

LEGISLATIVE BRIEF

LONG TITLE: A BILL FOR AN ACT TO AMEND THE PUBLIC ACCOUNT IMPLEMENTATION TRIBUNAL ACT CAP P.36, LAWS OF THE FEDERATION OF NIGERIA, 2004.

SPONSOR: **HON. AHMED IDRIS**

LEAD DEBATE

PURPOSE OF AMENDMENT:

Mr. Speaker, Honorable Members,

This Bill seeks to amend the Public Account Implementation Tribunal Act, Cap. P36, Laws of the Federation of Nigeria, 2004 to enhance the penalty provisions and restrict the indemnity of members to acts done in good faith.

AMENDMENT

Mr. Speaker, Honorable Colleagues,

The first amendment is in respect of Section 10 of the Principal Act amended by section 2 of this bill. Section 10 of the Act provides:

"Any person who, after service on him of a summons from the Tribunal-

- (a) Fails to attend either as a witness or as a party; or**
- (b) Fails to produce any book, document or any other thing in his custody or possession; or**
- (c) Fails, refuses or neglects to answer any question put to him by or with the concurrence of the Tribunal,**

Shall be guilty of an offence and liable on summary conviction to a fine of N500 or to imprisonment for a term of one month"

option of 1 month imprisonment by someone who commits the offence of contempt might be subject to such triviality by prospective offenders.

It is therefore necessary to amend the penalties stated in section 10 to bring it to current realities.

As for the second amendment,

Mr. Speaker, Honorable Colleagues,

We acknowledge the fact that the provisions of indemnity in our Laws is to immune Judges and other judicial officers from liability emanating from decisions reached by them in the course of discharging their lawful duties. **However such indemnity from liability cannot be said to be absolute otherwise it will be subject to abuse by judicial officers.**

Hence the need for an **amendment that will restrict such indemnity to only acts or decisions reached "in good faith".**

'**Good faith**' has already been interpreted by our Law and our courts as '**the absence of bad faith**'. It consists of honesty, in belief or purpose, faithfulness to one's duty and obligation and absence of intent to defraud or to seek unconscionable advantage.

The Nigerian Supreme Court held in the famous case of **Shodeinde & ors. v. Registered Trustees of Ahmadiya (1986) LPELR-3064 (SC):**

"A thing is done in good faith or bonafide where it is in fact done honestly, whether it is done mistakenly or not".

CONCLUSION

We conclude by emphasizing the need to effect these amendments in order to strengthen the Public Account Implementation Tribunal. The strengthening of the Tribunal will go a long way in promoting probity, accountability and transparency in the use of public funds.

11. Order in relation to any property or matter considered by the Tribunal

The Tribunal may, after due investigation, make any order for the refund of any sum of money against any person who has occasioned a loss or is responsible for any loss of public funds or property or is in any other way concerned with the loss of any public funds or property and the Tribunal may further order that the property or any assets of such person be charged with the payment of such amount due to the Government:

Provided that before the Tribunal makes any order under this section it shall give the person concerned an opportunity of fair hearing including making representations before it.

12. Appearance of counsel

Any person whose conduct or affairs are the subject of the recommendation of the Public Accounts Committee or who is in any way implicated, connected or concerned in the recommendation of the Public Accounts Committee shall be entitled to appear before the Tribunal in person or be represented by counsel and shall be given a fair hearing by the Tribunal.

13. Indemnity of members

No members of the Tribunal shall be liable to any action or suit for any thing done or said by him as a member of the Tribunal during any proceedings of the Tribunal.

14. Interpretation

In this Act, unless the context otherwise requires—

“accounts of the Federation” has the meaning assigned to it in the Constitution of the Federal Republic of Nigeria 1999;

[Cap. C23.]

“enforcement officers” includes the Nigeria Police and other security agents or any other organisation of the Government of the Federation as the President, may, from time to time, designate as such;

“member” includes the Chairman of the Tribunal;

“Public Accounts Committee” means the committee established under the Public Accounts Committee Act;

[Cap. P35.]

“superior court of record in Nigeria” has the meaning assigned thereto in the Constitution of the Federal Republic of Nigeria 1999;

[Cap. C23.]

“Tribunal” means the Public Accounts Implementation Tribunal established by section 1 of this Act.