

CRIMINAL CONFISCATION AND FORFEITURE OF
PROCEEDS OF CRIME BILL, 2019

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A BILL

FOR

AN ACT TO MAKE COMPREHENSIVE PROVISIONS FOR THE EFFECTIVE CONFISCATION OF A SUM OF MONEY EQUAL THAT ASSESSED AS THE PROCEEDS OF CRIME AND FOR THE FORFEITURE OF PROPERTIES AND INSTRUMENTALITIES RELATING TO, AND RESULTING FROM CRIMINAL ACTIVITIES AND FOR RELATED MATTERS

Sponsored by Hon. Dozie F. Nwankwo

[] Commencement

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

1 PART 1- OBJECTIVES, APPLICATION AND NATURE OF PROCEEDINGS

2 UNDER THIS ACT

3 1. The objectives of this Act are to: Objective

4 (a) make comprehensive provisions for appropriate orders under
5 judicial oversight, including orders for the restraint, seizure, confiscation
6 and forfeiture of property derived from criminal activities and any
7 instrumentalities used or intended to be used in the commission of these
8 criminal activities in accordance with best practices, including observing
9 human and constitutional rights of defendants;

10 (b) compliment the existing legal framework by providing
11 additional measures, processes and procedures for use by relevant
12 organisations for the effective seizure, forfeiture of assets and confiscation
13 of money derived from criminal activities;

14 (c) promote the use of confiscation as an effective means of
15 redressing the harm that is done to the public through criminality by ordering
16 convicted persons to pay money that is equal to the value of the total of their
17 criminal activity;

18 (d) deprive a person of proceeds derived directly or indirectly from

1 criminal activities and of instrumentalities of an offence by way of forfeiture;
2 (c) make provision for the management of assets or proceeds derived
3 from criminal activities under this Act by the Proceeds of Crime Recovery and
4 Management Agency (in this Act referred to as "the Agency"); and
5 (f) harmonise and consolidate existing legislative provisions on the
6 recovery of proceeds of crime and related matters in Nigeria;

Application

7 2. The provisions of this Act apply to:
8 (a) criminal confiscation and the forfeiture of assets and proceeds
9 derived from criminal activities;
10 (b) the investigation, identification and recovery of realisable assets
11 and the proceeds and instrumentalities of criminal activity;
12 (c) orders and directives by the Court to support the investigation,
13 identification, recovery and preservation of realisable assets and the proceeds
14 of crime and instrumentalities of criminal activities; and
15 (d) such other matters as contained in this Act.

16 PART II - CRIMINAL CONFISCATION

17 *Objectives and application*

Objectives of
the Part

18 3.-(1) The objectives of this Part are to:
19 (a) demonstrate that a convicted person should not be allowed to
20 benefit from the proceeds of his criminal activity;
21 (b) provide an effective process by which the total benefit from a
22 person's criminal activity is calculated and an equivalent amount, where
23 recoverable, is confiscated on behalf of the Federal Government;
24 (c) enable a relevant organisation and, in exceptional circumstances,
25 the Agency to implement confiscation proceedings against a convicted person;
26 and
27 (d) ensure the preservation of all realisable assets to ensure that they
28 are available to satisfy a confiscation order.

29 (2) The exceptional circumstances referred in subsection (1)(c) of
30 this section include:

1 (a) where a foreign country requests that property be confiscated
2 by virtue of mutual legal assistance; and

3 (b) cases that have been referred to the Agency by a relevant
4 organisation because:

5 (i) of the complex nature of the case,

6 (ii) the realisable property is located in countries outside Nigeria,

7 (iii) multiple relevant organisations are involved in the
8 prosecution,

9 4. The provisions of this Part apply to:

Application of
this Part

10 (a) restraint orders designed to prevent a defendant from dealing
11 with realisable assets held under his custody or control;

12 (b) confiscation orders that aim to secure payment of a sum of
13 money up to the amount that a convicted person has acquired from the
14 offences that are subject of the charge, related offences and similar criminal
15 activity; and

16 (c) other related matters.

17 *Restraint Orders*

18 5.-(1) The Court may on the application of a relevant organisation,
19 an authorised officer or the Agency, in cases being dealt with by them, that
20 realisable property shall not, except in the manner as may be specified in the
21 order, be disposed of or otherwise dealt with by any person when:

Application for
restrain order

22 (a) a defendant has been convicted of or has been charged with an
23 offence and a confiscation order has been made against the defendant or it
24 appears to the Court that there are reasonable grounds for believing that a
25 confiscation order may be made against the defendant;

26 (b) it is proposed that a defendant is to be charged with an offence
27 and a Court is satisfied that the defendant is to be so charged, and it appears
28 to the Court that there are reasonable grounds for believing that a
29 confiscation order may be made against the defendant; and

30 (c) an affidavit under section 8 of this Act has been filed in support:

Purposes of
restraint order

1 of the application.

2 6.-(1) The relevant organisation, an authorised officer or the Agency
3 may apply to the Court for a restraint order for the purposes specified under this
4 Act.

5 (2) A restraint order may specify that it applies to:

6 (a) all realisable property held by the specified person whether or not
7 the property is described in the order; or

8 (b) realisable property transferred to the specified person after the
9 order is made.

10 (3) An application for a restraint order shall:

11 (a) be made ex parte;

12 (b) be in accordance with sections 3 and 6 of this Act; and

13 (c) provide for the period of the notice referred to in section 10 of this
14 Act to be given to persons affected by the order.

15 (5) The Court making a restraint order may also make further orders
16 in respect of the discovery or disclosure of any facts, including facts relating to
17 any property over which the defendant may have effective control and the
18 location of the property, as the Court may consider necessary or expedient with
19 a view to achieving the objectives of the restraint order

20 (6) The Court making a restraint order shall, at the same time, make an
21 order:

22 (a) authorising a relevant organisation, the Agency or a person acting
23 on its behalf, to take custody or control of any property specified in the order;

24 (b) for entering premises, where necessary; and

25 (c) any other ancillary orders that the Court considers appropriate for
26 the proper, fair and effective execution of the order.

27 (7) Property affected by subsection (6) of this section shall be dealt
28 with in accordance with the directions of the Court that made the restraint
29 order.

30 (8) The Court that made a restraint order:

1 (a) may, on application by a person affected by the order, vary or
2 rescind the restraint order or an order authorising the seizure of the property
3 specified in the order or other ancillary order if it is satisfied that:

4 (i) the operation of the order will deprive the applicant of the means
5 to provide for his reasonable living expenses and cause undue hardship to
6 the applicant or close dependant relatives, and

7 (ii) the hardship that the applicant will suffer as a result of the order
8 outweighs the risk that the property may be destroyed, lost, damaged,
9 concealed, transferred or otherwise disposed of; and

10 (b) shall rescind or vary the restraint order when the proceedings
11 against the defendant concerned are concluded.

12 (9) Where the Court orders the rescission of an order authorising
13 the seizure of property in accordance with subsection (8)(a) of this section,
14 the Court shall make such other order as it considers appropriate for the
15 proper, fair and effective execution of the restraint order.

16 7. A restraint order may be made in respect of:

Property subject
to a restraint order

17 (a) such realisable property as may be specified in the restraint
18 order and held by the person against whom the order is made;

19 (b) all realisable property held by the person against whom the
20 restraint order is made, whether specified in the order or not;

21 (c) specified property of another person that is subject to the
22 effective control of the relevant person, whether or not that other person's
23 identity is known;

24 (d) specified property of another person that is a proceed of the
25 offence or an instrumentality of the offence, whether or not that other
26 person's identity is known;

27 (e) all property which, where it is transferred to a person referred to
28 in paragraph (d) of this subsection after the making of the restraint order,
29 would be a realisable property; and

30 (f) affected gifts, within the meaning of section 23 (3) of this Act,

1 made by the relevant person.

Affidavit in
support of a
restraint order

2 8.-(1) The application for a restraint order shall be supported by an
3 affidavit made by the relevant organisation, an authorised officer or the Agency
4 stating that the belief that the property is of a type mentioned in section 7 of this
5 Act.

6 (2) An affidavit shall contain:

7 (a) a summary of the evidence on which the relevant organisation
8 authorised officer based his belief under subsection (1) of this section;

9 (b) the grounds on which the authorised officer holds the belief but the
10 grounds need not be based on a finding as to the commission of a particular
11 offence;

12 (c) where the relevant person has been convicted a copy of the
13 judgement;

14 (d) where the relevant person has been charged, a copy of the charge
15 sheet;

16 (e) where a person is about to be charged, a copy of the charge sheet or
17 charges that will be laid; and

18 (f) where the application is to restrain property of a person, other than
19 the relevant person, a declaration that the authorised officer reasonably
20 believes that the property is:

21 (i) realisable property and

22 (ii) subject to the effective control of the relevant person.

23 (3) The Court shall not make a restraint order unless it is satisfied that
24 the facts disclosed in the affidavit support the reasonable beliefs expressed by
25 the authorised officer.

Payment of
expenses out of
restraint property

26 9.-(1) The Court may make an order to allow to be paid out of a
27 property or a specified part of a property covered by a restraint order:

28 (a) the reasonable living expenses of the person whose property is
29 restrained;

1 (b) the reasonable living expenses of close dependants of that
2 person; and

3 (c) subject to subsection (3) of this section, reasonable legal costs
4 concerning the current proceedings with which the defendant has been
5 charged or is about to be charged.

6 (2) The Court may only make an order under subsection (1) of this
7 section where:

8 (a) the person whose property is restrained has applied for an order
9 for expenses to be paid out of restrained property;

10 (b) the person has notified the relevant organisation or an
11 authorised officer in writing of the application and the grounds for the
12 application at least seventy-two hours before the application is heard;

13 (c) the person has disclosed all of his interests and liabilities in the
14 property, in a statement on oath that has been filed in the Court; and

15 (d) the Court is satisfied that the person cannot meet the expenses
16 or cost out of property that is not covered by the restraint order.

17 (3) The Court shall require a costs assessor, authorised by a
18 relevant organisation to certify that legal expenses have been properly
19 incurred before permitting the payment of expenses or cost from any
20 property covered by an order under subsection (1) of this section.

21 **10.-(1)** Where the Court makes a restraint order, the relevant
22 organisation, an authorised officer or the Agency shall give notice to:

Notice of
restraint order

23 (a) all persons affected by the restraint order;

24 (b) any other person who may be affected by an order to seize any
25 property in furtherance of the restraint order; and

26 (c) the Agency, in cases not being dealt with by the Agency.

27 (2) The notice referred to in subsection (1) of this section shall:

28 (a) be served before or at the time of any seizure and in any other
29 case after the order is obtained; and

30 (b) contain:

- 1 (i) a copy of the restraint order,
- 2 (ii) the details of the issuing Court, and
- 3 (iii) the name and address of the applicant or other person to whom
- 4 inquiries regarding the restraint order may be made.

5 (3) In cases not being dealt with by the Agency, where the relevant
6 organisation, an authorised officer has given a copy of a restraint order or
7 subsequent order to the Agency under subsection (1) of this section, it shall
8 promptly notify the Agency if:

- 9 (a) property is no longer covered by the restraint order because it is
- 10 varied or excluded from the restraint order under section 15 of this Act; or
- 11 (b) a condition to which a restraint order is subject to is varied under
- 12 section 9 of this Act.

Registration of
restraint orders

13 **11.-(1)** A registration authority that keeps a register of properties of a
14 particular kind shall, on application by the Agency, register the particulars of a
15 restraint order as it affects the property in that register.

16 (2) A person who subsequently deals with the registered property
17 shall be deemed:

- 18 (a) not to be acting in good faith for the purposes of section 12 of this
- 19 Act; and
- 20 (b) to have notice of the restraint order for the purposes of section 10
- 21 of this Act.

22 (3) Where the Agency has previously applied to a registration
23 authority under subsection (1) of this section for the registration of the
24 particulars of a restraint order, the Agency shall promptly notify the
25 registration authority where:

- 26 (a) the property is no longer covered by the restraint order because it is
- 27 varied or excluded from the restraint order under section 15 of this Act; or
- 28 (b) a condition to which a restraint order is subject to is varied under
- 29 section 9 of this Act.

1 12.-(1) The relevant organisation, an authorised officer or the Setting aside a
2 Agency may apply to the Court to set aside a disposition or dealing with a disposition
3 property that contravenes a restraint order where that disposition or dealing contravening a
4 was not: restraint order

- 5 (a) for sufficient consideration; or
6 (b) in favour of a person who acted in good faith.

7 (2) The relevant organisation, an authorised officer or the Agency
8 shall give, to each party to the disposition or dealing, written notice of both
9 the application and the grounds on which it seeks the setting aside of the
10 disposition or dealing.

11 (3) The Court may set aside the disposition or dealing and declare
12 the rights of any person who acquired interest in the property void.

13 13. A person who disposes of, or deals with a property knowing; Contravening
14 that, or is reckless as to the fact that, the property is covered by a restraint restraint orders
15 order, commits an offence and is liable on conviction to imprisonment for a
16 term of five years without an option of fine.

17 14.-(1) The relevant organisation, an authorised officer, the Seizure of
18 Agency or a person authorised by the Agency may, in order to prevent any property covered
19 realisable property from being disposed of or removed contrary to a restraint by a restraint order
20 order, enter into any premises and seize that property if he has reasonable
21 grounds to believe that the property will be so disposed of or removed and
22 may be accompanied by a police officer in order to effect their purpose.

23 (2) Property seized under subsection (1) of this section shall be
24 dealt with in accordance with the directions of the Court that made the
25 relevant restraint order.

26 15.-(1) The Court that made a restraint order, on application by a Exclusion of
27 person who is not a relevant person, may, subject to conditions referred in specific property
28 subsection (2) of this section, vary that order and exclude certain property under a restraint
29 from the order. order

30 (2) The conditions for varying the order referred to subsection (2)

1 of this section are that the person making the application mentioned in
2 subsection (1) of this section:

3 (a) does so in writing within twenty eight days of the making of the
4 restraint order; and

5 (b) gives written notice to the relevant organisation or an authorised
6 officer and the Agency of the application and the grounds on which the
7 exclusion is sought.

8 (3) The relevant organisation, an authorised officer or the Agency
9 may adduce additional evidence to the Court relating to the application for
10 exclusion under the restraint order.

11 (5) The Court shall not exclude property that is subject to a restraint
12 order under this Act unless it is satisfied that a confiscation order cannot be
13 made against:

14 (a) the person who has the interest; or

15 (b) the defendant, where the interest is not held by the defendant but is
16 under his effective control.

17 (6) The Court shall not hear an application to exclude specified
18 property from a restraint order where the relevant organisation or an authorised
19 officer has not been given a reasonable opportunity to conduct examinations in
20 relation to the application.

21 (7) The relevant organisation, an authorised officer or the Agency
22 shall give the person notice of any grounds on which it proposes to contest the
23 application, after it has conducted enquiry in relation to the application.

24 (8) The relevant organisation, an authorised officer or the Agency
25 may appear and adduce evidence at the hearing of the application.

Application for
distress order
subject to leave
of Court

26 **16.**-(1) If a Court makes a restraint order, an application for an order
27 of distress shall not be made in respect of any realisable property to which the
28 restraint order applies except with leave of the Court.

29 (2) The Court may hear an application in respect of a distress order
30 mentioned in subsection (1) of this section.

1 (3) Notice of an application under subsection (2) of this section
2 shall be served on the relevant organisation, an authorised officer and the
3 Agency, at least fourteen days before the application is to be heard.

4 17.-(1) A restraint order in relation to one or more offences ceases Cessation of
restraint orders
5 to be in force if:

6 (a) within twenty-eight days after:

7 (i) the charge, or all of the charges, that relate to the restraint order
8 are withdrawn,

9 (ii) the defendant is acquitted of the offence, or all of the offences,
10 with which he was charged, or

11 (iii) the defendant's conviction for the offence, or all of the
12 offences, of which he was convicted are quashed;

13 (b) the Court has made a restraint order under section 5 (1) (b) of
14 this Act, and the defendant is not charged to Court within such period, as the
15 Court may consider reasonable;

16 (c) a restraint order covers property that is not realisable property,
17 including gifts within the meaning of section 23(3) of this Act;

18 (d) the Court is satisfied that the order was obtained by suppression
19 or misrepresentation of fact or by fraud;

20 (e) a confiscation order relates to that offence, those offences or
21 related criminal activity and:

22 (i) the confiscation order is satisfied, or

23 (ii) the confiscation order is discharged.

24 (2) The period referred to in subsection (1)(b) of this section shall
25 not exceed ten days starting on the day on which the restraint order is made.

26 (3) Subsection (1) (a) (i) of this section shall not apply where:

27 (a) the suspect is charged with a related offence; or

28 (b) a new trial is ordered in relation to the offence.

29 (4) Restraint orders remain in force until rescinded by the Court.

1 *Confiscation orders*

Making of
confiscation
orders

2 **18.-(1)** The Court may make a confiscation order requiring a person to
3 pay to the Agency for deposit into the Confiscated and Forfeited Properties
4 Account (in this Act referred to as "the Confiscated and Forfeiture Account") as
5 provided under the Civil Forfeiture and Management of the Proceeds of
6 Crimes Act, 2019 an amount equal to the total proceeds of a person's criminal
7 activities, where available if:

8 (a) the person has been convicted of an offence;

9 (b) the relevant organisation or the Agency, in exceptional
10 circumstances, applies for the confiscation order; and

11 (c) the Court is satisfied that the person has benefited from:

12 (i) that offence,

13 (ii) any other offence of which the person has been convicted at the
14 same trial, and

15 (iii) any criminal activity which the Court finds to be sufficiently
16 related to those offences.

17 (2) Where a person has been convicted of an offence and the relevant
18 organisation or the Agency fails to apply for a confiscation order under
19 subsection (1) (b) of this section, the Court may, if it:

20 (a) considers that it is in the public interest to do so; and

21 (b) is satisfied as specified under subsection (1) (c) of this subsection,
22 direct the relevant organisation to apply for the confiscation order.

23 (3) An order made under this section against the person is:

24 (a) an order to make a payment to the Agency of any amount that the
25 Court considers appropriate; and

26 (b) in addition to any punishment that the Court may impose in
27 respect of the offence or offences that the person has been found guilty of.

28 (4) The Court may make any further orders as it may deem fit to
29 ensure the effectiveness and fairness of the confiscation order.

30 (5) The amount that the Court may order a convicted person to pay to

1 the Agency under subsection (1) shall not exceed:

2 (a) the value of the convicted person's proceeds of the offences or
3 related criminal activity as determined by the Court in accordance with the
4 provisions of this Act; or

5 (b) an amount which in the Court's opinion may be realised if the
6 Court is satisfied that the amount which might be realised as contemplated
7 in section 20 (1) of this Act is less than the value referred to in paragraph (a)
8 of this subsection.

9 (6) The Court convicting a person may, when passing sentence,
10 indicate that it will conduct an inquiry at a later date where:

11 (a) it is satisfied that the inquiry will unreasonably delay the
12 proceedings in sentencing the person; or

13 (b) the relevant organisation or the Agency applies to the Court to
14 first sentence the convicted person and the Court is satisfied that it is
15 reasonable and justifiable to do so in the circumstances.

16 (7) The relevant organisation or the Agency may apply for a
17 confiscation order:

18 (a) within six months after the date of conviction; or

19 (b) where there is an order extending the period specified in
20 paragraph (a) of this subsection, three months after the end of the period
21 extended by an order.

22 (8) The Court hearing an application under subsection (7) of this
23 section may, in exceptional circumstances, grant leave for extension of time
24 for the application to be made if it is satisfied that it may be in the interests of
25 justice to allow the application.

26 (9) The Court before which proceedings under this section are
27 pending may:

28 (a) in considering an application under subsection (1) of this
29 section:

30 (i) refer to the evidence and proceedings at the trial,

- 1 (ii) hear such further evidence as the Court may deem fit,
2 (iii) direct the relevant organisation or an authorised officer, to tender
3 to the Court a statement referred to in section 24 (1) of this Act, and
4 (iv) direct an convicted person to tender to the Court the statement
5 referred to in section 24 (5) and (6) of this Act;
6 (b) adjourn proceedings under this section, subject to section 24 (2)
7 and (8) of this Act;
8 (c) set the date of the adjournment mentioned in paragraph (b) of this
9 subsection not later than three months from the date at which the hearing was
10 adjourned; and
11 (d) in exceptional circumstances extend the period referred to in
12 paragraph (c) of this subsection.

13 (10) In subsection (1) of this section, "exceptional circumstances" has
14 the meaning given to it section 3 of this Act.

Value of proceeds
of criminal
activities

15 19.-(1) Subject to the provisions of subsection (2) of this section, the
16 value of a defendant's proceeds of criminal activity is the sum of the values of
17 the property, services, advantages, benefits and rewards received, retained or
18 derived by him at any time, whether before or after the commencement of this
19 Act, in connection with the criminal activity carried on by him or any other
20 person connected with the criminal activity.

21 (2) In determining the value of a convicted person's proceeds of
22 criminal activities the Court shall:

23 (a) leave the property out of account where it has made a forfeiture
24 order or where a forfeiture order has previously been made in respect of
25 property which is proved to the satisfaction of the Court to have been the
26 property which the convicted person received in connection with the criminal
27 activity carried on by him or any other person connected with the criminal
28 activity;

29 (b) where a confiscation order has previously been made against the
30 convicted person, leave out of account those proceeds of criminal activities

1 which are proved to the satisfaction of the Court to have been taken into
2 account in determining the amount to be recovered under that confiscation
3 order; and

4 (c) ensure that:

5 (i) expenses or outgoings that the person incurred in relation to th
6 criminal activity, or

7 (ii) the value of any benefits that the convicted person derives as
8 agent for, or otherwise on behalf of, another person, whether or not the other
9 person receives any of the benefits, are not deducted

10 20.-(1) The amount realisable at the time of the making of a Amount that may
11 confiscation order against a convicted person shall be the amount equal to be realised
12 the sum of the values at that time of all:

13 (a) realisable property held by the convicted person; and

14 (b) affected gifts made by the convicted person, less the sum of all
15 obligations, where any, of the convicted person having priority and which
16 the Court may recognise for this purpose.

17 (2) Notwithstanding the provisions of section 22 (1) of this Act but
18 subject to the provisions of subsection (2) of that section, the value of an
19 affected gift at the time of the making of the relevant confiscation order shall
20 be:

21 (a) the value of the affected gift at the time when the recipient
22 received it, taking into account subsequent fluctuations in the value of
23 money; or

24 (b) where subsection (3) of this section applies, the value
25 mentioned in that subsection, whichever is the greater value.

26 (3) Where at the time of the making of the relevant confiscation
27 order, the recipient holds the property:

28 (a) other than cash, which he received, the value concerned shall b
29 the value of the property at that time; and

30 (b) which directly or indirectly represents in his hands the property

1 which he received, the value concerned is the value of the property, in so far as
2 it represents the property which he received at the time.

3 (4) For the purposes of subsection (1) of this section, an obligation has
4 priority at the time of the making of the relevant confiscation order if:

5 (a) it is an obligation of the convicted person, where he has been
6 convicted by a court of any offence to pay:

7 (i) a fine imposed before that time by the Court, or

8 (ii) any other amount under any resultant order made before that time
9 by the Court;

10 (b) it is an obligation where:

11 (i) the insolvent estate of the convicted person had at that time been
12 made subject to any Court order; or

13 (ii) the convicted person is a company or other juristic person, where
14 the company or juristic person is at that time being wound up, would be payable
15 in pursuance of any secured or preferred claim against the insolvent estate or
16 against such company or juristic person, as the case may be.

17 (5) The Court shall not determine the amounts realisable as
18 contemplated in subsection (1) of this section unless it has afforded all persons
19 holding any interest in the property concerned an opportunity to make
20 representations to it in connection with the realisation of that property.

21 (6) Where there is no amount that may be realised, the Court may
22 make an order for a nominal amount.

Realisable
property

23 **21.-(1)** Subject to the provisions of subsection (2) of this section, the
24 property is realisable under this Part, if the property is:

25 (a) held by the defendant concerned;

26 (b) held by a person to whom that defendant has directly or indirectly
27 made any affected gift; and

28 (c) subject to the effective control of the defendant as mentioned in
29 section 30 of this Act.

30 (2) Property shall not be realisable property where a declaration of

1 forfeiture is in force in respect of the property.

2 22.-(1) For the purpose of this Part, the value of property, other than Value of property
3 money, in relation to a person holding the property of a convicted person is,
4 where:

5 (a) any other person holds an interest in the property, the market
6 value of the property less the amount required to discharge any
7 encumbrance on the property; and

8 (b) no other person holds an interest in the property, the market
9 value of the property.

10 (2) Notwithstanding the provisions of subsection (1) of this
11 section, a reference in this Part to the value at a particular time of a payment
12 or reward, is construed as a reference to:

13 (a) the value of the payment or reward at the time when the
14 recipient received it, as adjusted to take into account subsequent fluctuation
15 in the value of money; or

16 (b) where subsection (3) of this section applies, the value
17 mentioned in that subsection, whichever is greater in value.

18 (3) Where at the particular time referred to in subsection (2) the
19 recipient holds:

20 (a) property, other than cash, which he received, the value
21 concerned is the value of the property at that particular time; or

22 (b) property which directly or indirectly represents in his hands the
23 property which he received, the value concerned is the value of the property,
24 if it represents the property which he received, at the relevant time.

25 23.-(1) For the purposes of this Act, a convicted person shall be
26 deemed to have made a gift where he has transferred any property to any
27 other person directly or indirectly for a consideration, the value of which is
28 significantly less than the value of the consideration supplied by the
29 convicted person.

Gifts made by
the convicted
person

30 (2) For the purposes of section 20 (2) of this Act, the gift which a

1 convicted person is deemed to have made shall consist of that share in the
2 property transferred by the convicted person that is equal to the difference
3 between the value of that property as a whole and the consideration received by
4 the convicted person in return.

5 (3) For the purpose of this Act, "affected gift" means any gift made by
6 the convicted person concerned:

7 (a) not more than six years before the prescribed date; or

8 (b) at any time, where it was a gift of property:

9 (i) received by that convicted person in connection with an offence
10 committed, or

11 (ii) any part which directly or indirectly represented in that convicted
12 person's hands property received by him in connection with an offence
13 committed by him or any other person, whether the gift was made before or
14 after the commencement of this Act.

15 (4) For the purpose of this Part, the 'prescribed date' in relation to a
16 convicted person means, where:

17 (a) a prosecution for an offence has been instituted against the
18 convicted person, the date on which the prosecution was instituted; or

19 (b) a restraint order has been made against the convicted person, the
20 date of the restraint order, whichever is earlier.

Statements
relating to
proceeds of
criminal activity

21 24.-(1) The relevant organisation or the Agency, as the case may be,
22 may, or where directed by the Court, tender to the Court a statement in writing
23 under oath or affirmation by an authorised person in connection with any
24 matter which is being inquired into by the Court which relates to the
25 determination of the value of a convicted person's proceeds of criminal
26 activities.

27 (2) A copy of the statement referred to in subsection (1) of this section
28 shall be served on the convicted person or his representative at least fourteen
29 days before the date on which the statement is to be tendered to the Court.

30 (3) A convicted person may dispute the correctness of an allegation

1 contained in a statement referred to in subsection (1) of this section, and
2 where the convicted person disputes the correctness of the allegation, he
3 shall state the grounds on which he relies.

4 (4) Where a convicted person does not dispute the correctness of
5 any allegation contained in the statement, that allegation is deemed to be
6 conclusive proof of the matter to which it relates.

7 (5) A convicted person may tender to the Court a statement in
8 writing under oath or affirmation by him or by any other person in
9 connection with any matter that relates to the determination of the amount
10 that might be realised as specified in section 20(1) of this Act.

11 (6) For the purpose of obtaining information to assist the Court in
12 carrying out its functions, the Court may at any time order the convicted
13 person to give it information specified in the order.

14 (7) An order under subsection (6) of this section may require all or a
15 specified part of the information to be given in a specified manner and
16 before a specified date.

17 (8) A copy of the statement or information referred to in subsection
18 (5) or (6) of this section shall be served on the relevant organisation or the
19 Agency, as the case may be, at least fourteen days before the date on which
20 that statement is to be tendered to the Court.

21 (9) The relevant organisation or the Agency, as the case may be,
22 may admit the correctness of any allegation contained in a statement or
23 information referred to in subsection (5) or (6) of this section, and where the
24 relevant organisation or the Agency, as the case may be, admits the
25 correctness of any allegation contained in such statement, that allegation is
26 deemed to be conclusive proof of the matter to which it relates.

27 (10) Section 25(1) of this Act does not affect any power of the
28 Court to deal with the convicted person in respect of a failure to comply with
29 an order under this section.

30 (11) An information given under this section that amounts to an

1 admission by the convicted person that he has benefited from criminal conduct
2 is not admissible in evidence in proceedings for any other offence.

Evidence relating
to the proceeds
of criminal activity

3 25.-(1) For the purposes of determining whether a convicted person
4 has derived a benefit under section 18 (1) of this Act, where it is found that the
5 defendant did not at the prescribed date, or since the beginning of a period of
6 six years before the prescribed date, have legitimate sources of income
7 sufficient to justify the interests in any property that the convicted person
8 holds, the Court shall accept this fact as prima facie evidence that the interests
9 form part of the benefit.

10 (2) For the purposes of section 18 (1) of this Act, where it is found that
11 the Court had ordered the convicted person to disclose any facts under section 6
12 (5) or 24 (6) of this Act and that the convicted person had, without sufficient
13 cause, failed to disclose the facts or had, after being so ordered, furnished false
14 information, knowing the information to be false, the Court shall accept those
15 facts as prima facie evidence that any property to which the information
16 relates:

17 (a) forms part of the convicted person's benefit, in determining
18 whether he has derived a benefit from an offence; or

19 (b) is held by the convicted person as an advantage, payment, service
20 or reward in connection with the offences or related criminal activity.

21 (3) For the purpose of determining the value of a convicted person's
22 proceeds of criminal activities in an enquiry under section 19 (1) of this Act, if
23 the Court finds that he:

24 (a) has benefited from an offence and that:

25 (i) he held property at any time at, or since, his conviction, or

26 (ii) the property was transferred to him at any time since the beginning
27 of a period of six years before the prescribed date, the Court shall accept these
28 facts as prima facie evidence that the property was received by him at the
29 earliest time at which he held it, as an advantage, payment, service or reward in
30 connection with the offences or related criminal activities referred to in section

1 18(1) of this Act; or

2 (b) has benefited from an offence and that expenditure had been
3 incurred by him since the beginning of the period specified in paragraph (a).
4 of this subsection, the Court shall accept the facts as prima facie evidence
5 that the expenditure was met out of the advantages, payments, services or
6 rewards, including any property received by him in connection with the
7 offences or related criminal activities referred to in section 18(1) of this Act.

8 (4) For the purpose of determining the value of any property under
9 section 19(1) of this Act, where the Court finds out that the convicted person
10 received property at any time as an advantage, payment, service or reward in
11 connection with the offences or related criminal activities referred to in that
12 section, whether committed by him or by any other person, the Court shall
13 accept this fact as prima facie evidence that he received that property free of
14 any other person's interest in it.

15 (5) Where, at the hearing of an application for a confiscation order
16 in relation to an offence concerning a narcotic substance, the value of the
17 narcotic substance is brought into question, an investigating officer from the
18 relevant organisation who is experienced in the investigation of the
19 specified offence may testify, to the best of his knowledge, information and
20 belief, with respect to:

21 (a) the market value, at the time of the offence, of similar or
22 substantially similar narcotic substances; and

23 (b) the amount that was, or the range of amounts that were,
24 ordinarily paid for the doing of a similar or substantially similar act or thing.

25 (6) Evidence given in subsection (5) of this section is prima facie
26 evidence of the matters testified.

27 **26.-(1)** Where the Court is satisfied that:

28 (a) a person:

29 (i) had been charged with an offence,

30 (ii) had been convicted of any offence,

Procedure where
a person absconds
or dies

- 1 (iii) has had a restraint order made against him, or
- 2 (iv) can be tried for an offence on the grounds that sufficient evidence
3 exists against him;
- 4 (b) a warrant for arrest of a person had been issued and that the
5 attendance of that person in Court cannot be secured after all reasonable steps
6 were taken to execute that warrant;
- 7 (c) the proceedings against the person cannot be resumed within a
8 period of six months due to his continued absence; and
- 9 (d) there are reasonable grounds to believe that a confiscation order
10 may have been made against him were it not for his continued absence, the
11 Court may, on the application by the relevant organisation or the Agency, as the
12 case may be, inquire into any benefit the person may have derived from that
13 offence.
- 14 (2) Where a defendant who has been convicted of an offence dies
15 before a confiscation order is made, the Court may, on the application by the
16 relevant organisation or the Agency, as the case may be, inquire into any
17 benefit the person may have derived from that offence if the Court is satisfied
18 that there are reasonable grounds for believing that a confiscation order would
19 have been made against him were it not for his death.
- 20 (3) The executor of the estate of the deceased is entitled to appear
21 before the Court and make representations for purposes of the inquiry referred
22 to in subsection (2) of this section.
- 23 (4) The Court in conducting an inquiry under this section may, where:
- 24 (a) the Court finds that the defendant or deceased referred to in
25 subsections (1) or (2) of this section has so benefited, make a confiscation order
26 and the provisions of this Part shall, with the necessary changes, apply to the
27 making of the order;
- 28 (b) an asset manager has not been appointed in respect of any of the
29 property concerned, direct the relevant organisation or the Agency, as the case
30 may be, to appoint an asset manager in respect of realisable property; and

1 (c) authorise the realisation of the property concerned.

2 (5) The Court shall not exercise its powers under subsection (4) (a)
3 and (c) of this section except it has afforded a person having any interest in
4 the property concerned an opportunity to make representations to it in
5 connection with the making of any order.

6 (6) The Court in conducting an enquiry under this section shall not
7 apply sections 24 and 25 of this Act.

8 (7) Where a person, excluding a person specified in subsection (1)
9 (a) (ii) of this section against whom a confiscation order had been made
10 under subsection (4) of this section is subsequently tried and:

11 (a) convicted of one or more of the offences in respect of which the
12 order had been made, the Court convicting him may conduct an inquiry
13 under section 19 and make an appropriate order; or

14 (b) acquitted of an offence in respect of which the order had been
15 made, the Court acquitting him may make an appropriate order.

16 (8) The Court may make a determination under section 18 of this
17 Act against a person specified under subsections (1) (a) and (b) of this
18 section who absconded prior to an inquiry under section 19 of this Act of this
19 Act and who is subject to a confiscation order made under subsection (4) of
20 this section where that person is subsequently brought before the Court.

21 (9) The Court making a determination contemplated in subsection
22 (8) of this section shall take into account any order made under subsection
23 (4) of this section.

24 27.-(1) This section applies where:

25 (a) the Court has made a confiscation order;

26 (b) there is evidence which was not available to the relevant
27 organisation or the Agency, as the case may be, at the time of the original
28 confiscation hearing;

29 (c) the relevant organisation or the Agency, as the case may be,
30 believes that if the Court were to determine the amount of the defendant's

Reconsideration
of the confiscation
order

1 benefit in pursuance of this section it may exceed the amount determined as the
2 defendant's benefit in the original confiscation hearing;

3 (d) notwithstanding the provisions of subsection (1) (c) of this
4 section, the relevant organisation or the Agency, as the case may be, believes
5 that:

6 (i) the amount determined as the defendant's benefit in the original
7 confiscation hearing is greater than the amount of the confiscation order, and

8 (ii) if the Court were to determine the amount of the defendant's
9 realisable assets in pursuance of this section, it would exceed the amount
10 determined as the defendant's realisable assets in the original confiscation
11 hearing;

12 (a) before the end of the period of six years starting with the date of
13 conviction, the relevant organisation or the Agency, as the case may be, applies
14 to the Court to consider the evidence; and

15 (b) after considering the evidence, the Court believes it is appropriate
16 for it to proceed under this section.

17 (2) Where the Court is proceeding under subsection (1)(c) of this
18 section, it shall make a new calculation of the amount in respect of the
19 defendant's activities mentioned in section 18(1)(c) of this Act

20 (3) Where the amount found under the new calculation mentioned in
21 subsection (2) of this section exceeds the amount originally determined as the
22 defendant's benefit, the Court:

23 (a) shall make a new calculation of the defendant's realisable assets
24 for the purposes of section 18 of this Act; and

25 (b) if it exceeds the amount required to be paid under the original
26 confiscation order, may vary the order by substituting for the amount required
27 to be paid by such amount as it deemed fit and proper.

28 (4) Where the court is proceeding under subsection (1)(d) of this
29 section:

30 (a) make a new calculation of the defendant's realisable assets for the

o

1 purposes of section 18 of this Act; and

2 (b) if it exceeds the amount required to be paid under the
3 confiscation order, may vary the order by substituting for the amount
4 required to be paid an amount, not exceeding the amount as originally
5 determined within the provisions of section 19 of this Act, as it deemed fit
6 and proper.

7 (5) Section 25 of this Act shall not apply in making a determination
8 under this section.

9 (6) Where a Court applies subsection (2) or (3) of this section, it
10 shall have regard in particular to:

11 (a) any fine imposed on the defendant for the offence or any of the
12 offences connected and

13 (b) any other order made under this Act.

14 (7) In making a decision under this section, the Court shall, where
15 one amount exceeds another, take account of any variation in the value of
16 money.

17 28.-(1) An amount payable by a person to the Agency under a
18 confiscation order is a civil debt due by the person to the Federal
19 Government.

20 (2) A confiscation order against a person may be enforced as if it
21 were an order made in civil proceedings instituted by the Agency against a
22 person to recover a debt due by that person to the Federal Government.

23 (3) A debt arising from the order is deemed to be a judgement debt.

24 (4) Where a confiscation order is made against a person after his death, this
25 section shall have effect as if the person had died on the day after the order
26 was made.

27 (5) Where a person fails to satisfy any or part of a confiscation
28 order made by the Court, the Court may order that the person against whom
29 the order was made be committed to prison in addition to any other sentence
30 prescribed under this Act.

Enforcement of
confiscation orders

1 (6) The period of imprisonment referred to under subsection (5) of
2 this section shall be as prescribed in the Schedule to this Act.

3 (7) An order to pay an amount under a confiscation order is due to be
4 paid on the day that the confiscation order is made.

5 (8) The Court making the order may, on the application by the
6 convicted person, grant a period of time to pay the amount under the
7 confiscation order.

8 (9) The period of time referred to in subsection (8) of this section shall
9 not exceed twelve months from the date the order is made.

10 (10) The Court making the order may, having regard to the special
11 circumstances of the case, extend the period referred to in subsection (9) of this
12 section by a further six months.

13 (11) Where the convicted person intends to apply to the Court for an
14 extension of the type referred to subsection (8) of this section, he shall notify
15 the relevant organisation or the Agency, as the case may be, in writing at least
16 fourteen days prior to the application.

17 (12) The relevant organisation or the Agency, as the case may be, may
18 appear and adduce evidence at a hearing under subsection (8) of this section.

19 (13) Where the convicted person serves a term of imprisonment or
20 detention in default of paying any amount due under a confiscation order, his
21 serving that term does not prevent the confiscation order from continuing to
22 have effect and the amount due may be recovered as a judgement debt owed to
23 the Federal Government.

24 (14) Any sentence of imprisonment imposed under subsection (5) of
25 this section shall be served consecutively with any other sentence of
26 imprisonment imposed, whether as a result of the proceedings in connection
27 with which the confiscation order was made or any other proceedings.

28 **29.**-(1) Where the Court has made a confiscation order, the relevant
29 organisation or the Agency, as the case may be, or the convicted person may
30 apply to the Court to vary the order under this section.

1 (2) In considering an application under subsection (1) of this
2 section, the Court shall calculate the available amount and in doing so shall
3 apply the provisions of section 20 of this Act as if references to:

4 (a) the time the confiscation order is made were to the time of the
5 calculation; and

6 (b) the date of the confiscation order were made to the date of the
7 calculation.

8 (3) Where the Court finds that the available amount calculated is
9 inadequate for the payment of any amount remaining to be paid under the
10 confiscation order, it may vary the order by substituting for the amount
11 required to be paid, a smaller amount as the Court believes is just.

12 (4) Where a person has been adjudged bankrupt or his estate has
13 been sequestered, or where an order for the winding up of a company has
14 been made, the Court shall take into account the extent to which the
15 realisable property held by that person or that company may be distributed
16 amongst creditors.

17 (5) The Court may disregard any inadequacy that it believes is
18 attributable, wholly or partly, to anything done by the defendant for the
19 purpose of preserving property held by the recipient of an affected gift from
20 any risk of realisation under this Part.

21 30.-(1) Where:

22 (a) a person is subject to a confiscation order;

23 (b) the relevant organisation or the Agency, as the case may be,
24 applies to the Court for an order under this section; and

25 (c) the Court is satisfied that any particular property is subject to
26 the effective control Of the person referred to in paragraph (a) of this
27 subsection, the Court may make an order declaring that the whole, or a
28 specified part of that property be made available to satisfy the confiscation
29 order.

30 (2) The order under subsection (1) of this section may be enforced

Property subject
to a person's
effective control

1 against the property as if the property were the person's property.

2 (3) A restraint order may be made in respect of a property that is under
3 the effective control of a person as if:

4 (a) the property were the person's property; and

5 (b) the person had committed an offence.

6 (4) Where the relevant organisation or the Agency, as the case may be,
7 applies for an order under subsection (1) of this section relating to a particular
8 property, it shall give written notice of the application to:

9 (a) the person who is subject to the confiscation order; and

10 (b) any person whom the relevant organisation or the Agency, as the
11 case may be, has reason to believe may have an interest in the property.

12 (5) A person who is subject to the confiscation order, and any person
13 who claims an interest in the property, may appear and adduce evidence at the
14 hearing of the application.

15 (6) Any person claiming an interest under subsection (5) of this
16 section shall give written notice to the relevant organisation or the Agency, as
17 the case may be, of the claim and the grounds on which the claim is based at
18 least seventy-two hours before the date of the hearing.

Discharge of
confiscation
order made in
relation to a
conviction

19 **31.**-(1) A confiscation order made in relation to a person's conviction
20 for an offence is discharged where:

21 (a) the person's conviction of the offence is subsequently quashed;

22 and

23 (b) the order does not relate to any other offence.

24 (2) Where the Agency deposits money into the Account as provided
25 under the Civil Forfeiture and Management of the Proceeds of Crimes Act,
26 2019 in satisfaction of a person's liability under a confiscation order, the
27 person's liability under the confiscation order is, to the extent of the deposit,
28 discharged.

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PART III - CRIMINAL FORFEITURE

Objectives and application

32. The objectives of this Part are to:

Objectives of this Part

(a) allow the Court, on application by a relevant organisation, to issue forfeiture orders in respect of:

(i) property that is derived directly or indirectly from criminal activity, or

(ii) instrumentalities of criminal activity; and

(b) prevent a person from disposing of the items mentioned in paragraph (a) of this section by the use of freezing orders.

33. The provisions of this Part apply to the implementation of freezing orders and forfeiture orders by relevant organisations.

Application of this Part

Freezing orders

34.-(1) The Court may by an order (in this Act referred to, as a "freezing order") on the application of the relevant organisation or authorised officer prohibit a financial institution from allowing withdrawal from an account with the financial institution, except in the manner and circumstances specified in the order made by the Court, where:

Order prohibiting withdrawal from account with financial institution

(a) there are reasonable grounds to suspect that the account is:

(i) a proceed of a criminal activity, whether or not the identity of the person who committed the offence is known, or

(ii) wholly or partly an instrumentality of an offence; and

(b) the Court is satisfied that, unless a freezing order is made, there is a risk that the account holder will not be deprived of all or some of the proceeds or instrumentality of an offence.

(2) A freezing order shall cover the specified account or any related accounts to which the account holder may be a signatory.

(3) The Court may make a freezing order in the absence of a finding as to the commission of a particular offence.

Application
for a Freezing
order

1 **35.**-(1) An application for a freezing order by the relevant
2 organisation or authorised officer shall be made ex parte, supported by an
3 affidavit deposed to by an authorised officer.

4 (2) The application for a freezing order shall:

5 (a) identify the financial institution;

6 (b) set out sufficient information to identify the account, including the
7 account number; and

8 (c) set out the grounds for suspecting that:

9 (i) the content of the account is a proceed of an offence, or

10 (ii) the content of the account is wholly or partly an instrumentality of
11 an offence, and

12 (iii) unless the freezing order is made, there is a risk that the account
13 holder will not be deprived of all or some of the proceeds or instrumentality of
14 an offence.

Service of a
freezing order

15 **36.** A copy of a freezing order made under section 34 of this Act shall
16 be served on:

17 (a) a financial institution affected by the order;

18 (b) the account holder; and

19 (c) any other party that may be affected by the order.

Offence of
contravening a
freezing order

20 **37.**-(1) A financial institution which allows a withdrawal from an
21 account in respect of which a freezing order exists in a manner that contravenes
22 the order commits an offence and is liable:

23 (a) on conviction to a fine of not less than ten million naira; and

24 (b) to refund the sum withdrawn from the account.

25 (2) An officer of a financial institution who intentionally or
26 negligently fails to comply with a freezing order commits an offence and is
27 liable on conviction to a fine of not less than five hundred thousand naira or
28 imprisonment for a term of not less than two years or to both the fine and
29 imprisonment.

1 (d) the hardship that the applicant will suffer as a result of the freezing
2 order outweighs the risk that the property concerned may be destroyed, lost,
3 damaged, concealed, transferred, removed or have its value diminished, or
4 otherwise be disposed of; and

5 (e) it is in the interest of justice to do so.

6 (2) The Court shall require a costs assessor, authorised by the Agency
7 to certify that legal expenses have been properly incurred before allowing the
8 payment of expenses from any property covered by a freezing order under
9 section 34 of this Act.

10 (3) The written notice referred to in subsection (1) (e) of this section
11 shall be given not less than seventy-two hours before the application is heard.

12 *Forfeiture orders*

Forfeiture order
where a person
is convicted of
an offence

13 42.-(1) The Court shall, on the application of the relevant organisation
14 or authorised officer or on its own motion, make an order (in this Act referred to
15 as ("forfeiture order")) that the property specified in the order be forfeited to the
16 Agency, where:

17 (a) a person has been convicted of one or more offences; and

18 (b) the Court is satisfied that the property to be specified in the order:

19 (i) is property derived directly from one or more of the offences of which the
20 person has been convicted,

21 (ii) is an instrumentality of one or more of those offences, and

22 (iii) represents the value derived from the sale of property disposed of
23 by the Agency to avoid deterioration or loss of value.

24 (2) In considering whether it is appropriate to make a forfeiture order
25 under subsection (1) of this section in respect of any particular property, the
26 Court may have regard to:

27 (a) the ordinary use of or intended use of the property to be specified
28 in the order; and

29 (b) the gravity of the offence or offences concerned.

30 (3) An application under subsection (1) of this section shall be made

1 not later than six months after the date of conviction.

2 43. The power of the Court to make a forfeiture order in relation to
3 an offence is not affected by the existence of a confiscation order in relation
4 to that offence.

Forfeiture not
affected by existence
of a confiscation
order

5 44. Where a person arrested or charged in connection with an
6 offence is absent during trial, the Court may nevertheless make a forfeiture
7 order under section 42 is this Act as if the person has been convicted where:

Making of
forfeiture order
where person has
absconded

8 (a) the Court is satisfied on a balance of probabilities that the
9 person has absconded; and

10 (b) the person has been arraigned for trial for the offence or there is
11 sufficient evidence for putting a person on trial for the offence.

12 45.-(1) The Court may, in making a forfeiture order, consider third
13 party interests in the property where:

Third party
interests in
forfeiture orders

14 (a) the amount received from disposing of the combined interests
15 will likely be greater than the amount received from disposing of each of the
16 interests separately; or

17 (b) disposing of the interests separately may be impracticable or
18 significantly more difficult than disposing of the combined interests.

19 (2) The Court may, in consideration of third party interests, make
20 such ancillary orders, including an order directing:

21 (a) the Agency to pay a person a specified amount as the value of
22 the person's interest in the property; or

23 (b) that other specified interests in the property be transferred to the
24 person, as it deems fit, for the protection of a person having one or more of
25 those other interests.

26 (3) The Court shall, in deciding whether to make an ancillary order,
27 have regard to:

28 (a) the nature, extent and value of the person's interest in the
29 property concerned; and

30 (b) any other matter that the Court considers relevant.

Giving supporting directions

1 46.-(1) The Court making a forfeiture order may give all directions
2 that are necessary or convenient for giving effect to the freezing order.

3 (2) The Court may, in a forfeiture order specifying registrable
4 property, give a direction to the relevant organisation to do anything necessary
5 and reasonable to obtain possession of any document necessary for the transfer
6 of the property.

7 (3) The relevant organisation shall make available to the Agency the
8 documents obtained under subsection (2) of this section necessary for the
9 transfer of the property to the Federal Government.

Notice of application for a forfeiture order

10 47.-(1) The relevant organisation shall give written notice of an
11 application for a forfeiture order to:

12 (a) the Agency;

13 (b) a person convicted of an offence where the order relates to the
14 person;

15 (c) a person who claims an interest in property covered by the
16 application; and

17 (d) a person whom the relevant organisation or an authorised officer
18 reasonably believes may have an interest in the property.

19 (2) The Court hearing the application may, at any time before the final
20 determination of the application, direct the relevant organisation or an
21 authorised officer to give or publish notice of the application to a specified
22 person or class of persons subject to such conditions as to the manner and time
23 as the Court may direct.

24 (3) The Court to which an application for a forfeiture order is made in
25 relation to an offence may, on application by the relevant organisation or an
26 authorised officer, dispense with the requirements to give notice to a person
27 under subsections (1) and (2) of this section where the Court is satisfied that the
28 person has absconded in connection with the offence.

Additional application for a forfeiture order

29 48.-(1) The relevant organisation or an authorised officer shall not,
30 without the leave of the Court, apply for a forfeiture order under section 42 of

1 this Act where:

2 (a) an application has previously been made under this Act for an
3 order under the same section for the forfeiture; or

4 (b) for condemnation of the property under the Customs and
5 Excise Management Act (Cap. C45, LFN, 2004) in relation to the offence,
6 and the application has been finally determined on its merits.

7 (2) The Court shall not grant leave unless it is satisfied that:

8 (a) the property to which the new application relates was identified
9 only after the first application was determined;

10 (b) additional relevant evidence became available only after the
11 first application was determined; or

12 (c) it is in the interests of justice to grant the leave.

13 49.-(1) A person who claims an interest in a property covered by an
14 application for a forfeiture order may appear and adduce evidence at the
15 hearing of the application.

Procedure, on
application by a
person who claims
interest in a
property, etc.

16 (2) The Court may, in determining the application, have
17 cognisance of the record of any proceeding against the person for an offence
18 that constitutes criminal activity and evidence given in the proceeding.

19 (3) The Court may make a forfeiture order where a person entitled
20 to be given notice of the relevant application received notice, but fails to
21 appear at the hearing of the application.

22 50.-(1) Subject to subsection (2) of this section, any property
23 specified in a forfeiture order vests absolutely in the Federal Government at
24 the time the order is made.

Vesting of title
of forfeited
property

25 (2) Where the property specified in a forfeiture order is a
26 registrable property, the Agency shall:

27 (a) give notice in writing of the forfeiture order to the registration
28 authority; and

29 (b) do anything necessary or convenient to protect the interest of
30 the Federal Government or any other authority, as may be appropriate in the

1 circumstance, and register the title of the Federal Government or any other
2 authority in the property.

3 (3) Any action by the Agency under subsection (2) (b) is not a dealing
4 for the purposes of section 53 (1) of this Act.

Death of a joint
owner of forfeited
property

5 51.-(1) Where a person, who is the joint owner of a property specified
6 in a forfeiture order, dies before the forfeiture order is made, but -

7 (a) after the relevant organisation or an authorised officer applied for
8 the order; or

9 (b) while a freezing order covering the property was in force, that
10 property is deemed to have been vested in the Federal Government of Nigeria
11 immediately before the person's death.

12 (2) The restraint order is also deemed to have continued to apply to the
13 property as if the person had not died.

Dealing in
forfeited property

14 52.-(1) The Agency and persons acting on its behalf, shall not dispose
15 of, or deal with the property specified in a forfeiture order unless:

16 (a) the period provided for lodging an appeal against the order has
17 ended without an appeal having been lodged;

18 (b) where an appeal against the order has been lodged, the appeal has
19 lapsed or has been finally determined; or

20 (c) where the order was made in relation to a person's conviction for
21 an offence:

22 (i) the period provided for lodging an appeal against the conviction
23 has ended without an appeal having been lodged, or

24 (ii) if an appeal against the conviction has been lodged, the appeal has
25 lapsed or has finally been determined.

26 (2) Notwithstanding the provision of subsection (1) of this section,
27 the Agency may, with leave of the Court and while the forfeiture order is still in
28 force dispose of, by sale or otherwise, any property specified in the order that is
29 not money.

30 (3) Where any part of the property included in a forfeiture order

1 consists of money in:

2 (a) a bank account, the Agency shall serve a copy of the order on the
3 manager or any person in control of the branch of the bank where the account
4 is operated or on a designated officer at the head office of the bank
5 concerned; or

6 (b) the possession of any other person, the Agency, as the case may
7 be, shall serve a copy of the order on the person or his authorised agent.

8 (4) The manager or person referred to in subsection (3)(a) of this
9 section shall immediately, on being served with a copy of the order, pay over
10 the money to the Agency without any further assurance than this Act and the
11 Agency shall, subject to subsection (5) of this section, deposit the money
12 received into the Confiscation and Forfeiture Account.

13 (5) The Agency may, before depositing the money into the
14 Confiscation and Forfeiture Account with proceeds of a disposal or money
15 in accordance with subsections (3) and (4) of this section, apply any amount
16 received to the payment of its costs.

17 53.-(1) A person who, without due authorisation by the Agency,
18 deals with, sells or otherwise disposes of any property or assets which is the
19 subject of a forfeiture order commits an offence and is liable on conviction to
20 imprisonment for a term of five years without the option of a fine and shall
21 pay over to the Agency for deposit into the Confiscation and Forfeiture
22 Account, the proceeds of the sale, dealing or disposal together with any
23 accrued interest.

Unauthorised
dealing in forfeited
property

24 (2) A manager or person in control of the head office or branch of a
25 bank, or any other person who fails to pay over to the Agency any money in
26 an account as required under section 52 (3) of this Act, on the service of a
27 forfeiture order commits an offence and is liable on conviction to
28 imprisonment for a term of three years, without the option of a fine.

29 54.-(1) A Court that made a forfeiture order, or that is hearing or is
30 to hear an application for a forfeiture order, may make an order excluding a

Making exclusion
orders

1 specified interest in the property from forfeiture where:
2 (a) a person makes an application for the exclusion order;
3 (b) the application for the forfeiture order specifies the property in
4 which the applicant has an interest; and
5 (c) the Court is satisfied that the applicant's interest in the property is
6 not the proceeds or instrumentality of an offence to which the order or
7 forfeiture application relates.

8 (2) The Court shall in the exclusion order:
9 (a) specify the nature, extent and value at the time of making the order
10 of the interest concerned;

11 (b) direct that the interest be excluded from the operation of the
12 relevant forfeiture order;

13 (c) direct the Agency to transfer the interest to the applicant, where the
14 interest has vested, in law or equity, in the Federal Government and is yet to be
15 disposed of; and

16 (d) direct the Agency to pay the applicant an amount equal to the value
17 specified under paragraph (a) of this subsection, where the interest has vested,
18 in law or equity, in the Federal Government under this Act and has been
19 disposed of.

Application for
exclusion orders

20 55.-(1) A person who claims an interest in any property that:

21 (a) he reasonably believes may be specified in a forfeiture order
22 which has been applied for, but yet to be made, may apply to the Court before
23 which the application for a forfeiture order was made for an exclusion order; or

24 (b) is specified in a forfeiture order may, at any time after the
25 forfeiture order is made, apply to the Court that made the forfeiture order for an
26 exclusion order.

27 (2) Except with the leave of Court, a person shall not apply for an
28 exclusion order where he:

29 (a) was notified of the application for the forfeiture order, but failed to
30 appear at the hearing of that application; or

1 (b) appeared at the hearing of that application but failed to apply for
2 an exclusion order.

3 (3) The Court may grant leave to a person to apply for exclusion
4 order where the Court is satisfied that:

5 (a) in the case of subsection (2) (a) of this section, the person had
6 good reason for not appearing; or

7 (b) in the case of subsection (2) (b) of this section, the person now
8 has evidence relevant to his application that was not available to him at the
9 time of the hearing; or

10 (c) there are other special grounds for granting the leave.

11 **56.**-(1) An applicant for an exclusion order shall give written notice
12 to the relevant organisation or an authorised officer of both the application
13 and the grounds on which the order is sought.

Giving notice of
matters relevant
to an application

14 (2) The relevant organisation or an authorised officer may appear
15 and adduce evidence at the hearing of the application.

16 **57.** Where under this Act the Court is required to make a forfeiture
17 order in respect of an instrumentality of an offence, the Court may make an
18 order forfeiting:

Order forfeiting
instrumentalities
of an offence

19 (a) a means of conveyance, including an aircraft, a vehicle or
20 vessel, used or intended to be used to transport or facilitate the
21 transportation, sale, receipt, possession of the proceeds of crime or other
22 instrumentality, or for the concealment of an offence, but a means of
23 conveyance shall not be forfeited under this section:

24 (i) where it is used by its owner as a common carrier in the
25 transaction of his business unless the owner or other person in charge of the
26 means of conveyance consented to or was privy to the commission of the
27 offence,

28 (ii) by reason of any offence established by its owner to have been
29 committed by any other person while the means of conveyance was
30 unlawfully in the possession of a person other than the owner in violation of

1 the criminal laws of Nigeria, and
2 (iii) by reason of any offence established by the owner to have been
3 committed without his knowledge, consent or wilful connivance;

4 (b) books, records, research materials, and data used or intended to be
5 used in the furtherance of any criminal activity;

6 (c) moneys, negotiable instruments, securities or other things of value
7 furnished or intended to be furnished by any person in exchange for any illegal
8 act or all proceeds traceable to the exchange, and all monies, negotiable
9 instruments, securities and other things used or intended to be used to facilitate
10 any criminal activity; or

11 (d) real property, including any right, title or any interest, including
12 any leasehold interest, in land or part of a land and any improvement or
13 appurtenance which is used or intended to be used, in any manner to commit, or
14 facilitate any criminal activity.

Notice of discharge
of a forfeiture
order

15 **58.-(1)** Where in relation to a particular property, a forfeiture order
16 that covered that property is discharged by the Court hearing an appeal against
17 the making of the order, the relevant organisation or an authorised officer shall,
18 within such period as may be specified by the Court, give written notice of the
19 discharge to the Agency and any person the relevant organisation or an
20 authorised officer reasonably believes may have had an interest in that property
21 immediately before the order was made.

22 (2) The relevant organisation or an authorised officer shall, where
23 required by a Court, give or publish notice of the discharge to a specified
24 person or class of persons.

25 (3) The Court may also specify the time and manner in which the
26 notice is to be given or published.

27 (4) A notice given under this section shall include a statement to the
28 effect that a person claiming to have had an interest in that property may apply
29 for the transfer of the interest, or its value, to any person.

1 PART IV - INVESTIGATION SEARCH AND SEIZURE

2 59. The objectives of this Part are to:

Objectives of
this Part

3 (a) safeguard the constitutional and individual's right to privacy;

4 (b) provide relevant organisations and the Agency with
5 investigative tools, including tools relating to:

6 (i) establishing the whereabouts and extent of a person's realisable
7 assets,

8 (ii) identifying property or instrumentalities that may be subject to
9 forfeiture,

10 (iii) a detained cash investigation,

11 (iv) a money laundering investigation, and

12 (v) a civil recovery investigation.

13 60.-(1) This Part applies to all relevant organisations and the
14 Agency, as the case may be, in the conduct of investigations, searches, and
15 seizures in connection with the recovery of proceeds of criminal activities
16 under this Act and the applicable Acts.

Application of
this Part

17 (2) Notwithstanding the provisions of any other applicable Act, a
18 relevant organisation and the Agency, as the case may be, shall comply with
19 the provisions of this Part in the conduct of the matters referred to in
20 subsection (1) of this Act.

21 (3) For the purpose of this Part a:

22 (a) "forfeiture investigation" is an investigation into whether
23 property constitutes or is derived from the proceeds of a criminal activity or
24 is the instrumentality of an offence;

25 (b) "confiscation investigation" is an investigation into whether a
26 person has benefited from a criminal activity;

27 (c) "detained cash investigation" is an investigation contemplated
28 in Section 45 of the Civil Forfeiture and Management of the Proceeds of
29 Crimes Act;

30 (d) "money laundering investigation" is an investigation within the

1 provisions of the Money Laundering (Prohibition) Act; and
2 (e) civil recovery investigation is an investigation under the Civil
3 Forfeiture and Management of the Proceeds of Crimes Act.

Making
production orders

4 **61.**-(1) The Court may, on an ex-parte application made to it by an
5 authorised officer of relevant organisation or the Agency, as the case may be,
6 make an order requiring the production of specified material within a specified
7 period, if the Court is satisfied that each of the requirements for the making of
8 the order is fulfilled.

Application for
a production order

9 **62.**-(1) The application for the order shall state that a person specified
10 in the application is subject to:

- 11 (a) a confiscation investigation;
- 12 (b) a forfeiture investigation;
- 13 (c) a detained cash investigation as contemplated in Part V of the
14 Civil Forfeiture and Management of the Proceeds of Crimes Act;
- 15 (d) a money laundering investigation;
- 16 (e) a civil recovery investigation as contemplated in Part III of the
17 Civil Forfeiture and Management of the Proceeds of Crimes Act

18 (2) An application for a production order shall confirm that:

- 19 (a) the order is sought for the purposes of investigation ;
- 20 (b) the order is sought in relation to material, or material of a
21 description, specified in the application;
- 22 (c) a person specified in the application appears to be in possession or
23 control of the material; and
- 24 (d) the material sought for is not subject to legal privilege.

25 (3) In consideration of legal privilege or any other claimed client
26 privilege, the following items shall not be subject to that privilege:

- 27 (a) any material in relation to:
 - 28 (i) the purchase or sale of property,
 - 29 (ii) the purchase or sale of any business,
 - 30 (iii) the purchase or sale of any high-value item,

- 1 (iv) any investment,
- 2 (v) any matter concerning the payment of any tax,
- 3 (vi) any matter concerning the transfer of any funds whatsoever,
- 4 (vii) any client account,
- 5 (viii) the formation or conduct of any trust,
- 6 (ix) any paid fees or retainer fees, and
- 7 (x) anything produced in the furtherance of any criminal activity.
- 8 (4) There shall be reasonable grounds for suspecting that in the
- 9 case of a:
- 10 (a) confiscation investigation, the person the application for the
- 11 order specifies as being subject to the investigation has benefited from his
- 12 criminal activity;
- 13 (b) forfeiture investigation the person the application for the order
- 14 specifies as being subject to the investigation has, or has control of the
- 15 proceeds of unlawful activity or an instrumentality;
- 16 (c) a detained cash investigation into the intended use of cash, the
- 17 property the application for the order specifies as being subject to the
- 18 investigation, or a part of it:
- 19 (i) is intended by any person to be used in criminal conduct, or
- 20 (ii) is, or represents the proceeds of criminal activity; and
- 21 (d) a money laundering investigation, the person specified in the
- 22 application for the order as being subject to the investigation has committed
- 23 a money laundering offence;
- 24 (e) civil recovery investigation, the person mentioned in the
- 25 application has or has control of property that:
- 26 (i) is the proceeds of unlawful activity;
- 27 (ii) represents the proceeds of unlawful activity;
- 28 (iii) is involved in the facilitation of unlawful activity; or
- 29 (iv) is intended to be used to facilitate unlawful activity.
- 30 (5) There shall be reasonable grounds for believing that:

1 (a) the person the application specifies as appearing to be in
2 possession or control of the material so specified is in possession or control of
3 it;

4 (b) the material is likely to be of substantial value, whether or not by
5 itself, to the investigation for the purposes of which the order is sought;

6 (c) it is in the public interest for the material to be produced or for
7 access to it to be given, having regard to:

8 (i) the benefit likely to accrue to the investigation if the material is
9 obtained, and

10 (ii) the circumstances under which the person the application
11 specifies as appearing to be in possession or control of the material holds it.

12 (6) An application for a production order may be made to a Judge in
13 Chambers.

Access to
material sought

14 **63.-(1)** A production order is an order either requiring:

15 (a) the person specified in the application as appearing to be in
16 possession or control of the material to produce the material to an authorised
17 officer for him to take away; or

18 (b) the person mentioned in paragraph (a) to give an authorised officer
19 access to the material within the period stated in the order.

20 (2) The period stated in a production order may be a period of seven
21 days beginning on the day on which the order is made, except it appears to the
22 Court making the order that a longer or shorter period may be appropriate in the
23 particular circumstances.

24 (3) A matter to which the Court shall have regard for the purposes of
25 deciding whether an earlier time is appropriate under subsection (2) of this
26 section are:

27 (a) the urgency of the situation; and

28 (b) any hardship that may be caused to the person required by the
29 production order to produce documents or make documents available.

1 64. A production order shall: Contents of
production orders
2 (a) specify the form and manner in which the documents are to be
3 produced; and
4 (b) set out the purpose for which the production order is sought.

5 65. An authorised officer may inspect, take extracts from, or make: Power under
production orders
6 copies of a document produced or made available under a production order.

7 66.-(1) The an authorised officer of a relevant organisation or the retaining produced
documents
8 Agency, as the case may be, may retain a document produced under a
9 production order for as long as is necessary for the purposes of this Act.

10 (2) The person to whom a production order is given may require the
11 relevant organisation or an authorised officer or the Agency, as the case may
12 be, to:
13 (a) certify in writing a copy of the document retained to be a true
14 copy and give the person the copy; or
15 (b) allow the person to:
16 (i) inspect the document,
17 (ii) take extracts from the document, and
18 (iii) make copies of the document.

19 67.-(1) A production order may be made in relation to material in Documents in
possession, etc.
of a Ministry,
Department or
agency of
Government
20 the possession or control of a Ministry, Department or agency of
21 Government.
22 (2) A production order:
23 (a) so made may require any officer of the Ministry, Department or
24 agency of Government, whether named in the order or not, who may for the
25 time being be in possession or control of the material to comply with it; and
26 (b) containing the requirement referred to in paragraph (a) shall be
27 served as if the proceedings were civil proceedings against the Ministry,
28 Department or agency of Government.
29 (3) Where a production order contains the requirement referred to
30 in subsection (2) (a) of this section:

1 (a) the person on whom it is served shall take all reasonable steps to
2 bring it to the attention of the officer concerned; or

3 (b) any other officer of the Ministry, Department or agency of
4 Government who is in receipt of the order shall take all reasonable steps to
5 bring it to the attention of the officer concerned.

6 (4) Where the production order is not brought to the attention of the
7 officer concerned within the period stated in the order, the person on whom it is
8 served shall report the reasons for the failure to the Court that issued the order.

Computer
information and
other electronic
storage devices

9 **68.**-(1) This section applies where any of the material specified in an
10 application for a production order consists of information contained in a
11 computer and other electronic storage devices.

12 (2) Where an order requires a person to produce a material to an
13 authorised officer for him to take away, it has effect as an order to produce the
14 material in a form in which it can be taken away by him and in which it is visible
15 and legible.

16 (3) Where an order requires a person to give an appropriate officer
17 access to a material, it has effect as an order to give the officer access to the
18 material in a form in which it is visible and legible.

Prohibition of
privilege against
self-incrimination

19 **69.** A person shall not be excused from producing a document or
20 making a document available under a production order on the ground that:

21 (a) to do so may tend to incriminate or expose the person to a penalty;

22 (b) producing the document or making it available may breach an
23 obligation, whether imposed by an enactment or otherwise, of the person not to
24 disclose the existence or contents of the document.

Making false
statements in
application

25 **70.** A person who in connection with an application for a production
26 order makes a statement which:

27 (a) is deliberately false or misleading, or

28 (b) deliberately omits any matter or thing without which the statement
29 is misleading, commits an offence and is liable on conviction to a fine of at least
30 two hundred and fifty thousand naira or an imprisonment for a term of at least

1 twelve months or to both the fine and imprisonment.

2 71.-(1) This section shall apply where the Court makes a Order to grant
3 production order requiring a person to give an authorised officer access to entry
4 the material on any premises.

5 (2) The Court may, on an application made to it by an authorised
6 officer and specifying the premises, make an order to grant entry in relation
7 to the premises.

8 (3) The order to grant entry under this section, is an order requiring
9 any person who appears to an authorised officer to be entitled to grant entry
10 to a premises, to allow the authorised officer enter the premises to obtain
11 access to the material.

12 72.-(1) This section applies if a person knows or suspects that the Actions detrimental
13 relevant organisation or an authorised officer or the Agency, as the case may to an investigation
14 be, is acting or proposing to act, in connection with:

- 15 (a) a confiscation investigation,
16 (b) a forfeiture investigation,
17 (c) a civil recovery investigation,
18 (d) a detained cash investigation, or
19 (e) a civil recovery investigation.

20 (2) The person commits an offence if:

21 (a) he makes a disclosure which is likely to prejudice the
22 investigation, or

23 (b) he falsifies, conceals, destroys or otherwise disposes of, or
24 causes or permits the falsification, concealment, destruction or disposal of,
25 documents which are relevant to the investigation.

26 (3) A person does not commit an offence under subsection (2)(a) of
27 this section if:

28 (a) he does not know or suspect that the disclosure is likely to
29 prejudice the investigation, (b) the disclosure is made in the exercise in
30 compliance with a requirement imposed under or by virtue of:

1 (i) this Act,
2 (ii) the Money Laundering (Prohibition) Act, or
3 (iii) the Terrorism (Prevention) Act;
4 (c) he is a legal practitioner and the disclosure falls within subsection
5 (4) of this section.

6 (4) A disclosure falls within this subsection if it is a disclosure:
7 (a) to, or to a representative of, a client of the legal practitioner in
8 connection with the giving legal advice to the client, or
9 (b) to any person in connection with legal proceedings or
10 contemplated legal proceedings.

11 (5) A disclosure does not fall within subsection (4) of this section if it
12 is made with the intention of furthering a criminal purpose.

13 (6) Legal proceedings or contemplated legal proceedings do not
14 include any proceedings in connection with any matter mentioned in section 62
15 (3)(a) of this Act.

16 (7) A person does not commit an offence under subsection (2)(b) of
17 this section if:

18 (a) he does not know or suspect that the documents are relevant to the
19 investigation, or

20 (b) he does not intend to conceal any facts disclosed by the documents
21 from any authorised officer carrying out the investigation.

22 (8) A person who commits an offence under subsection (2) of this
23 section is liable on conviction a fine not less than two million naira or
24 imprisonment for a term not exceeding five years or to both the fine and
25 imprisonment.

Search and
seizure warrants

26 73.-(1) The Court may, on an ex-parte application made to it by an
27 authorised officer of a relevant organisation or the Agency, as the case may be,
28 issue a search and seizure warrant where it is satisfied that each of the
29 requirements for the making the order is fulfilled.

30 (2) The requirements for the issue of a search and seizure warrant

1 under subsection (1) of this section are that:

2 (a) the requirements for the issue of a production order under
3 section 61 of this Act are satisfied;

4 (b) an investigation as specified in section 62 of this Act is being
5 conducted;

6 (c) there are reasonable grounds to believe that there is on the
7 premises:

8 (i) material likely to be of substantial value, by itself or together
9 with other material, to the investigation,

10 (ii) material relating to a specified person which is likely to be of
11 substantial value, whether by itself or together with other material, to the
12 investigation, but that the material cannot at the time of the application be
13 particularised,

14 (iii) property forming or derived from the proceeds of unlawful
15 activity, or

16 (iv) an instrumentality of an offence, which may be destroyed or
17 dissipated unless an authorised officer can secure immediate access to the
18 premises in order to preserve the property;

19 (d) a production order made under section 61 of this Act in relation
20 to material held on the premises has not been complied with; or

21 (e) it may not be practicable to make an order under section 61 of
22 this Act in relation to the material sought because:

23 (i) it is not practicable to communicate with any person entitled to
24 produce the material,

25 (ii) it is not practicable to communicate with any person entitled to
26 grant entry to the premises,

27 (iii) it is not practicable to communicate with any person entitled to
28 grant access to the material,

29 (iv) the investigation might be seriously prejudiced except an
30 authorised officer is able to secure immediate access to the material, or

1 (v) entry into the premises will not be granted except a warrant is
2 produced.

3 (3) A search and seizure warrant shall not confer the right to seize
4 material that is subject to legal privilege.

5 (4) In considering legal privilege, the items listed in section 62 of this
6 Act shall not be entitled to that privilege under this section.

7 (5) Where an authorised officer has entered premises in execution of a
8 warrant issued under this section, he may:

9 (a) seize and retain any material, other than an item subject to legal
10 privilege which is likely to be of substantial value, whether by itself or together
11 with other material, to the investigation;

12 (b) make a photographic or video record of the premises and its
13 contents;

14 (c) inspect, make copies of, take extracts from any book, record or
15 document;

16 (d) search any person who is in or on the premises, and for the purpose
17 of the search, detain the person and remove him to such place as may be
18 necessary to facilitate the search, and seize and detain any article found on him;

19 (e) stop, search and seize any vehicle or conveyance.

20 (6) A search warrant issued under this Part shall authorise a person
21 named in the warrant and any accompanying person to:

22 (a) enter the premises or any part of the premises by force where
23 necessary;

24 (b) detain any person found in or on any premises or in any
25 conveyance for the purpose of the search; and

26 (c) search for and seize any property under the direction of the
27 authorised officer in charge of the search.

28 (7) A person shall not be searched under this Act except by a person
29 who is of the same gender as the person to be searched.

30 (8) A warrant may authorise persons to accompany any authorised

1 officer who is executing it.

2 (9) An accompanying person under subsection (8) of this section
3 has the same powers as the officer whom he accompanies in respect of:

4 (a) the execution of the warrant; and

5 (b) the seizure of anything to which the warrant relates, provided
6 that he may exercise those powers only in the company and under the
7 supervision of an authorised officer.

8 (10) A copy of a search warrant together with the details of the
9 persons conducting the search shall be handed to the person who appears to
10 be in charge of the premises or left in a conspicuous place where the
11 premises is unattended.

12 74.- (1) Where, in the course of an investigation mentioned in Seizure of property
13 section 62 of this section, the relevant organisation or an authorised officer
14 or the Agency, as the case may be, has reasonable grounds to suspect that any
15 movable or immovable property is:

16 (a) material which is mentioned in section 73 (2)(c) (i) and (ii) of
17 this Act;

18 (b) property which is mentioned in section 73 (2)(c) (iii) of this Act;

19 (c) an instrumentality which is mentioned in section 73 (2) (c) (iv)
20 of this Act, he shall seize the property.

21 (2) A list of all movable or immovable property seized under
22 subsection (1) of this section and the location where the property was
23 discovered is prepared and signed by the officer effecting the seizure.

24 (3) A copy of the list referred to in subsection (2) of this section is
25 served as soon as possible, on the owner of the property and on the person
26 from whom the property was seized, if not the owner.

27 (4) Where it is not practicable or desirable to remove seized
28 property, it may be left in the custody of the person from whom it is seized
29 subject to an undertaking that the property is surrendered to the Agency on
30 demand.

1 (5) A person who has committed to an undertaking within the
2 provisions of subsection (4) of this section shall remain committed to that
3 undertaking until:

4 (a) notified in writing by the Agency or person authorised by the
5 Agency that he is relieved of the commitment; or

6 (b) he is served with a notice of a restraint order under section 10 of
7 this Act in connection with the property.

8 (6) Any person who commits to an undertaking within the provisions
9 of subsection (4) of this section commits an offence where he fails to surrender,
10 on demand, property subject to the undertaking or fails to comply with any
11 term or condition imposed under that subsection.

12 (7) A person who commits an offence under subsection (6) of this
13 section shall on conviction be liable to a fine of at least three times the value of
14 the property subject to the undertaking or a term of imprisonment of at least two
15 years or both the fine and imprisonment.

Retention of seized
property
PLEASE CHECK
FOR ME

16 75.-(1) Where any property is seized under this Act, the seizure is
17 effected by removing the property from the custody or control of the person
18 from whom it is seized and placing it under the custody of the Agency or such
19 person or authority as the Agency may determine.

20 (2) Notwithstanding subsection (1) of this section where property is
21 seized that is required for evidential purposes and it is or is likely to be:

22 (a) realisable property; or

23 (b) forfeited property, it may, subject to subsection (3) of this section,
24 be retained by the relevant organisation until the conclusion of proceedings.

25 (3) The relevant organisation that retains evidential property by virtue
26 of subsection (2) of this section shall inform the Agency of the retention where
27 the value of the retained property exceeds one hundred and fifty thousand
28 Naira (IS THIS OK?)

29 (4) Property of the type described in subsection (2) of this section
30 whose value exceeds the value mentioned in subsection (3) of this section

1 should not be retained by a relevant organisation unless a description or a
2 photograph of the property will not suffice.

3 76. A person who:

4 (a) refuses an authorised officer access to any premises, or fails to
5 submit to a search by a person authorised to search him under this Act;

6 (b) assaults or obstructs any authorised officer or any
7 accompanying person mentioned in section 73 (6) of this Act in the
8 execution of the search and seizure warrant;

9 (c) conceals or attempts to conceal from, an authorised officer or
10 any accompanying person mentioned in section 73 (6) of this Act any book,
11 document, or article, in relation to which the officer has reasonable ground
12 for suspecting or believing that an offence under an applicable Act has been
13 or is being committed, or which is liable to seizure under this Act;

14 (d) rescues or endeavours to rescue or causes to be rescued any
15 person who has been duly arrested or anything which has been duly seized;

16 (e) destroys anything to prevent its seizure or securing of the thing,
17 commits an offence and is liable on conviction to a term of imprisonment of
18 not less than two years without the option of a fine.

19 77.-(1) The Court may, on an application made to it by an
20 authorised officer of a relevant organisation or the Agency, as the case may
21 be make a customer information order if it is satisfied that each of the
22 conditions for making of the order is fulfilled.

23 (2) The conditions for the issue of a customer information order are
24 that:

25 (a) a person specified in the application is subject to an
26 investigation of the type specified in section 62 of this Act;

27 (b) that a specified person has:

28 (i) property constituting or derived from the proceeds of a criminal
29 activity, or

30 (ii) derived a benefit from criminal activity;

Obstructing the
execution of a
search and seizure
warrant

Customer
information orders

- 1 (c) the person named in the application for the order is subject to:
- 2 (i) a money laundering investigation within the provisions of the
- 3 Money Laundering (Prohibition) Act, or
- 4 (ii) a terrorist financing investigation under the Terrorism
- 5 (Prevention) Act;
- 6 (d) the person specified in the application holds all or some of the
- 7 property mentioned in subsection (2)(b) of this section;
- 8 (e) in the case of a money laundering investigation, there are
- 9 reasonable grounds for suspecting that the person specified in the application
- 10 for the order has committed a money laundering offence;
- 11 (f) in the case of a terrorism financing investigation, there are
- 12 reasonable grounds for suspecting that the person specified in the application
- 13 for the order has committed a terrorism financing offence;
- 14 (g) in the case of any investigation, there are reasonable grounds for
- 15 believing that customer information which may be provided in compliance
- 16 with the order is likely to be of substantial value, whether or not by itself, to the
- 17 investigation for the purposes of which the order is sought;
- 18 (h) that the material is sought for the purpose of the investigation; and
- 19 (i) the order is sought against the financial institution or financial
- 20 institutions specified in the application.
- 21 (3) An application for a customer information order may specify:
- 22 (a) all financial institutions;
- 23 (b) a particular description or descriptions of financial institutions; or
- 24 (c) a particular financial institution.
- 25 (4) A "customer information order" is an order that a financial
- 26 institution covered by the application for the order shall, on being required to
- 27 do so by notice in writing given by the authorised officer of a relevant
- 28 organisation or the Agency provide any such customer information as it has
- 29 relating to the person specified in the application.
- 30 (5) A financial institution, which is required to provide information

1 under a customer information order, shall provide the information to the an
2 authorised officer of a relevant organisation or the Agency, in such manne
3 and at or by such time, as may be required by the authorised officer.

4 (6) Where a financial institution on which a requirement is
5 imposed by a notice given under a customer information order requires the
6 production of evidence of authority to give the notice, the financial
7 institution is not bound to comply with the requirement unless evidence of
8 the authority has been produced to it.

9 78.-(1) "Customer information", in relation to a person and a
10 financial institution, is information whether the person holds, or has held, an
11 account at the financial institution, whether solely or jointly with anothe
12 and, if so, information as to the matters referred to in:

Meaning of
customer information

13 (a) subsection (2) of this section, where the person is an individual;
14 (b) subsection (3) of this section, where the person is a company o
15 limited liability partnership or a similar body whether incorporated o
16 otherwise established within Nigeria or elsewhere.

17 (2) The matters referred to in subsection (1)(a) of this section are:

18 (a) the account number or numbers;
19 (b) the person's full name;
20 (c) his date of birth;
21 (d) his most recent address and any previous addresses;
22 (e) the date on which he began to hold the account and, where he
23 has ceased to hold the account, the date on which he did so;
24 (f) any evidence of his identity as was obtained by the financial
25 institution under or for the purposes of any legislation relating to mone
26 laundering;
27 (g) the full name, date of birth and most recent address; and any
28 previous addresses, of any person who holds, or has held, an account at the
29 financial institution jointly with him; and

30 (h) the account number of any other account held at the financial

1 institution to which he is a signatory and details of the person holding the other
2 account.

3 (3) The matters referred to in subsection (1)(b) of this section are:

4 (a) the account number;

5 (b) the person's full name;

6 (c) a description of any business which the person carries on;

7 (d) the country or territory in which it is incorporated or otherwise
8 established and any number allocated to it by virtue of relevant legislation;

9 (e) any number assigned to it for the purposes of value added tax in
10 Nigeria;

11 (f) its registered office and any previous registered offices, whether in
12 Nigeria or elsewhere;

13 (g) the date on which it began to hold the account and, where it has
14 ceased to hold the account, the date on which it did so;

15 (h) evidence of its identity as was obtained by the financial institution
16 under or for the purposes of any legislation relating to money laundering or
17 terrorist financing; and

18 (i) the full name, date of birth and most recent address and any
19 previous addresses of any person who is a signatory to the account.

Penalties

20 79.-(1) A financial institution who without reasonable excuse fails to
21 comply with a requirement imposed on it under a customer information order,
22 commits an offence under this Act and is liable on conviction to a fine of not
23 less than ten million naira.

24 (2) Where in compliance with a customer information order, a
25 financial institution:

26 (a) makes a statement which it knows to be false or misleading in a
27 material particular; or

28 (b) recklessly makes a statement which is false or misleading in a
29 material particular, the financial institution commits an offence and is liable on
30 conviction to a fine of not less than ten million naira.

1 80.-(1) A customer information order has effect in spite of any
2 restriction on the disclosure of information, however imposed.

Supplementary
provisions relating
to customer
information orders

3 (2) An application for a customer information order may be made
4 ex-parte to a Judge in Chambers.

5 (3) An application to discharge or vary a customer information
6 order may be made to the Court by:

7 (a) an authorised officer of a relevant organisation or the Agency

8 (b) the person affected by the order.

9 (4) On application by a person mentioned in subsection (3) of this
10 section, the Court may vary or discharge the order.

11 (5) The officer who applied for a customer information order need
12 not be the same officer who makes an application to discharge or vary the
13 order.

14 (6) The authorised officer shall not make an application for a
15 customer information order or an application to vary the order unless
16 authorised in writing to do so by the:

17 (a) chief executive of the relevant organisation; or

18 (b) the Director-General of the Agency in cases being dealt with by
19 the Agency.

20 81.-(1) The Court may, on an application made to it by an
21 authorised officer of a relevant organisation or the Agency, make an account
22 monitoring order where it is satisfied that each of the conditions for making
23 the order is fulfilled.

Account
monitoring orders

24 (2) The conditions for making the order are that:

25 (a) a person specified in the application is subject to an
26 investigation of the type specified in section 62 of this Act;

27 (b) a specified person has:

28 (i) property constituting or derived from the proceeds of an
29 criminal activity, or

30 (ii) derived a benefit from criminal activity;

1 (c) the person named in the application for the order is subject to:

2 (i) a money laundering investigation within the provisions of the
3 Money Laundering (Prohibition) Act, or

4 (ii) a terrorism financing investigation under the Terrorism
5 (Prevention) Act;

6 (d) the person specified in the application holds all or some of the
7 property mentioned in subsection (2) (b) of this section;

8 (e) in the case of a money laundering investigation, there are
9 reasonable grounds for suspecting that the person specified in the application
10 for the order has committed a money laundering offence;

11 (f) in the case of a terrorism financing investigation, there are
12 reasonable grounds for suspecting that the person specified in the application
13 for the order has committed a terrorism financing offence;

14 (g) in the case of any investigation, there are reasonable grounds for
15 believing that customer information which may be provided in compliance
16 with the order is likely to be of substantial value, whether or not by itself, to the
17 investigation for the purposes of which the order is sought; and

18 (h) the information is sought for the purpose of the investigation.

Meaning of account
information and
monitoring orders

19 82.-(1) "Account information" is information relating to an account
20 held at the financial institution specified in the application by the person so
21 specified, whether solely or jointly with another person.

22 (2) The application for an account monitoring order may specify
23 information relating to:

24 (a) all accounts held by the person specified in the application for the
25 order at the financial institution so specified;

26 (b) a particular description or descriptions of accounts so held; or

27 (c) a particular account, so held.

28 (3) "An account monitoring order" is an order that the financial
29 institution specified in the application for the order shall, for the period stated
30 in the order, provide account information of the description specified in the

1 order to the authorised officer of a relevant organisation or the Agency in the
2 manner, and at or by the time, stated in the order.

3 (4) The period stated in an account monitoring order shall not
4 exceed the period of ninety days commencing from the day the order is
5 made.

6 (5) Nothing in subsection (4) of this section shall prevent further
7 applications for account monitoring orders in respect of accounts that have
8 been subject to previous account monitoring orders from being made.

9 33.-(1) An account monitoring order has effect in spite of any
10 restriction on the disclosure of information.

Supplementary
provisions relating
to account
monitoring orders

11 (2) An application for an account monitoring order may be made
12 ex-parte to a Judge in Chambers.

13 (3) An application to discharge or vary an account monitoring
14 order may be made to the Court by:

- 15 (a) an authorised officer of a relevant organisation or the Agency
16 (b) the person affected by the order.
17 (c) a person affected by the order.

18 (4) On application by a person mentioned in subsection (3) of this
19 section, the Court may vary or discharge the order.

20 (5) The officer who applied for an account monitoring order need
21 not be the same officer who makes an application to discharge or vary the
22 order.

23 (6) The authorised officer shall not make an application for a
24 customer information order or an application to vary the order unless
25 authorised in writing to do so by the:

- 26 (a) chief executive of the relevant organisation; or
27 (b) the Director-General of the Agency in cases being dealt with by
28 the Agency.

1 PART V - GENERAL PROVISIONS RELATING TO LEGAL PROCEEDINGS

Objectives of
this Part

2 **84.** The objectives of this Part are to:
3 (a) specify that proceedings under this Act are civil in nature;
4 (b) set out the standard of proof required in this Act;
5 (c) specify the appeals procedure; and
6 (d) provide for the publication of notices and documents required to
7 be issued under this Act.

Nature of
proceedings under
Parts II, III and IV
of this Act

8 **85.**-(1) For the purpose of Parts II and III of this Act, proceedings on
9 an application for a restraint order, confiscation order, freezing order, forfeiture
10 order or for any other order under this Act are civil proceedings, and not
11 criminal proceedings.

12 (2) Accordingly, in proceedings an application for an order specified
13 under subsection (1) of this section:

- 14 (a) the rules of evidence applicable in civil proceedings apply;
15 (b) the rules of evidence or construction applicable only in criminal
16 proceedings shall not apply;
17 (c) rule of law or practice relating to hearsay evidence, given in
18 furtherance of the proceeding is admissible; and
19 (d) any question of fact to be decided by the Court in respect of the
20 proceedings shall be decided on a balance of probabilities.

Jurisdiction

21 **86.** The Federal High Court, the High Court of a State and of the
22 Federal Capital Territory, Abuja have jurisdiction with respect to matters
23 arising under this Act.

Onus and
standard of proof

24 **87.**-(1) Subject to the provisions of this Act, the applicant in any
25 proceedings under this Act bears the onus of proving the matters necessary to
26 establish the grounds for making the order applied for.

27 (2) A question of fact to be decided by the Court in any proceedings
28 for the recovery of proceeds of criminal activity under this Act shall be decided
29 on the balance of probabilities.

1 88.-(1) An application for stay of proceedings in respect of any Stay of proceedings
2 matter brought under this Act shall not be entertained except at the stage of
3 final judgement on the substantive matter.

4 (2) The fact that criminal proceedings have been instituted or have
5 commenced, whether or not under this Act, shall not constitute a ground for
6 stay of proceedings under this Act.

7 89.-(1) A person:

Appeals against
a confiscation or
forfeiture order

8 (a) against whom a confiscation order is made; or

9 (b) who has an interest in a property against which a forfeiture
10 order is made, may appeal against the confiscation order or forfeiture order
11 in the manner set out in this section.

12 (2) A person against whom a confiscation order or forfeiture order
13 was made in relation to a conviction for an offence may appeal against the
14 order as if it were an appeal against sentence in respect of the offence.

15 (3) A person may appeal against any order made under this Act,
16 other than those referred to in subsection (2) of this section, where the:

17 (a) person had been convicted of the offence to which the order
18 relates; and

19 (b) order relates to the sentence imposed on the person in respect of
20 the offence.

21 (4) The relevant organisation or the Agency has the same right of
22 appeal as a person under this section in respect of the grant or refusal of an
23 order under this Act.

24 (5) This section does not affect any other right of appeal conferred
25 on a person under the Constitution of the Federal Republic of Nigeria or any
26 other law.

27 90.-(1) A property may be subject to the effective control of a Property under
28 person whether or not the person has a: effective control

29 (a) legal, an equitable or other interest in the property; or

30 (b) right, power or privilege in connection with the property.

1 (2) Any property that is held on trust for the ultimate benefit of a
2 person is deemed to be under the effective control of the person.

3 (3) In determining whether or not a property is subject to the effective
4 control of a person:

5 (a) the effect of any order made in relation to the property under this
6 Act shall be disregarded;

7 (b) regard may be had to:

8 (i) shareholdings in, debentures over or directorships of a company
9 that has an interest, whether direct or indirect, in the property,

10 (ii) a trust that has a relationship to the property, and

11 (iii) family, domestic and business relationships between persons
12 having an interest in the property, or in companies of the kind referred to in sub-
13 paragraph (i) of this paragraph or trusts of the kind referred to in sub-paragraph
14 (ii), and other persons.

15 (4) For the purpose of this section, family relationships include the
16 relationship:

17 (a) between spouses or arising from co-habitation;

18 (b) of child and parent that arise as a result of the definition of a child
19 in section 95 of this Act; and

20 (c) traced through relationships mentioned in paragraph (a) and (b) of
21 this subsection.

22 (5) Property may be subject to the effective control of more than one
23 person.

Publication of
notice, etc.

24 91. Where, in this Act or its regulations, a notice or other document is
25 required by virtue of any provision to be published, it is sufficient if the notice
26 or other document is published in the Federal Government Gazette or two
27 widely circulating national newspapers in Nigeria.

Inconsistency
with applicable
Acts

28 92. Subject to the provisions of the Constitution of the Federal
29 Republic of Nigeria, where a provision of this Act is inconsistent with a
30 provision of an applicable Act, the provision of this Act shall prevail and the

1 provision of the applicable Act shall, to the extent of the inconsistency, be
2 void.

3 PART VI - MISCELLANEOUS

4 93.-(1) The Attorney - General may make regulations as are Regulation and
5 necessary or expedient for the proper implementation of the provisions of guidelines
6 this Act and without prejudice to the generality of this section may
7 regulations:

8 (a) for the disposal or sale of any property or assets forfeited
9 pursuant to this Act;

10 (b) where a forfeiture order is revoked, for:

11 (i) returning property specified in the forfeiture order and any
12 interest therein following the discharge of a forfeiture order to a person
13 claiming an interest in the property before the order was made,

14 (ii) the person claiming or holding an interest in forfeited property
15 to buy back the interest, or

16 (iii) any other person to buy other interests in forfeited property.

17 (2) The Agency shall, with the approval of the Attorney - General,
18 issue guidelines as may be necessary for the exercise of any of the duties,
19 functions or powers under this Act.

20 94.-(1) The National Drug Law Enforcement Agency Act, Cap Consequential
21 N30, LFN 2004 is amended: amendments and
transitional
provisions

22 (a) by deleting sections 27, 28, 29 and 31 (a) of the principal Act;

23 (b) in section 32, by deleting paragraphs (c) (d) (e) and (f);

24 (c) in section 33, by deleting sections (1) (b), (2) and (3);

25 (d) in section 34 by deleting the words 'and attach all and the words'
26 and shall thereafter cause to be obtained an interim attachment order by the
27 Federal High Court';

28 (e) by deleting sections 36, 37, 38, 39, 40 and 42 in section 52, by
29 deleting the definition of the words "confiscation" and "freezing" o
30 "seizure";

- 1 (f) by deleting the Fourth Schedule.
- 2 (2) The Trafficking in Persons (Prohibition) Law Enforcement and
3 Administration Act (CAP T23 LFN 2004), as amended is further amended:
- 4 (a) by deleting sections 36 38, 39, and 40;
- 5 (b) in section 41 by deleting the words "and attach" in line 2 and the
6 words "and shall thereafter cause to be obtained an interim attachment order by
7 the Court";
- 8 (c) by deleting section 42(4);
- 9 (d) by deleting sections 43, 44, 45, 46, 47, 48 and 54 (3);
- 10 (e) in section 64, by deleting the definition of the words
11 "confiscation" and "freezing"; and
- 12 (g) in the Second Schedule, by deleting FORM 2
- 13 (3) The Corrupt Practices and other Related Offence : Act 2000 CAP
14 C31 LFN 2004:
- 15 (a) by deleting section 20: NOT YET DONE NEED COPY OF THE
16 2000 ACT;
- 17 (b) by deleting section 28(b);
- 18 (c) by deleting section 36;
- 19 (d) in section 37(1) by replacing the word 'of' after the word 'offence'
20 in line 3 replacing it with the words 'and is';
- 21 (e) in section 38(1) by inserting the words 'as evidence of an offence'
22 in line 1 after the word 'seized' ;
- 23 (f) in section 38(3) by inserting the words 'that is not subject to, or
24 likely to be subject to forfeiture proceedings within the provisions of the
25 Proceeds of Crime - Criminal Forfeiture and Confiscation Act' in line 1 after
26 the word 'property';
- 27 (g) in section 38(4) by inserting the words 'required only as evidence'
28 be inserted in line 1 after the word 'property';
- 29 (h) by deleting section 38(5);
- 30 (i) by deleting section 38(6);

1 (j) by deleting section 39, 45, 46, and 47;

2 (k) by deleting section 45;

3 (l) in section 49 by inserting the words 'as evidence' in line 1 after
4 the word 'seized'.

5 (4) The Economic and Financial Crimes Commission
6 (Establishment) Act (CAPEL FN 2004) is amended:

7 (a) in section 6 (d), by inserting the words 'restrain, forfeit' in line
8 after the word 'freeze,' in line 1;

9 (b) in section 13 (2) (c), by deleting the words 'forfeited under this
10 Act' in line 2;

11 (c) by deleting sections 20, 21, 22, 24, 25, and 26 (1) (b);

12 (d) in section 28 by deleting the words and shall thereafter cause to
13 be obtained an interim attachment order from the Court;

14 (e) by deleting section 29;

15 (f) in section 30 by deleting the words already subject to an interim
16 under this Act; and

17 (g) by deleting section 32, 33, and 34.

18 there is an opportunity to increase the penalties in all of the Acts to read "not
19 less than".

20 (4) Without prejudice to section 6 of the Interpretation Act, the
21 amendment of the Acts specified in subsections (1), (2), (3) and (4), shall not
22 affect anything done under or pursuant to the amended Acts.

23 (5) An agreement or arrangement in existence under the amended
24 Acts before the commencement of this Act shall continue to have effect
25 subject to such modifications as may be necessary to give effect to this Act.

26 (6) The provisions of subsections (1) to (5) shall commence six
27 months after the date of assent by the President.

28 **95.** In this Act:

29 "authorised officer" means a qualified person who is:

30 (a) a member of staff of the Agency designated by the Director.

Interpretation

1 General of the Agency;

2 (b) member, officer or employee of a relevant organisation; or

3 (c) any other person included in a class of persons declared by the
4 regulations to be within this definition;

5 "Attorney-General" means the Attorney-General of the Federation and
6 Minister of Justice;

7 "benefit" includes service or advantage;

8 "books" includes any account, deed, paper, writing or document and any record
9 of information however compiled, recorded or stored, whether in writing, on
10 microfilm, by electronic process or otherwise;

11 "child" means a person under the age of eighteen years;

12 "civil proceedings" refers to proceedings that are civil proceedings and are not
13 criminal proceedings "close dependant relative" means:

14 (a) the person's spouse; or

15 (b) the person's child.

16 "Confiscated and Forfeited Properties Account" means the account established
17 under The Civil Forfeiture and Management of the Proceeds of Crimes Act,
18 2019;

19 "confiscation order" means an order made under section 62 of this Act;

20 "conveyance" means a mode of transportation and includes an aircraft, a
21 vehicle and vessel;

22 "convicted" for an offence for the purpose of recovery of proceeds of criminal
23 activities means the person:

24 (a) is convicted for the offence;

25 (b) is sentenced for the offence, notwithstanding that the Court in
26 passing sentence took into account an offence of which he has not been found
27 guilty; or

28 (c) absconds in connection with the offence;

29 "Court" means the Federal High Court, the High Court of a State or of the
30 Federal Capital Territory, Abuja;

1 "criminal activity" means an act, omission or conduct which constitutes an
2 offence or which contravenes a law in force in Nigeria, whether the act,
3 omission or conduct occurred before or after the commencement of this Act
4 or where the offence is committed in a country outside Nigeria, would also
5 constitute an offence if it had been committed in Nigeria;

6 "criminal enterprise" means participation, either solely or jointly with
7 others, in any criminal activity;

8 "data" includes:

9 (a) information in any form; and

10 (b) any programme or part of a programme;

11 "data held in a computer" includes data held in:

12 (a) any removable data storage in electronic devices for the time
13 being held in a computer;

14 (b) data storage in electronic devices on a computer network of
15 which the computer forms a part; and

16 (c) data held in any remote storage in electronic devices to which
17 data has been sent from the computer.

18 "data storage device" means a thing containing, or designed to contain data;

19 "date of conviction" in relation to a person's conviction of an offence,
20 means, in the case of a person:

21 (a) charged with, and found guilty of, the offence, the day on which
22 the person was found guilty of the offence; or

23 (b) who absconds, the day on which the person is taken to have
24 absconded in connection with the offence;

25 "deal" when used in relation to a person's property, includes:

26 (a) where a debt is owed to that person, making a payment to any
27 person in reduction of the amount of the debt;

28 (b) removing property from Nigeria;

29 (c) receiving or making a gift of property; and

30 (d) where property is covered by a restraint order, engaging in a

1 transaction that has the direct or indirect effect of reducing the value of the
2 person's interest in the property, and "dealing" shall be construed, accordingly;
3 "derived", in relation to a person having derived proceeds, a benefit or wealth,
4 includes any other person who at the request or direction of the person, having
5 derived the proceeds, benefit, or wealth directly or indirectly;

6 "Director-General" means the Director-General appointed for the Agency
7 under the Civil Forfeiture and Management of the Proceeds of Crimes Act

8 "effective control" has the meaning given to it under section 90 of this Act;

9 "encumbrance", in relation to property, includes any interest, mortgage,
10 charge, right, claim and demand in respect of the property;

11 "evidential material" means evidence relating to:

12 (a) property in respect of which action has been or could be taken
13 under this Act; or

14 (b) benefits derived from the commission of a relevant offence;

15 "exclusion order" means an order made under section 55(1) of this Act;

16 "financial institution" has the meaning given in the Money Laundering
17 (Prohibition) Act;

18 "freezing order" has the meaning given to it in section 34 of this Act.

19 "interest", in relation to property or a thing, means:

20 (a) a legal or equitable estate or interest in the property or thing; or

21 (b) a right, power or privilege in connection with the property or
22 thing, whether present or future and whether vested or contingent;

23 "instrumentality of an offence" means property used or intended to be used in
24 or in connection with the commission of an offence, whether the property is
25 situated within or outside Nigeria;

26 "lawfully acquired", in relation to property or wealth, means that the property
27 or wealth and the consideration for it was lawfully acquired;

28 "legal practitioner" has the meaning given to it by the Legal Practitioners Act;

29 "officer", in relation to a financial institution or a corporation, means a director,
30 secretary, executive officer or employee of a financial institution;

1 "premises" means property and structures that are on the property, including
2 buildings, vessels, boats and vehicles whether temporary or not and whether
3 designed for habitation or not;

4 "person's property" includes property in respect of which a person has a
5 beneficial interest;

6 "proceedings are concluded" where:

7 (a) the defendant is acquitted on all counts in proceedings for an
8 offence, on the date he is acquitted;

9 (b) the defendant is convicted in proceedings for an offence and the
10 conviction is quashed or the defendant is pardoned before a confiscation
11 order is made, on the date the conviction is quashed or the defendant is
12 pardoned before a confiscation order is made;

13 (c) a confiscation order is made against the defendant in proceedings for an
14 offence, whether the order is made by the Court or the Court of
15 Appeal, on the date the order is:

16 (i) satisfied or discharged, or

17 (ii) quashed and there is no further possibility of an appeal against
18 the decision to quash the order;

19 "proceeds of criminal activity" means property, whether or not:

20 (a) wholly or partly derived or realised, directly or indirectly, from
21 a criminal activity;

22 (b) the property is situated within or outside Nigeria; or

23 (c) a person has been convicted of the offence;

24 "property" means real or personal property of every description, whether
25 situated in Nigeria or elsewhere and whether tangible or intangible, and
26 includes an interest in the real or personal property;

27 "quashing a conviction for an offence" means:

28 (a) the quashing of a conviction of a person who had been
29 convicted;

30 (b) the quashing or setting aside of the finding of guilt where a

1 person had been charged with and found guilty of an offence but discharged
2 without conviction; or

3 (c) the quashing or setting aside of the conviction of a person who
4 absconded but was later brought before a Court and discharged

5 "realisable property" means has the meaning assigned to it in section 21 of this
6 Act;

7 "registrable property" means a property title to which is passed by registration
8 in a register kept pursuant to a provision of any law in force in Nigeria;

9 "registration authority", in relation to property of a particular kind, means an
10 authority responsible for administering a law in force in Nigeria providing for
11 registration of title to, or charges over, property of that kind;

12 "related offence" means an offence the physical elements of which are similar
13 to another offence;

14 "relevant organisation" means:

15 (a) the Economic and Financial Crimes Commission;

16 (b) the Independent Corrupt Practices and other Related Offences
17 Commission;

18 (c) the National Drug Law Enforcement Agency;

19 (d) the Trafficking in Persons (Prohibition) Law Enforcement
20 Agency;

21 (e) the National Agency for Food and Drug Administration and
22 Control;

23 (f) the Nigeria Customs Service;

24 (g) the Code of Conduct Bureau;

25 (h) the Federal Inland Revenue Service; and

26 (i) such other organisations as the Attorney - General may, from time
27 to time, designate;

28 "relevant person" means a person who has been convicted of, or has been
29 charged with, an offence, or it is proposed that the person be charged with an
30 offence;

1 "restraint order" means an order under sections 5, 6, 7 or 8 of this Act that is
2 in force;

3 "sufficient consideration" in relation to an acquisition of disposal of
4 property, means a consideration that is sufficient and that reflects the value
5 of the property, having regard solely to commercial considerations; and

6 96. This Bill may be cited as Criminal Confiscation and Forfeiture Short title
7 of Proceeds of Crime Bill, 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to make comprehensive provisions for the effective
confiscation of a sum of money equal that assessed as the Proceeds of Crime
and for the forfeiture of properties and instrumentalities relating to, and
resulting from criminal activities.

SCHEDULE

Section 28 (6)

Amount	Period
An amount not exceeding N50,000.00	7 days
An amount exceeding N50,000.00 but not exceeding N150,000.00	14 days
An amount exceeding N150,000.00 but not exceeding N250,000.00	28 days
An amount exceeding N250,000.00 but not exceeding N700,000.00	45 days
An amount exceeding N700,000.00 but not exceeding N1,400,000.00	3 months
An amount exceeding N1,400,000.00 but not exceeding N2,800,000.00	6 months
An amount exceeding N2,800,000.00 but not exceeding N5,600,000.00	12 months
An amount exceeding N5,600,000.00 but not exceeding N14,000,000.00	18 months
An amount exceeding N14,000,000.00 but not exceeding N28,000,000.00	2 years
An amount exceeding N28,000,000.00 but not exceeding N70,000,000.00	3 years
An amount exceeding N70,000,000.00 but not exceeding N140,000,000.00	5 years
An amount exceeding N140,000,000.00 but not exceeding N280,000,000.00	7 years
An amount exceeding N280,000,000.00	10 years