 (1);
- 10 (ii) the designation of Agencies of Government which may be  
11 competent authorities for implementing and enforcing the provisions of this  
12 Part;
- 13 (iii) the facilitation of the implementation and enforcement of section  
14 65, 67 or 71;
- 15 (iv) the prescription of compulsory conditions for any permit issued  
16 in terms of section 65 (1) or 71 (1);
- 17 (v) the assessment of risks and potential impacts on biodiversity of  
18 restricted activities involving specimens of alien species or of listed invasive  
19 species; and
- 20 (vi) the control and eradication of listed invasive species;
- 21 (d) biosafety and the environment;
- 22 (e) (i) the designation of organs of state that may be issuing authorities  
23 for permits referred to in section 81;
- 24 (ii) the form and contents of, and the requirements and criteria for  
25 benefit-sharing agreements and material transfer agreements;
- 26 (iii) moneys payable in connection with benefit-sharing agreements  
27 and material transfer agreements; and
- 28 (iv) the administration of the Bioprospecting Trust Fund;
- 29 (f) (i) the conditions subject to which issuing authorities may issue  
30 permits in terms of this Act;

- 1 (ii) the procedure to be followed and the fees to be paid in  
2 connection with the lodging and consideration of applications for permits;
- 3 (iii) the powers of issuing authorities when considering and  
4 deciding such applications;
- 5 (iv) the conditions with which applicants must comply before or  
6 after the lodging of their applications;
- 7 (v) appropriate consultation processes;
- 8 (vi) the authorities whose consent is required before permits may  
9 be issued;
- 10 (vii) the factors that must be taken into account when deciding  
11 applications;
- 12 (viii) the circumstances in which applications must be refused or  
13 may be approved;
- 14 (ix) the form and contents of permits;
- 15 (x) the conditions on which permits must be issued, or guidelines  
16 for determining conditions on which permits may be issued;
- 17 (xi) methods, procedures and conditions of enforcing compliance  
18 with the conditions of a permit;
- 19 (xii) the giving of security in respect of any obligation that may  
20 arise from carrying out a restricted activity authorised by a permit, and the  
21 form of such security;
- 22 (xiii) the period of validity of permits;
- 23 (xiv) the transferability of permits;
- 24 (xv) the duties of the permit holders; and
- 25 (xvi) the procedure to be followed and the fees to be paid in  
26 connection with the lodging and consideration of appeals;
- 27 (g) any other matter that may be prescribed in terms of this Act; and
- 28 (h) any other matter that may be necessary to facilitate the  
29 implementation of this Act.
- 30 (2) Any regulation with direct fiscal implications may be made

1 only with the concurrence of the Minister of Finance.

2 (3) Before publishing any regulations in terms of subsection (1), or  
3 any amendment to the regulations, the Minister must follow a consultative  
4 process in accordance with sections 99 and 100.

5 (4) Subsection (3) need not be applied to a non-substantial change to  
6 the regulations.

General

7 98.-(1) Regulations made in terms of section 99 may:

8 (a) restrict or prohibit any act either absolutely or conditionally;

9 (b) apply:

10 (i) generally throughout the Federation or a State, as the case may be,  
11 or only in a specified area or category of areas;

12 (ii) generally to all persons or only to a specified category of persons;

13 (iii) generally with respect to all species or only to a specified species  
14 or category of species; or

15 (iv) generally with respect to all permits or appeals or only to a  
16 specified category of permits or appeals;

17 (c) differentiate between different:

18 (i) areas or categories of areas;

19 (ii) persons or categories of persons;

20 (iii) species or categories of species; or

21 (iv) categories of permits or appeals.

22 (2) Regulations made in terms of section 97 may provide that any  
23 person who contravenes or fails to comply with a provision thereof is guilty of  
24 an offence and liable on conviction to:

25 (a) imprisonment for a period not exceeding five years;

26 (b) an appropriate fine; or

27 (c) both a fine and such imprisonment.

28 *Consultation process*

Consultation

29 99.-(1) Before exercising a power which, in terms of a provision of  
30 this Act, must be exercised in accordance with this section and section 100, the

1 Minister must follow an appropriate consultative process in the  
2 circumstances.

3 (2) The Minister must, in terms of subsection (1):

4 (a) consult all other Ministers whose areas of responsibility may be  
5 affected by the exercise of the power;

6 (b) in accordance with the principles of co-operative governance  
7 consult the Commissioner for Environment of each State that may be  
8 affected by the exercise of the power; and

9 (c) allow public participation in the process in accordance with  
10 section 100.

11 **100.-(1) The Minister must give notice of the proposed exercise of**  
12 **the power referred to in section 99:**

Public  
Participation

13 (a) in the Gazette; and

14 (b) in at least one newspaper distributed nationally, or if the  
15 exercise of the power may affect only a specific area, in at least one  
16 newspaper distributed in that area.

17 (2) The notice must:

18 (a) invite members of the public to submit to the Minister, within  
19 30 days of publication of the notice in the Gazette, written representations  
20 on, or objections to, the proposed exercise of the power; and

21 (b) contain sufficient information to enable members of the public  
22 to submit meaningful representations or objections.

23 (3) The Minister may in appropriate circumstances allow any  
24 interested person or community to present oral representations or objections  
25 to the Minister or a person designated by the Minister.

26 (4) The Minister must give due consideration to all representations  
27 or objections received or presented before exercising the power.

28 **PART IX - OFFENCES AND PENALTIES**

29 **101.-(1) A person is guilty of an offence if that person contravenes**  
30 **or fails to comply with a provision of:**

Offences



- 1 (a) section 57 (1), 65 (1), 67 (2), 71 (1) or 81 (1);  
2 (b) a notice published in terms of section 57 (2); or  
3 (c) a directive issued in terms of section 69 (2) or 73 (3).

4 (2) A person who is the holder of a permit is guilty of an offence if that  
5 person:

6 (a) contravenes or fails to comply with a provision of section 69 (1) or  
7 73 (1);

8 (b) performs the activity for which the permit was issued otherwise  
9 than in accordance with any conditions subject to which the permit was issued;

10 (c) permits or allows any other person to do, or to omit to do, anything  
11 which is an offence in terms of paragraph (a) or (b).

12 (3) A person is guilty of an offence if that person:

13 (a) fraudulently alters any permit;

14 (b) fabricates or forges any document for the purpose of passing it as a  
15 permit;

16 (c) passes, uses, alters or has in his or her possession any altered or  
17 false document purporting to be a permit; or

18 (d) knowingly makes any false statement or report for the purpose of  
19 obtaining a permit.

Penalties

20 **102.**-(1) A person convicted of an offence in terms of section 101 is  
21 liable to a fine, or to imprisonment for a period not exceeding five years, or to  
22 both fine and such imprisonment.

23 (2) A fine in terms of subsection (1) may not exceed:

24 (3) if a person is convicted of an offence involving a specimen of a  
25 listed threatened or protected species, an amount which is equal to three times  
26 the commercial value of the specimen in respect of which the offence was  
27 committed, whichever is the greater

Short Title

28 **104.** This Bill may be cited as the Nigerian Biodiversity Bill, 2015.

## EXPLANATORY MEMORANDUM

**This Bill seeks to provide for the management and conservation of Nigeria's biodiversity, the protection of species and ecosystems that warrant national protection, the sustainable use of indigenous biological resources, the fair and equitable sharing of benefits arising from bioprospecting involving indigenous biological resources and to provide for the establishment of a National Biodiversity Institute amongst others.**

