

SUBSIDIARY LEGISLATION (MONITORING AND CONTROL) BILL, 2020

ARRANGEMENT OF CLAUSES

Clauses

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A BILL

FOR

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

Sponsored by: Hon. Frederick Y. Agbedi

[] Commencement

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

1 **1.** Where by:

2 (a) this Act or any Act passed after the commencement of this Act;

3 (b) any Act passed before the commencement of this Act confers

4 power to make, confirm or approve orders, rules, regulations or other

5 subsidiary legislation on the President, Minister, an agency of government

6 or any rule-making authority, any document by whatever name called

7 through which that power is exercised shall be known as a "statutory

8 instrument" and the provisions of this Act shall apply.

9 **2.-(1)** Immediately after the making of any statutory instrument, it

10 shall be sent to the Government Printer and numbered in accordance with

11 regulations made under this Act, and copies of the instrument shall be

12 printed and sold by or under the authority of the Government Printer.

13 (2) Any statutory instrument, without prejudice to any other

14 authorised mode of citation, may be cited by the number given to it in

15 accordance with the provisions of this section, and the calendar year of the

16 numbering.

17 **3.-(1)** Regulations made for the purposes of this Act shall provide

18 for the publication by the Government Printer of lists showing the date upon

19 which every statutory instrument printed and sold by or under the authority

Definition of
"Statutory
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application of
this Act

Numbering,
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instruments

1 of the Government Printer was first issued by or under the authority of that
2 office.

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

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

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

Statutory
Instruments
which are required
to be laid before
the National
Assembly

18 4.-(1) If by this Act or any Act passed after the commencement of this
19 Act any statutory instrument is required to be laid before the National
20 Assembly after being made, a copy of the instrument shall be laid before each
21 House of the National Assembly in accordance with the provisions of this Act,
22 and shall be so laid before the instrument comes into operation.

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

27 (b) Where any statutory instrument comes into operation before it is
28 laid before the National Assembly, notification of its coming into operation
29 shall immediately be sent to the President of the Senate and the Speaker of the
30 House of Representatives drawing their attention to the fact that copies of the

1 instrument are yet to be laid before the National Assembly and explaining
2 why such copies were not laid before the instrument came into operation.

3 (3) Every copy of any statutory instrument sold by or under the
4 authority of the Government Printer shall bear on the face thereof:

5 (a) A statement showing the date on which the statutory instrument
6 came or will come into operation; and

7 (b) either a statement Showing the date on which copies of the
8 instrument were laid before the National Assembly or a statement that such
9 copies were yet to be laid before the National Assembly.

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

18 5.-(1) Where this Act or any Act passed after the commencement of
19 this Act, provides that any statutory instrument shall be subject to annulment
20 in pursuance of a resolution of either House of the National Assembly, the
21 instrument shall be laid before the National Assembly after being made and
22 the provisions of section 4 of this Act shall apply accordingly.

Statutory
Instruments which
are subject to
annulment by
resolution of either
House of the
National Assembly

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

27 (b) The President shall by Order revoke the instrument provided
28 that any such resolution and revocation shall be without prejudice to the
29 validity of anything previously done under the instrument or to the making
30 of a new statutory instrument.

Acts passed
before the
commencement
of the Act

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

6 (2) All instruments laid in accordance with the provisions of
7 subsection (i) of this section shall be subject to the provisions of this Act.

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

12 (4) Any contravention of subsection (i) of this section shall be deemed
13 and treated as an act of gross misconduct.

Drafts of
Statutory
Instruments
which are to be
laid before the
National Assembly

14 7.-(1) Where this Act or any Act passed after the commencement of
15 this Act provides that a draft of any statutory instrument shall be laid before the
16 National Assembly, but the Act does not prohibit the making of the instrument
17 without the approval of the National Assembly, then, (a) in the case of an Order
18 in Council, the draft shall not be submitted to the Federal Executive Council,
19 and

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

25 (2) If within that period either House of the National Assembly
26 resolves that the draft should not be submitted to the President or that the
27 statutory instrument should not be made, as the case may be, no further
28 proceedings shall be taken on the draft, but without prejudice to the laying of a
29 new draft before the National Assembly.

30 (3) Where any Act passed before the commencement of this Bill

1 contains provisions requiring:

2 (a) that a draft of any statutory Instrument or other document to be
3 made in exercise of any power conferred by that Act or any other Act shall be
4 laid before the National Assembly before being submitted to President, or
5 before being made, as the case may be; or

6 (b) that it shall not be so submitted or made if within a specified
7 period either House of the National Assembly presents an address to the
8 President or passes a resolution to that effect; subject to the provisions of any
9 regulation made under this Bill, a draft of any statutory instrument made in
10 exercise of the said power shall by virtue of this Bill be laid before the
11 National Assembly and the provisions of subsection (2) of this section shall
12 apply in substitution for any provisions contained in the Act passed before
13 the commencement of this Act.

14 **8.-(1)** In reckoning any period of thirty days for the purposes of
15 either of section 5 or 6 of this Act, no account shall be taken of any time
16 during which the National Assembly is dissolved or during which both
17 Houses are adjourned for more than four legislative days.

Supplementary
provisions as to
SS, 4, 5, 6, and 7

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

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

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

27 (ii) any other instrument which is required to be laid before the
28 National Assembly, or before any of the Houses of the National Assembly,
29 for any period before it comes into operation.

Regulations

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

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

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

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

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

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

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

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

30 (iii) whether any statutory instrument or class or description of such

1 instruments is in the nature of a public Act or of a local and personal Act or a
2 private Act; and

3 (iv) whether the exercise of any power conferred by an Act passed
4 before the commencement of this Act is or is not the exercise of a power to
5 make a statutory rule.

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

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

Powers to extend
Act to other orders,
etc. and to modify
application of
certain provisions
thereof

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

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

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

Contravention
of this Act

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

Interpretation

30 (2) If any question arises as to:

1 (i) whether any board, commission or other body on whom any power
2 is conferred is a government department within the meaning of this section; or
3 (ii) what Minister of the Government of the Federation is in charge of
4 that body;
5 that question shall be referred to and determined by the Secretary to the
6 Government of the Federation.

7 (3) In this Act, unless the context otherwise requires:

8 "President" means the President of the Federal Republic of Nigeria;

9 "statutory instrument" is as defined in section 1 of this Act.

Short title

10 **13.** This Bill may be cited as the Subsidiary Legislation (Monitoring
11 and Control) Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to establish legislative monitoring and control of subsidiary legislations to ensure that such legislations confirm with the philosophy and spirit of the primary Acts creating them.