TRAFFICKING IN PERSONS (PROHIBITION), ENFORCEMENT AND ADMINISTRATION BILL, 2013

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A BILL

FOR *[EXECUTIVE]*

AN ACT TO REPEAL THE TRAFFICKING IN PERSONS (PROHIBITION) LAW ENFORCEMENT AND ADMINISTRATION ACT, 2003 (AS AMENDED) AND TO ENACT THE TRAFFICKING IN PERSONS (PROHIBITION), ENFORCEMENT AND ADMINISTRATION ACT TO PROVIDE FOR MEASURES AGAINST TRAFFICKING AND SMUGGLING OF PERSONS AND RELATED MATTERS. .

[ ] Commencement

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

PART I - OBJECTIVE

1. The objectives of this Act are to- Objectives

(a) provide an effective and comprehensive legal and institutional framework for the prohibition, prevention, detection, prosecution and punishment of human trafficking and related offences in Nigeria;

(b) prevent and combat the Illegal smuggling of migrants;

(c) protect victims of human trafficking; and

(d) promote and facilitate national and international cooperation in order to meet the objectives set out in paragraphs (a), (b) and (c) of this section.

PART II - PROHIBITION OF TRAFFICKING IN PERSONS

2. -(1) All acts of human trafficking are prohibited in Nigeria. Prohibition of acts of Trafficking in Persons

(2) Any person who recruits, transports, transfers, harbours or receives another person by means of-

(a) the threat or use of force or other forms of coercion,

(b) abduction, fraud, deception, abuse of power or of a position of vulnerability; or

(c) the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation of that person, commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years and to a fine of not less than N1,000,000.00.

(3) A person who in or outside Nigeria directly or indirectly-

(a) does, attempts or threatens any act preparatory to or in furtherance of an act of trafficking in persons;

(b) omits to do anything that is reasonably necessary to prevent an act of trafficking in persons;

(d) assists or facilitates the activities of persons engaged in acts of trafficking in persons or is an accessory to any offence under this Act;

(e) procures any other person by any means whatsoever to commit an offence under this Act;

(f) participates as an accomplice in the commission of an offence under this Act, or

(g) promises or induces any other person by any means whatsoever to commit any of the offences provided for in this Act; commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than 5 years and to a fine of not less than N1,000,000.00.

(4) Under this Act, an act of trafficking in persons means an act or omission, in or outside Nigeria, which constitutes an offence within the scope of any counter trafficking in persons convention, treaties and protocols duly ratified by Nigeria.

(5) For the purpose of subsection 2(b) of this section, abuse of a position of vulnerability includes intentionally using or otherwise taking advantage of an individual's personal, situational or circumstantial vulnerability to recruit, transport, transfer, habour or receive that person for the purpose of exploiting him or her, such that the person believes that submitting to the will of the abuser is the only real or acceptable option available to him or

her and that this belief is reasonable in the light of the victim's situation.

PART III - OFFENCES AND PENALTIES

Importation and Exportation of any person

3. Any person who-

(a) imports another person into Nigeria, knowing or having reason to know that the person will be forced or induced into prostitution or other forms of sexual exploitation in Nigeria or while in transit; or

(b) exports another person from Nigeria, knowing or having reason to know, that the person will be forced or induced into prostitution or other forms of sexual exploitation in the country to which the person is exported or while in transit; commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years and to a fine of not less than N1,000,000.00.

Procurement of any person for the purpose of sexual exploitation

4. Any person who by the use of force, deception, threat, coercion, debt bondage (immediate or in the near future) or any means whatsoever-

(a) causes or induces any person to be conveyed from his usual place of abode or from one place to another, knowing or having reason to know that such person is likely to be forced or induced into prostitution or other forms of sexual exploitation with or by any person or an animal; or

(b) keeps, detains or harbours any other person with intent, knowing or having reason to know that such a person is likely to be forced or induced into prostitution or other forms of sexual exploitation with or by any person or an animal, commits an offence and is liable on conviction to imprisonment for 5 years and to a fine of N500,000.00.

Abuse, procurement or recruitment of any person under eighteen years for prostitution or other forms of sexual exploitation

5. -(1) Any person who procures or recruits any person under the age of eighteen years to be subjected to prostitution or other forms of sexual exploitation with himself, any person or persons, either in Nigeria or anywhere else, commits an offence and shall be liable on conviction to imprisonment for a term of not less than 7 years and to a fine of not less than N1,000,000.00.

(2) Any person who procures or recruits any person under the age

of eighteen years to be conveyed from his usual place of abode, knowing or having reasons to know that such a person may be subjected or induced into prostitution or other forms of sexual exploitation in any place outside Nigeria, commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and to a fine of not less than N1,000,000.00.

(3) Any person who, having the custody, charge or care of a person under the age of eighteen years, sexually exploits or abuses the person or causes or encourages the sexual exploitation of that person, commits an offence and is liable on conviction to imprisonment for 7 years and to a fine of not less than N1,000,000.00.

Procurement or recruitment of any person under the age of eighteen years for pornography, use in armed conflicts or brothel

6. Any person who-

(a) procures, recruits, uses or offers any person under eighteen years for the production of pornography or for pornographic performances;

(b) traffics any person under eighteen years for the purpose of forced or compulsory recruitment for use in armed conflict; or

(c) allows a person under the age of eighteen years to be harboured in a brothel.

commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and shall in addition be liable to a fine of not less than N1,000,000.00.

Foreign travel which promotes prostitution or sexual exploitation

7. Any person, who knowingly organizes, facilitates or promotes foreign travels, which promote prostitution or other forms of exploitation of any person or encourages such activity, commits an offence and is liable on conviction to imprisonment for not less than 7 years and to a fine of not less than N1,000,000.00.

Defilement of any person by fraudulent administration of drugs or substance

8. Any person who administers any drug or substance with intent to stupefy or over-power a person-

(a) in order to enable him, another person or animal, to sexually exploit or abuse that person; or

(b) for any pornographic purpose,

commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years and to a fine of not less than N1,000,000.00.

Procurement or recruitment of any person for exploitation or organ harvesting

9. -(1) Any person who-

(a) through force, deception, threat, debt bondage or any form of coercion;

(i) abuses a situation of dominance or authority arising from a given circumstance, or

(ii) abuses a vulnerable situation, or

(b) through the giving or receiving of payments or benefits;

in order to induce or obtain the consent of a person directly or through another person who has control over him; enlist, transport, delivers, accommodates or takes in another person with a view to exploiting the person or removing the person's organs; commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and to a fine of not less than N5,000,000.00.

(2) Without prejudice to the provisions of subsection (1) of this section, a person who

procures or offers any person, assists or is involved in anyway-

(a) in the removal of human organs; or

(b) buying and selling of human organs,

commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and to a fine of not less than N5,000,000.00.

(3) Any person who enlists, transports, delivers, accommodates or takes in another person under the age of eighteen; with a view to exploiting the person or removing the person's organs, commits an offence and is liable on conviction to imprisonment for a term of not less than 7 years and to a fine of not less than N5,000,000.00.

Prohibition of buying or selling of human beings for the purpose of exploitation

10. Any person who buys, sells, hires, lets or otherwise obtains the possession or disposal of any person with intent, knowing it to be likely or having reasons to know that such a person will be subjected to exploitation

and sexual abuse, commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years and to a fine of not less than N2,000,000.00.

Forced labour

11. Any person who-

(a) requires, recruits, transports, harbours, receives or hires out a person to be used for forced labour within or outside Nigeria; or

(b) permits any place or premises to be used for the purpose of forced labour,

commits an offence and is liable on conviction to imprisonment for a term of.7years and to a fine of not less than N2,000,000.00.

Child labour and inflicting grievous harm

12. -(1) Any person who-

(a) employs, requires, recruits, transports, harbours, receives or hires out any person under the age of eighteen years to work in a forced or exploitative labour in any capacity except where he is employed for light work of an agricultural, horticultural or domestic character;

(b) recruits or requires a child in any case to lift, carry or move anything so heavy as to be likely to adversely affect his physical, mental, psychological or social development;

(c) recruits, requires, transports, harbours, receives, hires out or takes custody of a person under the age of eighteen years as a domestic help for the purpose of exploitative labour, and

(d) while having the custody, charge or care of any person under the age of eighteen years, inflicts grievous bodily harm on such person;

commits an offence and is liable on conviction to imprisonment for a minimum term of 2 years but not exceeding 7 years without option of fine.

(2) Nothing in sub-section (1) of this section shall apply to work done by children in technical schools or similar approved institutions if the work is supervised by the appropriate authority.

Trafficking in slaves and slave dealing

13. -(1) Any person who recruits, imports, exports, transfers, transports, buys, sells, disposes or in any way traffics in any person as a slave or

accepts, receives, detains or harbours a person as a slave, commits an offence and is liable on conviction to imprisonment for a term of 7 years and to a fine of not less than N2,000,000.00.

(2) Any person who-

(a) deals, keeps, receives or harbours any person for the purpose of holding or treating that person as a slave;

(b) places, receives, harbours or holds any person as a pledge, pawn, in servitude or security for debt or benefits; whether due or to be incurred;

(c) transports, transfers or in any way induces any person to come into Nigeria in order to hold, possess, deal or treat such person as a slave or to be used as a pledge or security for debt; and

(d) enters into any contract or agreement with or without consideration for the purpose of doing or accomplishing any of the purposes enumerated in this section,

commits an offence and is liable on conviction to imprisonment for a term of 7 years and to a fine of not less than N2,000,000.00.

Offences relating to smuggling of persons

14. -(1) Any person who knowingly, in order to obtain, directly or indirectly a financial or material benefit, procures the illegal entry of a person into a country of which the person is not a citizen or a permanent resident commits an offence, and is liable on conviction to imprisonment for a term of not less than 5 years without an option of fine.

(2) Any person who, intentionally in order to obtain a financial or material benefit from another person, engages in fraudulent acts or conducts purportedly for the purpose of procuring, facilitating or promoting the actual or intended entry into, transit across or stay in a country in which that other person is not a national or a permanent resident commits an offence, and is liable on conviction to imprisonment for a term of not less than 5 years without an option of fine and to refund all monies fraudulently obtained to the victims.

(3) For the purpose of subsection (1) of this section "illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State.

Abuse of the vulnerability of a smuggled person

15. -(1) Any person who intentionally or knowingly, in order to obtain directly or indirectly a financial or material benefit, abuses, endangers or exploits the vulnerability of a smuggled person commits an offence, and is liable on conviction to imprisonment for a term of not less than 5 years without an option of fine.

(2) For the purpose of this section, "abuse or exploitation of vulnerability" includes circumstances where it is apparent or should have been apparent to the person that the smuggled person had little or no choice of resisting the-

(a) inhuman or degrading treatment;

(b) abnormal or dangerous travels, living or working conditions;

(c) provision of services either without payment or for abnormally low payment; and

(d) payment of an excessive amount for goods or services, including food, water, accommodation, transport, immigration and employment related services.

Conspiracy

16. Any person who conspires with another to commit an offence under this Act is liable-

(a) where the offence is committed to the punishment provided for the commission of the offence; and

(b) where the offence is not committed, to a punishment which is half the punishment for the offence.

Escape or aiding and abetting escape

17. Any person who-

(a) being in lawful custody, escapes, or

(b) aids, facilitates or abets the escape of a person in lawful custody of the Agency, or suspected to have committed an offence under any of the provisions of this Act;

commits an offence and shall be liable on conviction to imprisonment for a term of five years.

Attempt to commit an offence under this Act

18. Any person who attempts to commit any offence under this Act shall be liable on conviction to half the punishment for the offence.

Where evidence establishes an attempt to commit an offence or the commission of the full offence

19. -(1) Where a person is charged with any of the offences under this Act and the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit the offence and shall be liable on conviction to half the punishment for the offence.

(3) Where a person is charged with an attempt to commit an offence under this Act, but the evidence establishes the commission of the full offence, the offender shall not be entitled to acquittal but shall be convicted for the commission of the offence as provided under this Act.

Offences by a body corporate

20. -(1) Where an offence under this Act committed by a body corporate is proved to have been committed on the instigation or with the connivance of or is attributable to any neglect on the part of a director, manager, secretary of the body corporate or any person purported to act in any such capacity, the officer shall be liable on conviction to the same punishment provided under this Act for individuals committing the offence.

(2) Where a body corporate is convicted of an offence under this Act, it shall be liable to a fine of Ten Million Naira and the court may issue an order to wind-up the body corporate and its assets and properties transferred to the Victims of Trafficking Trust Fund.

(3) Nothing contained in subsections (1) and (2) of this section shall render any person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Obstruction of the Agency or her authorized officer

21. -(1) A person who-

(a) wilfully obstructs the Agency or any authorized officer of the Agency in the exercise of any of the powers conferred on the Agency by this Act, or

(b) fails to comply with any lawful enquiry or requirements made by any authorized officer in accordance with the provisions of this Act,

commits an offence and is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine of N250,000.00 or to both.

(2) Any person who-

(a) refuses any officer of the Agency access to any premises, or fails to submit to a search by a person authorized to search him under this Act;

(b) assaults, or obstructs any officer of the Agency or any person authorized by the Agency in the execution of his duty under this Act; or

(c) fails to produce, conceals or attempts to conceal from an officer of the Agency any book, document, information storage system or article in relation to which such officer has reasonable grounds to believe or suspect that an offence under this Act or any other law prohibiting trafficking in persons and protection of children has been or is being committed, or which is liable to seizure under this Act;

commits an offence and is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine of not less than N250,000.00 or to both.

Impersonation or the assumption of the character of an officer of the Agency

22. Any person who unlawfully assumes the name, character or designation of an officer of the Agency commits an offence under this Act and is liable on conviction to imprisonment for a term not exceeding 10 years without option of fine.

Tampering with evidence and witness

23. A person who tampers with-

(a) a witness by intimidation, threats, blackmail or similar acts, or

(b) evidence or exhibit by falsification, conversion, destruction or forgery,

commits an offence under this Act and is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine not less than N250,000.00 or to both.

Responsibility of Airlines, commercial carriers, tour operators and travel agents

24. -(1) Every airline operator, sea vessel operator, commercial carrier, tour operator and travel agent is under obligation not to aid and abet,

facilitate and promote-

(i) traffic in or smuggling of persons; or

(ii) pornography and exploitation in tourism;

(2) Every airline operator, sea vessel operator, commercial carrier, tour operator and travel agent shall notify its clients of its obligation under subsection (1) of this section.

(3) Every airline operator, sea vessel operator, commercial carrier, tour operator and travel agent is required to-

(a) provide a clause in contracts with corresponding suppliers in destination countries, requiring the suppliers to comply with the obligations stated in subsection (1) and (2) of this section;

(b) refrain from utilizing messages on printed materials, video or the Internet that could suggest or allude to behaviour incompatible with the objectives of this Act;

(c) inform their staff of their obligations under this Act; and

(d) include clauses regarding their obligations under this Act in their conditions of service.

(4) Every airline operator, sea vessel operator, commercial carrier, tour operator and travel agent who violates the provisions of subsection (1) and (2) of this section; commits an offence and in addition to any other penalty provided in any other law or enactment is liable on conviction to a fine not exceeding N10, 000,000.00

PART IV - THE NATIONAL AGENCY FOR THE PROHIBITION OF TRAFFICKING IN PERSONS

Establishment of the National Agency for the Prohibition of Trafficking in Persons

25. -(1) There is established a body to be known as the National Agency for the Prohibition of Trafficking in Persons (in this Act referred to as "the Agency").

(2) The Agency shall be a body corporate-

(a) with perpetual succession and a common seal;

(b) which may sue or be sued in its corporate name; and

(c) which may acquire, hold, purchase, mortgage and deal howsoever with property, movable or immovable, real or personal.

Establishment and composition of the Governing Board

26. -(1) There is established for the Agency, a part time Governing Board (in this Act referred to as "the Board").

(2) The Board shall consist of-

(a) a Chairman who shall be a person with knowledge and experience in matters related to counter-trafficking in persons;

(b) two representatives of civil society based organizations involved in matters relating to trafficking in persons;

(c) a representative each of the following Institutions or Agencies who shall be within the Directorate cadre-

(i) Federal Ministry of Justice;

(ii) Federal Ministry of Women Affairs;

(iii) Federal Ministry of labour and Productivity;

(iv) Ministry of Interior;

(v) Ministry of Foreign Affairs;

(vi) Nigeria Police Force;

(vii) National Intelligence Agency;

(viii) Nigeria Immigration Service; and

(ix) National Orientation Agency;

(d) the Director - General and Chief Executive Officer of the Agency who shall be the Secretary to the Board.

(3) The Chairman and other members of the Board shall be appointed by the President on the recommendation of the Minister.

(4) The provisions of the First Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

-nure of Office the Chairman d members of e Board

27. -(1) The Chairman and members of the Board other than the Director - General and ex-officio members shall hold office for a term of four years and shall be eligible for re-appointment for another term of four years and

no more.

(2) The office of the Chairman or 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) the Board by resolution declares the seat vacant because he-

(i) has been absent from the Board meetings for four consecutive times without the permission of the Board;

(ii) becomes of unsound mind or incapable of carrying out his duties; (iii) has been declared bankrupt or he makes compromise with his creditors;

(iv) is incapacitated by physical or mental illness;

(v) has been convicted of a felony or any offence involving dishonesty;

(vi) is guilty of gross misconduct relating to his duties; or

(e) in the case of an ex - officio member, he ceases to hold the office on the basis of which he became a member of the Board.

(3) Notwithstanding the provisions of subsection (2) of this section, the President may remove a member from the Board if he is satisfied that it is not in the interest of the Agency or of the public for the person appointed to continue in office.

(4) 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.

28. The functions of the Agency shall be to- Functions of the Agency

(a) enforce and administer the provisions of this Act;

(b) co-ordinate and enforce all other laws on Trafficking in persons and related offences;

(c) adopt effective measures for the prevention and eradication of trafficking in persons and related offences;

(d) establish co-ordinated preventive, regulatory and investigatory machinery geared towards the eradication of trafficking in persons;

(e) investigate all cases of trafficking in persons including forced labour, child labour, forced prostitution, exploitative labour and other forms of exploitation, slavery and slavery-like activities, bonded labour, removal of organs, illegal smuggling of migrants, sale and purchase of persons;

(f) encourage and facilitate the availability and participation of persons who voluntarily, consent to assist in investigations or proceedings relating to trafficking in persons and related offences;

(g) enhance the effectiveness of law enforcement agents and other partners in the suppression of trafficking in persons;

(h) create public enlightenment and awareness through seminars, workshops, publications, radio and television programmes and other means aimed at educating the public on the dangers of trafficking in persons;

(i) establish and maintain communications to facilitate rapid exchange of information concerning offences under this Act;

(j) conduct research and strengthen effective legal means of international co-operation in suppressing trafficking in persons;

(k) implement all bilateral and multilateral treaties and conventions on trafficking in persons adopted by Nigeria;

(I) strengthen co-operation and conduct joint operations with relevant law enforcement and security agencies, international authorities and other relevant partners in the eradication of trafficking in persons;

(m) co-ordinate, supervise and control-

(i) the protection, assistance and rehabilitation of trafficked persons; and

(ii) all functions and activities relating to investigation and prosecution of all offences connected with or relating to trafficking in persons;

(n) adopt measures to identify, trace, freeze, confiscate or seize proceeds, property, funds or other assets derived from trafficking in persons or related offences;

(o) conduct research on factors responsible for internal and external trafficking in persons and initiate programmes and strategies aimed at the prevention and elimination of the problem;

(p) facilitate rapid exchange of scientific and technical information concerning or relating to trafficking in persons;

(q) collaborate with government bodies both within and outside Nigeria whose functions are similar to those of the Agency in the area of the-

(i) movement of proceeds or properties derived from trafficking in persons and other related offences;

(ii) identities, location and activities of persons suspected of being involved in trafficking in persons and other related offences; and

(iii) exchange of personnel and other experts; (r) establish and maintain a system for monitoring trans-border activities relating to trafficking in persons in order to identify suspicious movements and persons involved;

(s) deal with matters connected with the extradition and deportation of persons involved in trafficking in persons and other mutual legal assistance between Nigeria and any other country in trafficking in persons, subject to the supervision of the Attorney - General of the Federation;

(t) initiate, develop and improve special training programmes for personnel of the Agency and relevant law enforcement agents charged with the responsibility of detecting offences created under this Act; and

(u) carry out such other activities as are necessary for the efficient

discharge of the functions conferred on it under this Act.

Powers of the Agency

29. The Agency shall have the power to-

(a) investigate whether any person, body or entity has committed an offence under this Act or the offence of trafficking under any other law;

(b) enter into any premises, property or conveyance without warrant for the purpose of conducting searches in furtherance of its functions under this Act or under any other law;

(c) arrest, detain and prosecute offenders under this Act or any other law on trafficking in persons in Nigeria;

(d) trace, seize, detain or retain the custody, for the purpose of investigation and prosecution, of any property which the Agency reasonably believes to have been involved in or used in the commission of offences under this Act or any other law;

(e) seal up premises upon reasonable suspicion of such premises being involved with or used in connection with offences under this Act; and

(f) seek and receive information from any person, authority, corporation or company without let or hindrance in respect of the enforcement of any of the provisions of this Act.

Functions and Powers of the Board

30. -(1) 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.

(2) The Board shall have power to-

(a) approve rules and regulations relating to the appointment, promotion and disciplinary measures for the employees of the Agency;

(b) fix the remuneration, allowances and benefits of the employees of the Agency subject to the approval of the Salaries and Wages Commission; and

(c) regulate its proceedings and make standing orders with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings and such other matters as the Board may, from time to time determine.

Appointment and Tenure of the Director-General

31. -(1) There shall be for the Agency, a Director-General who shall be from the Directorate cadre in the Public Service of the Federation or its equivalent in any Law Enforcement Service and shall be appointed by the President on the recommendation of the Minister.

(2) The Director-General shall-

(a) be the chief executive and accounting officer of the Agency;

(b) be responsible for the day-to-day administration of the Agency;

(c) keep the books and records of the Agency; and

(d) be the Secretary to the Board.

(3) The Director - General shall hold office for a term of four years in the first instance and shall be eligible for re-appointment for another term of four years and no more.

Other Staff of the Agency

32. -(1) The Agency may, from time to time, appoint such other staff as it may deem necessary, to assist the Agency in the performance of its functions under this Act.

(2) The staff of the Agency appointed under subsection (1) of this section shall be appointed on such terms and conditions of service as the Agency may determine in accordance with the approved Government Policy.

(3) The staff of the Agency shall be public officers as defined in the Constitution of the Federal Republic of Nigeria.

(4) The Agency may, subject to the provisions of section 30(2) of this Act and the approval of other relevant Agencies, make staff regulations relating generally to the conditions of service of its employees providing for-

(a) the appointment, promotion and staff discipline;

(b) appeals by employees against disciplinary measures; and

(c) such other matters to ensure the efficient performance of the functions of the Agency under this Act.

(5) Staff Regulations and Conditions of Service made under subsection (4) of this section shall not have effect until it is published in the Gazette and website of the Agency.

(6) Until the Staff Regulations and Conditions of Service under subsection (4) of this section are made, any instrument relating to the Conditions of Service applicable to the Civil Service of the Federation shall be applicable to the Agency with such modifications as may be considered necessary by the Agency from time to time.

Service in the Agency to be Pensionable

33. -(1) Service in the Agency shall be public service for the purpose of the Pension Reform Act and accordingly, officers and other staff of the Agency shall in respect of their service in the Agency, be entitled to such pension and retirement benefits as are prescribed in the Pension Reform Act.

(2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pension and retirement benefits in respect of that office.

(3) For the purpose of the application of the provisions of the Pension Reform Act, any powers exercisable by a Minister or other authority of the Government of the Federation (not being the power to make regulations under section 97 thereof) are hereby vested in and shall be exercisable by the Board.

Establishment of Special Departments

34. -(1) For the effective conduct of the functions of the Agency, there shall be established for the Agency the following Special Departments-

(a) Investigation and Monitoring Department;

(b) Legal and Prosecution Department;

(c) Public Enlightenment Department;

(d) Counselling and Rehabilitation Department;

(e) Research and Programme Development Department;

(f) Training and Manpower Development Department; and

(g) such other Departments as the Agency may establish with the approval of the Board from time to time.

(2) Notwithstanding the provisions of subsection (1) of this section, the Agency shall have powers to-

(a) set up 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 with the approval of the Board.

(3) There shall be appointed for each of the Special Departments a principal officer who shall be known by such designation as the Agency may determine.

Duties of the Special Departments

35. -(1) The Investigation and Monitoring Department shall-

(a) work in collaboration with other law enforcement and security Agencies in the prevention and detection of offences under this Act;

(b) collaborate with the Nigeria Immigration Service and other relevant law enforcement Agencies in monitoring the movement of persons in any point of entry and exit for the purpose of detecting offences under this Act;

(c) investigate, trace and identify the proceeds, assets and properties of persons derived from acts which constitute an offence under this Act; and

(d) effect the confiscation or forfeiture of such proceeds, assets and properties in collaboration with the Legal and Prosecutions Department.

(2) The Legal and Prosecution Department shall-

(a) be responsible for the prosecution of offenders under this Act;

(b) support the Agency and other Departments with legal advice and assistance whenever it is required;

(c) conduct the proceedings as may be necessary towards the recovery of any asset or property confiscated, frozen or forfeited under this

(a) budgetary allocations approved by the National Assembly for the purpose of the Agency;

(b) such monies as may from time to time be lent, deposited with or granted to the Agency by the Government of the Federation, States or local governments;

(c) grants, gifts or donations from international organizations and donor agencies;

(d) charges, fees and other sums collected or received for services rendered by the Agency; and

(e) all other funds which may, from time to time, accrue to the Agency;

(3) The fund established pursuant to subsection (1) of this section shall be managed in accordance with extant Financial Regulations applicable in the Public Service.

Expenditures of the Agency

37. The Agency may, from time to time, apply the proceeds of the fund established in pursuance of subsection (1) of section 36 of this Act for the following purposes-

(a) the cost of administration of the Agency;

(b) the reimbursement of members of the Board or any Committee set up by the Board or the Agency for such expenses as may be authorized in accordance with the rates approved by the Government of the Federation;

(c) the payment of salaries, fees and other remunerations or allowances, payable to members of the Board, employees, experts or professionals appointed by the Agency;

(d) the maintenance of any property acquired or vested in the Agency; and

(e) any matter connected with all or any of the functions of the Agency under this Act.

Power to borrow and accept gifts

38. -(1) The Agency shall have power to borrow money from banks on the recommendation of the Board and approval by the Minister of Finance.

(2) The Agency may accept gifts of land, money or other property (whether within or outside Nigeria) provided that the terms and conditions, of the gift are not contrary to the objectives and functions of the Agency under this Act.

Accounts and Audit

39. -(1) The Agency shall keep proper records and accounts, of its-

(a) receipts, payments, assets and liabilities; and

(b) incomes and expenditure;

in a form which conforms with existing laws on accounts and audit.

(2) The Agency shall submit the accounts annually, for auditing by a qualified auditor from the list of auditors and in accordance with the guidelines supplied by the Auditor-General of the Federation.

Annual Report

40. Annual Report.

The Agency shall, not later than 30th September in each year, submit to the President through the Minister, a report of its activities during the immediate preceding year and shall include in such report the audited accounts of the Agency.

PART VI - JURISDICTION

Jurisdiction to try offences under this Act

41. -(1) The High 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.

(2) The High 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, the court in passing sentence shall in addition to any punishment which the court may impose in respect of the offence, order the forfeiture to the Federal

beneficiary or any person connected in any way in a matter under investigation;

(d) inspect permises, electronics, computer systems or recorded information found on the premises;

(e) observe the carrying on of business or professional activities by any person;

(f) stop, board and search any conveyance where the Agency or its authorised officer has reasons to suspect that there is evidence of the commission or likelihood of the commission of an offence under this Act;

(g) seize, remove and detain anything which is, or contains or appears to him to be or to contain or to be likely to contain, evidence of the commission of an offence under this Act;

(h) arrest, search and detain any person whom the officer reasonably suspects of having committed or likely to commit an offence under this Act.

(2) Where a seizure is effected in the course of search or investigation under this Act, a copy of the list of all the articles, documents and other materials seized shall be made, duly endorsed and handed to the-

(a) person on whom the search is made; or

(b) owner of the premises, place or conveyance seized.

(3) Notwithstanding the provisions of subsection (1) of this section, a woman shall only be searched by a woman.

(4) Nothing in this section shall be construed as derogating from the lawful right of any person in defence of his person or property.

(5) Any officer of the Agency or a duly authorized law enforcement officer who uses such force as may be reasonably necessary for any purpose in accordance with this Act, shall not be liable in any criminal or civil proceedings, for having, by the use of reasonable force caused injury or death to any person or damage to or loss of any property.

Video Recording and Custody of Records

45. -(1) A video recording shall be made and kept in respect of any person, conveyance or property detained under any provision of this Act as may be required by the Agency.

(2) Records in respect of any person, conveyance or property detained under any provision of this Act shall be kept in the custody of the Agency.

(3) Subject to the provisions of the Evidence Act, a video recording and other forms of electronic evidence shall be admissible in evidence before any court of competent jurisdiction in Nigeria for offences under this Act.

Protection of informants and information

46. Where a person volunteers to the Agency or an official of the Agency any information which may be useful in the investigation or prosecution of an offence under this Act, the Agency shall take all reasonable measures to protect the identity of that person and the information so volunteered shall be treated as confidential.

Witness Protection

47. -(1) The court may, on a motion by or on behalf of the Attorney - General, the Agency or a law enforcement agency, protect a witness or other persons in any proceeding before it.

(2) Where the Court is satisfied that the life of the witness or any other person is in danger, the Court may on its own, take such measures as it deems necessary and expedient to keep the identity and address of the witness secret.

(3) The measures which the court may take under subsection (1) of this section may include the-

(a) holding of the proceeding at a place to be decided by the court;

(b) avoidance of the mention of the real name and address of the witness in its orders, judgments or records of the case, which are accessible to the public; or

(c) issuing of a direction for ensuring that the identity and address of the witness are not disclosed.

(3) The court may also decide, in the public interest, that all or any of the proceedings pending before the court shall not be published in any manner.

(4) The court may in the interest of public safety or order, exclude from proceedings for any offence under this Act, any person other than the parties and their legal representatives.

(5) A person who contravenes an Order or direction made under this section commits an offence and shall be liable on conviction to imprisonment for a term of not less th~;m five years.

PART VIII - ATTACHMENT AND FORFEITURE OF ASSETS

iture of port

48. The passport of any person convicted of an offence under this Act shall be forfeited to the Federal Government and shall not be returned to that person unless or until the President directs otherwise, after the grant of a pardon on the exercise of prerogative of mercy under the Constitution of the Federal Republic of Nigeria.

iture of after ction

49. -(1) A person convicted of an offence under this Act shall forfeit to the Victims of Trafficking Trust Fund-

(a) all the assets and properties which is the subject of an interim attachment order of the Court after an attachment by the Agency as specified in section 55 of this Act;

(b) any assets or properties derived from any proceeds obtained, directly or indirectly not already disclosed in the Assets Declaration Form specified in Form 1 of the Second Schedule to this Act or not subject of an interim attachment order; and

(c) any property or instrumentalities used in any manner to commit or to facilitate the commission of such offence not already disclosed in the Assets Declarations Form or not subject of an Interim attachment Order

(2) The Court in imposing a sentence on any person under this Act shall in addition to any other sentence imposed pursuant to this Act, order that the person forfeits to the Victims of Trafficking Trust Fund all properties described in subsection (1) of this section.

(3) In this section, "proceeds" means any property derived or obtained, directly or indirectly, through the commission of an offence under this Act.

Foreign Asset

50. -(1) Where it is established that any convicted person has assets or properties in a foreign country, acquired as a result of any of the offences under this Act, such assets or properties subject to any treaty or arrangement with such foreign country, shall be forfeited to the Victims of Trafficking Trust Fund.

(2) The Agency shall, through the Office of the Attorney- General of the Federation, ensure that the forfeited assets or properties are effectively transferred and vested in the Victims of Trafficking Trust Fund.

Property subje to forfeitute

51. -(1) Any property-

(a) whether real or personal, which represents the gross receipts which a person obtains directly or indirectly as a result of the violation of this Act or which is traceable to such gross receipts; and

(b) within Nigeria which represents the proceeds of an offence under the laws of a foreign country within whose jurisdiction such offence or activity would be punishable by imprisonment for a term exceeding one year and which would be punishable by imprisonment under this Act if such act or activity had occurred within Nigeria;

is subject to forfeiture to the Victims of Trafficking Trust Fund.

(2) Without prejudice to the provisions of any other law permitting the forfeiture of property, the following shall also be subject to forfeiture under this Act and no proprietary right shall exist in them-

(a) all means of conveyance, including vehicles or vessels which are used or are intended for use to transport or in any manner, facilitate trafficking of any person provided that a means of conveyance-

(i) used by any person in the transaction of business as a common carrier shall not be forfeited under this section unless it shall appear that the owner or other person in charge of such means of conveyance was a consenting party or privy to a violation of this Act.

(ii) shall not be forfeited under this section by reason of any act established by the owner thereof to have been committed by any person

other than such owner while such means of conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of Nigeria or any part thereof; and

(iii) shall not be forfeited under this section to the extent of an interest of an owner, by reason of any act established by that owner to have been committed without the knowledge, consent or wilful connivance of that owner.

(b) all monies, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for any violation of this Act or all proceeds traceable to such an exchange, and all monies, negotiable instruments and securities used or intended to be used to facilitate any violation of this Act; and

(c) all real property, including any right, title and interest (including any leasehold interest) in the whole or any piece or parcel of land and any improvements or appurtenances which is used or intended to be used, in any manner or part to commit or facilitate the commission of an offence under this Act.

Seizure of property

52. -(1) Seizure of any property subject to forfeiture under this Act may be effected by the Agency where the-

(a) seizure is incidental to an arrest or search;

(b) property is liable to forfeiture upon process issued by the Court following an application made by the Agency in accordance with the prescribed rules.

(2) Whenever property is seized under any of the provisions of this Act, the Agency may-

(a) place the property under seal; or

(b) remove the property to a place designated by the Agency.

(3) Property taken or detained under this section shall be deemed to be in the custody of the Agency subject only to the order of the court.

Investigation of assets and properties of an arrested person

53. -(1) Where a person is arrested for an offence under this Act, the Agency shall immediately trace and attach all the assets and properties of the

person acquired as a result of the offence.

(2) Where an asset or property of any person arrested under this Act is to be attached, the Agency shall apply to the court for an interim attachment order subject to the provisions of section 55 of this Act.

Disclosure of assets and property by an arrested person

54.-(1) Where a person is arrested for committing an offence under this Act, it shall be obligatory for the person to make full disclosure of all his assets and properties by completing the Declaration of Assets Form as specified in Form 1 of the Second Schedule to this Act.

(2) The disclosures made in the Declaration of Assets Form shall be investigated by the Agency.

(3) Any person who-

(a) knowingly fails to make full disclosure of his assets and liabilities;

(b) knowingly makes a declaration that is false;

(c) fails, neglects or refuses to make a declaration or furnish any information required, in the Declaration of Assets Form,

commits an offence and is liable on conviction to imprisonment for a term of two years.

Interim attachment order after seizure of property

55. Where any assets or property has been seized by the Agency under this Act, the Agency shall cause an application to be made to the court for an interim attachment order and the court shall if satisfied that there is a prima facie evidence that the property concerned is liable to forfeiture make an interim attachment order.

Final Order of forfeitute

56. Where an arrested person is convicted of an offence under this Act, the Agency or any authorized officer shall apply to the Court for a final order of forfeiture of the convicted person's assets and properties which are-

(i) already subject to an interim attachment order;

(ii) derived from any proceeds the person obtained, directly or indirectly, as a result of such offence not already disclosed in the Assets Declaration Form and not subject to interim order; and

(iii) any property or instrumentalities used in any manner to commit or to facilitate the commission of such offence not already disclosed in the Assets Declarations Form.

Disposal of forfeited property

57. -(1) A copy of final court order forfeiting the asset and property of a person convicted under this Act shall be forwarded to the Agency.

(2) Upon receipt of the final court order pursuant to this section, the Director - General shall take steps to dispose of the property concerned by sale or otherwise and where the property is sold, the proceeds shall be paid into the Victims of Trafficking Trust Fund.

(3) Where any part of the property included in the final court order is money in a bank or any financial institution or in the possession of any person, the Agency shall cause a copy of the order to be produced and served on the manager or any person in control of the head office or branch of the bank concerned and that manager or person shall forthwith pay over the money to the Agency and the Agency shall pay the money received into the Victims of Trafficking Trust Fund.

(4) The Minister may make rules, guidelines or regulations for assets forfeiture, disposal and management pursuant to this Act.

Offences in relation to forfeiture orders

58. -(1) A person who, without due authorization by the Agency, deals with, sells or otherwise disposes of any property or assets which is the subject of attachment, seizure, Interim attachment order or final forfeiture order; commits an offence and is liable on conviction to imprisonment for a term of five years without an option of a fine.

(2) Any manager or person in control of the head office or branch of a bank or other financial institution who fails to pay over any money to the Agency upon the production of a final forfeiture order commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than one year, without an option of a fine.

Consequence of an acquittal in respect of confiscated assets and properties

59. -(1) Where a person is discharged or acquitted by a Court of an offence under this Act, the Court may make an order of revocation or

confirmation as the case may be, of an interim attachment order made pursuant to this Act whichever order is considered just, appropriate or reasonable within the circumstances.

(2) The property may be attached where a discharge is merely given on technical grounds.

(3) Where an interim order is revoked by a Court under subsection (1) of this section, all assets and properties of the person concerned shall be released by the Agency.

Freezing order on banks or other financial institutions

60.-(1) Notwithstanding anything contained in any other enactment, where any person is arrested or under investigation for an offence under this Act, the Director-General may, if satisfied that the money in the account of an arrested person is made through the commission of an offence under this Act, apply to the High Court exparte for an order authorizing the Agency to issue or instruct a bank examiner or such other appropriate regulatory authority to issue an order as specified in Form 2 of the Second Schedule to this Act, addressed to the authority of the bank or financial institution where the account is or believed to be domiciled or the head office of the bank or other financial institution; to freeze the account.

(2) The Director-General or bank examiner may by an order issued under subsection (1) of this section, or by any subsequent order, direct the bank or other financial institution to supply any information and produce books and documents relating to the account and to stop all outward payments, operations or transactions (including any bill of exchange) in respect of the account of the arrested person or a person under investigation.

(3) The manager or any other person in control of the Bank or a financial institution shall take necessary steps to comply with the requirements of the order made pursuant to subsection (1) and (2) of this section.

(4) In this section-

(a) "Bank" has the meaning given to it in the Banks and Other

Financial Institutions Act, Cap B3, Laws of the Federation of Nigeria, 2004 as amended; and

(b) "Order" refers to any order, direction or requirement addressed to the manager of a bank or any other officer of a bank which directs or purports to direct the manager or such officer to stop all outward payment, operations or transactions in respect of any account with that bank.

PART IX - TREATMENT OF TRAFFICKED PERSONS

Treatment of trafficked persons

61. The Agency shall ensure that-

(a) a trafficked person is not subjected to discriminatory treatment on account of race, colour, gender, sex, age, language, religion, political or other opinion, cultural beliefs or practices, national, ethnic or social origin, property, birth or other status, including his status as a victim of trafficking or having worked in the sex industry;

(b) a trafficked person has access to adequate health and other social services during the period of temporary residence;

(c) a trafficked person has access to the embassy or consulate of the country of which he is a citizen or where there is no embassy or consulate, have access to the diplomatic representative of the State that takes charge of the country's interest or any national to protect him;

(d) a trafficked person is able to return home safely, if he wishes and when he is able to do so;

(e) a trafficked person is not denied temporary residence visas during the pendency of any criminal, civil or other legal actions;

(f) investigation, detection, gathering and interpretation of evidence are conducted in such a manner as to minimize intrusion into the personal history of a trafficked person;

(g) the identity of a person trafficked is protected;

(h) the use of any person's history of being trafficked to discriminate or cause harm to such person, his family or his friends in any way whatsoever, particularly with regards to freedom of movement, marriage or search for

gainful employment is prohibited;

(i) it takes steps to maintain and rehabilitate facilities provided for trafficked persons; and

(j) a trafficked person and his family are protected from intimidation, threats, and reprisals from traffickers and their associates including reprisals from persons in position of authority.

Non-detention of prosecution of a trafficked person in certain circumstances

62. Where the circumstances so justify, trafficked persons shall not be detained or prosecuted for offences relating to being a victim of trafficking, including non-possession of valid travel stay or use of a false travel or other document.

Consent of a victim

63. The consent of a victim of trafficking in persons to the intended prostitution, forced labour, slavery or other forms of exploitation, criminalized under this Act shall not be a defence to any offence under this Act where the consent is obtained by means of threat, use of force, abduction, fraud, deception, abuse of power or a position of vulnerability or the giving or receiving of payment or benefits or consent of a person having control over the victim and other forms of coercion.

Establishment of transit Shelter

64. -(1) There shall be established for the Agency Transit Shelters which shall be managed and supervised as homes to cater for rescued trafficked persons particularly women and children.

(2) The Transit Shelters shall be run by staff of the Agency with the aim of providing protection, assistance, counselling, rehabilitation and training for the rescued victims to facilitate their reintegration into the society.

Right to compensation or restitution

65. -(1) A trafficked person, irrespective of his immigration status is entitled to compensation, restitution and recovery for economic, physical and psychological damages which shall be assessed and paid out of forfeited assets of the convicted trafficker.

(2) Where an offender is convicted of an offence under this Act, the court may order the offender to pay compensation to the victim, in addition

to any other punishment ordered by the court.

(3) Not withstanding any other provision of this Act, a trafficked person has the right to institute civil action against a trafficker and any other person including a public officer who may have exploited or abused his person provided that the amount awarded by the criminal court shall be taken into consideration in the determination of the amount of compensation to be awarded in the civil suit.

Application of certain enactments

66. The President may by order published in the Gazette extend the provisions of the-

(a) Mutual Assistance in Criminal Matters within the Commonwealth (Enhancement and Enforcement) Act; and

(b) Transfer of Convicted Offenders (Enhancement and Enforcement) Act,

to apply to any country outside the Commonwealth and accordingly the provisions of the Acts mentioned in paragraphs (a) and (b) of this section shall have effect in their application to this Act.

PART X - VICTIMS OF TRAFFICKING TRUST FUND

Establishment of Victims of Trafficking Trust Fund

67. -(1) There is established for the Agency a Victims of Trafficking Trust Fund (in this Act referred to as "the Trust Fund"), into which shall be paid-

(a) any take-off grant and special intervention funds as may be provided by the Federal Government;

(b) such moneys as may be appropriated to meet the objectives of the Trust Fund by the National Assembly;

(c) proceeds of the sale of assets and properties derived from acts which constitute an offence under this Act;

(d) aids, grants, gifts, bequests, endowments, donations or assistance from bilateral and multi-lateral international Agencies, non-Governmental organizations, other donor agencies, partners and the private sector;

(e) moneys derived from investments made by the Trust Fund; and

(f) any other moneys which may accrue to the Trust Fund from time to time.

(2) The sources of moneys referred to in paragraph (d) of subsection (1) of this section shall be acceptable to the Trust Fund by the Agency except where the terms and conditions attached to the aid, grant, gift, bequest, endowment, donation or assistance are inconsistent with the objective of the Trust Fund or the provisions of this Act.

(3)The Minister shall make regulations and issue guidelines for the management of the Fund established under subsection (1) of this section and related matters.

(4) The Trust Fund shall be utilized-

(i) to pay compensation, restitution and damages to trafficked persons whether by court orders or not;

(ii) to fund victim support services for trafficked persons by Non-Governmental Organizations or government in countries of destination, transit and origin;

(iii) to fund law enforcement efforts, including special units to fight corruption, human rights trainings for law enforcement officials. witness protection programs and specially trained anti - trafficking units to work with trafficked persons; and

(iv) to fund trafficking prevention programs and such other purposes incidental to or connected with the attainment of the objectives of this Act.

Establishment of the Victims of Trafficking Trust Fund Board

68. -(1) There is established for the Trust Fund, a body to be known as the Victims of Trafficking Trust Fund Board (in this Act referred to as 'the Trust Fund Board') which shall, subject to the provisions of this Act administer and have general control over the management of the Trust Fund.

(2) The membership of the Trust Fund Board shall consist of-

(a) the Attorney-General of the Federation who shall be the Chairman;

(b) Director-General of the Agency;

(c) Chairman of the Governing Board of the Agency;

(d) a representative each of the following Federal Ministries and Agencies-

(i) Federal Ministry of Justice;

(ii)Federal Ministry of Women Affairs;

(iii) National Directorate of Employment; and

(iv) Federal Ministry of Finance.

(e) a representative of Non-Governmental Organizations whose focus is on the eradication of trafficking in persons and other related matters;

(f) Director, in charge of Legal and Prosecution Department of the Agency, and

(g) Director in charge of Counselling and Rehabilitation Department of the Agency as Secretary.

(3) The Trust Fund Board shall be responsible for-

(a) receiving all monies, aids, grants, gifts, bequests, endowments, donations or assistance accruing to the fund;

(b) determining victims of trafficking in persons entitled to benefit from the trust fund;

(c) disbursing monies from the fund to such victims of trafficking on criteria approved by the Governing Board of the Agency;

(d) requesting for and collecting outstanding claims in favour of deceased victims of human trafficking from relevant authorities within and outside Nigeria; and

(e) investing monies accruing to the Trust Fund in viable ventures without prejudice to the provisions of paragraphs (a) to (d) of this subsection.

(4) Subject to the provisions of subsection (5) of this section, a member of the Board, other than an ex officio, shall hold office for a term of three years in the first instance and may be eligible for reappointment for another term of three years and no more.

(5) A member of the Trust Fund Board shall cease to hold office if he-

(a) resigns his appointment by a notice in writing;

(b) becomes of unsound mind;

(c) becomes bankrupt or makes compromise with his creditors;

(d) is convicted of a felony or any offence involving dishonesty;

(e) is guilty of misconduct in relation to his duties.

(6) The Trust Fund Board-

(a) shall meet at least twice in a year and on such other occasions as it may consider necessary;

(b) may make rules and standing orders to regulate its proceedings or those of its committee;

(c) may co-opt any person to assist it in carrying out its assignments under this Act, provided that a co-opted member shall not have the right to vote at Board meetings; and

(e) may appoint one or more committees to carry out its functions on its behalf

PART XI - MUTUAL LEGAL ASSISTANCE, EXCHANGE OF INFORMATION AND EXTRADITION

Requests from Foreign States

69. -(1) A foreign State may make a request to the Minister for assistance in the investigation and prosecution of offences under this Act.

(2) A copy of such request shall be furnished to the Agency.

(3) Where a foreign State makes a request for assistance in the investigation or prosecution of an offence relating to trafficking in persons , or extradition where there is mutual legal assistance treaty in force, the Minister may after due consideration-

(a) execute the request; or

(b) inform the requesting State of any reason for-

(i) not executing the request; or

(ii) delaying the execution of the request.

(4) Where the Minister decides to execute a request for assistance under subsection (1) of this section, he may apply to the court for-

(a) an Order for the Agency to-

(i) enter and search specified premises or conveyance;

(ii) search any specified person; or

(iii) remove any relevant document or material;

(b) a seizure order;

(c) a property tracing order;

(d) an interception of communication order; or

(e) an order for freezing or forfeiture of property or funds in such manner as may be prescribed by the Court or Judge in Chambers

(5) The court or Judge in Chambers, in making an Order under subsection (4) of this section, may impose such conditions as to payment of debts, sale, compensation of victims, transfer or disposal of any property as the court deems fit.

(6) Where a prima facie case is established on the basis of the request from a foreign state, the Attorney-General shall file a request for an order of forfeiture of all funds or properties used, being used or intended to be used for the commission of an offence under this Act the Court shall grant or reject the application for an order of forfeiture after hearing from all parties, including a bona fide third party.

Request to a Foreign State

70. -(1) The Minister may, on the recommendation of the Agency make a request to any foreign State-

(a) for evidence or information relevant to an offence under this Act;

(b) for the restraint and forfeiture of any fund or property located in that foreign State and which is liable to be forfeited for being a fund, property or other assets belonging to, in possession or under the control of a person suspected to have committed an offence or convicted of an offence that is used, being used or intended to be used for the commission of a terrorist act.

(2) The Minister may, in respect of any proceedings for an offence

under this Act, apply to the court or to a Judge in Chambers for an Order directed to any person resident in a foreign State to-

(a) deliver himself or any document or material in his possession or under his control to the jurisdiction of the court;

(b) subject to the approval of the foreign State, deliver himself to the jurisdiction of the court of the foreign State for the purpose of giving evidence in relation to those proceedings.

Evidence Pursuant to a Request

71. -(1) The evidence taken pursuant to section 69 of this Act, in any proceedings in a court of a foreign State may, if it is authenticated, be admissible in any proceedings to which such evidence relates; provided that the circumstances and method of collecting the evidence is normally acceptable to Nigeria.

(2) For the purpose of subsection (1) of this section, a document is authenticated if it is-

(a) signed or certified by a Judge or Magistrate of the foreign State;

(b) authenticated by the oath or affirmation of a witness, or

(c) sealed with an official or public seal-

(i) of a Ministry or Department of the Government of the foreign State;

(ii) in the case of a territory, protectorate or colony, of the person administering the Government of the foreign territory, protectorate or colony or a department of that territory, protectorate or colony.

Form of Requests

72. -(1) A request under this part of this Act shall be in writing, dated and signed by or on behalf of the person making the request.

(2) A request may be transmitted by facsimile or by any other electronic device or means.

(3) A request shall-

(a) confirm either that an investigation or prosecution is being conducted in respect of a suspected offence of terrorism or an act related to terrorism or that a person has been convicted of an offence of terrorism or act

related to terrorism;

(b) state the grounds on which any person is being investigated or prosecuted for an offence related to terrorism or details of the conviction of the person;

(c) give sufficient particulars of the identity of the person;

(d) give sufficient particulars to identify any financial institution or designated non-financial institution or other persons believed to have information, documents or materials which may be of assistance to the investigation or prosecution;

(e) specify the manner in which and to whom any information, document or material obtained pursuant to the request is to be produced;

(f) specify the information, document or material to be obtained from a financial Institution or designated non - financial institution or any person which may assist the investigation or prosecution;

(g) state whether-

(i) a freezing or forfeiture Order is required, or

(ii) the property may be made the subject of such an Order; and

(h) contain such other information as may assist in the execution of the request.

(4) A request shall not be invalidated for the purposes of this Act or any legal proceedings by failure to comply with the provisions of subsection (3) of this section where the Minister is satisfied that there is sufficient compliance to enable him execute the request.

(5) The Minister charged with responsibility for finance shall on the advice of the Attorney General where he or she considers it appropriate, either because an international arrangement so requires or permits or it is in the public interest, may, after deducting the cost incurred for actions taken in Nigeria, order that any part of any property forfeited under this Act or the value thereof, be returned or remitted to the requesting State.

(6) Where the whole or any part of the forfeited property, or the value

thereof is retained in Nigeria, it shall be paid into the Victims Trust Fund established under this Act.

Extradition

73. -(1) Offences under this Act are considered to be extraditable crimes for which extradition may be requested, granted or obtained under the Extradition Act, Cap E25, Laws of the Federation of Nigeria, 2004.

(2) Notwithstanding the provisions of subsection (1) of this section, no person shall be extradited pursuant to this Act, where the Government has substantial grounds for believing that a request for extradition for an offence has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Exchange of information relating to human trafficking organised criminal groups, Traffickers and human trafficking Acts

74. -(1) The Agency may with the approval of the Attorney - General, on a request made by the appropriate authority of a foreign state, disclose to that authority, any information in its possession or any other government department, relating to any of the following-

(a) the actions or movements of human trafficking organised criminal groups or persons suspected of involvement in the preparation or the commission of human trafficking acts;

(b) the use of forged or falsified travel papers by persons suspected of involvement in the preparation or the commission of human trafficking acts;

(c) the use of communication technologies by human trafficking organized criminal groups.

(2) Where the Agency considers that there are no means or conditions under which the information, documents or evidence requested could be provided, disclosed or given without prejudice to the national security of Nigeria, the Agency may refuse the request for the production of such document or the disclosure of such evidence or refuse the authorization of the production of such document or the disclosure of such information

and shall notify the requesting Authority of the reasons for doing so, unless the specification of those reasons would in itself be, in the opinion of the Agency, prejudicial to the national security of Nigeria.

PART XII - MISCELLANEOUS

Power of the Minister to give directives of general character to the Agency

75. -(1) The Minister may from time to time, give general policy guidelines to the Agency.

(2) Notwithstanding the provisions of subsection (1) of this section, the Minister may give to the Agency directives of a general or specific nature relating generally to a particular matter or case, as the case may be.

(3) The Agency shall comply with any policy guidelines or any directive given to it by the Minister pursuant to subsection (1) or (2) of this section.

Power to make regulation

76. -(1) The Minister may make rules or regulations with respect to the exercise of any of the duties, functions or powers of the Agency under this Act.

(2) The contravention of any regulation issued pursuant to any of the provisions of this Act shall constitute an offence and shall be punishable as prescribed in the particular regulation.

(3) The Agency may with the approval of the Minister make regulations as it deems necessary or expedient for giving full effect to the provisions of this Act.

egal Proceedings

77. -(1) No civil action shall be commenced against the Agency or its authorised officers before the expiration of a period of 30 days after written 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 Agency; or

(b) sending it by registered mail to the postal address of the Agency.

Restriction on execution against property of the Agency

78. In any action or suit against the Agency, no execution shall be levied or attachment process issued against the Agency unless not less than three months' notice of the intention to execute or attach has been given to the Agency.

Indemnity of officers of the Agency

79. 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 ultra vires his powers.

Repeal and Savings provision

80. -(1) The Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 as amended is hereby repealed.

(2) Without prejudice to section 6 of the Interpretation Act, the repeal of the Act specified in subsection (1) of this section, shall not affect anything done under or pursuant to the Act.

(3) Every regulation, order, requirement, certificate, notice, direction, decision, authorization, consent, application, request or thing made, issued, given or done under the repealed Act shall, if in force at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.

(4) All assets, funds, resources and other movable and immovable property which, immediately before the commencement of this Act, vested in the former Agency shall by virtue of this Act and without further assurance be vested in the Agency established under section 25 of this Act.

(5) Every reference to the former Agency, Board, Minister, Executive Secretary, Board Chairman or any person under their control or a

document issued in the name of the former Agency, Board, Minister, Executive Secretary, Chairman of the former Board or employee of the former Agency shall be read, unless the context otherwise requires, as a reference to the Agency, Minister, Board, Director- General, Chairman, or an employee of the Agency established under this Act, as the case may be.

Transitional Provisions

81. -(1) Subject to the provisions of this Act, the Executive Secretary of the Agency established under the repealed Act is deemed to have been transferred to the Agency established under this Act under the same conditions as Director- General.

(2) Any person who immediately before the commencement of this Act was a staff of the Agency established under the repealed Act shall continue in office and be deemed to have been appointed under this Act for purposes of Pension.

(3) Properties held immediately before the commencement date of this Act on behalf of the National Agency for the Prohibition of Traffic in Persons by any person shall, by virtue of this Act, be vested in the Agency established under this Act.

(4) The Agency established in section 25 of this Act shall be subject to all the obligations and liabilities to which the former National Agency for the Prohibition of Traffic in Persons was subject immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Agency established by this Act as they had against the Agency immediately before the commencement of this Act.

(5) Any proceeding or cause of action pending or existing immediately before the commencement of this Act by or against the Agency established under the repealed Act in respect of any right, interest, obligation or liability of the Agency may be continued or commenced, as the case may be, and any determination of a court of law, tribunal or other Commission or person may be enforced by or against the Agency established by this Act to the same extent that such proceeding, cause of action or determination might have

been continued, commenced or enforced by or against the Agency as if this Act had not been made.

(6) As from the commencement of this Act, any disciplinary proceeding pending or existing against any employee of the Agency shall be continued and completed by the Agency established under this Act.

Interpretation

82. In this Act-

"Agency" means the National Agency for the Prohibition of Trafficking in Persons established under section 25 of this Act;

"Assets" means items of ownership convertible into cash; total resources of person or business, as cash, notes and accounts receivable, securities, inventories, goodwill, fixtures, machineries or real estate.

"Attachment" includes forfeiture or the permanent deprivation of property by order of a court;

"Brothel" includes any enclosure, house, premises, hotels, restaurants, drinking place, vessels, stationary or moving receptacle where a person offers the body commonly for acts of lewdness and sexual gratification.

"Child" means a person under the age of eighteen years;

"Commercial carriers" means any person or any public, private or other entity engaged in transporting persons, goods or mails for remuneration, hire or any other benefit;

"Director - General" means the Director - General and Chief Executive Officer of the Agency.

"Export" with its grammatical variations and cognate expressions means to take or cause to be taken out of Nigeria.

"Exploitation" shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, deprivation of the offspring of any person, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

"Exploitative labour" include the use of a child's labour for the monetary, commercial or economic interest of the recruiter and the receiver.

"Financial or other material benefit" includes any type of financial or non-financial inducement, payment, bribe, reward, advantage or service (including sexual or other services).

"Freezing" means temporarily prohibiting the transfer, conversion, disposal or movement of money or assets or temporarily assuming custody or control of money or assets;

"Force" or "coercion" includes obtaining or maintaining through act of threat the labour, service, or other activities of a person by physical, legal, psychological or mental coercion, or abuse of authority;

"grievous harm" means any harm which amounts to a maim or dangerous harm or which seriously or permanently injures health, or which is likely so to injure health, or which extends to permanent disfigurement or to any permanent or serious injury to any external or internal organ, member or sense.

"High Court" means Federal High Court, the High Court of a State or the High Court of the Federal Capital Territory.

"Import" with its grammatical variation and cognate expressions means to bring or cause to be brought into Nigeria.

"Minister" means the Attorney - General of the Federation and Minister of Justice.

"Person" means a natural person and a legal entity.

"President" means the President and Commander in-Chief of the Armed Forces of the Federal Republic of Nigeria.

"Seduce" means to persuade somebody to do what they would not usually agree to do such as sexual intercourse;

"Sexual exploitation" means the participation by a person in prostitution, sexual servitude, or the production of pornographic materials as a result of being subjected to a threat, coercion, abduction, force, abuse of authority, debt bondage or fraud.

"Slave" means a person who is held in bondage whose life; liberty, freedom and property are under absolute control of someone;

"Smuggling of Persons" means arranging or assisting a person's illegal entry into any country of which the person is not a citizen or permanent resident, including Nigeria, either knowing or being reckless as to the fact that the person's entry is illegal, in order to obtain a financial or other material benefit.

"Smuggled person" means any person who is an object of an act of people smuggling;

"Trafficking or Traffic in Persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of threat or use of force or other forms of coercion , abduction, fraud, deception, the abuse of power of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person or debt bondage for the purpose of placing or holding the person whether for or not in involuntary servitude (domestic, sexual or reproductive) in forced or bonded labour, or in slavery-like conditions, the removal of organs or generally for exploitative purposes;

"Trafficked person" means a victim of trafficking in persons;

"Trafficker" includes a person or an entity that commits or is in the process of committing, aids, abets, facilitates or acquiesces to an act of trafficking in persons.

"Transit Shelters" means shelter established by the Agency for the purpose of receiving, caring for, rehabilitating and re-integrating into society, victims of trafficking.

"Trust Fund" means the Victims Trust Fund established under section 68 of this Act;

"Trust Fund Board" means the Victims of Trafficking Trust Fund Board established under section 69 of this Act;

"Victim" means a victim of trafficking in person.

Short title

83. This Act may be cited as Trafficking in Persons (Prohibition), Enforcement and Administration Act, 2013.

FIRST SCHEDULE

[Section 26 (4)]

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

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.

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.

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.

4. A quorum at a meeting of the Board shall be one-third.

5. The Board shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.

6. 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.

7. The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.

8. 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.

Committees

9. 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.

10. A committee appointed under paragraph 9 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.

11. A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

12. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman and the Secretary to the Board.

13. 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.

14. 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, unless the contrary is proved, be presumed without further proof, to have been properly signed or sealed.

15. 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.

16. 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.

SECOND SCHEDULE

CONFIDENTIAL FORM A

Sections 50 (1)(b) and (c), 55 (1) and 57 (ii) and (iii)

TRAFFICKING IN PERSONS PROHIBITION ENFORCEMENT AND ADMINISTRATION ACT 2012

DECLARATION OF ASSETS FORM

To be completed in TRIPLICATE and in BLOCK LETTERS or typed.

All available information should be included

Important: It is an offence punishable by up to a maximum of 2 years imprisonment under the Act to-

A. (i) knowingly fail to make full disclosure of your assets and liabilities.

(ii) knowingly make a declaration that is false;

(iii) fail to answer any question contained in this Form;

(iv) fail. neglect or refuse to make a declaration or furnish any information required.

B (i) Each item is to be completed. If it does not apply, the person affected must write "nil" or "none" in the space. Where necessary an extra sheet or sheets may be used and attached to this form by the person affected.

(ii) The form should be addressed to the Director-General of the NATIONAL AGENCY FOR THE PROHIBITION OF TRAFFICKING IN PERSONS I,.....being accused of an offence of .....under the TRAFFICKING IN PERSONS (PROHIBITION), ENFORCEMENT AND ADMINISTRATION ACT, 2012 declare as follows:

	Surname		Other Names	Date Of Birth	If Dead, State The Date Of Death	Place Of Birth	Nationality		State Of Origin	Local Government	Occupation	Present Address	Home Address
	(a) Now	(b) At birth if different					(a) Now	(b) At birth					
1. Declarant													
2. Spouse	If married, state date and place												
3. Father													
4. Mother													
5. Brothers (i) (ii) (iii) 6. Sisters (i) (ii) (iii)													
7. Children (i) (ii) (iii)													
8. Dependant, Relative, Uncle, Aunt, Next of kin													

9. Associate Persons		Names in full	Address	Occupation	Nationality
(i) .... (ii) .... (iii).....		....	....	....	....

10. Allens;	(a) State (b) If	Allen Registration Naturalized Certificate No.							
11. School attended with dates		Primary school Post Primary school Or Secondary University, Etc Qualification attended							

12. Amount held in own account N K

(i) Cash in hand .....

(ii) Cash at bank (Bank to be named) .....

(iii) Outside Nigeria (Countries/Bank to be named).....

13. Amount held on behalf of or as trustee for any person other than your wife/husband-

(i) Cash in hand .....

(ii) Cash at bank (Bank to be named) .....

(iii) Outside Nigeria (Countries/Bank to be named).....

14. Loans or advances made .....

15. Loans or advances received. .....

16. Amount held on behalf of or as trustee of wife/husband-

(i) Cash in hand .....

(ii) Cash at bank (Bank to be named) .....

(iii) Outside Nigeria (Countries/Bank to be named).....

17. Wife's/husband's/children's account held (beneficial or otherwise)-

(i) Cash in hand .....

(ii) Cash at bank (Bank to be named) .....

(iii) Outside Nigeria (Countries/Bank to be named).....

18. Government securities, including premium bonds and other interests held in companies firms or partnerships (giving names of companies firm and partnerships)-

(a) by you (here state the bonds, etc);

(b) by Wife (wives)/husband* (here state the bonds, etc)

(c) by children (here state the bonds, etc)

19. Property in Nigeria in which you are interested in, giving date when acquired-

(i) Land;

(ii) Buildings;

(iii) Other property, (if any).

20. Membership, ownership, directorship, shareholding, or other related interest in-

(i) A company incorporated in Nigeria;

(ii) A company incorporated outside Nigeria;

(iii) A partnership or sole proprietorship.

21. Property outside Nigeria in which you are interested in, giving date when acquired-

(i) Land;

(ii) Buildings;

(iii) Other property, (if any)

22. Property outside Nigeria in which any wife/husband* is interested in, giving date when acquired-

(i) Land;

(ii) Buildings;

(iii) Other property, (if any).

23. Property outside Nigeria in which any wife/husband* is interested in, giving date when acquired-

(i) Land;

(ii) Buildings;

(iii) Other property, (if any).

24. Property in Nigeria in which any child of yours is interested in, giving date when acquired-

(i) Land;

(ii) Buildings;

(iii) Other property, (if any).

25. Property outside Nigeria in which any child of yours is interested in, giving date when acquired-

(i) Land;

(ii) Buildings;

(iii) Other property, (if any).

26. Names of other dependant relatives.

27. Estate in which you are interested as trustee or beneficially interested (Name of deceased or trustee).

28. Property held by any person on your behalf- (in or outside Nigeria)-

(i) Cash in hand;

(ii) Cash at bank (Bank to be named);

(iii) Land;

(iv) Buildings;

(v) Other properties.

If outside Nigeria, insert name of countries and banks.

.....

Signature of Accused Person

.....

Signature and Address of Witness

FORM B

FREEZING ORDER

[Section 61(1)]

(This form may be amended according to circumstances)

To the Manager.....

(Here insert name and branch of bank)

Under the authority conferred on me by section Act, you are hereby Ordered-

(a) to supply the following information relating to the under mentioned accounts, that is to say.....(Here set out the information required in respect of named accounts);

(b) to produce the books and documents relating to the under mentioned accounts, that is to say.....(Here set out the books and documents to be produced in respect of named accounts)

(c) to stop all outward payments, operations or transactions

(including bills of exchange) as far as possible in the ordinary course of banking in respect of the following accounts:

.....(Here indicate the

2. This order shall remain in force until revoked

DATED at this day of 20.....

.....

Director-General

EXPLANATORY MEMORANDUM

(This Memorandum does not form part of the above Bill but is Intended to explain its purport).

This Bill seeks to repeal the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003 (as amended) and to enact the Trafficking in Persons (Prohibition), Enforcement and Administration Act; to provide for a more comprehensive legal and institutional measures for the eradication of trafficking and smuggling of persons.