



THE SENATE
FEDERAL REPUBLIC OF NIGERIA
NATIONAL ASSEMBLY

**JOINT COMMITTEE ON JUDICIARY, HUMAN RIGHTS AND LEGAL MATTERS; AND
ANTI-CORRUPTION AND FINANCIAL CRIMES**

REPORT

ON

A BILL
FOR

AN ACT TO MAKE COMPREHENSIVE PROVISIONS FOR THE CONFISCATION, FORFEITURE AND
MANAGEMENT OF PROPERTIES DERIVED FROM UNLAWFUL ACTIVITIES AND FOR CONNECTED
MATTERS (SB.376)

JULY, 2017

THE PROCEEDS OF CRIME BILL, 2017

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REPORT OF THE SENATE JOINT COMMITTEE ON JUDICIARY, HUMAN RIGHTS; AND LEGAL MATTERS AND ANTI-CORRUPTION AND FINANCIAL CRIMES ON A BILL FOR AN ACT TO MAKE COMPREHENSIVE PROVISIONS FOR THE CONFISCATION, FORFEITURE AND MANAGEMENT OF PROPERTIES DERIVED FROM UNLAWFUL ACTIVITIES AND FOR CONNECTED MATTERS (SB.376)

PROVISIONS OF THE BILL	COMMITTEE'S RECOMMENDATION	
PART I - OBJECTIVE AND APPLICATION	PART I - OBJECTIVE AND APPLICATION	REMARKS
Objectives 1. The objectives of this Act are to - (a) provide for an effective legal and institutional framework for the recovery and management of the proceeds of crime or benefits derived from unlawful activities; (b) deprive a person of the proceeds of an unlawful activity, the instrumentalities of an offence and any other benefit derived from an offence committed within or outside Nigeria; (c) prevent the reinvestment of proceeds of unlawful activity in the furtherance of criminal enterprise; (d) harmonise and consolidate existing legislative provisions on the recovery of proceeds of crime and related matters in Nigeria; and (e) make comprehensive provisions for the restraint, seizure, confiscation and forfeiture of property derived from unlawful activities and any instrumentalities used or intended to be used in the commission of such unlawful activities.	Objectives 1. Retained	
Application 2. The provisions of this Act apply to - (a) the investigation, identification, tracing and recovery of the proceeds and instrumentalities of unlawful activities, by either; (i) the Agency established under Part VI of this Act (in this Act referred to as "the Agency"); or	Application 2. The provisions of this Act apply to - (a) the investigation, detection, identification, tracing and recovery of realisable assets and the proceeds and instrumentalities of unlawful activity by law enforcement agencies; (i) Deleted	The rationale behind this amendment is to make the role of the Agency clear in matters of civil forfeiture and complex cases and to reassure law enforcement agencies

(ii) law enforcement agencies; and (b) the management and realisation of recovered properties by the Agency.	(ii) Deleted <i>(b) orders and directives by the Court to support the detection, preservation and recovery of the proceeds and instrumentalities of unlawful activity and realisable assets by law enforcement agencies; and</i> <i>(c) the management of the recovered properties by the Agency under this Act.</i>	of their roles in asset recovery and acknowledge the role of the Court.
PART II - CIVIL FORFEITURE Nature of proceedings 3. (1) Proceedings under this Part shall be civil proceedings. (2) The procedures for the service of documents applicable in civil proceedings shall apply to proceedings under this Part.	PART II - CIVIL FORFEITURE Nature of proceedings 3. Retained	
Preservation orders 4. (1) The Agency may, by way of an <i>ex parte</i> application, apply to the Court for an order restraining any person, subject to such conditions and exceptions as may be specified in the order, from dealing in any manner with any property. (2) The Court shall make an order under subsection (1) of this section if there are reasonable grounds to believe that the property concerned – (a) is the proceeds of unlawful activity; (b) represents the proceeds of unlawful activity; or	Preservation orders 4. (1) <i>Any law enforcement agency</i> may, by way of an <i>ex parte</i> application, apply to the Court for an order restraining any person, subject to such conditions and exceptions as may be specified in the order, from dealing in any manner with any property. (2) Retained (a) Retained (b) Retained <i>(c) is involved in the facilitation of unlawful activity; or</i>	There is a lacuna in the Bill. Instrumentalities

(c) is intended to be used for unlawful activity or conduct. (3) A Court making a preservation order may at the same time make any other ancillary orders that it considers appropriate for the proper, fair and effective execution of the preservation order. (4) Any property subject to an ancillary order made under subsection (3) of this section shall be dealt with in accordance with the directions of the Court that made the relevant preservation order.	(d) is intended to be used <i>to facilitate</i> unlawful activity. (3) Retained (4) Retained	that have been used were not covered. This has been corrected and the wider term 'involved in the facilitation' is preferred to the term 'used'.
Notice of preservation orders 5. (1) Where a Court makes a preservation order, the Agency shall, within twenty-one days after the making of the order, give notice of the order to all persons known to the Agency to have an interest in the property which is subject to the order and publish a notice of the order in two widely circulated national newspapers. (2) A person who has an interest in any property that is subject to a preservation order may give notice of his intention to – (a) oppose the making of a forfeiture order; or (b) apply for an order excluding his interest in the property concerned from the operation of the forfeiture order. (3) A notice under subsection (2) of this section shall be served on the Agency, in the case of– (a) a person on whom a notice has been served under subsection (1) of this section, within fourteen days after the service; or (b) any other person with an interest in the property, within	Notice of preservation orders 5. (1) Where a Court makes a preservation order, the Agency shall, within <i>fifteen working</i> days after the making of the order, give notice of the order to all persons known to the Agency to have an interest in the property which is subject to the order and publish a notice of the order in two widely circulated national newspapers. (2) Retained (a) Retained (b) Retained (3) Retained (a) a person on whom a notice has been served under subsection (1) of this section, within <i>twenty-one working</i> days after the service; or (b) any other person with an interest in the property, within <i>twenty-</i>	The time periods have been extended as they were considered to be too short.

fourteen days after the date on which a notice under subsection (1) of this section is published in two widely circulated national newspapers. (4) A notice served under subsection (2) or (3) of this section shall contain full particulars of the address for the delivery of documents concerning further proceedings under this Part and shall be accompanied by an affidavit stating the - (a) full particulars of the identity of a person entering appearance; (b) nature and extent of his interest in the property concerned; and (c) reasons which the person intends to rely on in opposing a forfeiture order or applying for the exclusion of his interest from the operation of the forfeiture order.	one working days after the date on which a notice under subsection (1) of this section is published in two widely circulated national newspapers. (4) Retained	
Duration of a preservation order 6. A preservation order shall, subject to section 7 of this Act, expire ninety days after the date on which it was made unless - (a) there is an application for a forfeiture order pending before the Court in respect of the property subject to the preservation order; (b) there is an unsatisfied forfeiture order in force in relation to the property subject to the preservation order; or (c) the preservation order is rescinded before the expiration of that period.	Duration of a preservation order 6. A preservation order shall, subject to section 7 of this Act, expire one hundred and twenty days after the date on which it was made unless - (a) Retained (b) Retained (c) Retained	The period of ninety days in the Committee's view, was considered to be too short. It is however recommended to be extended to 120 days.
Renewal of a preservation order 7. (1) The Agency may apply to the Court that granted a preservation order under section 4 of this Act for a renewal of that order where -	Renewal of a preservation order 7. (1) The Agency may apply to the Court that granted a preservation order under section 4 of this Act for a renewal of that order where -	

(a) the Court is satisfied that there are reasonable grounds to grant the renewal; (b) the preservation order has not been rescinded; and (c) no previous renewal of the preservation order has been sought. (2) Notice of a renewal shall be given in accordance with the provisions of section 5 of this Act. (3) The period of the renewal mentioned in subsection (1) of this section shall not exceed sixty days.	(a) Retained (b) Retained (c) Retained (2) Retained (3) Retained	
Seizure of property subject to preservation orders 8. (1) Where there are reasonable grounds to believe that a property which is subject to a preservation order may be disposed of or removed contrary to the order, the Agency or an authorized officer may seize the property. (2) Property seized under subsection (1) of this section shall be dealt with in accordance with the directions of the Court that made the relevant preservation order.	Seizure of property subject to preservation orders 8. (1) Where there are reasonable grounds to believe that a property which, is subject to a preservation order <i>may have its value diminished</i> or be disposed of, <i>destroyed, damaged</i>, or removed contrary to the order, the Agency or an authorised officer may seize the property. (2) Retained	The additions represent the other means by which the property subject to a preservation order may be decreased.
Appointment of asset manager in respect of property subject to a preservation order 9. (1) Where a Court has made a preservation order, it shall, where it deems appropriate or at the request of the Agency either at the time of the making of the order or at a later time – (a) subject to the directions of the court or the Agency, appoint an asset manager to do any one or more of	Appointment of asset manager in respect of property subject to a preservation order 9. (1) Where a Court has made a preservation order, it shall, where it deems appropriate or at the request of the <i>law enforcement agencies</i> either at the time of the making of the order or at a later time – (a) Retained	

the following on behalf of the person against whom the preservation order has been made - (i) assume control of the property; (ii) take care of the property; (iii) administer the property and do any act necessary for that purpose; (iv) where the property is a business or undertaking, carry on, with due regard to any law which may be applicable, the business or undertaking; and (v) in the case of property that is perishable, or liable to deterioration, decay or injury by being detained in custody, sell or otherwise dispose of the property; and (b) order a person holding any property subject to a preservation order to surrender immediately, or within such period as the Court may determine, the property into the custody of the asset manager.	(i) Retained (ii) Retained (iii) Retained (iv) where the property is a business or undertaking, carry on of the business or undertaking, with due regard to any law which may be applicable; the business or undertaking; and (v) Retained (vi) sell or otherwise dispose of the property where it is not economically viable to maintain it; and (b) order a person holding any property subject to a preservation order to surrender the property into the custody of the asset manager, immediately or within such period as the Court may determine. (2) Where any property subject to a preservation order is not surrendered within the period that has been determined under subsection 1 (b) of this section, an officer of the Agency or asset manager may enter by force if necessary, any premises, where he reasonably believes that the property is situated in order to search for and seize the property. (3) The officer of the Agency or asset manager may be accompanied by such persons and police officers as are reasonably required in order to effect entry into premises.	This subparagraph was introduced to prevent the Agency from maintaining property at undue cost. This amendment is also intended to correct any inherent lacuna as there is no power to search and seize in the Bill.
(2) The Court that makes an order under subsection (1) of this	(4) The Court that makes an order under subsection (1) of this	

section, may make an order relating to the fees and expenditure of the asset manager as it deems appropriate, including an order for the payment of the asset manager's fees – (a) from the forfeited property where a forfeiture order is made; or (b) by the Agency where no forfeiture order is made.	section, may make an order relating to the payment of the fees and expenditure of the asset manager as it deems appropriate including an order for the of the asset manager's fees of the asset manager – (a) Retained (b) Retained	
Orders in respect of immovable property subject to preservation order. 10. (1) A Court that has made a preservation order in respect of immovable property with a view to ensuring the effective execution of a subsequent order, may at any time, order the appropriate land registration authority to place a restriction on the land register in respect of the immovable property. (2) An order under subsection (1) of this section may be made in respect of the following restrictions – (a) the immovable property shall not be mortgaged or otherwise encumbered, unless with the consent of the Court; (b) the immovable property shall not be attached or sold in execution without the consent of the Court; and (c) without the consent of the Court, the immovable property shall not – (i) vest in the Official Receiver concerned, as the case may be, when the estate of the owner of that immovable property is sequestered, or (ii) where the owner of the immovable property is a company or other body corporate which is being wound up, form part of the assets	Orders in respect of immovable property subject to a preservation order 10. (1) Retained as in the Bill (2) Retained as in the Bill	

of that company or body corporate. (3) In order to give effect to subsection (1) of this section, the registration authority shall - (a) make the necessary entry in its register and the necessary endorsement on the office copy of the title deed; and (b) make the necessary endorsement on it, when the original of the title deed is produced. (4) On the making of the necessary entry and endorsement under subsection (3)(a) of this section, the restriction - (a) other than that contemplated in subsection (2)(b) of this section, shall be effective against any person in whose favour a mortgage or other charge was registered prior to the endorsement of the restriction on the title deed of the immovable property; and (b) shall lapse on the transfer of ownership of the immovable property concerned. (5) Unless the Court directs otherwise, the custody of immovable property on the title deed of which a restriction contemplated in subsection (2)(c) of this section was endorsed shall, where the - (a) estate of the owner of the immovable property is sequestrated; or (b) owner of the immovable property is a company or other body corporate that is being wound up, vest in the person or persons in whom the custody would have vested where the restriction were not so endorsed. (6) Where the Court has consented to a restriction contemplated in subsection (2)(c) of this section and endorsed on the title deed of the immovable property, the immovable property shall, where the -	(3) In order to give effect to subsection (1) of this section, the registration authority shall make the necessary - (a) entry in its register and endorsement on the office copy of the title deed; and (b) endorsement on it, when the original of the title deed is produced. (4) Retained (5) Retained (6) Where the Court has granted its consent to a restriction contemplated in subsection (2)(c) of this section and endorsed on the title deed of the immovable property, the immovable property shall, where the -	
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(a) estate of the owner of the immovable property was sequestrated, be deemed to have vested in the Official Receiver concerned, as the case may be, as if such a restriction was not so endorsed; or (b) owner of the immovable property is a company or other body corporate which is being wound up, be deemed to have formed part of the assets of the company or body corporate as if the restriction were not so endorsed. (7) A person affected by an order contemplated in subsection (1) of this section may at any time apply for the rescission of the order.	(a) Retained (b) Retained (7) A person affected by an order contemplated in subsection (1) of this section may at any time, upon showing good cause, apply for the rescission of the order.	
Provision for expenses 11. (1) A preservation order may in respect of a person holding an interest in property which is the subject of the preservation order, make such provision as the Court may deem fit for the reasonable living expenses of the person and his close dependants. (2) A Court shall not make provision for any expenses under subsection (1) of this section unless it is satisfied that the person – (a) cannot meet the expenses concerned out of his property which is not subject to the preservation order; and	Provision for expenses 11. (1) <i>The Court in making a preservation order in respect of a person holding an interest in property, may make provision for the reasonable legal expenses of the person in connection with proceedings under which the preservation order was granted and reasonable living expenses of the person and his close dependants.</i> <i>(2) The Court shall require an independent costs assessor, authorised by the Agency to certify that legal expenses have been properly incurred before permitting the payment of such expenses from any property covered by the preservation order.</i> (3) Retained	This clause has been redrafted for clarity. The Committee has introduced a new subsection (2) to ensure that preserved property is not dissipated in excessive legal fees. Also the former subsection (2) has been renumbered subsection (3).

(b) has disclosed all his interest in the property under oath and has submitted to the Court an affidavit to that effect.		
Variation and rescission of orders 12. (1) A Court that makes a preservation order – (a) may, on application by the person mentioned in section 11 of this Act, vary the preservation order or an order authorising the seizure of the property concerned or any other ancillary order as it may deem appropriate; or (b) shall rescind the preservation order when the proceedings against the defendant concerned are concluded. (2) Where a Court varies or rescinds an order authorising the seizure of property under subsection (1) of this section, it shall make such other order, as it considers appropriate for the proper, fair and effective execution of the preservation order concerned. (3) A person affected by an order for the appointment of an asset manager may at any time apply for the – (a) variation or rescission of the order; (b) variation of the terms of the appointment of the manager concerned; or (c) discharge of the manager. (4) A Court that makes an order for the appointment of an asset manager – (a) may, where it deems it necessary and in the interests of justice, at any time – (i) vary or rescind the order; (ii) vary the terms of the appointment of the	Variation and rescission of orders 12. Retained	

(b) manager concerned; or (iii) discharge the manager; or shall rescind the order and discharge the manager concerned where the relevant preservation order is rescinded. (5) A person affected by an order in respect of immovable property may, at any time, apply for the rescission of the order. (6) A Court that makes an order in respect of immovable property – (a) may, where it deems it necessary and in the interests of justice, at any time rescind the order; or (b) shall rescind the order where the relevant preservation order is rescinded. (7) Where an order in respect of immovable property is rescinded, the Court shall direct the registration authority concerned to lift any caveat entered by virtue of that order on the land register in respect of the immovable property and the registration authority shall give effect to the direction.		
Application for forfeiture order. 13. (1) Where a preservation order is in force, the Agency may apply to the Court for a forfeiture order against all or any of the property that is subject to the preservation order. (2) The Agency shall give fourteen days' notice of an application under subsection (1) of this section to every person who was served notice under section 5(2) of this Act. (3) A person who was served notice under section 5(2) of this Act may appear at the hearing of the application under subsection (1) of this section	Application for forfeiture order 13. (1) Where a preservation order is in force, the Agency may apply to the Court for a forfeiture order against all or any part of the property that is subject to the preservation order. (2) The Agency shall give twenty-one working days' notice of an application under subsection (1) of this section to every person who was served notice under section 5(2) of this Act. (3) A person who was served notice under section 5(2) of this Act may, subject to compliance with sections 5(3) and (4) of this Act, appear at the hearing of the application under subsection (1)	Amended for clarity purpose. The Committee extended the time frame because it is considered to be too short. The inclusion of this phrase in this subsection is to

to - (a) oppose the making of the order; or (b) apply for an order - (i) excluding his interest in the property from the operation of the order, or (ii) varying the operation of the order in respect of the property, and may adduce evidence at the hearing of the application. (4) Where the Court grants the forfeiture order, the property referred to in subsection (1) of this section shall be forfeited to the Agency.	of this section to - (a) Retained (b) Retained (4) Retained	make it clear that an applicant has to comply with section 5(3) and (4) and not merely appear in court without following due process.
Service of notice out of time 14. (1) Where a person for any reason, does not serve notice under section 5(2) of this Act, he may apply to the Court for leave to serve the notice out of time. (2) An application under subsection (1) of this section may be made before or after the date on which an application for a forfeiture order is made under section 13(1) of this Act, but shall be made before judgment is given in respect of the application for the forfeiture order. (3) A Court may grant leave to an applicant referred to in subsection (1) of this section, to serve notice under section 5(2) of this Act within the period which the Court deems appropriate, where the Court is satisfied on good cause shown that the applicant has - (a) for sufficient reason failed to serve notice under section 5(2) of this Act; and (b) an interest in the property which is subject to the preservation order. (4) A notice served after leave has been obtained under this section	Service of notice out of time 14. (1) Retained (2) Retained (3) Retained (4) Retained	

shall contain full particulars of the address of the person who serves such notice for the delivery of documents concerning further proceedings under this Part and shall be accompanied by the affidavit referred to in section 5(4) of this Act.	(5) Where a notice has not been served under section 5 (2) of this Act and the Court has granted leave to serve notice under that section within the period that the Court has deemed appropriate, the Court may require the applicant to pay any or all of the costs that have arisen or may arise as a result of the notice being served out of time.	A new subsection (5) has been introduced to check spurious and unwarranted applications.
Making of forfeiture order 15. (1) Subject to section 17 of this Act, a Court shall make an order applied for under section 13(1) of this Act where it finds on a balance of probabilities that the property concerned - (a) is a proceed of unlawful activity; (b) represents the proceeds of unlawful activity; or (c) is intended to be used for unlawful activity or conduct. (2) The Court may, where it makes a forfeiture order or at any time thereafter, make any ancillary order that it considers appropriate, including orders for and with respect to facilitating the transfer to the Agency of property forfeited to it under the order. (3) The absence of a person whose interest in property may be affected by a forfeiture order does not prevent the Court from making the order. (4) The validity of an order under subsection (1) of this section is not affected by the outcome of criminal proceedings or of an investigation with a	Making of forfeiture order 15. (1) Subject to section 17 of this Act, a Court shall make an order applied for under section 13(1) of this Act where it finds on a balance of probabilities that the property concerned - (a) Retained (b) Retained (c) is involved in the facilitation of unlawful activity; or (d) is intended to facilitate unlawful activity. (2) Retained (3) Retained (4) Retained	

view to instituting such proceedings, in respect of an offence with which the property concerned is in some way associated. (5) The Agency shall publish a notice of a forfeiture order in the Federal <i>Gazette</i> and two widely circulated national newspapers as soon as practicable but not more than thirty days after the order is made. (6) A forfeiture order shall not take effect before the - (a) period allowed for an application under section 12 of this Act or an appeal under section 20 of this Act has expired; or (b) application or appeal has been disposed of.	(5) The Agency shall publish a notice of a forfeiture order in the Federal Government <i>Gazette</i> and two widely circulated national newspapers as soon as practicable but not more than thirty days after the order is made. (6) Retained	
Protection of third parties 16. (1) Where an application is made for a forfeiture order against a property, a person who claims an interest in the property may apply to the Court, before which the forfeiture order is made and the Court, if satisfied on a balance of probabilities - (a) that the person was not in any way involved in the unlawful activity or conduct mentioned in section 15(1) of this Act; or (b) where the person acquired the interest during or after the commission of the unlawful activity or conduct, that he acquired the interest - (i) for sufficient consideration; and (ii) without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time he acquired it, a tainted property, make an	Protection of third parties 16. (1) Where an application is made for a forfeiture order against a property, a person who claims an interest in the property may apply to the Court, before which the forfeiture order is made and the Court, if satisfied on a balance of probabilities - (a) Retained (b) <i>that the person had no knowledge of the unlawful activity mentioned in section 15(1) of this Act; or</i> (c) Retained	This is intended to protect a person who is not aware of an unlawful activity.

order declaring the nature, extent and value of the person's interest, at the time the order was made. (2) A person who – (a) had knowledge of the application for the forfeiture order before the order was made; or (b) appeared at the hearing of that application, shall not be permitted to make an application under subsection (1) of this section, except with leave of Court. (3) A person who makes an application under subsection (1) of this section shall give not less than fourteen days written notice of the making of the application to the Agency, which shall be a party to any proceedings in the application. (4) An applicant or the Agency may appeal against an order made under subsection (1) of this section. (5) A person appointed by the Court under this Act as a manager or trustee shall, on application by any person who has obtained an order under subsection (1) of this section, and where the period allowed by the rules of Court with respect to the making of appeals has expired and any appeal against that order has been determined, direct that – (a) the property or part of it to which the interest of the applicant relates, be returned to the applicant; or (b) an amount equal to the value of the interest of the applicant, as declared in the order, be paid to the applicant.	(2) Retained (3) Retained (4) Retained (5) Retained	
Exclusion of interests in property 17. (1) The Court may –	Exclusion of interests in property 17. (1) The Court <i>may on application-</i>	Redrafted for elegance.

(a) on application: (i) under section 13(3) of this Act, or (ii) by a person referred to in section 14(1) of this Act; and (b) when it makes a forfeiture order, make an order excluding certain interests in the property which is subject to the order, from the operation of the order. (2) The Court may make an order under subsection (1) of this section in relation to the forfeiture of the proceeds of an unlawful activity, where – (a) it finds, on a balance of probabilities, that the applicant has acquired the interest concerned legally and for a consideration, the value of which is not significantly less than the value of that interest; and (b) in case where the applicant had acquired the interest concerned after the commencement of this Act, that he neither knew nor had reasonable grounds to suspect that the property in which the interest is held is the proceed of an unlawful activity or conduct. (3) The Court may make an order under subsection (1) of this section, in relation to the forfeiture of property which is or is intended to be used as an instrumentality in the commission of unlawful activity or conduct, where it finds, on a balance of probabilities, that the applicant for the order had acquired the interest concerned legally and – (a) neither knew nor had reasonable grounds to suspect that the property in which the interest is held has been used or is intended for use in unlawful activity or conduct; or	(a) Retained Deleted (b) by a person referred to in section 14(1) of this Act; and when it makes a forfeiture order, make an order excluding certain interests in the property which is subject to the order, from the operation of the order. (2) Retained (3) Retained	
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(b) where the offence concerned had occurred before the commencement of this Act, that he has since the commencement of this Act taken all reasonable steps to prevent the use of the property concerned in connection with unlawful activity or conduct. (4) Where an applicant for an order under subsection (1) of this section adduces evidence to show that he did not know or did not have reasonable grounds to suspect that the property in which the interest is held is tainted property, the Agency may submit proof of the service on the applicant of a notice issued under section 13(3) of this Act in rebuttal of the evidence in respect of the period since the date of such service. (5) Where the Agency submits a proof of the service on the applicant under subsection (4) of this section, the applicant shall, in addition to the facts referred to in subsection (2)(a) and (b) of this section, prove on a balance of probabilities that, since the service, he has taken all reasonable steps to prevent the further use of the property concerned in unlawful activity or conduct. (6) A Court making an order for the exclusion of an interest in property under subsection (1) of this section may, in the interest of the administration of justice or in the public interest, make the order on the condition that the Court deem appropriate, including a condition requiring the person who applied for the exclusion to take all reasonable steps, within a period that the Court may determine, to prevent the future use of the property in connection with unlawful activity or conduct.	(4) Where an applicant for an order under subsection (1) of this section adduces evidence to show that he did not know or did not have reasonable grounds to suspect that the property in which the interest is held is a proceed of crime or an instrumentality of an offence, the Agency may submit proof of the service on the applicant of a notice issued under section 13(3) of this Act in rebuttal of the evidence in respect of the period since the date of such service. (5) Where the Agency submits a proof of the service on the applicant under subsection (4) of this section, the applicant shall, in addition to the facts referred to in subsection (2)(a) and (b) of this section, prove on a balance of probabilities that, since the service, he has taken all reasonable steps to prevent the further use of the property as an instrumentality of an offence. (6) Retained	Amended for elegance Amended for the sake of consistency and clarity
Forfeiture order by default 18. (1) Where the Agency applies for a forfeiture order by default and the Court is satisfied that no person has appeared on the date upon which an application under section 14(1) of this Act is to be heard and, on the grounds of sufficient proof or otherwise, that all persons who served notices under	Forfeiture order by default 18. Retained	

section 5(3) of this Act have knowledge of notices given under section 14(2) of this Act, the Court may – (a) make any order by default which the Court could have made under section 13(1) and (2) of this Act; or (b) make such order as the Court may consider appropriate in the circumstances. (2) The Court may, before making an order under subsection (1) of this section, call upon the Agency to adduce such further evidence, either in writing or orally, in support of its application as the Court may consider necessary. (3) A person whose interest in the property concerned is affected by the forfeiture order or other order made by the Court under subsection (1) of this section may, within ninety days after the person has acquired knowledge of such order or direction, set the matter down for variation or rescission by the Court. (4) The Court may, upon good cause shown, vary or rescind the default order or give any other direction on such terms, as it deems appropriate.		
Exclusion of interests in forfeited property 19. (1) A person affected by a forfeiture order who was entitled to receive notice of the application for the order under section 14(2) of this Act, but did not receive the notice, may, within thirty days after the notice is published, apply to the Court for an order excluding his interest in the property concerned from the operation of the order, or varying the operation of the order in respect of the property and his interest therein. (2) The hearing of the application in subsection (1) of this section shall, to the extent practicable and consistent with the interests of justice be held within thirty days of the filing of the application.	Exclusion of interests in forfeited property 19. Retained	

(3) The Court may make an order under subsection (1) of this section where it finds on a balance of probabilities that the applicant for the order falls within the provisions of section 14(2) or (3) of this Act. (4) The provisions of section 12(4) and (5) of this Act shall apply to any proceedings under this section.		
Appeal not to affect forfeiture until conclusion 20. Any preservation order and any order authorising the seizure of the property concerned or other ancillary order that is in force at the time of any decision regarding the making of a forfeiture order under section 15(1) of this Act shall remain in force pending the outcome of any appeal against the decision concerned.	Effect of appeals on preservation or other ancillary orders 20. Retained	The side note was amended to reflect content.
Effect of forfeiture order 21. (1) With effect from the date when the Court makes a forfeiture order, the property subject to the order shall be forfeited to Agency and vests in the Agency on behalf of the Federal Government. (2) Upon a forfeiture order taking effect, the Agency may take possession of the property subject to the order on behalf of the Federal Government.	Effect of forfeiture order 21. (1) Retained (2) Upon a forfeiture order taking effect, the Agency may take possession of the property <i>from any person in possession or entitled to possession of the property</i>	Redrafted for elegance
Fulfilment of forfeiture order 22. (1) The Agency or an authorised person shall, subject to any order for the exclusion of interests in forfeited property under section 17(2)(a) or 19(3) of this Act - (a) deposit any moneys forfeited into the Confiscated and Forfeited Properties Account established under section 146 of this Act; or (b) dispose of property forfeited by sale or any other means and deposit the proceeds of the sale or disposition into the Confiscated and Forfeited	Fulfilment of forfeiture order 22. (1) The Agency <i>or person authorised to act on behalf of the Agency</i> shall, subject to any order for the exclusion of interests in forfeited property under section 17(2)(a) or 19(3) of this Act <i>and in accordance with the directions of the Agency -</i> (a) Retained (b) Retained	Redrafted for elegance.

Properties Account. (2) Any right or interest in forfeited property not exercisable by or transferable to the Agency, shall expire and shall not revert to the person who has possession, or was entitled to possession of the property immediately before the forfeiture order took effect. (3) A person who has possession, or was entitled to possession, of forfeited property immediately before the forfeiture order took effect, or any person acting together with, or on behalf of that person, shall not be eligible to purchase forfeited property at any sale held by the asset manager. (4) The expenses incurred in connection with the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertising and the Court costs shall be defrayed out of the Confiscated and Forfeited Properties Account.	(2) Retained (3) Retained <i>(4) A person mentioned in subsection (3) of this section who had possession or was entitled to possession of forfeited property immediately before the forfeiture order came into force, or any other person who acts with or on behalf of that person, commits an offence if he purchases or attempts to purchase the forfeited property.</i> <i>(5) Any person who contravenes the provision of subsection (4) of this section is liable on conviction to a fine of not less than twice the value of the property sold.</i> (6) The expenses incurred in connection with the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertisement and the Court costs shall be defrayed out of the Confiscated and Forfeited Properties Account.	The justification for the introduction of the new subsections is to prohibit the owners of properties subject to forfeiture orders, from repurchasing the forfeited properties.
Unlawful activity or conduct forming the basis of multiple orders 23. The fact that a preservation order or a forfeiture order has been made on the basis of unlawful activity or conduct in which a specific person has been involved shall not prevent the making of another or other preservation orders or forfeiture orders on the basis of the same unlawful activity or conduct.	Unlawful activity or conduct forming the basis of multiple orders 23. Retained	

Application of this Part to deceased estates 24. (1) A notice authorised or required to be given to a person under this Part shall, in the case of a deceased person, be sufficiently given to the administrator or executor of the deceased person's estate, or to a person acting in that capacity. (2) A reference in this section to the property of a person shall, in the case of a deceased person, be a reference to property that the deceased person held immediately before his death. (3) An order may be applied for and made under this section – (a) in respect of property which forms part of a deceased person's estate; and (b) on evidence adduced concerning the activities of a deceased person.	Application of this Part to deceased estates 24. Retained	
Effect of death of joint owner of preserved property 25. (1) Where a person has an interest in property as a joint owner, his death after a preservation order is made in respect of the interest does not, while the order is in force, operate to vest the interest in the surviving joint owner or owners and the preservation order continues to apply to the interest as if the person had not died. (2) A forfeiture order made in respect of the interest referred to in subsection (1) of this section shall apply as if the order took effect in relation to the interest immediately before the person died. (3) Subsection (1) of this section does not apply to the interest in property where a preservation order ceases to apply to that interest without a forfeiture order being made in respect of that interest.	Effect of death of joint owner of property under a preservation order 25. Retained	

**PART III –
ADDITIONAL INVESTIGATION POWERS IN CIVIL RECOVERY**

Discovery orders

26. (1) On an ex-parte application by the Agency, a Judge of the Court may make a discovery order where satisfied that the Agency is conducting a civil forfeiture investigation as envisaged in Part II of this Act.

(2) The requirements for making the order in subsection (1) of this section are that there are reasonable grounds to –

- (a) suspect that the property specified in the application for the order is property mentioned in section 4(2) of this Act; and
- (b) believe that the material sought, by itself or together with other material, is likely to be of substantial value into the specified investigation.

(3) A discovery order shall authorise the Agency to give notice in writing to any person that has relevant information requiring him to do, with respect to any matter relevant to the investigation for which the order is sought, any or all of the following –

- (a) answer questions at a specified time or at once, at a specified place;
- (b) provide information by a specified time and in a specified manner;
- (c) produce specified documents or documents of a specified type, at a specified time or at once, and in a manner so specified.

(4) "Relevant information" is information whether contained in a document or not that the Agency believes is relevant.

**PART III
ADDITIONAL INVESTIGATION POWERS RELATING TO CIVIL
RECOVERY**

Discovery orders

26. Retained

(5) A person is not bound to comply with a requirement imposed by a notice given under a discovery order unless evidence of authority to give the notice is produced to him. (6) The application for a discovery order shall state that- (a) property specified in the application is subject to a civil forfeiture investigation; and (b) the order is sought for the purposes of the investigation.		
Discovery order related offences 27. (1) A person commits an offence where – (a) without reasonable excuse he fails to comply with a requirement imposed on him under a discovery order; (b) in purporting to comply with a requirement imposed on him by a discovery notice, he - (i) makes a statement which is false or misleading; or (ii) recklessly makes a statement which is false or misleading. (2) Where a person contravenes a provision of subsection (1) of this section, he shall on conviction in the case of – (i) a body corporate be liable to a fine of not less than ten million Naira; and (ii) an individual, be liable to a fine of not less than one million Naira or imprisonment for a term of not more than two years or to both.	Discovery order related offences 27. (1) Retained	
Additional provisions on discovery orders 28. (1) A discovery order shall not confer any right to require a person to	Additional provisions on discovery orders 28. (1) Retained	

provide any information that is subject to legal privilege whether in answer to any question or in any document, except that a person may be required to provide the name and address of his client. (2) In consideration of the legal privilege referred to in subsection (1) of this section, no legal privilege shall attach to any of the items listed in section 112 (2) of this Act. (3) The Agency may take copies of any document produced in compliance to a requirement to produce them which is imposed by a discovery order. (4) Where originals of documents are required by the Agency, they may be retained until the completion of the investigation.	(2) Retained (3) Retained (4) Where originals of documents are required by the Law Enforcement Agencies, they may be retained until the completion of the investigation. <i>(5) The Agency shall not retain originals of documents where certified true copies of the documents would suffice.</i>	This is to ensure that documents are not held onto unnecessarily.
Variation or discharge of a discovery order 29. (1) An application to vary or discharge a discovery order may be made by - (a) the Director - General of the Agency; or (b) the person affected by the order. (2) Where an application is made by a person mentioned in subsection (1) of this section, the Court may - (a) vary the order; or (b) discharge the order.	Variation or discharge of a discovery order 29. Retained	

PART IV
RECOVERY OF CASH BEING IMPORTED OR EXPORTED

Seizure of cash being imported or exported

30. (1) An authorised officer may seize and detain any cash which is being imported into or exported from Nigeria where it is not less than the prescribed sum and he has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of unlawful activity.

(2) An authorised officer may seize cash, part of which he has reasonable grounds for suspecting to be—

- (a) the proceeds of unlawful activity or is intended to be an instrumentality of an offence; and
- (b) an amount of which is not less than the minimum prescribed sum.

(3) In this Part, cash means—

- (a) notes and coins in any currency;
- (b) cheques of any kind, including travellers' cheques;
- (c) bankers' draft; or
- (d) bearer bonds and bearer shares.

(4) Cash also includes any kind of monetary instrument, where the instrument is so specified by the Central Bank of Nigeria.

(5) 'Exported', in relation to any cash, includes cash being brought to any place in Nigeria for the purpose of being exported.

PART IV
RECOVERY OF CASH BEING IMPORTED OR EXPORTED

Seizure and detention of cash being imported or exported

30. (1) An authorised officer may seize and detain any cash which is being imported into or exported from Nigeria where it is not less than the **minimum** prescribed **amount** and he has reasonable grounds for suspecting that it directly or indirectly represents any person's proceeds of unlawful activity.

(2) An authorised officer may seize cash, part of which he has reasonable grounds **to suspect it to be—**

- (a) Retained
- (b) **which is not** less than the minimum prescribed **amount**; and
- (c) **which is being imported into or exported from Nigeria**

(3) Retained

(4) Retained

(5) Retained

Detention of seized cash	Detention of seized cash	
31. (1) Where the authorised officer continues to have reasonable grounds for his suspicion, cash seized under section 30 of this Act may be detained initially for a period of forty-eight hours. (2) The period referred to in subsection (1) of this section shall not include Saturdays and Sundays or any day which is a public holiday in Nigeria. (3) The period for which the cash, or any part of it, may be detained may be extended by an order of the Court but the order shall not authorise the detention of any of the cash beyond the end of the period of three months commencing from the date of the order. (4) Subsequent orders for the continued detention of the cash may be made by the Court but no order shall authorise the further detention of the cash beyond a period of three months commencing from the date of that order. (5) Cash shall not be detained for a period beyond two years commencing from the date of the first order. (6) An application for an order under subsections (3) and (4) of this section may be made by an authorised officer or by the Agency and the Court may make the order where satisfied in relation to any cash to be further detained that there are reasonable grounds to believe that the cash is - (a) the proceeds of unlawful activity; or (b) is intended to be an instrumentality of an offence and that either - (i) its continued detention is justified while its derivation is further investigated or consideration is given to bringing, in Nigeria	31. (1) Where the authorised officer continues to have reasonable grounds for his suspicion, cash seized under section 30 of this Act may be detained initially for a period of seventy-two hours. (2) Retained (3) Retained (4) Subsequent orders for the continued detention of the cash may be made by the Court but no order shall authorise the further detention of the cash beyond a period of three months commencing from the date of the last order. (5) Retained (6) Retained	This clause was amended because the 48 hours proposed in this bill is not enough time to take the matter before a High Court. Therefore, 72 hours has been recommended.

or elsewhere, proceedings against any person for an offence with which the cash is connected, or (ii) proceedings against any person for an offence with which the cash is connected have started and have not been concluded.		
Interest to be paid on seized cash 32. Where cash is detained under section 31 of this Act- (1) Where cash is detained under section 31 of this Act for more than the period specified in section 31(1), the cash shall be forwarded to the Agency to be paid into interest bearing account and held there and the interest accruing shall be added to it on its forfeiture or release; or (2) Where cash is detained under section 31 of this Act was seized under section 30(2) of this Act, the Agency on paying it into the account shall release the part of the cash to which the suspicion does not relate.	Interest to be paid on seized cash 32. (1) <i>Where cash under section 31 of this Act -</i> (a) <i>is detained for more than the period specified in section 31 (1), the cash shall be forwarded to the Agency to be paid into an interest yielding account and held there and the interest accruing shall be added to it on its forfeiture or release; or</i> (b) <i>was seized under section 30 (2) of this Act, the Agency on paying it into the account shall, subject to subsection (2) of this section, release the part of the cash to which the suspicion does not relate.</i> (2) <i>Where part of the cash, referred to in subsection (1) of this section to which suspicion does not relate, may still be subject to a confiscation order, under section 82 of this Act and an application for a restraint order, under section 51 of this Act in respect of a person who has an interest in the cash has been made and not refused, the Agency may retain the cash in an interest yielding account until such time as a confiscation order is made in respect of the cash or until an application made under sections 56 or 62 of this Act are granted by the Court.</i>	This clause was redrafted because of its inelegant nature and for purpose of clarity.

Release of detained cash 33. (1) This section applies where cash is detained under section 31 of this Act. (2) The Court may direct the release of the whole or any part of detained cash where the condition in subsection (3) of this section is met. (3) The condition referred to in subsection (2) of this section requires the Court to be satisfied on application by the person from whom the cash is seized that the conditions in section 31 of this Act no longer exist in relation to the cash to be released. (4) The Agency may, after notifying the Court under whose order the cash is detained, release the whole or part of the cash where satisfied that its detention is no longer justified.	Release of detained cash 33. Retained	
Forfeiture of seized cash 34. (1) Where cash is detained under section 31 of this Act, an application for forfeiture of the whole or part of it may be made to the Court. (2) The Court may order forfeiture of cash or any part of it where satisfied that it is proceeds of unlawful activity or is intended to be an instrument of an offence. (3) Where an application for forfeiture of cash is made under this section, the cash is to be detained and may not be released under a power conferred by this Act until any proceedings in pursuance of the application, including any proceedings on appeal are concluded.	Forfeiture of cash being imported or exported 34. (1) Retained (2) The Court may order forfeiture of cash or any part of it where the Court is satisfied that the cash is proceeds of unlawful activity or is intended to be <i>an instrumentality of an offence</i>. (3) Retained	
Appeals 35. (1) Where a Court refuses an application under section 34 of this Act for forfeiture of cash detained under section 31 of this Act, the Agency may appeal to the Court of Appeal. (2) Where an appeal is made to the Court of Appeal by the Agency, cash	Appeals 35. Retained	

detained under section 31 of this Act will be further detained pending the outcome of the appeal. (3) No appeal may be made under subsection (1) of this section if the cash has been detained for the period mentioned in section 31 (5) of this Act. (4) Where a party to proceedings in which an order is made under section 34 of this Act for forfeiture of cash is aggrieved by the order, he may appeal against the Order. (5) Appeals under this section shall be- (a) made within thirty days commencing from the date on which the order is made or refused; and (b) by way of a rehearing. (6) The Court hearing an appeal under this section may make any order it thinks appropriate in the circumstance and where that Court upholds an appeal made under subsection (4) of this section, it shall order the release of the cash.	
Other owners or claimants 36. (1) A person other than the person from whom cash was seized, who claims that any cash detained under section 31 of this Act or any part of it belongs to him, may apply to the Court for the cash to be released to him. (2) An application under subsection (1) of this section may be made in the course of proceedings under section 31 or 34 of this Act, or at any other time. (3) Where it appears to the Court that the —	Other owners or claimants 36. Retained

(a) applicant was deprived of the cash to which an application relates, or of property which it represents, by unlawful activity; (b) property the applicant was deprived of was not, immediately before he was deprived of it, recoverable property; and (c) cash belongs to the applicant, the Court may order the cash to which the application relates to be released to the applicant.		
Compensation where detained cash is not lodged in interest bearing account 37. (1) Where no forfeiture order is made in respect of cash detained under section 31 of this Act, the person to whom the cash belongs or from whom it was seized may make an application to the Court for compensation. (2) Where an opportunity to place cash detained sequel to a forfeiture order in an interest-bearing account arises and 48 hours thereafter the cash was not held in an interest-bearing account while detained, the Court may order an amount of compensation to be paid to the applicant. (3) The amount of compensation to be paid under subsection (2) of this section is the amount the Court considers would have accrued in interest in the period for which it was not placed into an interest bearing account. (4) Where the Court is satisfied that the applicant has suffered loss as a result of detention of the cash and that the circumstances are exceptional, taking account of any interest to be paid under section 32 or any amount to be paid under subsection (2) of this section, it may order compensation, or additional compensation, to be paid to him. (5) The amount of compensation to be paid under subsection (4) of this section is the amount the Court considers reasonable, having regard to the loss suffered and any other relevant circumstances.	Compensation where detained cash is not lodged in interest bearing account 37. (1) Retained as in the Bill (2) Retained as in the Bill (3) Retained as in the Bill (4) Where <i>no forfeiture order was made and</i> the Court is satisfied that <i>because of exceptional circumstances an applicant has suffered loss as a result of the detention of the cash belonging to him, it may order additional compensation, to be paid to him, taking account of any interest to be paid under section 32 or any amount to be paid under subsection (1) of this section.</i> (5) Retained.	

(6) Compensation under this section shall be paid from the Confiscated and Forfeited Properties Account.	(6) Retained	
"The minimum amount" 38. (1) In this Part, the "minimum amount" is the equivalent amount in United States Dollars specified in an order made by the Attorney – General of the Federation. (2) For the purpose of subsection (1) of this section, any amount of cash imported or exported in a currency other than United States dollars shall be taken to be its United States dollar equivalent, calculated in accordance with the prevailing exchange rate.	"The minimum amount" 38. Retained	
PART V CRIMINAL FORFEITURE AND CONFISCATION Nature of proceedings under this Part 39. (1) For the purpose of this Part, proceedings on an application for a freezing order, restraint order, forfeiture order or confiscation order are civil proceedings, and not criminal proceedings. (2) The rules of evidence applicable in civil proceedings apply to proceedings on an application for a freezing order, restraint order, forfeiture order or confiscation order. (3) No rule of evidence or construction applicable only in criminal proceedings shall apply to proceedings on an application for a freezing order, restraint order, forfeiture order or confiscation order. (4) Any question of fact to be decided by a Court in any proceedings in respect of an application contemplated under this Part shall be decided on a balance of probabilities.	PART V CRIMINAL FORFEITURE AND CONFISCATION Nature of proceedings under this Part 39. Retained	

(5) Notwithstanding any rule of law or practice relating to hearsay evidence, evidence given in furtherance of this Part is admissible.		
Forfeiture after conviction 40. (1) Where a person is convicted of an offence, the Court shall make an order of forfeiture in relation to – (a) any asset or property constituting or derived from proceeds of the unlawful activity; and (b) instrumentalities of the offence, or any of the defendant's property used in any manner to commit or to facilitate the commission of such offence. (2) An order made by the Court under subsection (1) of this section, is in addition to – (a) a sentence which the Court may impose on a person convicted for an offence; or (b) any confiscation order imposed under this Act.	Forfeiture after conviction 40. Retained	
International forfeiture provisions 41. (1) Where under this Act the Court is required to order forfeiture in respect of any asset or property, the Court may make an order forfeiting any property within Nigeria which represents the proceeds of an offence under the laws of a foreign country within whose jurisdiction such offence or activity will be punishable by imprisonment for a term exceeding one year and which will be punishable by imprisonment under the laws of Nigeria if the act or activity had occurred within Nigeria. (2) Where it is established that a convicted person has any asset or property in a foreign country, acquired as a result of some criminal activity, the asset or property shall, subject to any treaty or arrangement with that foreign country, be forfeited to the Agency. (3) The forfeited asset or property shall be effectively transferred to and	International forfeiture provisions 41. (1) Where under this Act a Court is required to order forfeiture in respect of any property, the Court may make an order forfeiting any property within Nigeria which represents the proceeds of unlawful activity or instrumentality of an offence under the laws of a foreign country within whose jurisdiction such offence or activity will be punishable by imprisonment for a term exceeding one year and which will be punishable by imprisonment under the laws of Nigeria if the act or activity had occurred within Nigeria. (2) Retained (3) The forfeited property referred to in subsections (1) and (2)	

interest vested in the Agency. (4) Where a foreign country has forfeited or confiscated assets under the laws of that country that relates to unlawful activity conducted in that country and Nigeria, and that country repatriates the whole or part of that assets or a sum of money that represents the unlawful activity in Nigeria, the asset shall be paid into the Confiscated and Forfeited Properties Account established under Part IX of this Act. (5) Any asset or sum of money that represents asset repatriated under subsection (4) of this section shall be utilised to finance any of the purposes specified under section 150 (2) (e) of this Act.	<i>of this section</i> shall be effectively transferred to and interest vested in the Agency. (4) Where a foreign country has forfeited or confiscated property under the laws of that country that relates to unlawful activity conducted in that country and Nigeria, and that country repatriates the whole or part of that assets or a sum of money that represents the unlawful activity in Nigeria, the <i>property shall be realised and the proceeds or the sum of money</i> shall be paid into the Confiscated and Forfeited Properties Account established under Part IX of this Act. (5) <i>Any money paid into the Confiscated and Forfeited Properties Account</i> under subsection (4) of this section shall be utilised to finance any of the purposes specified under section 150 (2) (e) of this Act.	
Further provisions as to instrumentalities of an offence 42. Where under this Act the Court is required to make an order of forfeiture in respect of an instrumentality of an offence, the Court may make an order forfeiting – (a) a means of conveyance, including an aircraft, a vehicle or vessel, used or intended to be used to transport or facilitate the transportation, sale, receipt, possession of the proceeds of crime or other instrumentality, or for the concealment of an offence, but a means of conveyance shall not be forfeited under this section- (i) where it is used by its owner as a common carrier in the transaction of his business unless the owner or other person in charge of the means of conveyance consented to or was privy to the commission of the offence, (ii) by reason of any offence established by its owner to have been committed by any other person while the	<i>Order forfeiting instrumentalities of an offence</i> 42. Retained	

means of conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of Nigeria, and (iii) by reason of any offence established by the owner to have been committed without his knowledge, consent or wilful connivance; (b) books, records, research materials, and data used or intended to be used in the furtherance of any criminal activity; (c) monies, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for any illegal act or all proceeds traceable to the exchange, and all monies, negotiable instruments, securities and other things used or intended to be used to facilitate any criminal activity; or (d) real property, including any right, title or any interest, including any leasehold interest, in land or part of a land and any improvement or appurtenance which is used or intended to be used, in any manner to commit, or facilitate any criminal activity.		
Account freezing order 43. (1) The Court may by an order (in this Act referred to, as a "freezing order") on the application of the Agency prohibit a financial institution from allowing a withdrawal from an account with the financial institution, except in the manner and circumstances specified in the order made by the Court, where - (a) there are reasonable grounds to suspect that the account is - (i) a proceed of an unlawful 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	Account freezing order 43. Retained	

(b) the Court is satisfied that, unless a freezing order is made, there is a risk that the account will be reduced to the extent that a person will be deprived of all or some of the proceeds or instrumentality. (2) A freezing order shall cover the specified account or any related accounts to which the defendant 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 44. (1) An application for a freezing order by the Agency shall be made <i>ex parte</i>, supported by an affidavit deposed to by an authorised officer. (2) The application for a freezing order shall – (a) identify the financial institution; (b) set out sufficient information to identify the account, including the account number; and (c) set out the grounds for suspecting that the content of the account – (i) is a proceed of an offence, (ii) is wholly or partly an instrumentality of an offence, and (iii) will be reduced to the extent that a person will be deprived of all or some of such proceeds or of such an instrumentality.	Application for a freezing order 44. Retained	
Service of freezing order 45. A copy of a freezing order made under section 44 of this Act shall be served on – (a) the financial institution affected by the order; (b) the account holder; and	Service of freezing order 45. Retained.	

(c) any other party that may be affected by the order. Offence of contravening a freezing order	Offence of contravening a freezing order	
46. (1) A financial institution which allows a withdrawal from an account in respect of which a freezing order exists in a manner that contravenes the order commits an offence and is liable to a fine of not less than five million Naira and shall, notwithstanding the provision of any law or regulation to the contrary, be liable to refund of the sum withdrawn. (2) An officer of a financial institution who knowingly breaches or negligently omits to comply with a freezing order commits an offence and is liable on conviction to imprisonment for a term of not less than five years without the option of fine.	46. (1) A financial institution which allows a withdrawal from an account in respect of which a freezing order exists in a manner that contravenes the order commits an offence and is liable to a fine of not less than five million naira and shall, refund the sum withdrawn. (2) An officer of a financial institution who intentionally or negligently fails to comply with a freezing order commits an offence and is liable on conviction to imprisonment for a term of not less than five years without the option of fine.	
Protection from suits, etc. for those complying with a freezing order	Protection from suits, etc. for those complying with a freezing order	
47. No action, suit or proceeding shall lie against a financial institution or an officer or agent of a financial institution acting in the course of his employment or agency, in relation to any action taken by the institution, officer or agent in complying with a freezing order or in the mistaken belief that action was required under a freezing order.	47. No action, suit or proceeding shall lie against a financial institution or an officer or agent of a financial institution acting in the course of his employment or agency, in relation to any action taken by the institution, officer or agent in complying with a freezing order or in the mistaken belief that action was required under a freezing order.	
Duration of a freezing order	Duration of a freezing order	
48. A freezing order remains in force until the – (a) end of the period specified in the order; or (b) time the Court otherwise directs.	48. Retained	
Extension of a freezing order	Extension of a freezing order	
49. (1) The Court may make an order extending the period specified in a freezing order, where the- (a) Agency applies for the extension; and (b) Court is satisfied that an application has been made to it for a restraining order to cover the account, whether or not the restraining order covers other	49. (1) <i>The Court that granted an order under section 43 of this Act may, on application by the Agency or authorised prosecutor make an order extending the periods referred to in section 48 of this Act, if satisfied that –</i> (a) <i>the conditions in section 43(1) apply;</i> (b) <i>the extension is necessary in order to</i>	

property which has not been decided. (2) The extension referred to under subsection (1) of this section may be for - (a) a specified number of days; or (b) the period ending when the Court decides the application for the restraining order	<i>secure a forfeiture order under section 66 of this Act.</i> (c) Court is satisfied that an application has been made to it for a restraint order to cover the account, whether or not the restraint order covers other property which has not been decided. (2) The extension referred to under subsection (1) of this section may be for - <i>(a) end of the period specified in the order; or</i> (b) the period ending when the Court decides the application for the restraint order	
Variation or revocation of a freezing order in certain cases 50. (1) The Court that made a freezing order may on application by a person affected by the order vary or revoke the order where it is satisfied that - (a) the person has given written notice of the application and the grounds for the application to the Agency or authorised prosecutor; (b) the operation of the order will deprive the applicant of the means to provide for his reasonable living expenses and cause undue hardship for the applicant or close dependent relative; (c) the applicant cannot meet the expenses out of property that is not covered by - (i) a freezing order, or (ii) a restraint order; (d) the hardship that the applicant will suffer as a result of the order outweighs the risk that the property concerned may be destroyed, lost, damaged, concealed, transferred or otherwise disposed of;	Variation or revocation of a freezing order in certain cases 50. (1) Retained (a) Retained (b) Retained (c) Retained (i) Retained (ii) Retained (d) the hardship that the applicant will suffer as a result of the order outweighs the risk that the property concerned may be destroyed, lost, damaged, concealed, transferred, removed <i>or have its value diminished</i>, or otherwise be disposed of;	

(e) the expenses do not, or will not, relate to legal costs that the person has incurred, or will incur, in connection with proceedings relating to the offences with which the defendant has been charged; and (f) it is in the interest of justice to do so. (2) The written notice referred to in subsection (1)(a) of this section shall be given not less than seventy-two hours before the application is heard.	(e) Retained (f) Retained (2) Retained	
Application for a restraint order 51. (1) The Agency or authorised prosecutor may apply for a restraint order for the purposes specified under this Act. (2) An application for a restraint order shall – (a) be made <i>ex parte</i>; (b) be in accordance with sections 52 and 53 of this Act; and (c) provide for the period of the notice referred to in section 57 of this Act to be given to persons affected by the order. (3) The Court making a restraint order may also make further orders in respect of the discovery or disclosure of any facts, including facts relating to any property over which the defendant may have effective control and the location of such property, as the Court may consider necessary or expedient with a view to achieving the objectives of the restraint order. (4) The Court making a restraint order shall at the same time make an order – (a) authorising the Agency to take custody or control of any property specified in the order; (b) for entering premises, where necessary; and (c) any other ancillary orders that the Court considers	Application for a restraint order 51. Retained	

appropriate for the proper, fair and effective execution of the order.

(5) Property affected by subsection (4) of this section shall be dealt with in accordance with the directions of the Court that made the restraint order.

(6) The Court that made a restraint order-

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

- (i) operation of the order concerned will deprive the applicant of the means to provide for his reasonable living expenses and cause undue hardship to the applicant or close dependant relatives, and
- (ii) hardship that the applicant will suffer as a result of the order outweighs the risk that the property concerned may be destroyed, lost, damaged, concealed, transferred or otherwise disposed of; and

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

(7) Where the Court has made a restraint order under section 52 of this Act, it shall rescind the order where the relevant person is not charged within such period as the Court may consider reasonable.

(8) Where the Court orders the rescission of an order authorising the seizure of property in accordance with subsection (6)(a) of this section, the Court shall make such other order as it considers appropriate for the proper,

fair and effective execution of the restraint order.		
Making the restraint order 52. (1) The Court may on the application of the Agency or authorised prosecutor make an order that a property shall not be disposed of or otherwise dealt with by any person except in the manner as may be specified in the order where - (a) a defendant has been convicted of or has been charged with an offence and a confiscation order has been made against that defendant or it appears to the Court that there are reasonable grounds for believing that a forfeiture order or confiscation order may be made against that defendant; (b) when it is proposed that a person is to be charged with an offence and a Court is satisfied that such person is to be so charged, and it appears to the Court that there are reasonable grounds for believing that a forfeiture order or confiscation order may be made against such a person; and (c) an affidavit under section 54 of this Act has been filed in support of the application. (2) The Court may make a restraint order even where there is no risk of the property being disposed of or otherwise dealt with.	Making the restraint order 52. Retained	
Property subject to a restraint order 53. A restraint order may be made in respect of — (a) such realisable property as may be specified in the restraint order and held by the person against whom the order is made; (b) all realisable property held by the person against whom the restraint order is made, whether specified in the order or not; (c) specified property of another person that is subject to the effective control of the relevant person, whether or not that other person's identity is known;	Property subject to a restraint order 53. Retained	

(d) specified property of another person that is a proceed of the offence or an instrumentality of the offence, whether or not that other person's identity is known. (e) all property which, where it is transferred to such person after the making of the restraint order, would be a realisable property; and (f) gifts, within the meaning of section 87 of this Act, made by the relevant person.		
Affidavit in support of a restraint order 54. (1) The application for a restraint order shall be supported by an affidavit made by an authorised officer stating that the officer believes that the property is - (a) the proceeds of a specified offence; (b) an instrumentality of a specified offence; or (c) the proceeds of unlawful activity. (2) An affidavit shall contain the following - (a) the grounds on which the authorised officer holds the belief but the grounds need not be based on a finding as to the commission of a particular offence; (b) where the relevant person has been convicted, a copy of the judgement; (c) where the relevant person has been charged, a copy of the charge pending before a competent court; or (d) where the application is to restrain property of a person other than the relevant person, a declaration that the authorised officer reasonably believes that the property is - (i) subject to the effective control of the relevant person, (ii) proceeds of the unlawful activity or an instrumentality of the offence, or (iii) proceeds of other unlawful activity.	Affidavit in support of a restraint order 54. Retained	

(3) The Court shall not make a restraint order unless it is satisfied that the facts disclosed in the affidavit support the reasonable beliefs expressed by the authorised officer.		
Payment of expenses out of restrained property 55. (1) The Court may make an order to allow any one or more of the following to be paid out of a property or a specified part of a property covered by a restraint order- (a) the reasonable living expenses of the person whose property is restrained; (b) the reasonable living expenses of close dependants of that person; (c) subject to subsection (4) of this section, reasonable legal costs concerning the current proceedings with which the defendant has been charged or is about to be charged. (2) The Court may only make an order under subsection (1) of this section where, the- (a) person whose property is restrained has applied for an order for expenses to be paid out of restrained property; (b) person has notified the Agency in writing of the application and the grounds for the application at least seventy-two hours before the application is heard; (c) person has disclosed all of his interests and liabilities in the property, in a statement on oath that has been filed in the Court; and (d) Court is satisfied that the person cannot meet the expense or debt out of property that is not covered by the restraint order. (3) The Court shall require a costs assessor, authorised by the Agency	Payment of expenses out of restrained property 55. Retained	

to certify that legal expenses have been properly incurred before permitting the payment of expenses from any property covered by an order under subsection (1) of this section.		
Application to exclude property from a restraint order 56. (1) An application may be made to the Court that issued a restraint order to exclude a specified interest in property that is subject to a restraint order by a person who claims to have an interest in it, where the interest is not the proceeds of an offence or an instrumentality of unlawful activity. (2) The Court shall not exclude property that is subject to a restraint order under this Act unless it is satisfied that a confiscation order cannot be made against- (a) the person who has the interest; or (b) the defendant, where the interest is not held by the defendant but is under his effective control. (3) The applicant shall notify the Agency or authorised prosecutor in writing of the - (a) application referred to in subsection (1) of this section; and (b) grounds on which the application is made. (4) The Court shall not hear an application to exclude specified property from a restraint order where the Agency or authorised prosecutor has not been given a reasonable opportunity to conduct examinations in relation to the application. (5) The Agency or authorised prosecutor shall give the person notice of any grounds on which it proposes to contest the application, after it has conducted enquiry in relation to the application. (6) The Agency or authorised prosecutor may appear and adduce evidence at the hearing of the application.	Application to exclude property from a restraint order 56. Retained	

Notice of a restraint order 57. (1) Where the Court makes a restraint order, the Agency or authorised prosecutor shall give notice to – (a) all persons affected by the restraint order; and (b) any other person who may be affected by an order to seize any property in furtherance of the restraint order. (2) The notice referred to in subsection (1) of this section shall – (a) be served before or at the time of any seizure and in any other case after the order is obtained; and (b) contain - (i) a copy of the restraint order; (ii) the details of the issuing Court; and (iii) the name and address of the applicant or other person to whom enquiries regarding the restraint order may be made.	Notice of a restraint order 57. Retained	
Registering restraint orders 58. (1) A registration authority that keeps a register of properties of a particular kind shall, on application by the Agency, register the details of a restraint order as it affects the property in that register. (2) A person who subsequently deals with the registered property shall be deemed - (a) not to be acting in good faith for the purposes of section 59 of this Act; and (b) to have notice of the restraint order for the purposes of section 60 of this Act. (3) Where the Agency has previously applied to a registration authority under subsection (1) of this section for the registration of the particulars of a restraint order, the Agency shall promptly, notify the registration authority	Registering restraint orders 58. Retained	

where -		
(a) the property is no longer covered by the restraint order because it is varied or excluded from the restraint order under section 56 of this Act; or (b) a condition to which a restraint order is subject to is varied under section 55 of this Act.		
Setting aside a disposition contravening a restraint order 59. (1) The Agency or authorised prosecutor may apply to the Court to set aside a disposition or dealing with a property that contravenes a restraint order where that disposition or dealing was not – (a) for sufficient consideration; or (b) in favour of a person who acted in good faith. (2) The Agency or authorised prosecutor shall give, to each party to the disposition or dealing, written notice of both the application and the grounds on which it seeks the setting aside of the disposition or dealing. (3) The Court may set aside the disposition or dealing and declare the rights of any person who acquired interest in the property null and void.	Setting aside a disposition contravening a restraint order 59. Retained	
Contravening restraint orders 60. A person who disposes of, or deals with a property knowing that, or is reckless as to the fact that, the property is covered by a restraint order, commits an offence and is liable on conviction to imprisonment for a term of five years without an option of fine.	Contravening restraint orders 60. Retained	
Seizure of property covered by a restraint order 61. (1) An authorised officer may, in order to prevent any realisable property from being disposed of or removed contrary to a restraint order, enter into any premises and seize that property where he has reasonable grounds to believe that the property will be so disposed of or removed. (2) Property seized under subsection (1) of this section shall be dealt	Seizure of property covered by a restraint order 61. (1) Retained (2) Property seized under subsection (1) of this section shall be	

with in accordance with the directions of the Court that made the relevant restraint order.	dealt with by the Agency in accordance with the directions of the Court that made the relevant restraint order.	
Revocation of a restraint order	Revocation of a restraint order	
62. (1) Any person with an interest in a property covered by a restraint order may within twenty - eight days apply to the Court that made the order for revocation of the order. (2) The person making an application under subsection (1) of this section shall give written notice to the Agency or authorised prosecutor of the application and the grounds on which the revocation is sought. (3) The Agency or authorised prosecutor may adduce additional material to the Court relating to the application to revoke the restraint order. (4) The Court may revoke the restraint order where it is satisfied that the order was obtained by suppression or misrepresentation of fact or by fraud. (5) A restraint order remains in force until it is revoked by the Court.	62. (1) Retained	
Giving security, etc. to revoke a restraint order	Giving security, etc. to revoke a restraint order	
63. (1) The Court may revoke a restraint order that covers a property belonging to a relevant person or exclude a specified property from a restraint order where the relevant person – (a) applies to the Court to revoke the order or exclude the property; (b) gives written notice of the application to the Agency; and (c) gives security that is satisfactory to the Court to meet any liability that may be imposed on a person under this Act. (2) The Court may revoke a restraint order that covers the property of a	63. (1) Retained (a) Retained (b) gives written notice of the application to the Agency or authorised prosecutor; and (c) Retained (2) Retained	

person who is not a suspect or exclude specified property from a restraint order where the person – (a) applies to the Court to revoke the order or exclude the property; (b) gives written notice of the application to the Agency; and (c) gives an undertaking concerning the property that is satisfactory to the Court.	(a) Retained (b) gives written notice of the application to the Agency or authorised prosecutor; and (c) Retained	
Cessation of restraint orders 64. (1) A restraint order in relation to one or more offences ceases to be in force in any of the following cases – (a) within twenty-eight days where the - (i) charge, or all of the charges, that relate to the restraint order are withdrawn, (ii) suspect is acquitted of the offence, or all of the offences, with which he was charged, or (iii) suspect's conviction for the offence, or all of the offences, of which he was convicted are quashed; (b) in respect of property covered by the restraint order where - (i) the Court refuses an application for a forfeiture order that would have covered the property, (ii) the Court excludes the property from a forfeiture order, or (iii) a forfeiture order that covers the property is discharged or ceases to have effect; or (g) in respect of property covered by the restraint order	Cessation of restraint orders 64. Retained	

where a confiscation order relates to that offence or those offences and where the confiscation order is satisfied or discharged.

(2) Subsection (1)(a) of this section shall not apply where –

- (a) there is a confiscation order that relates to the offence;
- (b) there is an application for a confiscation order before the Court;
- (c) the suspect is charged with a related offence; or
- (d) a new trial is ordered in relation to the offence.

(3) Subsection (1)(b) of this section shall only apply where –

- (a) in the case of a refusal of an application for a forfeiture order -
 - (i) the time for an appeal against the refusal has expired without an appeal being lodged,
 - (ii) an appeal against the refusal has lapsed, or
 - (iii) an appeal against the refusal has been dismissed or finally disposed of;
- (b) no application for another confiscation order is made relating to -
 - (i) an offence to which the restraint order relates, or
 - (ii) a related offence is pending in a court; and
- (c) no other confiscation order relating to the offence is in force.

Restraint orders and instrumentalities owned by third parties 65. Notwithstanding the provisions of subsection (1) of section 64 of this Act, the restraint order ceases to be in force in respect of the property – (a) where the relevant person has not been charged with the offence or a related offence within twenty-eight days after the restraint order is made; or (b) where - (i) a restraint order covers property of a person who is not a relevant person; (ii) the property is not an instrumentality of an offence to which the order relates; (iii) the property is not a proceed of an offence; (iv) the property is not subject to the effective control of another person who is charged or who may be charged with an offence in relation to the order; or (v) the property is not a gift within the meaning of section 87 of this Act.	Restraint orders and instrumentalities owned by third parties 65. Retained.	
Forfeiture order where a person is convicted of an offence 66. (1) The Court shall on the application of the Agency, authorised prosecutor or on its own motion make an order that the property specified in the order be forfeited to the Agency, where – (a) a person has been convicted of one or more offences; and (b) the Court is satisfied that the property to be specified in the order - (i) is property derived directly from one or more of the offences of which the person has been convicted;	Forfeiture order where a person is convicted of an offence 66. Retained	

(ii) is an instrumentality of one or more of those offences; or (iii) represents the value derived from the sale of items mentioned in section 142 of this Act. (2) In considering whether it is appropriate to make an order under subsection (1) of this section in respect of any particular property, the Court may have regard to the – (a) ordinary use or intended use of the property to be specified in the order; and (b) gravity of the offence or offences concerned. (3) An application under subsection (1) of this section shall be made not later than six months after the date of conviction.		
Existence of other confiscation orders 67. The power of the Court to make a forfeiture order in relation to an offence is not affected by the existence of a confiscation order in relation to that offence.	Existence of other confiscation orders 67. Retained	
Making of forfeiture order where person has absconded 68. Where a person arrested or charged in connection with an offence is absent during trial, the Court may nevertheless make a forfeiture order under section 66 of this Act as if the person has been convicted where the – (a) Court is satisfied on a balance of probabilities that the person has absconded; and (b) person has been arraigned for trial for the offence or there is sufficient evidence for putting a person on trial for the offence.	Making of forfeiture order where person has absconded 68. Retained	
Third party interests in forfeiture orders 69. (1) In making a forfeiture order, the Court may consider third party interests in the property where –	Third party interests in forfeiture orders 69. Retained	

(a) the amount received from disposing of the combined interests will likely be greater than the amount received from disposing of each of the interests separately; or (b) disposing of the interests separately would be impracticable or significantly more difficult than disposing of the combined interests. (2) In consideration of third party interests, the Court may make such ancillary orders including an order directing – (a) the Agency to pay a person a specified amount as the value of the person's interest in the property; or (b) that other specified interests in the property be transferred to the person, as it deems fit for the protection of a person having one or more of those other interests. (3) In deciding whether to make an ancillary order, the Court shall have regard to – (a) the nature, extent and value of the person's interest in the property concerned; and (b) any other matter that the Court considers relevant.		
Making supporting directions 70. (1) The Court making a forfeiture order may give all directions that are necessary or convenient for giving effect to the order. (2) The Court may, in a forfeiture order specifying registrable property, give a direction to an officer of the Court to do anything necessary and reasonable to obtain possession of any document necessary for the transfer of the property.	Making supporting directions 70. (1) Retained (2) The Court may, in a forfeiture order specifying registrable property, give a direction to the Agency to do anything necessary and reasonable to obtain possession of any document necessary for the transfer of the property.	
Notice of application for a forfeiture order 71. (1) The Agency or authorised prosecutor shall give written notice of an application for a forfeiture order to a person –	Notice of application for a forfeiture order 71. Retained	

(a) convicted of an offence where the order relates to such person; (b) who claims an interest in property covered by the application; and (c) whom the Agency or authorised prosecutor reasonably believes may have an interest in the property. (2) The Court hearing the application may, at any time before the final determination of the application, direct the Agency to give or publish notice of the application to a specified person or class of persons subject to such conditions as to the manner and time as the Court may direct. (3) The Court to which an application for a forfeiture order is made in relation to an offence may, on application by the Agency or authorised prosecutor, dispense with the requirements to give notice to a person under subsections (1) and (2) of this section where the Court is satisfied that the person has absconded in connection with the offence.		
Additional application for a forfeiture order 72. (1) The Agency or authorised prosecutor shall not, without the leave of the Court apply for a forfeiture order under section 66 of this Act where – (a) an application has previously been made under this Act for an order under the same sections for the forfeiture or for condemnation of the property under the Customs and Excise Management Act in relation to the offence; and (b) the application has been finally determined on its merits. (2) The Court shall not grant leave unless it is satisfied that – (a) the property to which the new application relates was identified only after the first application was	Additional application for a forfeiture order 72. Retained	

determined; (b) additional relevant evidence became available only after the first application was determined; or (c) it is in the interests of justice to grant the leave		
Procedure on application by a person who claims interest in a property, etc. 73. (1) A person who claims an interest in a property covered by an application for a forfeiture order may appear and adduce evidence at the hearing of the application. (2) The Court may, in determining the application, have cognisance of the record of any proceeding against the person for an offence that constitutes unlawful activity; and evidence given in any such proceeding. (3) The Court may make a forfeiture order where a person entitled to be given notice of the relevant application received notice, but fails to appear at the hearing of the application.	Procedure on application by a person who claims interest in a property, etc. 73. Retained	
Vesting of title of forfeited property 74. (1) Subject to subsection (2) of this section, any property specified in a forfeiture order vests absolutely in the Agency on behalf of the Federal Government at the time the order is made. (2) Where the property specified in a forfeiture order is a registrable property, the Agency shall - (a) give notice in writing of the forfeiture order to the registration authority; (b) do anything necessary or convenient to protect the interest of the Federal Government or any other authority as may be appropriate in the circumstance and register the title of the Agency or any other authority in the property. (3) Any action by the Agency under subsection (2)(b) of this section is	Vesting of title of forfeited property 74. Retained	

not a dealing for the purposes of section 76(1) of this Act.		
Death of a joint owner of forfeited property 75. (1) Where a person who is the joint owner of property specified in a forfeiture order, dies before the order is made, but – (a) after the Agency applied for the order; or (b) while a restraint order covering the property was in force, that property is deemed to have been vested in the Agency immediately before the person's death. (2) The restraint order is also deemed to have continued to apply to the property as if the person had not died.	Death of a joint owner of forfeited property 75. Retained	
Dealing in forfeited property 76. (1) The Agency and persons acting on its behalf, shall not dispose of, or otherwise deal with the property specified in a forfeiture order unless – (a) the period provided for lodging an appeal against the order has ended without an appeal having been lodged; (b) where an appeal against the order has been lodged, the appeal has lapsed or has been finally determined; or (c) where the order was made in relation to a person's conviction for an offence - (i) the period provided for lodging an appeal against the conviction has ended without an appeal having been lodged, or (ii) where an appeal against the conviction has been lodged, the appeal has lapsed or has finally been determined. (2) Notwithstanding the provision of subsection (1) of this section, the	Dealing in forfeited property 76. Retained	

Agency may, with leave of the Court and while the forfeiture order is still in force -

- (a) dispose of, by sale or otherwise, any property specified in the order that is not money in the exercise of its functions under section 101 of this Act; and
- (b) subject to the provision of subsection (5) of this section and any regulations made under this Act, credit the proceeds of the disposal and any property specified in the order to the Confiscated and Forfeited Properties Account in accordance with section 147 of this Act.

(3) Where any part of the property included in a forfeiture order consists of money -

- (a) in a bank account, the Agency shall serve a copy of the order on the manager or any person in control of the branch of the bank where the account is operated or on a designated officer at the head office of the bank concerned; or
- (b) in the possession of any other person, the Agency shall serve a copy of the order on the person or his authorised agent.

(4) The manager or person referred to in subsection (3)(a) of this section shall immediately, on being served with a copy of the order, pay over the money to the Agency without any further assurance than this Act and the Agency shall, subject to subsection (5) of this section, credit the money received into the Confiscated and Forfeited Properties Account in line with section 151 of this Act.

(5) The Agency may before crediting the Confiscated Assets and Forfeited Properties Account with proceeds of a disposal or money in accordance with subsections (3) and (4) of this section apply any amount

received to the payment of its costs, and other charges and expenses of the kind referred to in sections 55(1) and 22(6) of this Act payable to or incurred by it in connection with the disposal and with the restraint order that covered the property.		
Unauthorised dealing in forfeited property 77. (1) A person who, without due authorisation by the Agency, deals with, sells or otherwise disposes of any property or assets which is the subject of a forfeiture order commits an offence and is liable on conviction to imprisonment for a term of five years without the option of a fine. (2) A manager or person in control of the head office or branch of a bank, or any other person who fails to pay over to the Agency upon the service of a forfeiture order commits an offence and is liable on conviction to imprisonment for a term of three years, without the option of a fine.	Unauthorised dealing in forfeited property 77. Retained	
Making exclusion orders 78. (1) A Court that made a forfeiture order, or that is hearing or is to hear an application for a forfeiture order, may make an order excluding a specified interest in the property from forfeiture where – (a) a person makes an application for the exclusion order; (b) the application for the forfeiture order specifies property in which the applicant has an interest; and (c) the Court is satisfied that the applicant's interest in the property is not the proceeds or instrumentality of an offence to which the order or forfeiture application relates. (2) The Court shall in the exclusion order – (a) specify the nature, extent and value at the time of making the order of the interest concerned; (b) direct that the interest be excluded from the	Making exclusion orders 78. Retained	

(c) operation of the relevant forfeiture order; direct the Agency to transfer the interest to the applicant, where the interest has vested, in law or equity, in the Agency and is yet to be disposed of; and (d) direct the Agency to pay the applicant an amount equal to the value specified under paragraph (a) of this subsection, where the interest has vested, in law or equity, in the Agency under this Act and has been disposed of.		
Application for exclusion orders 79. (1) A person who claims an interest in any property that - (a) he reasonably believes may be specified in a forfeiture order which has been applied for, but yet to be made, may apply to the Court before whom the application for a forfeiture order was made for an exclusion order; or (b) is specified in a forfeiture order may, at any time after the forfeiture order is made, apply to the Court that made the forfeiture order for an exclusion order. (2) Except with the leave of Court, a person shall not apply for an exclusion order where he - (a) was notified of the application for the forfeiture order, but failed to appear at the hearing of that application; or (b) appeared at the hearing of that application but failed to apply for an exclusion order. (3) The Court may grant leave to a person to apply for exclusion order where the Court is satisfied that - (a) in the case of subsection (2)(a) of this section, the	Application for exclusion orders 79. Retained	

(b) person had a good reason for not appearing; or in the case of subsection (2)(b) of this section, the person now has evidence relevant to his application that was not available to him at the time of the hearing; or (c) there are other special grounds for granting the leave.		
Giving notice of matters relevant to an application 80. (1) An applicant for an exclusion order shall give written notice to the Agency or authorised prosecutor of both the application and the grounds on which the order is sought. (2) The Agency or authorised prosecutor may appear and adduce evidence at the hearing of the application.	Giving notice of matters relevant to an application 80. Retained	
Notice of discharge of a forfeiture order 81. (1) Where in relation to a particular property a forfeiture order that covered that property is discharged by the Court hearing an appeal against the making of the order, the Agency or authorised prosecutor shall expeditiously give written notice of the discharge to any person the Agency or authorised prosecutor reasonably believes may have had an interest in that property immediately before the order was made. (2) The Agency shall, where required by a Court, give or publish notice of the discharge to a specified person or class of persons. (3) The Court may also specify the time and manner in which the notice is to be given or published. (4) A notice given under this section shall include a statement to the effect that a person claiming to have had an interest in that property may apply for the transfer of the interest, or its value, to any person.	Notice of discharge of a forfeiture order 81. (1) Where in relation to a particular property, a forfeiture order that covered that property is discharged by the Court hearing an appeal against the making of the order, the Agency or authorised prosecutor shall, expeditiously <i>within three working days or such a period as may be specified by the Court</i>, give written notice of the discharge to any person the Agency or authorised prosecutor reasonably believes may have had an interest in that property immediately before the order was made. (2) Retained (3) Retained (4) Retained	The word 'expeditiously' used in the bill is considered to be too vague and is hereby replaced with a definite phrase.

Making confiscation orders	Making Confiscation orders	
82. (1) The Court shall make a confiscation order requiring a person to pay an amount to the Agency where – (a) a person has been convicted of an offence; (b) the Agency or authorised prosecutor applies for the order; and (c) the Court is satisfied that the person has benefited from – (i) that offence, (ii) any other offence of which the person has been convicted at the same trial, and (iii) any criminal activity which the Court finds to be sufficiently related to those offences. (2) An order made under this section against the person is an order to make a payment to the Agency of any amount that the Court considers appropriate and is in addition to any punishment that the Court may impose in respect of the offence or offences that the person has been found guilty. (3) The Court may make any further orders as it may deem fit to ensure the effectiveness and fairness of that order. (4) The amount that the Court may order the person to pay to the Agency under subsection (1) of this section shall not exceed – (a) the value of the person's proceeds of the offences or related criminal activity as determined by the Court in accordance with the provisions of this Act; or (b) an amount which in its opinion may be realised if the Court is satisfied that the amount which might be realised as contemplated in section 84(1) of this Act is less than the value referred to in paragraph	82. Retained	

(a) of this subsection.

(5) The Court convicting a person may, when passing sentence, indicate that it will conduct an enquiry at a later date where—

- (a) it is satisfied that such enquiry will unreasonably delay the proceedings in sentencing the person; or
- (b) the Agency or authorised prosecutor applies to the Court to first sentence the person and the Court is satisfied that it is reasonable and justifiable to do so in the circumstances.

(6) The Agency or authorised prosecutor may apply for a confiscation order -

- (a) within six months after the date of conviction; or
- (b) where there is an order extending the period specified in paragraph (a) of this subsection, three months after the end of the period extended by an order.

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

(8) The Court before which proceedings under this section are pending may-

- (a) in considering an application under subsection (1) of this section -
 - (i) refer to the evidence and proceedings at the trial,
 - (ii) hear such further evidence as the Court may deem fit,
 - (iii) direct the Agency or authorised prosecutor to tender to the Court a statement referred

(iv) to in section 88(1) of this Act, and direct a defendant to tender to the Court a statement referred to in subsection 88(5) of this Act; (b) adjourn proceedings under this section, subject to sections 88(2) and (6) of this Act; (c) set the date of the adjournment mentioned in paragraph (b) of this subsection not later than three months from the date at which the hearing was adjourned; and (d) in exceptional circumstances extend the period referred to in paragraph (c) of this subsection.		
Value of proceeds of unlawful activities. 83. (1) Subject to the provisions of subsection (2) of this section, the value of a defendant's proceeds of unlawful activities shall be the sum of the values of the property, services, advantages, benefits or rewards received, retained or derived by him at any time, whether before or after the commencement of this Act, in connection with the unlawful activity carried on by him or any other person. (2) In determining the value of a defendant's proceeds of unlawful activities the Court shall – (a) leave the property out of account where it has made a forfeiture order or where a forfeiture order has previously been made in respect of property which is proved to the satisfaction of the Court to have been the property which the defendant received in connection with the criminal activity carried on by him or any other person; (b) where a confiscation order has previously been made against the defendant, leave out of account those proceeds of unlawful activities which are	Value of proceeds of unlawful activities 83. Retained	

proved to the satisfaction of the Court to have been taken into account in determining the amount to be recovered under that confiscation order; and (c) ensure that none of the following are deducted- (i) expenses or outgoings that the person incurred in relation to the unlawful activity; (ii) the value of any benefits that the person derives as agent for, or otherwise on behalf of, another person, whether or not the other person receives any of the benefits.		
Amounts that may be realised 84. (1) The amount realisable at the time of the making of a confiscation order against a defendant shall be the amount equal to the sum of – (a) the values at that time of all realisable property held by the defendant; and (b) the values at that time of all affected gifts made by the defendant, less the sum of all obligations, where any, of the defendant having priority and which the Court may recognise for this purpose. (2) Notwithstanding the provisions of section 86(1) of this Act but subject to the provisions of section 87(2) of this Act, the value of an affected gift at the time of the making of the relevant confiscation order shall be- (a) the value of the affected gift at the time when the recipient received it, taking into account subsequent fluctuations in the value of money; or (b) where subsection (3) of this section applies, the value mentioned in that subsection, whichever is the greater value. (3) Where at the time of the making of the relevant confiscation order, the recipient holds the property –	Amounts that may be realised 84. Retained	

- (a) other than cash, which he received, the value concerned shall be the value of the property at that time; and
- (b) which directly or indirectly represents in his hands the property which he received, the value concerned shall be the value of the property, in so far as it represents the property which he received at the time.

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

- (a) it is an obligation of the defendant, where he has been convicted by a court of any offence to pay -
 - (i) a fine imposed before that time by the court, or
 - (ii) any other amount under any resultant order made before that time by the court;
- (b) it is an obligation where-
 - (i) the estate of the defendant had at that time been made subject to any court order; or
 - (ii) the defendant is a company or other juristic person, where such company or juristic person is at that time being wound up, would be payable in pursuance of any secured or preferred claim against the insolvent estate or against such company or juristic person, as the case may be.

(5) The Court shall not determine the amounts realisable as contemplated in subsection (1) of this section unless it has afforded all persons holding any interest in the property concerned an opportunity to

the recipient received it, as adjusted to take into account subsequent fluctuations in the value of money; or (b) where subsection (3) of this section applies, the value mentioned in that subsection, whichever is the greater. (3) Where at the particular time referred to in subsection (2) of this section the recipient holds – (a) property, other than cash, which he received, the value concerned shall be the value of the property at the particular time; or (b) property which directly or indirectly represents in his hands the property which he received, the value concerned shall be the value of the property, in so far as it represents the property which he received, at the relevant time.	(b) where subsection (3) of this section applies, the value mentioned in that subsection, whichever <i>is greater in value</i>. (3) Retained	
Gifts made by a defendant 87. (1) For the purposes of this Act, a defendant shall be deemed to have made a gift where he has transferred any property to any other person directly or indirectly for a consideration, the value of which is significantly less than the value of the consideration supplied by the defendant. (2) For the purposes of section 84(2) of this Act, the gift which a defendant is deemed to have made shall consist of that share in the property transferred by the defendant that is equal to the difference between the value of that property as a whole and the consideration received by the defendant in return. (3) For the purposes of this Act, "affected gift" means any gift made by the defendant concerned – (a) not more than six years before the prescribed date; or	Gifts made by a defendant 87. Retained	

(b) at any time, where it was a gift of property - (i) received by that defendant in connection with an offence committed, or (ii) any part which directly or indirectly represented in that defendant's hands property received by him in connection with an offence committed by him or any other person, whether any such gift was made before or after the commencement of this Act. (4) For the purpose of this Part, 'prescribed date' in relation to a defendant means, where- (a) a prosecution for an offence has been instituted against the defendant, it means the date on which such prosecution has been instituted; or (b) a restraint order has been made against the defendant, it means the date of such restraint order, whichever is earlier.		
Statements relating to proceeds of unlawful activities 88. (1) The Agency or authorised prosecutor may, or where so directed by the Court, tender to the Court a statement in writing under oath or affirmation by an authorised person in connection with any matter which is being enquired into by the Court under section 82 of this Act, or which relates to the determination of the value of a defendant's proceeds of unlawful activities. (2) A copy of such statement shall be served on the defendant or his representative at least fourteen days before the date on which that statement is to be tendered to the Court. (3) A defendant may dispute the correctness of any allegation contained in a statement referred to in subsection (1) of this section, and where the	Statements relating to proceeds of unlawful activities 88. Retained	

defendant disputes the correctness of any such allegation, he shall state the grounds on which he relies. (4) Where a defendant does not dispute the correctness of any allegation contained in such statement, that allegation shall be deemed to be conclusive proof of the matter to which it relates. (5) A defendant may, or where so directed by the Court, tender to the Court a statement in writing under oath or affirmation by him or by any other person in connection with any matter that relates to the determination of the amount that might be realised as contemplated in section 84(1) of this Act. (6) A copy of the statement referred to in subsection (5) of this section shall be served on the Agency or authorised prosecutor at least fourteen days before the date on which that statement is to be tendered to the Court. (7) The Agency or authorised prosecutor may admit the correctness of any allegation contained in a statement referred to in subsection (5) of this section, and where the Agency or authorised prosecutor admits the correctness of any allegation contained in such statement, that allegation shall be deemed to be conclusive proof of the matter to which it relates.		
Evidence relating to proceeds of unlawful activities 89. (1) For the purposes of determining whether a defendant has derived a benefit under section 82(1) of this Act, where it is found that the defendant did not at the prescribed date, or since the beginning of a period of six years before the prescribed date, have legitimate sources of income sufficient to justify the interests in any property that the defendant holds, the Court shall accept this fact as <i>prima facie</i> evidence that the interests form part of the benefit. (2) For the purposes of section 82(1) of this Act, where it is found that the Court had ordered the defendant to disclose any facts under section 51(3) of this Act and that the defendant had without sufficient cause failed to disclose such facts or had, after being so ordered, furnished false	Evidence relating to proceeds of unlawful activities 89. Retained	

information, knowing such information to be false or not believing it to be true, the Court shall accept these facts as *prima facie* evidence that any property to which the information relates –

- (a) forms part of the defendant's benefit, in determining whether he has derived a benefit from an offence; or
- (b) is held by the defendant as an advantage, payment, service or reward in connection with the offences or related unlawful activities referred to under section 82(1) of this Act.

(3) For the purposes of determining the value of a defendant's proceeds of unlawful activities under section 83(1) of this Act, where the Court finds that he has benefited from an offence and that –

- (a) he held property at any time, or since, his conviction; or
- (b) property was transferred to him at any time since the beginning of a period of six years before the prescribed date, the Court shall accept these facts as *prima facie* evidence that the property was received by him at the earliest time at which he held it, as an advantage, payment, service or reward in connection with the offences or related unlawful activities referred to in section 82(1) of this Act.

(4) For the purpose of determining the value of any property under section 82(1) of this Act, where a Court finds out that the defendant received property at any time as an advantage, payment, service or reward in connection with the offences or related unlawful activities referred to in that section, whether committed by him or by any other person, the Court shall accept this fact as *prima facie* evidence that he received that property free of any other person's interest in it.

(5) Where, at the hearing of an application for a confiscation order in relation to an offence concerning a narcotic substance, the value of the substance is brought into question, an investigating officer from the relevant organisation who is experienced in the investigation of the specified offence may testify, to the best of his knowledge, information and belief, with respect to the - (a) market value, at the time of the offence, of similar or substantially similar narcotic substances; and (b) amount that was, or the range of amounts that were, ordinarily paid for the doing of a similar or substantially similar act or thing. (6) Evidence given in subsection (5) of this section is <i>prima facie</i> evidence of the matters testified.	
Procedure where a person absconds or dies. 90. (1) Where the Court is satisfied that - (a) a person: (i) had been charged with an offence, (ii) had been convicted of any offence, (iii) has had a restraint order made against him, or (iv) can be tried for an offence on the grounds that sufficient evidence exists against him; and (b) a warrant for his arrest had been issued and that the attendance of that person in Court could not be secured after all reasonable steps were taken to execute that warrant; (c) the proceedings against him cannot be resumed within a period of six months due to his continued absence; and (d) there are reasonable grounds to believe that a confiscation order would have been made against	Procedure where a person absconds or dies 90. (1) Retained

him were it not for his continued absence, the Court may, on the application by the Agency, enquire into any benefit the person may have derived from that offence. (2) Where a defendant who has been convicted of an offence dies before a confiscation order is made, the Court may, on the application by the Agency, enquire into any benefit the deceased may have derived from that offence and the Court is satisfied that there are reasonable grounds to believe that a confiscation order would have been made against him were it not for his death. (3) The executor of the estate of the deceased shall be entitled to appear before the Court and make representations for purposes of the enquiry referred to in subsection (2) of this section. (4) The Court in conducting an enquiry under this section may – (a) where the Court finds that the defendant or deceased referred to in subsection (1) or (2) of this section has so benefited, make a confiscation order and the provisions of this Part shall, with the necessary changes, apply to the making of the order; (b) where an asset manager has not been appointed in respect of any of the property concerned, direct the Agency to appoint an asset manager in respect of realisable property; and (c) authorise the realisation of the property concerned. (5) The Court shall not exercise its powers under subsection (4) (a) and (c) of this section, except it has afforded a person having any interest in the property concerned an opportunity to make representations to it in connection with the making of any order.	(2) Where a defendant who has been convicted of an offence dies before a confiscation order is made, the Court may, on the application by the Agency, and if the Court is satisfied that there are reasonable grounds to believe that a confiscation order would have been made against him were it not for his death, enquire into any benefit the deceased may have derived from that offence. (3) Retained (4) Retained (5) Retained	Amended for the purpose of clarity
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(6) The Court in conducting an enquiry under this section shall not apply sections 88 and 89 of this Act. (7) Where a person, excluding a person contemplated in subsection (1) (a) (ii) of this section against whom a confiscation order had been made under subsection (4) of this section is subsequently tried and – (a) convicted of one or more of the offences in respect of which the order had been made, the Court convicting him may conduct an enquiry under section 82 and make an appropriate order; or (b) acquitted of an offence in respect of which the order had been made, the Court acquitting him may make an appropriate order. (8) The Court may make a determination under section 82 of this Act against a person contemplated under subsection (1)(a) and (b) of this section who absconded prior to an enquiry under section 82 of this Act and who is subject to a confiscation order made under subsection (4) of this section where that person is subsequently brought before the Court. (9) The Court making a determination contemplated in subsection (8) of this section shall take into account any order made under subsection (4) of this section.	(6) Retained (7) Retained (8) Retained (9) Retained	
Reconsideration of the confiscation order 91. (1) This section applies where – (a) the Court has made a confiscation order; (b) there is evidence which was not available to the Agency or authorised prosecutor at the time of the original confiscation hearing;	Reconsideration of the confiscation order 91. Retained	

- (c) the Agency or authorised prosecutor believes that if the Court were to determine the amount of the defendant's benefit in pursuance of this section it would exceed the amount determined as the defendant's benefit in the original confiscation hearing;
- (d) notwithstanding the provisions of subsection (1) (c) of this section, the Agency or authorised prosecutor believes that -
 - (i) the amount determined as the defendant's benefit in the original confiscation hearing is greater than the amount of the confiscation order, and
 - (ii) if the Court were to determine the amount of the defendant's realisable assets in pursuance of this section, it would exceed the amount determined as the defendant's realisable assets in the original confiscation hearing;
- (e) before the end of the period of six years starting with the date of conviction, the Agency or authorised prosecutor applies to the Court to consider the evidence; and
- (f) after considering the evidence, the Court believes it is appropriate for it to proceed under this section.

(2) Where the Court is proceeding under subsection (1)(c) of this section, it shall make a new calculation of the amount in respect of the defendant's activities mentioned in section 82(1)(c) of this Act.

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

(a) shall make a new calculation of the defendant's realisable assets for the purposes of section 82 of this Act; and (b) if it exceeds the amount required to be paid under the original confiscation order, may vary the order by substituting for the amount required to be paid by such amount as it deemed fit and proper. (4) Where the court is proceeding under subsection (1)(d) of this section, it shall - (a) make a new calculation of the defendant's realisable assets for the purposes of section 82 of this Act; and (b) if it exceeds the amount required to be paid under the confiscation order, may vary the order by substituting for the amount required to be paid an amount, not exceeding the amount as originally determined within the provisions of section 83 of this Act, as it deemed fit and proper. (5) Section 89 of this Act shall not apply in making a determination under this section. (6) Where a Court applies subsection (2) or (3) of this section, it shall have regard in particular to - (a) any fine imposed on the defendant for the offence or any of the offences concerned; and (b) any other order made under this Act. (7) In making a decision under this section, the Court shall, where one amount exceeds another, take account of any variation in the value of money.		
Enforcement of confiscation orders 92. (1) An amount payable by a person to the Agency under a confiscation	Enforcement of confiscation orders 92. Retained	

order is a civil debt due by the person to the Agency on behalf of the Federal Government. (2) A confiscation order against a person may be enforced as if it were an order made in civil proceedings instituted by the Agency against a person to recover a debt due by that person to the Agency on behalf of the Federal Government. (3) A debt arising from the order is deemed to be a judgment debt. (4) Where a confiscation order is made against a person after his death, this section shall have effect as if the person had died on the day after the order was made. (5) Where a person fails to satisfy any or part of a confiscation order made by the Court, the Court may order that the person against whom the order was made be committed to prison in addition to any other sentence prescribed under this Act. (6) The period of imprisonment referred to under subsection (5) of this section shall be as prescribed in Schedule II to this Act.		
Variation of confiscation order 93. (1) Where the Court has made a confiscation order, the Agency, authorised prosecutor or the defendant may apply to the Court to vary the order under this section. (2) In considering an application under subsection (1) of this section, the Court shall calculate the available amount and in doing so shall apply section 84 of this Act as if references to the time the confiscation order is made were to the time of the calculation and as if references to the date of the confiscation order were made to the date of the calculation. (3) Where the Court finds that the available amount as so calculated is inadequate for the payment of any amount remaining to be paid under the	Variation of confiscation order 93. Retained	

confiscation order, it may vary the order by substituting for the amount required to be paid, a smaller amount as the Court believes is just. (4) Where a person has been adjudged bankrupt or his estate has been sequestrated, or where an order for the winding up of a company has been made, the Court shall take into account the extent to which the realisable property held by that person or that company may be distributed amongst creditors. (5) The Court may disregard any inadequacy that it believes is attributable, wholly or partly, to anything done by the defendant for the purpose of preserving property held by the recipient of an affected gift from any risk of realisation under this Part.		
Property subject to a person's effective control 94. (1) Where – (a) a person is subject to a confiscation order; (b) the Agency applies to the Court for an order under this section; and (c) the Court is satisfied that any particular property is subject to the effective control of the person referred to in paragraph (a) of this subsection, the Court may make an order declaring that the whole, or a specified part of that property be made available to satisfy the confiscation order. (2) The order under subsection (1) of this section may be enforced against the property as if the property were the person's property. (3) A restraint order may be made in respect of a property as if – (a) the property were the person's property; and (b) the person had committed an offence.	Property subject to a person's effective control 94. (1) Retained (a) Retained (b) the Agency <i>or authorised prosecutor</i> applies to the Court for an order under this section; and (c) Retained (2) Retained (3) Retained	The phrase <i>or authorised prosecutor</i> is added to subsection (1) (b) and subsection (4), and paragraph (b) for the clause to be consistent with the intendment of section 93 ante.

(4) Where the Agency applies for an order under subsection (1) of this section relating to a particular property, it shall give written notice of the application to – (a) the person who is subject to the confiscation order; and (b) any person whom the Agency has reason to believe may have an interest in the property. (5) A person who is subject to the confiscation order, and any person who claims an interest in the property, may appear and adduce evidence at the hearing of the application.	(4) Where the Agency <i>or authorised prosecutor</i> applies for an order under subsection (1) of this section relating to a particular property, it shall give written notice of the application to – (a) Retained (b) any person whom the Agency <i>or authorised prosecutor</i> has reason to believe may have an interest in the property. (5) Retained <i>(6) Any person claiming an interest under subsection (5) of this section shall give written notice to the Agency or authorised prosecutor of the claim and the grounds on which the claim is based at least seventy-two hours before the date of the hearing.</i>	This new subsection has been introduced for the purpose of consistency in dealing with the subject of applications.
Discharge of confiscation order where made in relation to a conviction 95. (1) Subject to subsections (2) and (3) of this section, a confiscation order made in relation to a person's conviction for an offence is discharged where the person's conviction for any of the offences to which the order relates is subsequently quashed. (2) Where a person's confiscation order is discharged in pursuance of	Discharge of confiscation order made in relation to a conviction 95. (1) Subject to subsections (2) and (3) of this section, a confiscation order made in relation to a person's conviction for an offence is discharged where - the person's conviction for any of the offences to which the order relates is subsequently quashed. <i>(a) the person's conviction for any of the offences to which the order relates is subsequently quashed; and</i> <i>(b) the Agency or authorised prosecutor does not, within fourteen working days after the conviction is quashed, apply to the court that made the order for the order to be confirmed or varied.</i> (2) Deleted	The Committee redrafted the entire clause because of its inelegant nature and for purpose of clarity.

subsection (1) of this section, the Court shall notify the Agency of its decision within fourteen days of the decision being made. (3) Unless and until the Court decides to the contrary, on an application under subsection (1) (b) of this section, the quashing of the conviction does not affect the confiscation order for twenty-eight days after the conviction is quashed. (4) The Agency may apply to the Court for the period mentioned under subsection (3) of this section to be extended in exceptional circumstances. (5) A confiscation order made in relation to a person's conviction for an offence is discharged where the – (a) person's conviction of the offence is subsequently quashed; and (b) order does not relate to any other offence.	(2) Unless and until the Court decides <i>otherwise on such an application, the quashing of the conviction does not affect the confiscation order:</i> (a) <i>for fourteen working days after the conviction is quashed; and</i> (b) <i>if the Agency or authorised prosecutor makes an application referred to in subsection (1) (b) of this section.</i> (3) <i>The Agency or authorised prosecutor may make an application to confirm the order and an application to vary the order, and the court may hear both applications at the same time.</i> (4) The Agency <i>or authorised prosecutor</i> may apply to the Court for the period mentioned under subsection (2) of this section to be extended in exceptional circumstances. (5) Retained
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PART VI PROCEEDS OF CRIMES RECOVERY AND MANAGEMENT AGENCY Establishment of the Proceeds of Crimes Recovery and Management Agency 96. (1) There is established a body to be known as the Proceeds of Crimes Recovery and Management Agency (in this Act referred to as "the Agency"). (2) The Agency – (a) is a body corporate with perpetual succession and a common seal; (b) may sue and be sued in its corporate name, and (c) may acquire, hold, purchase, mortgage and deal howsoever with property, movable or immovable, real or personal, subject to the provisions of the Land Use Act. (3) The Agency shall be independent in the discharge of its duties under this Act. (4) The common seal of the Agency shall be kept in the custody of such person as the Board may direct and shall be authenticated by the signature of the Director - General or such other officer as the Board may designate.	PART VI PROCEEDS OF CRIMES RECOVERY AND MANAGEMENT AGENCY Establishment of the Proceeds of Crimes Recovery and Management Agency 96. Retained	
Objectives of the Agency 97. The principal objects of the Agency are to – (a) enforce and administer the provisions of this Act; (b) co-ordinate and enforce all other laws on the investigation, identification, tracing and recovery of the proceeds and instrumentalities of unlawful activity and the recovery and the management of proceeds of crime; and	Objectives of the Agency 97. Retained	

(c) regulate, supervise and ensure the effective administration of recovery and management of proceeds of crime and other related matters in Nigeria.		
Governing Board of the Agency 98. (1) There is established, a part-time Governing Board for the Agency (in this Act referred to as "the Board"). (2) The Board shall consist of – (a) a Chairman; (b) representatives not below the rank of a Director or its equivalent from the following Ministries and institutions – (i) Federal Ministry of Justice, (ii) Federal Ministry of Finance, (iii) Accountant-General of the Federation, (iv) Economic and Financial Crimes Commission, (v) National Drug Law Enforcement Agency, (vi) Independent Corrupt Practices and Other Related Offences Commission, (vii) National Agency for the Prohibition of Traffic in Persons, (viii) Nigeria Customs Service, and (ix) Nigeria Police Force.	Governing Board of the Agency 98. (1) Retained (2) The Board shall consist of <i>the following members</i> – (a) a <i>part time</i> Chairman; (b) a representative not below the rank of a Director or its equivalent from <i>each of</i> the following Ministries and institutions – (i) Federal Ministry of Justice (ii) Federal Ministry of Finance, (iii) Accountant-General of the Federation, (iv) Central Bank of Nigeria, (v) Economic and Financial Crimes Commission, (vi) National Drug Law Enforcement Agency, (vii) Independent Corrupt Practices and Other Related Offences Commission, (viii) Code of Conduct Bureau, (ix) National Agency for the Prohibition of Trafficking in Persons, (x) Nigeria Customs Service, and (xi) Nigeria Police;	

(c) two other members with cognate experience in the recovery and management of proceeds of crimes, one of which shall be a representative of the Civil Society; and (d) the Director – General of the Agency, who shall also be the secretary to the Board. (3) The Chairman shall have at least twenty years cognate experience in the area of law, accounting, finance, public or business administration. (4) The Chairman and other members of the Board other than <i>ex – officio</i> members shall – (a) be appointed by the President on the recommendation of the Attorney – General of the Federation; (b) hold office for a term of four years; and (c) be eligible for re-appointment for another term of four years and no more. (5) The Board may co-opt any person to attend and participate at any of its meetings provided that the person so co-opted shall only be in attendance and shall not count towards the quorum or votes at the meeting. (6) The office of a member of the Board shall become vacant where – (a) his term of office expires; (b) he resigns his office by a notice in writing under his hand addressed to the President; (c) he dies; (d) he is incapable of performing the functions of his office	(c) two other <i>part time</i> members with cognate experience in the recovery and management of proceeds of crimes, one of which shall be a representative of the civil society <i>organisations</i>; and (d) Retained (3) Retained (4) The Chairman and other members of the Board other than <i>ex – officio</i> members <i>and the Director-General</i> shall – (a) Retained (b) Retained (c) Retained (5) Deleted (6) Retained (a) Retained (b) Retained (c) Retained (d) Retained	
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due to mental or physical illness; (e) has been convicted of a felony or any offence involving dishonesty; (f) he is guilty of gross misconduct relating to his duties; or (g) in the case of an <i>ex-officio</i> member, he ceases to hold the office on the basis of which he became a member of the Board. (7) Where a vacancy occurs in the membership of the Board, it shall be filled by an appointment by the President of a successor to hold office for the remainder of the term of office of his predecessor and the successor shall represent the same interest as that member whose exit created the vacancy. (8) The provisions of the Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned under this Act. (9) The Board shall – (a) formulate and provide general policy guidelines for the discharge of the functions of the Agency; (b) monitor and ensure the implementation of the policies and programmes of the Agency; and (c) carry out such other functions as are necessary or expedient to ensure the efficient performance of the functions of the Agency under this Act.	(e) he has been convicted of a felony or any offence involving dishonesty; (f) Retained (g) the President directs the removal of a member where he is satisfied that it is not in the interest of the Agency or of the public for the person to continue in office as a member of the Board; or (h) Retained (7) Retained (8) The provisions of the Schedule 1 to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned under this Act. (9) Retained	
Appointment and tenure of the Director-General of the Agency	Appointment and tenure of the Director-General of the Agency	
99. (1) There shall be for the Agency, a Director - General who shall be appointed	99. (1) Retained	

by the President on the recommendation of the Attorney-General. (2) A person shall not be appointed as the Director - General, except he has a recognised degree in law, accounting, finance, economics, public or business administration with at least fifteen years cognate experience, five of which shall be at senior management level. (3) The Director-General shall hold office – (a) for a period of four years subject to re-appointment by the President on the recommendation of the Attorney - General for a further term of four years and no more; and (b) on such other terms and conditions as may be specified in his letter of appointment. (4) The Director - General shall be the chief executive of the Agency and be responsible for - (a) the day-to-day administration of the Agency; (b) the execution of the policies of the Agency; (c) the organisation, control and management of the affairs of the Agency; (d) the implementation of the Agency's functions and ensuring that it achieves its goals; (e) the direction, supervision and control of other employees of the Agency; and (f) ensuring the transparent maintenance of accounting records in accordance with applicable laws governing statutory bodies.	(2) A person shall not be appointed as the Director - General, except he has a recognised degree in law, accounting, finance, public administration, business administration or economics with at least fifteen years cognate experience, five of which shall be at senior management level. (3) Retained (4) Retained	
Other employees of the Agency and conditions of service 100. (1) The Agency shall appoint, designate, deploy directly or on secondment from other public or private bodies such number and category of employees as it may require to assist it in the effective discharge of its duties	Other employees of the Agency and conditions of service 100. (1) The Agency shall appoint, designate or cause to be deployed, directly or on secondment from any public or private bodies such number and category of employees as it may require	Amended for purpose of clarity.

and functions under this Act. (2) The Board shall be responsible for determining the job description, title, terms, qualifications and salaries, including allowances of the employees of the Agency, subject to the approval of the National Income, Salaries and Wages Commission in the case of remunerations. (3) The Board shall make rules relating generally to the conditions of service of employees of the Agency, including rules providing for the appointment, promotion, advancement, determination of appointment, and disciplinary control, of those employees. (4) Service in the Agency shall be subject to the Pension Reform Act, provided that nothing in this section shall exclude the Agency from employing staff on non-pensionable terms and conditions. (5) The Agency has powers to - (a) set up Departments, Special Units, technical committees, working groups and task forces to assist the Agency in the performance of its duties and functions under this Act; and (b) make changes to its structure, from time to time, with the approval of the Board. (6) There shall be appointed for each of the Departments and Special Units, a principal officer who shall be known by such designation as the Agency may determine.	to assist it in the effective discharge of its duties and functions under this Act. (2) Retained (3) Retained (4) Retained (5) Retained (6) Retained	
Functions of the Agency 101. The Agency shall – (a) implement, enforce and duly administer the provisions of	Functions and powers of the Agency 101. Retained (a) Retained	

this Act; (b) adopt measures for the effective investigation and tracing of proceeds of crimes; (c) oversee the management of recovered assets; (d) authorise and appoint private asset managers and ensure that assets managers are properly bonded and insured; (e) ensure transparency in the appointment of asset managers, monitoring asset and management costs; (f) maintain disposal systems, lists of approved auctioneers and ensure fair process, lists of approved valuers and issue instructions for the realisation or security of assets; (g) establish and maintain a central database of the activities and casework of the Agency, all seized and recovered assets and of the asset managers and auctioneers, insurers and other necessary support services; (h) negotiate the return and management of all assets seized by foreign countries on behalf of the Federal and State Governments for the benefit of Nigerians under the direction of the Attorney-General of the Federation; (i) recommend that in exceptional circumstances, a portion not exceeding one percent of the recovered proceeds of offences be allocated to the recovering agency for operational expenses; (j) recommend the proper application of all returned assets and proceeds of unlawful activities;	(b) Deleted (b) Retained (c) Retained (d) Retained (e) establish and maintain – (i) disposal systems, (ii) lists of approved auctioneers and valuers, and issue instructions for the realisation or security of assets whilst ensuring fair process; (f) Retained (g) Retained (h) recommend that in exceptional circumstances, a portion not exceeding two per cent of the recovered proceeds of offences be allocated to the agency responsible for the recovery of the proceeds for operational expenses; (i) Retained	Paragraph (b) was deleted because the Agency intended to be created under this Bill cannot be conferred with investigative powers. Its activities should be restricted to management of proceeds of crimes alone. This paragraph was redrafted for clarity. The Committee amended this clause by reviewing upward, the percentage of proceeds of crime to be given to recovering agencies for their operational expenses from not more than one
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(k) collaborate with relevant agencies in the investigation of the proceeds of unlawful activity or the instrumentalities of offences; (l) maintain statistics as to amounts sought, managed and recovered by the Agency; (m) collaborate with other government bodies both within and outside Nigeria that are carrying on functions wholly or in part analogous with those of the Agency; (n) have the custody and management of confiscated and forfeited assets and funds pursuant to this Act; (o) maintain an accurate inventory of all assets, recording their location, value, condition, and a description of their status in relation to any proceedings; (p) establish training programmes for its staff, prosecutors, judicial officers and financial investigators; and (q) carry out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under this Act.	(j) collaborate with relevant organisations in the investigation of the proceeds of unlawful activity or the instrumentalities of offences; (k) Retained (l) Retained (m) Retained (n) Retained (o) Retained (p) Retained	percent to more than two percent.
Powers of the Agency 102. (1) For the purpose of effectively managing seized, confiscated and forfeited assets and funds, and in exercise of its administrative powers, the Agency may, subject to the provisions of this Act, execute such agreements or contracts as it considers necessary and, in particular may – (a) engage contractors, consultants, brokerage companies, investment advisers, financial investigators and other experts for the effective discharge of its functions under this Act; and (b) order the liquidation of assets that are perishable or susceptible to deterioration, or whose maintenance or administration may be excessively onerous or	Powers of the Agency 102. (1) Retained (a) Retained (b) order the disposal of assets that are perishable or susceptible to deterioration, or whose maintenance or administration may be excessively onerous or expensive leading to a diminution of the	

expensive leading to a diminution of the recoverable amount. (2) Where seized assets are liquidated under subsection (1)(b) of this section, the proceeds from the liquidation shall be deposited and maintained in an interest yielding account that guarantees the reasonable preservation of its economic value, until such time as a final judicial decision is taken. (3) The Agency may do anything it considers appropriate for facilitating, or which is incidental or conducive to the performance of the functions of the Agency.	recoverable amount. (2) Where seized assets are disposed under subsection (1)(b) of this section, the proceeds from the disposal shall be deposited and maintained in an interest bearing account that guarantees the reasonable preservation of its economic value, until such time as a final judicial decision is taken. (3) Retained	
Co-operation with other bodies 103. (1) In the performance of its functions under this Act, the Agency shall cooperate with relevant organisations, financial supervisory institutions and any other person or authority involved in the investigation and prosecution of crimes under this Act or any other law relating to the recovery of unlawful activities.. (2) The Agency shall have power to require any relevant organisation or authority to surrender to it, any proceedings for the recovery of the proceeds of unlawful activities by the relevant organisation or authority.	Co-operation with other bodies 103. (1) Retained (2) The Agency shall have power to require any relevant organisation or authority to surrender to it, any proceedings for the recovery of the proceeds or instrumentalities of unlawful activities by the relevant organisation or authority.	
Information relating to the recovery of proceeds of crime 104. Where at the commencement of an investigation for an offence or where in the course of an investigation, it appears to a relevant organisation that there is a reasonable prospect of recovering proceeds of the unlawful activity, assets or related instrumentalities, the organisation shall inform the Agency and take such steps in relation to the proceeds or assets.	Information relating to the recovery of proceeds of crime 104. Where at the commencement of an investigation for an offence or where in the course of an investigation, it appears to a relevant organisation that there is a reasonable prospect of recovering the proceeds or instrumentalities of unlawful activity or assets, the organisation shall inform the Agency and shall take such measures as are necessary under this Act to recover those proceeds or instrumentalities of unlawful activity or assets.	Amended for the purpose of clarity.
Fund of the Agency 105. There is established for the Agency a fund comprising of –	Fund of the Agency 105. Retained	

(a) take off grants, annual subventions and other budgetary allocations received from the Federal Government; (b) such monies as may, from time to time, be deposited with or granted to the Agency by the Government of the Federation; (c) gifts, grants, aids, and testamentary disposition, if the terms and conditions attached to any of them are not inconsistent with the functions of the Agency; (d) five percent of the annual total amount realized from proceeds of unlawful activities and paid into Confiscated and Forfeited Properties Account; and (e) such other sums of monies as may be received by the Agency from other sources.	(a) Retained (b) such monies as may, from time to time, be granted to the Agency by the Government of the Federation; (c) Retained (d) Deleted (e) Retained	
Expenditure of the Agency 106. The Director - General, under the direction of the Board, shall, from time to time, apply the funds at the disposal of the Agency to – (a) the cost of administration of the Agency; (b) pay the salaries, allowances and benefits of employees of the Agency; (c) pay other overhead allowances and benefits and other administrative costs, charges and expenses of the Agency; and (d) undertake such other activities as are connected with the functions of the Agency under this Act.	Expenditure of the Agency 106. Retained	
Estimates of the Agency 107. (1) The Agency shall not later than 30th September in each financial year prepare and present to the Attorney-General for onward transmission to the National Assembly, a statement of estimated income and expenditure for the following financial year. (2) Notwithstanding the provisions of subsection (1) of this section, the	Estimates of the Agency 107. Retained	

Agency may, where necessary due to unforeseen circumstances, submit supplementary or adjusted statements of estimated income and expenditure to the Attorney-General for onward transmission to the National Assembly for approval.		
Accounts and audit 108. (1) The Agency shall keep proper and regular accounts and other records of monies received and paid by the Agency and of the several purposes for which the monies have been received or paid, and of its assets, credits and liabilities. (2) The Agency shall do all things necessary to ensure that all payments out of its funds and bank accounts are correctly made and properly authorised and that adequate control is maintained over the assets in its custody and over the expenditures incurred by the Agency. (3) The Agency shall, within the first four months of each financial year, submit its accounts to auditors appointed by the Agency from the list and in accordance with guidelines approved by the Auditor-General of the Federation, its accounts for audit. (4) As soon as the accounts and the financial statements of the Agency have been audited in accordance with the requirement of this Act, the Board shall forward a copy of the audited financial statements to the Attorney – General for onward transmission to the National Assembly, together with any report or observations made by the auditors and the Auditor-General on the statement of accounts. (5) The remuneration of the auditor shall be paid out of the funds of the Agency. (6) The audited accounts of the Agency and the Auditor-General's report on those accounts shall form part of the Auditor-General's overall annual report to the National Assembly.	Accounts and audit 108. Retained	

Annual report 109. (1) The Director - General shall, not later than 30th June in each financial year, submit to the Board in respect of the preceding financial year an annual report on the activities of the Agency in such form as the Board may direct. (2) The report under subsection (1) of this section, shall include - (a) information with regard to the activities of the Agency in that year; (b) a copy of the audited accounts of the Agency in respect of that year together with the Auditor-General's report on the accounts; and (c) such other information as the Board may request. (3) The Board shall, as soon as possible after receiving the annual report, cause it to be submitted to the Attorney - General. (4) The Director-General shall from time to time, provide the Board with such information relating to the affairs of the Agency as the Board may request.	Annual report 109. (1) The Director - General shall, not later than 30th June in each financial year, submit to the Board in respect of the preceding financial year an annual report on the activities of the Agency in such form as the Board may direct. (2) Retained (3) The Board shall, as soon as possible after <i>on</i> receiving the annual report, cause it to be submitted to the Attorney - General <i>for onward transmission to the National Assembly within the financial year.</i> (4) The Director-General shall from time to time, provide the Board with such information relating to the affairs of the Agency as the Board may request.	
PART VII INVESTIGATION, SEARCH AND SEIZURE Application of this Part 110. (1) This Part applies to all relevant organisations in the conduct of investigations, searches, and seizures in connection with the recovery of proceeds of unlawful activities under the applicable Acts. (2) In addition to existing powers in existing legislation, a relevant organisation may apply the provisions of this Part as they relate to the operation of the relevant organisation.	PART VII INVESTIGATION, SEARCH AND SEIZURE Application of this Part 110. (1) Retained (2) Retained	

(3) For the purpose of this Part – (a) a forfeiture investigation is an investigation into whether property constitutes or is derived from the proceeds of an unlawful activity or is the instrumentality of an offence; and (b) a confiscation investigation is an investigation into whether a person has benefited from unlawful activity.	(3) Retained (4) A relevant organisation shall, in its application of this Part, inform the Agency of any investigation, search or seizure being conducted by it.	
Making production orders 111. (1) The Court may, on an <i>ex-parte</i> application made to it by the Agency or relevant organisation, make an order requiring the production of specified material if the Court is satisfied that each of the requirements for the making of the order is fulfilled. (2) The requirements for making the order are, there are reasonable grounds to suspect, that – (a) a person has property constituting or derived from the proceeds of an offence or unlawful activity; (b) a person has derived a benefit from an offence or unlawful activity; and (c) the material sought, by itself or together with other material, is likely to be of substantial value into a specified investigation	Making production orders 111. (1) The Court may, on an <i>ex-parte</i> application made to it by the Agency or relevant organisation, make an order requiring the production of specified material <i>within a specified period</i>, if the Court is satisfied that each of the requirements for the making of the order is fulfilled. (2) Retained (a) a person has property constituting or derived from the proceeds of an offence or unlawful activity; (b) Retained (c) Retained	Amended to ensure that the Agency is kept adequately informed. Since unlawful activity includes 'offence', it was deleted because it is considered to be repetitive.
Application for a production order 112. (1) An application for a production order shall confirm that – (a) the order is sought for the purposes of investigation;	Application for a production order 112. Retained	

- (b) a person specified in the application appears to be in possession or control of the material; and
- (c) the material sought for is not subject to legal privilege.

(2) In consideration of legal privilege or any other claimed client privilege, the following items shall not be subject to that privilege -

(a) any material in relation to -

- (i) the purchase or sale of property,
- (ii) the purchase or sale of any business,
- (iii) the purchase or sale of any high-value item,
- (iv) any investment,
- (v) any matter concerning the payment of any tax,
- (vi) any matter concerning the transfer of any funds whatsoever,
- (vii) any client account,
- (viii) the formation or conduct of any trust,
- (ix) any paid fees or retainer fees, and
- (x) anything produced in the furtherance of any unlawful activity.

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

Access to material sought 113. (1) A production order is an order either requiring – (a) the person specified in the application as appearing to be in possession or control of the material to produce the material to an authorised officer for him to take away; or (b) that person to give an authorised officer access to the material within the period stated in the order. (2) The period stated in a production order may be a period of seven days beginning on the day on which the order is made, except it appears to the Court making the order that a longer or shorter period would be appropriate in the particular circumstances. (3) A matter to which the Court shall have regard for the purposes of deciding whether an earlier time is appropriate under subsection (2) of this section are – (a) the urgency of the situation; and (b) any hardship that may be caused to the person required by the production order to produce documents or make documents available.	Access to material sought 113. (1) Retained (a) Retained (b) <i>the person mentioned in paragraph (a) of this subsection</i> to give an authorised officer access to the material within the period stated in the order. (2) Retained (3) Retained	
Contents of production orders 114. A production order shall – (a) specify the form and manner in which the documents are to be produced; and (b) set out the effect of section 122 of this Act.	Contents of production orders 114. Retained	
Powers under production orders 115. An authorised officer may inspect, take extracts from, or make copies of a document produced or made available under a production order.	Powers under production orders 115. Retained	

Retaining produced documents 116. (1) An authorised officer may retain a document produced under a production order for as long as is necessary for the purposes of this Act. (2) The person to whom a production order is given may require the authorised officer to - (a) certify in writing a copy of the document retained to be a true copy and give the person the copy; or (b) allow the person to do one or more of the following - (i) inspect the document, (ii) take extracts from the document, and (iii) make copies of the document.	Retaining produced documents 116. Retained	
Government departments 117. (1) A production order may be made in relation to material in the possession or control of a government department. (2) A production order - (a) so made may require any officer of the department, whether named in the order or not, who may for the time being be in possession or control of the material to comply with it; and (b) containing the requirement referred to in paragraph (a) of this subsection shall be served as if the proceedings were civil proceedings against the department. (3) Where a production order contains the requirement referred to in subsection (2)(a) of this section- (a) the person on whom it is served shall take all	<i>Documents in possession, etc. of Government departments</i> 117. Retained	Side note amended to reflect the content of the clause.

reasonable steps to bring it to the attention of the officer concerned; or (b) any other officer of the department who is in receipt of the order shall take all reasonable steps to bring it to the attention of the officer concerned. (4) Where the production order is not brought to the attention of the officer concerned within the period stated in the order, the person on whom it is served shall report the reasons for the failure to the Court that issued the order.		
Computer information 118. (1) This section applies where any of the material specified in an application for a production order consists of information contained in a computer. (2) Where an order requires a person to produce a material to an authorised officer for him to take away, it has effect as an order to produce the material in a form in which it can be taken away by him and in which it is visible and legible. (3) Where an order requires a person to give an appropriate officer access to a material, it has effect as an order to give the officer access to the material in a form in which it is visible and legible.	Computer information 118. Retained	
Prohibition of privilege against self-incrimination 119. A person shall not be excused from producing a document or making a document available under a production order on the ground that – (a) to do so would tend to incriminate or expose the person to a penalty; or (b) producing the document or making it available would breach an obligation, whether imposed by an enactment or otherwise, of the person not to disclose the existence or contents of the document.	Prohibition of privilege against self-incrimination 119. Retained	

Making false statements in applications 120. A person who in connection with an application for a production order makes a statement which – (a) is deliberately false or misleading, or (b) deliberately omits any matter or thing without which the statement is misleading, commits an offence and is liable on conviction to a fine of not less than one million naira or to imprisonment for a term of not less than twelve months or to both.	Making false statements in applications 120. Retained	
Order to grant entry 121. (1) This section shall apply where the Court makes a production order requiring a person to give an authorised officer access to the material on any premises. (2) The Court may, on an application made to it by an authorised officer and specifying the premises, make an order to grant entry in relation to the premises. (3) The order to grant entry under this section, is an order requiring any person who appears to an authorised officer to be entitled to grant entry to a premises, to allow him to enter the premises to obtain access to the material.	Order to grant entry 121. (1) Retained (2) Retained (3) The order to grant entry under this section, is an order requiring any person who appears to an authorised officer to be entitled to grant entry to a premises, to allow the authorised officer to enter the premises to obtain access to the material.	
Offences of actions detrimental to the investigation 122. (1) This section applies where a person knows or suspects that an authorised officer or any other officer of a relevant organisation is acting, or is about to act, in connection with an investigation under section 110 of this Act, or a money laundering investigation within the provisions of the Money Laundering (Prohibition) Act. (2) A person commits an offence where he –	Offences of actions detrimental to the investigation 122. Retained	

(a) makes a disclosure which is likely to be detrimental to the investigation; or (b) falsifies, conceals, destroys or disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which are relevant to an investigation. (3) A person does not commit an offence under subsection (2)(a) of this section, where - (a) he does not know or suspect that a disclosure is likely to be detrimental to an investigation; or (b) the disclosure is made in the exercise of a function under this Act or in compliance with a requirement imposed under - (i) or by virtue of this Act, (ii) the Money Laundering (Prohibition) Act, or (iii) the Terrorism (Prevention) Act. (4) A person does not commit an offence under subsection (2)(b) of this section where he does not - (a) know or suspect that the documents are relevant to the investigation; or (b) intend to conceal any facts disclosed by the documents from an authorised officer. (5) A person found guilty of an offence under subsection (2) of this section is liable on conviction to a fine of not less than five million naira or imprisonment for a term of not less than two years or to both.		
Search and seizure warrants 123. (1) The Court may, on an <i>ex-parte</i> application made to it by the Agency or relevant organisation, issue a search and seizure warrant where it is satisfied that each of the requirements for the making the order is fulfilled. (2) The requirements for the issue of a search and seizure warrant	Search and seizure warrants 123. Retained	

under subsection (1) of this section are that –

- (a) the requirements for the issue of a production order under section 111 of this Act are satisfied;
- (b) an investigation as specified in section 110 of this Act is being conducted;
- (c) there are reasonable grounds to believe that there is on the premises –
 - (i) material likely to be of substantial value, by itself or together with other material, to the investigation,
 - (ii) material relating to a specified person which is likely to be of substantial value, whether by itself or together with other material, to the investigation, but that the material cannot at the time of the application be particularised,
 - (iii) property forming or derived from the proceeds of unlawful activity, or
 - (iv) an instrumentality of an offence, which may be destroyed or dissipated unless an authorised officer can secure immediate access to the premises in order to preserve the property;
- (d) a production order made under section 111 of this Act in relation to material held on the premises has not been complied with; or
- (e) it would not be practicable to make an order under section 111 of this Act in relation to the material sought because –
 - (i) it is not practicable to communicate with

- (ii) any person entitled to produce the material, it is not practicable to communicate with any person entitled to grant entry to the premises,
- (iii) it is not practicable to communicate with any person entitled to grant access to the material,
- (iv) the investigation might be seriously prejudiced except an authorised officer could secure immediate access to the material, or
- (v) entry into the premises will not be granted except a warrant is produced.

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

(4) In considering legal privilege, the items listed in section 112(2) of this Act shall not be entitled to that privilege under this section.

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

- (a) seize and retain any material, other than an item subject to legal privilege which is likely to be of substantial value, whether by itself or together with other material, to the investigation;
- (b) make a photographic or video record of the premises and its contents;
- (c) inspect, make copies of, take extracts from any book, record or document;
- (d) search any person who is in or on the premises, and for the purpose of the search, detain the person and remove him to such place as may be necessary to facilitate the search, and seize and

- (e) detain any article found on him; or
stop, search and seize any vehicle or conveyance.

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

- (a) enter the premises or any part of the premises by force where necessary;
- (b) detain any person found in or on any premises or in any conveyance for the purpose of the search; and
- (c) search for and seize any property under the direction of the authorised officer in charge of the search.

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

(8) A warrant may authorise persons to accompany any authorised officer who is executing it.

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

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

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

Seizure of property	Seizure of property	
124. (1) Where, in the course of an investigation mentioned in section 110 of this Act, an authorised officer or officer of a relevant agency has reasonable grounds to suspect that any movable or immovable property is – (a) material which is mentioned in section 123(2)(c)(i) and (ii) of this Act; (b) property which is mentioned in section 123(2)(c)(iii) of this Act; or (c) an instrumentality which is mentioned in section 123(2)(c)(iv) of this Act, he shall seize the property. (2) A list of all movable or immovable property seized pursuant to subsection (1) of this section and the location where the property was discovered shall be prepared and signed by the officer effecting the seizure. (3) A copy of the list referred to in subsection (2) of this section shall be served as soon as possible, on the owner of the property and on the person from whom the property was seized, if not the owner. (4) Where it is not practicable or otherwise desirable to remove seized property, it may be left in the custody of the person from whom it is seized subject to an undertaking that the property shall be surrendered to the Agency on demand. (5) A person who has committed to an undertaking within the provisions of subsection (4) of this section shall remain committed to that undertaking until – (a) notified in writing by the Agency or person authorised by the Agency that he is relieved of the commitment; or (b) he is served with a notice of a restraint order under section 57 of this Act in connection with the property.	124. Retained	

(6) Any person who commits to an undertaking within the provisions of subsection (4) of this section commits an offence where he fails to surrender, on demand, property subject to the undertaking or otherwise fails to comply with any term or condition imposed under that subsection. (7) A person found guilty of an offence under subsection (6) of this section shall on conviction be liable to a fine not less than three times the value of the property subject to the undertaking or a term of imprisonment of not less than two years or to both.		
Retention of seized property 125. Where any property is seized under this Act, the seizure shall be effected by removing the property from the custody or control of the person from whom it is seized and placing it under the custody of the Agency or such person or authority as the Agency may determine.	Retention of seized property 125. Retained	
Obstructing the execution of a search and seizure warrant 126. A person who – (a) refuses an authorised officer access to any premises, or fails to submit to a search by a person authorised to search him under this Act; (b) assaults or obstructs any authorised officer or any accompanying person mentioned in section 123 (6) of this Act in the execution of the search and seizure warrant; (c) conceals or attempts to conceal from, an authorised officer or any accompanying person mentioned in section 123 (6) of this Act, any book, document, or article, in relation to which the officer has reasonable grounds for suspecting or believing that an offence under an applicable Act has been or is being committed, or which is liable to seizure under this Act; (d) rescues or endeavours to rescue or causes to be rescued any person who has been duly arrested or anything which	Obstructing the execution of a search and seizure warrant 126. Retained	

(e) has been duly seized; or destroys anything to prevent its seizure or securing of the thing, commits an offence and is liable on conviction to a term of imprisonment not less than two years without the option of a fine.		
Customer information orders 127. (1) The Court may, on an application made to it by the Agency or an officer of a relevant organisation, make a customer information order if he is satisfied that each of the conditions for making of the order is fulfilled. (2) The conditions for the issue of a customer information order are – (a) a person specified in the application is subject to an investigation of the type specified in section 110 of this Act; (b) that a specified person has - (i) property constituting or derived from the proceeds of an unlawful activity, or (ii) derived a benefit from unlawful activity; (c) the person named in the application for the order is subject to – (i) a money laundering investigation within the provisions of the Money Laundering (Prohibition) Act, or (ii) a terrorist financing investigation under the Terrorism (Prevention) Act); (d) the person specified in the application holds all or some of the property mentioned in subsection (2)(b) of this section; (e) in the case of a money laundering investigation, there are reasonable grounds for suspecting that the person specified in the application for the order	Customer information orders 127. (1) The Court may, on an application made to it by the Agency <i>or an authorised officer</i>, make a customer information order if he is satisfied that each of the conditions for making of the order is fulfilled. (2) The conditions for the issue of a customer information order are <i>that-</i> (a) Retained (b) Retained (c) Retained (d) Retained (e) Retained	Amended for the purpose of consistency.

(f) has committed a money laundering offence; in the case of a terrorism financing investigation, there are reasonable grounds for suspecting that the person specified in the application for the order has committed a terrorism financing offence; (g) in the case of any investigation, there are reasonable grounds for believing that customer information which may be provided in compliance with the order is likely to be of substantial value, whether or not by itself, to the investigation for the purposes of which the order is sought; (h) that the material is sought for the purpose of the investigation; and (i) the order is sought against the financial institution or financial institutions specified in the application.	(f) Retained (g) Retained (h) Retained (i) Retained	
(3) An application for a customer information order may specify – (a) all financial institutions; (b) a particular description or descriptions of financial institutions; or (c) a particular financial institution or institutions.	(3) Retained	
(4) A customer information order is an order that a financial institution covered by the application for the order shall, on being required to do so by notice in writing given by an authorised officer, provide any such customer information as it has relating to the person specified in the application.	(4) Retained	
(5) A financial institution, which is required to provide information under a customer information order, shall provide the information to an authorised officer in such manner and at or by such time, as may be required by the officer.	(5) Retained	
(6) Where a financial institution on which a requirement is imposed by a notice given under a customer information order requires the production of	(6) Retained	

evidence of authority to give the notice, the financial institution is not bound to comply with the requirement unless evidence of the authority has been produced to it.		
Meaning of customer information 128. (1) "Customer information", in relation to a person and a financial institution, is information whether the person holds, or has held, an account or accounts at the financial institution, whether solely or jointly with another and, if so, information as to the matters referred to in – (a) subsection (2) of this section where the person is an individual; or (b) subsection (3) of this section where the person is a company or limited liability partnership or a similar body whether incorporated or otherwise established within Nigeria or elsewhere. (2) The matters referred to in subsection (1)(a) of this section are – (a) the account number or numbers; (b) the person's full name; (c) his date of birth; (d) his most recent address and any previous addresses; (e) the date or dates on which he began to hold the account or accounts and where he has ceased to hold the account or any of the accounts, the date or dates on which he did so; (f) any evidence of his identity as was obtained by the financial institution under or for the purposes of any legislation relating to money laundering; (g) the full name, date of birth and most recent address, and any previous addresses, of any person who holds, or has held, an account at the financial institution jointly with him; and	Meaning of customer information 128. Retained	

(h) the account number or numbers of any other account or accounts held at the financial institution to which he is a signatory and details of the person holding the other account or accounts. (3) The matters referred to in subsection (1)(b) of this section are – (a) the account number or numbers; (b) the person's full name; (c) a description of any business which the person carries on; (d) the country or territory in which it is incorporated or otherwise established and any number allocated to it by virtue of relevant legislation; (e) any number assigned to it for the purposes of value added tax in Nigeria; (f) its registered office and any previous registered offices, whether in Nigeria or elsewhere; (g) the date or dates on which it began to hold the account or accounts and, where it has ceased to hold the account or any of the accounts, the date or dates on which it did so; (h) evidence of its identity as was obtained by the financial institution under or for the purposes of any legislation relating to money laundering and terrorist financing; and (i) the full name, date of birth and most recent address and any previous addresses of any person who is a signatory to the account or any of the accounts.		
Penalties 129. (1) A financial institution who without reasonable excuse fails to comply with a requirement imposed on it under a customer information order, commits an offence under this Act and is liable on conviction to a fine of not less than ten million Naira.	Penalties 129. Retained	

(2) Where in compliance with a customer information order, a financial institution - (a) makes a statement which it knows to be false or misleading in a material particular; or (b) recklessly makes a statement which is false or misleading in a material particular, the financial institution commits an offence and is liable on conviction be liable to a fine of not less than ten million naira.		
Supplementary provisions relating to customer information orders 130. (1) A customer information order has effect in spite of any restriction on the disclosure of information, however imposed. (2) An application for a customer information order may be made <i>ex-parte</i> to a Judge in Chambers. (3) An application to discharge or vary a customer information order may be made to the Court by - (a) the Agency; (b) an officer of a relevant organisation; or (c) the person affected by the order. (4) On application by a person mentioned in subsection (3) of this section, the Court may - (a) vary the order; or (b) discharge the order. (5) The officer who applied for a customer information order need not be the same officer who makes an application to discharge or vary the order. (6) An officer may not make an application for a customer information order or an application to vary the order unless authorised to do so by the	Supplementary provisions relating to customer information orders 130. (1) Retained (2) Retained (3) Retained (4) Retained (5) Retained (6) <i>An officer of the Agency or authorised officer shall</i> not make an application for a customer information order or an	Amended for accuracy and consistency

Director - General of the Agency.	application to vary the order unless authorised to do so by the Director - General of the Agency.	
Account monitoring orders 131. (1) The Court may, on an <i>ex-parte</i> application made by the Agency or relevant organisation, make an account monitoring order where it is satisfied that each of the conditions for making the order is fulfilled. (2) The conditions for making the order that – (a) a person specified in the application is subject to an investigation of the type specified in section 110 of this Act; (b) that a specified person has – (i) property constituting or derived from the proceeds of an unlawful activity, or (ii) derived a benefit from unlawful activity; (c) the person named in the application for the order is subject to – (i) a money laundering investigation within the provisions of the Money Laundering (Prohibition) Act, or (ii) a terrorism financing investigation under the Terrorism (Prevention) Act; (d) the person specified in the application holds all or some of the property mentioned in subsection (2) (b) of this section; (e) in the case of a money laundering investigation, there are reasonable grounds for suspecting that the person specified in the application for the order	Account monitoring orders 131. (1) The Court may, on an <i>ex-parte</i> application made by the Agency or authorised officer, make an account monitoring order where it is satisfied that each of the conditions for making the order is fulfilled. (2) Retained	Amended for consistency and accuracy.

(f) has committed a money laundering offence; in the case of a terrorism financing investigation, there are reasonable grounds for suspecting that the person specified in the application for the order has committed a terrorism financing offence; (g) in the case of any investigation, there are reasonable grounds for believing that customer information which may be provided in compliance with the order is likely to be of substantial value, whether or not by itself, to the investigation for the purposes of which the order is sought; and (h) that the information is sought for the purpose of the investigation.		
Meaning of account information and monitoring orders 132. (1) Account information is information relating to an account or accounts held at the financial institution specified in the application by the person so specified, whether solely or jointly with another. (2) The application for an account monitoring order may specify information relating to – (a) all accounts held by the person specified in the application for the order at the financial institution so specified; (b) a particular description or descriptions of accounts so held; or (c) a particular account or accounts, so held. (3) An account monitoring order is an order that the financial institution specified in the application for the order shall, for the period stated in the order, provide account information of the description specified in the order to an appropriate officer in the manner, and at or by the time or times, stated in the order.	Meaning of account information and monitoring orders 132. (1) Retained (2) Retained (3) An account monitoring order is an order that the financial institution specified in the application for the order shall, for the period stated in the order, provide account information of the description specified in the order to an authorised officer in the manner, and at or by the time or times, stated in the order.	

(4) The period stated in an account monitoring order shall not exceed the period of ninety days commencing from the day the order is made. (5) Nothing in subsection (4) of this section shall prevent further applications from being made.	(4) Retained (5) Nothing in subsection (4) of this section shall prevent further applications for account monitoring orders in respect of accounts that have been subject to previous account monitoring orders from being made.	Amended for the purpose of clarity
Supplementary provisions relating to account monitoring orders 133. (1) An account monitoring order has effect in spite of any restriction on the disclosure of information. (2) An application for an account monitoring order may be made <i>ex-parte</i> to a Judge in Chambers. (3) An application to discharge or vary an account monitoring order may be made to the Court by - (a) the Agency; (b) an officer of a relevant organisation; or (c) a person affected by the order. (4) On application by a person mentioned in subsection (3) of this section, the Court may - (a) vary the order; or (b) discharge the order. (5) The officer who applied for an account monitoring order need not be the same officer who makes an application to discharge or vary the order. (6) An officer may not make an application for an account monitoring order or an application to vary such an order unless authorised to do so by the Director – General of the Agency or in the case of a terrorism financing investigation, the chief executive of the relevant organisation in charge of that investigation.	Supplementary provisions relating to account monitoring orders 133. (1) An account monitoring order has effect in spite of any restriction on the disclosure of information however imposed. (2) Retained (3) Retained (a) Retained (b) an authorised officer of a relevant organisation; or (c) Retained (4) Retained (5) Retained (6) An officer of the Agency or authorised officer shall not make an application for an account monitoring order or an application to vary such an order unless authorised to do so by the Director – General of the Agency or in the case of a terrorism financing investigation, the chief executive of the relevant	This clause was amended for purposes of clarity and consistency.

	organisation in charge of that investigation.	
Evidence overseas 134. (1) This section shall apply where the Director-General is carrying out an investigation referred to in section 110 (1) or (2) of this Act. (2) The Director-General may issue a letter of request where he reasonably believes that there is evidence in a country or territory outside Nigeria as to - (a) whether a property constitutes or is derived from the proceeds of an unlawful activity or is the instrumentality of an offence; (b) whether a person has benefited from unlawful activity; and (c) the extent and whereabouts of the benefit from unlawful activity. (3) A letter of request is a letter requesting assistance in obtaining outside Nigeria such evidence as is specified in the letter for use in the investigation. (4) The Director-General shall send the letter of request to the Attorney-General. (5) Where the Attorney-General believes it is appropriate to do so, he may forward a letter received under subsection (4) of this section to - (a) a court or tribunal which is specified in the letter and which exercises jurisdiction in the place where the evidence is to be obtained; or (b) an authority recognised by the government of the country or territory concerned as the appropriate authority for receiving letters of request.	Evidence overseas 134. Retained	

(6) Evidence obtained in pursuance of a letter of request shall not be used (a) by any person other than the Director-General or a person making the investigation; or (b) for any purpose other than that for which it is obtained. (7) Subsection (6) of this section does not apply where the authority mentioned in subsection (5) of this section consents to the use. (8) Evidence includes documents and other materials.		
Director – General's information 135. (1) Information obtained by or on behalf of the Director-General in connection with the exercise of any of his functions may be disclosed, where the disclosure is for the purposes of any of the following – (a) any criminal investigation which has been, is being or may be carried out, whether in Nigeria or elsewhere; (b) the exercise of the Director-General's functions; (c) safeguarding national security; (d) in connection with the collection of revenue; (e) investigations or proceedings outside Nigeria which have led or may lead to the making of an external order by a court outside Nigeria where property is found or believed to have been obtained as a result of or in connection with a criminal enterprise, and is for the recovery of specified property or a specified sum of money; or (f) the exercise of a designated function. (2) A person in receipt of a disclosure under subsection (1) of this section shall not further disclose the information in contravention of the	Director – General's information Disclosure of information by the Director-General 135. Retained	

conditions imposed at the time of disclosure.

(3) Information that is held by or on behalf of a permitted person, whether it was obtained before or after the coming into force of this Act, may be disclosed to the Director-General for the purpose of the exercise by the Director-General of his functions under this Act.

(4) The permitted persons referred to in subsection (3) of this section are the -

- (a) Inspector-General of Police;
- (b) Director of the Nigerian Financial Intelligence Centre;
- (c) Chairman of the Economic and Financial Crimes Commission;
- (d) Chairman of the Independent Corrupt Practices and Other Related Offences Commission;
- (e) Chairman of the National Drugs Law Enforcement Agency;
- (f) Executive-Secretary, National Agency for the Prohibition of Traffic in Persons and other related matters;
- (g) Executive - Chairman of the Federal Inland Revenue Service;
- (h) Comptroller-General of the Nigeria Customs Service;
- (i) Chairman of the Code of Conduct Bureau; and
- (j) Director of Public Prosecutions of the Federation.

(5) The Attorney-General may by order designate as permitted persons, other persons who exercise functions, which he believes are of a public nature.

(6) The power to authorise a disclosure under subsection (3) of this section may be delegated, either generally or for a specified purpose.

PART VIII ADMINISTRATION Powers and duties of the Agency in respect of property seized 136. This Part sets out the powers and duties of the Agency in respect of property, in this Part referred to as "controlled property", seized and put under the control and custody of the Agency by a Court order made under section 52 of this Act.	PART VIII ADMINISTRATION Powers and duties of the Agency in respect of property seized 136. Retained	
Preserving controlled property 137. (1) The Agency may do anything that is reasonably necessary for the purpose of preserving the controlled property, including - (a) becoming a party to any civil proceedings affecting the property; (b) ensuring that the property is insured; (c) realising or otherwise dealing with any of the property that is securities or investments; and (d) where any of the property is a business - (i) employing, or terminating the employment of persons in the business, and (ii) doing anything necessary or convenient to carry on the business on a sound commercial basis. (2) The Agency shall, for the purposes of exercising its functions under subsection (1) of this section, engage persons competent and qualified in the relevant area of business.	Preserving controlled property 137. Retained	
Rights attaching to shares 138. The Agency may exercise the rights attaching to any of the controlled property that are shares, securities, stocks, bonds or debentures as if the Agency were the registered holder of the shares, securities, stocks, bonds or debentures, to the exclusion of the registered holder.	Rights attaching to shares 138. Retained	

Destroying or disposing of property 139. The Agency may – (a) destroy the controlled property or any part of it on the grounds of public interest, health or safety; or (b) dispose of the controlled property or any part of it, by sale or other means to avoid deterioration or loss of value.	Destroying or disposing of property 139. Retained	
Notice of proposed destruction or disposal 140. (1) The Agency shall give written notice of the proposed destruction or disposal to – (a) the owner of the controlled property; and (b) any other person whom the Agency has reason to believe may have an interest in the property. (2) A person who has been so notified may object in writing to the Agency within fourteen days of receiving the notice.	Notice of proposed destruction or disposal 140. (1) Retained <i>(2) The notice referred to under subsection (1) of this section shall state the date, venue and time of the proposed destruction or disposal.</i> (3) Retained	This new subsection (2) was introduced to state the exact contents of the notice. Accordingly, subsection (2) of the clause has been renumbered subsection (3).
Procedure where person objects to proposed destruction or disposal 141. (1) Where, in spite of an objection detailed in section 140 (2) of this Act, the Agency wishes to continue with a proposed destruction or disposal that has been objected to, the Agency shall apply to the Court that made the order covering the controlled property for an order that the Agency may destroy or dispose of the property. (2) The Court shall make an order to destroy the controlled property on the grounds of public interest or health and safety.	Procedure where person objects to proposed destruction or disposal 141. Retained	

(3) In making an order for the destruction of controlled property, the Court shall take into account whether it is in the public interest to destroy the controlled property, including - (a) the use to which the property would be put if it were sold; (b) whether the cost of restoring the property in a saleable condition would exceed its realisable value; (c) whether the cost of sale would exceed its realisable value; and (d) whether the sale of the property would otherwise be proper. (4) The Court shall make an order to dispose of the controlled property where, the - (a) property is likely to lose value; or (b) cost of controlling the property until it is finally dealt with by the Agency is likely to exceed, or represent a significant proportion of, the value of the property when it is finally dealt with. (5) The Court may also make an order requiring that a specified person bear the costs of - (a) controlling the controlled property until it is finally dealt with by the Agency; or (b) an objection to a proposed destruction or disposal of the property.	
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Proceeds from sale of property 142. Any amount realised from any disposal of the controlled property under section 140 of this Act shall be deemed to be proceeds of an unlawful activity, an instrumentality of an offence or the proceeds of unlawful activity to which the order relates.	Proceeds from sale of property 142. <i>Any amount realised from any disposal of the controlled property under section 140 of this Act shall be deemed to be -</i> (a) <i>covered by the restraint order that related to the property disposed of; and</i> (b) <i>where the restraint order covered the property disposed of, on the basis that the property was proceeds of unlawful activity or was an instrumentality of unlawful activity, the amount realised shall continue to be proceeds of that unlawful activity or an instrumentality of that unlawful activity.</i>	This clause was redrafted because it is ambiguous.
Discharge of confiscation orders by credits to the Confiscated and Forfeited Properties Account 143. Where the Agency credits money to the Confiscated and Forfeited Properties Account as required by section 147 of this Act in satisfaction of a person's liability under a confiscation order, the person's liability under the order is, to the extent of the credit, discharged.	Discharge of confiscation orders by credits to the Confiscated and Forfeited Properties Account 143. Retained	
Agency to return income generated from controlled property 144. Where the restraint order relating to the controlled property ceases to be in force and the property is returned to its owner, the Agency shall pay to the owner the income generated from the property less all reasonable expenses incurred by the Agency in respect of the property.	Agency to return income generated from controlled property 144. Retained	
Agency is not liable for loss, etc. 145. (1) Except where the Court is satisfied that the Agency is negligent in respect of taking custody and control of a property, the Agency is not liable for - (a) any loss or damage, sustained by a person claiming an interest in all or part of the controlled property, arising from the Agency taking custody and control	Agency is not liable for loss, etc. 145. Retained	

of the property; or (b) the cost of proceedings taken to establish an interest in the property. (2) In the management of controlled property, the Agency shall not pay any rates, land tax or municipal or statutory charges imposed by virtue of any law in respect of the controlled property, except out of any rents or profits that the Agency receives from the property.		
PART IX CONFISCATED AND FORFEITED PROPERTIES ACCOUNT Establishment of Confiscated and Forfeited Properties Account 146. (1) There is established a special designated account at the Central Bank of Nigeria to be known as the Confiscated and Forfeited Properties Account. (2) The Confiscated and Forfeited Properties Account shall be managed by the Accountant-General of the Federation.	PART IX CONFISCATED AND FORFEITED PROPERTIES ACCOUNT Establishment of Confiscated and Forfeited Properties Account 146. Retained	
Credits to the Confiscated and Forfeited Properties Account 147. (1) There shall be credited to the Confiscated and Forfeited Properties Account – (a) funds realised from the proceeds of sale, management or other form of disposal of seized, attached, confiscated and forfeited assets under this Act (b) proceeds of any property seized or forfeited pursuant to section 23 (2)(c) of the Code of Conduct Bureau and Tribunal Act; (c) money paid to Nigeria by a foreign country, under any treaty or arrangement providing for mutual assistance in criminal matters, or repatriation of proceeds of unlawful activity; and	Credits to the Confiscated and Forfeited Properties Account 147. (1) Retained (a) Retained (b) Retained (c) <i>money paid to Nigeria by a foreign country,</i> <i>(i) under any treaty or arrangement providing for mutual assistance in criminal matters,</i> <i>(ii) as mentioned in section 41(4) of</i>	The paragraph was redrafted for elegance.

(d) amounts paid to the Agency on behalf of the Federal Government in settlement of proceedings connected with this Act.	(d) Retained	(iii) <i>this Act, or repatriation of proceeds of unlawful activity; and</i>	
(2) The following are confiscated or forfeited assets, the –	(2) Retained		
(a) remainder of the money and amounts referred to in section 76(2) and (4) of this Act;	(a) Retained		
(b) amount representing proceeds from a disposition authorised by regulations made pursuant to this Act;	(b) Retained		
(c) amount referred to in section 92 of this Act;	(c) Retained		
(d) remainder of the money and amounts referred to in section 143 of this Act;	(d) Retained		
(e) proceeds of an unlawful activity and money confiscated or forfeited under –	(e) proceeds of an unlawful activity and money confiscated or forfeited under <i>the</i> –		
(i) the Customs and Excise Management Act,		(i) Customs and Excise Management Act,	
(ii) the Terrorism (Prevention) Act,		(ii) Terrorism (Prevention) Act,	
(iii) the Money Laundering (Prohibition) Act,		(iii) Money Laundering (Prohibition) Act,	
(iv) the Economic and Financial Crimes Commission (Establishment, etc.) Act,		(iv) Economic and Financial Crimes Commission (Establishment, etc.) Act,	
(v) Corrupt Practices and Other Related Offences Act,		(v) Corrupt Practices and Other Related Offences Act,	
(vi) National Drug Law Enforcement Agency Act,		(vi) National Drug Law Enforcement Agency Act,	
(vii) Trafficking In Persons (Prohibition) Law Enforcement and Administration Act,		(vii) Trafficking In Persons (Prohibition) Law Enforcement and Administration Act,	
(viii) the Code of Conduct Bureau and Tribunal Act;		(viii) Code of Conduct Bureau and Tribunal Act;	

(ix) the Criminal Code; (x) Penal Code, and (xi) any other law dealing with confiscation and forfeiture of property in force in Nigeria; (f) instrumentalities of an offence, including the proceeds of their disposal or confiscation under - (i) the Customs and Excise Management Act, (ii) the Terrorism (Prevention) Act, (iii) the Money Laundering (Prohibition) Act, (iv) the Economic and Financial Crimes Commission (Establishment, etc.) Act, (v) Corrupt Practices and Other Related Offences Act, (vi) National Drug Law Enforcement Agency Act, (vii) Trafficking In Persons (Prohibition) Law Enforcement and Administration Act, (viii) the Code of Conduct Bureau and Tribunal Act; (viii) the Criminal Code, (ix) Penal Code, and (xi) any other law dealing with confiscation and forfeiture of property in force in Nigeria; and (g) amount referred to in section 34 of this Act.	(ix) Administration of Criminal Justice Act 2015; and (x) any other law dealing with confiscation and forfeiture of property in force in Nigeria; (f) instrumentalities of unlawful activity, including the proceeds of their disposal or confiscation under the- (i) Customs and Excise Management Act, (ii) Terrorism (Prevention) Act, (iii) Money Laundering (Prohibition) Act, (iv) Economic and Financial Crimes Commission (Establishment, etc.) Act, (v) Corrupt Practices and Other Related Offences Act, (vi) National Drug Law Enforcement Agency Act, (vii) Trafficking In Persons (Prohibition) Law Enforcement and Administration Act, (viii) Code of Conduct Bureau and Tribunal Act; (ix) Administration of Criminal Justice Act 2015; and (x) any other law dealing with confiscation and forfeiture of property in force in Nigeria; and (g) Retained	
Payments out of the Account 148. The Minister of Finance shall, from time to time, apply the funds in the	Payments out of the Account 148. The Minister of Finance shall, <i>with the approval of the President,</i>	

Confiscated and Forfeited Properties Account to – (a) compensate any State which has suffered grave pecuniary loss on account of the offence or conduct that gave rise to the confiscation order; (b) compensate any person who has suffered grave pecuniary loss on account of the offence or conduct that gave rise to the confiscation order; (c) pay any foreign country or an agency under the provisions of any treaty agreement or scheme for mutual legal assistance; (d) make payments under any programme approved by the Federal Government under section 150 of this Act; (e) make any payment necessary to satisfy Nigeria's obligations in respect of a registered foreign forfeiture order; and (f) make any payment the Agency, on behalf of the Federal Government, is directed to make by an order under sections 69(2)(a) and 78(2)(d) of this Act and regulations made under section 161 of this Act.	from time to time, apply the funds in the Confiscated and Forfeited Properties Account to – (a) compensate any State which has suffered grave pecuniary loss on account of the offence or conduct that gave rise to the confiscation or forfeiture order; (b) compensate any person who has suffered grave pecuniary loss on account of the offence or conduct that gave rise to the confiscation or forfeiture order; (c) Retained (d) make payments under any programme approved by the President under section 150 of this Act; (e) Retained (f) Retained	
Audit of the Confiscated and Forfeited Properties Account 149. The Confiscated and Forfeited Properties Account shall be audited in accordance with the guidelines supplied by the Auditor-General for the Federation.	Audit of the Confiscated and Forfeited Properties Account 149. Retained	
Programmes for expenditure on law enforcement, etc. 150. (1) The President may, by notice in the Federal Government Gazette approve a programme for the expenditure of money standing to the credit of the Confiscated and Forfeited Properties Account.	Programmes for expenditure on law enforcement, etc. 150. Retained	

(2) The President may approve expenditure out of the Confiscated and Forfeited Properties Account for any one or more of the following purposes – (a) crime prevention measures; (b) law enforcement measures; (c) measures relating to treatment of drug addiction; (d) measures outlined for the rehabilitation of victims of human trafficking; (e) education, health, youth development, mass housing, rural electrification, agricultural reform, water and sanitation; (f) measures relating to the compensation and rehabilitation of victims of terrorist activities; and (g) such other development programmes as may be approved by the Federal Government.		
PART X JURISDICTION Jurisdiction 151. (1) The Federal High Court (in this Act referred to as “the Court”) shall have jurisdiction to try offences, hear and determine proceedings arising under this Act whether or not the offence was commenced in Nigeria and completed outside Nigeria and the - (a) victim is a citizen or is resident in Nigeria, in transit or has a link with Nigeria or is dealing with or on behalf of the Government of Nigeria; and (b) alleged offender is in Nigeria and not extradited to any other country for prosecution.	PART X JURISDICTION Jurisdiction 151. (1) Retained	

(2) The Court shall have jurisdiction to impose any penalty provided for an offence under this Act or any other related law. (3) Whenever any person is convicted of an offence under this Act or any other Act, the Court in passing sentence shall in addition to any punishment which the Court may impose in respect of the offence, order the forfeiture or confiscation to the Agency on behalf of the Federal Government of Nigeria; of any property, asset or fund with accrued interest, article, substance, device, material or conveyance which is reasonably believed to have been used in the commission of the offence or the proceed of any unlawful activity under this Act and is in the possession, custody or control of the convicted person. (4) Notwithstanding the provisions of subsection (3) of this section, the penalty imposed on a person convicted of an offence referred to in that subsection may be reduced in such manner as the Court deems fit where that person has, before any proceeding, made possible or facilitated the identification of other accused persons and their sponsors or who, after the commencement of the proceedings, has made possible or facilitated the arrest of such persons or recovery of other person's proceeds of unlawful activity. (5) In any proceedings under this Act, the Court shall have power, notwithstanding anything to the contrary in any other enactment, to adopt all legitimate measures that it may deem necessary to avoid unnecessary	(2) Where a person is convicted of an offence under this Act, and- (a) <i>the person has benefited from -</i> (i) <i>that offence,</i> (ii) <i>any other offence of which the person has been convicted at the same trial, or</i> (iii) <i>any criminal activity which the Court convicting the person finds to be sufficiently related to those offences; or</i> (b) <i>in committing the offence or offences for which he has been convicted, has made use of any instrumentality to facilitate the offence or any of the offences of which he has been convicted; the Court convicting the person, upon the application of the Agency or authorised prosecutor, shall subject to its jurisdiction, make an order under section 66 or 82 of this Act.</i> (4) The penalty imposed on a person convicted of an offence under this Act may be reduced in such manner as the Court deems fit where that person has, before any proceeding, made possible or facilitated the identification of other accused persons and their sponsors or who, after the commencement of the proceedings, has made possible or facilitated the arrest of such persons or recovery of other person's proceeds of unlawful activity. (5) Retained	Subsections (2) and (3) were redrafted to reflect the objective of the law which is - recovery and management of proceeds of unlawful activities.
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delays and abuse in the conduct of proceedings.		
PART XI GENERAL PROVISIONS RELATING TO LEGAL PROCEEDINGS Onus and standard of proof in relation to recovery of proceeds of unlawful activities 152. (1) Subject to the provisions of this Act, the applicant in any proceedings under this Act bears the onus of proving the matters necessary to establish the grounds for making the order applied for. (2) Any question of fact to be decided by the Court in any proceedings for the recovery of proceeds of unlawful activity under this Act shall be decided on the balance of probabilities.	PART XI GENERAL PROVISIONS RELATING TO LEGAL PROCEEDINGS Onus and standard of proof in relation to recovery of proceeds of unlawful activities 152. Retained	
Stay of proceedings 153. (1) An application for stay of proceedings in respect of any matter brought under this Act shall not be entertained except at the stage of final judgement on the substantive matter. (2) The fact that criminal proceedings have been instituted or have commenced, whether or not under this Act, shall not constitute a ground for stay of proceedings under this Act.	Stay of proceedings 153. Retained	
Appeals against a confiscation or forfeiture order 154. (1) A person - (a) against whom a confiscation order is made; or (b) who has an interest in a property against which a forfeiture order is made, may appeal against the confiscation or forfeiture order in the manner set out in this section. (2) A person against whom a confiscation or forfeiture order was made in relation to a conviction for an offence may appeal against the order as if it were an appeal against sentence in respect of the offence. (3) A person may appeal against any order made under this Act, other	Appeals against a confiscation or forfeiture order 154. Retained	

than those referred to in subsection (2) of this section, where the – (a) person had been convicted of the offence to which the order relates; and (b) order relates to the sentence imposed on the person in respect of the offence. (4) The Agency has the same right of appeal as a person under this section in respect of the grant or refusal of an order under this Act. (5) This section does not affect any other right of appeal conferred on a person under the Constitution of the Federal Republic of Nigeria or any other law.		
Property under effective control 155. (1) A property may be subject to the effective control of a person whether or not the person has a - (a) legal, equitable or other interest in the property; or (b) right, power or privilege in connection with the property. (2) Any property that is held on trust for the ultimate benefit of a person is deemed to be under the effective control of the person. (3) In determining whether or not a property is subject to the effective control of a person - (a) the effect of any order made in relation to the property under this Act is to be disregarded; (b) regard may be had to - (i) shareholdings in, debentures over or directorships of a company that has an interest, whether direct or indirect, in the property, (ii) a trust that has a relationship to the property; and	Property under effective control 155. (1) Retained (2) Retained (3) Retained (a) Retained (b) Retained (i) Retained (ii) Retained	

(iii) family, domestic and business relationships between persons having an interest in the property, or in companies of the kind referred to in paragraph (a) of this subsection or trusts of the kind referred to in paragraph (b) of this subsection, and other persons. (4) For the purposes of this section, family relationships include the relationship - (a) between spouses or arising from co-habitation; (b) of child and parent that arise as a result of the definition of a child in section 163 of this Act; and (c) traced through relationships mentioned in paragraphs (a) and (b) of this subsection. (5) For the avoidance of doubt, property may be subject to the effective control of more than one person.	(iii) family, domestic and business relationships between persons having an interest in the property, or in companies of the kind referred to <i>in sub-paragraph (i) of this paragraph</i> or trusts of the kind referred to in <i>sub-paragraph (ii) of this paragraph</i>, and other persons. (4) Retained (5) Retained	
Publication of notice, etc. 156. Where in this Act a notice or other document is required by virtue of any provision to be published, it is sufficient if the notice or other document is published in the <i>Federal Gazette</i> or two widely circulated national newspapers.	Publication of notice, etc. 156. Retained	
Inconsistency with applicable Acts 157. Subject to the provisions of the Constitution of the Federal Republic of Nigeria, where a provision of this Act is inconsistent with a provision of an applicable Act, the provision of this Act shall prevail and the provision of the applicable Act shall, to the extent of the inconsistency, be void.	Inconsistency with applicable Acts 157. Retained	
Legal proceedings 158. (1) No civil action shall be commenced against the Agency or its authorised officers before the expiration of a period of thirty days after written	Legal proceedings 158. Retained	

notice of intention to commence the suit shall have been served on the Agency by the intending plaintiff or his agent, and the notice shall clearly and explicitly state the - (a) cause of action; (b) particulars of the claim; (c) name and place of abode of the intending plaintiff; and (d) relief sought. (2) The notice referred to in subsection (1) of this section and any summons, or other documents required or authorized to be served on the Agency under this Act or any other enactment or law, may be served by - (a) delivering it to the office of the Agency; or (b) sending it by registered mail to the postal address of the Agency.		
Restriction on execution against property of the Agency 159. In any action or suit against the Agency, no execution shall be levied or attachment process issued against the Agency unless not less than thirty days' notice of the intention to execute or attach has been given to the Agency.	Restriction on execution against property of the Agency 159. Retained	
Indemnity of officers of the Agency 160. A member of the Board, Director-General, officer or employee of the Agency shall be indemnified out of the assets of the Agency against any proceedings brought against him in his capacity as a member of the Board, Director-General, officer or employee of the Agency where the act complained of is not beyond his powers.	Indemnity of officers of the Agency 160. Retained	
PART XII MISCELLANEOUS Regulations and guidelines 161. (1) The Attorney - General may make regulations as are necessary or	PART XII MISCELLANEOUS Regulations and guidelines 161. (1) Retained	

expedient for the efficient implementation of the provisions of this Act and, in particular, regulations providing for the manner and procedure for the repatriation of forfeited assets referred to in section 41 of this Act. (2) The Agency shall with the approval of the Attorney - General, issue guidelines as may be necessary for the exercise of any of the duties, functions or powers of the Agency under this Act.	(2) Retained	
Consequential amendments and transitional provisions 162. (1) The National Drug Law Enforcement Agency Act, Cap N30, Laws of the Federation of Nigeria, 2004 ("the Principal Act") is amended as follows- (a) in section 3 (1) (c), by deleting the word 'confiscate' in line 1; (b) by deleting sections 27, 28, 29 and 31; (c) in section 32, by deleting paragraphs (c)(i), (ii) and (iii); (e) and (f); (d) in section 33, by deleting sections (1)(b), (2) and (3); (e) in section 34, by deleting the phrase – (i) 'and attach' in line 2, and (ii) 'and shall thereafter cause to be obtained an interim attachment order by the Federal High Court' in lines 2 and 3; (f) in section 35, deleting subsection (4); (g) by deleting sections 36, 37, 38, 39, 40, 42 and 43; and (h) in section 52, by deleting the sentence, 'confiscation includes forfeiture or the permanent deprivation of property by a Federal High Court' and 'freezing means temporarily prohibiting the transfer, conversion, disposal or movement of property, asset or money or temporarily assuming custody or control of them on the basis of attachment by the Agency', and (i) by deleting the Fourth Schedule to the Act.	Consequential amendments and transitional provisions 162. (1) Retained (a) Retained (b) Retained (c) Retained (d) Retained (e) Deleted (f) Deleted (g) by deleting sections 36, 37, 38, 39, 40, 42 and 43; and (h) Retained (i) Deleted	The Committee amended this clause because the agency to be created under this bill is empowered only to manage proceeds of crime and not to investigate crimes leading to recovery of proceeds of crime. As a result, the clause was amended to ensure that the investigative powers of the relevant agencies are not tampered with. Similarly, some of the provisions referred to, in the bill, no longer exist in pursuance to comprehensive reforms on the Acts. Correct provisions and position of the law have been reflected accordingly. This is without prejudice

(2) The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 (as amended), is further amended as follows – (a) by deleting sections 35, 36, 37, 38, 39 and 40; (b) in section 53, by deleting the words – (i) 'and attach' in line 2, and (ii) 'and shall thereafter cause to be obtained an interim attachment order by the Federal High Court' in lines 4 and 5; (c) by deleting sections 42(4), 43, 44, 45, 46, 47 and 48; (d) in section 52(b), by substituting the words 'Victims of Trafficking Trust Fund' with the words 'Confiscated and Forfeited Properties Account'; (e) in section 54(2), by deleting the words 'where all proceeds of the sale of assets and properties of traffickers are paid into'; (f) in section 64, by deleting the following definitions - 'confiscation includes forfeiture or the permanent deprivation of property by a court' and 'freezing means temporarily prohibiting the transfer, conversion, disposal or movement of money or temporarily assuming custody or control of the money'; and (g) in the Second Schedule, by deleting 'Form 2'.	(2) Retained (a) in section 36 (2) by deleting the phrase "to the Victims of Trafficking Trust Fund" and by deleting 49, 50 and 51; and (b) Deleted (c) by deleting sections 56, 57, 58 and 59; (d) in section 67 (1) by substituting for the words 'Victims of Trafficking Trust Fund' the words 'Confiscated and Forfeited Properties Account'; (e) Deleted (f) Deleted (g) Deleted	to savings made earlier on.
(3) The Economic and Financial Crimes Commission (Establishment) Act, 2004 is amended as follows – (a) in section 6(d), by deleting the word 'confiscate' in line 1; (b) in section 13(2)(c), by deleting the words 'forfeited under this Act'	(3) Retained (a) Retained (b) Retained	

in line 2; (c) by deleting sections 20, 21, 22, 24, 25(a), (c) and (d), 26(1)(b), (2) and (3); and 27(2); (d) in section 28, by deleting the phrase – (i) 'and attach' in line 2, and (ii) 'thereafter shall cause to be obtained an interim attachment order from the Court' in lines 3 and 4; (e) by deleting section 29, 30, 31, 32, 33 and 34; (f) in Schedule 1, by deleting Form 'B' (4) The Corrupt Practices and Other Related Offences Act, 2000 is amended as follows – (a) in section 38 by – (i) inserting immediately after the words '<i>under the custody of</i>', in section 38(1) line 3, the words '<i>the Proceeds of Crimes Recovery and Management Agency if a forfeiture or confiscation order is to be sought or otherwise of</i>'; (ii) inserting a new section 38(2) (A) immediately after subsection 38(2), to read as follows – "38 (2) (A) <i>if the property mentioned in subsection (2) of this section is to be the subject of a forfeiture or confiscation order, the authority of the Proceeds of Crimes Recovery and Management Agency is to be sought prior to leaving the property in the custody of such a person as is mentioned in that subsection</i>"	(c) by deleting sections 20, 21, 22, 24, 25(a), (c) and (d), 26(1) (b) (2) and (3); and 27(2); (d) Deleted (e) by deleting section 29, 30, 31, 32, 33 and 34; (f) Deleted (4) Deleted
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(iii) inserting a new paragraph (c), immediately after section 38(3) (b) to read as follows - <i>"(c) if the property is a property which may be the subject of a forfeiture order or confiscation order, it shall not be returned within the provisions of paragraphs (a) and (b) of this subsection without the authority of the Proceeds of Crimes Recovery and Management Agency";</i> (iv) by deleting subsections (5) (6) and (7); And (b) by deleting sections 39, 45, 46, 47 and 48. (5) Without prejudice to section 6 of the Interpretation Act, the amendment of the Acts specified in subsections (1), (2), (3) and (4) of this section, shall not affect anything done under or pursuant to the amended Acts. (6) An agreement or arrangement in existence under the repealed enactments before the commencement of this Act shall continue to have effect subject to such modifications as may be necessary to give effect to this Act. (7) All outstanding proceeds and property recovered prior to the commencement of this Act by relevant Organisations shall be transferred to the Confiscated and Forfeited Properties Account.	(4) Retained (5) Retained (6) All proceeds of unlawful activity, instrumentalities of offences and property recovered by the relevant organisations prior to the commencement of this Act under any enactment that have not been paid to the Federal Government shall vest in the Agency. (7) For the purpose of subsection (7), of this section, the Agency shall appoint an auditor from the list of auditors and in accordance with the guidelines issued by the Auditor-General of the Federation to establish the nature, amount and location of the proceeds, instrumentalities and property referred to in subsection (7) of this section.	Subsection (6) was redrafted and new subsections (7), (8) and (9) introduced to secure assets in the transitional period.
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(8) The provisions of this section shall commence six months after the date of assent by the President	<i>(8) Property other than money referred to in subsection (7) shall be realised by sale or otherwise by the Agency and the proceeds paid into the Confiscated and Forfeited Properties Account.</i> <i>(9) Money referred to in subsection (7) of this section shall be paid into the Confiscated and Forfeited Properties Account.</i> (10) The provisions of subsections (1) to (6) of this section shall commence six months after the date of assent by the President.	
Interpretation 163. In this Act, unless the context otherwise requires - “abscond”, in relation to a person who is alleged to have committed an offence, means - (a) a charge alleging that the person committed the offence has been filed in court; (b) a warrant for the person’s arrest is issued in relation to the charge; and (c) at the end of the period of six months commencing on the day on which the warrant is issued - (i) the person cannot be found, (ii) the person is, for any other reason, not amenable to justice and, if the person is outside Nigeria, extradition proceedings have not commenced or are not pending; or (iii) the person is, because he is outside Nigeria, not amenable to justice, and extradition proceedings have been commenced and subsequently those proceedings terminate without an order for the person’s extradition being made;	Interpretation 163. Retained	The Committee introduced slight changes in this interpretation section to improve existing definitions and for the purpose of clarity.

"account" means any facility or arrangement through which a financial institution accepts deposits or allows withdrawals and includes - (a) a facility or arrangement for: (i) a fixed term deposit, or (ii) a safety deposit box; (b) a credit card account; (c) a loan account, other than a credit card account; (d) an account held in the form of units in - (i) a cash management trust, or (ii) a trust of a kind prescribed by the regulations; and (e) a closed account, and it is immaterial whether an account has a nil balance or any transactions have been allowed in relation to an account; "account freezing order" means an order under section 43 of this Act; "applicable Acts" includes - (a) the Corrupt Practices and Other Related Offences Act; (b) the Economic and Financial Crimes Commission (Establishment) Act; (c) the Money Laundering (Prohibition) Act; (d) the Terrorism (Prevention) Act; (e) the National Drug Law Enforcement Agency Act; (f) the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act; and (g) such other Acts as the Attorney-General may by order published in the <i>Federal Gazette</i>, designate. "authorised officer" means -	<i>"affected gift" has the meaning given to it under section 87(3) of this Act;</i> "applicable Acts" includes - Retained "authorised officer" means -	
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(a) a member of staff of the Agency designated by the Director - General; (b) a member, officer or employee of a relevant organisation who has received training as specified by the Agency; or (c) any other person included in a class of persons declared by the regulations to be within this definition; "Attorney-General" means the Attorney-General of the Federation and Minister of Justice; "benefit" includes service or advantage; "books" includes any account, deed, paper, writing or document and any record of information however compiled, recorded or stored, whether in writing, on microfilm, by electronic process or otherwise; "child" means a person under the age of eighteen years; "civil proceedings" refers to proceedings that are civil proceedings and are not criminal proceedings, and (a) the rules of evidence applicable in civil proceedings apply to proceedings; (b) rule of evidence applicable only in criminal proceedings shall not apply to proceedings; (c) rules of construction applicable only in criminal proceedings shall not apply to proceedings; (d) any question of fact to be decided by the Court in respect of	(a) Retained (b) member, officer or employee of a relevant organisation; or who has received training as specified by the Agency; or (c) Retained <i>"authorised prosecutor" means a prosecutor authorised by a relevant organisation for the purpose of this Act;</i> Retained Retained Retained Retained Retained (a) the rules of evidence applicable in civil proceedings apply to <i>such</i> proceedings; (b) <i>rules</i> of evidence applicable only in criminal proceedings shall not apply to <i>such</i> proceedings; Retained	
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such proceedings shall be decided on a balance of probabilities; and (e) evidence given in furtherance of such proceedings is admissible despite any rule of law or practice relating to hearsay evidence; "close dependant relative" means - (a) the person's spouse or cohabiting partner; or (b) the person's child, or member of the person's household, who depends on the person for support; "Confiscated and Forfeited Properties Account" means the account established under section 146 of this Act "confiscation order" means an order made under section 70 of this Act; "controlled property" has the meaning given to it under section 136 of this Act; "conveyance" means a mode of transportation and includes an aircraft, a vehicle and vessel; "convicted for an offence" for the purpose of recovery of proceeds of unlawful activities means the person - (a) is convicted, whether summarily or on indictment; (b) is sentenced for the offence, notwithstanding that the Court in passing sentence took into account an offence of which he has not been found guilty; or (c) absconds in connection with the offence; "Court" means the Federal High Court; "data" includes- (a) information in any form; and	Retained (a) the person's spouse or cohabiting partner; or (b) Retained "Confiscated and Forfeited Properties Account" means the account established under section 146 of this Act Retained Retained "conveyance" means a mode of transportation and includes an aircraft, a vehicle and vessel; Retained (a) Retained (b) Retained (c) Retained Retained Retained	
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(b) any programme or part of a programme;	<i>"criminal enterprise" means participation, either solely or jointly with others, in any unlawful activity;</i>	
"data held in a computer" includes data held in –	Retained	
(a) any removable data storage device for the time being held in a computer;		
(b) data storage device on a computer network of which the computer forms a part; or		
(c) data held in any remote storage device to which data has been sent from the computer.		
"data storage device" means a thing containing, or designed to contain data;	Retained	
"date of conviction" in relation to a person's conviction of an offence, means, in the case of a person –	Retained	
(a) charged with, and found guilty of, the offence, the day on which the person was found guilty of the offence; or		
(b) who absconds, the day on which the person is taken to have absconded in connection with the offence;		
"deal" when used in relation to a person's property, includes –	Retained	
(a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt;	(a) Retained	
(b) removing property from Nigeria;	(b) Retained	
(c) receiving or making a gift of property; and	(c) Retained	
(d) if property is covered by a restraint order, engaging in a transaction that has the direct or indirect effect of reducing the value of the person's interest in the property, and "dealing" is to be similarly construed;	(d) where property is covered by a restraint order, engaging in a transaction that has the direct or indirect effect of reducing the value of the person's interest in the property, and "dealing" is to be similarly construed;	

"derived", in relation to a person having derived proceeds, a benefit or wealth, includes any other person who at the request or direction of the person, having derived the proceeds, benefit, or wealth directly or indirectly;	Retained	
	<i>"Director-General" means the Director-General appointed for the Agency under section 99 of this Act;</i>	
"effective control" has the meaning given to it under section 155 of this Act;	Retained	
"encumbrance", in relation to property, includes any interest, mortgage, charge, right, claim and demand in respect of the property;	Retained	
"evidential material" means evidence relating to - (a) property in respect of which action has been or could be taken under this Act; or (b) benefits derived from the commission of a relevant offence;	Retained	
"exclusion order" means an order made under section 78(1) of this Act;	Retained	
"financial institution" has the meaning given in the Money Laundering (Prohibition) Act;	Retained	
"freezing order" has the meaning given to it in section 43 of this Act.	Retained	
"interest", in relation to property or a thing, means - (a) a legal or equitable estate or interest in the property or thing; or (b) a right, power or privilege in connection with the property or thing, whether present or future and whether vested or contingent;	Retained	
"instrumentality of an offence" means property used or intended to		

be used in or in connection with the commission of an offence, whether the property is situated within or outside Nigeria, "lawfully acquired", in relation to property or wealth, means that the property or wealth and the consideration for it was lawfully acquired;	Retained	
"legal practitioner" has the meaning given to it by the Legal Practitioners Act;	Retained	
"member" means a member of the Board including the Chairman and the Director – General of the Agency;	Retained	
"officer", in relation to a financial institution or a corporation, means a director, secretary, executive officer or employee of a financial institution;	Retained	
"premises" means property and structures that are on the property, including buildings, vessels, boats and vehicles whether temporary or not and whether designed for habitation or not;	Retained	
"person's property" includes property in respect of which a person has a beneficial interest;	Retained	
	<i>"permitted person" means a person referred to in section 135(4) or (5) of this Act;</i>	
	<i>"person's property" includes property in respect of which a person has a beneficial interest;</i>	
"proceedings are concluded" when –	"proceedings are concluded" <i>where</i> –	
(a) the defendant is acquitted on all counts in proceedings for an offence, the proceedings are concluded when he is acquitted;	(a) the defendant is acquitted on all counts in proceedings for an offence, the proceedings are concluded when he is acquitted;	
(b) the defendant is convicted in proceedings for an offence and the conviction is quashed or the defendant is pardoned	(b) the defendant is convicted in proceedings for an offence and the conviction is quashed or the defendant is pardoned before a	

before a confiscation order is made, the proceedings are concluded when the conviction is quashed or the defendant is pardoned; (c) a confiscation order is made against the defendant in proceedings for an offence, whether the order is made by the Court or the Court of Appeal, the proceedings are concluded - (i) when the order is satisfied or discharged, or (ii) when the order is quashed and there is no further possibility of an appeal against the decision to quash the order; "proceeds of unlawful activity" means property - (a) wholly derived or realised, whether directly or indirectly, from unlawful activity, or (b) partly derived or realised, whether directly or indirectly, from unlawful activity, whether the property is situated within or outside Nigeria, or whether or not a person has been convicted of the offence; "proceeds of confiscated and forfeited assets" has the meaning given to it under section 147(2) of this Act; "property" means real or personal property of every description, whether situated in Nigeria or elsewhere and whether tangible or intangible, and includes an interest in any such real or personal property; "quashing a conviction for an offence" means - (a) the quashing of a conviction of a person who had been convicted whether summarily or on indictment; (b) the quashing or setting aside of the finding of guilt where a person had been charged with and found guilty of an	confiscation order is made, the proceedings are concluded when the conviction is quashed or the defendant is pardoned before a confiscation order is made; (c) a confiscation order is made against the defendant in proceedings for an offence, whether the order is made by the Court or the Court of Appeal, the proceedings are concluded when the order is - (i) satisfied or discharged, or (ii) quashed and there is no further possibility of an appeal against the decision to quash the order; Retained Retained Retained Retained	
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(c) offence but discharged without conviction; or the quashing or setting aside of the conviction of a person who absconded but was later brought before a Court and discharged; "registrable property" means a property title to which is passed by registration in a register kept pursuant to a provision of any law in force in Nigeria; "registration authority", in relation to property of a particular kind, means an authority responsible for administering a law in force in Nigeria providing for registration of title to, or charges over, property of that kind; "related offence" means an offence the physical elements of which are similar to another offence; "relevant organisation" means - (a) the Economic and Financial Crimes Commission; (b) the Independent Corrupt Practices and other Related Offences Commission; (c) the National Drug Law Enforcement Agency; (d) the Trafficking in Persons (Prohibition) Law Enforcement Agency; (e) the National Agency for Food and Drug Administration and Control; (f) the Nigeria Customs Service; (g) the Code of Conduct Bureau; (h) the Federal Inland Revenue Service; and (i) such other organisations as the Attorney - General may, from time to time, designate;	<i>"realisable property" means any free property held by the defendant or any free property held by the recipient of an affected gift;</i> Retained Retained Retained	
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"relevant person" means any of the persons referred to in section 52(1)(a) and 52(1)(b) of this Act. "restraint order" means an order under sections 51, 52, 53 or 54 of this Act that is in force; "sufficient consideration" in relation to an acquisition or disposal of property, means a consideration that is sufficient and that reflects the value of the property, having regard solely to commercial considerations; and "unlawful activity" means an act, omission or conduct which constitutes an offence or which contravenes any law in force in Nigeria, whether the act, omission or conduct occurred before or after the commencement of this Act or where the offence is committed in a country outside Nigeria, would also constitute an offence if it had been committed in Nigeria	"relevant person" means any of the a person referred to in section 52(1)(a) and 52(1)(b) of this Act <i>against whom a restraint order is made, whether or not that person is charged with an offence.</i> Retained Retained Retained	
Short title 164. This Act may be cited as the Proceeds of Crimes Act, 2017.	Short title 164. This <i>Bill</i> may be cited as the Proceeds of Crimes <i>Bill</i>, 2017.	
SCHEDULE 1 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD [Section 98(7)] Proceedings of the Board 1. Subject to this Act and section 27 of the Interpretation Act, the Board shall have power to regulate its proceedings and may make standing orders with respect to the holding of its meetings, and those of its committees, notices to be given, the keeping of minutes of its proceedings, the custody and production for inspection of such minutes and such other matters as the Board may, from time to time determine.	SCHEDULE 1 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD [Section 98(8)] Proceedings of the Board 1. Retained	

2	There shall be at least three ordinary meetings of the Board in every calendar year and subject thereto, the Board shall meet whenever it is convened by the Chairman, and if the Chairman is requested to do so by notice given to him by not less than four other members, he shall convene a meeting of the Board to be held within 30 days from the date on which the notice was given.	2 Retained	
3	Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of them to preside at the meeting.	3. Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of <i>their number</i> to preside at the meeting.	
4.	The quorum of any meeting of the Board shall consist of the Chairman (or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and three other members.	4. Retained	
5.	A question put before the Board at a meeting shall be decided by consensus and where this is not possible, by a majority of the votes of the members present and voting.	5. Retained	
6.	The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberate vote.	6. Retained	
7.	Where the Board seeks the advice of any person on a particular matter, the Board may invite that person to attend, for such period as it deems fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.	7. Retained	
8.	The Board shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.	8. Retained	
9.	Where the Board seeks the advice of any person on a particular matter, the Board may invite that person to attend for such period as it deems fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.	9. Retained	

Committees 10. The Board may appoint one or more committees to carry out, on behalf of the Board, such of its functions as the Board may determine and report on any matter with which the Board is concerned. 11. A committee appointed under paragraph 10 of this Schedule shall be presided over by a member of the Board and shall consist of such number of persons (not necessarily all members of the Board) as, may be determined by the Board and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment. 12. A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.	Committees 10. Retained. 11. Retained 12. Retained	
Miscellaneous 13. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman and the Secretary to the Board. 14. A contract or an instrument which, if made or executed by any person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Agency by the Director-General or by any person generally or specifically authorized to act for that purpose by the Board. 15. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Agency shall be received in evidence and until the contrary is proved, be presumed without further proof, to have been properly signed or sealed. 16. The validity of any proceeding of the Board or its committees shall not be affected by - (a) any vacancy in the membership of the Board or its committees; (b) reason that a person not entitled to do so took part in the proceedings; or (c) any defect in the appointment of a member.	Miscellaneous 13. The fixing of the seal of the Agency shall be authenticated by the signature of the <i>Director-General and such other person as the Board may designate.</i> 14. Retained 15. Retained 16. Retained	

17.	Any member of the Board or committee who has a personal interest in any arrangement entered into or proposed to be considered by the Board or any committee shall - (a) disclose his interest to the Board or committee; and (b) not vote on any question relating to the arrangement.	17. (1) Retained (2) Failure by any member of the Board or committee to comply with the provision of sub-paragraph (1)(a) of this paragraph may constitute a ground for removal of the member from the Board or committee.	New subsection (2) was introduced to provide for sanctions.
SCHEDULE II DEFAULT SENTENCES [Section 92(6)]		SCHEDULE II SENTENCES IN DEFAULT OF FAILURE TO SATISFY A CONFISCATION ORDER [Section 92(6)]	The heading has been changed to reflect content.
Table		Amount	Period
An amount not exceeding N50,000	7 days	An amount not exceeding N50,000	7 days
An amount exceeding N50,000 but not exceeding N150,000	14 days	An amount exceeding N50,000 but not exceeding N150,000	14 days
An amount exceeding N150,000 but not exceeding N250,000	28 days	An amount exceeding N150,000 but not exceeding N250,000	28 days
An amount exceeding N250,000 but not exceeding N700,000	45 days	An amount exceeding N250,000 but not exceeding N700,000	45 days
An amount exceeding N700,000 but not exceeding N1,400,000	3 months	An amount exceeding N700,000 but not exceeding N1,400,000	3 months
An amount exceeding N1,400,000 but not exceeding N2,800,000	6 months	An amount exceeding N1,400,000 but not exceeding N2,800,000	6 months
An amount exceeding N2,800,000 but not exceeding N5,600,000	12 months	An amount exceeding N2,800,000 but not exceeding N5,600,000	12 months
An amount exceeding N5,600,000 but not	18 months	An amount exceeding N5,600,000but not	18 months

exceeding N14,000,000		exceeding N14,000,000		
An amount exceeding N14,000,000but not exceeding N28,000,000	2 years	An amount exceeding N14,000,000but not exceeding N28,000,000	2 years	
An amount exceeding N28,000,000 but not exceeding N70,000,000	3 years	An amount exceeding N28,000,000 but not exceeding N70,000,000	3 years	
An amount exceeding N280,000,000	10 years	An amount exceeding N280,000,000	10 years	
EXPLANATORY MEMORANDUM <i>(This Memorandum does not form part of this Act but is intended to explain its purport)</i> This Act provides legal and institutional framework for the recovery and management of proceeds of crime or benefits derived from unlawful activities, harmonises and consolidates existing legislative provisions on the recovery of proceeds of crime and related matters in Nigeria; and makes provisions for the restraint, seizure, confiscation and forfeiture of property derived from unlawful activities and any instrumentalities used or intended to be used in the commission of unlawful activities.		EXPLANATORY MEMORANDUM <i>(This Memorandum does not form part of this Act but is intended to explain its purport)</i> This Act provides legal and institutional framework for the recovery and management of proceeds of crime or benefits derived from unlawful activities, harmonises and consolidates existing legislative provisions on the recovery of proceeds of crime and related matters in Nigeria; and makes provisions for the restraint, seizure, confiscation and forfeiture of property derived from unlawful activities and any instrumentalities used or intended to be used in the commission of unlawful activities.		